

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION OF THE THIRTY-EIGHTH CONGRESS:

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

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BY F. & J. RIVES.

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THE CONGRESSIONAL RECORD

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# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, FEBRUARY 17, 1865.

NEW SERIES....No. 52.

This was twenty-two years after the grant of the exclusive privilege to the Camden and Amboy Railroad Company. I beg leave (for I consider it important) to call the attention of the Senate to the charter of this company for the purpose of showing what they had a right to do. I refer to the sixth section of the act of incorporation. I will not read the whole of it:

"That the president and directors of the said company be, and they hereby are, authorized and invested with all the rights and powers necessary and expedient to survey, lay out, and construct, a railroad from some suitable point on the Raritan bay, eastward of the village of Keyport, in the county of Monmouth, to the village of Tom's River, in the county of Ocean; and thence, through the counties of Ocean and Burlington, to May's Landing, in the county of Atlantic; thence, through the counties of Atlantic and Cape May, to Cape Island, on the Atlantic ocean;"

the extreme southern point of our State; and the general line was to be along the coast, the object being to establish a coast road. That was the line and the general course and direction of the road as pointed out by the charter. The tenth section says what they may do:

"That the president and directors of the said corporation shall have power to have constructed, or to purchase with the funds of the corporation, and to place on the said railroad, all machinery, engines, cars, wagons, carriages, or vehicles, for the transportation of persons or property, and also suitable and safe boats at the several terminating points of the said road; and they are hereby authorized to demand and receive such sum or sums of money for the transportation of persons and property thereon, as they, from time to time, shall think reasonable and proper."

They were authorized to construct a road from Raritan bay, at a point east of the village of Keyport, which was in the neighborhood, nearer the Atlantic ocean than the terminus of the Camden and Amboy road, and they were to run the general course of their road along the coast through the villages of Tom's River and May's Landing down to Cape May; and they were to carry passengers and freight along the line of that road over and upon it. They accepted this charter twenty-two years after the grant of the exclusive privilege to the Camden and Amboy railroad, with full knowledge of it; and in thus accepting it, with full knowledge of the laws of the State, and with a full understanding of the effect of them, they must be considered, in law and in common sense, to be bound by the acceptance of their charter and their contract with the State under such circumstances.

But, sir, I may mention another fact. In the year 1854, the same year that this company was chartered, the Legislature of the State of New Jersey, at the very same time that it granted this charter, for the purpose of defining and declaring their intention and limiting this exclusive privilege to the Camden and Amboy Company, and as it would seem to have been a part of the understanding at the time that they granted to the Raritan and Delaware Bay railroad their charter, by an act declared that they reaffirmed this exclusive grant to the Camden and Amboy Company, declaring it to be their intent to protect it until the year 1869, and then to end it.

In view of this recital of legislative history, and in view of these facts, in view of the fact that this company thus accepted their charter twenty-two years after that exclusive grant, with full knowledge of it, from the same Legislature which then reaffirmed this exclusive grant for the period of some fourteen years longer, I ask, in law and in morals, are they not bound, at least so far as they are concerned, by the action of the Legislature of their own State? Can the Congress of the United States say that a company who have thus accepted a charter under such circumstances can cut loose, or be allowed to cut loose, from all the conditions, restrictions, and limitations imposed upon them by their charter, and to run a line in direct competition with that road which they knew and understood had this exclusive privilege for a certain period of time? This company accepted its charter subject to these conditions and limitations imposed upon it by the laws of New Jersey, and which were involved in its charter, and in a matter solely within the jurisdiction of the State; and I claim it is as much bound by that contract as

if it had been spread upon the very act of incorporation by which their powers were created; and they can no more violate it with impunity than they can violate a letter found within their chartered privilege itself.

I have one other document to refer to for the purpose of a more complete understanding of this matter; and it is a little map of my own State. I do not know that anybody will feel a sufficient degree of interest to look at it, but it will show the nature and history of this controversy perhaps more clearly than it can be shown by any words of mine. The Camden and Amboy Company have a charter to start their road from Raritan bay—they have started it from Perth Amboy—and to run it to Camden, opposite Philadelphia. This dark line upon the map [exhibiting it to the Senate] shows the line of that road, which is pretty generally direct, running northeast and southwest. That was chartered in 1830. In 1852 the Camden and Atlantic road, to which I have referred, was chartered, to start opposite Camden, in the State of New Jersey, and to run southeast to a point on the coast, with the privilege of building the little roads to which I have referred, six miles north to Batsto, and another six miles south to May's Landing. In 1854 the Raritan and Delaware Bay railroad was chartered, and that was authorized to commence at a point east of Keyport, and they have commenced at Port Monmouth, and to run down along the coast through the village of Tom's River to May's Landing, continuing along the coast to Cape May; and by a supplement to their charter, passed in 1855, they were authorized to connect with any other road in Maryland or Virginia which might be incorporated for the purpose of carrying on a line of travel along the whole line of our Atlantic coast. Subsequently, within two or three years, as appears by testimony to which I can refer, the Camden and Atlantic Railroad Company have built, or allowed to be built, as it is alleged, by the Raritan and Delaware Bay Railroad Company, this lateral road on the north side of their track, commencing at a point eighteen miles east of Philadelphia and running in a northeasterly direction to a place called Atsion. By a supplement to the charter of the Raritan and Delaware Bay railroad in 1855, they were authorized to deflect their line so as to leave Tom's River to the east, but they were not to depart from the general line of their road. Under these circumstances, having secured that supplement to their charter, and having obtained the consent of the Camden and Atlantic railroad to construct a part of this Batsto road to a point at Atsion, they themselves have deflected their road, and instead of coming down to May's Landing they have built it far to the west, some eight or ten miles to Atsion, and have commenced and are now running, or were running, passengers and freight along the line of that road to Atsion, then on the Camden and Atlantic railroad, and so to Philadelphia, abandoning, or not prosecuting, the route of road which they were chartered to use, and which was the sole and only design, as I shall show, in obtaining their charter, if the evidence which has been taken before one of the courts of New Jersey is to be relied upon.

Thus the matter stood until about two years ago. The Camden and Amboy road had been operating for a period of thirty years. It was found about two years ago that by means of these confederated companies passengers were being carried from New York to Philadelphia on the route of that "elbow" road, consisting of three different roads. A bill was filed in our court of chancery setting up these facts. I shall not dwell upon it further than to give the Senate an idea of the facts. It was stated that the Raritan and Delaware Bay Railroad Company, in connection with the Camden and Atlantic Railroad Company, were carrying passengers and freight between New York and Philadelphia, and had deflected the line of their road contrary to law, and an injunction was prayed for. The Raritan and Delaware Bay Railroad Company came in by their

president and their officers and answered: I will quote from the opinion of the Chancellor some of the things they admitted:

"They admit that the road as constructed diverges about ten miles from the direct route to May's Landing, but say that the location by way of Atsion, as at present located, is the most feasible, expedient, and proper location for the railroad contemplated in the act of incorporation, and that the direct route from Squankum to May's Landing was surveyed by direction of the company and found to be impracticable, and that the terminus of the Batsto branch (which forms the connecting link between the two roads) at Jackson is the most convenient and proper point on the Camden and Atlantic road from which to make a branch solely for a local road. They deny that any agreement has been made or is intended to be made for the transportation of freight or passengers between the cities of New York and Philadelphia. They admit that they and the Camden and Atlantic Railroad Company have in view the construction and perfecting, by means of their respective railroads and a convenient connection between them, of a continuous and convenient line of railway communication across New Jersey from the city of Camden to Port Monmouth, but they deny that they or any of them have in view the continuation of said line, at either end thereof, by steamboat transportation to the cities of New York and Philadelphia for the purpose of using the same for the transportation of passengers or merchandise in a manner which will violate any contract between the State and the complainants, or any provisions of the acts of the Legislature referred to in the complainants' bill. They also deny that any contract or arrangement made by them is calculated or intended to form a continuous line of railway communication between the said cities to compete in business with the business of the complainants, contrary to their vested rights. They admit that it is possible, if not prohibited by law, that a line of communication by railroad and steamboat between the cities of New York and Philadelphia might be opened, but they say that their railroad is not a public highway and cannot so be used without their concurrence and consent, and as they have made no arrangement whatsoever so to use the same, and do not intend any unlawful use of their road, such use if unlawful cannot be made, and if attempted can be restrained by the courts. They also deny that they intend in any way to violate the chartered rights of the complainants, or that they intend during their existence to violate any of the alleged exclusive privileges of the complainants."

Upon the denial of all the equities contained in the bill, the Chancellor refused to grant the injunction. He said that upon this denial, complete and full, no injury had been done, or was done, to the Camden and Amboy Company; and, with respect to the change of their road, that was a matter the Camden and Amboy Company had nothing to do with; it was a matter for the Attorney General of the State to see to, in case they were not using or exercising their privileges rightly and correctly in respect to location.

Very soon afterward it was found that this Raritan and Delaware Bay Railroad Company was actually transporting passengers and freight across these connecting roads, between New York and Philadelphia, and a supplemental bill was filed and testimony taken to establish the fact. The cause was heard before the Chancellor. The fact was not denied or disputed; and I will read a portion of the opinion of the Chancellor to show what decision he made on the question. The bill was filed by the Delaware and Raritan Canal and Camden and Amboy Railroad and Transportation Companies against the Camden and Atlantic Railroad Company, the Raritan and Delaware Bay Railroad Company, and others. The Chancellor says:

"The complainants' rights are clear and unquestioned. They have been in the actual enjoyment of their franchise for more than thirty years. The defendants, by using or permitting their roads to be used for the establishment of a through route for the transportation of freight and passengers between the cities of New York and Philadelphia have exceeded the powers conferred upon them, and interfered with the rights and the property of the complainants. There is nothing in the charters of the defendant corporations, or of either of them, which expressly or by implication confers the power of establishing such route or the franchise of taking tolls thereon. The Legislature cannot be presumed to have intended or contemplated any grant inconsistent with the manifest design of the charters of the defendants."

And the Chancellor enjoined this company in the use of these roads for the purpose of transporting freight and passengers between New York and Philadelphia, manifestly contrary to the object and intent of their charter, and to the very express declaration made by themselves under oath within a year before that they had no such intention whatever.

Now I appeal to this Senate, composed as it is

in part of lawyers, whether this opinion is wrong. If it is, why not remove the case to the Supreme Court of the United States for the purpose of judicial investigation and decision? Why appeal to Congress to override the laws and decisions of my State, even if she be in the condition referred to by the Senator from Massachusetts? This Senate is composed of men who have too high a regard for their own duties to disregard well-known and well-established principles of law and justice, even to strike at a State which has been characterized as New Jersey has been on this floor. The courts will have to settle this question at last. Pass this bill, and it will be a subject-matter for judicial investigation. Why not then suffer the matter to be determined and investigated upon the decree of the Chancellor of the State of New Jersey in the case now made up and which has been before him and upon which he has rendered a decision?

Again, why seek to change the character of this bill from what it was at the time of its introduction, a special bill against my State, and my State alone, and make it general, expansive, reaching to all the States of this Union? Surely it serves only to make the matter worse. Being more universal, it affects all the States, and, I submit, in many ways not intended by Senators. I show you how it will affect my State. This bill which has passed the House will affect it as injuriously and prejudicially as the bill first introduced into the House.

I have no interest in either of these roads. I have not a dollar of their stock, and never had any, and do not suppose that I shall ever be able to own any of it. But, sir, I have an interest in the honor and dignity of the State of New Jersey, and I call upon Senators as the representatives of sister States to stand by and protect one of the original States of this Union, one of the old thirteen, in her rights, and I ask nothing more.

Sensors, how will this question affect your own States? How will it affect the State of Massachusetts in reference to the railroad from Boston to Lowell, mentioned in the case that has been decided and reported in 2 Gray's Massachusetts Reports, and which has been referred to by the Senator from New Hampshire, [Mr. HALZ?] How will it affect other roads? Although exclusive privileges conferred upon railroad companies are not very common, there are quite a number to be found in the States of this Union outside even of the State of New Jersey and the State of Massachusetts. Pass this bill, and you will confer upon State corporations powers not conferred upon them by their charters; powers they never asked for; powers they contracted never to use; powers which it has been decided by the courts they are not entitled to, and which are contrary to law; powers to carry passengers and freight and do business between points and places contrary to their charters and restricted by their contracts entered into with the States themselves.

But it is said by the Senator from Massachusetts and by others—the newspapers teem with it—that the people of New Jersey and the people of this country are subject to a monopoly. So far as the State of New Jersey is concerned, I have to say this: if this be a monopoly from which the people of that State suffer, it is self-imposed.

"Who would be free, themselves must strike the blow."

If the allegation have any foundation in truth and justice, shall we to escape domestic vassalage submit to foreign domination? Do we suffer? If we do, it is the consequence of our own act. But, sir, I am not so well assured that all these declarations of usurpations and vassalage and suffering which have been so eloquently referred to by the Senator from Massachusetts are true, or founded in just grounds of complaint. This subject of monopoly is a favorite theme of declamation. It is an ancient theme in my own State. As long back as the year 1702 there were but three wagon roads across the State of New Jersey, and Queen Anne, if I recollect the history aright, chartered a wagon road from Perth Amboy, the very point where this railroad starts, to Burlington, seventeen miles above Camden, on the Delaware river; and although it took two weeks to perform the passage under that royal grant and privilege, it raised a hue and cry in my State on the ground that it was an odious monopoly! The cry has continued from that time down to the present hour.

But it is said the citizens of other States are

subject to this monopoly. It is said that they are subject to a transit duty, that they are subject to a tribute; and the Senator from Massachusetts referred us to, and read a passage from, Bunyan's Pilgrim's Progress, in which he likened my State to the Valley of Humiliation, and the Camden and Amboy Railroad Company, and its steam engine, from whose belly fire and smoke proceeds, as Apollyon himself, or the personification of him. The Senator forgot to tell us who Christian was. As he complained so bitterly of this tribute, perhaps he meant to infer that he was the subject of the king of that country, and that he was Christian escaping from this city of Destruction with his face set Zionward. If so, he lacks the great characteristic of Christian, because I found no charity in what he said.

But what is this matter of tribute or transit duty? It is said that in the charter of the Camden and Amboy Company they have the right to charge ten cents on persons passing across the State, and fifteen cents per ton for merchandise. It is said, in other words, that every man who crosses the State of New Jersey on that railroad is taxed ten cents, and that every man who sends merchandise over it as freight is taxed fifteen cents per ton. I do not so understand it. I know there has been a great outcry on this subject for years in my own State and out of it; but what is it? It is nothing more nor less than a tax upon the business of the road instead of a tax upon its capital. The Legislature of New Jersey, in chartering this company, instead of saying that there should be paid so much upon the capital stock into the State treasury year after year, said there should be an account kept of the through travel upon the road and the through merchandise carried over the road, and that there should be paid in, upon a return made to the State treasury, ten cents for every passenger thus transported; and I think there is wisdom in the provision. When this charter was granted some thirty-five years ago, in the infancy of the railroad system, it was not known what amount of capital would be required to construct these works of public improvement; it was a matter of uncertainty; but it could be made a matter of perfect certainty as to how much money should be paid by fixing a toll or rate upon the business of the road; and thus it becomes a toll in the nature of an income tax, instead of a toll or tax upon the amount of the capital stock of the road. How are the public prejudiced or damaged by this provision?

It is another feature of the charter of the Camden and Amboy Railroad Company that the price of transportation of both passengers and freight is fixed. The price of transporting a passenger upon this railroad across the State cannot exceed three dollars under any circumstances. I do not see for my part that the public in passing over that road are thus subjected to tribute or to a transit duty that would justify the denunciation of the Senator from Massachusetts.

But it is said there is a discrimination made between the citizens of the State of New Jersey and the citizens of other States. Why, sir, there is no such discrimination. The transit duty, to use this term, is upon through passengers, whether they belong to the State of New Jersey or to the State of Ohio. An account is taken of every man who crosses the State from the Delaware river to Raritan bay, whether he be a Jerseyman, or a Pennsylvanian, or a New Yorker, which is to be returned by the agent of the company to the State treasurer; and the amount ascertained to be due on account of the number of passengers who have thus crossed is paid into the treasury at the end of the year. The citizens of other States are upon a par with the citizens of New Jersey in this particular. The way passengers are not to be taken into the account. If the Senator from Massachusetts should visit our State, (and I trust he may some time, and entertain a better opinion of our people,) and should pass from point to point in that State, there would be no account taken of his passage from point to point, and no duty or tribute levied upon him any more than there would be on the Senator from New Jersey passing from the town of his residence to the city of Philadelphia or the city of New York. There has been a great misunderstanding on this subject; and in the midst of a tirade such as has been heaped upon my State, I think, perhaps, the Senator will excuse me for having occupied so much time in endeavoring to

state just what is the true history of the rights of this company, and their duties on this subject.

But suppose a different view should be still entertained by gentlemen on this subject from the one I entertain. How is it with regard to this Raritan and Delaware Bay railroad? That seems to be the especial pet of the Senator from Massachusetts. You wish to authorize that company to go on and exercise these extraordinary powers in violation of the limitations and restrictions imposed upon it in its charter when granted. I beg leave to read the fourteenth section of the act incorporating the Raritan and Delaware Bay Railroad Company, to see what that says, and see how that company stands in relation to this same question:

"That from and after the completion of the said road, it shall be the duty of the treasurer of the said corporation, under oath or affirmation, to make quarterly returns of the number of passengers, and the number of tons of goods, wares, and merchandise, transported upon said road across the State, to the treasurer of this State, and thereupon to pay to the said treasurer of the State the same impost or transit duties which are now, or may be at any time hereafter, paid by the Camden and Amboy Railroad and Transportation Company, and no more."

Putting this Raritan and Delaware Bay Company upon precisely the same footing as the Camden and Amboy road, and making the law governing the Camden and Amboy Company the law to govern this road also. It is not a transit duty upon the passengers, not a tax *per capita* upon individuals, but only a mode of taxing the road through its business, instead of taxing the corporation, as many other railroads are, upon the amount of their capital stock invested in the road.

If we pass this bill as it has come from the House of Representatives it will establish a principle which will reach much further than many who have not reflected upon this subject suppose. I have shown you how it will affect my State. How will it affect yours, Senators? You may be stronger, you may be more able to resist it, but in the course of years it may be that the poisoned cup which you tender to our lips may be returned to your own.

It has been claimed also that this bill is necessary for the purpose of creating greater facilities for the transportation of goods and passengers across the State; that this rebellion requires the ready and sudden transmission of troops from the city of New York or from the North to this capital. I am aware of all such necessities; but I am not aware of any deficiency or difficulty arising from that source in times past. In fact, it has been shown by testimony that the Camden and Amboy Railroad Company have transported as many as eight thousand troops a day upon the lines of their road, and were able at all times to transport a great many more than they were called upon to transport by the Government, and that other troops and munitions of war have been transported upon the Raritan and Delaware Bay railroad, upon some arrangements which were satisfactory to the company and to the Government; so that there has been no difficulty about troops and munitions of war reaching this capital in consequence of the failure of railroad facilities in my State.

Why, sir, there are three railroads now crossing the State of New Jersey besides the Delaware and Raritan Bay road, all of which have transported troops and munitions of war to the Federal capital. There is this Camden and Amboy railroad; there is the New Jersey Railroad and Transportation Company, which connects at Trenton with the Philadelphia and Trenton railroad; and there is the New Jersey Central railroad, which crosses the State to Easton, Pennsylvania, and connects with the Harrisburg railroad, upon which thousands of troops have been transported, and upon which the Senator from Rhode Island, [Mr. SPRAGUE,] when he came on with his battery and with his munitions of war was transported to the capital during the period of its imminent peril. While there are these three railroads across the State of New Jersey, and while there are but two across the State of Pennsylvania toward the Federal capital, and while there is but one from the city of Baltimore to the city of Washington, the Senator from Massachusetts is loud in his complaint on account of the want of facilities and means for transportation across my State, and he has not a word to say, or a syllable to utter, in relation to the diminished means of transportation across these



two other States lying nearer to the capital of the country and of the Union.

Mr. President, I shall not detain the Senate much longer. I have already detained them longer than I anticipated when I rose to address the Senate. I understand that the peculiar right to pass this bill is claimed to be under the provision of the Constitution giving the power to Congress to regulate commerce among the States, to be found in the third clause of the eighth section of the first article of the Constitution. Then if this be true, if you pass this bill under that provision of the Constitution, these roads must be managed and controlled by the Government. It will be the duty of the Government to police them, to establish toll-houses upon them, to establish collection offices, to appoint collectors to receive this toll on freight and this transit duty upon the foreign commerce passing from one State into another, crossing the State of New Jersey. The one is a necessary consequence of the other; or, at all events, it authorizes it to be done, and thus directly interferes with the rights and privileges of the States which I claim to be reserved to them by the Constitution and not granted to the Federal Government. Shall Congress regulate and control the use of all these rights under this power of regulating commerce?

There is a piece of history upon this subject. In 1827, the then Secretary of the Treasury, just after the Erie canal was completed, required that canal boats passing through that canal should take out a license under the General Government for the purpose of transporting goods. The right was claimed by the Secretary of the Treasury under this same clause of the Constitution, that the General Government had a right to regulate commerce; but De Witt Clinton, then the Governor of the State of New York, in an able paper demolished that pretension, and the subject dropped, and has never been heard of from that day to this.

Now if the Senate please, I claim their indulgence while I refer to a few authorities upon the subject, which I think establishes the position that Congress has no right to interfere with the regulation, or to hold control over these roads or the internal improvements of the State. The first case to which I shall briefly refer is a case decided in the court of errors and appeals in my own State. I do not know that that will be entitled to much consideration at the hands of the Senator from Massachusetts; but if the authority and doctrine therein contained should be found to be supported by other authority, by the Supreme Court of the United States and the decisions of other State courts, perhaps it may have a little influence with the minds of other members of the Senate. The question arose in this case as to the power of a State to establish a toll-gate at the end of a ferry in the State of New Jersey, the other end of the ferry being in another State. It was insisted that this same clause of the Constitution prevented the State of New Jersey from doing that, because it interfered with this power of Congress to regulate commerce, that it imposed a tax or duty on commerce transmitted from one State to another. The case will be found in 4 Zabriskie's Reports, page 718. On page 729 the court say:

"That the State may regulate the tolls and fares on turnpikes and railroads and ferries wholly within its jurisdiction counsel have not gone so far as to deny. But such regulations will in many cases affect the commerce among the several States as much as the regulation of tolls at a ferry directly between two States. A large part of the commerce between Philadelphia and New York passes by means of the roads and canals through New Jersey, which latter State has always regulated the tolls without question. If the States separately or jointly cannot regulate a ferry between two of them, neither can they authorize the building of a bridge or prescribe the tolls for passing it. These and the like powers have been exercised by most of the States of the Union without doubt or hesitation, from the adoption of the Constitution to the present day, and are, in my opinion, in no wise repugnant to the provisions of that instrument."

The court prior to giving their decision examined the case of Smith vs. Turner, reported in 7 Howard, 393, in which Justice McLean, who was a strenuous advocate of the doctrine that the power of Congress to regulate commerce excludes the power of the States to legislate on the subject, says:

"A State cannot regulate commerce, but it may do many things which more or less affect it. It may tax a ship or other vessel used in commerce the same as other property owned by its citizens. A State may tax the stages in which the mail is transported, but this does not regulate the conveyance of the mail any more than taxing a ship regulates

commerce. An inquiry is made whether Congress, under the power to regulate commerce among the several States, can impose a tax for the use of canals, railroads, turnpikes, and bridges constructed by a State or its citizens. I answer that Congress has no such power. The United States cannot use any one of these works without paying the customary tolls."

The court based their opinion also upon the famous case of Gibbons vs. Ogden, to be found in the decisions of the Supreme Court of the United States. In that case the question arose in this way: New York had granted an exclusive privilege to two of her citizens, Livingston and Fulton, to navigate by vessels propelled by steam the waters of New York bay, &c. Another person procured from the Government of the United States a license for a steam vessel. The question arose whether the exclusive right granted by the State of New York could override the license or permission of the Government granted to this vessel. It was claimed by the person holding that license that the power contained in that clause in the eighth section of the first article of the Constitution which authorizes the regulation of commerce between the several States overrode the special legislation of the State of New York upon that subject. The supreme court of the State of New York held that the grant to Fulton and Livingston was valid, and the court of errors and appeals of the same State held the same doctrine; but upon an appeal to the Supreme Court of the United States Chief Justice Marshall reversed their decision in that particular. He said it was within the power of Congress to regulate commerce in that way, and that the exclusive grant by the Legislature of the State of New York could not interfere with or prevent the right of the person holding that license thus to exercise his privilege with his coasting vessel; but at that time, in establishing that doctrine, the court held this doctrine:

"That inspection laws may have a remote and considerable influence on commerce will not be denied; but that a power to regulate commerce is the source from which the right to pass them is derived cannot be omitted. The object of inspection laws is to improve the quality of articles produced by the labor of a country; to fit them for exportation, or it may be for domestic use. They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to a General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of State, and those which respect turnpike roads, ferries, &c., are component parts of this mass."

That is, this mass reserved to the States.

"No direct general power over these objects is granted to Congress; and consequently they remain subject to State legislation."

I do not know but that I shall weary the Senate by a reference to any other authority; but still there is one to be found in 14 Howard in the case of Veazie and others against Moor, and I will beg leave once more to tax the indulgence of the Senate while I read a portion of the decision of Mr. Justice Daniel in that case, because he expresses the views I entertain much more ably and specifically than I can do myself. The question arose in this way: The State of Maine granted the exclusive navigation of the upper portion of the Penobscot river to a company who were to improve it. The court declared that that was not in conflict with the eighth section of the first article of the Constitution of the United States, and a license to carry on the coasting trade did not entitle the vessel to navigate the upper waters of the river, upon the main ground that it was a matter entirely within the control of the State; it was a matter of internal commerce. Mr. Justice Daniel examined this whole question, and the claim under the eighth section of the first article of the Constitution, which was set up by the person claiming to navigate the river in that particular instance. He says:

"These categories are, first, commerce with foreign nations; second, commerce among the several States; third, commerce with the Indian tribes. Taking the term commerce in its broadest acceptation, supposing it to embrace not merely traffic, but the means and vehicles by which it is prosecuted, can it properly be made to include objects and purposes such as those contemplated by the law under review? Commerce with foreign nations must signify commerce which in some sense is necessarily connected with these nations, transactions which, either immediately or at some stage of their progress, must be extra territorial. The phrase can never be applied to transactions wholly internal between citizens of the same community, or to a polity and laws whose ends and purposes and operations

are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded, that because the products of domestic enterprise and agriculture or manufactures, or in the arts, may ultimately become the subjects of foreign commerce, that the control of the means or the encouragements by which enterprise is fostered and protected is legitimately within the import of the phrase foreign commerce, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazer, the manufacturer, the mechanic, the immense operations of the collieries, and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce, and be borne either by turnpikes, canals, or railroads, from point to point within the several States, toward an ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort of internal improvement by the several States; for it cannot be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which and all control over which might be immediately wrested from them because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although immediately or ultimately it might become foreign.

"The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes the control over turnpikes, canals, or railroads, or the cleaning and deepening of water-courses exclusively within the States, or the management of the transportation upon and by means of such improvements. In truth, the power vested in Congress by article one, section eight, of the Constitution, was not designed to operate upon matters like those embraced in the statute of the State of Maine, and which are essentially local in their nature and extent."

This practice on the part of the State of New Jersey is not singular; it does not stand alone. The same course has been pursued in other States of the Union. It has been done in the State of Maryland, in the State of Pennsylvania, and in the State of New York. Let me give you a few of the precedents in those States:

"The Legislature of Maryland, by an act of 1832, authorized the Baltimore and Ohio Railroad Company to construct a branch road from Baltimore to the city of Washington, fixed the fare of each passenger at \$2 50; and then required the company to pay semi-annually to the Treasurer of the Western Shore of Maryland one fifth of the whole amount received for the transportation of passengers over their said branch road.

"The Legislature of Pennsylvania, by an act of 21st of April, 1846, granted assent of the State to the Baltimore and Ohio Railroad Company to locate and construct a continuation of their railroad from the town of Cumberland, in the State of Maryland, to the city of Pittsburgh; and required the company to pay every six months into the treasury of the State, as a tax or duty on all tonnage except the ordinary baggage of passengers transported on that continuation of road, such a tax as the Legislature might impose, not exceeding three mills per ton per mile; and in addition thereto a tax or duty on all passengers that may have passed, during each preceding six months, a distance of one hundred miles or more of said road between these points, at such rate as the Legislature might direct, not exceeding fifty cents for each passenger, until the construction of a railroad connecting the Baltimore and Ohio railroad with the Cumberland Valley railroad by the Cumberland valley; after that the tax or duty not to exceed twenty-five cents for each passenger.

"By an act of 26th of March, 1846, the Legislature of Pennsylvania granted authority to the New York and Erie Railroad Company to extend their line of railroad from a point in the village of Port Jervis, in the State of New York, across the Delaware river into the county of Pike, in the State of Pennsylvania, and up the valley near the shore of the river, a distance not exceeding thirty miles; and the stock of the company equal in amount to the cost of such construction in Pennsylvania was made subject to taxation in the same manner and to the same amount as other similar property was or might be made subject. And the company was further required, after the completion and operation of their road to Dunkirk or its connection with any railroad to Lake Erie, to pay into the treasury of Pennsylvania, the annual sum of \$10,000, on the penalty of forfeiture of the rights and privileges granted by the act.

"In the State of New York, too, we find an act as early as April 15, 1817, respecting navigable communication between the great western and northern lakes and the Atlantic ocean; and for the purpose of raising a canal fund various taxes were imposed, among others 'a tax of one dollar upon each steamboat passenger for each and every trip or voyage such passenger may be conveyed on board of any steamboat over one hundred miles; and half that sum for any distance less than one hundred miles and more than thirty miles.'"

I refer to these instances for the purpose of showing that if the practice of my State is entitled to all these epithets of usurpation and pretension, that the State does not stand alone in her practice in relation to assessing or levying tolls upon passengers passing from one State to another in different sections of the Union. How is it in relation to other charters and other companies? I would pause for a moment to ask you about your manufacturing companies. If you may pass such a bill as this in relation to railroads, why may you not, under the pretense that you have the power to

regulate commerce, interfere with the charters of gas companies and all the manufacturing companies of the country, because their operations are in aid of commerce and have a great deal to do with commerce between the States, not only the internal commerce of the States, but foreign commerce? I grant that in a clear case where power is expressly granted the General Government is supreme, but in a doubtful case it should never be resorted to, especially in times like these.

Mr. President, I am no friend to the odious doctrine of State rights, as taught by Mr. Calhoun and adhered to by his disciples and followers; but I am opposed to centralization and to the absorption by the General Government of all the powers of the States. Our system is a complex one, composed of checks and balances, guards and counterguards. Destroy these, and all harmony and all union is gone. The States are not to dwarf and nullify the Union, nor are the States to be dragged like captives chained to the chariot-wheels of the Union. It was well said by a distinguished gentleman upon a recent distinguished occasion:

"We are a nation—no doubt a peculiar one—a nation formed of States; and no nation, except these States form it; and they are States, but they are no States except as they are States in that nation. Historically they never were; and they have no more right to repudiate the nation than the nation has a right to repudiate them; and neither of them have any shadow of right, and we intend, God helping us, so to vindicate that truth that it shall never be disputed any more in this world."

The General Government is supreme where power is expressly granted; but all other powers are reserved to the States or the people of the States. I ask you, Senators, not to divide and agitate when union and a common purpose are so requisite. Do not harass, vex, and destroy us. This Union has been likened to a temple with its dome reaching high up toward the heavens, whose pillars are constituted by the States. Destroy these pillars and your golden dome will come tumbling to the earth, there to lie and be covered by the accumulated dust of ages.

Mr. SHERMAN. I move to postpone the further consideration of this bill until Saturday at one o'clock, and make it the special order for that day, with a view to take up the naval appropriation bill. The Senator from Nevada, [Mr. NYE,] I understand, desires to address the Senate on this subject; and if he desires to take the floor on the pending bill I have no objection to yielding to him for that purpose.

Mr. NYE obtained the floor.

Mr. SHERMAN. If the Senator will now yield, I will move that the pending bill be postponed to, and made the special order for, Saturday next at one o'clock. Allow me to say, before that motion is put, that I have neither formed nor expressed an opinion on the pending bill. I hope, however, that on Saturday the Senate will be prepared to dispose of it; otherwise it will stand in the way of important legislative measures. I have no feeling about the bill whatever, but I hope it will be disposed of on Saturday.

Mr. SUMNER. Do I understand the Senator from Ohio to say that he has important financial measures to consider now?

Mr. SHERMAN. The Army and Navy appropriation bills are pending and ought to be disposed of; and I move to postpone this bill until Saturday and make it the special order, with a view of taking up the naval appropriation bill, and I have expressed the hope that this bill may be disposed of definitely then.

Mr. SUMNER. I hope it may be disposed of then.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China.

The message further announced that the House had passed the bill of the House (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes, in which the concurrence of the Senate was requested.

The message further announced that the House

having corrected the error in the engrossment of the amendment of the House to the joint resolution of the Senate (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road, the amendment was returned to the Senate for its concurrence.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills, which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads;" and

A bill (S. No. 413) to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road.

#### HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes—to the Committee on Public Lands.

A joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol—to the Committee on the Library.

#### RAILROADS IN MICHIGAN.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the joint resolution (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

The amendment was to strike out the words, "and a railroad from Little Bay de Noquette to Marquette, and thence to Ontonagon."

Mr. HOWARD. I move that the Senate concur in the amendment made by the House of Representatives.

The motion was agreed to.

#### NAVAL APPROPRIATION BILL.

Mr. SHERMAN. I move to postpone all prior orders and take up the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866.

The motion was agreed to.

Mr. FOSTER. I ask the Senator from Ohio whether he will not consent that that bill may be laid aside informally for a few moments in order that we may attempt at least to finish the bill in regard to the circuit and district courts for the State of Nevada. Legislation must be completed on that matter before the 27th of the present month, or a number of causes in the Supreme Court of the United States will drop and be lost to the parties. The United States is a party in several of those causes, and its interests are concerned.

Mr. SHERMAN. I should not have the slightest objection except that I am informed that the Senator from Nevada is likely to discuss the bill at some length, and the naval appropriation bill ought to be acted upon.

Mr. FOSTER. Of course I do not desire to cut the Senator from Nevada short, but I can hardly believe that a great deal of time will be consumed in suggesting such alterations as he wishes in this bill, or such reasons as he wishes to urge why the bill should be passed as it came from the House of Representatives. Certainly it seems to me that we should have action on this bill, and not delay. I can hardly think a delay of the appropriation bill for an hour, or two even, which would be, I presume, longer than the time occupied with this bill, would be detrimental to the public interests. Here are the rights of a State, the rights of parties, and the rights of the United States, that require legislation before the 27th day of the present month. It must be had before that time, or certain rights will be lost, irretrievably lost.

Mr. SHERMAN. I should have no objection to allowing that bill to be proceeded with if the Senator from Nevada did not desire to discuss it.

Mr. STEWART. I do desire to discuss the bill, although I am not particular about discussing it at this time, and I do not think there is any

such pressing necessity for the passage of the bill. We want a district court in Nevada, as a matter of course; but rather than have it incumbered with provisions which we regard as oppressive and odious, we prefer that the whole bill should be lost, and that we should go without a court for a year. We have had some little experience of inefficient, bad courts, an experience which has been sad indeed. We have labored under disadvantages and with courts that were a curse to the country, and we have not complained. Now, we prefer that the bill should be defeated entirely rather than have the amendments reported by the committee incorporated upon it. I wish to be heard in regard to those amendments. I feel exceedingly pained, being a new Senator here, that I am called upon at so early a period to insist upon a matter which I regard as of such great importance to the constituents whom I represent. Still, whenever this bill is to be acted upon, I desire to be heard. It is entirely immaterial, so far as we are concerned, whether it is taken up now or taken up at some future day.

Mr. SHERMAN. I object, then, to the motion being entertained, and prefer going on with the appropriation bill.

The PRESIDENT *pro tempore*. Objection being made to the motion of the Senator from Connecticut, it cannot be entertained. The naval appropriation bill is before the Senate as in Committee of the Whole.

Mr. SHERMAN. I suppose the same course had better be taken with regard to this bill that was pursued in acting on the legislative appropriation bill; and that is, to vote on each amendment as it is reached in order in reading the bill.

The PRESIDENT *pro tempore*. That course will be taken.

The first amendment of the Committee on Finance was in lines nine and ten to strike out "\$23,327,722 50" and insert "\$22,250,000," as the appropriation for "pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy."

Mr. SHERMAN. Since that amendment was reported, upon further and more careful examination of the estimates, I am satisfied that the original item is correct; I therefore ask that the amendment be rejected.

The amendment was rejected.

The next amendment was in line nineteen to strike out the words "and so forth" after "seamen;" so as to make the item read:

For bounties to seamen, \$1,000,000.

The amendment was agreed to.

The next amendment was in lines one hundred and five and one hundred and six to reduce the appropriation for clothing for the Marine corps from \$328,512 to \$239,688.

The amendment was agreed to.

The next amendment was to strike out from the items of appropriation for the Boston navy-yard "commencing building for sawing, planing, and working heavy wood-work for ships; two building slips; provision store," in lines one hundred and forty-eight, one hundred and forty-nine, and one hundred and fifty.

The amendment was agreed to.

The next amendment was to strike out, in lines one hundred and sixty-one and one hundred and sixty-two, "paint-shop" and "officers' houses" from the items of appropriation for the New York navy-yard.

The amendment was agreed to.

The next amendment was in lines one hundred and ninety-seven, one hundred and ninety-eight, and one hundred and ninety-nine, to strike out "commencing quay wall at foundry; completing one half of storehouse; paint-shop; commencing timber shed," from the items of appropriation for the Mare Island navy-yard.

The amendment was agreed to.

The next amendment was in lines two hundred and thirty-two and two hundred and thirty-three, to strike out from the appropriations for the Portsmouth magazine the items "metal store and pattern loft; quarters for inspector of ordnance."

The amendment was agreed to.

The next amendment was in line two hundred and forty, to strike out "quarters for inspector of ordnance" from the items of appropriation for the Boston magazine.

The amendment was agreed to.



The next amendment was in lines two hundred and forty-four, two hundred and forty-five, and two hundred and forty-six, to strike from the items of appropriation for the New York magazine the following, "piling, filling in, and building crib work, on cob-dock, for gun park; quarters for inspector of ordnance."

The amendment was agreed to.

The next amendment was to strike out, in lines two hundred and forty-nine, two hundred and fifty, and two hundred and fifty-one, the following items from the appropriations for the Philadelphia magazine, "building for general ordnance purposes, including office, store-rooms, and workshops, and for quarters for inspector of ordnance."

The amendment was agreed to.

The next amendment was in lines two hundred and fifty-seven and two hundred and fifty-eight, to strike out "for quarters for inspector of ordnance" from the items of appropriation for the Washington magazine.

The amendment was agreed to.

The next amendment was in the items of appropriation for the Mare Island magazine, to strike out in line two hundred and sixty-four "brick-wall to inclose magazine grounds," and in line two hundred and sixty-eight "commencing ordnance building."

Mr. HALE. I wish the chairman of the Committee on Finance would state why they have stricken out the appropriation for these two items and yet make no diminution in the sum appropriated.

Mr. SHERMAN. I can answer the Senator. The House of Representatives reduced the amount of the estimates, but omitted to strike out the items. We have simply made the bill conform to the action of the House. The amount estimated for is larger than the amount appropriated.

The amendment was agreed to.

The next amendment was to reduce the appropriation "for preparing for publication the American Nautical Almanac" from \$33,605 to \$25,850.

The amendment was agreed to.

The next amendment was to strike out lines three hundred and three hundred and one, in the following words:

To meet emergencies at the Atlantic, East and West Gulf, and Mississippi stations, \$1,000,000.

The amendment was agreed to.

The next amendment was to strike out from lines three hundred and four to three hundred and twenty-four, as follows:

For pay of clerks in the ordnance department at the several navy-yards, in lieu of the present per diem pay, namely:

For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,200.

For salary of one clerk at \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.

For salary of one clerk at \$1,200 per annum, and one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

For salary of one clerk at the Philadelphia navy-yard, \$1,200.

For salary of one clerk at \$1,400, one clerk at \$1,000, one draughtsman at \$1,600, one analytical chemist at \$2,500 per annum, one assistant pyrotechnist at \$1,400, and one keeper of magazine at \$480 per annum, at the Washington navy-yard, \$8,380.

The amendment was agreed to.

The next amendment was to strike out the second section of the bill, in the following words:

SEC. 2. And be it further enacted, That one midshipman, in addition to those now allowed by law, shall be appointed for each congressional district and Territory, to be appointed on the nomination of the present members of Congress or Delegates from said districts or Territories respectively, but no midshipman shall be appointed for any district not represented in Congress.

Mr. HALE. I move to amend the section which is proposed to be stricken out, by striking out all after the word "that" in the first line down to and including the word "but" in the fifth line; so that if amended as I propose it will read—

That no midshipman shall be appointed for any district not represented in Congress.

I believe that is the law now, and I believe that Congress has tried at almost every session since I have known anything about the Naval Academy to get that law enforced; but we have been entirely unable to do so. I do not know how it has been during the last year, but I know that appointments were made in violation of law. This provision has been enacted in various forms, and I think at the last session we inserted a pro-

vision that none of the money appropriated for the support of the Academy should be applied to the education of any midshipman not appointed in accordance with the provisions of law, and we made the same provision in regard to West Point; but we have failed hitherto. It is said that there may be something gained by repeating a thing pretty often. It is not impossible that Congress may make provisions of law so often and so frequently that by and by the Departments will attend to them. I think it would be as well to make this provision. It will not alter the law, and it may be an admonition in that regard.

Mr. SHERMAN. If the Senator's amendment will not alter the law, there is no object in offering it. That is my answer on that point. The section itself as it comes from the other House is objectionable because it proposes to increase the number of midshipmen in the Naval Academy to the extent of nearly two hundred, or one additional for each congressional district, when the present buildings are insufficient for the present number. The Committee on Finance did not think it wise to increase the number; they cannot be educated there, and therefore the committee deem it better to omit the whole section. The Senator from New Hampshire says that his amendment will leave the law to stand precisely as it does now, but I see no use in renewing an old controversy.

Mr. HALE. I do not know that it is of any use. I do not know that we can pass a law which will be observed and respected.

Mr. GRIMES. It is quite apparent that the amendment of the Senator from New Hampshire, if it should be adopted, would change the law. If it should be adopted the section would read, "That no midshipman shall be appointed for any district not represented in Congress." That would take away from the President the power to appoint the midshipmen at large that he is now authorized to appoint. It certainly changes the law in that regard.

Mr. HALE. They are not appointed from districts.

Mr. GRIMES. But this says that "no midshipman shall be appointed for any district not represented in Congress." I am not aware that any during the last year have been appointed outside of the provision of law referred to by the Senator from New Hampshire. I have not heard of it before. It may be so, but I am not aware of it.

Mr. HALE. I do not know that such appointments have been made from any district; but that such appointments have been made, and that that is the basis upon which the Department has acted in making appointments, cannot be unknown to the Senator from Iowa. I do not say that it has been so for the last year.

Mr. GRIMES. I know that there were some appointed two years ago, but I am not conscious of any having been appointed since we passed a law on the subject.

Mr. HALE. I do not know how that is.

Mr. GRIMES. The law that was passed three years ago, according to my construction, and that construction was given to it by the Attorney General, and by the Senator from New York [Mr. HARRIS] and the Senator from Maryland, [Mr. JOHNSON], authorized the Secretary of the Navy to appoint at large under certain circumstances; and he made those appointments. We have had that subject before us, I believe, off and on for two years. Last year Congress made a provision similar to this to which the Senator from New Hampshire has called the attention of the Senate, and to which there was no objection in the Senate so far as I know, and I have never been informed that that law has been violated in a single instance. If it has been, I have never heard of it.

The amendment to the amendment was rejected.

Mr. CONNESS. I wish to offer an amendment to the section before the question is taken on the motion to strike it out. I move to strike out all of the section after the word "that," and to insert:

Each member of Congress and each Delegate from the Territories may present the names of two boys as apprentices to the Naval School, and that the necessary number of midshipmen shall thereafter be selected from such apprentices in such manner as the Secretary of the Navy may direct.

I offer this amendment in accordance with a

recommendation found in the report of the Secretary of the Navy, which I think deserves attention. I will read briefly from it, and the words I shall now read will be my argument in favor of the amendment. The Secretary of the Navy, in his annual report, says:

"Commencing as apprentices on the school-ship, it would be well to open to the sailor-boy the way to promotion by giving him an opportunity, if he shall deserve it, of entering the Naval Academy. From among the apprentices on the school-ship, a selection of one half of midshipmen annually appointed might be made with great advantage to the service and the country. These apprentices, in their preliminary training on the school-ship, will have developed their capabilities and aptitude for the profession, and by transferring them to the Academy there will not be the manifold errors which attend so large a portion of those who are appointed under the present system. Were each congressional district authorized to place two or more apprentices on the school-ship, and the annual selection of midshipmen, or one half of the midshipmen, directed to be made from these apprentices, its effect would be most beneficial to the sailor, as well as the schools and the service. It would popularize the Navy, and open to those who may have enlisted the highest positions and honors of the service."

I believe that that is sound argument. I believe that it would result in giving us a better class of officers in the Navy than we now have or than we can have by the present system of appointment. I confine the amendment in the mode of selection to members of Congress, and Delegates from Territories for this reason, and this reason alone: that it is the mode which has been heretofore pursued, and that to the passage of any bill or amendment affecting the present system we must of course have the assent of the other House, and we shall not be likely to obtain that assent by taking this patronage entirely away from the members of that body. The system suggested in the bill now before us, the system contained in the second section, seems to me to be very objectionable and obnoxious.

That section, as the House of Representatives have passed it, is in these words:

SEC. 2. And be it further enacted, That one midshipman, in addition to those now allowed by law, shall be appointed for each congressional district and Territory, to be appointed on the nomination of the present members of Congress or Delegates from said districts or Territories respectively, but no midshipman shall be appointed for any district not represented in Congress.

Why should "the present members of Congress" nominate this immense addition to the Navy; gentlemen just about to terminate their official term thus to be authorized to give us an immense increase of those who are to be our naval heroes hereafter? I do not wish to occupy the time of the Senate, but I think a change can be made in the manner suggested in the report of the Secretary of the Navy, and the change that I propose in the amendment is, as the Senate will observe, suggested by what I think is a discreet and sensible recommendation of that officer.

Mr. GRIMES. I am not prepared to say that the suggestion of the Senator from California, if properly carried out, might not be very advantageous to the Government. I am rather inclined to think it would be, but I think the Senate is hardly prepared to adopt this amendment at this time. It is a subject that ought to be embraced in a bill by itself, and not be appended to an appropriation bill. The amendment proposed by the Senator is that each member of Congress—that I suppose includes Senators as well as members of the House of Representatives—

Mr. CONNESS. I do not so intend it.

Mr. GRIMES. Then reading it, as I understand the Senator desires and intends it to be read, it is that each member of the House of Representatives and each delegate from a Territory may present the names of two boys as apprentices to the Naval School. Now we have no apprentices to the Naval School.

Mr. CONNESS. This will establish them.

Mr. GRIMES. Are we prepared to do that? Does the Senator intend that they shall come in addition to two midshipmen from each district that are there now? Is he prepared to increase the number of young men at the Academy to about a thousand, and if so, where is he going to get the facilities for accommodating them? The present facilities are stretched to the utmost tension, and there is not really proper accommodation for the number now there.

Mr. CONNESS. As I understand it, and as the Secretary of the Navy recommends, these scholars are to go to school-ships, which can be

very readily appropriated by the Navy Department for that purpose.

Mr. GRIMES. The Senator misapprehends.

Mr. CONNESS. I wish to say that I only present this as, I think, an improvement. I am not disposed to press it, but I hope the Senate will consider the proposition.

Mr. GRIMES. I think it would be an improvement if it was carried out, but it is impossible to carry it out under the amendment proposed by the Senator from California. We now have an apprentice system; we have two schoolships; one in the harbor of New York, in which boys are placed as soon as they are enlisted into the service until they are twenty-one years of age, and after a certain number have accumulated on that ship they are sent to the Sabine, that is now lying in Hampton Roads, and there they are instructed so far in their profession that they can be of service to the Government, and then they are detailed from that ship to other ships and serve as sailors growing up. Now, what the Secretary of the Navy proposes is to take these young men from that ship, a certain number of them, and transfer them to the Academy.

Mr. CONNESS. Precisely.

Mr. GRIMES. But this amendment would not meet that case. This would authorize each member and delegate in the House of Representatives to select two boys from his district and send them to the Naval Academy, and then the necessary number of midshipmen would have to be selected from those thus sent. That would only be accomplishing exactly what you accomplish now, except that you would increase the number by two, in place of increasing it by one, for each district, as proposed by the House bill. You give the power of appointment to each member and delegate in the other House to appoint two young lads under the name of apprentices, and send them to the Naval Academy. You do not, by the amendment, reach the apprentices, the young men who have been performing the practical duties of a sailor on board a vessel-of-war.

Mr. CONNESS. My purpose perhaps served in presenting this question even as briefly as I have done to the Senate. It is apparent that there is a majority of this body in favor of a more popular and sensible selection of persons to be sent to the Naval School, as also to the school at West Point. Last year the honorable Senator from Rhode Island [Mr. ANTHONY] took up the latter subject, and many of us differed from that Senator only as to the scheme that he proposed for carrying his plan into effect. It is apparent that so far as this branch of Congress is concerned we are ready for a change, and a beneficial change, in these respects, and I hope that before another session shall be over the chairman of the Committee on Naval Affairs, as well as the honorable Senator from Rhode Island who has taken so much interest in the West Point question, will be prepared to give us a proper system according to which this great reformation can be made. I now withdraw my amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from California being withdrawn, the question is on the amendment of the Committee on Finance, which is to strike out the second section of the bill.

The amendment was agreed to.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs to offer the following amendment, to come in after line two hundred and seventeen, on page 10:

That the Secretary of the Navy be, and is hereby, authorized to purchase the balance of square numbered nine hundred and forty-eight in the city of Washington, District of Columbia, some fourteen thousand feet, upon which a naval hospital is now in course of erection.

It will be observed that this amendment makes no appropriation; it merely authorizes the Secretary of the Navy to pay out of what is called the hospital fund the amount of money that is necessary to make this purchase, which I understand will be about two thousand dollars. This hospital fund, as members of the Senate are aware, is a contribution made out of the monthly pay of every officer and man in the service, and it is applied for the purpose of taking care of them when sick. That is the fund with which hospitals are built, and with which this ground is to be purchased.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment, by the instruction of the Committee on Naval Affairs:

*And be it further enacted*, That the sum of \$100,000 is hereby appropriated to enlarge the accommodations for sick, wounded, &c., at the Naval Asylum at Philadelphia, authorized by act of Congress of March 14, 1864.

It is known to the Senate, I suppose, that we have one Naval Asylum in the neighborhood of Philadelphia. I have letters here from the chief of the Bureau of Medicine and Surgery, and from the Secretary of the Navy, calling the attention of the committee of which I have the honor to be a member, and, through that committee, of the Senate, to this subject, and especially calling attention to the report made by the chief of the bureau last December. I will read an extract from that report:

"NAVAL ASYLUM, PHILADELPHIA.—There is obviously a great want of additional accommodation at this establishment, as well on account of the progressive increase of beneficiaries as of hospital cases.

"The admissions to the hospital department during the year 1860 were but one hundred and seventy-nine, while during the year 1863 they amounted to nearly one thousand. It is not probable that either patients or beneficiaries will diminish in number, certainly not the latter, for years to come; on the contrary, it may be reasonably expected the number will increase.

"The sum of \$75,000 was appropriated by act of Congress, approved March 14, 1864, to extend the building; but the derangement of business and enormous increase in the price of labor, material, and everything necessary for the prompt execution of the work, rendered it inexpedient to commence operations with such limited means; and rather than have the grounds defaced and disfigured by undertaking what there was no certainty of soon completing, I have abstained from commencing operations until further appropriations are made. I have not asked for additional means, because of the inopportune-ness of the times; but still, believing that our necessities will not diminish, I submit to the Department whether it may not find it proper to ask for the further sum of \$100,000, which I have not included in the estimates.

"A system of transferring patients from one naval hospital to another has enabled us thus far to meet the want of accommodation at Philadelphia; but this is an uncertain reliance, especially in view of the continued growth of the Navy and the casualties of war."

The amendment was agreed to.

Mr. GRIMES. I offer the following amendment from the same committee:

*And be it further enacted*, That to defray the necessary expenses of the commission to select the most approved site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries, the sum of \$2,500 is hereby appropriated.

This amendment is moved in compliance with a communication made to Congress by the Secretary of the Navy, to which was appended a list of items showing the expenditures made by the commission.

The amendment was agreed to.

Mr. GRIMES. I offer another amendment, which does not come from the committee, but is offered on my own motion:

*And be it further enacted*, That so much of the second section of the act entitled "An act to increase and regulate the pay of the Navy of the United States," approved June 1, 1860, as provided that the officer charged with experiments in gunnery at the navy-yard at Washington shall receive the sea-service pay of the grade next above him, be, and the same is hereby, repealed.

I will explain this to the Senate in a moment. I think the first law that was passed on the subject of the ordnance officer at the Washington yard was in 1851, when it was declared that the lieutenant in charge of ordnance at that yard, that lieutenant at that time being the present Admiral Dahlgren, should receive the sea pay of the grade next above him, which was the sea pay of a commander. When in 1860 we passed a law fixing the pay of officers in the Navy there was a clause added to it declaring that "the officer now in charge of the experiments in gunnery at the Washington navy-yard" should receive the sea pay of the grade next above him. The word "now" was twice inserted in the clause, I remember, in order as it was supposed to make it certain that if Commander Dahlgren should be detached to some other duty and some one else be sent there the provision would not apply to his successor. It has, however, been decided by the Treasury Department that they cannot tell who may be detached to this position, and they continue to pay to the officer in charge the sea pay of the grade next above him. This amendment is to restore the law as it originally stood, and let the ordnance officer at the Washington navy-yard stand like the ordnance officer at every other navy-yard.

The amendment was agreed to.

Mr. WILSON. I offer the following amendment as an additional section:

*And be it further enacted*, That the United States Naval Academy shall not be returned to and established at the Naval Academy grounds in Annapolis, in the State of Maryland, before the commencement of the academic year 1867.

I send to the Chair and ask to have read two letters on this subject.

The Secretary read, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, February 6, 1865.

SIR: The Secretary of War directs me to refer to you the inclosed copy of a communication of December 28, 1864, from the Surgeon General to him, with relation to the necessity of a general hospital establishment at Annapolis, Maryland, for the reception of our sick and wounded soldiers returned from southern prisons; and to invite your special attention to the necessity for the retention of the Naval School for this purpose, to avoid the expenditure of a considerable amount of public money in the erection of suitable buildings to supply the place of the establishment now occupied, and which, under existing laws, is to be restored to its original purposes in the month of May, 1865.

Very respectfully, your obedient servant,

JAMES A. HARDIE,  
Colonel and Inspector General.

HON. HENRY WILSON,  
Chairman Military Committee United States Senate.

SURGEON GENERAL'S OFFICE,  
WASHINGTON CITY, December 28, 1865.

SIR: It having been decided by act of Congress, approved May 21, 1864, that the United States Naval School at Annapolis, Maryland, occupied since the latter part of June, 1861, as a general hospital, shall be restored to its original purposes in the month of May, 1865, I have the honor to report that its retention during the war, or the immediate erection of a general hospital at or near Annapolis, Maryland, for the reception of our sick and wounded returning from southern prisons, is a necessity of the highest importance.

Facility of access by water, purity of atmosphere, and protection from the injurious influences of large cities, with other essential requisites to the treatment and convalescence of this interesting class of patients, can be more advantageously secured there than elsewhere.

The Naval School hospital, possessing all these advantages, with a capacity of nineteen hundred beds, is now in successful operation, and if possible should be continued. Within the past year it has received twelve thousand five hundred patients, a large proportion of whom were exchanged or paroled prisoners arriving by water, many of these being carried direct from the transport ships to the wards, in such condition as to have precluded the possibility of their reaching a more distant hospital.

A tract of forty or more acres on the Pinkney farm, affording a most eligible site, with good water front on the Severn, and unusual facilities for drainage, can be obtained at a reasonable rent.

It is therefore respectfully recommended that, should it become necessary to vacate the Naval School, the Quartermaster General be instructed to effect a lease of the Pinkney farm, and at once give the necessary orders for grading, drainage, and building a wharf, while materials are being collected for the erection of a United States general hospital of two thousand beds, upon the plan indicated in the circular of the War Department of July 20, 1864, and an officers' hospital of two hundred beds upon a plan corresponding with that of the administrative building in the above circular, modified as shown in the accompanying diagram.

The relative position of buildings to each other, the position of wharf, grading, and drainage of grounds, and laying out of road and walks to be under the superintendence and control of Surgeon B. A. Vanderkief, United States volunteers, with whom will be associated the Medical Director and Medical Inspector of the Department.

Very respectfully, your obedient servant,

J. K. BARNES,  
Surgeon General.

HON. E. M. STANTON, Secretary of War.

Mr. WILSON. I will simply say that we have ordered the restoration of the Naval Academy to Annapolis by May next. A portion of the buildings of the Academy are used for hospital purposes. It appears by this statement of the Surgeon General that we have nineteen hundred beds there now. If the Academy is brought back there in May these buildings and grounds must be given up. I have moved to extend the time for bringing back the Academy two years, in order that we may continue to use in the mean time the buildings and grounds for the purposes for which they are now used. If we do that we shall save the expense recommended here for the purchase of forty acres of the Pinkney farm and erecting the proper buildings for the hospital upon it. I think it will be a large saving to the Government. Certainly, if we purchase this land and erect these buildings it must be done at a very large expense. I have therefore offered the amendment for the purpose of extending the time for bringing back the Academy to 1867.

I wish simply to add, in closing, that I have no objection to the Academy coming back there on any general principles. I suppose it is settled it must come back there sooner or later; but it



seems to me we had better keep the grounds and buildings for the purposes for which we are now using them until the close of the rebellion.

Mr. GRIMES. I do not want to be uncharitable, but I think the real secret of this movement is that there are some very comfortable dwelling-houses connected with the Naval Academy at Annapolis which are occupied by the Army surgeons, which they are not extremely anxious to abandon. I understand since the motion was made by the Senator to append this as an additional section, that the amount that is likely to be saved by not bringing the Naval Academy back and building a hospital will be \$30,000. I congratulate the country, I congratulate the chairman of the Committee on Military Affairs, I congratulate the War Department on the spirit of economy that has so suddenly descended upon them. Thirty thousand dollars! Mr. President, what is that in comparison with restoring your Academy and placing it on the basis where it was? I tell the Senate and I tell the country that it is the sentiment of every man who has visited that Academy and is connected with it that its tone is being most essentially lowered where it is; and I would rather disband it entirely than let it remain where it is, at Newport, for three years more. That is the sentiment of every man connected with it except one, so far as I am able to learn, and I have had communications with nearly every one of them. I say it is a perfect outrage for the War Department to attempt to keep these grounds upon the paltry, miserable excuse assigned in those letters. Save \$30,000! I declare, Mr. President, it is a consolation to know that there is a spirit of economy sometimes that makes its appearance from the War Department.

If we want to educate these young men and make them an ornament to their profession, if we want to protect their morals, now scattered all over the city of Newport, some in quarters in one place and some in another, none of them, or hardly any of them, brought in immediate connection with the professors, tutors, and instructors, some of them on shipboard, where they ought not to be, a hospital away, removed off, remote from the Academy; if we want to do justice to these young men, let us restore the Academy to where it belongs, and where it ought never really to have gone from. What should we think if the Navy Department had got possession of West Point and should undertake to keep West Point Military Academy, just as the War Department is attempting to keep the Naval Academy? Why, sir, the Senator from Massachusetts would rise up every day, and every hour of every day, and protest against it, and we should have a flood of bills and resolutions here on the subject.

I trust, Mr. President, that we shall at once dispose of this question as we have disposed of it before. Let the Naval Academy come back to Annapolis; vote to the War Department the \$30,000 that is necessary to build a hospital and lease the ground they want; but do not let us cripple the energies of the Navy and destroy, in effect, your Naval Academy by retaining it where it is.

Mr. ANTHONY. If the Senator from Iowa can construct a hospital of two thousand beds and all the appliances for \$30,000, I hope we shall contract with him to build all our hospitals and barracks.

I was not aware that this recommendation was coming in until the chairman of the Committee on Military Affairs informed me of it; but I certainly think we are bound to pay regard to the recommendations of the War Department. And I wish to state one thing, Mr. President, which it may seem strange to those who read the debate a year ago I did not state at the time; and that is, in defense of the ancient town of Newport from the charges that have been brought against it upon this floor by officers who have enjoyed the hospitality and have become familiar with the society of that town; a society which, I undertake to say, in refinement, and in culture, and in everything which marks a high civilization, is not in any respect inferior to that of any other city in the Union. The letters to which I refer, it may be recollected, were published in the Globe, the offensive portion of them, but were not read by the Senator from Iowa when he made his speech. He very properly omitted those portions which reflected upon the town of Newport, and which are not in any respect borne out by the facts.

The allegation that Newport is an unfit place for a military or naval academy by reason of the morals of the town is just as untrue as that allegation would be if made of any town in the Union. Undoubtedly the young gentlemen of the Naval Academy are not so well cared for in hotels as they would be in buildings especially constructed for their accommodation; and if the Academy was to be retained at Newport unquestionably there should be proper accommodations erected for it. As for some of the young gentlemen being on board ships, they are on board ships at Annapolis, and always have been on board ships.

Mr. GRIMES. No.

Mr. ANTHONY. Some. One class is always on board ships.

Mr. GRIMES. The Senator is altogether mistaken.

Mr. ANTHONY. Then the young gentlemen who are there themselves are mistaken, for I have heard them say that they were on board ships, and speak of the tricks played upon the youngsters when they first got into their hammocks.

Mr. GRIMES. The system of having a part of a class on board ship had only been in vogue one year when the Academy was removed, and has been pronounced by one of the very best officers of the Navy, and one of the most accomplished, a former commandant of midshipmen, Mr. Rodgers, and, I think, a citizen of the Senator's own town, as an entire failure, and it ought to be abolished and the boys kept on land. I have his letter to that effect.

Mr. ANTHONY. I understand the accommodations at Annapolis are not sufficient for all the pupils of the Academy, and that some of them are necessarily obliged to be on shipboard. Am I wrong in that?

Mr. GRIMES. With the increase in the number of the Academy at this time, I think they could not all be accommodated on land.

Mr. ANTHONY. Now I will ask the Senator if, in his opinion, so many of them could be accommodated on land at Annapolis as are now accommodated on land at Newport?

Mr. GRIMES. Yes, sir; a great many more.

Mr. ANTHONY. I differ from the Senator there. I do not believe the whole accommodations of the School at Annapolis are equal to the accommodations procured on shore at Newport now.

But I rose not for the purpose of debating the question. Congress have decided that the Naval School shall be removed back to Annapolis. I rose mainly to defend the town of Newport from these charges brought against its public morals, and which I pronounce utterly unjust: the charges that Newport is an immoral place, or that the young gentlemen are subjected to temptations there that they would not be in any other place in the Union of equal size. The Senator did not bring the charges, but they were printed in the Congressional Globe. The Senator did not read them here. If they had been read here, I should have replied to them at the time.

Mr. SPRAGUE. When this question was brought before the Senate a year ago, and my colleague took upon himself the urging of the request that Congress and the Government of the United States would retain the Naval Academy at Newport, I felt too diffident to interpose. At the beginning of this war it was my fortune to arrive at Annapolis about the time when the frigate Constitution was saved from destruction by the rebels. It seems to me that if there is any question as to the policy of the Government at this time, its economy, or otherwise, that question should be decided in favor of retaining the Academy where it now is, rather than removing it, until the excitement of the times and all the passions incident to them shall have subsided by the settlement of this war. It seems to me now, as it did at that time, that although Maryland has commended herself to the country and to the world, so important an interest as the Navy and the proper education of its officers should not be brought so near the confines and the borders of this rebellion as Annapolis will bring it.

I have no particular partiality for Newport, but I take occasion to say here that the remarks said to have been made by the chairman of the Committee on Naval Affairs as to the immorality of that place cannot be true. The climate is too cold, far too cold, to have upon its inhabitants or

upon those at the Academy such an effect as has been suggested by him, or by any one else who may have made that suggestion in defending Annapolis at the expense of Newport.

A State which has produced a Perry—and I call Perry to my mind now because the picture at present in the rotunda brings to the mind of this generation the exploits of the past—I say the State which has produced such men and such results is not an inappropriate school to cultivate and to strengthen the minds of men who are to be connected with the Navy, and who are to carry out and to extend from this time hereafter the results of victory wherever the Navy may carry our flag. I trust, sir, the Senator from Iowa, the chairman of the Naval Committee, will disclaim any intention to condemn Newport or to condemn any associations of Newport as being an inappropriate place in consequence of any immorality alleged against it to its disparagement as a site for the Naval School.

Mr. GRIMES. I beg leave to say to the Senator from Rhode Island, [Mr. SPRAGUE,] to the Senate, and to the citizens of Newport, that I have not said a single word now or at any other time in disparagement of Newport. The Senator's colleague has already admitted in advance that I did not read the sentence to which exception has been taken. It was embraced in a letter which was accidentally handed to the reporter and was thus transferred into the debate. I did not read it here in the Senate and had nothing in the world to do with its publication. I have not said anything now in regard to Newport and its immorality or its morality. I have no doubt, from the specimens we have of Rhode Island on the floor of the Senate, that they are a remarkably moral, pure, high-toned, honorable people. But that is not the question before us. The question is whether it is expedient for us to retain the Naval Academy right in the center of a town, in a hotel with nothing around it except a mere artificial line, and then say that if a boy steps over that line to get an orange or to reach toward any temptation, no matter what, that may be before him there, he shall be marked with ten or fifteen demerit marks at a time, and then when the demerit marks have reached one hundred that he shall be turned out of the Academy. I ask gentlemen to put themselves in the place of the fathers of these boys and let them answer for themselves whether they would like to have their sons placed in such an attitude as that, where they would be so liable to be disgraced and degraded. That is the condition in which we are asked to keep these young lads who are intrusted to us for safe-keeping.

Mr. SPRAGUE. All I ask in the disposition of this question is that you shall wait until the war is over before the Academy is removed. Then put it in Florida or Texas or anywhere else that you choose, but wait until peace shall have been restored, until the flag of the Union shall float permanently and surely over Maryland, as well as over every other southern State, before you remove this most important institution.

The amendment was rejected.

Mr. WADE. I offer the following amendment to come in at the end of the bill as additional sections:

*And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral, one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer of highest rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the subject.

*Sec. — And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war, when required by him. All such opinions shall be recorded.

*Sec. — And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion

thereon; and all courts-martial ordered by the Secretary of the Navy shall be detailed by the board.

Sec. — *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

Sec. — *And be it further enacted*, That the Secretary may add to the board from time to time other officers of the Navy eligible to the position of chief of bureau, not exceeding three at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

I do not propose to detain the Senate long on this amendment. It is the same proposition which was offered in the House of Representatives, agreed to there in Committee of the Whole, and afterward rejected by a very small majority. I suppose that if the House could get hold of it again they would probably pass the provision, although I do not know that it is exactly in order for me to refer to that here.

Sir, I have known but little about the Navy Department or its proceedings; comparatively nothing until the committee to which I belong, under instructions from the Senate, proceeded to examine the facts in regard to the building of the twenty light-draught monitors. We proceeded in that investigation until I am entirely convinced that there should be somebody responsible for the manner in which your appropriations are expended. When I say this, I do not intend to cast any reflection on that Department. In the immense amount of business thrown upon their hands, I know that without the aid and the earnest coöperation and assistance of the boards of construction, it would be impossible for the Secretary of the Navy and his immediate assistants to give such care and attention to matters as the necessities of the case require.

But, sir, the \$10,000,000 that you ordered to be expended in the construction of light-draught monitors have been expended without that care and attention which the importance of the subject demanded. I am entirely satisfied of that, and I think it is because the board of construction was composed of gentlemen who do not believe in any of the late improvements in building ships-of-war.

Mr. GRIMES. To whom does the Senator refer?

Mr. WADE. I refer particularly now to Mr. Lenthall. I do not think he believes much in your iron-clads or monitors, or anything of that kind. I do not say he ought to be a believer in them; but I think his opinion is that the old method of building our ships-of-war was about the perfection of the art of ship-building. At all events the testimony is—I cannot exhibit it here before the Senate as I wish I could, because much of it is now in the stenographer's notes, which I cannot read—that the board refused to have much to do with this. For instance—

Mr. GRIMES. I inquire of the Senator what board he refers to?

Mr. WADE. The board of construction.

Mr. GRIMES. Who composed that board?

Mr. WADE. Mr. Lenthall, Mr. Isherwood, and somebody else.

Mr. GRIMES. Who is the other one?

Mr. WADE. I do not remember his name. They were the principal men of the board. Mr. Stimers was charged with making calculations for building these ships, and he drew draughts of them. He was exceedingly busy and had but little time to spare. He had not time to attend to this because his time was nearly all occupied with other matters. He went to Mr. Lenthall and told him that he had been compelled to make the calculation of what they call the displacement; that is, to ascertain what the depth of the vessel and its material would be, how much water it would displace, how it would sail, how much of it would be out of water, &c., a calculation that lies at the very threshold of all these inquiries, and which it is most material to get right at the start. Mr. Stimers says that he had a young man whose name I do not now recollect, a very good engineer, a good calculator for a young man, but comparatively inexperienced in this business. I am told that this ascertainment is so essential that it

is hardly ever trusted to a single estimate, but different men skilled in the business go through to ascertain that the calculations are all right in this respect at setting out, because if you do not start right here you are in danger of building a ship that will not swim, that will not carry herself, much less the munitions of war, and the coal, &c., which are to be carried. In a steamship the question is more complicated and requires more care. Mr. Stimers's testimony is that the calculations were made by this young man, about twenty-four years of age, who was a bright young man and very well skilled in this business no doubt, but nevertheless Mr. Stimers cautioned the board of construction and Mr. Lenthall that the calculations had been made by the young man and that they ought certainly to be looked to by the board. They, however, as I understand him, refused to have anything to do with them, because they did not believe in these iron-clads or monitors, and they would not make the calculations, and the fact is that your ships were constructed upon the calculations of this young man alone, never ascertained or gone over by anybody else skilled in the business to see whether he had made the calculations right or whether he might not have committed some mistake.

They went on and prepared for the construction of twenty monitors all after the same model and all based upon the calculations of this young engineer, and the consequence was just what we might have expected it would be: your \$10,000,000 were expended in the construction of these vessels, and when you came to launch them they would not carry their armor, their turrets, their coal, their munitions of war for a cruise. In other words, they would not swim; and that was precisely the mistake we might have expected. I say it was culpable carelessness in whoever was charged with so grave a responsibility as that not to have taken all the pains that could have been taken to insure that the work was commenced right. Ten million dollars were expended in ship-building, and that, too, in trying a comparatively new thing which I may almost say was an experiment. That should have required greater care than if they were building ships after the old fashion on old models that everybody understood. The proper care was not taken, and consequently these monitors are admitted by the Department to have been a failure.

I am not charging the Department with any delinquency, because I can see well enough that the immense business they had on their hands was such that they could not act on the subject unaided by these boards. They could glance at it occasionally, as they did, but it was impossible for the Department to attend to it without the aid and earnest coöperation of these boards that were furnished by the Government and paid by the Government to take charge of these things and not to let them slip carelessly through their fingers merely because the Government was entering on an experiment which they did not happen to believe in. They should have entered on the business of the Government with the same anxiety to succeed as though they had been building ships in which they themselves had the utmost faith. They would not do it, however, but turned their backs on their duty, as I think and as the evidence discloses, and did not aid the Department at all.

Mr. GRIMES. That is the evidence of Stimers?

Mr. WADE. Yes, I am repeating now more particularly the evidence of Stimers. That is the only witness I have seen who knows all about the subject, except Mr. Lenthall, who does not seem to say much about it, though it is evident that he does not believe in this kind of shipping. I am not now, however, speaking on that branch of the subject. I have very strong opinions myself about these monitors. I think they are good for some purposes, and for others good for but very little. These light-draught monitors, I think, are a total failure. I know that there was a great disparity of testimony on that point before the committee by men who were very competent to judge, infinitely better judges than I am, who am no judge at all; and when we are told that the speed of these monitors was only three and a half miles an hour—

Mr. GRIMES. Which one was that?

Mr. WADE. The Chimo, the one they brought

around from Boston. Some say she went four miles an hour, but the most reliable evidence I can get is that her speed was three and a half miles an hour; but that was really no test of it which enabled anybody to say precisely what her speed was. It was barely incidental. It was tried for three or four miles under circumstances that certainly would not be called a test. It is clear, at any rate, that these vessels are very slow, so inactive in the water that they cannot answer the purposes for which they were originally designed. The idea in building them was that they were to be used along the shallow waters of our southern coast and in ascending rivers. The principal design was that they should ascend the rivers. It is perfectly evident that a vessel which cannot be propelled more than three and a half miles per hour can ascend hardly any of our rivers. She could not begin to make headway up the Mississippi, and hardly any other river that she would be called upon to navigate. I do not suppose she could go against tide-water where there was any considerable tide. The current of tides is generally as much as that, and of our rivers something more.

The original purpose for which these monitors were built is admitted on all hands to have failed. They cannot carry their turrets. They have had to throw them aside, after having built them at considerable expense. Then they had a water-tank, the intention being to sink the ship when it was in peril, so as to decrease the surface to be exposed to the fire of the enemy. The cisterns were to be filled with water, and they had an apparatus by which it could be pumped out if they struck bottom. It was thought that would be a most excellent arrangement. Perhaps it would have been, but it did not seem to work. The vessels could not carry the tank and the turrets, and they had to dispense with them and throw them away.

The question then was what to do with the vessels, and that was determined about as loosely as some other things. I believe that when Captain Ericsson found they would not answer their purpose he said, why not make torpedo-boats of them? Then the officers all went in with a hurrah for making torpedo-boats of them; and I believe they have got about six of them, throwing off the turrets, throwing out these water-tanks, and making them as light as possible, and are trying to use them as torpedo-boats. I have inquired of many of our men who ought to be very competent to judge on the subject, whether they would make good torpedo-boats. They have not been able to sail much, only as they are towed by other vessels. They were brought around from Boston under tow. They did not sail themselves. They thought, of course, as anybody would think, that they were not spry enough afoot for torpedo-boats; they are too logy for that. Besides, the same men who speak of them say that we have a torpedo-boat that was built for about eighty thousand dollars, and that, according to the witnesses I have examined, is the very perfection of a craft for that purpose. These monitors cost between four and five hundred thousand dollars apiece, while a torpedo-boat costs about eighty thousand dollars, is spry, can go where it is wanted to go, is most admirably calculated to perform all the duties of a torpedo-boat, according to the testimony of the best men I have been able to examine.

Now, sir, I do not want to enlarge on this subject. I hope these monitors will be able to perform something. After it was found that they were a total failure for the purpose for which they were originally built, as I have stated, a board was organized to take into consideration what might be done with them. They inspected them, examined them, considered the subject, and came to the conclusion that if they were built up twenty-two inches higher on the side they would be able to carry the armor and be of some service. That, of course, would sink them deeper in the water. They were originally contracted to be built so as to draw but six and a half feet of water. They sunk below that, and drew over seven feet in the original state. When you come to build them up in this way, they will probably set eight or nine inches deeper, and draw about seven and a half feet draught, which is rather an objection to their ascending our rivers and navigating the shallow waters for which they were specially designed;

but it was thought they might be built up on the sides twenty-two inches higher, and then be able, not to navigate the ocean, but to creep from harbor to harbor and be of some service in harbor defense.

Mr. HALE. What were they built up with?

Mr. WADE. Built up with wood and faced with iron, the same as the original sides were built. I have seen them; I have been on board one of them that was very nearly finished and built up. As I said before, there seems to be a diversity of opinion as to the usefulness of these monitors in their repaired state. When built up twenty-two inches, some of the witnesses think they will be most excellent boats, and will do good service for harbor defense. Others think that they are too light to be of any essential service for that, and really do not think they will be good for anything. I am not competent to judge of that question. I do not know how it will come out, but I hope, considering the vast amount of money they have cost the Government, that they will be of some use. Take, for instance, the one which I was on board of, the Chimo, built in Boston. There the cost of making this change, building up her sides twenty-two inches, was \$90,000 more than the original contract price, which, I believe, was \$375,000. Adding to that \$90,000 for building up these sides, and \$50,000 more for other repairs, and you will see how expensive these vessels are; and they have cost millions of dollars more in this repaired state than the original contract price. I have not made an exact estimate of the amount. The cost to be added in consequence of this change depends somewhat upon the state and condition the ship was in when it was ascertained that the original draft was a failure. If they were nearly finished, as the one of which I spoke was, the cost would be more than if it was otherwise. In that case it was \$90,000, but in other cases the cost of the change is not so great, because they have not got to take so much of the ship away. It is a good deal of work to prepare the ship for this repair, when it is nearly finished. I do not know that any of them will cost less than \$50,000 to build them up, and many will cost considerably more than that.

I make these observations in regard to these ships in order to illustrate the necessity of having a board that are competent to decide these matters and who will take a lively interest in them. I want the board to be men who have to navigate the vessels, high officers, who will have to stake their lives finally upon the success of the ships they order to be built; captains, commodores, admirals, practical men, who know all about that which they are doing, and who have really got to test the experiment they make, and test it, too, at the hazard of their lives. If this old board that sat here from year to year had to sail in these ships I do not think they would show the same indifference that they do now. We want live men, who can follow a new fashion if the Government is determined on a new fashion. Whether we have improved or not improved old things in the Navy have passed away, and behold all things are new, and these old men undoubtedly well skilled in the old manner of building ships, competent for that business, are perfectly inapplicable to the changed state of things, and it is madness for us, in building up a great and expensive Navy, as we are doing, to leave these improved vessels, to be built on modern models and according to modern experience and theories, to the fate to which they will be subjected if they are committed to the hands of men prejudiced, unskilled perhaps in this new condition of things, not believing in it. They believe we throw away the money when we directed these ships to be built. Believing that, they do nothing by which we can succeed with them.

I hope we shall adopt this amendment, which I think will give us some additional guarantees that these great expenditures of money for a Navy will be carried out to a better purpose than they have heretofore been or probably will be as they now stand.

I trust I shall not be charged with making any attack on the Navy or on the Navy Department. I am compelled by a sense of duty to endeavor to have a reform in this particular. I believe that the condition of your Navy requires it. I believe so on the information I have derived from taking the testimony of the best men we have in the

Navy; and if I did not mention it here to the Senate, I should be guilty of the same culpable negligence that I am charging on this old board. I now leave the matter with the Senate, hoping that they will either adopt this amendment or by their wisdom devise some other way which they think will be better adapted to the purpose, for I am not wedded to this. If any one can get up anything better, I will agree to that, and shall be glad to have it done. To me this seems feasible and proper, and I think it will be a great benefit to our Navy if it is adopted.

Mr. WILSON. I propose to move that the Senate go into executive session for a short time, to allow me to make a report; but before doing so I desire to send to the Chair some amendments to the Army appropriation bill, which will be up to-morrow, in order to have them printed.

The PRESIDENT *pro tempore*. The order to print will be made, if there be no objection.

Mr. SHERMAN. If we go into executive session I know that an adjournment will follow. I am opposed to it.

Mr. WILSON. Does the Senator want to finish this bill to-night?

Mr. SHERMAN. I do.

Mr. WILSON. Very well; I withdraw my motion.

Mr. SHERMAN. We have this bill and the Army appropriation bill, and we have to-day and to-morrow to pass them.

Mr. HENDRICKS. I desire to have an executive session in order to move a reconsideration of a vote of the Senate confirming a nomination, and I understand that according to the rules the motion must be made to-day.

Mr. GRIMES. Oh, no; at the next executive session.

Mr. HENDRICKS. Then I do not understand the rule.

Mr. WILSON. The Senator's motion to reconsider will be in order whenever we go into executive session.

Mr. HENDRICKS. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

Mr. SHERMAN. I trust my colleague will not press this amendment. I will not discuss the merits of it; I know nothing about them. The habit of attempting on the appropriation bills to legislate on important matters of this kind without the report of a committee is wrong and ought not to be tolerated.

This amendment does not come from the Naval Committee, nor does it come from the Committee on Finance having charge of this bill. I hope, therefore, that without entering into a general discussion of the merits of the proposition, it may be left to stand by itself. A proposition to reorganize the Navy Department, to make such radical changes as are proposed by this amendment, certainly ought not to be added as an amendment to an appropriation bill. The habit of Senators offering independent propositions of legislation, and hitching them on to the appropriation bills which must be passed, thus creating a controversy between the two Houses, at this period of the session, in my judgment, will endanger the passage of the appropriation bills. I hope, therefore, that without entering into a discussion of the merits of the proposition of my colleague, it will be left to stand as a separate measure. He has the power to introduce a bill reorganizing the Navy Department, and have it taken up and discussed as an independent measure. To attach it to this appropriation bill would lead to a long discussion, carrying the controversy back to the other House, where the same proposition was discussed for two or three days and voted down; and to renew the discussion now, it seems to me, would be unwise at this stage of the session. I shall therefore vote against the amendment without going into the merits of the proposition.

Mr. WADE. I hope that the Senate will vote on this question with no such view. I have no fear about the passage of the appropriation bills. I have been here a great many years, and I never knew an appropriation bill to fail which it was not intended should fail. I knew one appropriation bill to fail, but it was when we were almost in a state of rebellion here; when we had the chief conspirators of the present rebellion here, who intended to make that bill fail, and they succeeded.

That is the only appropriation bill I ever knew to fail.

In my judgment, there is ample time before we adjourn to do everything that ought to be done for the Government, and in my opinion there is nothing more essential than that which I have now offered as an amendment to this bill. There is no danger that it will endanger the appropriation bill. It may postpone its passage for a very short time; but if the Senate, on full consideration, shall reject it, they will pass the original bill, and there will be scarcely anything to dispute about. If they adopt it, it will go back to the House of Representatives; and, my word for it, if it goes there again the House will adopt it; but if they should reject it, there will be the end of it. It is not going to endanger the bill at any rate.

If I am right in what I have endeavored to impress upon the Senate, it is of the first importance that something of this kind should be done. It ought to accompany the appropriation bill. Before you make any other great appropriations for your Navy you ought to have some safeguard that the money will be laid out to the advantage of the public. Here is the very place for it, on this Navy bill where you are making these enormous appropriations. I want to know that the money will be expended carefully by men of skill, and not be wasted. Sir, what is a day here in the Senate compared to wasting \$20,000,000 or \$10,000,000 on vessels which turn out to be good for nothing? I say to my colleague that he is not subserving the best interests of the country when he is so eager to press the appropriation bills to a conclusion that he will go against and repudiate wholesome amendments. If there was any danger of losing this bill, I would go with my colleague; I would sacrifice everything rather than that the appropriation bills should not pass; but they will not be endangered by this amendment; they certainly will pass. Their own weight will carry them, not, like the monitors, to the bottom, but through both branches of Congress. There is no doubt about that. I hope the Senate will not be biased in voting upon this subject by the consideration that the amendment will endanger the passage of the bill, for it will have no such effect.

Mr. HENDRICKS. It seems to me a little strange that a proposition of this sort should come before the Senate without any reference to the Naval Committee. I concede the wisdom, the statesmanship, the investigation that the committee on the conduct of the war brings to the examination of every question; and I have felt the power of that committee in putting commanders down and putting commanders up. I think the whole country has felt that. Whether its action has been right or not in some cases, I do not choose to discuss; but I believe this is the first time that a measure has been based upon the investigations of that committee touching the mechanism appertaining to the Navy, without allowing the matter to go to the appropriate committee, where the questions of fact can be investigated so that the Senate may act upon a report coming from a committee that is accustomed to the investigation of questions of this sort. The Senate is asked to rely upon testimony which shall condemn an important Department of the Government, and that testimony is yet in short-hand, and taken simply in regard to one class of vessels.

I could say to that Senator—but I am sure no Senator would vote upon a statement of that sort, and with great respect to the Senator I shall not give my vote upon testimony that is only known to that committee—I could say to that Senator that the fact was communicated to the Naval Committee yesterday that the vessels which he has condemned are of great value, and not by men that have an interest in it, not by men that have constructed them, but by the highest architects of the country who had no connection with their construction.

Mr. WADE. The Senator means in their improved condition. He does not contend that the original build of them was not a failure.

Mr. HENDRICKS. I do not contend any way about it. I refer to this to show the conflict of testimony on the point that the Senator has brought up.

Now, what does the Senator ask? The Senator asks to reorganize the Navy Department to a very large extent, to take these questions that now



belong to the Secretary of the Navy from him and to give them to a board, and that question not referred at all to the appropriate committee of this body, and all, too, based upon a criticism of contracts that have been made, and of vessels that have been adopted in the Navy Department, the testimony upon that subject not even translated yet.

I think the Senator from Ohio should at once have yielded to the suggestion of his colleague and not have thrust this question for discussion on the Senate; for surely that Senator knows that the rest of us are not prepared to vote upon it. Why does he ask that power shall be taken from the Secretary of the Navy that now belongs to him? Why does the Senator ask that there shall be a board of live men, as he calls them? For one reason, as is given here, that twenty vessels have been constructed on a drawing or plan suggested by some young engineer, that that young engineer was not qualified, and that the present board did not examine the plans with sufficient care, and that the vessels are not a success. That is the proposition of the Senator; and to support it he relies exclusively on the short-hand notes in the hands of the clerk of his committee.

Mr. WADE. No, I do not.

Mr. HENDRICKS. I understood the Senator to make that argument. I may have misunderstood him, but that is the way I understood his argument. The evidence was not yet translated, and he could not read it to the Senate.

Mr. WADE. I spoke of one witness. I was asked a question in regard to a witness whose manuscript was not yet written out.

Mr. HENDRICKS. Perhaps I gave too much scope to the Senator's argument, but that is the way I understood him. The argument is based on the fact, as urged by the Senator, that these vessels have not been a success, and they have not been investigated here except by the committee on the conduct of the war; and with great respect to the Senator I doubt whether the subject was within the scope of the committee's jurisdiction. What is the conduct of the war? Does that involve the building of vessels?

Mr. WADE. We were specially instructed on that subject.

Mr. HENDRICKS. Then I withdraw any suggestion on that question; but I believe that committee was not instructed to bring forth a proposition of this sort. But my point is simply that this proposition has never been to the appropriate committee. It is the reorganization of the Navy Department, which certainly the Senate will not propose to make until the Naval Committee has had an opportunity to consider it. Would it be tolerated here for a moment that we should reorganize the War Department without taking the judgment of the Committee on Military Affairs upon it; or the Post Office Department without hearing the distinguished chairman of that committee upon that subject? Not for a moment.

Therefore I think the suggestion of the chairman of the Finance Committee is a very reasonable one, that the Senate is not now in a condition to decide upon the question. There will be debate upon it; there is no doubt about that; and certainly the Senator's own statement does not entitle this proposition to a peculiar consideration in the body when he informs us that it has already been considered in the House of Representatives and rejected there. He says he knows now, at least he thinks now, the House will change its judgment; but he does not tell us what members have told him they were going to vote otherwise upon the next vote. He may think so, but we have the record now that the proposition he brings before the Senate has been rejected by the other branch of the Legislature. I think the proposition of his colleague is a very reasonable one, that this amendment shall not be pressed, that we shall not go into the investigation of so important a question as this, with the present information of the Senate on the subject.

Mr. WADE. One word in reply to the Senator. He says that we take undue advantage, that I am now speaking of a thing that is unknown to anybody except the committee on the conduct of the war. It would be a very poor compliment to the Naval Committee to assume that they know nothing about the subject to which I have referred; that the committee having special charge of naval

affairs and knowing that ten millions of money had been appropriated for the construction of certain vessels which everybody knows, if the Naval Committee do not, have been criticised out of doors and in doors for months, have not taken it under consideration at all. Sir, there is not a Senator here who does not know that the original draught of these monitors was condemned, not by me, but by the Department themselves.

He says my condemnation of these vessels is based on the notes of the stenographer. Why, sir, I do not condemn them more than does the Secretary of the Navy. We wrote to him a communication in regard to it, and I supposed the Naval Committee, who are specially charged with this duty, would do as much as we have done, call on him to know what state and condition these vessels were in, whether they were good, bad, or indifferent, what information he could give us on the subject. I did not bring his manuscript in here because I presumed the Naval Committee knew it as well as or better than I did. That Department do not deny that the original draught of these monitors was a total failure, and the Senate knows it no doubt. Everybody knows that that is the condition of things. Nobody stands forth as their advocate that I know of. You do not want to go through any stenographer's notes to know it. The world knows it. The ship-builders know it. The Naval Committee know it. The question is, can you make anything of them now? I hope you can, but I say as I said before, our investigations show that that is a mooted point, some believing they will be of use for harbor defense, and others thinking that their armature is not stout enough, and being so designed, they cannot be of any considerable use for that purpose. I do not know how that will be. I hope they may prove an entire success, and I am not here to say they will not. I hope they will be a success, but I believe with that portion of the nautical men I have examined, who think they will not be of any considerable use even for harbor defense, for they ought to be of a stouter class, carrying heavier armor, carrying heavy guns, and built for that purpose, for this is an afterthought. If you get any use out of them it is not what they were originally designed for, but it is a mere afterthought to see if you cannot make something out of that which had proved a failure.

And I am told that the Naval Committee do not know anything about it, and that the committee on the conduct of the war have presumptuously come in here to give their opinion! No, sir, it was no pleasure to me to enter into this investigation. I never intended to touch it; I never thought of doing it until the Senate instructed us to enter upon it, and then I had no choice about it. I was compelled to go into it, and I am not to be snubbed off, after you have ordered me to do it, by saying that I know nothing about it, and that I am incompetent to make the investigation. If that were so, you should not have instructed me to go into the investigation. I do not pretend to be competent; but I do pretend that I can examine a witness and that I can tell what he testifies to, and he can tell me whether he is a naval man or not, what office he holds under this Government, and if he is trusted by the Government. If they say he has skill for these things and I examine him, his opinion may be worth something, although mine is not. I know the chairman of the Naval Committee, and a more industrious and astute man never took charge of any subject; and for any one to tell me that he never heard anything about this is all moonshine.

Why did you fail? I tell you that it is a failure. I have told you what the witness to whom I referred testifies about the failure—he who was charged with it, and perhaps the only man who was fully informed on the subject except Mr. Len- thal, and whom we did not succeed in getting till two or three days ago. If his testimony was written out I would have brought it here, because I think it very essential. I know but little about him, but I suppose he is an honorable man.

Mr. GRIMES. You refer to Stimers.

Mr. WADE. Yes. I know he is intrusted by the Government with some of the most important trusts you can bestow on a man, and of course the committee have no hesitation in trusting him. He has detailed the facts showing that the old board of construction would not do anything about it, and left these ships to be built

upon calculations made by a young man. He cautioned them about that at the time, being taken off into other business and ordered to other duty. He told them all he could tell them, that this was the calculation of a young man comparatively inexperienced, although in other respects a very good man, a commendable young man; but the duty was too important to be trusted to any one, and they failed in consequence. That is all I have said about it; and now let the Senate vote as it pleases on the subject. I have discharged my duty, let others discharge theirs.

Mr. ANTHONY. I move that the Senate adjourn.

Mr. SHERMAN. I call for the yeas and nays.

Mr. ANTHONY. I understood that the chairman of the Committee on Finance had no objection to an adjournment; but if he objects to it I withdraw the motion.

Mr. SHERMAN. It is manifest that we have not a quorum, and I should like to have a vote taken on the question of adjournment to show that there is not a quorum here. We must press the appropriation bills. If Senators are going to put all the bills on the Calendar upon the appropriation bills as amendments we shall have to sit here a long time.

Mr. ANTHONY. We always do precisely as the chairman of the Finance Committee tells us on occasions like this, and as we have a very good-natured chairman now I thought he would be willing to yield to a motion to adjourn; but as he wishes to call for the yeas and nays, I withdraw the motion.

Mr. HALE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 16, 1865.

The House met at twelve o'clock, m. Prayer by Rev. A. B. EARLE, of Abingdon, Massachusetts.

The Journal of yesterday was read and approved.

### ORDER OF BUSINESS.

Mr. STEVENS. I desire to make a suggestion to the House. I find it very difficult to get meetings of the House in the evening on account of the illness of so many members, and the numerous religious exercises that are going on in this city just at this particular time. I desire to suggest, therefore, that instead of the present evening sessions the House, until otherwise ordered, shall agree to meet at eleven o'clock a. m., and sit until half past five p. m. I think that that will be more comfortable and that we shall get through with more business.

Mr. WASHBURN, of Illinois. I desire to make a suggestion to the gentleman from Pennsylvania. I think myself that we shall do a great deal more business in the mode suggested by the gentleman from Pennsylvania. The only question is as to meeting at eleven o'clock. Some of the committees I know have a great deal of business to do.

Mr. STEVENS. Our committee propose to meet in the evenings.

Mr. ALLEY. I would suggest to the gentleman from Pennsylvania that the committees be allowed to sit during the sessions of the House until twelve o'clock, m.

Mr. WASHBURN, of Illinois. We never could get a quorum under such circumstances.

Mr. STEVENS. Our committee have agreed to meet in the evening.

Mr. DAWES. I desire to call the attention of the House to the business before the Committee of Elections, in connection with the suggestion of the gentleman from Pennsylvania. There are eight cases undisposed of before the Committee of Elections, some of which are before the House, and they are of such a character that it is due both to the parties and to the House that they be disposed of at the earliest possible moment. The House will bear me witness that I have not been pressing them upon the attention of the House so as to interrupt the business of the Committee of Ways and Means, which is of so much importance. It is my intention to bring them before the House, to-morrow, immediately after the morning hour, and of course, when they are before the House, they will be for its disposal. From watching the proceedings of both branches

of Congress, it seems to me that it is as well to bring the questions involved in these cases before the House and have them settled in that way as in any other. I desire, Mr. Speaker, to bring them before the House at that time, unless the business now specially before the House from the Committee of Ways and Means, the tax bill, be so far progressed that it is likely to be got through with, or very nearly, at that time.

I do not desire to have any struggle with the Committee of Ways and Means for the floor, but I wish they would recognize the fact that this important business is pressing upon us for consideration and ought to have the ear of the House for a brief time. My own course in reference to these matters I intend to be such as to consume very little of the time of the House. I desire to get a vote of the House upon them, and then my responsibility in the matter shall end, whatever the House may decide. But I hope the gentleman from Pennsylvania will make no arrangements that will prevent the bringing of that business before the House. I am willing to come here either at eleven o'clock or seven o'clock, and stay here until one o'clock at night, and then if the House see fit to fine me for absence after that hour, I will submit. But I do think I have a right to the ear of the House long enough to dispose of these questions. I have not been troublesome in bringing them before the House, and I would suggest to my friend from Pennsylvania [Mr. STEVENS] that he ought to be willing to let me have the day after the morning hour of to-morrow. If the other measures which have a relation to these election cases were likely to be acted upon now by both branches of Congress, I should be, as I have been all along, anxious to have that action precede the consideration of these subjects.

Mr. STEVENS. I would suggest to the gentleman from Massachusetts [Mr. DAWES] to allow us first to complete the consideration of the tax bill.

Mr. DAWES. If I could have Monday after the morning hour, that will be satisfactory to me. I am obliged to ask after to-morrow to be excused for the evening of Saturday.

Mr. MORRILL. I would suggest to my colleague on the Committee of Ways and Means, [Mr. STEVENS], that as the arrangement he proposes for meeting at an early hour cannot take effect to-day he will so frame it that it will take effect after this evening, so that we may have this evening, which will probably enable us to get through the tax bill to-morrow.

Mr. DAWES. If the gentleman will allow me to postpone the special order, the reconstruction bill and the election cases, until immediately after the morning hour of Monday next, I will acquiesce.

Mr. STEVENS. I ask unanimous consent for the arrangement I suggest, to meet at eleven o'clock a. m., and sit until five o'clock p. m., and dispense with evening sessions until the House shall otherwise order.

The SPEAKER. To take effect to-day or to-morrow?

Mr. STEVENS. It cannot take effect to-day. To take effect from and after to-morrow.

No objection being made, the suggestion of Mr. STEVENS was agreed to.

Mr. DAWES. I now ask the House to postpone the reconstruction bill and election cases until Monday next, immediately after the morning hour.

Mr. DAVIS, of Maryland. Is that motion in order?

The SPEAKER. Only by unanimous consent.

Mr. DAVIS, of Maryland. Then I object.

Mr. ALLEY. I call for the regular order of business.

Mr. SCHENCK. Will the gentleman allow me to submit a proposition in regard to the business of the Military Committee?

Mr. ALLEY. I will yield a few moments for that purpose.

Mr. SCHENCK. I desire to state to the House that a large number of reports are ready to be made from the Military Committee. Besides those reports there are the amendments to the enrollment law, reported and yet to be reported, and which have already been made the special order for the 2d day of February instant, not yet being reached; and I wish to state to the

House that beside the amendments to the law relating to the draft, now being postponed only from day to day, including provisions for requiring that men shall be credited to the particular localities in which they live, and some other important considerations connected with the amendment of that law; in addition to those matters we have to bring before the House matters which relate to the pay and allowances of officers, the reorganization of the commissary department, and several other questions of general interest to the country; and I see no prospect that the Military Committee will be called upon at all under the present arrangement. I propose to the House to fix next Monday, or some other day not too far distant, when they will permit the Committee on Military Affairs to make reports and bring subjects for consideration before this House.

A MEMBER. Take Saturday.

Mr. SCHENCK. Very well; say Saturday; that will suit me.

Mr. DAWES. The gentleman from Maryland [Mr. DAVIS] withdraws his objection to my motion to postpone the reconstruction bill until Monday next immediately after the morning hour.

Mr. WASHBURN, of Illinois. I hope the permission asked for by the gentleman from Ohio [Mr. SCHENCK] will be given; not only be given for the day he has named, but I hope special days will be assigned to other committees. For instance, the Committee on Commerce has a great deal of business before them which requires attention, and will call for legislation, and we shall ask that one evening shall be assigned to the Committee on Commerce. I hope there will be no objection to granting the request of the gentleman from Ohio, [Mr. SCHENCK], and then I shall make a request for the Committee on Commerce.

Mr. SCHENCK. I ask, then, that Saturday, after the morning hour, be assigned to the consideration of business from the Committee on Military Affairs.

Mr. STEVENS. I must object to that arrangement, unless the gentleman will add "provided that the tax bill be then disposed of." I am not willing that the consideration of that bill shall be interrupted.

Mr. SCHENCK. I have no objection to that understanding, provided our committee be allowed the next unoccupied day.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] asks that Saturday after the morning hour shall be exclusively devoted to the consideration of reports from the Committee on Military Affairs, and that if the tax bill be not disposed of prior to that time the Committee on Military Affairs shall have the next unoccupied day, after the morning hour.

Mr. SMITHERS. Under that understanding, would only Saturday be devoted to the consideration of bills from the Committee on Military Affairs?

The SPEAKER. Only Saturday, or one day afterward not taken up by special orders or questions of privilege. Is there any objection to this arrangement? If not, it will be so ordered.

There was no objection.

Mr. DAWES. I desire unanimous consent that the reconstruction bill and the election cases be postponed until Monday next immediately after the morning hour. The gentleman from Maryland [Mr. DAVIS] withdraws his objection.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that the reconstruction bill and reports from the Committee of Elections on questions of privilege may be postponed until Monday next, after the morning hour.

Mr. DAWES. Then the reconstruction bill would be the special order?

The SPEAKER. It would be the special order. If there be no objection, it will be so ordered.

There was no objection.

Mr. DAWES. The reconstruction bill has heretofore been made the special order from day to day until disposed of. I suppose that under this arrangement it will occupy the same position.

The SPEAKER. Being already a special order from day to day until disposed of, it will, being postponed, have the same rights.

Mr. WASHBURN, of Illinois. I desire to ask that Thursday, one week from to-day, be set apart, after the morning hour, for the consider-

ation of business from the Committee on Commerce. Although this committee have a great many bills, we think that none of them will excite any discussion. They are mostly bills to carry out the laws in regard to smuggling and the registry of vessels, and in all probability they will generate no debate. Probably we shall not consume more than half an hour; and in that case I am willing that the remainder of the day shall be given to my friend, the chairman of the Committee on the Judiciary, [Mr. WILSON].

The SPEAKER. The gentleman from Illinois asks that Thursday next, after the morning hour, shall be devoted to the consideration of reports from the Committee on Commerce.

Mr. WILSON. I will not object to that, if Wednesday of next week can be set apart for the consideration of reports from the Committee on the Judiciary. If the present order of the House should be pursued, the regular call of the Committee on the Judiciary would be on Thursday of next week.

Mr. WASHBURN, of Illinois. I have no objection to that.

The SPEAKER. Does the gentleman from Iowa desire that the Committee on the Judiciary shall have next Wednesday in lieu of the two morning hours to which the committee would be entitled, or beside?

Mr. WILSON. If we can have the whole of Wednesday after the morning hour, that, I think, will be sufficient.

The SPEAKER. The gentleman from Iowa asks unanimous consent that Wednesday next, after the morning hour, may be assigned to the reports from the Committee on the Judiciary, in lieu of the two morning hours to which that committee would be entitled on subsequent days. If there be no objection it will be so ordered.

There was no objection.

#### LEAVE OF ABSENCE.

Mr. ANCONA. Mr. Speaker, I ask unanimous consent that leave of absence be granted to my colleagues Mr. STILES and Mr. STROUSE, who are absent on account of illness.

The SPEAKER. For the rest of the session?

Mr. ANCONA. Indefinitely.

There was no objection; and it was ordered accordingly.

Mr. PENDLETON. I ask unanimous consent that leave of absence be granted to myself during this evening's session.

There was no objection; and it was ordered accordingly.

#### COMMITTEE ON NAVAL AFFAIRS.

Mr. RICE, of Massachusetts. I ask unanimous consent that Friday of next week, after the morning hour, be set apart for the consideration of reports from the Committee on Naval Affairs.

Mr. PENDLETON. I object. I think that there are too many assignments for special days already.

Mr. STEVENS. If we assign all the days that are left to us I do not know when we are to consider the appropriations bills. There are several yet to be considered which must be acted on.

The SPEAKER. The Chair will state that assignments of special days take precedence of special orders.

#### DESTITUTE FREEDMEN.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back the resolution relating to the destitute condition of the women and children of freedmen in the District of Columbia, and moved that it be referred to the Committee for the District of Columbia.

The motion was agreed to.

#### TERRITORIAL BUSINESS.

Mr. ASHLEY. I ask unanimous consent that Monday next, after the morning hour, shall be set apart for the consideration of territorial business.

Mr. RICE, of Massachusetts. I object.

#### REGULAR ORDER.

Mr. ALLEY. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, commencing with the Committee on the Post Office and Post Roads.

## CLERKSHIPS IN POST OFFICE DEPARTMENT, ETC.

Mr. ALLEY. I move, by unanimous consent, to take from the Speaker's table Senate bill No. 389, relating to clerkships in the Post Office Department, and Senate bill No. 390, relating to postal laws, for reference to the Committee on the Post Office and Post Roads.

There was no objection; and the bills were severally taken up, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## MAIL COMMUNICATION WITH CHINA.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back Senate bill No. 407, to authorize the establishment of ocean mail steamship service between the United States and China, with the recommendation that it do pass.

Mr. STEVENS. Does not that bill contain an appropriation?

The SPEAKER. It is not an appropriation bill.

Mr. STEVENS. I hope that it will be referred to the Committee of the Whole on the state of the Union.

Mr. ALLEY. I have the floor, and I do not give way for such a motion.

Mr. Speaker, this is a question of vast importance to the American people, of vital interest to trade and commerce on the Pacific coast, and of considerable consequence to the whole world. This I trust I shall make apparent before the conclusion of my remarks.

This bill provides for the establishment of a line of steamers between California, China, and Japan, via the Sandwich Islands, to perform mail service between these several countries. The Postmaster General is directed to advertise for proposals at a sum not exceeding \$500,000 per annum, to be given to the lowest bidder. This proposition has for its object not only increased mail facilities between our country and those I have mentioned, but another and greater purpose, to secure great commercial advantages by means of this direct and speedy communication between the western confines of our Republic and those oriental nations which have poured so lavishly into the lap of Europe the wealth of their products. With a line of steamers running weekly between those countries and San Francisco, and the Pacific railroad completed, we can direct and control in great degree the commerce of the world. This I trust and believe we shall see accomplished before many years. That will bring New York and China within twenty-six or twenty-seven days of each other, and London and China, via New York, inside of forty days of each other, as against over fifty now, between England and China. With our overland mails, as we have it now, and the line of steamers which this bill proposes established, New York would be some twelve or fifteen days nearer Hong Kong than London. We can then bring London nearer the East Indies than it is now by several days by this project. When the Pacific railroad is completed what will be the effect? It will not only be to give us vast control over the commerce of the globe, but will make the city of New York the greatest commercial city of the world. Then New York will be what London is now—the great settling point, where the exchanges of the whole world are adjusted.

It seems passing strange to me that our national legislators bestow so little thought and attention upon these great commercial questions which affect so vitally all the material interests of the country. Had we but a little of the sagacity of some other nations in developing all our resources, upon the ocean as well as the land, we should startle all Christendom with the magnitude of our achievements.

Let us glance for a moment at the sagacity and foresight of England and France in encouraging, protecting, and subsidizing ocean steam navigation. Great Britain early saw that the power and wealth of nations in this age were to be seriously affected through the agency of steam. She saw with prophetic eye that unless she availed herself of all the advantages to be derived from this new power her great commercial rival, the United States, would soon outstrip her in the profitable navigation of the ocean. The policy of England in encouraging by subsidies ocean steam naviga-

tion has extended her commerce and enriched her people to an extent that has astonished all the nations of the earth. The development of markets for her produce and manufactures by means of steam navigation has increased her power and added to her resources to an incalculable extent.

As early as 1837 Great Britain commenced the system of the mail steam packet service, which, then inaugurated, she has since pursued with sleepless vigilance and constantly-increasing development. In a memorial to Congress of last year of the New York Chamber of Commerce, which also contains a very able report of a committee of that board, are statistics and statements in reference to the British, French, and United States systems of steam navigation, which, so far as I have examined, I find entirely accurate, and which I will here give for the information of those gentlemen who may not have examined critically the memorial:

"The passages of the *Sirius* and *Great Western* in 1838, from Liverpool to New York, having plainly demonstrated the practicability of ocean steam navigation, the British Government at once undertook to explore the new field thus opened to her industry and enterprise.

"In the following year, 1839, a contract was made with Mr. Cunard to convey the mails from Liverpool via Halifax to Boston, in five steamers of the first class, for the sum of £85,000 or \$425,000 per annum. It was stipulated that these vessels should be capable of conversion into ships-of-war and of carrying ordnance of the heaviest kind. This line of steamers, famous as the 'Cunard line,' was immediately established, and the result of the experiment was so favorable that the Government was, in 1846, induced to enlarge the contract of 1839 by adding four ships to run from Liverpool to New York, and to increase the compensation to £145,000 or \$725,000 per annum for the total service. These last vessels commenced their trips in 1848. In 1845 the Government entered into a contract with the Peninsular and Oriental Steam Navigation Company for the employment of seven steamers at £160,000 to run from Southampton, via Gibraltar and Malta, to Alexandria, in Egypt, thence to send the mails overland to Suez, again thence by steamer to Singapore and Hong Kong, touching at Aden and Point de Galle, Ceylon, with a branch line from Point de Galle to Calcutta, touching at Madras. In the year 1840 a contract was made by the Admiralty with the Royal Mail Steam Packet Company at £240,000 or \$1,200,000 per annum for fourteen steamers to carry the mails from Southampton to the West Indies, the ports of Mexico on the Gulf, and to New Orleans, Mobile, Savannah, and Charleston, to make twenty-four voyages or forty-eight trips a year, leaving Southampton semi-monthly.

"In consequence of some disasters during the first years, the West India line was relieved from touching at the ports of the United States, but in 1847 required to resume its trips to New Orleans and any others, as ordered.

"This company received a contract in 1850 of £270,000 per annum to carry the mails twice a month to the West Indies, and in 1851 a further contract of £25,000 to carry the mails once in each month to Brazil and the river Plate.

"The conditions of the contract required that the passages should be made in the following time:

	Days.	Hours.
To St. Thomas, in.....	14	12
To Colon, in.....	19	15
To Rio, in.....	26	6
From Rio, in.....	25	5
To Buenos Ayres, in.....	35	19
From Buenos Ayres, in.....	36	21

"From St. Thomas ten different radiating lines to Mexico, Central America, the Spanish Main, and the various West India islands, keep up a constant communication.

"These three lines employed in 1848 eighty-seven steamers, and for the home service twenty-eight smaller steamers, in all one hundred and fifteen steamships.

"In 1846 the Government made a contract with the Pacific Steam Navigation Company for a line from Valparaiso to Panama, touching at intermediate points, and making an overland connection with the West India line. A series of contracts were also entered into connecting the important commercial towns with the continent.

"In 1852 the Peninsular and Oriental Company and the Royal West India Mail Company alone employed fifty-three steamers, of which thirty were wooden vessels and twenty-three iron; of these sixteen run from Southampton to foreign ports, and twenty-three were permanently employed abroad. In 1854 Mr. Cunard received a contract to carry the mails from Halifax to Bermuda and St. Thomas, for £14,700.

"In 1857 the African Steamship Company took a contract of £33,000 to take the mails once a month to the Cape of Good Hope, and in 1858 to the west coast of Africa once a month, touching at Madeira, Teneriffe, Sierra Leone, and other intermediate points."

Nearly all the contracts to which allusion has here been made were made for a long period of time; and when application was made for renewal in most instances it was granted, and generally a long time before the expiration of the previous contract. In many cases an additional subsidy was granted when the interests of the country required and the continuance of the service imperatively demanded it. The British Government never hesitated to grant additional aid and extension of the system when it was made clearly to appear that it would develop new markets for their manu-

facturing products and commercial interests, although it has kept steadily in view the purpose to make it self-sustaining whenever possible. Such is their system of steam mail communication, so extended and profitable that an increase of existing service is contemplated on the China coast. But for the recent hostilities a line of steamships would probably ere this have been in progress of completion to run from China to Japan, and also to connect Brazil with Australia over the South Pacific ocean, and from Panama to British Columbia. May we not learn a lesson of wisdom from the example and experience of this ever-vigilant and powerful nation?

Again I quote from the memorial to which I have before alluded, in relation to the action of France:

"The French system of steam navigation is somewhat different from that of England. Under the reign of Napoleon III, France has again begun to develop her marine resources, and to recover something of the maritime power and colonial extension which she enjoyed until it was almost destroyed by the treaty of peace of 1815.

"To encourage the development of commerce, the Government pays enormous subsidies to the great lines which have been established to South America and the East. France, at least, does not intend to leave the control of the seas in the hands of one Power, and she has been gradually seizing such important points as had escaped the attention of Great Britain, or she has made points, unimportant in themselves, and at great labor and expense, secure ports of refuge to her commerce and of control over the great highways of the world. In the Mediterranean, Algeria offsets Malta. In the Pacific, Oahuette, seized by Louis Philippe and placed under French protection, affords a station unsurpassed in the south Pacific; and she is fast acquiring and strengthening ports in the Indian and China seas, as well as on the African coast.

"All the French lines are in the hands of one company, the *Messageries Impériales*, under a large general subsidy from the Government, which is increased as any new service is added. This company is on a permanent and national footing. The Government makes the advances necessary to build the steamers, and gives an annual subsidy beside, and takes from the line an annual percentage of not exceeding five per cent., by which it repays itself gradually for the first advance. The *Messageries* employs three great lines, and a fourth is now contemplated; the first and oldest of these having been now over twenty years established in the Mediterranean line. This service is performed by two lines of steamers, one of which leaves each alternate week for Alexandria, and another for Constantinople, touching at the Italian and Greek ports, Malta, and the ports of Asia Minor. The other touches at the various ports on the coast of Africa, Tunis, Algiers, and Tangier. These vessels are all under the command of first lieutenants of the imperial navy, with the grade of captain.

"The East India service is performed by a monthly line of steamers which leave Marseilles and touch at Alexandria, thence to Aden, Point de Galle, and the bay of Saigon, and ends at Hong Kong. Connected with these are two branch lines, one from Hong Kong and Shanghai; a second is proposed from Aden to the Isle of Bourbon, a French possession. The main line has been in operation some years.

"There are two transatlantic lines which are in full operation. The first runs from Bordeaux twice a month to Brazil and La Plata, and has been in operation some five or six years. The second is to Mexico, touching at Santiago de Cuba, on the island of Cuba, and at Martinique. This line leaves St. Nazaire and ends at Vera Cruz; a branch line connects Martinique with Guadalupe. The main Mexican line has been in operation since the French occupation of Vera Cruz, and will shortly run semi-monthly."

The establishment and conduct of our American lines of ocean steamers—although receiving but little aid or encouragement from the Government—has exhibited an enterprise, energy, and sagacity unsurpassed in the history of commercial effort.

The Collins line of steamers this Government subsidized in 1850. It was established late in that year. In the brief period of its existence it challenged the admiration and received the support of the whole American public. It seemed also to be in greater favor with Europeans than the Cunard line. The vessels were more splendid, of much greater speed, and commanded by distinguished and able commanders. The line was unfortunate and short-lived. Two of their finest steamers, the Arctic and Pacific, were lost; the first in September, 1854, and the last sailed from Liverpool in January, 1856, and was never heard of again. The other three magnificent steamers were sold to satisfy the creditors of the company. It was conceded by all that this line was vastly superior in every respect to the English steamers. The establishment of this line had the effect to increase the speed and induce better accommodations from the Cunard line; reducing the average time of their passages about thirty hours; but even at this the American steamers beat their English rivals a day and a half in their average voyages.



The Havre line was quite successful, and continued to run until the breaking out of the rebellion, since which time their steamships have been employed mostly as Government transports. This line received but small assistance from the Government.

The Bremen line was the first established. Its contract with the Government expired in 1858, and the aid from the Government was so small that the owners abandoned the service.

The Pacific line is justly regarded with admiration and pride by all American citizens. It has been wonderfully successful, but not by Government favor. The aid rendered by Government was insufficient to enable it to continue, but the opportune discovery of the gold mines in California gave such an impetus to emigration and trade upon the Pacific coast, that from that time it met with eminent and unexampled success.

The line from Charleston to Havana was subsidized for several years, and was in successful prosecution when the rebellion broke out. This line the South was always very earnest to subsidize, for it ran from a southern port to a slave-holding West India port, and was owned by the "chivalry."

There have been a great many coast lines established, and most of them eminently successful. With a fair chance, American enterprise, skill, and energy, could always outstrip that of all other nations in a contest for maritime supremacy; but the American shipping merchant has not received that fostering care of the Government that those living in other countries have been blessed with. England has done more to encourage commerce than all other Governments combined. Now, the question arises, how much has Great Britain increased her commerce and trade by the adoption of this policy? This I am able to show by a comparison of her trade with those countries that she has opened steam communication with, at the time it was opened with what it is now, and also in comparing the trade of the United States with some of those countries, with what it was then and what it is at the present time, showing a vast increase on the part of Great Britain and a corresponding decrease on the part of the United States. As shown by the statistics which I have presented, England grants subsidies to the enormous amount of upwards of \$4,000,000 in gold. She is partially reimbursed for this vast outlay by postal receipts to the amount of about \$1,700,000, leaving a clear loss of about \$2,500,000. The exports of British products to the United States were in 1800 about the same as they were in 1840, when the Cunard steamers commenced running. They were in 1800, \$29,500,000; in 1840, \$29,300,000, a trifle less than in 1800. Since the establishment of this Cunard line and its continuance by subsidy, Great Britain has been increasing her trade with the United States with unexampled rapidity—more than quadrupling it in a few years. Subsidized mail steamship communication from England to the west coast of Africa commenced in 1852, and the exports of her products and manufactures nearly doubled the first year. In 1852 the exports were \$2,800,000; in 1855, less than three years after the line had been established, they were \$6,400,000, and have been gradually increasing since. Her exports and trade with China, India, and Egypt, show a much larger increase since the establishment of mail steam packet service than that I have before given. The exports of British products to China in 1842, only a little more than two years before mail steam service was commenced, were something less than \$5,000,000. In 1856, fourteen years afterward, they were over \$11,000,000. The exports of British products to Egypt were \$1,105,000 in 1842; and in 1856 they were nearly \$3,000,000. The exports to India in 1842 were less than \$26,000,000, and in 1856 were more than \$52,000,000.

In 1859 the whole amount of imports into Mexico, from the best information I am able to obtain, was about \$26,000,000, and the exports about \$28,000,000, making of imports and exports a foreign interchange of \$54,000,000. Of this commerce, England secured to herself about \$33,000,000, more than one half of the whole. The United States obtained about \$8,000,000; France something over \$5,000,000, and the balance was distributed pretty equally among some six or seven other countries. England thus obtained the

lion's share—more than four times as much as the United States, notwithstanding Mexico was our neighbor, and by all the laws governing trade we should have monopolized the largest half of this rich commerce. The loss of it to ourselves is only ascribable to our own folly, and want of commercial sagacity on the part of our rulers. In 1835 the trade between the United States and Mexico was more than double what it is now. From that time to the present our commerce with Mexico has been continually declining, while that of Great Britain has been continually increasing. I think I have adduced examples sufficient to show the wisdom of that policy which England has so persistently pursued for so many years; but there are other cases which prove in still greater degree her wisdom and sagacity. In 1851 she subsidized a line of mail steamers to Brazil, and the first year after they commenced running she increased her exports over \$5,000,000, and in six years she more than doubled her trade with Brazil. Yet for a great many years previous to 1851 her trade with that country remained almost stationary, increasing in eight years only about six per cent. Our exports to Brazil during this same period of time amounted on an average, I believe, to about \$4,500,000. In 1859 our exports to Brazil were about \$6,000,000, and in 1860 a trifle less than that amount. Our imports in 1859 from Brazil were \$22,000,000, and in 1860 about \$21,000,000. This shows a large balance of trade against us—indicating an indifference to our commercial interests which is unpardonable. Contrast this with Great Britain. Her exports to Brazil in 1861 were over \$28,000,000, and her imports of Brazilian products—exclusive of coin—less than \$14,000,000, making a balance of trade largely in her favor. This is a kind of commercial intercourse which replenishes the coffers of Great Britain, but sadly impoverishes us.

I have already given you the report of the subsidies of France, and the result in benefit to her commerce and prosperity differs only in extent with that of England. In proportion as she has subsidized have her commercial prosperity and intercourse increased with those countries that she has connecting ocean steam service with. France increased her steamers in ten years from 117 to 324, and her steamer tonnage from 12,000 to 66,000.

In the statistics and statements which I have presented, I think I have given some of the reasons and furnished something of argument in favor of the general policy of encouraging increased facilities for postal and commercial purposes by the establishment of ocean mail steamship lines, when practicable, to communicate with every portion of the globe.

Having said thus much, Mr. Speaker, in general terms chiefly, in favor of this system of ocean steam navigation, permit me to say in addition to what I have already said, something more in favor of this line in particular which this bill proposes to inaugurate. Establish this line of steamers to China and Japan, and the same ratio of increase in trade with those countries that England experienced after she subsidized a line of steamers to China and Egypt, and the additional receipts from customs, the first year, under our present tariff, would more than pay the deficiency in covering the expense from postal returns. Then, again, we should do about all the postal service of Europe for the East Indies when our Pacific railroad is completed. This, with our own, would not leave a very large deficiency to be paid outside of the postal income. This, I think, we may safely count upon, for our facilities for reaching all parts of the East Indies would enable us to save several days in time over the Mediterranean route for most European correspondence.

If we establish this line of steamers and build the Pacific railroad, we shall not only do nearly all the postal service of Europe for that distant oriental region, but we should have about all the carrying trade for passengers and high-cost merchandise. A large portion of the products of India are of high cost and light weight, and most goods of that description can be transported to Europe by steam and across our continent cheaper than by sailing vessel, if you take into account the difference of interest and insurance, and every merchant regards these as elements of cost just as much as freight. Take silks and teas, for instance. The difference between send-

ing them to Europe by sail, consuming four or five months' time, and that of sending them by steam, would make a cost on those articles in the items of insurance and interest of several cents a pound. This alone secures advantages which must inevitably, upon those articles, give us the carrying trade of the world.

Some object to this additional pecuniary burden at this time because the Government needs all its resources at the present moment to enable it to prosecute successfully the gigantic war in which we are now engaged. Far be it from me to add anything of burden to the Treasury which can well be avoided. I have been one of those who have feared much more for the last two years that the Treasury would give out than that our armies would be unsuccessful in the field. I have constantly, in season and out of season, advocated, as measures of relief to this Department of the Government, retrenchment and economy, increased taxation, and reduction of the volume of the currency; and if I did not sincerely believe that the effect of this measure will be, in the end, rather to replenish than exhaust the Treasury, I would not advocate it now. But I trust and believe we shall be all through our troubles long before this money will be called for, which cannot be for some years yet.

This controversy about subsidizing ocean mail steam service, which has existed for many years, has engaged the attention of statesmen, of the press, and the public in Europe and America, for many years, and always with growing favor everywhere but here—the nation of all others that should foster and encourage it in the manner which this bill provides. Much prejudice has arisen against direct subsidies, as they were thought to have been obtained here in some instances by favoritism and corruption. But this bill provides, as did the Brazilian bill of last session, that it shall be thrown open to free competition, and given to the lowest bidder. Hence you see no lobbyists around trying to push it through. This is the only way in which I would give national aid to these great and beneficent projects.

The chief cause, however, of the withdrawal of Government aid to ocean steam navigation was to be found principally in the jealousy and consequent opposition of the South. Some of her statesmen openly declared that it was nothing but robbery of the South for the benefit of the North. Well, indeed, does the New York Board of Trade remark:

"The day has passed, and passed forever, when an American will look with jealousy on the fostering or development of any branch of the industry of the country, whether agricultural, commercial, or mechanical. Yet nothing is more certain than that men were found (and this was nothing as compared with their later crime) who were ready to destroy the commercial supremacy of this nation, and to strip it of its right arm of offense by crippling its marine, that it might be the more powerless to resist their then premeditated treason. Unfortunately their counsels prevailed, and the ocean steamers in which the country took such a hearty and honest pride are among the memories of the past."

In some remarks which I had the honor to make in this House at the last session, I said, what I repeat now, if it can be shown that in those countries where ocean steam communication has been fostered, encouraged, and lines established, the trade and commerce of the countries to which such postal and commercial facilities have been extended have been enormously increased, while our own has been as constantly diminishing with all nations that Great Britain and France have established such lines of communication with, we cannot fail to perceive that such increase on their part and diminution on ours is directly ascribable to that policy, so wise and sagacious, which England has pursued so steadily upon such a prodigious scale for so many years. If it is also discovered that this steam communication is and can be maintained only by governmental aid, at the cost of Government subsidies, then it is the duty of this Government to encourage, protect, and extend commerce, to some degree at least, by similar means.

There are grave political considerations which may well be considered in connection with this policy. I suppose all will admit that it is of the last importance that the most amicable relations should exist between the Atlantic and Pacific coasts. I think I may safely say that it has been the wise policy of this Government ever since the

admission of California into the Union to strengthen the commerce of the Pacific and promote their interests in every feasible manner. It was in this spirit that the telegraph line was established to California by Government subsidy; and with this view the Pacific railroad was encouraged, aided, and pushed through. Strong objection and strenuous opposition were made to granting Government aid to that telegraph line, which could not have been built without such aid. It was my privilege, as it was my cheerful pleasure, to aid by my voice and vote in committee and upon this floor the passage of that telegraph act. The wisdom of our course was most fully vindicated by the transmission of a single message by the Government, and one also of the very first sent, which saved to the Government nearly double the amount of a whole year's subsidy.

I trust that this measure will be adopted. It will be regarded by the commercial world as the premonition of a disposition to recognize the claims and appreciate the benefits of a growing commerce, which, if properly fostered, will soon give us maritime supremacy upon every sea. I hope ere long to see a system of ocean steam navigation developed surpassing England in still greater degree than she now excels us. Accomplish this, and we become at once the greatest maritime Power on earth. We should present to the world the sublime spectacle of a mighty nation just emerging from an almost death-struggle for the preservation of our nationality, dearer to us than life, turning aside, with its flag flying from the mast-head of its steamers upon every sea, to dispute for ocean supremacy with the great Powers of Europe and wresting from their grasp the carrying trade of the world.

Then, unparalleled as has been the success of our oceanic career in the past, doubly glorious would it be in the future.

I now yield the floor to the gentleman from California, [Mr. COLLE,] my colleague on the committee, who first introduced this measure, and who has been unwearied in his exertions to get it through.

Mr. COLLE, of California. Mr. Speaker, the population of the Chinese empire, according to the best geographers, is a little over four hundred and fifty million, of Japan sixty million. The two contain nearly half the population of the globe. They are separated from the United States by the Pacific ocean, and the distance across to Japan is four thousand seven hundred miles, to China less than six thousand miles. They are in the same latitude with California, and their principal ports face San Francisco. They are not accessible to any other civilized country without crossing the equator and going a much greater distance. China is within twenty-five days by steam of America, and Japan can be easily reached in twenty days. The distance from London or Paris to Hong Kong, all the way by water, is sixteen thousand miles, by Suez it is twelve thousand miles, and it takes full fifty-two days to make the journey under the most favorable auspices. The longitude of the Chinese and Japanese ports is about opposite to that of the Atlantic ports of America, so that if one could travel on a direct line it would make but little difference whether, in going from New York to Shanghai or Kanagawa an easterly or westerly course was pursued. But the passage eastward can never be direct. A great detour will always have to be made around the south of Asia, or a greater still around Africa, while the westward course is on the same general line over our own country and the Pacific. New York is about three thousand miles nearer to China by the westward route than is London by the Isthmus of Suez. When the Pacific railroad shall be completed, New York and Philadelphia will have full ten days' advantage over London and Paris in their communication with China and Japan. Then New York, or perhaps San Francisco, must become the settling place for the commerce of those vast oriental empires, an advantage which London has exclusively enjoyed for many years. England has taken the lead of nations in the East India trade. She has been able to do this in consequence of early possessing a larger marine, and of being located in reference to that trade as favorably as any of her competitors heretofore. But our settlement of the western coast of America, and the rapid filling up of the space between here and that

coast with population, is giving the United States an advantage which, if improved as it should be, neither Great Britain nor any other nation can longer resist. This advantage is developing itself rapidly, and if taken at its flood will inevitably lead to national fortune.

There are now in the Pacific States fifty thousand natives of China, engaged in all the various industrial pursuits. The liberality of our republican Government has unlocked the rusty gates of the Celestial Empire. In San Francisco are above twenty large Chinese importing houses, owned and conducted altogether by Chinese merchants, who pay very large revenue to the Government, and who manifest an intelligence and integrity in the management of their business highly creditable to their calling. That distrust which these singular people have ever felt toward the "outside world" is fast wearing away, at least so far as the Americans are concerned, and all that is lacking to give us control of their vast commerce is steamship communication between San Francisco and their ports. And the same is true of the Japanese, whose sentiments toward us are much more friendly than toward any other people with whom they are having intercourse. The trade of China has enriched every nation that has enjoyed it, and besides it is capable of indefinite expansion. Five hundred million people, distinguished for industry and general education, must of necessity produce an unlimited quantity of valuable commodities. Their products are by no means confined to tea, sugar, rice, cotton, and silks, but comprise everything that ingenuity can invent or want suggest. In the perfection of many of their manufactures they excel all other people.

Our commerce with China has been rapidly increasing ever since her ports were first opened to all nations. In the fiscal year 1862-63, the value of the imports from that country was \$10,961,064, an amount which was only exceeded by the imports from three other countries, namely, England, Cuba, and Canada. Our exports to China in the same year amounted to considerably over that sum. We sent from San Francisco to China in 1863, \$4,206,370 in treasure, beside a large sum in the aggregate in private hands. In the same year California shipped to China 2,709,733 feet of lumber, 9,330 tons of wheat, 6,370 tons of flour, 450 tons of bread, 8,880 flasks of quicksilver, and a large quantity, as well as great variety, of other products of the Pacific coast.

The amount of our exchanges with China grew from \$14,310,702 in 1853 to \$22,472,715 in 1860, the year before the war, and has doubtless been increasing slowly ever since, notwithstanding the obstacles thrown in its way by the rebellion.

The San Francisco Mercantile Gazette remarks:

"The people of that country, who have lived among us these many years, have done us a great service in teaching their countrymen at home the use and value of our products, and in overcoming their ancient prejudices against 'barbarian' diet. That trade once fairly inaugurated, as indeed it now seems to be, the wants of a population almost illimitable give assurance of a market for any surplus we may have to spare at prices reasonably remunerative."

But our trade compared with that of Great Britain with the same country is small. In 1853 the value of the exchanges between England and China was \$50,026,060, and in 1860, \$73,209,000. It will be observed that the percentage of increase as exhibited for the years mentioned is greater in the American than in the British trade, which must be attributable to our proximity, and friendly intercourse with the Chinese; for England has had an advantage over us in all other respects, and particularly in having communication by steam vessels between her East India possessions and that country.

The tonnage of vessels arriving in American ports from China has sprung up from 19,243 tons in 1846, before the acquisition of California, to 68,519 tons in 1863. It would have been much greater but for the danger of piratical cruisers, too often, I regret to say, fitted out in British ports. In fact it was larger in 1860 than at present, it being then 81,467 tons. At the usual rate of progression it should have been in 1864 more than a hundred thousand tons.

In alluding to Great Britain, I disclaim any purpose to excite ill feeling toward that country. The English and Americans are natural allies. They

are one in blood, in language, in history, religion, and traditions, and ought heartily to deprecate any feelings toward each other beyond those of generous rivalry, as between prosperous members of the same great family. The advantage which the English have obtained over us in commerce is altogether fair, it being the legitimate result of a more sagacious policy. Let it rather excite our emulation than our jealousy.

Of course but a limited portion of the commerce between the United States and China is transacted at San Francisco. Most of it comes to New York and other Atlantic ports, and whatever measures may be adopted to stimulate that trade will benefit the whole country alike. California constitutes but a small fraction of the market for East India products. The great point to be gained is to outstrip other countries in the speed of communications. In commerce time is everything. To illustrate, it is only necessary to suppose that the market of Canton, or any other place, becomes bare of an article of merchandise which both London and New York can supply. If the New York merchant can ascertain the fact first he can put his cargo afloat and meet the demand in advance of his London competitor, and as a consequence will realize a profit; while he who comes later, finding a full market, will lose. Great Britain has practiced upon this simple theory to the detriment of other Governments. She has established steamship communication wherever it has been needed to give her the advantage in time. She has subsidized numerous lines of steamships, and never hesitates to aid them when by so doing she can reach a market, new or old, in advance of other nations. She but lately paid, and probably still pays, for mail steamship service over \$5,000,000 annually, and for every dollar thus expended she realizes many in return.

First, she receives back in postages considerably more than half her outlay, or nearly three million dollars, but her great source of gain by this wise liberality is in the wonderful increase of commerce which always follows her support of these enterprises. At one time the United States Government set out in pursuit of this same policy, and in the year 1857 she paid for mail steamship service \$1,329,733. But she seems to have grown weary in well-doing, notwithstanding the receipts for postage for that service the same year amounted to \$1,035,740, or about three fourths of the total expenses. Our practice in this direction should have been increased, but instead of that it has been dwindling away until we are now paying \$160,000 for carrying the paper mail to California, and not a dime to any steamship for carrying the mails to any foreign country whatever. To be sure a small subsidy was offered at the last session of Congress for steam-carriage of the mails to Brazil, but it has not yet gone into operation. The system has been a partial failure in America because of the lack of liberality on the part of our Government. While the British have paid at the rate of \$2 39 per mile of distance run by her steamships for such service the Americans have paid only \$1 80½ per mile. It is not to be wondered at, therefore, that the American system has almost died out, while the smoke of British steamers is seen curling among all the islands of the ocean like pillars of cloud by day and of fire by night, lighting commerce on its way.

This policy, so nobly inaugurated in America in 1846, and successfully pursued for several years, has been choked down by the narrow economy of our quondam southern rulers, whose jealousy of northern commerce led them to conspire for its destruction.

It is worth while to remark in this connection that on an equal footing the American marine can successfully compete with the whole world; but the advantage which the more sagacious British Government has bestowed upon her merchantmen cannot be overcome, even by the greater architectural skill of our ship-builders. This will be made the more apparent by reference to the changes in commerce which has attended or followed the establishment of steamship communication with different countries.

Our intercourse with the West India islands by means of steam has been for the last dozen years somewhat like that of Great Britain, and as a consequence our commerce there has grown from \$39,104,648 in 1853, to \$66,567,291 in 1860, while



the British, which was \$48,494,000 in 1853, only increased to \$61,844,195 in 1860. In Cuba, where our steam communication was best established, our exchanges went up from \$24,873,714 in 1853, to \$46,428,434 in 1861, and this in the face of an almost prohibitory duty on flour, our chief export to that island. The British exchanges in the same period remained about stationary.

The trade with Brazil, where the British alone have had steam communication, presents another striking illustration of the fact in hand. In 1851 the balance of trade with that kingdom was against us by the sum of \$8,396,348, and in 1860 it was against us to the amount of \$15,269,568; while on the other hand it was in favor of Great Britain in 1851 by \$3,124,665, and in 1860 by \$10,887,980. The advantage of mail steamship service, by which British merchants could sooner learn and quicker supply the wants of the Brazilians, presents a clear solution of this great change in the tide of commerce.

A like result, but even more conspicuous, appears in the case of the Argentine Republic and Uruguay, to which the same line of British steamships extends. The total amount of exchanges between those countries and the United Kingdom in 1853 was \$11,789,150, and in 1860, \$23,351,315, showing an increase of nearly one hundred per cent. in seven years. The total of exchanges between those same countries and the United States for the year 1853 was \$3,404,564, and for the year 1860, \$2,915,366, showing a decline in the same seven years of nearly half a million dollars.

For a further illustration of the advantages of steam communication, let reference be made to Chili and Peru, where the ships of the Pacific Steam Navigation Company of Great Britain have been regularly running. The exchanges between Great Britain and those republics in 1853 amounted to \$22,913,725, and in 1860 to \$41,257,580, or nearly double. The exchanges of the United States with them in 1853 were, in value, but \$5,202,329, and in 1860 only \$6,096,370—the United States barely holding her own by the aid of her regular steam communication as far as the Isthmus of Panama, without which England would most certainly have added to her large sum the little balance that remained to us. Great Britain has subsidized and established splendid lines of steamers to both coasts of South America, and, as a consequence, she has control of exchanges there amounting to at least \$150,000,000 a year, a great part of which legitimately belongs to the United States, but which the unwise policy of our traitor rulers of former years permitted to be turned into the markets of another Government, and to replenish its coffers. The sooner we reform this policy the better it will be for us as a nation, and it is no excuse to say that we are in debt. The British Government was also in debt, and deeper than we are; but she resorted to these measures to relieve herself from public burdens, and the result shows the wisdom of her course. These subsidies, so called, are not gratuities, they are most profitable investments; nor are they like bread cast upon the waters, to be gathered after many days; they are remunerative from the beginning, and pay many fold in duties to the Government, to say nothing about the postages, which in some cases exceed the whole amount of expenditures.

As further and more incontestable proof of the ability of the American marine to compete successfully with that of Great Britain and of course of any other nation, I will refer to New Granada, with which both England and the United States have had constant and regular communication by steam for about the same period. The American exchanges with that country have grown up from \$1,409,998 in 1853, to \$6,042,226 in 1861; while the British, in the same period, have only advanced from \$3,363,490 in 1853, to \$6,352,430 in 1861. The American trade has increased more than fourfold, the British trade has not doubled. In the same series of years, though the British steamship communication with the West Indies has been much more perfect than our own, our commerce with those islands has increased forty per cent., while the British has increased only twenty-five per cent.

It is to be regretted there are not more instances of fair competition between foreign and American merchants to enable us to lengthen out this proud record.

It is attributable mainly to her ever-expanding system of steam navigation that the exchanges of Great Britain were greater in 1860 by \$626,371,790 than in 1853, and to a decline in the American system that ours had increased by only \$263,333,746 in the same period.

But it is in the East Indies that the growth of British commerce has been most remarkable. There she has sown largely, and the harvest is great. Four years ago she had upward of fifty ocean steamers, many of the first class, plying in those waters and in connection with that trade, all of which were aided by liberal Government subsidies. The result is that she not only controls the commerce of all that portion of the globe, but she actually owns Hindostan, with a population of one hundred and eighty million souls. She also owns Australasia, a large share of Polynesia, and, possessing Penang, Singapore, and Labuan, exercises undoubted sway over the Malay Archipelago, with all its boundless resources. She is now looking toward commercial dominion in China and Japan, and unless the United States, which is the only Power on earth capable of competing with her for the trade of those countries, adopts a new policy toward them, it will not be long before they too, like Hindostan, will be at the feet of the British lion. To suffer this, with the advantages we have of good neighborhood and friendly intercourse already established, would be a national disgrace, and ought to cause every American to shrink with shame.

Enough has been said to show that wherever either the United Kingdom or the United States has opened steam communication with a country, there has immediately followed a rapid increase of trade with that country. It also appears that wherever the American and British merchants have been afforded equal commercial facilities, the American merchant has demonstrated his ability to outstrip his British competitors; and it is only the advantage of subsidized steamship service, so freely tendered by the British Government, that has enabled her merchants to crowd competition out of many of the richest markets of the world.

The proposition now is to authorize the Postmaster General to advertise for bids to carry the mails monthly between San Francisco and China and Japan, touching at the Sandwich Islands, at a cost not exceeding \$500,000 per annum. It is not presumed that the postages will reimburse the Government for this outlay, though they will doubtless cover a large share of the amount bid; but it is as certain a demonstration can make any fact, that the expenditure will be returned several fold in duties on increased importations, and that, too, from the very start. And then the trade will increase from year to year, almost with arithmetical progression, until not only our own expanding Republic, but the whole world, will be supplied through American merchants with the products of the land of Confucius.

The Chinese are an intelligent people, they are an educated people. Every man among them can read and write with facility in his own language. Of the many thousands in California, nearly all have acquired some portion of the American language, and not a few of them can speak and write it with fluency. They place so just an estimate upon the value of education that they have established schools for the instruction of their young in San Francisco. "Outside barbarians" are accustomed to call them heathens; but it is an open question whether that people is really lacking in enlightenment who possessed a knowledge of many of the arts and sciences and useful inventions long before Europe emerged from the gloom of the dark ages. Besides, it would not seem very likely that a people who have been able to maintain a Government longer by many centuries than any other, and to grow more numerous by hundreds of millions, are wanting in civilization.

The Chinese and Japanese alike are remarkable for their ingenuity and industry, both of which contribute to the value and extent of their productions. They have little of the dash and none of the recklessness of Americans, but possess in an eminent degree many of the more sober and solid virtues of our race. Their commerce is worth untold millions. It is the richest prize ever placed before a nation. It is within our reach, and the question to be determined is, have we the wisdom to grasp it?

The difficulties in the way of our competing with England for this valuable boon are becoming greater and greater by reason of events which have sprung incidentally out of the present war. Great Britain has been compelled to look elsewhere than in America for cotton, and in China she finds this useful staple. During the first nine months of the year 1863 she obtained there 23,392,992 pounds, and during the first nine months of 1864 she obtained from the same source the much greater amount of 63,989,184 pounds, or nearly three times the quantity only one year later. This shows the necessity for vigilance and activity on our part, lest Great Britain obtain too far the start of us.

Objection is made to this measure, because, as is alleged, the present condition of the finances forbids that we should incur any liability beyond what is absolutely necessary to suppress the rebellion; and this is the only argument against it that seems to have any force whatever. But to this it is replied that in no event will the aid be required before the year 1868, and by that time it is hoped we will be relieved both from the rebellion and the financial embarrassment growing out of it. This service to China will require three large ships of four thousand tons burden each, all of which will have to be built expressly for that trade, and it would be hardly possible to put them on the line sooner than 1867, the time required by the bill. Thus the point of this objection is broken, and it is difficult to find a reason why we should not make the most of our time in regaining what we have lost by delay.

The principal point in the Chinese empire where the proposed line will probably run is the city of Shanghai, or some place near there, at the mouth of the great Yang-tse river. That city is almost a thousand miles nearer to the United States than is Hong Kong, and there is already steam communication between the two. Near the mouth of the Yang-tse the grand Suchau canal finds its way to the ocean and pours forth its rich freights of silks and teas gathered in and brought down hundreds of miles from Peking and the north.

The Yang-tse is one of the largest rivers in the world, it being scarcely less in length and volume than our own Father of Waters. It drains all the central and richest portions of that great empire. On its fertile margins are scores, if not hundreds, of large cities, among them Nankin, Nganking, and Wuchang, which number their population by millions. Upon this river, which, like the Mississippi, is navigable for thousands of miles, are now plying several steamboats sent out within the last few years by Americans.

The way, therefore, is already prepared, and it only requires the putting forth of a little exertion to gather the harvest. From the first settlement of California many circumstances seem to have combined to favor the establishment of this line of steam-vessels. And the people of America should not lag behind the monarchies of the Old World in taking hold of these powerful agencies of wealth and civilization. This project is next in grandeur to that which makes our country free. It will bring San Francisco in close neighborhood with the East Indies; and when the Pacific railway is completed New York and the eastern coast will be but little further away. Then these two great sister cities of America, the one sitting on the Atlantic looking eastward, and the other on the Pacific looking westward, will control the commerce of the globe. Then ancient civilizations will succumb to the modern, monarchy to republicanism, and the Old World to the New.

I now demand the previous question, and hope that the bill will pass without a dissenting voice.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. ANCONA demanded the yeas and nays on the passage of the bill.

Mr. MORRILL demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The House divided; and there were—ayes 77, noes 19.

So the bill was passed.

Mr. COLE, of California, moved to reconsider

the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 392) supplemental to an act approved July 14, 1862, entitled "An act to establish certain post roads;" and

An act (S. No. 403) to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road.

#### COLLECTION OF DEBTS DUE UNITED STATES.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back, with a recommendation that it do pass, an act (S. No. 422) to facilitate the collection of certain debts due the United States.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had passed, without amendment, a joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Africans at Liberia.

Also, that the Senate had passed an act (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia; in which the concurrence of the House was requested.

Also, that the Senate had directed the return to the House of a joint resolution (S. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. NICOLAY, his Private Secretary, notified the House that the President did, on the 14th instant, approve and sign bills of the following titles:

An act (H. R. No. 517) to incorporate the National Insurance Company of Washington; and

An act (H. R. No. 705) for the relief of collectors and surveyors of customs in certain cases.

#### LAND-GRANT RAILROADS IN MINNESOTA.

The Clerk commenced the reading of the bill reported back by Mr. ALLEY, but was interrupted by—

Mr. WINDOM, who inquired if the morning hour had expired.

The SPEAKER. It has.

Mr. WINDOM. I rise to a privileged question.

Mr. MORRILL. I call for the regular order of business.

The SPEAKER. The gentleman from Minnesota has the floor.

Mr. WINDOM. I desire to call up the privileged motion I made the other day to reconsider the vote by which House bill No. 761 was ordered to be engrossed.

The SPEAKER. After the expiration of the morning hour the gentleman has a right to call up a privileged motion.

Mr. MORRILL. I move to postpone it until after we get through with the tax bill.

The SPEAKER. The gentleman from Minnesota is entitled to the floor.

Mr. WINDOM. I call up the motion, and upon it demand the previous question.

The bill was reported by the Clerk by its title, as follows: "An act extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes."

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the House refused to reconsider the vote by which the bill was ordered to be engrossed and read the third time.

Being engrossed, the bill was read the third time.

Mr. WINDOM. I demand the previous question on the passage of the bill.

The previous question was seconded.

Mr. HOLMAN. On ordering the main question I demand tellers.

Tellers were ordered; and Messrs. HOLMAN and WINDOM were appointed.

The House divided; and the tellers reported—ayes 68, noes 30.

So the main question was ordered.

Mr. HOLMAN. I move to lay the bill on the table.

The motion was not agreed to.

Mr. HOLMAN. I call for the yeas and nays on the passage of the bill, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ALLISON and DAWSON were appointed.

The House divided; and the tellers reported—ayes twenty-five, noes not counted.

So the yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 83, nays 43, not voting 56; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Arnold, Bailey, Augustus C. Baldwin, Baxter, Blair, Blow, Boutwell, Brandegee, Freeman Clarke, Coffroth, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Donnelly, Driggs, Dumont, Eden, Edgerton, Eldridge, Frank, Gooch, Griswold, Hall, Charles M. Harris, Herrick, Higby, Hooper, Asahel W. Hubbard, Hulbard, Jenckes, William Johnson, Julian, Kalbfleisch, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Le Blond, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross, Scott, Shannon, Smith, Stuart, Sweat, Van Valkenburgh, Wadsworth, William B. Washburn, Whaley, Wheeler, Wilder, Wilson, Windom, Fernando Wood, Worthington, and Yeaman—83.

NAYS—Messrs. Ancona, Broomall, William G. Brown, Clay, Cobb, Dawson, Dixon, Eckley, Eliot, Farnsworth, Finck, Ganson, Grider, Harding, Benjamin G. Harris, Holman, John H. Hubbard, Hutchins, Kernan, Lazear, Malory, Marey, Middleton, Moorhead, Morrill, Morrison, Charles O'Neill, John O'Neill, Pendleton, Scofield, Spalding, John B. Steele, William G. Steele, Stevens, Thayer, Thomas, Townsend, Tracy, Elihu B. Washburne, Webster, Williams, and Winfield—43.

NOT VOTING—Messrs. William J. Allen, Ames, Anderson, Ashley, John D. Baldwin, Beaman, Blaine, Bliss, Boyd, Brooks, James S. Brown, Ambrose W. Clark, Cox, Cravens, Crewell, Daves, Denton, English, Garfield, Grinnell, Hale, Harrington, Hotchkiss, Ingersoll, Philip Johnson, Kasson, Knapp, Law, Long, McDowell, McKinney, William H. Miller, James K. Morris, Orth, Patterson, Perry, Pike, Price, Prun, Radford, Samuel J. Randall, Robinson, Schenck, Sloan, Smithers, Starr, Stiles, Strouse, Upson, Voorhes, Ward, Chilton A. White, Joseph W. White, Benjamin Wood, and Woodbridge—56.

So the bill was passed.

During the roll-call, Mr. GOOCH stated that Mr. URSON was detained from the House by indisposition in his family.

The result of the vote was announced as above recorded.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MORRILL. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

#### LAND-GRANT ROADS IN MICHIGAN.

Mr. L. MYERS. I rise to a privileged question. I move to reconsider the vote by which the House yesterday rejected bill of the House No. 710; and upon that motion I demand the previous question.

The SPEAKER. The motion can only be entered at this time, the gentleman from Vermont having the floor.

Mr. BROWN, of Wisconsin. What bill is it?

The SPEAKER. The bill which was rejected yesterday.

Mr. BROWN, of Wisconsin. I would ask if the gentleman from Pennsylvania [Mr. L. MYERS] voted on the prevailing side.

The SPEAKER. The motion will not be entered unless the gentleman voted on the prevailing side. The recollection of the Chair is that the gentleman did so vote. The Chair is informed that he did, and the motion will be entered.

Mr. MORRILL. I will now yield for a moment to the gentleman from Ohio, [Mr. GARFIELD.]

#### MUSTERING OUT OF TROOPS.

Mr. GARFIELD, from the Committee on Military Affairs, reported a joint resolution to provide for the mustering out of the military service certain non-commissioned officers and privates who enlisted to fill old regiments; which was read a first and second time.

The joint resolution provides that in every case where any regiment, battalion, or company has

been mustered out of the service of the United States by reason of the expiration of the term for which such organization had been accepted, the Secretary of War is authorized and directed to cause immediately to be mustered out all those non-commissioned officers and privates who, during the years 1862 and 1863, were enlisted with the understanding that they were to serve only for the unexpired term of any such organization; and in cases where such regiments, battalions, and companies have not yet been mustered out, he shall cause to be mustered out the non-commissioned officers and privates above described whenever the term of such organization shall expire; provided, that before any such enlisted man shall be mustered out, he shall sign a statement, under oath, that he enlisted with the distinct assurance and understanding that he engaged to serve only for the unexpired term of the organization into which he was mustered, such statement to be verified by the recruiting officer by whom he was enlisted or by some commissioned officer having actual and personal knowledge of the facts in the case.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The report accompanying the joint resolution was ordered to be printed.

Mr. GARFIELD. I demand the previous question on the passage of the joint resolution.

Mr. WEBSTER. I do not rise to oppose the passage of the joint resolution, but I want information about it.

Mr. HOLMAN. I object to debate.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MORRILL. I will yield once more for a moment to the gentleman from Missouri, [Mr. KING.]

#### MILITARY DEBT OF MISSOURI.

Mr. KING, by unanimous consent, presented the memorial of the constitutional convention of the State of Missouri in regard to the military debt of that State; which was laid on the table, and ordered to be printed.

#### TAX BILL.

Mr. MORRILL. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the tax bill.

The CHAIRMAN. When the committee was last in session the gentleman from Massachusetts [Mr. HOOPER] proposed an amendment to come in at the end of line six hundred and ten, on page 26; pending that the gentleman from Iowa [Mr. WILSON] moved an amendment in the nature of a substitute. The gentleman from Minnesota [Mr. DONNELLY] proposed to amend the amendment of the gentleman from Massachusetts by adding thereto the following:

*Provided*, That banks incorporated under State authority, with a capital of less than fifty thousand dollars, whose circulating notes are secured wholly by the deposit of bonds of the United States at their par value, to the amount of ten per cent. beyond the amount of their circulating notes, shall be taxed upon their circulation and deposits in the same manner and at the same rates as are or may be prescribed for the taxation of national banks.

Mr. MILLER, of New York. I move to amend the amendment of the gentleman from Iowa by striking out the words "April, 1865," and inserting "January, 1866."

Mr. WILSON. I propose to modify my substitute by striking out "April" and inserting "July."

Mr. MILLER, of New York. Then I move to strike out "July, 1865," and insert "January, 1866." I wish to say a word in respect to this amendment. The proposition of the gentleman from Iowa is that no bank or banking association shall issue any notes of any of the State banks or

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banking associations after the 1st of July, 1865. It strikes me that that is a very short notice to give to the State banks to withdraw all their circulation. It will cause embarrassment to the banks themselves, and embarrassment to the business of the country. In the State of New York the Comptroller of the national currency has for a long time declined the applications for national banks on the ground that he was holding back the charters for New York till the State banks shall see fit to come in under the national system. I hold that if the State banks are required to withdraw all their circulation in July next, they will not have time to come in under the national system.

Mr. WILSON. I suggest to the gentleman that the effect of my amendment is to prevent these banks only from reissuing that which may be brought in. It does not provide that these banks shall retire their circulation, but that their notes, when paid in, shall be returned to them and not reissued.

Mr. MILLER, of New York. The circulation will be driven into the banks for redemption and cannot be reissued. In the State of New York fully three fourths of the circulation is that of the State banks; and if that circulation be retired so soon, and before the banks have time to get the national currency, the banks themselves and the business of the State and country will be much embarrassed. I am not denying that the State banks (although I believe them to be sound and good institutions) have to yield to that public opinion which demands a national currency; but I submit that we should give them all reasonable time. Heavy taxes have been imposed upon them which will oblige them to come under the national system. I am not finding any particular fault with that. I have thought, however, that the best way was to induce them by the advantages held out to them to come in. I admit that they have got to yield. All that I object to is the summary process, which I regard as unnecessary.

Mr. BROOKS. I rise, Mr. Chairman, to oppose this whole system of blotting out State banks. The idea is that we are to curtail the currency. But since this national bank system has been created we have already established seven hundred and eighty-one banks, with an aggregate capital of \$181,000,000, and a circulation of \$90,500,000—with twice or thrice that amount in deposits—so that the actual, practical circulation of these banks at this moment is close to \$250,000,000. Instead of curtailing the currency we are expanding it more and more. And no matter what our victories are, no matter what the legislation here or elsewhere may be, so long as this system goes on the price of gold must keep up.

I have not time within five minutes to dwell on this subject. It would require five weeks to discuss properly such a subject as this. Blotting out State banks! What right have we to blot out State banks? They were born before this Government was born. They carried us—one of them, at least—through the Revolution, and established the credit and character of the country. We have blotted out the State militia. We have blotted out State courts wherever the Federal Government supposed itself to be in any way concerned. We have blotted out the system of State taxation by absorbing in the Federal Government almost the whole power of taxation. We are now called upon to blot out the whole system of State railroads, bringing them into this body, and making of Congress nothing but a State Legislature or a mere town corporation.

Sir, it may be of little use to talk. But I enter these remarks as a warning of what we are coming to in this matter of national bank circulation. It is a fraud upon the public to say that we are curtailing the currency. The whole idea is fraudulent from beginning to end. We are expanding it throughout, and are to go on more and more expanding until the whole system of \$300,000,000 of capital of national banks is established, with a capacity of expansion, as I showed last session, of nearly nine hundred million dollars more.

Now, no matter what victories we may gain; no matter what the State banks may do; no matter what may be the laws, so long as you allow the banks to go on expanding the currency, certain it is that prices of everything are to be kept up, and the country is to be mulcted with this mere paper currency.

The question was then taken upon the amendment of Mr. DONNELLY to the amendment of Mr. HOOPER; and it was rejected.

Mr. DAWES. I propose to amend the substitute by striking out "five" and inserting "seven."

The CHAIRMAN. There is already an amendment pending to the substitute.

Mr. DAWES. Then I will move to amend the original amendment, so that it will read "so long as such circulation shall exceed seven per cent. of the capital," &c. That will answer the same purpose.

I am, with the gentleman from Iowa, [Mr. Wilson], one of those who did not vote for the establishment of this national banking system. I am also, with him, one of those who see clearly that that system must be accepted by the people and by the State banks as the established order of things; and I am, with him, disposed, in the best possible way, to hasten the time when there shall be throughout the country but one system of currency, and that the national banking system. I did not see, any more than he did, the necessity at that time of displacing the old established order of things with this new one. But that is past.

I understand the gentleman from Iowa [Mr. Wilson] to propose, by his amendment, not so much to destroy the remaining State banks as to cure an existing and acknowledged evil, the smaller currency of the country. But I think it does not meet that evil and will not accomplish that end. I agree that if it goes into force it will extinguish the remainder of the State banks. But in my opinion it will have no appreciable effect upon the condition of the currency. Why, sir, there does not exist at the present time of the State bank currency but about one hundred million dollars. At the time of the establishment of the national banking system there was but about one hundred and seventy million dollars of currency from State banks. It is now reduced to about one hundred million dollars. Yet during all this time, while we have been ascribing to the State banks the evils which we have brought about by our own legislation, during the very time we have been attempting to contract the currency by killing the State banks, we have authorized the issue of \$1,310,000,000 of currency by this Government. Of that there has actually been issued during the time since the establishment of this national banking system the amount of \$736,000,000. There is probably in existence now from \$650,000,000 to \$700,000,000 of currency authorized by the United States and afloat in this country against \$100,000,000 of the State bank currency.

Now, what will be the effect of extinguishing that \$100,000,000 and the remainder of the State banks? It will only drive them into the national banking system, where there are facilities for still further expanding the currency, and there will be no check upon it whatever by the gentleman's amendment. We have been encouraging the rushing of capital into the national system of banking. At one time when there was no money in the Treasury to pay our soldiers, or the honest indebtedness of the country, we had \$25,000,000 on deposit in national banks, the sole object and purpose of such deposit being to encourage the going into the national banking system. I know one single bank in Massachusetts, established under this national banking system, where the parties establishing the bank issued their bills to the extent of their capacity and never opened their doors from one week's end to the other. But at the end of the year, by the help of the interest upon their deposits and the use of their money which had gone out, not one dollar of which came back, they divided from eighteen to twenty per cent. upon their capital stock.

Mr. KERNAN. Mr. Chairman, it appears that the law as it now stands taxes these State banks one per cent. on their circulation, half of one per cent. on their deposits, and half of one per cent. upon their capital, making two per cent.; and they have to pay these taxes monthly. The law now provides that if they shall issue beyond ninety per cent. of their capital they shall be taxed two per cent. in addition.

Now, the present proposition of the gentleman from Massachusetts is, if I understand it aright, to tax these banks on their circulation, after the 1st of July, three per cent., and after the 1st of January six per cent. a year. It is avowed, and if it were not avowed it is sufficiently apparent, that the object is to destroy, and destroy by the 1st of January next, all these State banks. Now, I submit that this is unwise. These institutions being legitimate creations of the States, it is not wise for the General Government to adopt directly hostile legislation in reference to so large an interest, against the wishes of the people of the States.

In the State of New York there was, on the 1st of September last, invested in these State banks \$107,306,000. While that large amount of capital was thus invested, and while the business of the State was largely dependent upon and connected with it, there was no evil growing out of the operations of these banks in reference to the increase of circulation. I hold in my hand the report of the superintendent of the bank department of that State; and this report shows that the circulation of the State banks was, on the 1st of September last, \$32,000,000. This is a large amount; and it would be very destructive to the interests of the business community to withdraw it suddenly, or tax it out of existence. But that report shows that there has been no inflation; for I have the amount of circulation of our banks on the 1st of September in each year for ten years; and it was less last September by three or four millions than it ever was before.

Why, then, should Congress attack these State institutions, which are legitimate creations of the State, which subserv the interests of the business community of the State, and which, as my colleague [Mr. Brooks] has remarked, cannot be destroyed without injuriously affecting the interests of the business men of the State. The superintendent's report to which I have referred shows that, in consequence of the taxation to which the State banks are subjected, in addition to the taxation by the General Government, the banks organized under the national system have great advantages over the State banks so far as making money by banking is concerned.

The Federal Government holds out inducements to the establishment of these national banks by deposits, by furnishing them a circulation free of expense; and the State banks must gradually disappear under the policy already adopted. Why not, then, allow the change to be effected gradually, and not convulse the business community by suddenly striking out of existence, or taxing out of existence, \$100,000,000 of capital and some thirty or forty millions of circulation?

The State banks now bear double the taxation imposed upon the national banks; and if the national banks, with the great advantages which they enjoy, cannot compete successfully with the State banks, it simply shows that the latter subserv better the interests of the business community, and should not be destroyed. It seems to me that we have gone as far as we should in holding out inducements in favor of the national system by subjecting the State system to heavy taxation; so heavy that in many of the States, and to some extent in New York, the State banks are gradually coming under the national system. We are now asked, substantially, to destroy these State institutions. If the States have the right to create these banks, where is the right or the justice of an attempt by the Federal Government to destroy them?

[Here the hammer fell.]

Mr. DAWES. I withdraw my amendment.



Mr. MORRILL. I have prepared an amendment which I hope the gentleman from Massachusetts [Mr. HOOPER] will accept as a modification of his amendment. It is as follows:

After the word "circulation," in line five, insert the words "and on deposit."

After the words "duty of," in line six, insert "and on deposits one twelfth of one per cent. upon the average amount of deposits of money subject to payment by check or draft, or represented by certificates of deposit or otherwise, and of."

Mr. HOOPER. I accept that.

Mr. MORRILL. I move to amend the amendment by adding the following:

And any outstanding bills or circulation of any such bank or association so converted shall be included, so long as it shall remain unredeemed, as part of the amount of national circulating notes allowed and provided by law for national banking associations.

Mr. Chairman, this amendment is proposed in order to reach this state of circumstances: where a State bank, with all of its notes outstanding, proposes to be converted into a national banking association, and has provided bonds to be deposited with the Government for that purpose, immediately takes out national circulation to an equal amount, this will prevent the issuing of national circulation until an equal amount of the old shall be redeemed. I do not think that the gentleman from Massachusetts or the gentleman from Iowa will object to this.

Mr. PRUYN. Mr. Chairman, this amendment, although designed to relieve the State banks somewhat from the attempt now made to break them down, will in reality accomplish nothing in that way.

I do not know that I can add anything to what has been said already by my two colleagues from New York in reference to the general view to be taken of this matter; but I understand it to be conceded from what has occurred on the other side of the House that this is an attempt to break down and exterminate the State banks.

Mr. HOOPER. The gentleman will allow me to explain. It is not intended on this side of the House to break down the State banks. If we could have persuaded my friend from New York to vote for the amendment to the Constitution the other day I do not think that it would have had the effect to destroy him—it would really have been his regeneration.

Mr. PRUYN. Going from white to black is queer regeneration.

Mr. HOOPER. It is not to destroy the State banks, but to give them new life.

Mr. PRUYN. I cannot go into the constitutional argument to-day. There is no time under the five-minutes rule to go into that, or I would be glad to say something more than I did on the occasion when it was directly before the House.

I do understand it to be an attempt—an attempt which cannot be denied, with the duty sought to be imposed upon the State banks—it is an attempt to break down the State banks, or at least, if carried out, it must end in that thing. Look at the course of the State banks since the opening of the rebellion and the issuing of Government stocks under the legislation of Congress. I venture to say that at the present time, perhaps irrespective of the amount held by the national banks for circulation—I mean with that included—that the State banks hold a greater amount of the public debt than the national banks. They have come forward and taken them; and they have taken them, not for the purpose for which they were taken by the national banks—as a basis for circulation—but the State banks have taken the United States stocks as an investment, deriving only the advantage of the interest upon them, whereas the national banks have not only the benefit of the interest but the advantage of circulation. It seems to me that it would be better to get at this thing by some plain, direct legislation, than by this indirect mode. We are seeking to do that which my colleague [Mr. KERNAN] has shown will end in subverting, at least to a great degree, the business interests of the State of New York. The breaking down of these State banks will divert the capital invested in them into other channels of business, trade, and commerce.

These State banks, one or two of them, as remarked by my colleague, were created before the Revolution, and many of them shortly afterward; and certainly for the past twenty-five years they have been fairly and honestly doing great service, not only to the States where they are located, but

to the United States at large. The question is whether we shall, by the exercise of arbitrary power, turn round and attempt to break down any class of institutions, I do not care what, which have been honestly chartered by the States and have been fairly and legitimately doing their duty. That is the question presented to the House under the amendment.

Mr. MORRILL's amendment was disagreed to.

Mr. STEVENS. I move to amend the amendment of the gentleman from Massachusetts by striking out the "1st day of July" and inserting the "2d day of January next," and to make the amendment conform to that amendment.

Mr. Chairman, the object of my amendment is to postpone the operations of the bill until the 1st of January next. By the law of Pennsylvania enabling these banks to become national banks they were authorized to continue the old circulation until the 1st day of January next. If they are to pay State tax and the tax provided by the gentleman from Massachusetts their taxes will be enormous. It would be such a tax as no banks could stand. It would be three per cent. upon banks, in addition to the State taxes. All the banks that have gone in under this law have gone in under the law as it stood. They went in under the enabling act of Pennsylvania. Now, I say it is unjust and, in my judgment, a violation of the understanding of the parties at the time the banks went in, to say that until the 1st of January their circulation shall become liable to additional taxation. And yet such would be the effect of it, notwithstanding the banks have, in good faith, gone in under the law. I do not myself believe that the amendment, or any part of it, is necessary. I believe that the banks of the country are coming in under the national banking law as fast as their condition will allow; and this driving banks out of existence all over the country in six or nine months, thus disturbing the whole business of the country, is, in my judgment, very injudicious, and will produce a great convulsion in the monetary matters of the country. I see no use for the amendment. Our old tax is heavy, and is sufficient. It was imposed at the time the national banking law passed, and it was deemed sufficient then. I think this amendment is carrying matters to extremes, and I think gentlemen will find that in their violent attempts to drive matters thus far they are violating the business of the country, and will do great mischief. But if it is to pass at all I ask that its operation be postponed until the 1st of January next, so that those banks which went into the existing state of things upon the faith that things should remain as they were shall not be caught in a trap, and not be compelled to pay double the amount they expected to pay.

Mr. WILSON. I am not surprised at the position taken by the gentleman from Pennsylvania, for I very well remember he was in favor, during the Thirty-Seventh Congress, of the issuing of legal-tender notes to an extent unlimited, and I believe he has not changed his views since. In other words, he is in favor of an expansion of the currency without limit. At least he has never advocated any curtailment of the volume of the currency.

Mr. STEVENS. Allow me to say to the gentleman that he has stated a position just the reverse of any position I have ever taken. I never uttered such a sentiment.

Mr. WILSON. Of course I accept the gentleman's denial, and yet I think my recollection does not betray me as to a declaration which fell from his lips during the Thirty-Seventh Congress; but of course I must take his statement.

Mr. STEVENS. Will the gentleman allow me to interrupt him?

Mr. WILSON. Certainly.

Mr. STEVENS. At the time the legal-tender bill was introduced authorizing the issue of \$150,000,000, it was asked by a gentleman across the way whether I expected to limit the issue to that amount. I replied I hoped we should be able to do so, and that I did not desire as large an expansion as that would make.

Mr. WILSON. I think that the action of the gentleman during the present session of Congress will bear out, not what he said, for he says he has said no such thing, but what I have said, that he is not opposed to the expansion of the currency. The bill which was reported by the Com-

mittee of Ways and Means a few days ago, and which passed this House, authorized the Secretary of the Treasury to further expand the currency of the country by issuing legal-tender notes.

Mr. STEVENS. The gentleman is entirely mistaken.

Mr. WILSON. I know the Committee of Ways and Means so said at the time; but I do not understand that bill as they do. I understand that under the provisions of that bill the Secretary of the Treasury can issue, for circulation, notes to a greater amount than he could before its passage.

Now, sir, the argument which the gentleman presents in reference to the action of the Legislature of the State of Pennsylvania amounts to this, that we shall stop legislating in Congress upon this subject until the Legislature of Pennsylvania shall see fit to release the Pennsylvania banks from the provisions of the enabling act by virtue of which they are now coming into the national system; that the hands of Congress must be tied up by the Legislature of Pennsylvania. It seems to me that that is hugging closely the doctrine of State rights. Now, the banks of that State and the Legislature could not enter into an agreement which would suspend the power of Congress to legislate upon this subject. But my amendment proposes a remedy for what they complain of. My proposition is that after the 1st day of July no State bank in Pennsylvania shall be allowed to issue its own notes, or the notes of any other State bank, and if not issued, of course they will not have to pay the State tax; they will be relieved from taxation by the action of the State, and it will work no hardship whatever.

Now, in relation to the argument of the gentleman from Massachusetts, [Mr. DAWES], I think it is a good argument against almost everything that Congress has done, but I do not think it is a good argument against the substitute I have proposed. We have permitted an expansion of the currency beyond what we should have done. We have authorized the national banks to expand the currency to an amount equal to \$300,000,000. I think that that is too great an expansion. I think we have issued legal-tender notes to a greater amount than we ought to have done. But because we have done it that is no reason why we should not stop somewhere, and require at least that the local banks shall not add additional volume to the currency of the country. Unless we adopt some provision of this kind, the national banks may expand their currency to the entire amount of \$300,000,000, and the State banks may expand their circulation without any limitation whatever. I desire to prevent that expansion of the circulation of the State banks. We have determined, as a part of the policy of the country, that national banks shall go into existence and issue currency to the amount of \$300,000,000.

[Here the hammer fell.]

The amendment of Mr. STEVENS was rejected.

Mr. DUMONT. I move further to amend by adding after the word "said" in line twelve of the amendment of the gentleman from Iowa, the following:

Except that banks which before the 1st of July next, 1865, shall have reduced their circulation three fourths since the 1st of January, 1863, shall not be subject on their remaining circulation to the tax imposed by the section to which this proviso is an amendment.

I understand the amendment of the gentleman from Iowa [Mr. WILSON] to be not so much a revenue measure as it is a financial measure. The intention is to compel the State banks to organize under the national system. So far as that is concerned, I make no objection to that policy. But I think that the amendment is not quite plain. It ought to be adapted to the facts. The banks ought to be rewarded to some extent for their good behavior since 1861. I think that some financial measure of this kind is necessary in regard to those State banks which have been expanding their circulation. I do not see that they are entitled to any consideration. They have not adapted themselves to the exigencies of the country. But many of the State banks have acted without compulsion just as the gentleman would require them to act now under compulsion.

Take the Bank of the State of Indiana, for instance, and let us see what it has done since 1861, and see whether it ought to be visited now with

exemplary punishment. On the 31st of December, 1861, the circulation of the Bank of the State of Indiana was \$5,979,419, or, in round numbers, \$6,000,000. It is to-day only \$1,524,948. The bank has withdrawn four fifths of its entire circulation. It ought not to be punished for its good behavior. It is willing to be punished for its bad behavior, but not for its good behavior.

Let us look a little further into this matter and see how this bank has been conducted. What I say in regard to the Bank of the State of Indiana I imagine will apply to other States. I simply refer to the bank of my own State because I am more familiar with its operation than I am with those of other States. On the 31st day of December, 1861, the circulation of that bank was \$5,979,419, and in 1862 the circulation was \$4,922,951. The reduction of the circulation of the Bank of Indiana, in 1863, was \$2,359,106, and in 1864, \$1,038,897; being in three years a reduction of \$4,454,471.

Now, Mr. Chairman, bear in mind that the circulation of this bank was not illegal. It is a legal institution. Its franchise was granted to it by the State, and its circulation was properly guaranteed. It was not a contraband circulation, either as against law or as against public opinion. As soon as it became contraband only in public opinion, not by the laws of the country; when public opinion became settled that the national institutions ought to supplant the State institutions, the Bank of the State of Indiana went to work liberally and withdrew its circulation. This amendment now proposes to increase the tax imposed by the law of last session on the circulation of the State banks. I do not object to that, but I simply come forward with my amendment and say that this increased taxation shall not be imposed upon these institutions that are withdrawing their circulation, before 1866. It is simply warning them, putting them on their good behavior, and adopting a kind of sliding scale in behalf of those institutions.

[Here the hammer fell.]

Mr. MORRILL. I move that the committee rise for the purpose of closing debate.

Mr. HOLMAN. I hope the committee will not rise for such a purpose.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the tax bill, and had come to no conclusion thereon.

Mr. MORRILL. I move that all debate on the banking amendments, and on all amendments thereto, terminate in ten minutes after the consideration of the bill shall have been resumed in the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the tax bill; the question being on Mr. DUMONT's amendment to the amendment, on which debate was ordered to be closed in ten minutes.

Mr. HOLMAN. Mr. Chairman, the avowal of the gentleman from Massachusetts [Mr. HOOPER] that the main object of this measure is to affect the State banks, should arrest the attention of the committee. The importance of the subject as affecting local interests and favoring certain citizens to the injury of others, cannot be misapprehended. I hold in my hand, as indicative of the cause of this amendment and of the influences controlling legislation on this subject, the message of the Governor of Massachusetts, delivered before the General Assembly of that State on the 6th day of the present month, in which the subject of the currency is reviewed. I desire that a passage from this message be read.

The Clerk read, as follows:

"I find by the report of the Comptroller of the Currency (under date of November 25, 1861) that the aggregate capital stock paid in of all the national banking associations then organized was \$108,964,597 28, and that of this sum those of Massachusetts had \$25,909,040; so that the paid-in capital of the national banking associations organized in Massachusetts is nearly one quarter part of the aggregate."

ized in Massachusetts is nearly one quarter part of the aggregate."

Mr. HOLMAN. It will be seen, Mr. Chairman, that the single State of Massachusetts, which is now bringing its power to crush out the local banking institutions of other States by heavy taxation, has obtained, by an unusual activity of her capitalists or a singular favoritism, the control of nearly one fourth part of all the capital stock and of the paper circulation issued under the general banking law of the nation. Massachusetts having thus secured so large a portion of the national bank capital, a system so favorable to capital, now proposes to increase the value of her capital by oppressing less favored States. I submit that perhaps the motive in bringing forward this measure, so hostile to the capital of the newer States, is to suborn the interests of the nation and of those States to the capital of the State which the gentleman [Mr. HOOPER] represents.

Mr. HOOPER. Will the gentleman allow me to make a statement?

Mr. HOLMAN. Yes, if it is very brief.

Mr. HOOPER. The banking capital of Massachusetts is about sixty million dollars. Of that about twenty-five million dollars is employed under the national banking system. There has been no increase under this new system to her banking capital.

Mr. HOLMAN. But it is constantly changing. The State is rapidly absorbing not merely her quota, but a large portion of the \$300,000,000 authorized by the national banking law to be issued; and the message to which I have referred shows that that very policy is to be encouraged in that State. I propose now to contrast with Massachusetts the banking policy of another State; and we shall see, sir, who are responsible for the excessive increase of paper circulation, and which State has contributed the most to reduce the volume of circulation, to diminish which is the pretense of this amendment. I ask to have read the statement which I send to the Clerk's desk.

The Clerk read, as follows:

*Reduction of the circulation of the Bank of the State of Indiana, including her twenty branches, in the past three years.*  
Amount of circulation December 31, 1861.....\$5,979,419  
Amount of circulation December 31, 1862.....4,922,951

Reduction in 1862.....1,056,468  
Amount of circulation December 31, 1862.....\$4,922,951  
Amount of circulation December 31, 1863.....2,563,845

Reduction in 1863.....2,359,106  
Amount of circulation December 31, 1863.....\$2,563,845  
Amount of circulation December 31, 1864.....1,524,948

Reduction in 1864.....1,038,897  
Total reduction in the last three years.....\$4,454,471

Remaining amount of circulation December 31, 1864.....\$1,524,948

JAMES M. RAY, *Cashier.*

Mr. ALLEY. Will the gentleman from Indiana [Mr. HOLMAN] permit me to ask him a question?

Mr. HOLMAN. It must be a very brief one; my five minutes are nearly gone.

Mr. ALLEY. I wish to know if those who are managing the State banking institutions of Indiana are not in favor of this very proposition?

Mr. HOLMAN. The bank managers of the State of Indiana are protesting against it as an attempt to favor one class of capitalists at the expense of another class.

Mr. ALLEY. Then I have been misinformed.

Mr. HOLMAN. The gentlemen connected with the system protest against this measure as oppressive. They have done all they could to reduce their circulation. No institution in the Union has been better or wiser administered than the Bank of the State of Indiana. They have reduced their circulation since the war began from \$5,979,419 to \$1,524,948, while other States have only converted their circulation into the more profitable form of national currency without any reduction of its amount. The local banks have not expanded the currency, but reduced it, and now a proposition is brought forward to compel them to abandon their system entirely, and all for the benefit of the capitalists who have monopolized the national banks for the most part—

Mr. WILSON. I desire to ask the gentleman from Indiana [Mr. HOLMAN] whether the representatives of the State banks of Indiana are opposed to that provision of my substitute which forbids the reissuance of notes by State banks after the 1st of July?

Mr. HOLMAN. I suppose that particular provision of the substitute would not be objected to. But the effect of the proposition of the gentleman from Massachusetts [Mr. HOOPER] is to tax the State banks oppressively upon the circulation which they cannot withdraw. It compels them to pay from three to six per cent. upon that portion of circulation which they cannot control, while the national banks on their circulation pay but one per cent. The object is not to revise, but to destroy State banks for the benefit of the national banks.

[Here the hammer fell.]

The question was then taken upon Mr. DUMONT's amendment; and it was adopted.

Mr. DAWES. I move to strike out the last clause of the amendment now pending. I desire to say to the gentleman from Indiana [Mr. HOLMAN] that I have already called the attention of the committee to the mistaken policy in the State of Massachusetts of encouraging the adoption of these national banks. I do not believe it meets the commendation of the people of Massachusetts. It is true that the Governor of Massachusetts, and all the gentlemen connected with this policy of national bank currency, are urging everybody to go into the national banking system, and what is the consequence? Whereas, before the adoption of this new policy, Massachusetts derived from her State banks a revenue sufficient to pay all her current State expenses, she now does not receive a dollar from that source, although she has added \$20,000,000 to her debt, and an immense amount of her taxable capital has become invested in United States bonds. It has come to this in Massachusetts, that the burdens of that State, increasing upon her year after year by millions and millions of dollars, are to be borne by poor men, while right side by side with them are the millionaires exempt from taxation by this mistaken policy of the United States, driving the money of the country into national banks and into the bonds of the United States, which are exempt from taxation.

The time is coming in Massachusetts, as I think it will come all over the country, when that policy will be condemned, and when it will be impossible for the country to stand up against the just demands of all men that those who are able to bear the burdens shall bear at least their share of them. The policy into which the State of Massachusetts has been urged has resulted in this, that the burden is thrown more and more upon the poor man and less and less upon the rich man. I have no sympathy with that policy myself, and no vote of mine shall ever be given for it. The men in Massachusetts and in this country who have the money should at least bear their share of the burdens of the country. The policy which we have been discussing here to-day has more than anything else brought about that state of things which I deprecate as much as the gentleman from Indiana, [Mr. HOLMAN.]

I now withdraw my amendment.

Mr. BROWN, of Wisconsin. I move the following as a substitute for the amendment:

That the general banking law be hereby repealed, and that the banks organized under it be allowed twenty days within which to wind up their affairs.

Mr. Chairman, the gentleman from Massachusetts [Mr. DAWES] has somewhat anticipated the remarks which I wished to make upon this subject. In the West, as in Massachusetts, there is to be an outbreak of popular feeling against this whole system of national banks. The people will not submit to having the large capitalists, who have derived profit from the expenditures of this war, escape from their share of State and municipal taxation. They will not consent to have the poor man bear the whole burden of taxation, (not necessary solely for the support of the State government, but created by the very necessities of this war,) while they see the rich man protecting himself under these provisions.

The CHAIRMAN. Debate is exhausted under the order of the House.

Mr. BROWN, of Wisconsin. I withdraw my amendment.

The amendment of Mr. MILLER, of New York, to the substitute of Mr. WILSON, was rejected.

The question then recurred on the substitute. Mr. HOLMAN. I move to amend the substitute by inserting after the word "said" in the twelfth line the following:

Except that banks which, before the 1st of July, 1863, shall have reduced their circulation three-fourths since the 1st of January, 1863, shall only be subject, in their remaining circulation, to the tax imposed by the section to which this proviso is an amendment.

Mr. HOOPER. That has been already adopted.

Mr. HOLMAN. It has been adopted as an amendment to the original proposition, but not as an amendment to the substitute.

The amendment was adopted.

Mr. DAVIS, of New York. I offer the following amendment to the substitute:

In line fourteen strike out the word "five" and insert in lieu thereof the word "seven."

The amendment was agreed to.

Mr. DUMONT. I offer the following amendment to the substitute:

Add after the word "capital" in line fifteen the words "existing when the same was issued."

The amendment was agreed to; there being, on a division—ayes sixty-two, noes not counted.

The question recurred on the substitute as amended, it was rejected; there being, on a division—ayes seventeen, noes not counted.

The question then recurred on the amendment of Mr. HOOPER.

Mr. WILSON. I move to amend the amendment by adding thereto the following:

And no national banking association, after it shall have received from the Comptroller of the Currency any of its notes, shall pay out the notes of any State bank or banking association; and no State bank or banking association shall issue for circulation any notes of its own or of any other State bank or banking association after the 1st day of January, 1866.

On agreeing to the amendment to the amendment, there were, on a division—ayes thirty-two.

Mr. WILSON called for tellers.

Tellers were ordered; and Messrs. WILSON, and SRELL of New York, were appointed.

The committee divided; and the tellers reported—ayes 49, noes 65.

So the amendment to the amendment was rejected.

Mr. HOLMAN. I move to amend the amendment by striking out in line fourteen the word "five" and inserting in lieu thereof the word "ten;" so that the clause will read:

And to an amount not exceeding ten per cent. of the chartered or declared capital.

The amendment to the amendment was adopted.

Mr. HOLMAN moved the following amendment:

In line fifteen, after the word "capital" insert "existing when the same was established;" so that it will read:

And whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital existing when the same was established, said circulation shall be free from taxation.

The amendment was agreed to.

Mr. HOLMAN moved to amend, in the twenty-second line, by striking out "five" and inserting "ten;" so that it will read:

And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed ten per cent. of the capital before such conversion of such State bank or banking association.

The amendment was agreed to.

Mr. WILSON. I propose to modify the amendment I offered a few moments ago, as follows:

And no national banking association or State bank, or banking association, shall, after the 1st day of January, 1866, issue or pay out any notes for circulation other than those issued by national banking associations.

Mr. PRUYN. I insist that that amendment is not in order, as it has been already voted down by the committee.

The CHAIRMAN. The amendment has been modified.

Mr. PRUYN. Did the gentleman from Iowa purposely omit the word "national" before the word "banks" the second time?

Mr. WILSON. I will state to the gentleman from New York what my object is exactly this: to prevent a national bank, or State bank, or banking association, from issuing any other bank

notes than those of the national banking associations after the 1st day of January next.

Mr. PRUYN. It prohibits State circulation entirely?

Mr. WILSON. Yes, sir, after the 1st day of January next.

Mr. BROWN, of Wisconsin. I raise the point of order that this is a bill for revenue, and that a provision such as the gentleman has proposed, prohibiting the circulation of a certain class of money, is not germane to this bill.

The CHAIRMAN. The Chair sustains the point of order.

The question then recurred on Mr. HOOPER's amendment; and it was disagreed to.

The Clerk read, as follows:

That section one hundred and sixteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: That there shall be levied, collected, and paid annually upon the annual gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interests, dividends, or salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source whatever, a duty of five per cent. on the excess over \$600 and not exceeding \$3,000, and a duty of ten per cent. on the excess over \$3,000. And the duty herein provided for shall be assessed, collected, and paid upon the gains, profits, and income for the year ending the 31st day of December next preceding the time for levying, collecting, and paying said duty: *Provided*, That income derived from interest upon notes, bonds, and other securities of the United States shall be included in estimating incomes under this section, and shall also include all premiums on gold or coupons: *Provided*, further, That only one deduction of \$600 shall be made from the aggregate incomes of all the members of any family, composed of parents and minor children, or husband and wife, except in cases where such separate income shall be derived from the separate and individual estate, gains, or labor of the wife or child: *And provided*, further, That net profits realized by sales of real estate purchased since January 1, 1864, shall be chargeable as income, and losses on sales of real estate purchased since January 1, 1864, and sold within the year for which income is estimated, shall be deducted from the income of such year.

Mr. BROOMALL. I move to amend by striking out the words "estate" and "wife or" and inserting "such;" so that it will read:

Except in cases where such separate income shall be derived from the separate and individual gains or labor of such child.

Mr. BOUTWELL. I suggest to the gentleman from Pennsylvania to modify his amendment by striking out all after the word "wife" in the six hundred and thirty-fourth line and inserting the word "such" in the six hundred and thirty-sixth line; so that it will read:

That only one deduction of \$600 shall be made from the aggregate incomes of all the members of any family, composed of parents and minor children, or husband and wife.

Mr. BROOMALL. I modify my amendment in that way. My object is to prevent frauds upon the revenue. It will prevent a man of wealth from dividing up his property among his wife and children so as to exempt \$600 for his wife and \$600 for each child. What I want is to leave the law as it now stands, so as to let one family, composed of wife and minor children, have only one \$600 exempt from taxation.

The amendment was agreed to.

Mr. WILSON. I move to add the following:

And in ascertaining the income of any person liable to the income tax the amount of income received from institutions whose officers, as required by law, withhold a per cent. of the dividends made by such institutions and pay the same to the Commissioner of the Internal Revenue, or other officer authorized to receive the same, shall be included, and the amount so withheld shall be deducted from the tax which otherwise would be assessed upon such person.

The object of the amendment is to prevent persons whose incomes are derived from dividends upon bank, railway, and other stocks, from escaping the ten per cent. tax upon the excess over \$3,000. That is the sole object of the amendment.

Mr. MORRILL. I see no objection to the amendment.

The amendment was agreed to.

Mr. MALLORY. I move to strike out in line six hundred and twenty-one "three" and insert "five;" and in line six hundred and twenty-three strike out "three" and insert "five;" so that it will read:

That there shall be levied, collected, and paid annually upon the annual gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interests, dividends, or salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source

whatever, a duty of five per cent. on the excess over \$600 and not exceeding \$3,000, and a duty of ten per cent. on the excess over \$3,000.

I propose this amendment to the bill because I think the ten per cent. tax should not be placed upon incomes of \$3,000, nor upon any incomes less than \$5,000. Three thousand dollars in greenbacks is not so heavy an income as to meet with such a visitation from this House. I do not think many families can live upon an income of that size, and no reason can occur to my friend why it should be taxed to the extent it is proposed by this bill. I think five per cent. is ample upon incomes exceeding \$600 and not exceeding \$5,000.

Mr. ROSS. I move to amend the amendment of the gentleman from Kentucky, or rather to offer one that covers and extends beyond that of the gentleman from Kentucky. It is as follows:

Amend in line six hundred and twenty-one by striking out "six hundred" and inserting "one thousand;" in line six hundred and twenty-three strike out "three" and insert "five," and add after the word "dollars" in line six hundred and twenty-three "and a duty of fifteen per cent. on the excess over \$5,000 and under \$10,000, and a duty of twenty per cent. on the excess over \$20,000."

Amend line six hundred and thirty-one by striking out the word "six" and inserting "one thousand."

I am in hopes this amendment will be made. It covers the amendment of the gentleman from Kentucky, and goes still further. It proposes first to strike out the \$600 exemption clause, and make it \$1,000. That is a just exemption, considering the expenses of living. Then the increase proposed by the gentleman from Kentucky commences at \$5,000 and ends at \$10,000. Mine is extended to fifteen per cent. on incomes over \$15,000 and twenty per cent. on those of \$20,000 and over.

Now, Mr. Chairman, it appears to me that this is but just in the present condition of our country. We must in some degree relieve the poor men of the country from the heavy burden of taxation which rests upon them. The few who have these large incomes are better able to contribute to the necessities of the Government than any other class. The men with incomes of \$15,000 and upward can better afford to pay fifteen or twenty per cent. on that income than the poor man can upon his \$1,000 or \$1,500. There is a class of individuals who are not being reached as thoroughly by the taxation which we are now levying upon the people of the country as they should be.

I know the eastern men tell us they tax their manufacturers. How do they tax their manufacturers? They put an additional price upon manufactured commodities; but who pays it? The consumer. They tell us they tax their railroads. How do they tax them? Why, sir, for every dollar of additional taxation we put upon the railroads of the country the companies are remunerated by charges made upon the people. The merchants of the West pay it upon the transportation of their goods from the East; and the farmer of the West pays it in the additional charges imposed upon the transportation of his produce to the East. Now I ask gentlemen upon this floor who represent the agricultural interests of the country to say whether it is not time we should reach the capital of the country and relieve in some degree the agriculture of the country from the onerous burdens of taxation which is being fastened upon them. I trust this amendment, so reasonable, so just in its character, will commend itself to the House.

Mr. MORRILL. I move that the committee rise for the purpose of terminating debate upon this paragraph.

Mr. ANCONA. I call for tellers upon the motion.

Tellers were ordered; and Messrs. KELLOGG of New York and DAWSON were appointed.

The committee divided; and the tellers reported—ayes fifty-eight, noes not counted.

So the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and had come to no resolution thereon.



Mr. MORRILL. I move that all debate upon the paragraph pending in Committee of the Whole on the state of the Union, and all amendments thereto, shall cease in five minutes after the Committee shall again resume the consideration thereof.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the tax bill.

Mr. GARFIELD. I move to strike out this entire section, and I do it for the purpose of making a suggestion to which I wish some attention given by the Committee of Ways and Means.

I believe that this income tax, as now administered, is the very essence of injustice, and unless some change can be made in the law so as to remove its fundamental difficulties, I hope it will be voted out of this bill.

I dislike to make any such suggestion as this, because I desire to do everything in my power to increase the revenue, but this bill makes no discrimination between the sources from which income is derived. One man with nothing in the world except his hands, by his energy makes \$2,000 a year, it may be; another, with \$50,000 invested in lands, does not work, produces not one dollar, and adds nothing to the wealth of the country, and at the end of the year receives as rental of his estate \$2,000; he pays precisely the same tax and only the same as the man who has nothing.

There is no equality in this mode of taxation. I believe, sir, that the Committee of Ways and Means ought to devise a system by which incomes derived from different sources may pay different rates, so that labor and production may be encouraged.

Mr. MORRILL. Is the gentleman from Ohio prepared to give up thirty-five or fifty millions of income tax and propose a tax directly upon the real estate of the country?

Mr. GARFIELD. I will say to the gentleman that I do not think it necessary to give up the income tax, but I do think it necessary to recast this section so that there shall be a discrimination between different kinds of income. That can be done without levying a direct tax upon land.

There are men who have no other capital than their hands and brains, who are taxed more than men worth sixty, seventy, eighty, and a hundred thousand dollars. I can give examples by the dozen of precisely such instances from the working of the income law of last session. A captain in the Army with a family to support, and with no wealth but his salary, pays more income tax to the Government than many a man who has \$50,000 invested and lives comfortably without labor or risk.

This mode of taxation is the very soul of injustice, and if the Committee of Ways and Means cannot devise some mode of adapting the tax to a better scale of justice than this we had better repeal it. But I believe it can be made tolerable by such a classification of sources of income as is made in the law of Great Britain for 1842, and by taxing the income of labor less than that which arises from unproductive wealth. I throw out this suggestion that some response may be made to relieve the bald injustice of this tax as it stands before the country.

The question was taken on Mr. Ross's amendment to the amendment, and it was disagreed to.

The question recurred on Mr. MALLORY's amendment.

Mr. TOWNSEND. I move to amend the amendment by striking out "three" and inserting "six."

The amendment to the amendment was disagreed to—ayes 41, noes 59.

Mr. MALLORY's amendment was then agreed to—ayes 65, noes 56.

Mr. ANCONA. I offer the following amendment, to come in after line six hundred and forty-two:

*Provided further, That the special income tax imposed by joint resolution, approved July 4, 1864, shall not apply*

*to incomes of the officers of the Army and Navy for the year 1863, since discharged by reason of disability from wounds received or disease contracted in the service, or by expiration of term of service: And provided further, Whenever said tax has been assessed and paid by such officers, or by their widows in cases where they have died, the same shall be refunded, under such regulations as the Secretary of the Treasury shall prescribe.*

Mr. MORRILL. I make the question of order on the amendment that it is not germane to anything in the paragraph.

The CHAIRMAN. The Chair overrules the point of order. The Chair thinks that it is germane to the paragraph.

Mr. ANCONA demanded tellers on his amendment.

Tellers were ordered; and Messrs. ANCONA and BAXTER were appointed.

The committee divided; and the tellers reported—ayes 55, noes 59.

So the amendment was rejected.

Mr. GRISWOLD. I move to amend by striking out, in line six hundred and twenty-one, "\$600" and inserting in lieu thereof "\$1,000;" so that it will read "a duty of five per cent. on the excess over \$1,000."

The amendment was rejected.

Mr. WILSON. I propose to amend by inserting the following as an additional section:

*Every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State banks or State banking associations paid out by them after the 1st day of January, 1866.*

Mr. MORRILL. I suggest to the gentleman from Iowa that his amendment will come in better as an additional section at another point.

Mr. WILSON. I have no objection to wait. I withdraw the amendment.

Mr. ECKLEY. I move to amend by striking out the words "on the excess over \$600 and;" so that it will read "a duty of five per cent. on not exceeding \$3,000."

The amendment was rejected.

Mr. GRISWOLD. I move to amend by striking out all that appertains to the income tax and by substituting therefor a provision requiring the imposition of two per cent. on sales.

Mr. MORRILL. I suggest to the gentleman from New York that that amendment had better be offered when we come to the clause in regard to sales. He will then have an opportunity to discuss it.

Mr. GRISWOLD. I desire to offer it as a substitute to the income tax.

Mr. MORRILL. Then I make the question of order that the amendment is not in order.

The CHAIRMAN. The Chair sustains the point of order. The amendment is not in order at present.

Mr. BROOMALL. I move to amend by adding, at the end of the paragraph, the words "derived from sales of real estate;" so that it will read:

*Provided further, That net profits realized by sales of real estate purchased since January 1, 1864, shall be chargeable as income, and losses on sales of real estate purchased since January 1, 1864, and sold within the year for which income is estimated, shall be deducted from the income of such year derived from sales of real estate.*

I suppose that that was the intention of the Committee of Ways and Means.

Mr. KASSON. I think the gentleman from Pennsylvania is in error on that point. The effect of his amendment would be—

The CHAIRMAN, (interrupting.) The House has closed debate on the whole paragraph.

The question was taken, and the amendment was rejected.

Mr. INGERSOLL. I move to amend by striking out "\$600" and inserting "\$800;" so that it will read "a duty of five per cent. on the excess over \$800."

The question being on the amendment,

Mr. INGERSOLL demanded tellers.

Tellers were ordered; and Messrs. INGERSOLL and HOOPER were appointed.

The committee divided; and the tellers reported—ayes 48, noes 52.

So the amendment was rejected.

Mr. ANCONA. I move to amend by adding the following proviso:

*Provided further, That the special income tax imposed by joint resolution approved July 4, 1864, shall not apply to incomes of the officers of the Army and Navy for the year 1863, since discharged by reason of disability from wounds*

*received or disease contracted in the service or by expiration of term of service.*

Mr. MORRILL. I rise to a question of order. That amendment has been already voted on once and voted down.

Mr. ANCONA. The amendment is changed since it was voted on.

The CHAIRMAN. The Chair overrules the point of order. It is not the same amendment as was proposed before.

Mr. MORRILL. Virtually the same thing.

Mr. ANCONA. Virtually not the same thing.

The CHAIRMAN. The Chair overrules the point of order.

The question being on the amendment, Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. ANCONA and HOOPER were appointed.

The committee divided; and the tellers reported—ayes 38, noes 56.

So the amendment was rejected.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GARFIELD] withdraw his amendment to strike out the section?

Mr. GARFIELD. I withdraw it. I only wanted to have an opportunity of saying what I did.

Mr. GANSON moved to amend the paragraph by adding thereto the following:

*Provided, That no tax shall be imposed on any income derived solely from a salary not exceeding \$1,000 per annum.*

The question was taken on the amendment, and it was rejected.

Mr. PRUYN moved to strike out the entire paragraph as amended.

The motion was not agreed to. The next paragraph was then read.

Mr. MORRILL. I move to amend this paragraph by inserting after the words "unsold or on hand during the year next preceding the 31st of December," the words "until the same shall be sold." I offer this to obviate a construction that might be given, that the property thus deducted one year shall not be subject to this taxation the succeeding year.

The amendment was agreed to.

Mr. GANSON. I move to amend the first clause of the paragraph by inserting after the words "all national, State, and municipal taxes," the words "or assessments." I offer this amendment because there are different constructions given to those words by different tribunals.

Mr. MORRILL. As it is now very near the time for the House to take a recess, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the tax bill, (H. R. No. 744,) and had come to no resolution thereon.

The SPEAKER. The hour of half-past four has arrived, at which time the House has ordered that a recess be taken until seven o'clock p. m.

Mr. MALLORY. I move to dispense with the session to-night.

The SPEAKER. The hour has arrived for taking a recess.

Mr. J. C. ALLEN. Is there no way to dispense with to-night's session?

The SPEAKER. It might have been done by a motion before the hour of half past four had arrived.

Mr. MALLORY. I rose to make the motion as soon as the gentleman from New York [Mr. POMEROY] completed his report from the Committee of the Whole.

The SPEAKER. The hour fixed upon by the House for the recess had arrived when the gentleman from New York [Mr. POMEROY] made his report.

Mr. MALLORY. How could the Chair receive his report, then?

The SPEAKER. He had just completed his report when the hour arrived. By unanimous consent, the motion of the gentleman from Kentucky [Mr. MALLORY] to dispense with the session to-night can be received and voted upon.

Several MEMBERS objected.

The House thereupon took a recess until seven o'clock, p. m.

## EVENING SESSION.

The House reassembled at seven o'clock p. m.

## COMPENSATION FOR ENLISTED SLAVES.

Mr. GRIDER asked unanimous consent to introduce the following resolution:

*Resolved*, That the President of the United States be respectfully requested, if not inconsistent with the public interest, to communicate to the House why commissioners have not been appointed by the Secretary of War, according to the provisions of a bill approved July, 1864, providing for the valuation of slaves enlisted in the United States Army in the States of Kentucky and Missouri.

Mr. STEVENS objected.

## PORT OF PHILADELPHIA.

Mr. O'NEILL, of Pennsylvania, by unanimous consent, called up from the Speaker's table Senate bill No. 410, being "An act to enlarge the port of entry and delivery for the district of Philadelphia."

The bill was read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. O'NEILL, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on table.

The latter motion was agreed to.

## ADVANCES BY WEST VIRGINIA.

Mr. BROWN, of West Virginia, by unanimous consent, presented resolutions of the Legislature of the State of West Virginia asking to be reimbursed for certain moneys advanced by her in the prosecution of the war; which were ordered to be printed, and referred to the Committee of Ways and Means.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Clerk, informed the House that the Senate had concurred in the amendment of the House to joint resolution (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

## ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Africans in Liberia; when the Speaker signed the same.

## DISTRICT JUDGE OF KANSAS.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back a bill to increase the salary of the district judge for the district of Kansas, with a recommendation that the bill do not pass.

The bill was laid on the table.

## HABEAS CORPUS.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary reported back House bill No. 754, to repeal the act entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," with a recommendation that the bill do not pass.

The bill was laid on the table.

## DISTRICT JUDGE OF INDIANA.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 737, to increase the salary of the judge of the United States district court for the district of Indiana, with a recommendation that the bill do not pass.

The bill was laid on the table.

## BANK COLLECTIONS.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 629, to authorize banking institutions to close their institutions on certain days named, and to make all notes or other negotiable instruments under the laws of the United States, falling due on those days, payable on the preceding secular day respectively, with a recommendation that the bill do not pass.

The bill was laid on the table.

## JUSTICES OF THE SUPREME COURT.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, reported back House bill No. 665, to provide compensation of the justices of the Supreme Court of the United States, and the payment of their traveling expenses, with a recommendation that the bill do not pass.

The bill was laid on the table.

## WILLIAM CORNELL JEWETT.

Mr. WILSON, by unanimous consent, from the Committee on the Judiciary, asked that the committee be discharged from the further consideration of the petition of William Cornell Jewett, praying that the consideration of the amendment to the Constitution be postponed.

The motion was agreed to.

## ENFORCEMENT OF CONTRACTS.

Mr. WILSON also, from the Committee on the Judiciary, reported adversely upon the memorial of Jesse Baldwin, of Mahoning county, Ohio, asking Congress to pass an act declaring that all just, legal, and equitable contracts shall be enforced according to the plain legal meaning of the words employed therein.

## DISTRICT JUDGE OF TENNESSEE.

Mr. WILSON also, from the Committee on the Judiciary, reported adversely on the memorial of O. P. Temple, and others, of East Tennessee, praying an increase of the salary of the district judge of Tennessee.

## MARRIAGES IN THE DISTRICT OF COLUMBIA.

Mr. WILSON, by unanimous consent, reported back from the Committee on the Judiciary, bill H. R. No. 735 in relation to marriages in the District of Columbia, and moved that the House proceed to the consideration of the bill.

The motion was agreed to; and the bill was read at length.

It provides for the repeal, as to the District of Columbia, of the ninth section of an act concerning marriages, passed by the Legislature of Maryland in 1777, and found in Dorsey's Laws of that State, volume one, page 133, which section was extended to the District of Columbia by the act of Congress of February 27, 1801.

Mr. J. C. ALLEN. I desire to inquire, what are the provisions of the section which it is proposed to repeal?

Mr. WILSON. That section provides that if any clergyman shall solemnize the rites of marriage between minors he shall be subjected to a penalty by fine or imprisonment, or both, as the court may determine; and this notwithstanding a license may have been issued authorizing the solemnization of the marriage. This bill proposes simply to repeal that penalty, so that if a marriage should be solemnized in pursuance of a license issued by the proper authority, the minister shall not be liable to punishment if the parties be minors.

Mr. J. C. ALLEN. I have no objection to that. The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

## LEAVE OF ABSENCE.

Messrs. O'NEILL, of Ohio, MIDDLETON, and HOLMAN, asked and obtained leave of absence.

Mr. STEVENS. I desire to ask leave of absence for the gentleman from Ohio, Mr. SPALDING, for this evening. He informed me, when he left the Hall this afternoon, that he was quite unwell. Leave was granted.

Mr. ANCONA. I ask leave of absence for a few days for my colleague, Mr. JOHNSON.

Leave was granted.

## JOHN FAUST.

Mr. LAW, by unanimous consent, reported from the Committee on Revolutionary Pensions adversely upon the application of John Faust for a pension.

## SALE OF NEGROES AS SUBSTITUTES.

Mr. GRIDER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be instructed to inquire if the colored men charged with felony in the jail of said District have, by the keeper or officers of said jail, been sold to substitute brokers; how

many have been sold, if any; at what price; and who received the money.

## REMOVAL OF ST. LOUIS ARSENAL.

Mr. KNOX. I move that Senate bill No. 402, an act to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located," be taken from the Speaker's table, and referred to the Committee on Military Affairs.

The motion was agreed to.

## PREEMPTION AND HOMESTEAD RIGHTS.

Mr. HIGBY. I ask unanimous consent to report from the Committee on Public Lands bill H. R. No. 604, entitled "An act to prevent deserters and others therein named from acquiring publiclands under the preemption and homestead laws."

Mr. LE BLOND. I object.

## LAKE SUPERIOR SHIP-CANAL.

Mr. DRIGGS. I ask unanimous consent to report back from the Committee on Public Lands House bill No. 745, making a grant of alternate sections of public land to the State of Michigan to aid in the construction of a breakwater and harbor on Lake Superior by means of a ship-canal to connect Lake Superior with Lake Portage on the upper peninsula of said State, in order that it may be printed and recommitteed.

Mr. HUBBARD, of Iowa. I object unless it is agreed that the bill is not to be brought back by a motion to reconsider.

Mr. DRIGGS. If I cannot explain the bill satisfactorily to the gentleman I will agree to that.

Mr. HUBBARD, of Iowa. Unless we have that understanding I must object.

Mr. DRIGGS. Well, then, I agree to that understanding.

The bill and substitute were received and recommitteed, and the substitute was ordered to be printed.

## SPEAKER PRO TEMPORE.

The SPEAKER stated that he would not be present during the entire evening, and if there were no objection he would appoint Mr. ASHLEY of Ohio as Speaker *pro tempore*, to receive the report of the Committee of the Whole on the state of the Union.

There was no objection.

## LEAVE OF ABSENCE.

Mr. J. C. ALLEN. Mr. Speaker, I am not well, and I ask, by unanimous consent, that leave of absence be granted to me for this evening.

There was no objection; and it was ordered accordingly.

Mr. NELSON. Mr. Speaker, I have not felt so well for three months as I feel this evening, and I would like to go off to enjoy my good health. I therefore ask for leave of absence. [Laughter.]

Mr. ALLISON. I object.

Mr. MORRILL moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union. The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the

## TAX BILL.

The CHAIRMAN stated the pending question to be on the amendment moved by Mr. GANSON. The amendment was disagreed to.

Mr. WILSON. I move to strike out the following words:

And there shall also be deducted the income derived from dividends on shares in the capital stock of any bank, trust company, savings institution, insurance, railroad, canal, wharf, canal navigation, or slack-water company, and the interest on any bonds or other evidences of indebtedness of any such corporation or company, which shall have been assessed and the tax paid, as hereinafter provided.

That is rendered necessary by an amendment to the preceding paragraph.

The amendment was agreed to.

Mr. HOLMAN. I move to add the following:

And provided further, That salaries of officers of the Army under the grade of major, while such officers are in actual service in the field, shall not be subject to an income tax.

Mr. Chairman, it will be observed that this only



applies to salaries of captains and first and second lieutenants. I believe that it is agreed upon all hands that the salary received by these officers is too small at the present time, and it may be that no successful effort will be made during the present Congress to increase it. The salary of officers above the grade of captain, it is understood, is reasonable to a certain extent. My proposition is to exempt the salaries of officers under the grade of major who are in the field from taxation; and it seems to me that it should commend itself to the favorable consideration of the committee.

Mr. MORRILL. Mr. Chairman, I understand from the chairman of the Military Committee, [Mr. SCHENCK] that this has been considered in a bill which that committee is about to report, and I think, therefore, that it is better not to consider it here. I hope that the amendment will be rejected.

Mr. HOLMAN. I suggest to the gentleman from Vermont that if a general bill is passed on the subject the Senate may strike this out, and if none be passed this will be so much gained.

Mr. SCHENCK. I will remark that the general bill for the relief of officers of the Army, providing certain advantages for officers in the field, includes, among other things, a release from this income tax. That bill is now in the hands of a member of the Military Committee, and will be reported on Saturday next. This amendment might clash with that bill, and perhaps it would be better to provide for the whole thing in one bill than to legislate partially in an appropriation bill. I state this for the information of the gentleman from Indiana.

Mr. HOLMAN. With the understanding that this is to be reported by the Committee on Military Affairs, and perhaps with a wider scope, I withdraw my amendment.

Mr. BOUTWELL. I move to strike from the following these words, "other than the companies specified in this section:"

And also all income or gains derived from the purchase and sale of stocks or other property, real or personal, and of live stock, and the amount of live stock, sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetable or other productions, being the growth or produce of the estate of such person sold, not including any part thereof unsold or on hand during the year next preceding the 31st of December, shall be included and assessed as part of the income of such person for each year, and the gains and profits of all companies, whether incorporated or partnership, other than the companies specified in this section, shall be included in estimating the annual gains, profits, or income of any person entitled to the same, whether divided or otherwise.

The amendment was agreed to.

Mr. PRUYN. I call the attention of the gentleman having charge of this bill to these words:

And may increase the amount of any list or return if he has reason to believe that the same is understated.

The principle laid down here is inconsistent with the succeeding clause. If there be no satisfactory explanation it ought to be stricken out.

Mr. MORRILL. The bill requires that in all cases the return shall be made under oath, and that that shall be *prima facie* evidence, but not conclusive. It is intended still to leave the power with the assistant assessor to increase the amount if he is not satisfied with the oath; and to protect the party, if he is dissatisfied, he may take an appeal.

The amendment was agreed to.

Mr. DAVIS, of New York. I move to amend by inserting in line seven hundred and forty-nine, after the words "United States," the words "upon all his or her gains or profits as provided by this act;" so that the clause will read:

*Provided*, That any party, in his or her own behalf, or as guardian or trustee, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she was not possessed of an income of \$500, liable to be assessed according to the provisions of this act, or may declare that he or she has been assessed and paid an income duty elsewhere in the same year under authority of the United States, upon all of his or her gains or profits as provided by this act, and if the assistant assessor shall be satisfied of the truth of the declaration shall thereupon be exempt from income duty in said district.

I offer this amendment because, by the terms of this act, a person might fraudulently in one district make a return of income not covering his entire income as intended by the act, and then in the place where by law he should make his return of income he simply makes an affidavit that he has made a return of income in another dis-

trict; and by making such affidavit before the assessor he would be discharged by the terms of this act from making the return which is contemplated by the law. My object is simply to prevent a fraud upon the law itself.

Mr. MORRILL. I do not see that there is any great necessity of the amendment, and I see no harm in it.

The amendment was agreed to.

Mr. WILSON. I move to amend by inserting in line seven hundred and fifteen, after the word "aforesaid," the words "which list shall state the specific source of each item of income, and the amount thereof."

Mr. STEVENS. I really think that would be very inconvenient and vexatious. I cannot see any necessity for it, and I hope it will not be adopted.

The amendment was not agreed to.

Mr. MORRILL. I move to amend by striking out of line seven hundred and ninety-seven the words "with intent to evade" and inserting in lieu thereof the words "contrary to;" so that the clause shall read:

That any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or shall accept, negotiate, or pay, or cause to be accepted, negotiated, or paid, any bill of exchange, draft, or order or promissory note, for the payment of money, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty chargeable thereon, contrary to the provisions of this act, shall, for every such offense, forfeit the sum of \$200, and such instrument, document, or paper, bill, draft, order, or note shall be deemed invalid and of no effect.

I offer another amendment in the same clause in a subsequent line, by striking out "two hundred" and inserting "fifty."

Mr. THAYER. I object. Only one amendment can be offered at one time.

The CHAIRMAN. One amendment only is in order.

Mr. THAYER. This seems to me to be a very extraordinary proposition. The effect of it is to impose for a mere inadvertent or casual omission to affix a stamp the heavy penalty of \$200. As the law stands now you must, in order to impose that penalty, show that the party designedly omitted the stamp for the purpose of defrauding the revenue. It has never been heard in any stamp act that a penalty like this, or that any penalty, has been imposed for a mere neglect or unintentional omission of a stamp. The Committee of Ways and Means, I beg leave to say, are taking a wrong direction in regard to this provision of the law. Instead of liberalizing it, they are making it more and more stringent; while the British Government, which has had more experience upon this subject than any other Government upon the face of the earth, has from year to year been enacting statutes for the purpose of liberalizing and modifying the stamp act, the Committee of Ways and Means are taking an opposite direction and are attempting to make the law more stringent and more oppressive. I hope the Committee of the Whole will not adopt the amendment of the gentleman from Vermont.

Mr. MORRILL. As I said nothing in reference to this amendment when I offered it, I will now briefly state the purpose of it. In the first place it is proposed to reduce the penalty from two hundred to fifty dollars for a mere casual neglect; and then I propose to insert after the words "invalid and of no effect" the words "and in case of such omission or neglect with intent to evade the provisions of this act, the person so guilty shall forfeit \$200." So gentlemen will see that the object was merely to graduate the penalty according to the offense. It is supposed that some penalty should be imposed in cases of mere accident, otherwise we could not enforce the law.

Mr. THAYER. I was about to propose an amendment which should incorporate into this law, in express terms, the provisions of the British statute upon this subject. The leading provisions of that statute, which has now been in force for fifteen years in Great Britain, and which has been found perfectly satisfactory both to the people and to the Government in protecting the people against the designs of dishonest persons, and the revenue against fraud upon the stamp act, are these: in the first place there is a provision enabling any party in interest at any time to affix a stamp upon an instrument upon going to the proper revenue officer and paying a certain penalty

which now, by the British act, is £10; and there is a further provision that in case of mere inadvertence or unintentional omission, the stamp shall be affixed to the instrument by the revenue officer upon payment of the proper stamp duty, without the penalty, provided the application be made within twelve months after the instrument was issued or made.

Mr. MORRILL. If the gentleman will allow me, I will say that those who have had most experience in the Internal Revenue Office since we have established stamp duties here are clearly of the opinion that we can collect no revenue unless we have penalties as heretofore, and that the English system will not answer here in the early history of stamp duties.

Mr. THAYER. Why not?

Mr. MORRILL. For the reason that the stamp duties cannot be enforced.

The CHAIRMAN. Debate is exhausted on the amendment.

The question was taken on Mr. MORRILL's amendment, and it was disagreed to.

Mr. THAYER. I move to strike out all after the words "provided further" in line eight hundred and five, down to the end of line eight hundred and twenty-eight, as follows:

That no deed, instrument, document, writing, or paper, required by law to be stamped, which was made, signed, or issued prior to the 1st day of August, 1864, without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded or admitted or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty, shall have been affixed thereto, and the date when the same is so used or affixed, with his initials, shall have been placed thereon by the person using the same; and the person desiring to use or record any such deed, instrument, document, writing, or paper, as evidence, his agent or attorney is authorized, in the presence of the court, register, or recorder, respectively, to affix the stamp or stamps thereon required: *And provided further*, That no instrument, document, or paper, made, signed, or issued prior to said 1st day of August, 1864, without being duly stamped, or having thereon an adhesive stamp or stamps to denote the duty imposed thereon, shall, for that cause, if the stamp or stamps required shall be subsequently affixed, be deemed invalid and of no effect; and the holder thereof, or any person desiring to use the same, his agent or attorney, is authorized to affix thereon the stamp or stamps required.

And insert in lieu thereof the following:

That hereafter in all cases where the party has not affixed to any instrument required by the one hundred and fifty-first section of the act of June 30, 1864, or schedule marked "B" thereunto annexed, the stamp thereby required to be thereunto affixed at the time of making or issuing said instrument, and he, or they, or any party having an interest therein shall be subsequently desirous of affixing such stamp to said instrument, he or they shall appear before the collector of the revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law and a penalty of fifty dollars, and, when the whole amount of the duty denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest at the rate of six per cent. on said duty from the day on which such stamp ought to have been affixed, affix the proper stamp to such instrument, and note upon the margin of said instrument the date of his so doing and the fact that such penalty has been paid; and such instrument shall thereupon be deemed and held to be as valid to all intents and purposes as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise to his satisfaction, that any such instrument has not been duly stamped at the time of making or issuing the same by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp duty or to evade or delay the payment thereof, then and in such case, if such instrument shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of revenue to be stamped and the stamp duty chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped.

Mr. Chairman, if I can succeed in making my amendment understood, I believe that it will be adopted by the committee. The provisions of the amendment have been copied almost verbatim from the English statute of August 14, 1850, the 13th and 14th Victoria. If I were to cause that statute to be read it would take up pretty nearly all of the five minutes which I have to explain my amendment, and therefore I cannot do it, but I have the statute here, and I hope that any member of the committee who desires further information in regard to it will look at it.

There are two points in this amendment. As I said before, these provisions have now been in force in England for nearly fifteen years, and they have given universal satisfaction. There has been very great complaint of the operation of our stamp law. It is a common thing for these stamps to be omitted by ignorant persons, and for an undue and unfair advantage to be taken of that fact by dishonest persons. Now, the British statute rem-

edies that. It declares that this stamp may be affixed, where there has been a neglect to affix it at the time, at any time upon the payment of the prescribed penalty, which penalty is sufficient to deter persons from designedly omitting it. The penalty under the British statute is £10. I have made it in my amendment a corresponding sum, or nearly so—fifty dollars.

There is a further provision in the British statute that where the omission has been merely an oversight, or an inadvertent omission, the parties interested in the instrument may take it to a revenue officer and have the stamp affixed without payment of the penalty, upon payment of the stamp duty, provided it is done within twelve months after the making or issuing of the instrument.

It seems to me, therefore, Mr. Chairman, that while, on the one hand, the interests of the Government are amply protected, we shall, on the other hand, get rid of that chronic absurdity of passing every year a remedial act which proclaims the absurdity of previous years' legislation. There is in this paragraph, which my amendment is intended to supersede, such a remedial act—a clause declaring that all deeds and instruments of every nature, heretofore made and not stamped, may be rendered valid by being stamped now. If it is right to do that, I should like the Committee of Ways and Means to tell me why it is not right to make some permanent provision that will save the necessity of this annual remedial legislation, some permanent remedy that will guard the people against frauds in designing and dishonest persons, while at the same time it will protect the Treasury against the violation of the stamp act.

Several instances have come to my own knowledge of the unjust operation of the law as it is; and let me say to the committee that what I offer is not an experimental proposition, but it is a proposition copied from the English law on this subject, which has been in force in that country for fifteen years, and which has been proved by experience to be both wise and beneficent.

Mr. BOUTWELL. Mr. Chairman, I was not able, by listening to the amendment, to understand it entirely. If it can be printed I should prefer that its consideration be postponed. Perhaps it may be passed over for the present.

Mr. MORRILL. The publication of the Globe is behind time, so that the amendment might not appear in it till we have got through the bill.

Mr. BOUTWELL. I can only say, Mr. Chairman, that I am indisposed to the adoption of so voluminous an amendment, involving, as I understand, a pretty radical change of policy, on a suggestion made under such circumstances as exist at the time when this proposition is made. It should be understood that, however it may have worked in England, if you mean in this country to have the stamp act operative so as to produce a revenue, there must be a constant force applied to every person who is by law required to use stamps. I understand one effect of the proposed amendment to be this, that persons dealing together, having confidence in each other, receiving, for example, promissory notes from each other, may neglect the use of stamps; and if it happen, by the death of one party or by their falling out, that it becomes necessary to enforce the payment of those notes in court, they can then have the notes stamped and presented. They might go on for years using promissory notes without ever affixing stamps to them.

Mr. THAYER. If the gentleman from Massachusetts will allow me, they are only to be stamped on payment of the penalty of fifty dollars.

Mr. BOUTWELL. If that be so, of course that is in a certain sense a protection to the Government.

Mr. THAYER. And then only stamped by a revenue officer who, according to the provision, is to make a minute on the margin showing the payment of the penalty.

Mr. BOUTWELL. But that does not obviate the difficulty that I suggest, that through years friends may use promissory notes, for example, without affixing stamps; and when the exigency comes they may go to the collector, pay the penalty, and have the notes stamped. The object of the Government and the necessity of the Government in reference to the stamp act is that there

shall be a constant pressing necessity on every man to use stamps; and I fear that the amendment suggested by the gentleman from Pennsylvania [Mr. THAYER] will work a laxity in that particular which will be injurious to the revenue. I for one shall be opposed to the amendment certainly, unless we can have time to consider it more than at present.

Mr. THAYER. Will the gentleman state why these difficulties have not been developed through an experience of fifteen years in England, where this provision, precisely as incorporated in my amendment, has been enforced?

Mr. SPALDING. I would ask the gentleman from Pennsylvania [Mr. THAYER] if the payment of fifty dollars will cure the defect after the expiration of a twelvemonth?

Mr. THAYER. Yes, sir.

The question was taken upon the amendment of Mr. THAYER, and resulted—ayes 45, noes 33.

Not a quorum voting.

Mr. MORRILL demanded tellers.

Tellers were ordered.

Messrs. THAYER and MORRILL were appointed to act as tellers.

The committee divided; and the tellers reported—ayes 60, noes 35.

So the amendment was agreed to.

Mr. HOLMAN. I move to amend by inserting after the words "and such instrument, document, or paper, bill, draft, order, or note," in line eight hundred, the words "except instruments for the conveyance of lands and tenements." I only submit this proposition for the purpose of inviting attention to the question of how far it is within the power of Congress to determine in what manner and subject to what restrictions and limitations citizens shall be allowed to transfer lands. I think it is one of the gravest questions that ever forced itself upon the consideration of Congress. And, so far as I am informed, the courts before which this question has come have uniformly decided that Congress does not possess the power to regulate this matter, but that it is for the States themselves to determine in what mode the title to the lands within their respective limits shall pass; that it is not for Congress to say that an instrument not in a certain form shall be null and void. This is an assumption of very great power, and, to say the least, of very doubtful power; and for one, following the lead of the judicial tribunals of the country, I am in favor of creating an exemption, and limiting the exercise of this power to instruments that do not directly impair or interfere with the exercise of the legal sovereignty of the State.

Mr. THAYER. I think it will be very unwise to make any such exception as that proposed by the gentleman from Indiana, [Mr. HOLMAN.] I do not see why instruments for the conveyance of that species of property, of all others, should be exempted from the payment of tax duties. I suppose those instruments would be one of the most prolific sources of stamp duty. Why they should be exempted from this tax I cannot conceive, particularly in view of the modification which has just been adopted.

Mr. HOLMAN. I would state to the gentleman from Pennsylvania, [Mr. THAYER,] that I am not calling in question the policy of imposing this tax by the Government if it can be properly done. The question is whether the Government of the United States may so far regulate the conveyance of lands within the limits of a State as to declare that to be null and void which according to the laws of the State is valid. Shall that be declared null and void even to the extent of affecting the validity of the title under that instrument?

Mr. THAYER. The gentleman from Indiana [Mr. HOLMAN] questions the right of the Government to make any stamp law at all.

Mr. HOLMAN. No, sir. I say that you may impose any penalty you think fit; but do not say that in this particular mode alone shall land be conveyed, and in no other. If the judicial tribunals of the country that have spoken out upon this question can be relied on, you cannot defeat the validity of titles in this way. I do not know a single instance where this question has arisen that it has been held that the title is not valid. I know of a number of instances where the courts have held that this mode of rendering an instrument null and void, for the want of stamps upon it, is interfering with the rights of the States.

The question was upon the amendment of Mr. HOLMAN.

Mr. HOLMAN demanded tellers upon the amendment.

Tellers were ordered.

Messrs. HOLMAN and THAYER were appointed to act as tellers.

The committee divided; and the tellers reported—ayes 47, noes 45.

So the amendment was agreed to.

Mr. THAYER. I propose an amendment which is absolutely necessary to make the section consistent with the amendment just adopted. It is to strike out in line seven hundred and ninety-eight the words "two hundred" and inserting in lieu thereof the word "fifty."

The amendment was agreed to.

Mr. MORRILL. I move to amend by adding at the end of line eight hundred and forty-seven the following words:

And by inserting in the proviso after the words "imported articles" the words "except lucifer or friction matches, cigar lights, and wax tapers."

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after line eight hundred and seventy-six the following:

That section one hundred and seventy-one be amended by inserting before the words "refined coal-oil" the words "crude petroleum or rock-oil" and after the words "all descriptions" by inserting the words "quicksilver, lucifer or friction matches, cigar lights, and wax tapers."

The amendment was agreed to.

Mr. HERRICK. I move to amend by inserting, after the amendment just adopted, the following:

That schedule B, preceding section one hundred and seventy-one be further amended by striking out the word "lease" in the proviso in the clause taxing mortgages, &c., and also by adding to said proviso the following:

And provided further, That upon each and every assignment of any lease, a stamp duty shall be required and paid equal to that imposed on the original instrument increased by a stamp duty on the consideration or value of the assignment equal to that imposed upon a conveyance of land for similar consideration or value.

The amendment was agreed to.

Mr. MORRILL. I move to amend by adding after line six, of section three, the following words:

And this section shall take effect from and after the passage of this act, anything herein contained to the contrary notwithstanding.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after the word "pound" in line six, of section three, the words "payable in coin."

Mr. STEVENS. I trust that this amendment will not prevail. I had intended to move to amend by striking out in line eight the words "payable in coin." It is proposed that we shall now renew and perpetuate the error, which, as I think, the country is convinced was committed when we made our customs and the interest on our public debt payable in coin. I think that we ought not by any act of ours to depreciate further the currency. I hope, therefore, that the amendment will not prevail.

Mr. BROOKS. I move to strike out "payable in gold until specie payment is resumed."

Mr. Chairman, I am happy to agree with the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee of Ways and Means, in the remarks which he has made. We have pledged, so far as the faith of the Government is concerned, the payment of duties in gold. Here is a new pledge to tax the whole country to make everything payable in coin to those who have loaned money to the country. We have gone far enough in that direction—quite too far, in my judgment—and it is time to stop. The effect will be to aggravate the speculation in gold, because there would be an increased demand for gold; of course there would be increased speculation, and we would have still more the evil complained to exist so much in the gold markets of New York.

This is the beginning of a new policy which I do not think that this House will sanction. The honorable gentleman from Vermont [Mr. MORRILL] will undoubtedly tell us, in order to produce effect, that the tax is to come from the cotton growers, and that we of the North cannot raise cotton. That I suppose will be his argument. But, sir, in fact it will come from the consumers of cotton goods, the wearers of cotton goods of all kinds. The consumers, in the end, are the persons who

will have to pay the tax; upon them will come the duty of twelve cents per pound which is proposed to be levied at this time.

I do not think that the House is ready to adopt that new policy, or that the condition of the country calls for it. The present financial policy in the country, especially in the large cities, is to make the rich richer and the poor poorer; and the tendency of things is to roll up wealth in masses in the hands of the few and to make the poor poorer than they have been. The policy of the country is to make the few rich and to roll up money more and more into the hands of those who have securities payable in gold. We started wrong in the beginning when we authorized payment in coin, and instead of going further we ought to retrace our steps.

Mr. MORRILL. Mr. Chairman, if I did not believe that it was absolutely necessary to make this payable in coin I would not advocate it. I do not believe it is going to be a hardship any greater than the tax we have imposed already. At the present moment it is well known that cotton is being obtained at the South with greater facility than heretofore, and the effect has been a great reduction in price. The raw material and manufactured articles have gone down so rapidly that the cotton manufacturers who expected to make large fortunes did not make them. And if there is anything in the country which is an equivalent for coin it is cotton. If we have a surplus we can send it abroad and obtain coin for it at any moment. While we are issuing our bonds which may be converted into specie-paying bonds it is absolutely indispensable that we should fortify ourselves against the day when they are so payable. I do not want the Government to go into the market and be compelled to buy coin. I am for looking out in season to procure the coin. If peace shall come within a reasonable time this provision for the payment of the duty on cotton in coin will not be a hardship, because after peace we will resume specie payment.

Mr. BROOKS, by unanimous consent, withdrew his amendment.

Mr. STEVENS. I move to strike out the last word.

Mr. Chairman, I thought this country had come to the conclusion that the system of making our interest and duties payable in coin had almost been the ruin of the nation, and would be if persevered in. The Secretary of the Treasury, in his last annual report, says that it cannot longer continue. That we should not aggravate the evil by proclaiming, over and over again upon our statute-books, that our currency is constantly depreciating below coin, is to me amazing. The dealers in cotton have a hard enough time. Almost all the mills have stopped. I know that the three in my town have stopped. When you put this on, you aggravate the evil. If you compel the dealers to buy, the evil is as great as to compel the Government to buy, so far as raising the price is concerned. It makes no difference whether the merchant is bound to buy his hundred million a year to pay that duty, or whether the Government is obliged to buy it, so far as enhancing the value of gold is concerned. I thought that the whole country had come to understand that this policy should be no longer tolerated, and I am astonished now to find that it is persevered in with such chronic pertinacity.

Mr. KASSON. I would be glad to hear from the gentleman from Pennsylvania, how he proposes to pay the gold interest upon the public debt without providing, either by a tariff or by an excise duty payable in gold, for the means of doing it. If the gentleman does not choose to answer, I must say it is the duty of this Congress either to repudiate the contracts of the United States, or else to provide the means in advance for meeting those contracts. For myself I am for always meeting them, at any cost, and at every hazard. Now, it is known that the gold derived from the payment of duties is being diminished from year to year and from month to month, and the question we have to meet is, how shall we guaranty beyond doubt the means to the Treasury to pay the gold interest upon the public debt when it matures? If it is probable that years hence the tariff duties may not be sufficient, there remain but two sources to do it: one by obtaining gold from the internal revenue, and the other by going into the market and purchas-

ing gold for the Government of the United States. Which will we do? The gentleman from Pennsylvania argues that you are likely to enhance the price of gold by the imposition of a small duty upon the raw article of cotton. Are you not much more likely to enhance it by going into the market as a bidder to buy an unknown amount of gold for the express and inevitable purpose of paying the interest on the public debt in gold? It seems to me you increase the liability of that infliction by going into the market more than you will by requiring the parties to get the small amount of gold they need from day to day and month to month to pay the excise duty on cotton.

Again, look at the thing in a practical light. If you admit that you must get some gold from another source to pay the interest upon the public debt, observe the mode in which you get it in this case. Here are a hundred bales of cotton; five bales of that cotton—one twentieth of it—sent to a foreign market realizes the gold necessary to pay the excise duty upon the remaining ninety-five bales, because five per cent.—if you choose to put it at that, as I trust you will—one twentieth, is the excise duty you will be required to pay. I think, therefore, that the question resolves itself into the simple one whether you will take the article that is nearest to gold in itself, which, when sent abroad, becomes exchange like gold itself, and has a permanent value, permanent as anything can be, except gold itself, and realize a moderate excise duty in gold; or whether you will subject the United States hereafter to the necessity of going as a competitor into the gold market, either on the curb-stone or in the inner sanctum, to buy the balance of gold not realized from its tariff duties for the payment of this interest upon the public debt.

If it is conceded that this tariff realizes a sufficient amount, I would agree with the gentleman from Pennsylvania; but if he takes the other alternative, and admits that it is not likely to realize that amount, and then should propose the remedy of repudiating the contract of the United States to pay its interest in gold, I differ with him and from the gentleman from New York, *to* *calo*. I stand by the contracts of the United States, however unfortunate and menacing they may be to the Treasury of the United States. They must be complied with, cost what it will, either to the feelings of the Congress of the United States or to the pockets of the people of the United States. Then let gentlemen say one of two things: either that we have the means provided for paying in gold the interest on the public debt of the United States according to contract, or let them say that the existing means are sufficient to procure the gold with which to pay that interest. In either case I go with them to strike out this section. Unless, however, they say that, I insist that there is no mode in which to obtain the requisite gold revenue to meet balances required for the fiscal year 1866, and there is no means so adequate and convenient as levying this moderate excise duty of gold upon cotton.

Mr. STEVENS. Mr. Chairman, I do not know exactly what the speech of the gentleman from Iowa was based upon.

The CHAIRMAN. He was opposing the amendment of the gentleman from Pennsylvania.

Mr. STEVENS. I withdraw my amendment; and now I move to amend by striking out the first word. The gentleman from Iowa need hardly have said that he would not desire to repudiate our contracts, or that anybody ever thought of it. I know of nobody in this country who has ever intimated that the contracts for the payment of interest in gold, as far as they have been made, shall not be faithfully performed; and those who argue otherwise, if they intend it as an insinuation, make an argument unworthy of themselves and unworthy of the cause that we are now discussing. Sir, if we have made a bad bargain we must stand by it; and everybody proposes to stand by it.

If the gentleman had examined the matter and spoken with that knowledge of the subject which he ought to have had he would have found that there was no necessity for this tax. The whole gold interest on the bonds of the United States issued up to the 1st of February (and all the bonds are issued that can be except a few millions) is but \$63,000,000, all told. Our gold receipts last year, from customs, were \$102,000,000; and after

paying all our gold demands we sold gold at a premium, and realized over eighteen million dollars premium on gold. Now, sir, supposing our imports to fall off somewhat, no man can believe that our import duties next year will fall below seventy or eighty millions. The lowest calculation made by any of our financiers is \$75,000,000. I believe the present Secretary of the Treasury thinks the receipts may possibly go down to \$70,000,000. You will then have from seven to eight millions in gold more than will pay all the present liabilities, all the present contracts payable in gold. What I propose is, to stop short and issue hereafter no bonds the interest of which shall not be payable in the lawful money of the country. Stop this pernicious system, stop the advance of that commodity, and try to save the country from having to pay three or four times the value of the article.

Now, there is not the least necessity, unless you want to aggravate this evil, for imposing a tax on cotton payable in gold. The Government need not buy gold. It is true that the merchants will buy gold, and in that way the price will be raised just as much as if the Government bought it. But if we stop where we are there will be no necessity for buying a dollar in gold. We shall have more than we want. There is no doubt that our import duties next year will be eighty millions, and they will go on increasing till they range probably from eighty to a hundred millions.

As I said before, there is no earthly need of our raising a dollar in gold beyond what these import duties will produce, unless we are determined to pursue still further the practice of issuing gold-bearing bonds, which I trust no man is mad enough to favor. Sir, we are perplexing the manufacturers; and instead of having a gold market in New York only, we are to have one opened in every village and hamlet, on every waterfall where there is a spindle run by water-power. This difficulty is to be spread all over the country like a leprosy, and that, too, for the purpose of reasserting the principle which was wrong at the start, and which is more wrong the further we go. I do not wish to occupy any more time in arguing this point at full length. I hope that the committee will determine to reject the proposition.

Mr. KASSON. Mr. Chairman, it will be recollected by the committee that the argument used especially by my colleague on the Committee of Ways and Means [Mr. STEVENS] has always been, "protect your home manufactures; raise your duties on foreign articles; and the domestic manufacture will then be able to control the American market." And now, when we are reaping the consequences of that system, namely, almost a cessation of foreign importations into this country, the gentleman argues to the committee that we are going to continue in the receipt of this large amount of duties upon foreign importations, precisely as if his former policy had not been as successful as he proposed that it should be. I maintain that that policy, to a certain extent, has been eminently successful in cutting off foreign importations to a degree which the committee may not, perhaps, readily appreciate.

The returns made since the close of the last fiscal year show an enormous diminution in the amount of foreign importations into the country, and consequently a great diminution in the tariff duties in gold derived from them. I hold the gentleman to his former logic, and I call the attention of the committee to the recorded fact that we are introducing a far less amount of foreign manufactures into the country than we were during the prior fiscal year. Is it the duty of statesmen to shut their eyes to that fact and say that because we received \$102,000,000 in the fiscal year 1864-65 we are going to receive about the same amount in the fiscal year 1865-66? In my judgment, it is far otherwise. Our people have learned to depend upon home manufactures; it is cheaper for them to buy home productions. We have recently read in the money articles of the New York papers that the importers of these foreign manufactures were in great haste and eagerness to sell out even below cost for the purpose of realizing, discovering the very tendency of the market to which I call the attention of the committee to-day. And it is because this is the inevitable result of the policy advocated by the gentleman from Pennsylvania much more earnestly than ever I have advocated it, carrying it, in some instances, to an



extreme which for myself I cannot and dare not sustain in the interest of the people of this country, and because Congress has adopted that policy, that it becomes necessary for us to guard the United States against the danger to which they are being exposed of being left without sufficient means in gold to meet the liabilities that they have assumed.

There is no difference between the gentleman from Pennsylvania and myself, it seems, as to the absolute necessity of complying with our contracts. To come back, therefore, to the question, "Will you get enough from your tariff duties in gold to meet this interest during the coming fiscal year and the months that immediately follow it?" In my judgment, we may do it; but it is a doubtful affair, a contingency to which we ought not to leave the Treasury of the United States, and I maintain, as I did before, that in consequence of this position it is our duty to provide always that the Treasury of the United States shall be strong in gold. I appeal to the metallic money men in this House to see to it that the Treasury of the United States always has gold and silver enough to meet the liabilities of the United States. Better have \$40,000,000 too much than \$5,000,000 too little. If we cannot have our paper redeemed by gold, let us have our contracts always characterized by abundant ability to meet them in gold and silver, lawful currency, at all times and in all epochs in the United States.

[Here the hammer fell.]

Mr. STEVENS. I withdraw my amendment.

Mr. BROOKS. I move to insert after the word "coin" the words "or lawful money."

So far as I understand the policy and pledge of this country to the holders of the public debt it is this, that the duties upon customs shall be consecrated to this purpose and only to this purpose, and those who have subscribed and taken the public debt have subscribed with that understanding and that faith, that the revenue derived from customs should be consecrated to the payment of the interest upon the public debt.

Here for the first time upon an excise bill is introduced a proposition of this sort, and if we open the door to it who can tell where we are to stop? To-day the proposition is to lay an excise in specie upon cotton to pay the interest on the public debt; to-morrow it will be an excise in specie upon petroleum to pay the interest on the public debt; and the day after to lay such an impost on the hogs, grain, and cattle of the West and the hay of New England to pay the interest on the public debt. The public faith is pledged for no such purpose.

But the honorable gentleman from Iowa [Mr. KASSON] tells us that the tariff is not likely to yield a sufficient revenue for that purpose. I tell the honorable gentleman from Iowa that the place to make the change is not in an excise bill, but should be made in a tariff bill. So arrange the tariff that it will encourage importations sufficient to provide for the interest upon the public debt; introduce a new tariff bill here, and do not begin this system of excise. There are many articles named in the tariff bill, a hundred of them, if I could take time to enumerate them, that are absolutely prohibited. It is such a tariff as ought not to exist. It is prohibitory in many articles of liquor; prohibitory in the simple article of spool-cotton, and in innumerable other articles. Now, the proper remedy for all that is to reduce this prohibition so that we can provide certain revenue for interest.

Mr. KASSON. The advantage of this excise duty in the present condition of public affairs is that our cotton, so far as we produce it now, must be used abroad. So far as the excise duty is raised upon cotton which is ultimately exported abroad, so far revenue is raised from citizens of foreign countries.

Mr. BROOKS. This excise is to be upon cotton at home.

Mr. STEVENS. It is news to me that we are exporting cotton except what is run out from rebel ports. I know that lately we have imported Surat cotton into this country.

Mr. KASSON. Certainly, because that does not compete with our cotton, but is mixed with it.

Mr. BROOKS. Then in order to obtain a small tax from foreigners, say on five bales, we are going to tax ninety-five bales for home consumption. In other words, because cotton has fallen

just now in consequence of the fall of Savannah, we must impose a duty upon it so as to raise its price to what it was before we took Savannah. Now, that is just the plain English of this thing, and nothing more. I withdraw my amendment to the amendment.

The amendment of Mr. MORRILL was then rejected.

Mr. STEVENS. I move to amend by striking out the words "payable in coin."

Mr. MORRILL. I trust the committee will not adopt that amendment. I feel myself that it is vitally important that we should reinforce the Treasury at this time in coin. When we are negotiating our securities at the rate of \$8,000,000 per day, that may be converted two and a half years hence into securities payable in coin, it would show wisdom on our part I think to provide for securing this amount of coin in season.

And now, in relation to the remarks of the gentleman from New York, [Mr. Brooks,] that there are a hundred articles upon which there is a prohibitory tariff; why, sir, unless we can keep the industry of this country employed at this time we cannot pay the interest of our indebtedness, either in coin or currency. It is absolutely indispensable that we should keep the people of this country at the present time fully employed. Although I have not advocated any such policy, still I am firmly convinced that it would be for the interest of the people of this country if we had a wholly prohibitory tariff until the end of this war.

I trust the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will not be adopted. If it should be adopted, then we certainly ought to increase the duty upon cotton to at least double the amount now proposed.

Mr. STEVENS. Mr. Chairman—

The CHAIRMAN. The debate upon this amendment is closed.

Mr. STEVENS. Then I withdraw the amendment, and move to strike out the words "in coin." I agree with the gentleman from Vermont [Mr. MORRILL] in one thing, that unless you can encourage the industrial interests of the country, and keep our manufactories going, the country must go down. And yet the gentleman is attempting by all the means in his power to crush the manufactories of cotton by putting a tax of from twelve to fourteen cents per pound more than there is now upon that article. As I said before, I do not know how it is in Massachusetts, but I do know how it is in our State, that some very large manufactories in my town have gone out of operation within one month, because of the high price of cotton.

Now, when there is some little chance of procuring this article, when we have already received some from the South, (it is idle to say that we are exporting it to any extent,) and when our people desire to revive the business, the gentleman would have us put our foot down and destroy the industry of the country. I cannot help thinking that the proposition advocated by my friend from Vermont is most inopportune, I will not say absurd, because that term will never apply to anything that my friend does. It looks to me monstrous.

I withdraw my last amendment, and renew the amendment to strike out the words "payable in coin."

The amendment was adopted.

Mr. MORRILL. I offer the following amendment:

In line six strike out "six," and insert "twelve."

In line eight strike out "five" and insert "ten."

Mr. KASSON. Would it not suit the gentleman's purpose equally well to strike out in lines six, seven, and eight the words "six cents per pound until the 1st day of July, 1866, and on and after that date a duty of," and then strike out in the eighth line the word "five" and insert in lieu thereof the word "ten"? I do not see any necessity for the distinction of date.

Mr. MORRILL. I am not very particular in reference to the matter. These duties, in my opinion, should be increased; but I think that the soul of the amendment has already departed.

Mr. STEVENS. Well, let the body go with it.

Mr. MORRILL. I modify my amendment as suggested by the gentleman from Iowa [Mr. KASSON.] I ask for tellers on the amendment.

Tellers were ordered; and Messrs. KASSON and Brooks were appointed.

The committee divided; and the tellers reported—ayes 49, noes 56.

So the amendment was rejected.

Mr. MILLER, of New York. I move to amend, as follows:

Strike out all after the word "of" in the sixth line, to the word "which" in the eighth line, and insert "eight cents per pound," so that the clause will read, "a duty of eight cents per pound."

I make this motion because I think it must be evident that the Committee of Ways and Means, when they embodied in this bill a provision that this duty should be payable in coin, intended that the article of cotton should bear a heavier tax than five cents per pound. They anticipated, I presume, that five cents payable in coin would be equal to ten or twelve cents in currency. Now, sir, I am convinced that if we raise all that the committee anticipate by this bill we shall not raise as much as the wants of the country demand at this time. I have noticed that, as we have been progressing through this bill, we have not increased a single item of taxation proposed by the committee, while we have reduced many. I have been informed by members of the committee that they anticipate from all our revenue bills, this tax bill and the tariff bill, a revenue of about two hundred and eighty or three hundred million dollars, while our annual expenditures amount to about eight hundred millions.

Now, sir, I am in favor of this increase of taxation, notwithstanding it reaches the great mass of the people, because I believe it is the interest of the whole country that we should have our taxes come nearer than they do to our expenditures. We shall have to raise \$50,000,000 by loan, or if we do not succeed in that we have given to the Secretary of the Treasury the power to eke it out by issuing interest-bearing notes, or certificates of indebtedness, which will, of course, inflate the currency, and the price of every article that the Government is compelled to buy, and every article that the citizen has to buy. We are multiplying the burdens upon the Government and the burdens upon the people just because we refuse to increase the taxes. Is it wise for the Government to go on in a policy which doubles and triples the cost of every article which the Government requires every day to carry on this war? Is that good policy? While you are doing that you are doubling and tripling the price of everything that goes into the consumption of every family in the country. I insist that we should tax more, and it would be for the interest of everybody. I believe that this is the only great Government that ever undertook in any great struggle to carry on war in this way, with revenues only one third or one fourth of the expenditure. I know that England, in her great continental war, raised every year by taxation three fourths of her expenditures.

[Here the hammer fell.]

Mr. KERNAN. Mr. Chairman, I have heard it said several times that the people are demanding taxation. I am in favor of raising revenue sufficient, if we can, for the wants of the Government; but I do not know that it is true that the people anywhere are demanding more taxation. We see every class of people everywhere evading the present onerous taxation.

Mr. STEVENS. I suggest to the gentleman from New York that he is not aware that he is going in direct contradiction to the distinguished gentleman from Massachusetts, [Mr. ALLEY;] and I therefore caution him.

Mr. KERNAN. I leave my friend to answer the gentleman from Massachusetts. In my own district, taking the taxes for bounties and for the support of widows and families of soldiers, some of the farmers are paying twenty per cent. upon the assessed valuation of their farms. It ranges from seven per cent. to twenty per cent. upon the assessed valuation of their farms. They are paying taxes upon everything that they buy. While it is our duty to go on as legislators to try and raise revenue by adjusting the taxes as well as we can, yet it is true that we are taxing the people heavily by our State and national taxation. I have found none of those people who are crying out for more taxation by this House. We do not attempt to tax any interest but we have people coming up here and showing that it will burden them so much. I think that six cents per pound is as heavy a tax as this article can bear.

The committee divided on the amendment of Mr. MILLER, of New York; and there were—ayes 45, noes 40.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MILLER, of New York, and KERNAN, were appointed.

The committee again divided; and the tellers reported—ayes 51, noes 52.

So the amendment was disagreed to.

Mr. HOLMAN. I move the following to come in as a new section:

*Sec. — And be it further enacted, That it shall be the duty of the Secretary of the Treasury to refund to the persons entitled to receive the same, under such regulations as he may prescribe, all sums of money which have been collected as a tax on the manufacture of molasses from sorghum under the act to which this is an amendment.*

Mr. BROOMALL. I rise to a point of order. That proposes to make an appropriation, and is not germane to a bill to raise revenue.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HOLMAN. Mr. Chairman, I desire, without entering into any argument on this proposition, to have read a communication from the chairman of the committee of agriculturists engaged in this department of business. It presents the case, I think, very fairly.

The Clerk read, as follows:

WASHINGTON, February 14, 1865.

SIR: In the matter of remitting the duties collected on the products of sorghum cane, permit me, in behalf of the committees from the Ohio and the Maryland State Sorgho Associations, to invite your attention to the following points, which it is believed afford ground for the proposed relief:

The law was generally understood by operators to exclude products of sorghum and lupine from duty.

The inclosed printed copy of a ruling or decision under the law was widely published, confirming this opinion.

Agreements for making sirup were generally concluded, and in most instances the operations of the season were completed and settlements made before the circular of the Commissioner (printed copy inclosed) was seen by the parties interested.

The price for making sirup was low, predicated somewhat upon the cost the previous season, so that the unlooked-for high price of labor and fuel did not enable operators to pay the tax without a loss on the business. Settlements having been made with owners, it was not practicable to recover the amount from them.

In many instances assessors construed the \$600 clause as an exemption of fifty dollars monthly, and imposed the duty upon all above that amount made in each month. As the business is confined to one or two months, the exemption accorded was in such cases only fifty or one hundred dollars in place of \$600.

Very respectfully,

WM. CLOUGH,  
For Committee.

Hon. Mr. HOLMAN.

Mr. HOLMAN. It is agreed on all hands that the Commissioner of Internal Revenue made a mistake in imposing a tax upon this manufacture. It is conceded by the gentleman from Vermont, [Mr. MORRILL], on the part of the Committee of Ways and Means. I insist that an interest now in its infancy, and which is becoming of vast and general importance, ought not to be oppressed by a decision utterly in conflict with the law. I hold in my hand a decision by one of the assistant assessors.

Mr. BOUTWELL. Does the Commissioner adhere to that decision?

Mr. HOLMAN. I understand that he still adheres to it; and I understand from a gentleman well informed on the subject that he will not refund this money unless directed to do so by an act of Congress. The only chance then for the parties who paid taxes in violation of law is by legislation. I know of no instance where such manifest injustice has been done, and that, too, to an interest which ought to be encouraged rather than be oppressed. I hold in my hand the decision of an assessor under which many manufactures of this article were carried on. He says:

"A person who manufactures molasses from sorghum need not be licensed as a manufacturer, and the molasses thus produced is not subject to duty."

[Here the hammer fell.]

Mr. MORRILL. I do not think myself that the decision of the Commissioner of Internal Revenue is a correct one in this case; but the evil of correcting it would be greater than that of bearing it. If we were to correct it in this case we should correct it in reference to maple sugar and cider. I do not suppose it was the intention of Congress to levy a tax upon either of those articles. If this amendment is adopted it will create the necessity of going back to every little small manufacturer throughout the whole country. It would

require a vast amount of clerkship and labor in order to ascertain the exact amount which has been paid in order to refund it. I hope, therefore, the amendment of the gentleman from Illinois will not be adopted. If we undertake in this instance to correct this wrong there will be no end to it.

Mr. WILSON. I desire to correct the statement of the gentleman from Vermont that it will be necessary to go into every district to refund to every manufacturer of this article; the gentleman is mistaken, because in some districts of country this tax was not assessed and collected at all. Therefore the action of the Government has been unequal. In some districts the manufacturer of sirup from sorghum has paid the tax, and in others it has not been collected. The gentleman from Vermont admits that it was not the intention of Congress to impose such a tax, and he further admits that the decision of the Commissioner of Internal Revenue is wrong. Now, if it is wrong, and these persons have been required wrongfully to pay the tax, the Government ought to refund it.

Mr. MORRILL. I merely expressed my opinion of the decision of the Commissioner of Internal Revenue, but he may be right, and I may be wrong. The evil has passed away and no further difficulty is apprehended in that direction.

Mr. STEVENS. In my district no tax of this kind was collected. In my opinion this article of manufacture was exempted from taxation twice over in the law. When the assessor came around to tax that article I told him such was my opinion, and I told him to let the manufacturers go free of the tax and let them manufacture as much as they pleased, and if there was any trouble growing out of his action I would try to stand between him and any harm. He never collected the tax.

The question recurring on Mr. HOLMAN's amendment,

Mr. HOLMAN demanded tellers.

Tellers were refused.

The amendment was not agreed to.

Mr. HOOPER. I propose to amend by adding the following as a new section:

*And be it further enacted, That section one hundred and ten be amended by inserting after the words "1st day of July, 1864," the words, "Provided, That on and after the 1st day of July, 1865, in lieu of the rates of duty on deposits and on circulation prescribed by this section, there shall be levied, collected, and paid a duty of one tenth of one per cent. on the average amount of deposits of money subject to payment by check or draft, or represented by certificates of deposit or otherwise, and of one quarter of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person; and from and after the 31st day of December, 1865, a duty of one half of one per cent. each month upon the average amount of such circulation as aforesaid, except that banks which before the 1st day of July, 1865, shall have reduced their circulation since the 1st of January, 1861, to the extent of three quarters, shall be subject only on their remaining circulation to a tax of one twelfth of one per cent. each month. And whenever the outstanding circulation of any bank, association, corporation, company, or person, shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital when the same was issued, said circulation shall be free from taxation. And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its circulation, or in case a national banking association shall become the owner or possessor of the assets of any State bank that has surrendered its charter or ceased to exist, or shall become liable for the redemption of the circulation of any State bank, such national banking association shall be held to make the required return and payment on such circulation outstanding, so long as it shall exceed five per cent. of the capital while it existed as a bank or banking association."*

And further to amend by inserting before the words "nor to any savings bank" the words "nor to trust companies which shall receive no deposits subject to payment by check or draft."

Mr. GANSON. I move that the committee do now rise.

Mr. MORRILL. For the purpose of closing debate?

Mr. BROOKS. Oh, no.

Mr. MORRILL. We have had debate enough on this point.

Mr. BROOKS. This proposition cannot be carried to-night.

The question being on the motion to rise,

Mr. GANSON withdrew it.

Mr. MORRILL. I appeal to the gentleman from Massachusetts [Mr. HOOPER] to withdraw his amendment at this time, and to offer it at the close of the bill to-morrow, when the House will be full.

Mr. HOOPER. I assent to that, and I withdraw the amendment.

Mr. A. MYERS. I move that the committee do now rise. I would like to start fresh in the morning on oil. [Laughter.]

The committee refused to rise; there being, on a division—ayes 32, noes 60.

Mr. BOUTWELL. I move to amend by striking out all after the enacting clause in the fourth section, as follows:

*That in addition to the duties imposed in section ninety-four of the act to which this is an amendment, as hereinbefore amended, there shall be levied, collected, and paid, upon the goods, wares, and merchandise therein mentioned, except as hereinafter otherwise provided, an increase of one fifth or twenty per cent. of the duties or rates of duty now provided in said section, whether ad valorem or specific: Provided, That the additional duties or rates of duty herein mentioned shall not apply to coal illuminating oil, refined, and naphtha, benzine and benzole, paper of all descriptions, printed books, magazines, pamphlets, reviews, and similar publications, cotton, manufactured tobacco, snuff, cigars, cigarettes, and cheroots.*

And inserting in lieu thereof as follows:

*That all persons licensed under the provisions of this act or of the act to which this is an amendment, and who are engaged in the sale of goods, wares, or merchandise, or of articles produced or manufactured, whether foreign or domestic, shall, within ten days after the 1st day of each and every month, make return, under oath or affirmation, of the amount of goods, wares, and merchandise or articles sold during the month preceding, and shall pay thereon a tax of one half of one per cent.; and all such persons in the assessment and collection of the tax imposed by this section shall be subject to the provisions of law relating to the assessment and collection of taxes of manufacturers, mentioned in the eighty-second section of the act to which this is an amendment, as far as the same are applicable.*

Mr. GARFIELD. Mr. Chairman, is that amendment in order? The amendment in the section is to the ninety-fourth section of the bill.

The CHAIRMAN. The amendment is to strike out and insert.

Mr. BOUTWELL. Mr. Chairman, the committee will observe that the section as reported by the Committee of Ways and Means proposes to levy an additional duty of one fifth, or twenty per cent. on the amount levied in the act of June 30, 1864, in the ninety-fourth section, including the amendment made in the present bill to that section, with the exception that the additional duty is not to apply to certain articles mentioned in the proviso to this section. The amendment which I propose is to substitute a tax of one half of one per cent. on sales made by persons licensed either as dealers or as manufacturers under the existing law. It is estimated at the Treasury Department that this tax on sales will yield, at one half of one per cent., \$55,000,000.

I cannot agree with the gentleman who introduced and who has had charge of this bill, that the bill itself will furnish an amount of revenue equal to the existing exigencies of the country. With the deduction made by the amendment adopted by the Committee of the Whole on the state of the Union in regard to the duty on malt liquors, I suppose that this bill cannot yield more than thirty-five or forty million dollars. The existing law, from the 30th of June last to the 31st of December, a period of six months, yielded a revenue of \$98,000,000, including the extra income tax assessed for the year 1864. Therefore I cannot but believe that, notwithstanding the extraordinary receipts for the month of January and for the first fifteen days of the present month, the average for the last six months of 1864 is quite equal to the average that will be received under the act of June 30, 1864. And we are to take into account, still further, that by the reduction of the prices of the manufactures and products of the country, there will be a decrease of the revenue of the country corresponding to that decrease in prices; and although the return of prosperity that will be incident to the establishment of peace and to the acquisition of a supply of cotton will increase the demand for domestic manufactures, that increase of demand will not more than meet the deficiency due to the diminution in prices.

Therefore I am of opinion that we must provide greater revenue than is contemplated by this bill, and as the question of taxing sales has been discussed and considered from the very moment, I believe, that the internal revenue system was suggested to the country, and as there has been, as far as I know, a growing sentiment in favor of that species of taxation, I thought it proper to submit to the committee this amendment, which is simple, and, as I believe, can be easily exe-

cuted, and will yield a large revenue. I believe that most persons would estimate it at \$50,000,000. I do not propose to argue the matter further.

Mr. MORRILL. I desire only to put a few queries to the gentleman from Massachusetts [Mr. BOUTWELL] in relation to the amount to be produced by this bill, as the gentleman is familiar with the various objects of the measure.

I would ask him, first, how much the revenue will be increased by the proposed tax of five cents per pound upon cotton?

Mr. BOUTWELL. If the gentleman can tell me how much cotton we shall receive, perhaps I can solve that problem.

Mr. MORRILL. If the gentleman is not prepared to give an answer to that question I will give one. It has been estimated by many parties that there are at the present time not less than six million bales of cotton in the South, notwithstanding all that has been burnt up; there are not less than four crops on hand, with the exception of what has been burnt up and what has been sent abroad. I do not estimate the amount myself to be more than four million bales.

Mr. BOUTWELL. Mr. Chairman, I believe it is the highest estimate made by the Lancashire cotton-spinners, who, I presume, have better means of information than we have, that the stock of cotton on hand in the South is three and a half million bales. We cannot anticipate that we shall get all that so as to be able to tax it during the next fiscal year.

Mr. MORRILL. Nor do I expect that by any means; but I suppose that if we obtain access to the country, or if peace should be restored to the country, the annual production of the South, under any circumstances, will be not less than a million and a half of bales, which our tax-gatherers will reach; and if we reach no more than that, the million and a half bales will yield us, at five cents a pound, over \$30,000,000.

Now, I desire to ask the gentleman from Massachusetts another question. How much does he suppose the additional rates we have imposed upon incomes will increase the revenue of the country?

Mr. BOUTWELL. I cannot say; but not exceeding \$5,000,000.

Mr. MORRILL. It is estimated by the Department at \$16,000,000.

Mr. BOUTWELL. The gentleman will consider the fact that the special income tax of five per cent. yielded from thirty to thirty-five millions, and that under this law we are to levy a duty of seven and a half and ten per cent. in certain cases. The difference cannot be very large.

Mr. MORRILL. The Committee of the Whole have changed the minimum fixed by the Committee of Ways and Means from \$3,000 to \$5,000, and of course that will not produce quite as much as the bill reported by the Committee of Ways and Means would have done. But it would have produced, according to the estimate of the Department, if that change had not been made, \$16,000,000.

I think they were wrong; I think it was too much. I never estimated it at over \$10,000,000, and was rather disposed to believe it to be something under that, perhaps not more than \$6,000,000.

But there is another question which I desire to ask the gentleman from Massachusetts, for I do not like to have our bill underrated or overrated. I desire to ask that gentleman how much he supposes would be realized from this fourth section of the bill which he proposes to strike out?

Mr. BOUTWELL. Last year the duties on manufactures yielded about \$75,000,000. My estimate is that there would be about \$20,000,000 or \$25,000,000 due to this twenty per cent. That is, that under the existing law we should realize from \$100,000,000 to \$125,000,000, and that twenty per cent. of that would be from \$20,000,000 to \$25,000,000.

Mr. MORRILL. That is sufficient for my purpose; taking it to be true that we can raise that amount by this section, then I would like to know of the gentleman how much he expects to realize by the adoption of one half of one per cent. on sales.

Mr. BOUTWELL. Perhaps \$55,000,000.

Mr. MORRILL. Then he calculates that our sales will be \$11,000,000,000. Now, I do not estimate the sales at any such enormous sum. Why,

if we were to calculate that the whole business of this country would be duplicated, or triplicated, or quadrupled, and that we should realize upon every dime of it, it would not amount to one half of that sum. In my judgment the amount we would realize from this fourth section would be more than we would realize from the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. GARFIELD. I move to amend the amendment so that it will read "one per cent." instead of "one half of one per cent." I do this to enable me to say a word on the gentleman's proposition. I am puzzled to understand why the gentleman from Massachusetts, [Mr. BOUTWELL,] if he wishes to introduce the proposition he has submitted, should move to strike out another section which he confesses would furnish a very large amount of revenue to the Government. If, as he says, the whole bill will be inadequate to meet our wants, we then certainly should have not only his proposition, but the fourth section also. I do not know that he made the motion to strike out for any other purpose than to secure an opportunity to submit his remarks. If he was serious in his motion to strike out the fourth section it seems to me a very singular way of accomplishing what is clearly the object of all, the raising of money to supply the wants of the Government.

Mr. BOUTWELL. I am perfectly willing to offer my proposition as a new section, and then the committee can deal with the fourth section as it pleases. I will move my proposition as an additional section, to immediately precede the fourth section as reported by the Committee of Ways and Means.

Mr. GARFIELD. I should very much prefer that the fourth section shall stand, and that the amendment of the gentleman from Massachusetts [Mr. BOUTWELL] shall be offered as an additional section. But I wish to say a few words concerning the section proposed to be added. I have given what attention to the subject I have been able, and it is my opinion that the plan now submitted is less defensible as a mode of raising revenue than any I have ever heard in this Congress.

I believe I am right in saying that no writer on political economy of any considerable reputation has ever favored a tax on sales, at least within the last three centuries. The very best authorities in Europe and in this country denounce it as the most unequal and unjust of all the modes of taxation. The first great objection to it is that it clogs that free movement of trade which is so essential to national prosperity. It ties a fetter upon every article that should have full freedom of exchange in every place. Articles are exchanged only because by such exchange they can be made more valuable; that is, they will be put into hands that will increase the wealth of the nation. And now it is proposed that at the very point where the mobility of trade is most necessary a fetter shall be fastened to it to clog and impede its normal activity.

Again, this measure will tend to break down all the middle-men between the wholesale and the retail dealers. It will be particularly burdensome upon all persons who live away from large cities; particularly ruinous in its effects upon the smaller dealers who are engaged in trade in the West.

I hope that this Congress will not commit the folly of taking up a cast-off and exploded dogma, which has brought calamity to every nation that ever adopted it, and is not now the law of any civilized Government. I hope the sad experience of other nations will not be lost on us.

Mr. KASSON. What nation has adopted it and thrown it off in disgust?

Mr. GARFIELD. I am aware that Spain did it, and that the nature of the tax was worse than its amount.

Mr. KASSON. Has any nation, recognized as civilized in regard to taxation, ever adopted it and then rejected it?

Mr. GARFIELD. I should like to ask the gentleman whether it has been adopted successfully in any nation?

Mr. KASSON. In my judgment it has never been adopted in England, or Germany, or any European nation.

Mr. GARFIELD. And the best statesmanship of those nations has condemned it, and saved them from its evils. I trust the light of this cen-

tury shining down upon us will keep us from such folly, and enable us to see a better path. I believe, sir, that the only solution to our financial difficulties is heavy taxation, but let us lay the burden upon the shoulders of industry rather than tie it to its ankles.

Mr. FRANK. Mr. Chairman, I think, as suggested by the gentleman from Iowa, that no nation has ever thoroughly tested this scheme or given it a fair trial. The gentleman from Ohio alludes to Spain. Spain, if I remember rightly, taxed from five to ten per cent. The tax was so heavy as to produce the result he states.

Mr. KASSON. It ran up to fourteen.

Mr. FRANK. The tax of one half per cent. now proposed is so light it will not be seriously felt, and I believe the people are entirely willing to sustain us in laying such tax.

I have conversed freely with many of the best business men of the country on this subject—Chittenden, Claflin, Lathrop, Ludington—all gentlemen of character, position, and influence, thoroughly loyal, and willing to pay cheerfully the large amount of tax that would be imposed on sales, amounting with some of the firms to more than one hundred thousand dollars.

Mr. GARFIELD. Were they not wholesale dealers?

Mr. FRANK. The gentlemen named were; but I have also ascertained the views of others of all classes. I think, sir, the whole country is ready for this system of taxation, and that it will be more just than any other we have heretofore adopted.

Mr. GARFIELD. I withdraw the amendment.

Mr. ODELL. Mr. Chairman, I renew it. The gentleman from Ohio [Mr. GARFIELD] is in error when he says no nation has ever succeeded in or fairly tried a tax upon sales, which he classes as belonging to a dark age, and not adapted for the enlightened day in which we live. So also is my colleague, [Mr. FRANK,] in his statement that this mode of taxation has not been tried. This nation has tried it with complete success. We are now collecting taxes upon the principle of the amendment proposed by the gentleman from Massachusetts, [Mr. BOUTWELL.] It will be remembered that at the last session of Congress the Committee of Ways and Means reported a bill providing for a specific tax of fifty cents for every hundred shares of stocks, bonds, and other securities sold, and at the same rate per cent. upon sales of gold. This proposal was not acceded to by the House, but an *ad valorem* tax of one twentieth of one per cent. upon every hundred shares of stock sold was substituted.

No better illustration can be given, nor can a better argument be made, in favor of the proposed tax upon sales of merchandise and produce than the experience and result of this tax upon sales of gold and stocks. The receipts in one district in New York (the Wall street district) alone for November, December, and January, reached the enormous sum of \$1,780,000. The specific tax of fifty cents proposed by the committee would have yielded but \$178,000.

I have no hesitation in saying that no tax has been collected during the year that has been more cheerfully paid than what has been collected from the stock and exchange brokers of New York. I have authority in saying that none has been more easily ascertained and collected by the officials of the Government.

Experience has demonstrated its practicability. When the amendment now proposed by the Committee of Ways and Means shall become law taxing all sales of stocks and gold, whether bought on the account of brokers or on commission, I confidently believe, from the experience of the past year with this class of sales, that the Government can confidently rely upon the sum of \$15,000,000 from sales of bonds and stocks alone.

The amendment proposed to tax sales, rather than to add to the taxes upon manufacturers, has my cordial, hearty approval. It has the sanction of the best-informed commercial men in the country, men whose interests will be most affected by it. It will have a more universal approval than any other system of taxation that has been adopted. I presented a memorial a few days since from the Chamber of Commerce of New York praying Congress to enact a law taxing sales.

The commercial press with but few exceptions have been for weeks past advocating this measure.



as just and equitable, bearing upon all classes equally alike.

The Secretary of the Treasury informs the House that he needs a larger revenue, and urges the subject upon us legislators to provide it. What is most needed is a system of taxation that will provide him with a certain revenue monthly paid into the Treasury, to enable him positively to anticipate a fund upon which he can rely to pay the soldiers and sailors of our Army and Navy their wages when due. It is a necessity that is upon us. We should meet it. The Army has not been paid for months. This is all wrong. Our defenders should promptly receive their small pay and be relieved from all anxiety growing out of the knowledge of the fact that their families at home are in poverty and want.

A tax upon sales will provide the funds needed monthly, and give to the Secretary of the Treasury the money required for this object. I sincerely hope this measure will pass the House with unanimity and become the law of the land.

Mr. KASSON. It will be recollected by the committee that at the last session of Congress this subject was proposed, somewhat incidentally, alike by the gentleman from New York and myself; and it was opposed, in respect to its application to sales of real estate, by my colleague on the Committee of Ways and Means from Vermont, [Mr. MORRILL.] But when I saw placed upon our files an amendment embracing this subject, to be proposed by my friend from Vermont, I thought at last the good day had come when this system might be adopted even with his approval.

Mr. MORRILL. I desire to say to the gentleman that had he been present when I gave notice that at the proper time I should offer that amendment, he would have understood that I proposed to introduce that amendment and one other, as a matter of courtesy to some of my colleagues on the committee, of whom he was one, but with no intention of advocating it myself. He would also have noticed that I urged such arguments against it as I could in my opening speech.

Mr. KASSON. I regret that my first impression was not correct. I still have some hopes that in the progress of events he will reach the position of the public opinion upon this subject at this time.

Now, sir, I wish to say a single word upon this subject before the committee rises and the House adjourns, and it is this: that so far from taking into consideration the precedent of Spain upon this subject, I hold always that the just and statesmanlike legislation of this country is derived from the course of business and the current of public opinion among our own people. There is no system of public affairs in Europe like our own; none in which the course of business is conducted in accordance with the convenience of the people as in this country. And when my friend from Ohio says we propose in this way to embarrass the transactions of trade, I ask him why we do not embarrass it when we put a tax upon the income of the man derived from this very property? You do not tax the article sold, or because it is sold, but you just take the data which his sales furnish, and you say that one half of one per cent. shall be paid to the Government upon the amount of such sales. Certainly gentlemen know that in the great mass of business transactions of this country there is none in which the seller would not make a bargain with an agent for effecting a sale of more than one half of one per cent. He occasionally employs drummers or agents on a commission of two or two and a half per cent. to effect sales for him to purchasers which such agents may find in the market.

When, therefore, you levy a light tax like this, you do not embarrass trade at all, but simply take a portion of the profits which the trader derives, and in that way you make the tax more equal than you can in any other way. Sales are made for profit, and not for a loss; and you simply reserve from the profits a small portion thereof. And do you destroy the middle-man in that way? Where is the middle-man that is destroyed by the addition of one half of one per cent. upon the profits of sales he effects? Bring the matter to the test of practice, bring it to the test of the business of any man you have in mind, and you will find that it amounts to this, that no man conducts business on a margin of one half of one per cent. profits. If you did destroy the middle-man, you would

only diminish the revenue, but it would not harm the people of the country. If the middle-men went out of existence that would not harm the people, but rather benefit them. Its only effect would be to cheapen the consumption to the people.

But I have already shown that in point of fact it could not have the effect of driving the middle-man out of employ by any legitimate consequence of the act. I cannot, at this time of night, enter generally into a debate upon this subject. I wished to say this much, that when the committee come together again they might have the views I have entertained for two years upon this subject before them.

Mr. MORRILL. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* having taken the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the special order, being a bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and had come to no resolution thereon.

And then, on motion of Mr. COFFROTH, (at ten minutes past ten o'clock, p. m.) the House adjourned until eleven o'clock, a. m., to-morrow.

#### IN SENATE.

FRIDAY, February 17, 1865.

Prayer by Rev. D. H. MULLER, of Milwaukee, Wisconsin.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### SENATOR FROM VIRGINIA.

Mr. WILLEY. I present the credentials of Hon. JOSEPH SEGAR, Senator-elect from the State of Virginia to supply the vacancy occasioned by the death of Hon. Lemuel J. Bowden. I move that the credentials be read and placed on the files, and that the oath of office be administered to Mr. SEGAR.

The Secretary read the credentials.

The PRESIDENT *pro tempore*. If there be no objection, the Senator—

Mr. SUMNER. I move that those papers be referred to the Committee on the Judiciary.

Mr. WILLEY. I trust that will not be done. I know of no reason why it should be. The credentials, I believe, are proper on their face. They come to the Senate in due form under the seal of the State of Virginia. The gentleman who comes here is accredited the successor of Hon. Mr. Bowden, who died while a member of this body. Mr. Segar appears here to take his place and to supply the vacancy occasioned by his death. I see no more propriety in referring these credentials to the Judiciary Committee than I would have seen in referring the propriety of Mr. Bowden himself (if he were now living) retaining his seat on this floor. If Mr. Bowden was entitled to a seat upon this floor, I suppose this gentleman would be entitled to take his seat as his successor provided the credentials be all regular and correct; and I know of no objection to them. I trust therefore that this subject will not be referred, particularly at this late period of the session. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. COWAN. I hope that reference will not be made. I think it is a very extraordinary step indeed. It seems to me this question is *res adjudicata*. We have proceeded on that idea up to the present time, and it seems to me that no sufficient reason has been presented why we should change our policy now. I beg Senators to pause before doing so. If this Union is ever to be restored in the world it must be by the means which are now presented to us for our consideration. If we are to wait until the whole of a State is under our dominion and until all the people of a State are heard from, such a restoration will never take place, never. In my judgment we must establish State governments in those States that have been disturbed by the rebellion, and make them a nucleus around which the loyal popula-

tion may rally. Let us encourage and strengthen them until in the course of time they extend over the whole State. I shall be exceedingly sorry if these States are to be rebuked and repulsed and driven away when they are desirous to do all they can for the purpose of effectuating the very end for which this tremendous struggle has taken place. There was no such objection as this made when the predecessor of Mr. Segar presented himself here. When he came and claimed his seat he was allowed to take it, as other Senators were. I think it would be making an invidious distinction if we now pursue a different course on this question. I hope, therefore, that the Senate will allow the person who has been properly accredited to take his seat as a Senator.

Mr. HALE. I wish to ask the Senator whether Mr. Bowden presented himself here as a Senator from Virginia before or after the vote taken on the admission of West Virginia.

Mr. COWAN. I do not know how that was; perhaps it was before.

Mr. HARRIS. Yes, sir.

Mr. COWAN. However that may be, I think it is clearly our policy now, instead of repelling these efforts on the part of the loyal men of the States in rebellion to have themselves represented here and to form State governments, to encourage them by all means.

Mr. FOSTER. The simple reference of these credentials to the Judiciary Committee will merely, as I suppose, charge that committee with inquiring whether the credentials are in due and proper form. So far as I know, that would be all the duty with which the committee would be charged by the mere reference of the credentials. If that presents all the question there is in the case, and there be a question on the credentials, this motion is right and proper; but I am not aware that there is any question as to the credentials themselves; and a report from the committee showing that the credentials are in due and proper form will not, as I believe, settle any question which divides the members of the Senate at this time. It seems to me that if a motion is made to refer the credentials, there should be an additional motion along with it, or that motion alone is almost useless, for I suppose nobody questions but that the credentials themselves are in the usual and proper form. A report from the committee that that fact is so would not advance us at all upon the question which, I suppose, divides the Senate. I see no propriety, no necessity, for sending the credentials merely to the Committee on the Judiciary when no question arises on those credentials.

Mr. TRUMBULL. I do not quite agree with the Senator from Connecticut as to the effect of a reference of the credentials to the Committee on the Judiciary. I suppose, if that reference be made, it will be the duty of the Committee on the Judiciary to ascertain whether these credentials come from a proper source. A public meeting might be held in the city of Washington, or in the State of Connecticut, or in the State of Illinois, and make out a credential in proper form to A, B, or C, as a Senator, and I suppose on the reference of such a credential the committee would inquire whether that public meeting had any authority to elect a Senator.

Mr. FOSTER. I would ask the honorable Senator, with his permission, whether, if the credentials were in proper form and under the seal of a State, the committee would not be bound to take those credentials as they stood; and if the motion was simply to refer them to the committee, whether the committee could inquire whether the names were forged or the seal forged or anything of the sort; whether the seal would not prove itself, and whether the document would not, under those circumstances, on its face be the evidence for the committee, to which they would be confined?

Mr. TRUMBULL. I apprehend not by any means. I suppose the members of the Senate are to take judicial notice of what is the Legislature in a State, of who is Governor of a State; and I suppose that if a credential was signed by A, B, and it was brought to the notice of the committee, or the committee of their own knowledge had notice, that A, B was not Governor of the State, or that no such Legislature had convened as purported to have made the election, they would report that fact to the Senate.

Let me suppose a case. It is known to every

member of the Senate, I presume, in a way that he is bound to take official notice of the fact, that the Legislature of the State of Connecticut convenes at a certain time under the constitution of that State; and it is known to every member of the Senate, as a fact of which he is bound to take official notice, that at the present time there is no Legislature in session in Connecticut. Knowing these facts officially, (for I think we are bound to take notice of certain acts of the States,) if a certificate should be presented here showing the election of a person from that State to the Senate of the United States in the month of February, 1865, it would be the duty of the committee to whom such credentials might be referred to report to the Senate the fact that no Legislature was in session in the State of Connecticut in the month of February, 1865.

I express no opinion as to the right of this party to a seat; but I think that it is very proper, in the condition of things which we know to exist in the country, that these credentials should be referred before the claimant is permitted to be sworn as a member of this body; and I think the reference of the credentials will bring up the question as it did in regard to Arkansas. In the case of persons claiming seats in this body from Arkansas a year ago, there was no objection to the credentials; they were in proper form; but the Senate proceeded to consider whether the body which undertook to elect them to the Senate was the Legislature of the State. The Constitution declares that this body "shall be composed of two Senators from each State, chosen by the Legislature thereof;" and when credentials are referred, it is competent to inquire whether the Legislature of the State has made such an election.

We have made that inquiry frequently since I have been here. It arose in reference to the State of Indiana a few years ago, the question being whether the body which elected certain Senators was the Legislature of that State. It arose also in reference to the first election of my friend from Iowa, [Mr. HARLAN,] whether the body which elected him was the Legislature of the State of Iowa. The Senate, wrongly as I think, decided in that case that the body which elected him was not the Legislature of the State of Iowa, and he was sent back and reelected afterward. This is an inquiry that has been often made in this body; and I think that when the credentials are referred, something more is to be considered than simply whether on the face of the paper it purports to be the election of a Senator or not. I trust that the credentials will be referred.

Mr. HOWARD. I trust, sir, this reference will be made. For one I am very anxious that the Senate should make an examination not only into the authenticity of the credentials themselves presented before us, but that they should go fully and thoroughly into the question of the right of Virginia, I mean old Virginia, to be represented in this body at this time. I think that is a question upon which not only we but the whole country need to be enlightened. I shall be very much obliged to that committee, should the reference be made, if they will furnish to the Senate and the country a succinct history of all the proceedings which have resulted in the election of the gentleman who now presents his credentials. If I understand it rightly, the constituency which this gentleman will claim to represent in this body is now in a state of insurrection and rebellion against the United States; that constituency as a political community are the enemies of the United States, and at war with the United States; and I desire particularly that the Committee on the Judiciary shall furnish to us, if they can furnish some argument to show that a political community at war with the United States has a right to be represented in this body or in the other House of Congress, and thus to enjoy the political privileges which belong to States that are at peace and performing their duty to the Government. I wish a full, free, and ample report not only upon the question of fact so far as it relates to the authenticity of these credentials, but to the right of the community now called "Virginia" to be represented here. I am very much inclined to deny the right of that community to any representation upon this floor, and am embarrassed not only about the right but also the matter of the election of this gentleman and his colleague, if he has a colleague, to this body. When and where did it

take place, by whom was it made, under what statute, under what constitution, in short, *quowarranto* generally was this whole thing done? I think it is due to the Senate from the committee, if these credentials shall be referred to them, to furnish full and ample information on all these topics. I hope, therefore, as the question is one of magnitude, as it is likely to furnish a precedent of great importance for the future, that the committee will welcome this reference and perform their duty fully and amply on it. I look upon this as a question of the utmost importance.

Mr. SUMNER. I regret that a question of this magnitude has been precipitated upon the Senate at this late period of the session when there is so much public business which has not yet received the attention of either House of Congress. The Senator from Michigan does not exaggerate its magnitude. Sir, it is much to be a Senator of the United States, with all the powers and privileges pertaining to that office—powers and privileges legislative, diplomatic, and executive; and the question now is whether all these extraordinary powers and privileges shall be recognized in gentlemen whose certificate has been sent to the Chair. I thought it my duty, on hearing that certificate read as I entered the Chamber, to move at once its reference to the Committee on the Judiciary. I am astonished that there can be any hesitation in making that reference. Sir, Senators who hesitate show an insensibility to the character of the question. Is the Senate ready to act blindfolded or with the eyes open? I insist that on a question of this magnitude the Senate shall act with the eyes open, wide open; and I know no other way in which they can be brought to act so except through the intervention of a responsible committee of this body. Therefore, sir, I proposed that the credentials should be referred to that committee. It will be the duty of the committee, as my friend from Michigan has suggested, to consider in the first place whether a State in armed rebellion like Virginia can have Senators on this floor. That is a great question, constitutional, political, practical. It will be their duty, then, to consider in the next place whether the gentleman whose credentials have been presented has been chosen legally under the Constitution of the United States by any State. Now, sir, I do not intend to prejudge either of these questions. I simply open them now for the consideration of the Senate.

I say, sir, I do not mean to prejudge these questions; but I do insist that a measure of this importance shall not be acted on without due consideration, and in absolute indifference to those facts which now stare us in the face, glaring upon us every day in every newspaper that we read. Sir, you cannot be insensible to facts. It is in vain that Senators say that Virginia, now in war against the Union, is entitled to representation on this floor, when you have before you the inexorable fact that the greater part of that State is at this moment in the possession of an armed rebellion, and when you have before you the other fact filling almost all the newspapers of the land that the body of men who have undertaken to send a Senator to Congress are little more than the common council of Alexandria; and you have the question distinctly presented to you whether a representative of the common council of Alexandria is to enter this Chamber and share the same powers and privileges of my honorable friend near me, the Senator from New York, [Mr. MORGAN,] or my friend further from me, the Senator from Pennsylvania, [Mr. COWAN,] I merely open these points without now undertaking to decide them, but simply as an unanswerable argument in favor of the reference to the committee.

Mr. SAULSBURY. I am glad, Mr. President, that we are furnishing evidence every day that we are a progressive people. We are learning something. These points, however, have not been presented to-day for the first time. I recollect that when my friend before me [Mr. WILEY] and my other friend who is now absent from his seat [Mr. CARLILE] applied for admission to this body as Senators from the State of Virginia, a few of us, a small corporal's guard, objected (not on account of any personal dislike to those honorable members) to their being admitted as members of this body, because we contended then that the Legislature of the State of Virginia had not sent those gentlemen here. We thought that the State

of Virginia then was at war with the Government of the United States, and we thought that Senators professing to represent a State should in fact represent the sovereignty of that State.

So, sir, it is too late for any member of this body to say that he opens these points now. They were opened years ago, and to my amazement, if I could be amazed at anything transpiring either here or elsewhere in the country, I find some of those who were then most zealous for admitting the honorable Senators who claimed to represent the State of Virginia here, now most vehement in their opposition to the admission of the new Senator.

I do not intend to express an opinion on this matter. I think the credentials ought to be referred. It will be time enough to express an opinion whether the gentlemen who profess to act as the Legislature of Virginia are nothing but the "common council of Alexandria" when we shall have the report of the committee. I only rose to say that every day's experience demonstrates the fact that we are progressing, and progressing most rapidly.

Mr. McDUGALL. Mr. President, there is what is popularly known as "the Congressional burying-ground." There they bury bodies. There are other burying-places where they bury bills and resolutions and propositions; many have been buried within my own knowledge; the Senator from Massachusetts knows that I have some experience of that kind. To refer this proposition to the Committee on the Judiciary is to bury it; and there has been no resurrection proclaimed for any such thing.

I object to the reference. I am prepared to meet the question in the face. I have my impressions, and I am prepared for the discussion. It is a grave matter; and I say the Senate is as well prepared to discuss and dispose of it now as it will be at any time, and it may as well be done now. The State of Virginia is, according to the philosophy of our Constitution, as I understand it, a State in this Union. We have certified to us, under the great seal of the State, the fact that a certain person has been elected Senator from that State. It is my impression that that gives him the right to take the oath of office. I do not say that is conclusive as to his right to a seat here; but I say we want no burial of this proposition in the arms of a committee where the vaults are so deep that the sun never lights them and no sound reaches them.

Mr. FOSTER. When I was up before I simply suggested that it did not appear to me that the question in the case would be raised on a simple reference of these credentials. I think so now. No gentleman has suggested that on these credentials any question but their due legal form arises, except the honorable Senator from Illinois, [Mr. TRUMBULL,] who cites cases that have been previously referred on credentials and considered on credentials. He has referred to the case of the State of Indiana. I think that was the only case named where questions of that sort had been made on credentials; but in that case there were remonstrances against the Senators who applied under those credentials, and allegations that they were not duly elected, and those remonstrances, together with the credentials, were referred to the Judiciary Committee, and that brought up the question. So far as my recollection or experience in this body is concerned, there has been no reference of credentials where any question was involved respecting the right of the members to seats, unless with the reference of the credentials there was an instruction to the committee to inquire into the other matters which were in controversy touching the right of the members to be admitted to their seats; and if the credentials were in due and legal form, these extraneous matters were always connected with the credentials in the reference, in order that the whole question might be investigated.

Now, the honorable Senator from Massachusetts [Mr. SUMNER] speaks of this as a mighty question, and he says that persons who do not perceive that it is a mighty question are insensible to its greatness. I agree with him that it is a great question, and I certainly am not to be charged with overrating it when I suggest that the question is too mighty to be raised on the simple credentials. He speaks of the credentials as a certificate to enable a man to sit here. By what



else does the honorable Senator sit here, except by what he calls a certificate? He refers to the honorable Senator from New York, and to the honorable Senator from Pennsylvania. By what other tenure do they hold their seats here except a certificate, if the honorable Senator chooses to call it so? How does the certificate of either of those Senators differ from this? It has the seal of the State sending the Senator, certified by certain officers. If this has the same, what is the difference?

Mr. SUMNER. May I ask my friend a question?

Mr. FOSTER. Certainly.

Mr. SUMNER. I know he will appreciate my motives. The Senator refers, for instance, to myself as a Senator from Massachusetts. Suppose it was matter of public notoriety that I came into this Chamber with a certificate from a body of men in Boston, little more in number and character than the common council of that city, by public report not in fact supposed to represent the State; suppose that that was a fact much received in the country; then I submit to the Senator whether it would not be the duty of the Senate before receiving my credentials to inquire into their origin.

Mr. FOSTER. Certainly. I agree most decidedly in the case put by the honorable Senator that such would be the duty of the Senate; but if, in that state of facts, the honorable Senator came here with credentials verified according to the usual forms, signed by the Secretary of State of the State of Massachusetts, with the seal of that noble Commonwealth attached to the instrument certifying that the honorable Senator had been duly elected a Senator in the Congress of the United States from such a date to such a date, and that credential was in due and proper form, I submit with great confidence that on merely referring that document to the Judiciary Committee no such question as the honorable Senator suggests would be raised before that committee or before the Senate. The committee would be charged with the duty of examining that document; and finding that certificate (if the honorable Senator thinks that the proper term) in due and legal form, they would say so to the Senate, and having said that they would say no more unless they traveled out of the record to investigate the point whether the honorable Senator had been duly elected by the Legislature of his State, or by the common council of the city of Boston, or some other body not authorized by the laws and the Constitution of the country to elect a Senator. In order to raise that question it should be sent to the committee to inquire; it would not arise merely upon the reference of the document itself. That is all I say.

I trust I go as far as the Senator in standing at the door of this body to inquire by what right members come in, and if they come without authority in saying that they shall not be allowed seats here. The only point between us is the suggestion which I have made, and what is that? The honorable Senator from Michigan says he wants to be informed as to the relation of the State of Virginia to the United States, and other matters therewith connected. I simply suggest with great confidence that none of those questions arise on the simple reference of the credentials, but that there should be some motion to instruct the committee to inquire over and above and beyond the credentials, for the great question here does not arise on the credentials. I do not underrate the question in point of gravity or importance.

As a member of the committee to whom this subject was about to be sent if no objection was made, I did not see that we should either act beyond the credentials when we were not called upon to act beyond them, or that we should report simply upon the form of the credentials when it is expected something more should be done. If something more ought to be done, it seemed to me the committee should be instructed to do more; and that something more ought to be done seems on all sides to be agreed. All I wished was that the very questions which the honorable Senator from Michigan suggested should be sent to the committee for investigation and report; and I confess it seems to me it would be much simpler and better to charge the committee to perform the duty which is expected of them rather than that they should assume it when they are not charged with it.

Mr. HOWARD. I am not able to concur with the Senator from Connecticut in the view he takes of the duty which will devolve upon the committee in case of this reference. It seems to me that the reference would necessarily imply an instruction from the Senate to the Committee on the Judiciary to inquire into the election, return, and qualifications of the claimant to a seat in this body. As I understand it, such is the great object of the reference, and that the reference is not confined simply to the inspection of the seal impressed upon the parchment or paper which comes here as the credentials of the claimant. It seems to me the duty of the committee goes beyond the formality of a mere seal having upon it the effigies of Virginia and the old motto of the Old Dominion, "*Sic semper tyrannis*." Would the Senator from Connecticut ignore the fact that under an act of the Congress of the United States and the proclamation of the President, old Virginia, and the whole of it, is declared to be in insurrection against the United States, and as a community at enmity with them? He would ignore this most important fact according to his construction. He would forget entirely that there are now standing upon the soil of the Old Dominion half a million of armed men, testing the question whether that old Commonwealth shall belong to the United States or to the counterfeit confederacy instituted by the rebels. It strikes me that that fact is one of some little significance, one not to be lightly treated, and one in the face of which we may well recoil from suffering her to be represented in this Senate.

Mr. FOSTER. If the honorable Senator will allow me, I should like to ask him a question right there, not to interrupt him. I should like to ask him whether, if such be the relation between the State of Virginia and the United States, the Senate is not ignoring that condition of things when they admit a man to come into the body, sit here by courtesy, present his credentials, recognize those credentials as proper credentials, at least so far forth as to receive them and refer them to a committee without one word of comment? In what position do the Senate of the United States place themselves on this question if they do that?

Mr. HOWARD. My object, Mr. President, is a very simple one. I wish to ascertain, with clearness and precision, by what authority this claimant comes here and presents himself as entitled to a seat in this body. The old State of Virginia is at war with the United States. This is not denied by the Senator from Connecticut. Can he stand up in his place and say to the Senate that a community hostile to the United States is entitled to participate in the legislation of the United States, either by a Senator or by a Representative?

Mr. FOSTER. If the Senator will allow me just there, I ask if the Judiciary Committee of the Senate would not be bound to recognize the relation of the State of Virginia if the Senate receive a document purporting to come from that State, as a State, and send to us for examination?

Mr. HOWARD. No, sir; the committee, like other members of the Senate, are obliged to take notice of all public facts. They are obliged to take notice of the fact that the President, under an act of Congress, has declared the State of Virginia to be in insurrection against our authority. They would be obliged to go further, and inquire whether that proclamation has ever been withdrawn or in any way modified; whether peace has been restored to the State of Virginia; and if so, by what means and whose authority? It seems to me that this question is really incapable of argument. To say that a community at war with us, every energy of which has been brought to bear in the prosecution of a wicked and rebellious war against us, is entitled to be represented in the Senate, is to me just as great an absurdity as it would be to insist that a foreign country with whom we are at war is entitled to the right of sending Senators and Representatives here to participate in our legislation.

Why, sir, suppose a very small portion of the inhabitants of South Carolina, huddling together under an oak or a pine tree, in some remote nook of that chivalrous Commonwealth, should see fit to elect members of the Senate, and should by some legerdemain get possession of the seal of the old Commonwealth of South Carolina, or suppose the rebel governor himself should see fit to im-

press upon the credentials the seal of that ancient community, and the paper should be brought here and laid before the Senate; according to the Senator from Connecticut, all the inquiry the Committee on the Judiciary would have to make upon that subject would be as to the authenticity of the ancient seal, and that they would not be required to pass upon the question of the right of this usurping legislature.

Mr. FOSTER. I am sorry to trouble the Senator, but I would like to ask him a question just there. If an individual should come here offering credentials as a member of this Senate from a foreign country, Upper or Lower Canada for instance, would he receive them and move that they be referred to the Committee on the Judiciary?

Mr. HOWARD. Not at all; and if I could have my way I should not receive the credentials presented here; but I understand they are already in the possession of the Senate.

Mr. FOSTER. Then why did not the Senator object to their being received? If we are in a state of war with Virginia, why did he not object to the credentials being received? If they are received, on what grounds are they received? If they are received, it is because it is the judgment of the Senate that it is right and proper to receive them. I ask again, if the Judiciary Committee would not be bound by that fact, and have to look at nothing but the credentials referred to them, whether they were in due and legal form or not?

Mr. HOWARD. In answer to that I can only say that my attention was not given to the subject at the time these credentials were presented, and like many other members of the Senate, and I dare say a large majority of the Senate, I was taken entirely by surprise by the fact that the credentials were laid before us.

Mr. FOSTER. Why not move to have them rejected instead of having our records at all embarrassed by them? It is perfectly in order so to move.

Mr. HOWARD. It would be in order; and so it is to have them referred.

Mr. FOSTER. Not if they come from a foreign country.

Mr. HOWARD. Why not?

Mr. FOSTER. Because it is a question not to be entertained by the Senate.

Mr. HOWARD. When I spoke of a foreign country, I meant to say in a very emphatic manner that credentials produced from such a source could not be entertained; that they would be of no validity; that they would be proceeding from a public enemy; but no more a public enemy than are the people of Virginia to-day, as has been decided more than once by the Supreme Court of the United States. But in order that no excuse shall be left to the Senator from Connecticut and those who may think with him, I shall move to amend the motion of the Senator from Massachusetts by the addition of these words:

And that the committee be instructed to inquire and report upon the election, return, and qualifications of the claimant.

I do this, not because I suppose it to be necessary, for I think all that is implied in the simple motion to refer the document to that committee, but for the purpose of ascertaining specifically, and in an authentic form, by what right it is that this legislature in Virginia have assumed to appoint a Senator of the United States and to send him here. Sir, this is no trifling subject. It is one of the utmost importance. The gentleman who presents himself here to-day with these credentials claims the right to vote in this body and to participate in the enactment of our laws. Have the United States such a power over Virginia as to enable her population, even if they were disposed, at this time to elect a Senator? Are we collecting any revenue from that State? Are there a majority of the people of that State who are loyal to the Government of the United States, and as such now acting in pursuance of their duty? No, sir; nothing of the kind. It is to my mind, as I remarked before, just as absurd to think of introducing a Senator from such a community into this body as it would be to introduce a Senator from a foreign country with which we should be at war. Sir, we have paid too dear, we have paid a little too much money, we have poured out a great deal too much blood in resisting the

progress of this rebellion and in our efforts to reclaim Virginia to her ancient loyalty to be trifled with in this way. Let the loyalists of that State, let the whole people of that rebel State, and of all other rebel States understand, once for all, that we are not to be trifled with, nor humbugged by the introduction here of members of Congress and Senators in Congress without constituents and without States to represent.

The PRESIDENT *pro tempore*. The question will be on the motion of the Senator from Michigan to instruct the Committee on the Judiciary in regard to the point suggested by him.

Mr. WILSON. I desire simply to say that I shall vote for the motion of my colleague and also for the amendment if it is pressed. But in doing so I wish to say that, while I hope they will make a thorough investigation and report, I understand this question to stand in this way: the Congress of the United States recognized a political government in Virginia, or a portion of it, as the State of Virginia proper. On the strength of that recognition men were admitted into this Senate and into the other House. On the strength of it we made West Virginia a State and brought her into the Union, and she is in the Union to-day. It seems to me, therefore, that we are bound by all our votes during the last three years to consider the Governor and Legislature of Virginia as existing.

As regards the proclamation of the President, so much of Virginia as was not occupied by our forces was declared in rebellion; but that portion of it held or to be held by our armies was not declared in rebellion; and the moment a square mile of Virginia is occupied by our armies, by the very terms of the proclamation it is no longer in rebellion. The great part of Virginia is at war with the Government of the United States, and at war with the State government of Virginia precisely as much as it is at war with the Government of the United States. These rebels are at war with Governor Pierpoint and the Legislature that has sent this gentleman here who claims a seat, just as much as they are at war with Mr. Lincoln and the Congress of the United States. I am willing to have this question examined, because I think the committee ought to examine it and ought to report the facts; but my understanding of the facts is as I have stated; and unless something is shown to the contrary, I feel bound to recognize Governor Pierpoint and the Legislature and the political government of the old State of Virginia.

Mr. COWAN. I wish to ask the honorable Senator a question: whether he has any doubt, or anybody has any doubt, of the facts he has stated as being existing facts; and whether, if they are existing facts, they are not as well known to us now as they can be by the investigation of the committee? That is one of the best reasons why it ought not to be referred.

Mr. WILSON. I will simply say in reply that my own information leaves me no doubt about it. I have none in my own mind; but there are Senators who have, and I have no doubt honestly so. I am therefore willing that it shall go to the Committee on the Judiciary, and let them report the facts of the case; but unless they can show something contrary to what seems to me to be all our action, all our legislation, all the action of our Government, executive, legislative, or judicial for three years and a half, the political organization that has sent Mr. Segar here is as much the political organization of the State of Virginia as the Legislature of any other State in this Union.

Mr. WILLEY. I am under great obligations to the Senator from Massachusetts [Mr. Wilson] for his kind and patriotic remarks. He seems to appreciate and to have a proper sympathy with the men in the border States who are standing up as the bulwarks between the ravages of the foe and the loyal States further north.

I am very well aware, Mr. President, that it is late in the session, and I am aware of the impatience of the Senate to prosecute the business before it. I shall not trespass long upon the patience of the Senate; but I think it proper that I should make a remark or two before the vote is taken upon this proposition.

I was sorry to hear the remark of the Senator from Massachusetts [Mr. Sumner] in regard to the Legislature at Alexandria. It will do very well for Senators surrounded by loyal popula-

tions, far from the scene of strife, far from the field of battle, far from the torch of the incendiary, far from the bloody knives of the guerrillas, to throw slurs upon the loyal organization of the men of the border seeking to establish themselves as parts of this Government.

Sir, who are the Legislature of Virginia? Nothing more, according to the Senator, than the common council of Alexandria. Why, sir, they represent to-day a population of two hundred and sixteen thousand loyal people; and the representatives of this people, standing in the breach between the foe and our friends, baring their breasts to the shock of battle, and to the terrible inflictions of this horrible war, are to be impeached as a poor, meager organization with no more political standing than the common council of Alexandria! I think the honorable Senator took more of the excitement of the moment than of his sober reflection. I had hoped to see him extending the hand of friendship and favor and support to the struggling loyal people of the South. Instead of that we are to be met with repulse. I was sorry to hear the remarks of the Senator.

But the honorable Senator and those who think with him have taken the ground that Virginia is not entitled to representation on this floor. Why, sir, has not the Senate recognized the fact that she is entitled to such representation during the whole of the session and during the whole of the last session of Congress? Has there not been a Senator representing the State of Virginia on this floor, participating in the proceedings of this body, recording his yeas and nays, and to the extent of his vote controlling the legislation of Congress? Has he not been recognized without a murmur and without a word of objection? So far as that fact is concerned, I hold that the Senate is barred by its own action, that it should have excluded the honorable gentleman who represents Virginia on the floor already if Virginia be not entitled as a State to representation on this floor. I put it to Senators to say, if Mr. Bowden had been living to-day, whether he would not have been allowed to occupy his seat without let or hindrance, without any objection, the same as his honorable colleague has been allowed to occupy his seat without objection. I say, therefore, the action of the Senate itself has recognized the fact not only that Virginia is entitled to representation on this floor, but that she has been and is represented on this floor; and so long as the honorable Senator who represents Virginia here is allowed to retain his seat, it strikes me that it is not competent for the Senate to say that Virginia is not entitled to representation on this floor.

I fully concur in all that has been said in regard to the importance of this question. I know very well, for I have been enabled to see it and to feel it personally, with what eager desire the loyal population of Virginia are looking to the action of Congress in this respect to sustain the Legislature at Alexandria. I know how all the north-west portion of Virginia, now composing the State of West Virginia, was brought in around the loyal Legislature of Wheeling, forming a nucleus, until the whole State was brought under the flag of the Union and under the jurisdiction of the Federal Constitution; and I know that such will be the result in Virginia if its loyal Legislature is sustained. County after county—such is my information from beyond the lines to-day, having letters in abundance to that effect—eagerly desire for the time to come when they shall be relieved of the power of the rebellion, that they may reorganize the old government of Virginia around the Legislature at Alexandria.

But, sir, it is a fact, not only that the Senate of the United States has recognized the existence of Virginia as a State, and her right to be represented on this floor, but the executive branch of the Government has done so, I imagine; for I saw it stated in the papers the other day that the Secretary of State had transmitted the constitutional amendment for the abolition of slavery to the Executive of Virginia, and through him it was sent to the Legislature to be acted upon, and that Legislature had acted upon it and ratified the amendment. We shall place ourselves in a singular position if we reject a gentleman who comes here accredited with a certificate of election in due form, and repulse him from our doors and refuse to allow him a seat on the floor, when we have another member representing the same State upon

the floor, and when the executive branch of the Government recognizes the Virginia Legislature at Alexandria as the true Legislature, and Governor Pierpoint as the true and legitimate Governor of Virginia. I trust that this matter will not be referred at all, but that we will hold out the inducement to the loyal people of Virginia to rally around the loyal Legislature at Alexandria.

The Senator from Michigan said awhile ago that we had shed too much blood to bring Virginia back into the Union and be humbugged by proceedings like this. Why, sir, the very object is to bring Virginia back into the Union; and it strikes me there is no more available and desirable means by which to bring her back under the old flag, and to restore her to her allegiance and place in the Federal Government than the very organization of the loyal people around the loyal Legislature, under a loyal government and a loyal Governor, as fast as the power of the United States can relieve the loyal people of Virginia from the pressure of the rebellion. As to the disloyal, certainly it is not the object of Senators on the other side to say that they should have a voice in restoring the government of Virginia.

I hope, sir, that it will be the pleasure of the Senate to allow Mr. Segar to be at once qualified, for all the investigations which can be made before the Committee on the Judiciary will not place this body in possession of any facts that are not now, as I suppose, well known to the body.

I desire to say, before I sit down, that the honorable Senator from Michigan was mistaken in supposing that the whole of the State of Virginia is declared to be in rebellion. The proclamation of the President exempted by name the counties represented at Alexandria. Some of those counties never were declared to be in a state of insurrection, and others, since the issuing of the proclamation, by the interposition of the Federal Executive, have been relieved from the operation and effect of that proclamation; and those counties now represented at Alexandria are not under the operation of the proclamation of the President declaring Virginia to be in insurrection.

While, of course, I do not desire to interpose any objection to what might be for the interests and the welfare of the country, and what might be really the desire of honorable Senators, yet I would fain hope that the Senator would now allow Mr. Segar to take his seat. The credentials on their face are fair; there is no objection to them; and I suggest whether, if these other facts to which Senators allude should exist, or should be supposed to exist, they could be examined afterward by a reference to a committee. It may be a grave question whether a State in the condition in which Virginia is now placed shall be allowed to have representation on this floor; but, sir, it is a very grave question when a gentleman comes from a State of this Union with credentials in due form under the seal of the Commonwealth, to stop him at the threshold and say that he shall not take his place upon this floor. I say that it is a very grave question, and one which it seems to me should not be acted upon adversely without the plainest facts to justify it.

Mr. SHERMAN. I will ask the Chair whether this subject overrides the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The Chair understands it so, or the Chair would have called up the unfinished business at one o'clock.

Mr. SHERMAN. I wish to submit to the Senate one or two considerations on this subject, and I shall close my remarks by submitting a motion that is not debatable.

The credentials presented to us purport to show that this gentleman was elected a member of this body on the 8th day of December last, and they bear date on the 12th day of December last. They have been held by him for more than sixty days. Every intelligent man must have known that the presentation of these credentials would give rise to debate, would involve grave political questions about which there are radical differences of opinion in this body and throughout the country. The condition of the State of Virginia, the condition of the rebel States, the effect of the rebellion, all these matters are involved in the question now presented to the Senate. This gentleman, holding these papers, might at any moment have presented them as a privileged question, and have stopped all the business of this body until they

# THE CONGRESSIONAL GLOBE.

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were disposed of, either referred or acted upon. Now, I ask the Senator whether it is reasonable for us at this period of the session to stop our deliberations when all the important bills of the session remain unacted upon for the purpose of considering this question. When this gentleman has had these papers in his possession for more than sixty days, when he had the right at any day to present them and call on us to decide the question raised by them, is it reasonable, I ask, to present them at this period of the session, and ask us to postpone all the important business of the session for the purpose of considering them? It seems to me it is not; and, therefore, without going into the merits of the proposition, which is a very grave and difficult one, upon which I myself have not made up my opinion, although I have read and thought a great deal about it, I submit whether, under the circumstances, the best disposition is not to leave the question to be settled by the next Congress.

The State of Virginia is now represented by one Senator in this body. The State of West Virginia is ably represented by two Senators. The Senator-elect, or the person who claims to act as the Senator-elect from Virginia, has slept upon his rights for sixty, ay, seventy days. It seems to me, therefore, that for the short period of the term for which he was elected, only fifteen days, it is scarcely worth while for us to delay the ordinary business of the country and stop and deliberate upon his right to a seat which at any rate will expire on the 4th day of March next. The question when presented to the next Congress will be one that we shall have ample time to decide. It will be presented at the threshold on the 4th of March next. No doubt then a gentleman claiming to be a Senator from the State of Virginia will present his credentials. Then we can take up the matter and determine it. We can take time, we can deliberate, we can get full information on the subject; and we can dispose of these grave political questions without interfering with the public business. Now we cannot. Under the circumstances, therefore, I feel it my duty to submit a motion that the credentials do lie upon the table.

Mr. McDUGALL. I will ask the Senator from Ohio to withdraw the motion for a moment and I will renew it.

Mr. SHERMAN. I cannot do it.

Mr. McDUGALL. I will make the same motion after having submitted a remark or two.

Mr. SHERMAN. I could not withdraw it without giving rise to further debate.

Mr. McDUGALL. Mr. President—

The PRESIDENT *pro tempore*. The question is not debatable. The motion is not withdrawn.

Mr. McDUGALL. Then I wish to say a word on a question of order.

The PRESIDENT *pro tempore*. The Senator will state his point of order.

Mr. McDUGALL. This is a question of privilege. It is the right of the person who comes here to take his place on the floor, claiming the same right as any other Senator from any other State to have the question considered. The question presented is one of privilege, as the Chair has ruled; and what does "privilege" mean? It means that it is the right of the question to be heard, and it is not subject to the rules by which any other question can be laid on the table and action upon it denied. That is involved in the very proposition by its very first terms. The presentation of credentials, and the action of the Senate upon them does not belong to the ordinary course of business, and is not governed by the common rules of business.

The PRESIDENT *pro tempore*. The Chair will state to the Senator that when a point of order is made it must be decided, like the other question, without debate.

Mr. McDUGALL. I raise the point of order.

The PRESIDENT *pro tempore*. The Chair understands the point of order.

Mr. McDUGALL. The point of order is this: that the motion to lay this question on the

table is not in order when any Senator desires to debate it.

The PRESIDENT *pro tempore*. The Chair has no hesitation upon the point. The question is a privileged question, to come up upon motion before the Senate; but when it is before the Senate it is, like any other subject, to be disposed of by the action of the Senate.

Mr. McDUGALL. But debate cannot be barred by a motion to lay on the table.

The PRESIDENT *pro tempore*. The Chair has no question on the point. Debate is not in order.

Mr. McDUGALL. I appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. From the decision of the Chair an appeal is taken; and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. HENDRICKS. I wish to make an inquiry of the Senator from Ohio, whether his motion be to lay the credentials upon the table, or the proposition to refer the credentials to the committee.

The PRESIDENT *pro tempore*. In the opinion of the Chair, a motion to lay the motion to refer on the table would carry the credentials with it, so that no question of that kind arises. The question now is, Shall the decision of the Chair stand as the sense of the Senate?

The question being put, the decision of the Chair was sustained.

The PRESIDENT *pro tempore*. The question now is on the motion to lay the credentials upon the table.

Mr. SUMNER and Mr. McDUGALL called for the yeas and nays, and they were ordered; and being taken resulted—yeas 29, nays 13; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Davis, Doolittle, Farwell, Foster, Hale, Harlan, Howard, Howe, Morgan, Morrill, Nye, Powell, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Wade, Wilkinson, and Wilson—29.

NAYS—Messrs. Dixon, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Richardson, Saulsbury, Van Winkle, Wiley, and Wright—13.

ABSENT—Messrs. Carlile, Foot, Grimes, Harding, Harris, Henderson, Riddle, and Stewart—8.

So the motion was agreed to.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 212) for the relief of Henry A. Brigham; and

A bill (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin;

A bill (H. R. No. 735) in relation to marriages in the District of Columbia;

A joint resolution (H. R. No. 166) to provide for mustering out of the military service certain non-commissioned officers and privates who enlisted to fill old regiments; and

A joint resolution (H. R. No. 167) for the relief of John Wells and sons.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China;

A bill (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia;

A bill (S. No. 212) for the relief of Henry A. Brigham; and

A joint resolution (S. R. No. 49) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

## PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the petition of R. B. Forbes, of Boston, Massachusetts, who represents that he is the agent and part owner of the steamship Meteor, which was built and fitted specially to cruise for confederate vessels; that she has been tested by supervising officers detailed by the Navy Department, who pronounced her to be very fast; that he has offered her for other tests—a run between Boston and Port Royal and back; that after the reduction of Fort Fisher the Secretary of the Navy does not feel justified in buying her; and he prays that Congress may make an appropriation to buy her. I move that the petition be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. MORGAN presented a memorial of citizens of New York, praying for the passage of a law making uniform regulation throughout the United States of the times, places, and manner of holding elections for Senators and Representatives, except as to the place of choosing Senators, defining the qualifications requisite for electors, and abrogating such regulations prescribed by the Legislatures in each State or otherwise as may be inconsistent therewith; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented a memorial of M. B. Duffield, marshal of the Territory of Arizona, praying that the accounting officers of the Treasury be directed to audit and settle his accounts as marshal of said Territory, notwithstanding the informality and illegality of his official bond, and asking for additional compensation and reimbursement for extraordinary expenses in the discharge of his duties as marshal; which was referred to the Committee on the Judiciary.

Mr. JOHNSON presented a petition of Mary A. Culley, widow of Langley B. Culley, praying for compensation for services rendered by her husband as naval constructor; which was referred to the Committee on Claims.

Mr. HENDRICKS presented the resolutions of the Legislature of Indiana in favor of an extension of the time for the completion of the Grand Rapids and Indiana railroad; which were referred to the Committee on Public Lands.

Mr. SUMNER presented a memorial of William W. Thayer, guardian of Charles A. Hichborn, son of Alexander Hichborn, acting assistant surgeon "on contract," who was killed at the battle of Chancellorsville, May 3, 1863, praying for the passage of an act defining the rank that said Alexander Hichborn held in the Army at the time of his death, and the amount of pension that should be paid to his son; which was referred to the Committee on Claims.

Mr. FOSTER presented a petition of officers of steamers, praying for the establishment of a light-ship at or in the vicinity of Black Ledge at the entrance of the eastern side of New London harbor; which was referred to the Committee on Commerce.

Mr. POWELL presented a memorial of citizens of the District of Columbia engaged in the manufacture of cigars, remonstrating against the proposed amendment to the revenue laws imposing a tax of sixty cents per pound on all cigars of domestic manufacture, and praying that tobacco be taxed in the leaf; which was referred to the Committee on Finance.

Mr. ANTHONY presented a petition of Mary McIlroy, praying for a pension; which was referred to the Committee on Claims.

## PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. JOHNSON, it was Ordered, That the Committee on Claims be discharged from the further consideration of the memorial of Daniel W. Whitney; and that he have leave to withdraw the same and the papers accompanying it.



On motion of Mr. FOSTER, it was

*Ordered*, That the petition of Abraham Lahsing, praying for a pension for injuries received while in the naval service during the war of 1813, with the adverse report of the Committee on Pensions thereon, be taken from the files and recommitment to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Claims, to whom was referred the petition of Samuel L. Gerould, praying for certain allowances due to him while acting as clerk and reporter to a court-martial, submitted a report accompanied by a bill (S. No. 450) for the relief of Samuel L. Gerould; which was read and passed to a second reading, and the report was ordered to be printed.

Mr. BROWN, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 437) to continue in the service of the United States certain troops in the State of Missouri, reported it with an amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the petition of certain colored persons of the city of Washington, praying for a charter under the name of the Colored Benevolent Association of Washington city, reported a bill (S. No. 451) to incorporate the Colored Union Benevolent Association; which was read and passed to a second reading.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 389) for the relief of Mary Shircliff, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris, reported it without amendment.

He also, from the same committee, to whom was referred the petition of James B. Royce, praying to be allowed the bounty of \$100 provided by law in case of discharge by reason of disability occasioned by wounds received in battle, reported a joint resolution (S. R. No. 112) for the relief of James B. Royce; which was read and passed to a second reading.

He also, from the same committee, to whom was referred the petition of William P. Robinson, praying for compensation to cover expenses incurred by reason of the fatal wounding of his son Lieutenant James S. Robinson, when in pursuit of deserters, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 454) granting a pension to Thomas Booth, reported it with amendments.

He also, from the same committee, to whom was referred the petition of Josephine Rice, widow of Brigadier General James C. Rice, praying for a pension, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on Claims, to whom was referred a bill (S. No. 311) for the relief of W. H. and C. S. Duncan, reported it without amendment.

He also, from the same committee, to whom was referred a petition of Charles Taylor, of Victoria county, Texas, praying for compensation for services rendered and supplies advanced to the United States at Chicago, in the State of Illinois, during the Black Hawk war, in 1832, submitted an adverse report; which was ordered to be printed.

#### ASSISTANT COLLECTOR OF JERSEY CITY.

Mr. TEN EYCK. The Committee on Claims, to whom was referred the memorial of citizens of the counties of Hudson and Bergen, New Jersey, the memorial of several members of the Legislature of the State of New Jersey, the memorial of the mayor and common council of Jersey City, New Jersey, the memorial of the common council of Bergen, New Jersey, the memorial of the mayor and common council of the city of Hoboken, New Jersey, the memorial of the mayor and common council of Hudson City, New Jersey, and the memorial of owners and masters of coasting vessels owned in whole or in part by residents of the counties of Hudson and Bergen, New Jersey, praying that the "Act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assist-

ant collector to reside at Jersey City," approved February 21, 1863, may be so amended that the said assistant collector shall have the charge of loading and unloading vessels to and from foreign ports, the warehousing of merchandise, and be empowered to enroll and license coasting vessels owned in whole or in part in the counties of Bergen and Hudson, have had all these petitions under consideration, and have instructed me to report the same back, accompanied by a bill; and as it is a very small matter, I ask that the bill be put on its passage now.

The bill (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey city," approved February 21, 1863, was read a first time by its title.

The PRESIDENT *pro tempore*. The Senator from New Jersey asks the unanimous consent of the Senate to put the bill just reported on its passage. Is there any objection?

Mr. SHERMAN. I understand that it appoints a new officer, and I, therefore, object.

Mr. TEN EYCK. It does not do so. It simply authorizes an officer to grant licenses for vessels in that district.

Mr. SHERMAN. It makes no new officer?

Mr. TEN EYCK. None at all, and no new expense.

Mr. SHERMAN. Then I shall interpose no objection.

There being no objection, the bill was read a second time and considered as in Committee of the Whole. It proposes to authorize the assistant collector appointed under the act of February 21, 1863, to enroll and license, according to the laws of the United States, all vessels engaged in the coasting trade and fisheries owned in whole or in part by residents of the counties of Hudson and Bergen, in the State of New Jersey, and all such enrollments and licenses are to be as valid and effectual as if the same had been effected in any other port of the United States; and the assistant collector, in the enrollment and licensing of vessels, is to be subject to the laws of the United States, and liable to all the penalties and responsibilities imposed upon collectors in like cases.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. SHERMAN. I now call for the unfinished business.

Mr. ANTHONY. Let us get through with the morning business first.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio to postpone all prior orders and proceed to the consideration of the unfinished business of yesterday, the naval appropriation bill.

Mr. ANTHONY. I hope we shall be allowed to get through with the reports of committees and the introduction of bills.

Mr. SUMNER. I trust the Senator from Ohio will withdraw his motion for a few moments.

Mr. SHERMAN. I have no objection to withdrawing it for the introduction of bills, but I do not wish any motion to postpone prior orders and take up another bill to be interposed. I will yield for the ordinary morning business.

The PRESIDENT *pro tempore*. The motion is withdrawn. The introduction of bills and joint resolutions is now in order.

#### INTRODUCTION OF BILLS.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 452) to incorporate "the Capitol Hotel Company" in Washington city, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 453) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; which was read twice by its title, and referred to the Committee on Territories.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 113) authorizing certain banks in the District of Columbia to accept the provisions of an

act therein named; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 114) authorizing additional copies of public documents to be printed for the Department of State; which was read twice by its title, and referred to the Committee on Printing.

#### REPUDIATION OF REBEL DEBT.

Mr. SUMNER. I submit the following concurrent resolution. I should like to have it acted upon at once if the Senate is ready to vote upon it; if not let it lie on the table for the present:

Whereas certain persons have put in circulation the report that on the suppression of the rebellion the rebel debt or loan may be recognized in whole or in part by the United States; and whereas such a report is calculated to give a false value to such rebel debt or loan: Therefore,

*Resolved by the Senate*, (the House of Representatives concurring), That Congress hereby declares that the rebel debt or loan is simply an agency of the rebellion which the United States can never, under any circumstances, recognize in any part or in any way.

I should like to have the action of the Senate now upon the resolution.

Mr. SAULSBURY and Mr. McDUGALL objected.

Mr. SHERMAN. I heard two or three objections to the resolution, and I know it will give rise to debate.

Mr. SUMNER. I do not think there will be any debate upon it.

Mr. SHERMAN. I heard several objections, and I am satisfied it will give rise to debate.

Mr. SUMNER. If there is any objection, the resolution cannot be considered.

The PRESIDENT *pro tempore*. Is the present consideration of the resolution objected to?

Mr. SAULSBURY and Mr. McDUGALL. It is objected to.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered to-day.

#### STATEMENT OF EXPORTS AND IMPORTS.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury cause to be prepared for the use of the Senate a statement of the actual values of merchandise imported into the United States and exported to foreign countries for each year from 1857 to 1864, inclusive, with an analysis of the conditions affecting the external commerce of the country as regards the completeness of the returns, and the difference in the valuations of imports and exports as reported; with an approximate correction of these differences to a common standard, and an exhibit of the balances resulting in each year; also the movement of leading export staples and of the precious metals during the same period, with the course of foreign exchange.

#### NAVAL APPROPRIATION BILL.

On motion of Mr. SHERMAN, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, the pending question being on the amendment of Mr. WADE to add the following as additional sections to the bill:

*And be it further enacted*, That the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral, one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer of highest rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department the chief of such bureau shall be a member of the board, and entitled to sit and vote on the subject.

*Sec. — And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war when required by him. All such opinions shall be recorded.

*Sec. — And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon, and all courts-martial ordered by the Secretary of the Navy shall be detailed by the board.

*Sec. — And be it further enacted*, That all invitations

for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

Sec. — And be it further enacted, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mr. HALE. Mr. President—

Mr. SHERMAN. Before the Senator from New Hampshire proceeds I wish to move that at half past four o'clock to-day the Senate take a recess until seven o'clock. I have consulted with Senators, and I think that will be the better plan.

The motion was agreed to.

Mr. HALE. Mr. President, it is some weeks since in the morning hour, on a resolution introduced by the honorable Senator from Kentucky, [Mr. DAVIS,] I endeavored to submit some views of mine in regard to questions of interest in the administration of the Navy Department, and it will be within the recollection of the Chair, and of everybody else that taxes his memory with such trifling history, that I made three successive attempts to finish my remarks, and by the expiration of the hour that was allotted to the consideration of such matters I was cut off each time, and failed in my endeavor to get the Senate to make it a special order, and I shall now improve the opportunity which is presented by the consideration of this bill making appropriations for the naval service, to close as well as I may what I intended then to have said.

But before I proceed to make square work of it I will endeavor to answer a question which was propounded to me by the honorable Senator from Maryland, [Mr. JOHNSON,] who asked me if I had any knowledge who it was that had instructed a committee or commission that was sent out by the Navy Department to Boston and Portsmouth to make inquiries into my conduct, who it was that had constituted a committee of pimps and spies, sent out by the Navy Department, into a board of censorship over the members of the Senate to try them for the duties they had performed here. I was careful not to say anything on that point at that time. Though I had undoubted convictions in my own mind, I preferred not to express them here. I will state now that I do not know of my own knowledge who was the author of the instructions that were sent; but upon evidence on which I rely, evidence which satisfies my mind beyond any mistake, and as well as I am satisfied of the vast majority of facts that I know upon the testimony of others, I do know that it was the Assistant Secretary of the Navy who sent a board of pimps and spies to Boston and Portsmouth, instructing them to inquire especially into any connection that I might have had with any contracts for the Navy Department; and they had written instructions.

I would ask the honorable Senator from Maryland, who hears me, if a committee were sent out by the Senate and went to procure certain evidence, and they were found having written instructions in their hands as to how they were to proceed, whether he would have any great doubt in his own mind about where the instructions came from. I take it the fact of itself that the committee were thus sent would be conclusive evidence.

Mr. GRIMES. It is due to the Assistant Secretary of the Navy to say that he utterly denies in the most positive terms—and his communication to the Senate on that subject will be laid on the table of the Senate very shortly—that he gave any such instructions, or that such instructions were given to anybody. I will state further, that I have seen the letter of instruction, of which these remarks in relation to the Senator according to the speech that he made here some days ago purported to be a part, and that it is an entire interlineation, and is not in the copy in the Navy Department.

Mr. HALE. I have not a doubt on that subject that the Assistant Secretary of the Navy would deny it any more than I have that he gave the instructions. In regard to the matter being an interlineation, it happens, unfortunately for that version of the story, that the paper of which

I spoke and which was furnished to me at Portsmouth, where it was dropped by one of the committee, contained all the instructions, and there is no interlineation. The statement referred to is not a part of anything else; it is the whole paper; there is nothing else of it, nothing interlined, nothing erased. I do not want to make any controversy on that subject; but whenever the report of which the Senator speaks does come to the Senate I can prove, if human testimony can prove anything, and I can prove it by a man who had the confidence of the Navy Department at that time, that if Mr. Fox was not the author of that identical paper he did give just exactly such instructions to another individual, and put him upon that track, and made use of this classical phrase, that he was going to "camp on HALE's track."

I have thus endeavored to answer the question of the Senator from Maryland; and whenever the fact can be brought to an issue, not before a naval court-martial, composed of retired naval officers whose favor depends upon rendering a verdict such as is required of them; but whenever the matter is submitted to any impartial tribunal that understands the force of evidence, I can prove the truth of what I have stated beyond controversy and beyond mistake, because that evidence has been submitted to me and I have not the shadow of a doubt upon it.

In that connection I want to say to the Senator from Kentucky, who introduced the resolution for appointing a committee on corruptions, that I think it is due to the Senate, before they institute any more committees of inquiry, that they protect the witnesses who are called before them, and do not suffer them to be seized and incarcerated the moment they have left the jurisdiction of the Senate, where they have been testifying in obedience to a call and summons of the Senate.

Mr. DAVIS. I think that ought to be done.

Mr. HALE. I think it ought to be done, too. I now proceed to conclude the remarks on the head upon which I was speaking when I was interrupted by the expiration of the hour in which I was speaking.

I was speaking in reference to the frauds which the committee of investigation, of which I was a member, had disclosed, and about which no action has yet been taken. After examining a good deal of testimony, and finding the most astounding fact that where there was a single bidder his bid was raised one hundred, two hundred, and sometimes three hundred per cent., we were at a loss to know by what particular agency the knowledge came to the bidders which enabled them so to bid. We were at a loss to know how it was that no single individual putting in bids varying nearly one hundred per cent. from his original bids, should yet be able to get them in at one or two, or not exceeding five cents below the next highest bidder, so as in every case to secure the bid to himself. After considerable investigation, having been baffled a great many times, we at last found a witness who gave us what to my mind was a sufficient clue, and I will read it to the Senate. This man had stood pretty high in the estimation of portions of the Navy Department. I read from the report:

"Near the close of the examination some direct evidence was obtained from Mr. Ira Murdock, formerly chief clerk of the Bureau of Steam Engineering, which, if it may be relied upon, certainly goes far toward explaining at least one of the modes by which such knowledge may have been obtained. He testifies that at the opening of the bids in the Bureau of Steam Engineering in the spring of 1863, on the day for opening them, they were opened and entered on the schedule in presence of various parties who were present and freely examined them all. Mr. H. D. Stover."

He it was who got the contract at every yard on that occasion—

"was not present at this opening, but a Mr. Ainsworth Brown, his agent, who acted for him, was. No bids from Stover were presented or opened on that day, but the next morning this same Mr. Brown, who was present at the opening of the day previous, and of course knew what each and all of the bids were, appeared at the office of the Chief of the Bureau of Steam Engineering with a number of bids in the name of Mr. Stover, which were accepted, and were successful."

That was a pretty satisfactory explanation. Stover's agent stood by on the day appointed by law for the opening of the bids, heard them all, took memoranda of them, noted the prices, and the next day came in with bids from two to five cents below every bidder, and took every contract himself. When that fact came out it immediately found its way from this Capitol to the

other end of the avenue, and certain official characters connected with the Navy Department were busy in connection with the witness. They manipulated him, and came in themselves and attempted to make a sort of explanation which anybody may find who wants to read it in the report.

My attention was called to this matter somewhat by seeing how these gentlemen were operating. I found out, and found out by accident, that the most enormous frauds were being perpetrated right under my own nose in the navy-yard within ten miles of where I live. I found there that monkey-wrenches, the fair price of which was from twelve to fifteen dollars a dozen, were bought by the Navy Department at Portsmouth for \$150 a dozen. There were a great many other items in the contracts made at the same time quite as extravagant as that. For example, two thousand pounds of cotton-waste, the fair market value of which was from thirty to forty cents a pound, was obtained by the Department under contract at eighty cents a pound; and when the contractors had given all they could at this enormous price under the contract, then as a matter of favor the Government was asked to buy the rest, I believe, at about thirty cents. All the articles in the same bid to which I am now referring averaged one hundred and fifty per cent. above the fair market price of the articles. Take the item of anvils, weighing about two hundred pounds, the fair market value of which was thirty dollars; the Government paid fifty dollars. Axes, handled, worth \$1 25 each, were obtained at three dollars. Small axes, the fair price of which was seventy-five cents, were furnished to the Government for \$1 50. Grindstones worth \$4 50 each, were sold to the Government for thirty dollars each. Scale-beams worth \$6 50, were sold for fifty dollars; and so on the prices ranged throughout. Attention being called to this, we had a committee of investigation, and that committee found, as every man who will take the trouble to read the report must see, that rottenness was the rule and corruption was the practice, and the Government was being swindled beyond all credulity. We have so reported, and no action has been taken on that report, and yet the Senator from Kentucky wants to have a standing committee raised to find out frauds generally in the Government.

I have mentioned these facts as facts of history. I do not blame the Assistant Secretary of the Navy for sending his commissioners to Charlestown and Portsmouth to see if he could not find out something that HALE had done. The law of self-preservation, not to say of revenge, was sufficient to instigate him on such an errand. These facts, sir, cover over the history of the transactions of the Navy Department, and they are doing the same thing to-day, only in another form. I do not want to tell you what they all are; but I will tell you one of the means by which these frauds are being perpetrated now. The Department advertises for certain specific articles, describing them precisely. Let me suppose for a moment that the article wanted is brick. The advertisement describes the thickness and the length exactly. A man who is not inside the ring, who is not sure that he has got a friend in the Department, is afraid to put in anything but the precise article exactly according to the measure and width specified. Other men who understand that they have friends at court will put in a bid below the real price of the article, and when the bid is put in and accepted they will have instructions sent from some of the bureaus of the Navy Department to the officers of the different yards to accept an inferior article; and it is being done to-day; and that answers a double purpose; for if the contractor turns out to be obnoxious to any one of these men the fact that he has furnished an inferior article will be a matter for which he can be brought before a naval commission or court-martial and sent to the State prison.

Now, Mr. President, I want to call attention to another matter to show how this Department in some of its bureaus is administered, and I will go into this at some length, because it is of consequence. There have been some remarkable facts in the history of the Navy Department in the Bureau of Yards and Docks. I do not speak now of the fact which the report of the committee disclosed, and which is apparent, that the head of the Bureau of Docks and Yards is in the

habit of paying very large prices by contracts ordered by himself to his particular friends. I do not refer to that now; but I refer merely to the enlargement of navy-yards. The Secretary of the Navy in various reports called attention to the fact that the area of our navy-yards was not large enough for the amount of business consequent on the increase caused by the war. Accordingly, as early as July 14, 1862, Congress made an appropriation of \$14,500 for the purchase of twenty-seven and three hundred and fifty-five thousandths acres of land adjacent to the Kittery navy-yard, in plain, unambiguous language, without dispute, without cavil in its terms; and they added a further provision that the head of the bureau should be authorized to buy another piece of land if he saw fit. That law was not executed, and has not been to this day, and I want to show you a little of the history of it. The provision, I have said, was made by a law of the 14th of July, 1862. On the 1st of October, 1862, the head of the Bureau of Yards and Docks wrote a letter to the Secretary of the Navy giving the reasons why the law was not executed; and what do you suppose they were? I will read:

"It has been suggested that the appropriation for the twenty-seven and three hundred and fifty-five thousandths acres adjacent to the navy-yard was intended by Congress to embrace the land of Mrs. Paymaster Bridge, but it is not so expressed. The boundary lines of the land of Mrs. Bridge, as will be seen by reference to the map, form a very irregular plot of ground, running away from, and not adjacent to, the navy-yard."

It so happens that this land lies exactly opposite to the yard. It was as near to the navy-yard as any land on the face of the earth could be, for there was nothing but the river between it and the land. Of course if you began near the river and ran from it, the boundary would go away from the navy-yard; but if you began at the other end and went to the river it would run toward it. That is one of the sage reasons why the chief of the Bureau of Yards and Docks did not execute the law, because the land was running away from the yard instead of being adjacent to it! Finding out, as I thought, that it was the intention of the head of that bureau, who had it under his control, not to execute the law, I introduced a resolution into the Senate at the commencement of the session of December, 1862, which was passed, calling on the Secretary to know if that law had been executed, or if any attempts had been made to negotiate for the purchase, and what obstacles, if any, had prevented the intention of Congress from being carried into effect. That resolution was passed on the 3d of December, 1862, and on the 6th of December of the same year the Secretary of the Navy answered that call of the Senate by telling them that the information called for by the resolution would be found in the report of the chief of the Bureau of Yards and Docks, which was communicated to both Houses of Congress on the 1st instant, with the report of the Secretary of the Navy accompanying the President's message. By looking at that report you will find that the chief of the bureau says this:

"In regard to the purchase of twenty-seven and three hundred and fifty-five thousandths acres of ground on Seavey's island, adjacent to the Portsmouth navy-yard, for which purchase \$14,500 was appropriated by act of July 14, 1862, I have to remark that no great progress has been made. Upon examination of the premises, I found that a public road had been established from the bridge, connecting Seavey's island with the navy-yard, across the whole island."

He found that out "upon examination;" the chief of the Bureau of Yards and Docks then for the first time ascertained that there was a road! He knew it just exactly as well as he knew that there was a yard there.

"It has been suggested that the appropriation was intended to purchase the land and appurtenances owned by certain parties, but the law is not so expressed."

It is true it was not so expressed, but the matter was before a committee of conference, and the chief of the Bureau of Yards and Docks was there, and the area of the land to be purchased was all marked out in red lines, making exactly twenty-seven and three hundred and fifty-five thousandths acres, and it was known just as well as any fact could be known, and yet the chief of the bureau, as an excuse for not executing the law, says he did not know what land was meant.

"The boundary line of the premises suggested as intended to be purchased with the appropriation is very irregular, and does not embrace such a plot of ground as would

afford the best accommodations for naval and hospital purposes.

"The road above referred to runs through these premises, and it would not be wise, in my opinion, to expend the money appropriated for the purchase of twenty-seven and three hundred and fifty-five thousandths acres of ground on this island while this public easement remains and is occupied as such; besides, the title required by law to be obtained cannot be acquired until the assent of the State, by grant of jurisdiction, shall be secured?"

It is sufficient to say in answer to that that there is no such law on the statute-book, and never was. There is a law which required the assent of Maine to the purchase, but a law requiring the assent of Maine to the jurisdiction is not on the statute-book, was not at the time this was assigned as a reason, and never was.

"and the Legislature of the State of Maine does not assemble, I am informed, until next January, so that the money could not be paid in any event till after Congress assembles, and therefore I advise that the subject be submitted to it for further action."

Another session of Congress came round. This law remained on the statute-books a dead letter through the obstinacy of the chief of the Bureau of Yards and Docks. In the meantime the State of Maine, on the 10th of January, 1863, had passed this law:

"An Act ceding Jurisdiction over certain lands on Seavey's island, in the town of Kittery, United States.

"Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows: SEC. 1. Jurisdiction is hereby granted and ceded to the United States of America over such portion of Seavey's island, in the town of Kittery, as may be purchased for the purpose of using the same as a part of the navy-yard located in that town, and consent is hereby given to the purchase of the same by the United States: *Provided always*, That this State shall retain and does retain concurrent jurisdiction with the United States in and over all lands hereby ceded, so far as that all civil and all criminal processes issuing under the authority of this State may be executed on said lands and in any buildings thereon, or to be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid: *And provided*, That the exclusive jurisdiction shall revert to and vest in the State of Maine whenever the said land so ceded shall cease to be used by the United States for the purpose hereinbefore declared.

"SEC. 2. This act shall take effect from and after the purchase of any portion of said Seavey's island by the United States, the evidence of such purchase being duly recorded in the registry of deeds for the county of York."

By this action the jurisdiction of Maine having been ceded over the whole island or any part of it that the United States might need for the purposes of a navy-yard, I supposed that every obstacle was removed to the carrying out of the intention of Congress, and I addressed a letter to the Secretary of the Navy asking him then if he intended to carry out that law. On the 1st of May, 1863, after Maine had ceded her whole jurisdiction to all the island or any part of it, I addressed this letter to the Secretary of the Navy:

WASHINGTON, May 1, 1863.

SIR: I beg leave respectfully to inquire whether the provision of law passed on the 14th of July, A. D., 1862, appropriating \$14,500 for the purchase of twenty-seven and three hundred and fifty-five thousandths acres of land on Seavey's island, adjacent to the Kittery navy-yard, has been executed; and if it has not, whether it is the intention of the Secretary to execute the same prior to the next session of Congress. I will be obliged by as early an answer as convenient, addressed to me at Dover, New Hampshire.

With much respect, yours, JOHN P. HALE.

Hon. GIDEON WELLES, Secretary of the Navy.

On the 19th of May, nearly three weeks afterwards, the Secretary answered as follows:

NAVY DEPARTMENT, May 19, 1863.

SIR: Your communication of the 1st instant was received, inquiring whether that provision of law passed on the 14th of July, 1862, appropriating \$14,500 for the purchase of twenty-seven and three hundred and fifty-five thousandths acres of land on Seavey's island, adjacent to the Kittery navy-yard, has been executed; and if it has not, whether it is the intention of the Secretary to execute the same prior to the next session of Congress. On referring this question to the chief of the Bureau of Yards and Docks, to whom the subject appropriately and immediately pertains, I learn that he deems it inexpedient to move in the matter until there is further and specific legislation. I may say in this connection, that though not personally familiar with the locality, it seems to me, if any thing is done in the premises, it is desirable that the whole island should, if possible, be obtained for the Government.

I am, very respectfully, your obedient servant, GIDEON WELLES, Secretary of the Navy.

Hon. JOHN P. HALE, United States Senator, Dover, New Hampshire.

On the 31st of January, 1863, the chief of the bureau addressed this question to the Secretary of the Navy:

"I beg leave respectfully to suggest that Congress be requested to state what land, and whose, the law of the last

session was intended to purchase on Seavey's island, adjacent to the navy-yard, Kittery, or to repeal that portion of the law appropriating \$14,500 for the purchase of said land."

In a communication which he made on the 5th of January, 1863, in answer to a letter which I had addressed to the Secretary, and which the Secretary referred to him, asking wherein he did not think it expedient to move in the matter, he gives a reason. He says Congress were governed by personal motives in ordering the purchase. "I read from the letter of the chief of the bureau:

"The Senator avers that the Department, committees, and Congress knew precisely what land, and whose it was, that the law appropriated money to purchase; if so, and Congress thought proper to make a purchase, unsolicited by the Department, of property, with personal instead of public consideration, the object could only be obtained by making the phraseology of the law so explicit as to relieve the Department from any responsibility or judgment in the premises."

Is it not well that we have such an old Roman as that at the head of one of our bureaus? He stands between Congress and public plunder, and says that if Congress act from such personal motives as these they must be a little more explicit before they can get him to interfere to carry out any of their plans! And, sir, he was not the only officer in the Navy Department who was guilty of this gross insult to Congress. The chief of the Bureau of Medicine and Surgery found the same fault with Congress in undertaking to make a purchase which he had not asked for. I read from his communication of January 9, 1863:

"It will be observed, too, the law locates the hospital on Seavey's island; so that if there had been any causes for postponing the purchase of the land, in the way of securing title or concurrent jurisdiction, they were also calculated to retard the work upon the hospital. Though the hospital and purchase of land are forced into connection, they are not necessarily involved; as it has always been thought the site of the present decayed and antiquated house would prove a good location for the new building. As no evil consequences have resulted from the hospital for perhaps half a century no danger could possibly be apprehended from a new and better building. It was not necessary, therefore, to purchase any additional land for the hospital, nor was the purchase recommended by the Navy Department."

"It will be noticed the bill locates the hospital legislatively, without reference to the question whether the island be the most or least judicious situation for it, and postpones all work upon the needed improvement until the irrelevant subject of purchase of the island be adjusted. It will thus be seen that all the delay in regard to the erection of a hospital has arisen from the unfortunate commingling of public with private interests, and it will doubtless continue till these interests are separated."

That is signed, "W. Whelan, chief of Bureau of Medicine and Surgery." The chief of the Bureau of Yards and Docks wrote another letter to the Department on the 27th of April, 1864, assigning another reason why he had not executed this law, and I think that if there is any pettifogger in this land who wants to raise a sharp point he may take a lesson here:

"The objections stated heretofore by the bureau to the purchase of Mr. Bridge's land, if that, as is supposed, is the ground intended, still exists, namely: its very irregular shape; the county road passing through it, and the want of jurisdiction from the State over that road. The act of jurisdiction specified cedes 'such portion of Seavey's island, in the town of Kittery, as may be purchased for the purpose of using the same as a part of the navy-yard located in that town.' It does not embrace the road, inasmuch as the land offered to Congress as the twenty-seven and five hundred and fifty-five thousandths acres lie on either side of the said road, and does not include it."

The State of Maine did not know how to give away jurisdiction over that road. She had ceded the whole island, every inch of it, or if you would not take the whole, over all that the Government might want; and yet the chief of the Bureau of Yards and Docks, to carry out his obstinate determination not to execute this law, says Maine did not cede the road. He might as well have said that Maine did not cede the grass growing on it, or the stones which might be found there, and out of which a stone wall might have been made.

In that way the will of Congress in regard to the enlargement of the navy-yard at Portsmouth has been defeated, set at naught, denied willfully and perseveringly. But how is it at Charlestown? At Charlestown they want to buy all the land they can get at any price that anybody will ask for it. While they refused to buy this land at Portsmouth so absolutely necessary, a purchase recommended by the commandant of the yard, and by a board sent there for the purpose of making examinations, and they could get it at \$500



an acre, they must buy land adjoining the Charlestown navy-yard at something like fifty thousand dollars an acre, and after they had got that and still refused to carry out the law for the enlargement of the Portsmouth navy-yard they came next year to Congress and asked permission to purchase another piece of land at Charlestown which a couple of speculators had bought for the express purpose of selling to the Government. By some means, I do not know what—they were undoubtedly honest means—they induced the House of Representatives to insert authority for that in the naval appropriation bill. It came to the Senate, and was so fully exposed here that the Senate by a very decided vote refused to give their sanction to it, and this year we have not been troubled with any more speculations about land adjoining the Charlestown navy-yard; but still this law in regard to the enlargement of the Portsmouth navy-yard remains unexecuted, and the want of a hospital which was to be built there still remains.

This matter was brought up at the last session of Congress, and a law was then passed appropriating \$25,000 for building a hospital, leaving the Department to settle its location. On the 18th of March, 1864, Mr. Whelan, who had decided that the old yard was a good enough place for the hospital, and suggested that Congress were corrupt in trying to get it located anywhere else, addressed this letter to the Secretary of the Navy:

"Sir: An act of Congress (No. 24) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1864, appropriates \$25,000 for erecting a naval hospital at Kittery, Maine, and according to the debate in the Senate, as reported in the Daily Globe of the 13th ultimo, it was the understanding that the site was to be selected within or without the limits of the navy-yard, as might be found most judicious and expedient.

"As considerable feeling has been manifested on the subject, as the selection of a site may or may not involve additional outlays of money, I have the honor to suggest that this subject may be confided to—"

Whom? To himself, who had already decided, and said Congress were corrupt in doing anything else than what he thought proper—

"to a board, consisting of Commodore John Pope, United States Navy, Surgeon Charles Chase, United States Navy, the surgeon of the navy-yard, Portsmouth, the chief of the Bureau of Medicine and Surgery, subject, of course, to the final approval of the honorable Secretary of the Navy; the board to meet at the navy-yard, Portsmouth, on Friday, the 25th instant."

There was W. Whelan, who had already decided that the old site was the best one for it, selecting himself and three of his subordinates, together with Captain Pope, to settle the question which he had already decided; and what did the Secretary do? The Secretary simply indorsed, "Recommendation approved." Mr. Whelan says, "I appoint myself to adjudicate a question upon which there has been great interest, a question that I have already decided, and I associate with me three subordinates under me, together with Captain Pope, to go down and settle this question." They went down and reported just exactly what you might have supposed they would report; just exactly what Whelan had decided before. This was such an outrage and was so felt by everybody who knew anything about it, that the Senators from New Hampshire and Maine, and the Representatives from those States, united in a representation to the Secretary of the Navy about the last of March, showing the reasons why the hospital should not be built where Mr. Whelan wanted to put it, and concluded with this remark:

"We should much prefer seeing the law making the appropriation for the hospital repealed to having it thus expended. Besides, we cannot conceive what can induce the Government to place this hospital on this particular yard, when it has not been done in any other navy-yard, so far as we are advised, in the United States."

This was signed by all the Senators and Representatives from Maine and New Hampshire except Mr. SWEAT, who was not then here. To that long argument which we presented expressing the wish that the appropriation should be repealed rather than that the hospital should be built there, what answer did we get. I will tell you. This is from the chief of the Bureau of Medicine and Surgery:

"As the site for a hospital at the navy-yard, Portsmouth, New Hampshire, as it is usually called, had been made the subject of protracted discussion, owing to considerations not entirely pertinent to the real issue, the Department confided the duty of selection to a board of four officers,

three of whom enjoyed the great advantage by long service on the station, of entire familiarity with the topography, or any natural or artificial features of the ground."

He goes on and states what they did, and says:

"But curious to remark, the objections did not emanate from any one of the many medical officers or commanders who have served on the station, or whose particular experience was so valuable, but from gentlemen of other pursuits, or of civil life; and among them those whose judgment was not wholly devoid of that bias which private interests are apt, even unconsciously, to create."

Here, then, the delegations of Maine and New Hampshire in the House of Representatives and in the Senate are again insulted by the head of the Bureau of Medicine and Surgery, by being told that they are not devoid of the bias which private interest creates. This is three times that this insinuation is thus broadly cast in the face of Congress for the honest exercise of their duty. He says that the proposition to buy this piece of land was not recommended by the commandant of the yard. The fact is that it was recommended by Captain Pearson who had been for a long time at the yard, and it was recommended by a board of officers that were sent there to examine it, and who gave especial reasons why it was the best place, and presented an array of facts why the hospital should not be put in the midst of the navy-yard containing altogether only about sixty acres. This was presented so forcibly that even the chief of the Bureau of Yards and Docks, who had determined from the outset not to execute the law, was compelled to say, "the objections raised to the construction of a hospital in the navy-yard are in some respects well taken;" and then he wound up with this very satisfactory remark:

"In this matter I have been guided by what I have considered a conscientious sense of duty, and shall be happy to receive such instructions as will enable me to further the public interests, and conform to the law in letter and spirit."

It happened, fortunately for the argument of those who were opposed to locating the hospital on Seavey's island, but unfortunately for those who contended for its being placed in the navy-yard, that the very evil which the Senators and Representatives from Maine and New Hampshire suggested actually happened. A vessel came in there during the next summer with a contagious disease on board; the master mechanic of the department of lumber, I believe, died of the disease, and such consternation was produced there in the yard that work was nearly or almost entirely suspended for a long time, simply because, owing to the perversity and obstinacy of the chief of the Bureau of Yards and Docks, to whom the Secretary had committed this matter, he would not execute this plain law.

Mr. President, we yesterday agreed to an appropriation of I do not know how much money for enlarging a lot near the Washington navy-yard, and for various other purposes in connection with other navy-yards. I suppose that when Congress pass such appropriations it is supposed they will be carried into execution; but if the chief of some bureau thinks it unwise, or takes it into his head that Congress have been governed by private and personal motives in making the appropriations, here you have an example before you in which the authority of law and the authority of Congress has been denied and defied. Whenever I have undertaken, in the discharge of the duties which devolve upon me, to have this law carried out—a law not originating with me, with the origin of which I had nothing to do, and about which I knew nothing until it came to us from the House of Representatives, where the provision was inserted on the motion of the distinguished gentleman who then represented that district—whenever I have undertaken in any way to have the law carried out, the outcry has been at once, "You have a quarrel about that." What quarrel? I have no quarrel with anybody on earth except those who set the law at defiance. All I ask is that the law may be executed and observed. When the appropriation bill came here last year, making an appropriation of \$25,000 for building a hospital at Kittery, it was said to me, "You have got a quarrel down there;" and I think the gentleman who was then at the head of the Committee on Finance reported from that committee that the appropriation should be stricken out on the ground that we had a quarrel. I do not know what they mean by a quarrel. I have no quarrel with them. All on earth I ask or ever

have asked is that the plain, explicit, undeniable provisions of law should be carried out and executed; that the Portsmouth navy-yard, which is the best and deepest harbor on this continent—a yard where ships can float in tide-water of thirty-five feet at low tide, and the water along the land immediately adjacent has the same depth; I have only asked that an appropriation for the accommodation of that yard shall be carried out. There the land necessary can be purchased at \$500 an acre, and the appropriation was made on that basis; but that law has not been carried out, and the Department have gone to Charlestown, that has not half so good a harbor, and bought land at \$50,000 an acre, and not content with that, have offered to buy more which speculators had got hold of for the purpose of selling to the Government. I simply say that it seems to me there ought to be some power somewhere to see that injustice is not done, and that the laws of Congress are carried out.

This is all I am going to say about that subject, and I have now a few words to say in regard to the matter immediately pending before the Senate, which is the amendment submitted by the honorable Senator from Ohio, [Mr. WADE,] for the establishment of a naval board. I do not know much about naval boards; I have no great confidence that any great good will come out of this proposition if it be adopted; but of one thing I am absolutely certain, that it cannot be any worse than what we have now. The fact which was disclosed by the Senator from Ohio upon the floor of the Senate yesterday is one of the most disgraceful facts to be found in the history of any civilized nation on God's earth. What is it? We have, being in a war with the rebels, made an appropriation to build twenty ships-of-war. The nation is waiting for them; impatient for them. What has been done? The Department goes on and builds those twenty ships-of-war, and when they are done, twenty of the blocks of marble that are now being used in the construction of your Capitol would be just as good for the purpose for which the ships were intended, that is, for floating. Twenty ships were built that would not float.

The honorable Senator from Indiana [Mr. HENDRICKS] yesterday deprecated the idea of any action being taken here on testimony that the honorable Senator from Ohio said was yet in cipher, in stenography, and still he said that there had been some evidence submitted to the Committee on Naval Affairs that these vessels were very excellent for something, he did not say what. I am glad of it. I shall be pleased, when that evidence comes out, to know what it is they are good for.

That they can be made to float I have no doubt. So can a grindstone be made to float if you will frame buoyant stuff enough around it to make it float; and I suppose these vessels will float in the same way. But for the purpose for which they were intended, light-draught monitors with turrets carrying guns, if the testimony referred to by the honorable Senator from Ohio is to be credited, they are utterly worthless, and are an entire failure. The committee of which he is chairman were instructed to inquire who were responsible for the plans of these vessels, and I am sorry that we have not got their report.

When we are in the midst of this struggle for the national life, and when the Navy is the right arm with which the national life is to be sustained; when, as I showed you last year, we are making appropriations for our naval armament equal to those of the whole civilized world, how is it that we have in the Navy Department no power, no skill, no talent to tell whether when a vessel is built it will swim or sink? Is it not a humiliating fact for this nation to be pouring out its treasure as it has poured it out for the building of vessels that, for all practical purposes for which they were wanted, are, to say the least, a total and entire failure? Mr. President, it is one of the most humiliating facts that the history of this war or the history of this world presents, that in this day of light, this age of science, when so much has been done for naval architecture and naval armament, such a fleet as this should be built at such expense, and the only voyage it can possibly take is from the surface to the bottom of the sea.

I do not know, Mr. President, that I can remedy these things; I do not know that there is any

remedy. Perhaps I may be accused of hostility to the Administration because I point out with the faithfulness of a friend these gross, enormous, outrageous errors. Mr. President, shall we shut our eyes, shall we be blind, to any failure? I should not be astonished if, in the course of a short time, we should have a resolution introduced thanking the Assistant Secretary of the Navy for the consummate skill, profound science, and great foresight with which he planned these twenty light-draught iron-clad monitors!

Mr. President, I believe that we have a country to serve as well as a party, and I believe that it is the duty of a man who recognizes the claims of country above party, with the voice of truth and fidelity to stand up and point out these things. It is a thankless job. No man gets any thanks for it. It is an unpleasant job; but it is like that which is required of the faithful physician who, when the patient is wounded, seeks with the fidelity of a friend to probe the wound that its rottenness may be exposed and healing commence. That is what I have endeavored to do. I believe that we want reformation. I do not know that it will come. I do not know but that the purpose of God in reference to this nation is something like that which it is said He entertained toward His chosen people of old when He thinned out the army of Gideon and reduced it to a handful, so that when salvation came it might not be said that it came by man's strength or man's wisdom, but it came from the good hand of God. Well, sir, if we succeed, as I have no doubt we shall, for I have no doubt, notwithstanding we built iron-clad monitors to go to the bottom of the sea, that there is enough of energy left, despite such blundering, there is enough of skill despite such ignorance, there is enough left in the country and in the Navy to do what the country expects of it.

Mr. President, one of the emperors of Rome was elevated to the purple from having been a Thracian peasant; and Gibbon remarks of him that the emperor never forgave those who, under the humble garb of a Thracian peasant, did not recognize the latent dignity of an emperor. Sir, there are some of the bravest, and the truest, and the most patriotic men of our Navy who are suffering the cruelest injustice to-day because they did not have the like sagacity when the present Assistant Secretary of the Navy was a midshipman. That I know. I do not know that I can induce any reform; but, sir, the world was not made in a day, and I do not think it will go out in a day. If I cannot reform these things, if I cannot induce the Government to apply a corrective, I want to hold them up in a moral pillory, where the indignation of coming ages shall blast them, and blast them forever. That is my purpose, Mr. President. I want to be just; and I tell you that in the struggle which you are carrying on you want not only all the bravery, and all the patriotism, and all the courage of your sons on land and sea, but you want all the skill, all the science, that you can possibly command, to meet the tremendous emergencies of this day and this hour.

Mr. President, the day for quackery and imposture and pretension and ignorance ought to have passed, and passed long ago. I do not think it is too much to say that if in the place of the qualities I have just named we had had that science which we might have commanded, if we had had the science and the skill and the ability which are abundant in this country, and we had used it, the pecuniary saving would have been astounding; \$500,000,000 would not pay what the country has sacrificed in employing quackery instead of science.

Mr. President, as I said before, I take no pleasure in these things, other than the pleasure of performing my duty, a painful duty, not a pleasant one. I am about to leave the Senate. I came into the Senate alone; nobody sympathized with the peculiar views that I entertained; and, God helping me, I believe I shall have to go out of it alone. In regard to these views which I entertain, and which I think ought to be applied to the administration of this Government, I have—I do not like to say it, but I cannot help it—an uncomfortable way of telling the truth. I am like the old fellow who once said, when called upon to make an apology before his daughters, "You must not mind what I say; because I am one of

those plain old fellows who always say what they think." It is so with me. I came here alone, and, as I said, I am about to go out alone.

Let me say a word now about our Republican party or our Union party. I know that the chairman of the Committee on Finance is growing a little impatient, but I beg his pardon while I continue a little longer. Mr. President, the history of that party which has controlled this country recently, I do not say it controls it now, but the history of that party which made the great revolution in politics is a very curious and a very instructive one. We began when we were but a handful. I recognize around me now but very few faces that were familiar in those early conflicts and struggles; but we went on. We were defeated; we expected to be, and we went to work and prepared to be defeated again the next year. We expected it and we got it; we were not disappointed. We were not a "healthy political organization," as was said on this floor. By and by, however, we began to increase little by little, but still we only increased to be defeated. The party with which I acted at that time wanted a candidate for the Presidency. They wanted a man who was ready to be abused, vilified, denounced, sneered at. They wanted a man who should be a mark, a butt for the ridicule of Whigs and Democrats. I thank my friends that they did me the honor to select me for that place. I stood up at a time when ignominy and reproach was all that was within my possible reach. Still we increased. In the first place we beat the Whig party in 1852, or we did a very considerable part toward it. Do you remember, sir, a remark that Mr. Hunter, of Virginia, made on this floor? There was no Whig in the United States who deplored the destruction of the Whig party more than Mr. R. M. T. Hunter, of Virginia, for, said he, and it did great credit to his sagacity, "if you put down the Whig party, the probability is that you will get another party in its place that it will not be so easy to beat."

Mr. DAVIS. I will ask the honorable Senator if Mr. Hunter's expression was not in this form, that if they put down the Whig party they would get another party in its place that would have no such honest principles and purposes as the Whig party.

Mr. HALE. I have no doubt that is the way the Senator from Kentucky would have expressed it if he had been talking about it at that time, [laughter,] but that is not the way I understand it; that is not according to my recollection. However, sir, we continued to increase, and by and by it began to look as if this new party would at length, at some time, have the loaves and fishes of office to dispense. Then it seemed as if a new political Pentecost came on the land. Converts came faster than we could discipline them. The doors of the party were wide open like the sanctuary of God to all offenders, and the thief and the hypocrite did not stumble on its threshold, but in they came; and the profligate in life, the venal in politics, the malignant at heart, and the brutal in manner, all came in with the great multitude of the poor and the honest and the disinterested and the patriotic. But, sir, when the apostles went fishing and threw out their nets and made a great haul, they caught fish of every kind. So all these people came in and we were a great party. It happened to us just as it has happened to a great many before, and will happen a great many times again: the converts that were the most recent and from the most bitter of our opponents were the most noisy in professions of zeal for their new-found faith. I confess, Mr. President, that I was astonished beyond measure when I found out after we actually came into power that all the officers at the other end of the avenue, in the Treasury, the Post Office, the War, and all the other Departments, had always been Republicans, and the great trial of their life had been to smother their deep convictions upon the subject of anti-slavery, and their great joy was that in the providence of God a time had come when there was no obligation on them to be hypocrites any longer, but when they could act with the party with which they had always sympathized. [Laughter.]

That has been our experience. Well, sir, these new men got in, and they began to say to the older, though certainly not the better soldiers: "You have performed your mission; the Opposi-

tion was a good place for you; you were capital for denouncing the Democrats, and you put them down; but we do not think upon the whole that you are quite so good to run this machine as we." Very good, sir, we acceded to the propriety of the proposition, and the history of the country is demonstrating the truth that history has demonstrated a thousand times before—it is the history of politics, it is the history of humanity, it is the history of the world.

Mr. CONNESS. A law of nature.

Mr. HALE. Yes, it is with some natures. That is a fact, it is a law of nature. I do not mention these things to find fault with them. I am perfectly content that things shall be as they are. I believe that we are not governed entirely by accident, but that there is a Providence in these matters, that Providence shapes our ends and guides the means by which they are to be brought about.

But, Mr. President, in conclusion let me say that I invite the Assistant Secretary of the Navy to send another commission to Portsmouth; and if he would like them to go to Dover I will treat them as handsomely as I once promised a Senator from Mississippi I would treat him if he would come to New Hampshire, and he may "camp" on my "track," and when he finds anything that will impeach my integrity, or throw a shadow of doubt on my perfect purity in anything that relates to this Government I will consent that this committee shall be entertained as they are now entertained in a style of princely and costly extravagance at the Continental Hotel, in Philadelphia, in a manner of which, I am informed, the present Secretary of the Navy has said that if the bills were published they would disgrace the Department. I do not know that that is so; I have no evidence of it; that is to say, I have no evidence that I should be willing to bring forward; I believe it, though.

Now, sir, in regard to this bill, I do not know that I shall vote against it. I did ask the honorable chairman of the Committee on Finance for what \$250,000 was wanted for the contingent expenses of the Department; and his answer—it was a sufficient one, and fully satisfied him and satisfied me—that it was the same sum that had always been appropriated. I am willing that it shall be expended under the judicious or injudicious arrangement of the Department, as the emergencies of the country may require. But, sir, there are some other things about the Navy Department with which I am not entirely in accord. You have a law on your statute-books authorizing certain individuals, I think, who have received the thanks of Congress by name, to be appointed rear admirals in the Navy, and providing some other qualifications for these appointments, which I do not now remember, and I have not the law before me. How has it been executed? The Secretary of the Navy has created a new office, which is exactly equal to it. By simply prefixing the word "acting," it does not require anything else, he may take out of the line of promotion, as he does, any individual that his caprice, his partiality, his whim, may suggest, and call him an "acting rear admiral," an office not known to the law, and by virtue of which he may put money in his pocket beyond the hopes of the most ambitious; and it has been done.

Mr. GRIMES. Will the Senator be kind enough to inform the Senate in what cases that has occurred?

Mr. HALE. Where the Secretary has appointed acting rear admirals?

Mr. GRIMES. Yes.

Mr. HALE. I suppose the Senator does not ask that question for his own information.

Mr. GRIMES. I do. I am not conscious of its having been done. During this session—it is a matter that has passed now out of executive session, and I suppose it is not improper for me to speak of it here—we have confirmed two men that were sent to us as flag-officers, Commodore Stribling and Commodore Pearson; under the authority vested in the Secretary of the Navy by the law of Congress. He has the express authority to select any officer from any grade and put him in command of a fleet or squadron wherever he pleases. Such officers have chosen to assume the title of "acting rear admiral," as the post captains were in the habit before the law of 1863 was

passed of calling themselves "commodores," and yet a commodore was then a mere title of courtesy. So "acting rear admiral" is a mere title of courtesy; but those officers are called in the law "flag officers."

Mr. HALE. They have called themselves "acting rear admirals," and they are so called by the Secretary of the Navy, in his communications, again and again.

Mr. GRIMES. It is a mere title of courtesy that is conferred by giving them command, exactly as the title of "commodore" was conferred before the grade of rear admiral was created by giving a post captain the command of a squadron. That is all there is of it.

Mr. HALE. Perhaps it may be, but I do not think it is all there is of it. By virtue of his own authority, and without any law, he has created the office of acting rear admiral, and the Senate and the country and the world will so see it and so read it; and he has done it more than once.

But, sir, I am not going to arraign the administration of the Navy Department generally; there is enough of it to attack, God knows. Now that I am up I will say (as a great many people have endeavored to make this a personal matter with me) that I have no personal feeling about it, and I will say a word in regard to the Secretary. I believe Secretary Welles to be a pure and honest man. I have lately seen a picture that purported to be a cartoon of a great naval picture that is to be put up somewhere in the Capitol, and I called on the chairman of the Committee on the Library and he assured me upon honor—no he did not add those words, but he said it with all the seriousness with which he could say it—that the Committee on the Library knew nothing about it; they had approved no such plan for any picture to be put up in any part of the Capitol, and I believed him; I had not the slightest doubt about it. If I had been going to draw a plan that should represent the true state of things, I would not have had a fox with his paws over the eyes of the Secretary—I think it is libelous; it is unjust—I would have had the Assistant Secretary of the Navy elevated somewhat above the level of the Senate with a whip in his hand, and whenever a witness was summoned before any committee of investigation of the Senate, I would have had the Assistant Secretary crack him with his whip, and if any Senator moved in his place any investigation into anything which he might have been pleased to do, I would have had the Assistant Secretary at once "camp on his track" and send a committee to hunt him up. That would have been the picture that would have represented to my mind more nearly, more vividly, and more actively, the truth than the one which has been suggested but which I am happy to hear is a libel.

Mr. President I have almost done. I do not expect that I shall convince or convert anybody, but I have done one thing if nothing else; I have, as our Methodist brethren say, "freed my mind" on this subject. [Laughter.] I have said what was in my heart and what I am sorry was compelled to be there. I have endeavored to perform the duty which has devolved upon me, and to do it without fear, favor, affection, or the hope of reward.

Mr. President, if there was a man in the United States who felt inclined by all the impulses of his heart, by all the instincts of his life, by all the promptings of his education, to sympathize heart and soul, earnestly and zealously, with this Administration in its great work of putting down the rebellion and sustaining the cause of the Union, it was my humble self. I had given a score of the best years of my life in the humble sphere in which God placed me to the advocacy of the sentiments which received the commendation of a majority of the American people in the election of Mr. Lincoln. If there was a man in the world—I say it humbly but confidently—who had a right from the position in which Providence had placed him, to rejoice with joy unfeigned at the result of Mr. Lincoln's election, it was myself; and I confess that when he came in I wanted no office and asked none for myself or for my friends, but I felt that the greatest boon which God could bestow upon a political man had been given to me, and the friends that with me had labored early, in season and out of season, day and night. I felt that the principles that were dear to our hearts, and for which we had struggled so long,

had at length succeeded, and I do not believe that within the whole United States—and I say it though perhaps I should not—there was a single man ready to sustain with a more unshrinking and unselfish devotion the Administration that then came into power than I was; and I was not driven into any position of equivocation from that position in regard to any single Department of the Government until I saw that the frauds which I had condemned early and late, loud and long, everywhere under the Democratic Administration were not entirely purged out in the new order of things. I felt hurt, I felt hurt as I believe few men could be, when I saw the Secretary of the Navy retaining the same corrupt tools who had received the censure of the House of Representatives upon the report of my friend from Ohio [Mr. SHERMAN]—a report not aimed directly at the then Secretary of the Navy verbally, but at the agents who were guilty of the atrocities which he condemned, and which the House, by a two-thirds vote, censured; and yet those agents were retained in the same places to do the same work over again.

Mr. President, the Navy Department has had a curious history. All Senators, of course, are familiar with the description of the Vicar of Bray. His peculiarity was that, let who would be king he would be Vicar of Bray. That has been so with the Navy Department. Let who would be in, Polk, Taylor, Fillmore, Pierce, Buchanan, Lincoln, the Navy Department has been just the same under them all, with the exception that Lenthall, upon whom the censure of the Senator from Ohio, when he was a member of the other House, fell most directly, instead of having been simply let alone, has been promoted, a new bureau has been created for him, and he has illustrated the propriety and the wisdom of that selection by having constructed a whole fleet of iron-clad vessels that can make their way to no port under heaven this side the bottom of the ocean. I say the Navy Department has remained unmoved; there is the Vicar of Bray; there it stands; there it has been in the past and there it is to-day.

Now, Mr. President, I may be asked what is the use, what the benefit of all this talk. Let me tell you an anecdote. On one occasion the Senate of the United States deemed it its duty to pay peculiar honor to some Irishman—I have forgotten his name—one of the Irish refugees who came over here. I believe it was not John Mitchell, but I do not know but that it was. [Laughter.] Well, sir, on that occasion I felt a little patriotic Irish blood in me, and I took the opportunity to say that I was of Irish origin. I did not demonstrate it by saying that my mother was an Irishman, [laughter,] but I said that she was an Irishwoman. That was published in the papers and went home, and a particular friend of mine read it, and said she, "Suppose it was so, what need was there of your telling it." [Laughter.]

You may ask me, if these things are so in the Navy Department, what necessity is there for telling them. I do not know; it may possibly benefit some of these gentlemen; they may get promoted; there may be some new bureau created for some of them that have been expert in arranging these prices so as to accommodate their friends to any measure their rapacity might induce them to go. There may be some new office created for them, and it may be a benefit to them. Mr. President, whatever may be the consequence of it for weal or for woe, I declare that I am not and never will be a friend to that policy which hides and covers up persistent errors of friend or foe.

Mr. SAULSBURY. Mr. President, I do not know how the speech of the honorable Senator from New Hampshire [Mr. HALE] has impressed others, but one thing I know, that I have been very much delighted at it. Sir, I recollect that when this party came into power, and when it was struggling for power, the good old glorious Democratic party and its representatives told the people of the country not to listen to its siren song. We told the people then that the Republican party was trying to get possession of the Government of this country by false pretenses. The Republican politicians were telling the people that the Administration of Mr. Buchanan had cost \$90,000,000 in a single year; that there were great corruptions in the Democratic party; and they therefore appealed to the people in their in-

dignation to rise up and turn the corrupt Democratic party out of power. We told them that if they listened to these political adventurers, and they got control of the Government of this country, fraud and corruption would be their stock in trade. And now, sir, we have been delighted to-day in hearing one of the earliest champions of that party arise on the floor of the Senate of the United States, and in Methodist love-feast style make confession of the sins of himself and his whole party.

Mr. President, the honorable Senator from New Hampshire said that he was in the position of the Methodist who had relieved his mind. Let me tell him that his speech reminds me of a scene that I have been informed once occurred in a Methodist love-feast; and we all know who the Methodists are; I think they are among the best people in the world. We know that they have a habit of having class-meetings and love-feasts, and in my State on one occasion they met in a little school-house and held their class. The leader came along and asked brother A how he was progressing in spiritual life. Brother A rose and said that he must confess that he was a poor, insignificant creature; that from the crown of his head to the soles of his feet he was naught but wounds, and bruises, and putrefying sores; and down he sat. A cruel picture he had given of himself. There was no song sung, but the leader passed on in mournful mood to the next brother and asked him to give an account of his spiritual life, and he rose and said, "As to myself, brother Leader, I have nothing to say, but I can bear most willing testimony that everything that brother A has said in reference to himself is literally and strictly true." [Laughter.] So, sir, on this occasion I have nothing to say myself further than that every word that brother HALE has said in regard to his party in my judgment is literally and strictly true. [Laughter.]

Now, sir, I wish the country to take note of this. We gave them full warning four years ago that if the now dominant party—dominant in power, but not more numerous in numbers, as would have been shown if there had been a fair expression of the popular will at the last election—obtained the reins of power, instead of some sixty, or seventy, or ninety millions of dollars being spent in a year, the amount would reach hundreds of millions. And we said more—I mean no personal offense; but the honorable Senator said that however unpopular it was he must speak the truth, and I am now simply speaking the truth—we told the people then that if this party ever got into power they would steal more in one year from the public Treasury than any Democratic Administration had expended during its continuance. And let me say here that the thanks of the country are due to a distinguished member of the other House from Massachusetts who admitted the fact that in the first year of this Republican Administration more had been stolen from the public Treasury than had been expended during the whole of Mr. Buchanan's Administration.

Mr. President, let me say to-day, in my place in the Senate of the United States, in the presence of the country, that such expositions as the honorable Senator from New Hampshire has made of his party this day caused me to be glad and to rejoice that I was born in the good old Democratic party, that pure and glorious party that commenced almost with the birth of the country and never ceased to exist until its country died. I have sat here day after day and from year to year, and heard the party whose portrait the honorable Senator from New Hampshire has so justly drawn represented as the great Union party of the country, and I have heard the party to which every ancestor I ever had since the birth of parties in this country belonged; the good old Democratic party, into which I was born and in connection with which I mean to die, denounced as a disloyal and a disunion party. Sir, I say again, looking at the photograph presented to the Senate by the great artist from New Hampshire, that I and every other Democrat have cause this day to rejoice that we belong to that good, noble party, for, thank God! though its counsels cannot now be heeded, the history of the country having shown that it and it alone is able to guide the ship of State through the tempestuous billows into havens of safety, it shall yet rise, and rejoicing



thousands shall say to it when again it shall launch forth on the broad ocean:

"Sail on, sail on, O ship of State,  
Sail on, O party strong and great;  
Humanity with all its fears,  
With all its hopes of future years;  
Is hanging breathless on thy fate.  
We know what masters laid thy keel,  
What workmen wrought thy ribs of steel,  
Who made each mast, and sail, and rope,  
What anvils rung, what hammers beat,  
In what a forge and what a heat  
Were shaped the anchors of thy hope.  
Fear not each sudden sound and shock,  
'Tis of the wave and not the rock,  
'Tis but the flapping of the sail,  
And not a rent made by the gale.  
In spite of rock and tempest's roar,  
In spite of false lights on the shore,  
Sail on, nor fear to breast the sea,  
Our hearts, our hopes are all with thee;  
Our hearts, our hopes, our prayers, our tears,  
Our hopes triumphant o'er our fears,  
Are all with thee, are all with thee."

That same party shall again, sir, in the providence of God, if He has not entirely forsaken this people, be restored to power, and its counsels yet shall be the counsels of the nation; for a grateful people, after being instructed by afflictions and humiliated by sufferings, will recollect that when that party assumed the helm of power we numbered not five million people and we numbered only about fifteen States, but in the brief period of sixty years we increased to thirty million people and to thirty-four States. And, sir, let me tell you that the history of the Republican party is written in the words dismemberment and destruction, and that of the Democratic party was written in union, in strength, in the addition of star to star to our national galaxy.

Am I wrong, sir? That same old Democratic party took the banner of your Union and planted it upon the territory of Florida, and it was annexed to the Federal Union. That same Democratic party took the same good old banner of Union and planted it on the virgin soil of Louisiana, an empire in itself, and that was annexed to the national domain. Texas, a vast empire, was added. Westward still the star of empire took its way, and, true to its great mission of national development and national glory, it took that same noble flag of the Union and planted it upon the Pacific shore, and California, Utah, and New Mexico are yours forever, unless by your own unwise counsels you deprive yourselves of them. Every foot of national territory that has ever been added to the American domain has been under the counsels and the guidance of the same good old Democratic party; and now that you have succeeded in displacing it and you have inaugurated a new party, boisterous and loud in its professions of retrenchment and reform, we have the spectacle of one of its earliest champions rising upon the floor of the Senate and confessing for it that it is naught, from the crown of its head to the sole of its foot, but wounds, and bruises, and putrefying sores. It is just what we said of your party before it came into power; it is just what the judgment of future ages will say.

Mr. DOOLITTLE. Mr. President, I had intended to make some remarks in reply to the honorable Senator from New Hampshire, confining myself entirely to those matters of investigation which were entered upon by the committee of the Senate of which he was chairman and I was a member; but the speech of the Senator from Delaware for a moment challenges my attention, and a few facts briefly and very concisely stated will show that the whole speech of that gentleman is founded upon nothing; it is mere declamation, sound, without any foundation in truth.

Now, I say to my honorable friend from Delaware, for personally these are our relations, that the Democratic party by name is a party of very modern origin. I remember long before it was born; I was present at its christening. I propose in a moment to strip off this vail which covers what are claimed sometimes to be the glorious antecedents of the great Democratic party. What is the fact, Mr. President? In 1798 the Republican party was originated, and Jefferson and Madison and Monroe and the great statesmen of that period were its founders. In 1800 the Republican party elected Jefferson President for four years. In 1804 the Republican party elected Jefferson again for four years more. In 1808 it was the Republican party which elected Mr. Madison as President of

the United States. In 1812 the Republican party elected Madison a second time President of the United States. In 1816 the Republican party elected Monroe as President, and again in 1820 elected him without any opposition whatever. The party opposed to the Republican party during all that period from 1800 to 1820 was the Federal party, and in 1820 the Federal party as such yielded up its existence, and in 1824 there were four candidates for the Presidency, every one of them running as Republicans, not as Democrats. Mr. Crawford was the nominee of the regular caucus in 1824; General Jackson ran as an independent Republican candidate from Tennessee; Mr. Clay as an independent Republican candidate from Kentucky; and Mr. Adams as an independent Republican candidate from New England, for he at that time had given in his adhesion to the Republican party. In 1824 there was no choice for President by the people; it went to the House of Representatives, and Mr. Adams was chosen as President. In 1828, General Jackson, nominated by the people, not as a Democratic candidate but as the people's candidate and as a Republican, was elected President of the United States; and in 1832, for the first time in the history of the country, was the assumption given to the Republican party, or that branch of it which supported General Jackson, of the Democratic Republican party. It was a contrivance of Mr. Van Buren to secure, not the nomination of General Jackson, but his own nomination as Vice President under him. It was when the first national convention that was ever held in the United States, called also at the instigation of Mr. Van Buren and his friends, and then for the first time that branch of the Republican party which supported General Jackson assumed the name of Democratic Republicans. It 1836 it assumed the same; in 1840 the same; and from that period gradually it began to drop the name of "Republican" and it was called the Democratic party. But, sir, as the Whig party in 1850, by the issues of that day, was dissolved and buried in the tomb of Webster and Clay, its great champions and representatives, so the Democratic party, when it drew that fatal knife which severed the silver cord and broke the golden bowl of peace, when it drew that fatal knife which destroyed the Missouri compromise, dissolved also and went into fragments, and upon the ruins of all those parties sprang into existence with the newness of life the Republican party based upon the ideas of the old Republican party of Jefferson and Madison, and to those ideas it stands pledged and has from the beginning; and I tell my friend from Delaware that the true, real Republican party, based upon truth as its foundation, in the nature of things never dies, and it never will. And, sir, if we who represent that party this day in the administration of affairs are but true to the principles upon which it reorganized itself in 1854, and again in 1856, and triumphed in 1860, it is to hold the control of the destinies of this country for a generation to come; but if it is false to those principles we shall pass away the false representatives of the true, genuine Republican party, ay, sir, the real Democratic party of this country, as it is this day its true representative and champion.

But, Mr. President, I have been drawn too far in what I have now said by the remarks of the Senator from Delaware. I proposed to say a few words, and but a few, by way of reply to some portion of the remarks of the honorable Senator from New Hampshire, and I shall confine myself in these remarks to the investigation which was ordered by the Senate by a committee, and upon which I was placed as a member, and of which he was chairman. In the first place, let me say, that committee agreed in a report in this: they recommended to Congress the passage of a law which would authorize the Department, whenever bids were put in for a price more than ten per cent., in the judgment of the Department, above the market price, to refuse to accept those bids. Under the law as it originally stood, the Department was bound to accept the lowest bids, whatever might be the price. In 1863, the law was amended so as to provide that the Department should not be bound to accept fictitious or nominal bids. If articles were bid for at a mere nominal price the bids might be disregarded. It might be that iron might be offered at one dollar per ton when it was known to be worth twenty or thirty dollars in the market, and the Depart-

ment was authorized to reject such a bid as fictitious and nominal. But under this word "fictitious," it was found at the Department to be impossible to determine whether certain bids should or should not be rejected. You could not claim that a bid put in for a specific article, when the price named by the bidder was fifty per cent. above its market value, was a fictitious bid. You could not say that was a nominal bid. The truth is that the change in our currency, the great expansion of our currency, by which the nominal prices of everything have changed so rapidly, and have within two or three years doubled and more than doubled in some instances, has had the effect of demonstrating that those bidders who sometimes put in their bids for fifty per cent. or even one hundred per cent. above the market price were wise men, prudent men; and they are not to be condemned because they made their bids at these high prices, as the result has shown.

But all the committee concurred in recommending that Congress should pass a law authorizing the Department to reject any article out of the lists of bids when it should appear satisfactorily to the Department that the amount at which it was bid for was more than ten per cent. above its market value, believing that if the Department were clothed with that power they could prevent themselves from being imposed upon, as they had hitherto been imposed upon under the laws as they existed.

But, Mr. President, in relation to the facts which were disclosed before the committee, there was a difference of opinion between the different members of the committee. For myself I maintain that upon that evidence there is no proof which goes to show the fact that any person employed in that Department has been guilty of any offense whatever, or of any violation of his official integrity. I do not say that contracts may not have been imposed upon the Department from the fact that the bids that were put in were sometimes for great prices, enormous prices, some of them twice the market value. But, sir, what I stand here to say—and I feel it my duty to say it to the Senate and to the people of the country—is, that there was no evidence disclosed on that investigation which shows any want of official integrity in any person employed in the Navy Department; for it was to that subject that we particularly gave our attention; and I will refer to the persons by name whose bureaus were examined.

As to the chief of the Department, the Secretary himself, I believe it is not pretended, and never has been by any person, that there were any facts disclosed in that investigation going to throw the slightest shadow of suspicion upon his official integrity in any way whatever. And as to the Assistant Secretary of the Navy, Mr. Fox, between whom and the Senator from New Hampshire, it would appear from the speech certainly of the Senator, no very friendly relations exist, there is no proof in the testimony taken before that committee which in any way whatever reflects upon the character of Mr. Fox for personal integrity. I will ask the honorable Senator from New Hampshire, if in his recollection there is any word of testimony disclosed on that investigation that bears upon his official or personal integrity as a man. So, Mr. President, in relation to Faxon, who is the chief clerk in that Department. Witnesses were questioned to ascertain whether Mr. Faxon had ever in any way received any consideration or in any manner whatever performed his duties as chief clerk of the Department improperly, and I undertake to say, and the Senator from New Hampshire will not controvert me when I say it, there is no evidence before the committee, as will be seen on referring to the report, that goes to show anything bearing on the integrity of Mr. Faxon. So in relation to Admiral Smith, the chief of the Bureau of Yards and Docks; I undertake to say there is nothing in this report detailed upon which the Senator from New Hampshire or anybody else can put down his finger and say, "I charge upon Admiral Smith a violation of his official duties," or "I charge upon him a want of official integrity in the performance of these duties." So too in relation to Mr. Isherwood. If you look through the whole of this testimony you will see that there is nothing which in the slightest degree goes to affect the official integrity of Mr. Isherwood until you come to that testimony which the honorable Sen-

ator from New Hampshire read, and to which I wish to call the attention of the Senate for a moment, and which when it is seen in its true light, so far from casting any suspicion on the integrity of Mr. Isherwood, shows on the other hand that Mr. Isherwood was a faithful and diligent and efficient officer in the discharge of his duties in that very respect. We had gone on for months taking testimony, listening to the witnesses as they were questioned, nothing appearing whatever to cast the slightest shade, until just at the close of the examination Mr. Murdock was called and this question was put to him by the Senator from New Hampshire, the chairman of the committee:

"State any facts in your knowledge which tend to prove that bidders at the several bureaus of the Navy Department may have had any knowledge of any bids before theirs were put in."

Murdock made this answer:

"At the opening of the bids in the Bureau of Steam Engineering, early in the spring of 1863—I cannot give the exact date—there were bids received and accepted on the day after the bids generally had been opened and entered on the schedules, and by parties who were present at the day of the opening, the day previous. Among them I remember bids from Mr. Stover for classes at the Washington yard, in connection with others which I cannot now call to mind. I remember, too, that he had no bids for that yard entered on the schedule on the day of the opening, and that all the bids which were deposited and accepted on the morning after were successful. I remember, too, that Mr. Neally, who had charge of the bids, threw out one or two classes on account of the prices being exorbitant. He took the responsibility to throw them out himself, for the reason that there were no other bidders for the class but Mr. Stover."

"At the two openings when I was present, but more especially the opening of June of last year, there were a large number of persons present, and every one in the room had the liberty to take the bids after they had been opened and read and examine them, and even to take them out of the room into an adjoining room; and I remember distinctly that Mr. Ellis, who had a bid in for two or three classes, came to me and protested against the thing being allowed, for the reason that there was a party whom he did not know in the room, who had all his bids, and was sitting at Mr. Isherwood's table with a pen in his hand, copying and examining the bids. And there were times when every person in the room had bids of their own or others in their hands, which they read and examined at their leisure."

That statement of Mr. Murdock, on its face, would seem to show that Isherwood, on the day after his bids had been received and opened, was receiving bids from some other person, and, as a matter of course, if it were true it would show that Isherwood ought to be punished with the severest penalties of the law; but now what are the facts? I desire specially to call your attention, Mr. President and Senators, to the facts. When the advertisements were issued for those bids they were all issued by Mr. Lenthall, because at the time when they were issued the bureau of which he was the head, the Bureau of Construction, Equipment, and Repair, had not been divided, the Bureau of Engineering had not been taken from it, that being then a branch of Mr. Lenthall's bureau; but by the time the bids came in the business was so great that the bureau had been subdivided, and Isherwood was put in charge of one branch, that of steam engineering, Mr. Lenthall retaining the other branches; and when the bids came in many of them came to Lenthall's bureau, which were for classes belonging to the bureau of which Mr. Isherwood was the head. Immediately upon recalling to the stand Mr. Isherwood, and Mr. Farwell, who was the chief clerk in Lenthall's bureau, the facts appeared. Mr. Farwell swears positively that the very bid to which Murdock referred was deposited on the first day in the bureau of Mr. Lenthall, and it was in the hands of Mr. Lenthall, and Mr. Farwell himself took that bid to Mr. Isherwood's bureau and presented it first to Mr. Neally, who was Mr. Isherwood's chief clerk. Neally at first refused to receive it, because it came too late. Farwell then presented it to Mr. Isherwood, the chief of the bureau, telling him what the facts were. Murdock was present when this witness testified to these facts, and when Mr. Isherwood also testified to them, and on having his attention again called to the subject he states that the facts were precisely as Farwell and Isherwood had stated them. Let me give the words of the witnesses. The reply of Mr. Murdock to the question of the Senator from New Hampshire was on the 1st of June. On the next day he was examined by me, and I will read his testimony:

"Question. Was not the bureau then under Mr. Lenthall called the Bureau of Construction, Equipment, and Repair? Was it not all one bureau at the time of the advertising?"

"Answer. I do not know whether it was or not. I only know that Mr. Lenthall issued the advertisement for the Bureau of Steam Engineering."

"Question. When the bids were put in, do you know whether some of them which were intended for the Bureau of Steam Engineering were delivered in fact to Mr. Lenthall?"

"Answer. I know there were some bids in Mr. Lenthall's bureau that belonged to the Bureau of Steam Engineering."

"Question. They had all been under one bureau previous to that time, and the advertising was issued by Mr. Lenthall's bureau?"

"Answer. Yes, sir."

"Question. Was that the spring opening of 1863 of which you speak, the first opening made by the Bureau of Steam Engineering, of which Mr. Isherwood was chief?"

"Answer. Yes, sir."

"Question. Now, to come more particularly to the transaction of which you spoke in relation to the bid put in by Mr. Brown in behalf of Stover; on having your attention more particularly called to it, do you remember the mistake which Brown asserted was the reason why the bid had not been handed in to Mr. Isherwood?"

"Answer. I remember, since having my attention called to the fact last evening, that the claim which he made was that the bid was deposited originally in Mr. Lenthall's bureau."

"Question. Did he claim that the bid had been delivered in time, delivered the day before?"

"Answer. He claimed that the bid had been delivered to Mr. Lenthall's bureau, and was found among his bids at the opening, whereas it ought to have been delivered to Mr. Isherwood."

Now, let me read Mr. Isherwood's testimony:

"B. F. Isherwood recalled and examined."

"By Mr. DOOLITTLE:

"Question. Do you remember the occasion of a bid being brought into your office the next morning after you commenced your opening, which was alleged to have been filed with Mr. Lenthall; a bid for Mr. Stover?"

"Answer. I have a very indistinct recollection of Mr. Farwell bringing some bid to me. Whether it was Mr. Stover's bid, or whose it was, I cannot now say. It has passed from my mind. I have been endeavoring to recollect the name, but I cannot. I know that he brought some bid that had been sent to their bureau with other bids, and upon opening it they finding that it belonged to my bureau, he brought it in to me. That was in my own office."

"Question. Where they had already been sent in at the time, on the day fixed in the advertisement, did you ever give directions to have any bid received and sealed that was brought into the Department after the day fixed?"

"Answer. Never. I never received any that was offered after the opening commenced, not even on the same day. When the opening once commenced, when the first seal is broken, all further bids are excluded."

"Question. And any bid that may have been brought into your office after the opening commenced was a bid which had been filed by mistake in some other bureau of the Department, but filed in time?"

"Answer. These bids that we are now referring to in these two bureaus were opened on the same day. The bids for my bureau were comparatively few, quite insignificant compared with the others. We got through ours the first day. The other bureau took two days to open theirs, and, of course, until they did open them they could not tell to whom they belonged, nor to which branch of the bureau they ought to go."

"Question. The old bureau, under the charge of Mr. Lenthall, was a Bureau of Construction, Steam Engineering, and Repairs?"

"Answer. All the functions that now belong to the three distinct Bureaus of Construction, Equipment, and Steam Engineering, then belonged to the Bureau of Construction alone, which was under Mr. Lenthall."

"Question. Your bureau, which is the Bureau of Steam Engineering, branched off from his bureau just about this time?"

"Answer. It was a sub-office of his bureau previously, and had then just been erected into an independent bureau. This was the first bidding after the separation."

"Question. Who issued the advertisements for this bidding for both these branches of the old bureau?"

"Answer. Mr. Lenthall issued the advertisements for that bidding. All since have been issued by me."

"Question. Were the advertisements in this bidding issued just as they had previously been, as if it was but one bureau?"

"Answer. Yes, sir."

I will next read Mr. Farwell's testimony in relation to that transaction:

"A. B. Farwell recalled and examined."

"By Mr. DOOLITTLE:

"Question. You were chief clerk of the bureau of which Mr. Lenthall was the head at the time of the advertisement spoken of, as I understand?"

"Answer. Yes, sir, I was."

"Question. You may state whether all the advertisements for that bidding of the early spring of 1863 were issued by your bureau, of which Mr. Lenthall was chief."

"Answer. They were all issued from our bureau."

"Question. Do you remember the circumstance of a certain bid that was put in by one Ainsworth Brown, in behalf of Stover, in the spring of 1863?"

"Answer. I remember that Mr. Ainsworth Brown brought all of Stover's bids there at that opening."

"Question. On what day did he bring the bids there?"

"Answer. He brought them there on the morning of the 13th of March, 1863, the morning on which the opening commenced."

"Question. Before any opening had taken place?"

"Answer. Yes, sir."

"Question. With whom were they filed?"

"Answer. With Mr. Lenthall."

"Question. Brown acted as agent for Stover?"

"Answer. He said he was Mr. Stover's chief clerk."

"Question. I believe you have already stated that the openings by Mr. Lenthall were made in your presence?"

"Answer. Yes, sir."

"Question. Do you remember the opening of Stover's bids in your bureau?"

"Answer. I do not remember the opening of Stover's bids any more distinctly than I do the opening of others. I remember that his were opened."

"Question. On the opening of those bids will you state whether you found that he had put in bids for matters which belonged to Mr. Isherwood's bureau, and for what yard?"

"Answer. Yes, sir; but I do not remember the yard. I only remember that in Mr. Stover's bids we found proposals belonging to Mr. Isherwood's bureau."

"Question. Can you state what was done with those bids that belonged to Mr. Isherwood's bureau?"

"Answer. That bid of Mr. Stover was opened on the second day of our openings."

"Question. You are sure it was filed on the first day?"

"Answer. Yes, sir, they were all filed together. We never took any bids into the bureau after we commenced opening; and when those are torn off they were found to contain bids for lettered classes. Our own bids were all for figure classes, and in the other two bureaus the classes were lettered. These were torn off by Mr. Lenthall, and he ordered me to take them into Mr. Isherwood's bureau. I did so, and offered them to Mr. Neally, Mr. Isherwood's chief clerk."

"Question. On which day did you take them in?"

"Answer. On the second day of our opening. When I got in there Mr. Neally declined to take them, saying that they had closed their opening. I said to him that Mr. Lenthall had torn them from our bids—that they belonged to his bureau. He said that, as they had got through, he would not take them, but I might hand them to Mr. Isherwood. Mr. Isherwood was then out, but he came in while I was there talking with Mr. Neally, and I handed them to him, saying 'These belong to your bureau,' and I immediately went out."

"Question. Do you remember whether Mr. Brown went in with you or not?"

"Answer. My recollection is that Mr. Brown came in while I was there; he came in while I was going out of the door, and he said he was going in to see that his bids were properly sealed."

"Question. Was Mr. Murdock there at the time?"

"Answer. Yes, sir; Mr. Murdock was sitting at what is called the engineer's desk, his back to us."

"Question. State what occurred—what did Brown say on the subject?"

"Answer. When I started to go out of the door Brown wanted me to say to Mr. Isherwood that they had been torn from our bids, as they were. I told him that I had already said that to Mr. Isherwood, and I recollect saying to Mr. Isherwood that my opinion was that they had better be sealed, and, if they had any doubts, submit the question to the Department whether they should be accepted."

"Question. What did Mr. Isherwood reply to that?"

"Answer. I think Mr. Isherwood told Mr. Neally to scale them, and they would afterward settle whether they ought to be received or not."

"Question. I understand you to say that you carried in those bids yourself, of Stover, and handed them to Mr. Neally?"

"Answer. I carried them in myself. I offered them to Mr. Neally. He declined to take them, and I then handed them to Mr. Isherwood. They never went into Brown's hands until they had been in Mr. Isherwood's. There were bids of many parties torn off in the same way for Mr. Isherwood's bureau and the Bureau of Equipment."

"Question. The bids came into your bureau, it would seem, just as they had formerly, before the division of the bureau; and then looking over those bids, seeing some for construction, some for engineering, and some for equipment, you separated the classes and sent them around to the different bureaus where they properly belonged?"

"Answer. Yes, sir."

"Question. As to this particular bid of Stover's which Brown represented, are you positive that it was put in on the first day?"

"Answer. I am positive that it was put in there in the morning with all Stover's bids. They were all put in together by Mr. Brown. We never took a bid in our bureau after the openings commenced. Bids have been received at our bureau by mail arriving there the next day and have been sealed, leaving half a dozen lines between the regular scale and those that came in late, and the words 'Received too late' were marked opposite to them, and they were never considered in the awarding of contracts."

And then, after these witnesses had thus testified, Mr. Murdock was recalled,

"Ira Murdock recalled and examined."

"By Mr. DOOLITTLE:

"Question. On your hearing Mr. Farwell state the facts in relation to what occurred there, does your recollection agree with his as to what he states?"

"Answer. Yes, sir; I should like to look at the scale of that bidding. [Scale shown to witness.] On examining the original scale, I find that Mr. Stover bid for four classes, that two were awarded to him, and on one class he was not a successful bidder. On the remaining class the bid was thrown out, there being no competitor and the price being exorbitant. On further reflection and examination of the scale, I desire to make this correction of the statement I made yesterday."

Mr. President, and Senators, when you come to look into this transaction and see it as it is, I undertake to say that there is not a shadow resting upon the official integrity of Mr. Isherwood. As to Mr. Lenthall there is certainly nothing within the lids of this volume which goes to reflect on his official integrity as an officer; nothing

to show that there was any corruption or anything wrong, or at least any intentional wrong. He may have made mistakes, as other men make them; but that there was any intentional wrong on his part, or any corruption on his part, there is no evidence whatever to show.

Now, you may come down to the clerks in the Department. There was Mr. Farwell, who was the chief clerk of Mr. Lenthall's bureau. There was in the testimony given by Franklin W. Smith some hearsay evidence, which seemed for a moment to throw a suspicion upon Mr. Farwell. Smith stated to the committee that some other person had told him in the city of Boston that Farwell and Murdock, two of the clerks in the Department, had been purchasing some property near Boston and that their houses had been furnished, and intimating, not saying in so many words, that it was done for some kind of corrupt or improper services rendered by them in the Navy Department, they being clerks in that Department. When Mr. Pratt and Mr. Ellis, the two gentlemen who Mr. Smith said made this statement to him, were called upon the stand as witnesses, they denied that they had ever told Mr. Smith any such thing. It was mere hearsay anyhow. When Farwell and Murdock were called on the stand as witnesses and examined at length on these charges of their having purchased property or receiving something as a consideration for their action in the Department, I undertake to say that in their testimony they clearly and unequivocally explained it all, and there has not been a shadow resting on Farwell; and if suspicion rests on anybody it is on Murdock; but his testimony on this subject is clear and explicit.

I do not desire to take up the time of the Senate; but this point about corruption within the Navy Department and the corruption of the heads of bureaus and of clerks in the Department has been referred to so often that I feel called upon as a matter of duty both to these officers and to the country in whose service I am, that these charges so often repeated shall not go forth unchallenged to destroy the confidence of the people in the very officers that are administering the Government in this time of peril. On this subject Mr. Murdock was questioned, and I questioned him myself, among others. This is his testimony:

"By Mr. DOOLITTLE:

"Question. You say you reside in Bridgewater, Massachusetts; what is the name of the county?

"Answer. Plymouth county.

"Question. Did you purchase a house and lot at Bridgewater not long ago?

"Answer. Yes, sir. I held a mortgage on a house, and I took possession of it some year ago. The owner of the house was down in the southern country; he went there to live after the rebellion, and I think has been heard from not more than once or twice since he left.

"Question. Did he join the rebels, as you understand?

"Answer. I do not know that he did; it is supposed that he did. His wife could not carry on the place; circumstances were embarrassing at the time he left, and I paid her a certain sum of money, and took the house, with a guarantee from her brothers and his brothers in Boston—respectable men—that I should, at a certain time, receive a deed from him, which I have not received.

"Question. How much was your mortgage?

"Answer. About five thousand dollars.

"Question. And how much did you give her?

"Answer. Fifteen hundred dollars.

"Question. Do you know a gentleman in Boston by the name of Pratt, of the firm of Bowers, Pratt & Co.?

"Answer. Yes, sir; very well."

Mr. Pratt was the person who it was said had made the statement in relation to Murdock, that he could be purchased in the Department.

"Question. Has Mr. Pratt given to you, or to your wife or family, in any way, direct or indirect, anything in consideration of any favor you may have done him connected with the Department or the Government?

"Answer. Never a dollar."

And when you look into the testimony of Mr. Pratt and the testimony of Mr. Ellis, they both swear positively that no such thing ever did occur, and they never said to Smith that it did occur; and that, I confess, is one of those painful facts standing out in the case which have led me to doubt very much the good faith of this Smith in the testimony which he gave. These two witnesses swear positively that they never made to him any such statement as he stated they did; and the man himself swears positively that no such thing ever occurred. And what goes to show how perfectly baseless is this charge against the Department will appear when I tell you that this Mr. Murdock had not been in the employment of

the Department for a whole year before the investigation began by this committee; and yet the investigation was sought upon the basis of charges of fraud and corruption in that Department of the Government, more dangerous to the country even than the enemies in the field.

Mr. President, I rose only to speak upon one point, and that was to defend the official integrity of the men in this Department against these wholesale and sweeping charges. I challenge any Senator on any side of this Chamber to name the man in the Department; and I say that if, after months of investigation, you have not the evidence upon which you can point to this man, or that man, or the other, and say to him, "Thou art the man; I charge you with corruption," every tongue should be silent on this subject of official corruption in the Navy Department. I do not stand here to say that all that has been transacted in the navy-yard at Charlestown or New York is free from any charge of corruption. I do not undertake to know what has transpired there. I will not make charges without proof, and I am unwilling that charges should be made unless they are based upon proof.

Among other things it has been urged that the administration of that Department has been inefficient. Sir, a single fact is sufficient to answer all that. In what condition was that Department when it was taken possession of by Mr. Welles and the men under him? In what condition was the naval force of this country at the breaking out of this rebellion? Sir, our naval force under the last Administration, which was in sympathy with this very rebellion, had been sent to the four quarters of the world; not a single vessel remained to us except the Brooklyn, and she, drawing fourteen feet of water, could not enter any harbor on the southern coast with the exception of one or two. They had been sent to the uttermost parts of the sea for the very purpose of disarming the Government and rendering it powerless in the great conflict. And what have we seen? Steadily under the administration of this much-abused Navy Department we have seen that naval power growing month by month. We have seen it victorious at Hilton Head. We have seen it victorious at New Orleans where the British and French admirals in command of their vessels in the Mississippi river at New Orleans declared that it was impossible for our naval vessels to be successful. We have seen it winning triumphs at Vicksburg, at Mobile, at Fort Fisher. Ay, Mr. President, under the direction and control of this much-abused Navy Department we have seen a naval force gathered together which, under the command of David Porter, in the attack upon Fort Fisher, had a power sufficient to have sunk the whole navy of Great Britain in six hours in a single fight. And all this great Navy has been gathered together in the short period of three or four years; and yet men speak of the inefficiency of the administration of the Navy Department. Sir, I go not into the details; I care not whether it is administered by the Secretary-in-chief or by his Assistant Secretary, it is administered by somebody who has brains, power, energy, and will, and it has accomplished in the putting down of this rebellion that for which the American people in their heart of hearts ought to declare their unbounded gratitude and their undying thanks.

Mr. President, I do not purpose at all to go into other matters on this occasion. The honorable Senator from Iowa [Mr. GRIMES] is much better prepared than myself to speak upon the other great questions that have been raised in relation to the administration of this Department, and I shall forbear trespassing any longer upon the attention of the Senate.

Mr. SAULSBURY. It was my purpose, Mr. President, to submit a few remarks in reply to that portion of the speech of the honorable Senator from Wisconsin which referred to the remarks I before submitted to the Senate; but since that he has gone off on a very cold scent, and the controversy has lost to me most of its interest. I cordially agree with the honorable Senator in his statement that our relations are those of personal kindness, and therefore I am sure he will take no personal exception to what I am about to say. The course he has pursued on this occasion only verifies a remark made by the photographer of the Republican party, the honorable Senator from New Hampshire. That honorable

Senator, in the course of the remarks in which he delineated so truthfully and so beautifully the character of the Republican party, said that he was one of its earliest champions, and now he found that the new converts to the party, and especially that portion of them who came from the Democratic party, were its most zealous defenders.

The honorable Senator from Wisconsin, in the remarks which he intended to be disparaging to the Democratic party, denied that the history of that party was as old, that its record was as honorable, as I had avowed it to be before the Senate. How many years has it been since that honorable Senator was a high-priest in Democratic councils? Sir, he has not tarried at the political Jericho of the Republican party sufficiently long for his beard to attain full growth. If I mistake not, he bore honorable commission to the national councils of the Democratic party. If I mistake not, he was one of its fiercest champions, and he bore aloft its banner in his own State at one time. Sir, I have never known it to fail, when a member of the Democratic party has left the party, that he has not said that he did not leave the party, but that the party left him.

Mr. DOOLITTLE. The honorable gentleman is mistaken. The real Democratic party did not leave me; they came right along with me and helped to make the Republican party, and they are almost all in.

Mr. SAULSBURY. My only reply to that is that the old Republican party to which the Senator alludes had everything in the head and not "nigger on the brain," and the Republican party of the present day—I mean no personal offense—has nothing except "nigger on the brain."

Mr. LANE, of Indiana. I do not wish to interrupt this interesting discussion; but I will at this period make a point of order. My point is that it is out of order, it is illegal to hold an inquest over the corpse of the Democratic party when the coroner is not present. [Laughter.]

Mr. SAULSBURY. I will answer the Senator in the course of the very few remarks which I propose to submit.

Sir, we have had a beautiful exhibition here today. An honorable Senator, whose effusions, or rather whose patriotic, noble, and thrilling eloquence in the other House as the champion of the Democratic cause I read when I was a school-boy, rises and exposes the criminality of his new associates, while still professing to belong to the party in power which has succeeded the Democratic party. Another distinguished Senator, who but very recently was baptized in this fountain of Republicanism, comes forth as its champion. Mr. President, with those kind feelings that I know exist personally between the honorable Senator and myself, I can only hope that, as Peter denied his Lord and Master, repented, and was forgiven, he is not too old yet, notwithstanding his political sins of the last few years, to repent of them and be forgiven also.

But the honorable Senator from Indiana raises a point of order; he asserts that it is not in order to hold an inquest over the dead body of the Democratic party when the coroner is not present. Sir, if the Democratic party is dead, what a gigantic corpse we have before us. One million seven hundred and fifty thousand voters in this country constitute that corpse, if corpse it be. Where is the living man that is to summon the coroner to hold an inquest over that dead body? By your own confession, and notwithstanding all the means to which you resorted, you had only some two hundred or two hundred and fifty thousand majority in the last presidential election; and I now say here, in the hearing of the country, that it is my solemn conviction that had that election been rightfully and legally determined, George B. McClellan, in favor of whose nomination I never was, would at this day be the declared President-elect of the United States.

Why do I say so? Why, sir, I, with other Democratic Senators, in compliance with the law of the land, in compliance with our duty, went over a few days ago to witness the most magnificent farce that I ever saw exhibited at the other end of the Capitol; and that was to hear the vote for President of the United States declared. I listened to it. It went on; and all the votes from the land of steady habits—and, with all respect for the honorable Senator who sits before me,



[Mr. Wilson,] the land which not many years ago thought it pious to burn old women for witches, and which now thinks it equally pious to whitewash a negro and make him equal to a white man—were recorded for the present incumbent. It went on until it came to the gallant State represented by my friend from New Jersey, and then there was music in the sound. That vote gave out the true utterances of the voters of that State. Then came the vote of the smallest State now in the Union in population; and let me correct history for one moment. It has been said that Virginia is the mother of States; but, sir, I say then came the voice of the mother of States, the little State which I and my colleague represent on this floor; the State which was the first to adopt the Constitution, and which, by the action of her sons, has showed herself more faithful than any other so far heard from to the compact of the fathers, by being the first promptly to reject the unconstitutional proposed constitutional amendment. Then, I say, came the voice of that State, and though there were but three votes cast that sound brought joy to the ear and gladness to the heart.

Mr. President, I said that in my judgment had that vote been legally ascertained, George B. McClellan would have been declared to be the President of the United States. I was not in favor of his nomination; and foreseeing that he would be nominated, although a delegate to the convention, I would not attend, because he had identified himself with certain principles and had a record and a history which were antagonistic to the votes that I had given in this body, and I did not desire to condemn my own action by an indorsement of his record; and yet, when he was presented by that convention, welcoming any breeze that would bring happiness and prosperity, and in some measure restore constitutional liberty to this country, and get rid at once and forever of the mad counsels of the present incumbent of the executive chair and the party that now controls the destinies of this country, I supported him; and I repeat my belief that had that election been rightfully and legally determined he would have been declared the President-elect. Why do I say so? I have said that I was called upon to witness a farce in the counting of the votes in the House of Representatives. What were some of the evidences that it was a farce? I heard the State of Maryland announced as voting for Abraham Lincoln. A number of the counties of that State border on the county in which I live. I have traveled through them; and I have yet to find any evidence in favor of this Administration among that class of people with whom I became acquainted in that portion of the State. Will you tell me that Maryland voted at a free election for the present Executive of the United States when I know the fact that the armed military were at the polls; when I know that when, notwithstanding the unconstitutional act passed by a bogus Legislature and enforced by a bogus government in the State of Maryland, gentlemen against whose character not a word could be said, went forward and undertook to take the oath prescribed in that constitution, they were driven from the polls, and not allowed to vote?

Then came in Missouri, voting for Abraham Lincoln. Who believes that the people of Missouri, at a free election, would vote an indorsement of his policy? I do not refer to the young State called West Virginia. Her Senators know more of the sentiment of that portion of the State of Virginia than I do; but I have met representatives in the national council even from that portion of Virginia who have told me that if the opponents of the Administration had had any fair chance they could have carried that State.

Mr. WILLEY. The honorable Senator from Maryland—

Mr. SAULSBURY. I do not belong to that province. Abraham has not got our State as a "province" exactly.

Mr. WILLEY. Well, sir, from the "province" of Delaware.

Mr. SAULSBURY. No, sir; the "State" of Delaware.

Mr. WILLEY. Well, then, the State of Delaware; anything to satisfy the honorable Senator. I have the pleasure to inform the Senator, and I have no doubt it will be a pleasure to him to learn; that there was a regularly nominated

ticket at the late presidential election in West Virginia of the party with which he is connected, and of which he feels so proud, a party adorned so highly on this floor; and in order to revive the Democratic party in our State they placed before the people five distinguished old-line Whigs and gave them the whole vote of the Democratic party in the young State of West Virginia; that there was a fair vote; and that they were beaten by more than three to one.

Mr. SAULSBURY. I have witnessed in person some of these "fair elections" where there has been a regular Democratic ticket running. I recollect that only a year ago last fall the Democratic party in my State nominated a candidate for Congress, and the Republican party nominated their candidate. I recollect that election day came, and that handbills were thrown in the yards of farmers by armed soldiers passing by, cautioning them in reference to the approaching election. I recollect that they had squads of soldiers around the voting places, and that they had certain oaths stuck up, the paternity of which belongs to one renowned general, who is now a member of the other House, who has shed his blood upon many battle-fields, and illustrated the patriotism of his country not by accepting civil position in war, but by active campaigns in the field. He was once in command of the Middle department, and had his headquarters in Maryland, and I believe represents or misrepresents, in part, the State of Ohio. I recollect that notwithstanding there was a regular Democratic ticket in the field there were but fourteen Democratic votes cast; and why? We had the privilege of making a ticket; but we were notified beforehand of pains and penalties to be attached to voting in a particular way. I presume, therefore, when the Democrats of West Virginia had the privilege of making out a ticket they had some means of understanding that it was not exactly safe to exercise their right to vote according to their own judgment.

Mr. WILLEY. The Senator's supposition is entirely unfounded. There were scarcely any troops in West Virginia, and no influence of the kind brought to bear upon the people. There never was a more free or fair election in any State in the Union.

Mr. SAULSBURY. I understand it all. On the occasion of the election in my State to which I refer I did not approach the polls. I thought I knew the terms upon which I could vote. I have no doubt there were Democrats in West Virginia just as intelligent, and who understood the whole matter just as well as I did.

I have made these remarks in response to the playful point of order raised by the honorable Senator from Indiana, to assure him that if this Administration had appointed a coroner to sit over the dead body of the Democratic party he would have found the largest corpse over which an inquest was ever held.

One remark more, sir, and I shall conclude. Let the Democrats of the country take heart. To them I say, though your enemies may charge you with being disloyal and in favor of disunion, with your glorious Union record, with the vast numbers who went to the polls, notwithstanding the arbitrary measures resorted to to deprive you of the exercise of the highest functions of the American citizen, when you see that you only fell some two hundred or two hundred and fifty thousand votes behind in a popular election in the States now in the Union and said to be loyal, the record is most encouraging; it gives hopes of the future. Forsake not your principles, but rally around the same old standard under which you were wont to fight. Remember that in all your history and throughout your entire administration of national affairs no citizen ever complained that he had been illegally arrested and placed in a Bastille. Remember that you have a record which shows that under your administration of the Federal Government no man was ever deprived of life, liberty, or property, except by due process of law. Recollect that throughout your entire history no press was forbidden to publish its views to the people of the country; that no executive hand was laid upon the freedom of the press. I say to the members of that glorious party, recollect that no President whom you ever elevated to that high position ever dared to claim the power of suspending the bulwark of liberty, the writ of *habeas corpus*, and then come before the Congress of the

United States asking to be relieved from the consequences of the act. Recollect also that during the entire existence of your party, instead of dismemberment and disintegration, there was nothing but the addition of State after State. Contrast that with the record of this Republican party, and you have a platform of principles upon which you can safely go before the people of the country, if indeed Abraham the first Republican President is not to become Abraham the first emperor, and you may meet your political foes, and not by military force or a resort to unconstitutional means, but by the free exercise of that suffrage which is secured to you by the Constitution, Federal and State, achieve a noble triumph in the future.

Mr. NYE. Mr. President, I think, as this debate has assumed somewhat of a discursive character, it is perhaps a fitting occasion for Nevada to utter her first voice in this august presence.

I have been interested, instructed, amused, and pained by the discussions here to-day. Every Senator, of course, is the judge of his own taste; but if I had been the Senator from New Hampshire mine would not have led me in the direction in which his taste has led him here to-day. So, too, of the Senator from Delaware. He has attempted to enlighten and instruct us upon the history of the old, glorious Democratic party; and he remarked that he had never seen, in the course of his observation, a person who had formerly belonged to that party who would acknowledge that he left it. I desire to gratify him now by an exhibition of one who has the manliness to admit that he left the Democratic party when it had ceased to do good and had learned so well to do evil.

I do not think that the honorable Senator from Delaware has studied carefully the history of the Democratic party; his recollections of its glory rest in tradition. He intimates that he was one among the few that had stood here for years, like the stripling of Israel against the giant of Gath, to defend its principles. The misfortune of the gentleman is that most of his former associates are to be found in the rebel army; that they lost their love and their affection for the institutions of their country and have raised their arm to destroy it. In an evil hour, when passion instead of judgment controlled their action, they ceased to honor and respect the olden glory of their party, and have literally, in their madness, deluged this continent in blood.

The Senator closed his speech with a word of encouragement to his own party to stand firm and rally around their standard. And pray, sir, who was your last standard-bearer? A man of whom in the history of this country is written the fact that he was *particeps criminis* in this wicked rebellion—a fit candidate for a party whose first and whose last Vice President was a rebel.

Sir, the remarks of the Senator from Delaware—he will pardon me for saying it, (I believe in his heart he is loyal and right, but he lacks a little of that old Democratic firmness of which he boasts, to assert it)—sound like what I heard while sitting in this gallery about four years ago; and the Senator will remember it, as it was during the closing scenes of his party's existence. I allude to the remarks of Mr. Wigfall, Mr. Breckinridge, and a host of others whose names I will not mention, who seemed to me to have fallen into that great error into which no man, and especially no statesman, should fall, and to have reached that point where their adoration for party rose higher than their devotion and duty to their Government.

Sir, I have a right to remember the history of the old Democratic party. I acted with it before the Senator was old enough to vote; and one of two things is true, that the Democratic party departed from its original glory, fell, literally fell, from its high estate, or I did not understand its principles when I voted with it. I had always understood him to be the best Democrat who loved his country most, and who would make the greatest sacrifices to sustain it. That was the Democracy that was taught to me. But in modern times it seems to be the crowning glory of a Democrat to do the most to tear down the temple of republican freedom. With that kind of Democracy I have no sympathy, no affiliation. I love the Democratic party, if I love it at all, for its ancient glory and usefulness, not for its modern dereliction and recreancy.

We are told by the honorable Senator that during the Democratic reign the writ of *habeas corpus* was never suspended. Let me, to show his error, call the honorable Senator's attention to two or three instances. When the first Democratic Vice President of the United States was about to be arrested for treason, General Wilkinson was intrusted with the arrest; and the President at that time, a Democrat as he is claimed, suspended the writ of *habeas corpus*, and placed that suspension in the hands of the officer who was charged with the arrest ere he left this Capitol.

The PRESIDENT *pro tempore*. The Senator from Nevada will pause. The hour of half past four o'clock having arrived the Senate will now take a recess until seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### CLAIMS OF KANSAS.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to take up a little bill reported from the Committee on Claims, to which there will be no objection. It is Senate bill No. 70, to enable the accounting officers of the Treasury to settle the claim of the State of Kansas.

Mr. SHERMAN. The State of Kansas may have claims to the amount of several millions of dollars. I should like to know what the bill is going to appropriate before I consent to its being taken up.

Mr. LANE, of Kansas. I can explain it in a moment.

Mr. SHERMAN. If the bill can be reported that would be as well.

The PRESIDENT *pro tempore*. The bill will be read at large for the information of the Senate, and that will show what it is.

The Secretary read the bill, which proposes to authorize the proper accounting officers of the Treasury to receive satisfactory evidence, in lieu of the original vouchers, in support of a claim for expenses incurred by the State of Kansas, provision for reimbursement of which was made by the "Act to indemnify the States for expenses incurred by them in defense of the United States," approved July 27, 1861, the original vouchers having been destroyed by fire at the late massacre in Lawrence, Kansas.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims, with an amendment, to add the following proviso:

*Provided*, That in the settlement of the above-mentioned claim there shall not be allowed to the State of Kansas a sum exceeding the sum of \$12,351 04.

Mr. HOWARD. I wish to make a suggestion to the Senator from Kansas in regard to the phraseology in this bill. As it now stands it would allow the Secretary of the Treasury to receive any description of evidence, no matter how weak, instead of confining himself to what would be in law secondary evidence. I will therefore move to strike out the word "satisfactory" and to insert the word "secondary," which has an exact, technical meaning.

The PRESIDENT *pro tempore*. The first question will be on the amendment of the committee.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to amend the bill further by striking out the word "satisfactory" in the fourth line and inserting the word "secondary."

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin—to the Committee on Public Lands.

A bill (H. R. No. 735) in relation to marriages in the District of Columbia—to the Committee on the District of Columbia.

A joint resolution (H. R. No. 166) to provide for mustering out of the military service certain non-commissioned officers and privates who enlisted to fill old regiments—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 167) for the relief of John Wells & Sons—to the Committee on Claims.

#### MILITARY SERVICE.

Mr. WILSON. I desire to make a report from a committee of conference, and as it is very brief I would be glad to have it acted upon now.

The PRESIDENT *pro tempore*. The Chair will receive the report, no objection being made. It will be read.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, have met, and after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House concur in the first amendment of the Senate, with the following amendment: in line eleven strike out the word "volunteers," and in lieu thereof insert the words "volunteer or other forces."

That the House concur in the second amendment of the Senate, with the following amendments: strike out of the seventh line of said amendment the word "descend" and in lieu thereof insert the words "be paid;" and after the word "heirs" in the same line insert the words "or legal representatives."

That the conferees recommend that the Senate recede from its third amendment to said bill.

That the House concur in the amendment of the Senate to the title.

HENRY WILSON,  
JAMES W. GRIMES,  
HENRY S. LANE,  
*Managers on the part of the Senate.*  
JAMES F. WILSON,  
E. R. ECKLEY,  
W. H. WADSWORTH,  
*Managers on the part of the House.*

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

The report was concurred in.

#### REPUDIATION OF REBEL DEBT.

Mr. SUMNER. I now ask the Senate to be good enough to take up the resolution which I introduced this morning. It is important that it should be acted on.

The motion was agreed to, and the Senate proceeded to consider the following resolution:

Whereas certain persons have put in circulation the report that on the suppression of the rebellion the rebel debt or loan may be recognized in whole or in part by the United States; and whereas such a report is calculated to give a false value to such rebel debt or loan: Therefore,

*Resolved by the Senate*, (the House of Representatives concurring,) That Congress hereby declares that the rebel debt or loan is simply an agency of the rebellion, which the United States can never, under any circumstances, recognize in any part or in any way.

Mr. WILSON. I move to amend the resolution by adding the following as an additional section:

*And be it further enacted*, That if any person or persons, shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, any note, token, device, scrip, bond, or other evidence of debt of the so-called confederate States, or any of them, issued since the 1st day of January, 1861, he or they shall be deemed or adjudged guilty of felony, and shall, on conviction thereof, be punished by a fine not exceeding \$5,000 and by imprisonment and confinement at hard labor not exceeding ten years, according to the aggravation of the offense.

Mr. SUMNER. I trust my colleague will not press that amendment on this resolution, which is only a concurrent resolution of the Senate.

Mr. WILSON. I thought it was a joint resolution, and therefore I desired to add this section which is contained in a bill that I have introduced here; but if it is only a resolution of the Senate I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn, and the question is on the adoption of the resolution.

Mr. SAULSBURY. I thought the hour of meeting this evening was half past seven o'clock, and I did not get in time to hear the resolution read. I ask therefore that it be read again.

The Secretary again read it.

Mr. SAULSBURY. I do not know what is the practice of the Senate or the House on a question of this kind; but judging from the reports of the proceedings of the two Houses, I take it it would be this: that no action of either body has

ever been founded upon mere rumor, without some authentic source affording the basis for that action. This resolution says that whereas certain persons have reported so and so. Is it proper for the Senate of the United States, in a solemn resolution of the body, to take notice of some rumor upon the street, something that somebody has said on some occasion, there being no evidence before the body that any person in the world ever said it? Who is it, assuming to speak in behalf of the Congress of the United States and of the Government of the United States, that has put this report in circulation? I have never heard of it before. Who else has heard of it before? Where does it come from? To what and to whom does it owe its paternity? If it be true, as I have suggested, that before a solemn resolution of either branch of Congress be passed there must be some substantial basis for it, where is the evidence upon which this action now is sought to be founded? Who is it that has put this report in circulation? I have no doubt my friend, the colleague of the Senator that has offered it [Mr. Wilson] may know who they are. He must be familiar with all these things. If anybody has heard that report I have no doubt he has heard it, and I have no doubt having heard it he can give the authority for such a rumor as that. I should like to hear him give that authority.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution.

The resolution was adopted.

#### NAVAL APPROPRIATION BILL.

Mr. SHERMAN. I now call for the unfinished business.

The PRESIDENT *pro tempore*. The Senate will resume, as in Committee of the Whole, the consideration of the bill which was under consideration when it took a recess, being the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, the pending question being on the amendment offered by the Senator from Ohio, [Mr. WADE,] upon which the Senator from Nevada [Mr. NYE] is entitled to the floor.

Mr. NYE. At the time the recess was taken I was replying to the assertion of the honorable Senator from Delaware in regard to the suspension of the writ of *habeas corpus*, and had cited a well-known example of the exercise of the power to suspend it. Another illustrious man exercised that high prerogative, one whose Democracy even the honorable Senator from Delaware will not question. He found himself in New Orleans much in the position that some of our commanding generals have recently found themselves in other localities. He found there, at that early day, a modern Democrat, an editor of a paper, who published articles criticising the conduct of the commanding general when he was facing the army of the enemy. He thought that the public interests and the public safety required that both the paper and the editor should be arrested; and the historian has not recorded that there was any process by which that editor was arrested save the order, the mandate, of the commanding general. The editor was arrested, and there was then found by his side a judge of the modern Democratic school, ever ready to use this great writ of liberty when it is proposed to extricate or release one of his own belief; and Jackson thought that the public safety required that that judge too should be arrested. He was a Democrat with whom to think was to act, and he acted rightly and promptly, and caused the arrest. Sir, not exactly in this room, but in a room occupied by this honorable body, many years after, I heard the warmest, truest, highest eulogium passed upon the conduct of that brave man that ever fell from the lips of Democracy or from its opponents. This great nation through its representatives spoke approval of his conduct in language not to be misunderstood. They remitted the fine imposed upon the hero-patriot and soldier. The glory that Jackson achieved there was only eclipsed by the subsequent glory of putting down the attempted rebellion of which modern Democracy was the father and nullification the object.

Therefore, sir, I take it that the honorable Senator had forgotten these noble examples at the time he made the assertion that the writ of *habeas corpus* had never been suspended until this Administration came into power. He had forgotten

that the press that was charged with mischief and malignity was stopped or "muzzled" by Andrew Jackson. He seemed to pass over all this with a view of getting at once to the alleged enormities of this Administration.

Mr. President, I have no defense to make for this Administration. It needs none at my hands. It is seen, it is written, it is printed, it is impressed upon every lineament of this country. Its glory shall live when its traducers shall have died. This Administration came into power at a moment when rebellion was commencing its mutterings, without an Army, with no Navy, or with what little we had scattered all over this continent. As the honorable Senator from Wisconsin has said, our Navy had to be gathered in from the remotest parts of the seas. Sir, it seems to me as though every Department of the Government on this occasion's demand had spoken, as if by magic, a power into existence that has been ample for the necessities of the times, wonderful in its creation, and yet more wonderful in its results.

Sir, this Administration has done more; and that, I take it, is the real cause of complaint, as well with the honorable Senator from Delaware as with those who think and act with him. It has produced a mighty moral and political revolution. Out of the fury that rebellion raised has issued glorious moral and political results. Sir, I am not one of those who call these the evil days of the history of our country. Far greater calamities may befall a nation than to be summoned to the fields of strife. Better that the land should be deluged with blood than that the spirit of liberty should be lost. Far better that every house should be draped in mourning than that republican freedom should be slain.

Sir, in the particular point about which I think the Senator from Delaware feels aggrieved is written the great glory of this Administration. It has spoken freedom to four million human beings that were in bondage. It has knocked the shackles from off the limbs of that number of slaves, and has given them freedom in their place. It has abolished those hateful words "master" and "slave," and they will be heard no more forever upon this continent. That is glory enough for one Administration, and reason enough, too, for those to complain of it who seem to have been chained a life-time to the car of slavery by links the world could not sever.

Does the Senator from Delaware wish to bring us back again into the cold embrace of modern Democracy? Sir, what have been its fruits? Look upon every battle-field from the Potomac to the Gulf, and you see there in long mounds of new-made graves the fruits of the teachings of modern Democracy. Look at the long rows of your hospital beds, and hear there a voice, which, if the heart is not adamant, will speak in terms to attract at least the attention of a modern Democrat.

Sir, I was willing to let this old Democratic party die, and I was willing that it should die and be buried without inquest. I believe it is a known principle of law that where the cause of death is positively known it is not necessary to call in a coroner. The Democratic party died of a disease of which the far-seeing or short-sighted might see it would die sooner or later. It died of what the eloquent Curran called "the doldrums"—a confusion of the head arising from the corruption of the heart. [Laughter.] The cause of death being well known, no coroner was called. It needed no verdict from a jury to advertise to the world the cause of the death of the Democratic party.

But, sir, I am frank to confess that the two Democratic Presidents who had suspended the privilege of the writ of *habeas corpus* in former times differed materially from the character of Democrats in these days. They were Union men; they believed in upholding the pillars of our institutions, while modern Democracy seems to have taught the doctrine that our duty is to tear them down. This is the difference. The President, in times of revolution that have past, would have been held up to the scorn and derision of present and future generations if he had failed to do otherwise than suspend this writ.

Will the honorable Senator from Delaware tell you, sir, and this body, the exact condition in which the Democracy left the administration and the affairs of this Government? At the time the people rose in their majesty and wrested the scepter

of power from the Democratic party the very atmosphere by which we were surrounded was thick with the fragments of dissolving empire. I have envied modern Democracy only in one thing, and that is, the perfect composure they exhibit while the evidences of portentous mischief to the country are all around them. They seem to fold their hands in meek submission to the grossest insults to which our country has been subjected. I know that it is not in the honorable Senator's heart to do this; but he is much in the position that many Democrats have been before. He lacks the courage, not physical, but moral, to break away from this corpse upon which he invokes an inquest. In olden times, as I have read, they had a strange punishment for the higher order of offenses. They chained the offender to a corpse, and made him drag it around till decay did its work and the body disappeared. I hope the honorable Senator from Delaware will soon cut the cord by which he is bound to that dead body, and let modern Democracy go where the verdict of the world has declared it ought to go, into utter oblivion.

Who would take us back again into the embrace of the last Democratic President, whose longer embrace would have been death? Where are now to be found the time-honored Democrats of whom the Senator speaks? Where is the president of the confederate States? Go ask him to-night what his politics are, and he will tell you he is a Democrat of the purest character. Go ask Toombs, and Hunter, and Mason, and Slidell, and Wigfall what their politics are, and they will chant you anthems to the glory of Democracy. Their Democracy has found its true status; it is arrayed with bloody steel against the glory and the integrity of this country. Thank God! there are thousands less of these Democrats now than there were when this rebellion broke out. Many of them have met their just deserts, and unless they speedily repent and submit themselves to the justice, the mercy, and the laws of their country, their numbers will be so diminished as not to cause any apprehension in regard to their future.

I find fault with modern Democrats for this: they seem to be willing and anxious to punish all crimes except the crime of treason. When one Department of our Government is arraigned before this body by the honorable Senator from New Hampshire, the face of my distinguished friend from Delaware glows with unusual brightness, and he is anxious to join the honorable Senator from New Hampshire to punish frauds. O, the horror and the wickedness of these frauds! But the modern Democrats are not willing that the highest crime known to our law, treason, should be punished. Not a day passes by, not a paper that represents them do we read, but that is crying out for peace, honorable terms of peace, no terms that will look to subjugation, none that could mortify the pride of their brother Democrats; and now, when this great nation that has walked upright amid the scenes through which we have passed, which when the last star of hope grew pale, redoubled its courage, has beaten them upon every field, these modern Democrats want honorable peace and no penalties for treason inflicted! The law declares that if a man is guilty of larceny he shall be punished; if he is guilty of murder he shall be hanged; and the Constitution and the laws both declare that the penalty for treason is death; and yet there is not a modern Democrat that I have heard speak that does not want that penalty to be unenforced against those whose hands are red with the patriot blood of their fellow-countrymen.

Sir, I should not have occupied the attention of the Senate one moment on this question had I not come from a State just born into our glorious Union; a State the youngest in the sisterhood of States; a mountain State; and I rejoice that she proves the truth of the old saying that liberty is a mountain nymph. In our constitution we have put the negative upon all these modern Democratic pretensions of the rights of States when arrayed against the majesty of the Government. It is a State rich in mineral productions, but whose material wealth is poor when compared with the undying loyalty of her people. That new State, although the marks of her swaddling-clothes are yet around her, would rise up and condemn me should I sit here and listen to the invitations woo-

ing us back into the embrace of this modern Democratic party; and above all would she arraign me before the bar of her judgment if I should silently suffer the Administration, that we have loved so well, to be defamed here in the house of its friends, and the imputations of its challengers listened to in silence.

I do not know but that there is something wrong in the Navy Department. The Senator from Wisconsin says there is not. The Senator from New Hampshire, who seems to have a special mission to perform with that Navy Department—for what reason I do not know—says there is. Sir, it would be strange, indeed, if there was not something wrong in all the Departments of this Government, hurried, as it was, from a quiet slumber of peace to the creation and command of the mightiest armies and navies of the world, which had to have their growth as rapid as the growth of the gourd in the night. It would be passing strange if there was not some corruption in these Departments. I have never believed that it made much difference with the purity of men to what particular party they belonged, or to what particular religious denomination. Men are but men; and sometimes they fall victims to their cupidity. I could cite many such instances in the Democratic period to my friend from Delaware that he would well remember; but yet the Democratic party did not make much noise about them. Unlike my friend, the Senator from New Hampshire, they never told of them, if they knew of them; they kept the knowledge of them in their own breasts.

Mr. Fox may be wrong. If he is, put another man in his place. My friend from New Hampshire says that he has no doubt the Secretary of the Navy himself is an honest man. No one ever doubted that. In this connection the Senator from Delaware will pardon me if I remind him that the Secretary voted the Democratic ticket while the Senator's cheek was yet covered with the dew of youth, and learned, I grant, to be honest in the olden times of genuine Democracy, when the party as a whole were honest. Sir, when the history of these times shall be written it will stand out in bold relief, and form one of its brightest pages, that with the incalculable expenditure we have been called upon to make, very little of it has adhered to the palms of those who were charged with the duty of its disbursement.

The Senator from New Hampshire says that these iron-clads are failures. Sir, at least one of them was not a failure. If all the others should sink and find their harbor, as he suggests, in the bottom of the sea, that first-born Monitor has written a history of glory for this country that will never die. It defeated with a single shot the monster creation of the rebellion, and drove her back crippled and wounded to her hiding-place, from which she never again emerged, but found her destiny deep buried in the fathomless ocean sands. If the rest are all failures that is enough. But, sir, they are not failures; there is much less of failure about them than might reasonably have been expected in these wonderful naval creations—creations that to-day make old England sing in a whisper she is the mistress of the seas; a Navy that keeps the imperial ruler of France from sending his army and navy to find harbors and gold and silver upon our western shores.

I thought it unwise in the Senator from New Hampshire to advertise these iron-clads as failures; but after all I do not know that it was. Let those who desire to invade our rights try it, and these much-abused vessels will not only vindicate themselves, but put to flight the invader. This Navy that was created so magically attracts the attention of the whole world; and while Great Britain and France have been anxious to write on parchment the acknowledgment of the independence of the southern democratic confederacy they saw the fifteen-inch muzzles of our iron-clads, well loaded, and hesitated; and our Navy made them hesitate.

I hope, Mr. President, that all the appropriations that are needed to perfect this Navy will be freely voted by this body. I desire to see it of sufficient magnitude to be a standing advertisement to the world that we are not only able to put down rebellion at home, but are able to resist invasion from without.

Sir, it is too late in the day to talk of economizing. This modern Democratic party that led us up to the shambles have put it out of our power



to economize. Two things are certain: this rebellion must be put down; it will be put down; and another thing is just as certain, that when it is put down the nations of the earth will have notice that we are prepared to defend ourselves against the open as well as the covert attacks of an opposing world.

I hope, sir, that all the appropriations that this careful, scrutinizing committee calls for will be voted by the Senate. I know the care with which the chairman of this committee investigates and reports, and upon his suggestion that certain appropriations are necessary, Nevada—I think I can speak for my colleague—will give two votes without any reference to the magnitude of what is required. Yonder mountains are full of the material with which to pay the national obligation. Providence has kindly stored away in the lofty mountains of Nevada, and Idaho, and Oregon, treasure enough to make the debt which we now owe, or may owe at the conclusion of this bloody war, dwindle and dwarf into insignificance. Open up to us a way by which we can get the means of producing it, and we can as well give you \$500,000,000 a year as the \$30,000,000 that we annually send you now. Sir, I know of no debt that is too mighty for a nation to incur to save its freedom. I know of no debt that should stand between us and the putting down of this rebellion.

Mr. SAULSBURY. Nothing but a sincere desire to hear the concluding remarks of the honorable Senator from Nevada could have induced me to come here this evening. I am not in favor of evening sessions, and do not intend under any circumstances to attend them unless there is some important question to be decided, or where some remarks have been made before the recess in the afternoon which shall require my presence.

The honorable Senator from Nevada, in the opening of his remarks, was kind enough to make some personal allusions to myself. While giving me credit personally for loyalty he suggested that the sound of my voice reminded him of the utterances of former days from Wigfall and others. Let me tell that Senator, if he had read aright the history of those days he would have found that when on the first day the last annual message of President Buchanan came into this Chamber, and Mr. Iverson and Mr. Wigfall occupied the whole day in proclaiming the doctrine of secession, when no Senator on that side of the Chamber rose to utter one word of protest, it was the Senator from Delaware, who, as a motion was made to adjourn, rose in his place and asked for five minutes of the time of the Senate, and then and there declared that his State, having been the first to enter the Federal Union, would under any and all circumstances be the last to abandon it. So much for the similarity of the sound of the voice of Mr. Wigfall and the Senator from Delaware.

It must have been amusing to you, Senators, who all your life-time have been opposing the Democratic party, to hear the confessions and the experiences of the new converts to your faith made in the Senate Chamber this afternoon and this evening. The honorable Senator from New Hampshire introduced the class-meeting and the love-feast, and you, old opponents of the Democracy, have stood by quietly. I suppose the meeting was an open one, and the exercises commenced for the special purpose of letting new converts give in their experience, confess their errors, and to avow perpetual cordiality of sentiment between you and them in the future. The Senator who opened it was himself an old political sinner according to your modern notions. My honorable friend from Wisconsin who followed has not been very long in a state of grace; and now comes the new and eloquent Senator from Nevada, whose utterances I read when I was a school-boy in behalf of this old sinning and sinful Democratic party—

Mr. NYE. Will the Senator allow me a moment?

Mr. SAULSBURY. Certainly.

Mr. NYE. My answer is that when I was a child I thought as a child. [Laughter.]

Mr. SAULSBURY. Mr. President, there is a second childhood. We have our first; we have our manhood; and what do you think of the stage of second childhood into which the Senator has passed?

The new converts have given in their experience; but I have heard nothing drop from their

lips to contradict this proposition which I intend to submit: notwithstanding all the sins of the Democratic party, notwithstanding their attachment to slavery, if attachment it be—I should rather say, notwithstanding their devotion to the Constitution of their country—all these gentlemen who have spoken remained with it, indorsed it, and occupied the chief places in its political synagogue until very recently. I think that you, Senators, old opponents of the Democracy, have shown very kindly feelings in allowing the young converts on this occasion to give in their political experience. You remember the admonition of Scripture, "Carry the lambs in your bosom." You are taking care of the lambs of the flock.

But the honorable Senator proposes to inform me correctly in reference to the history of my Government. He volunteers to show me from authentic record two instances in which the writ of *habeas corpus* has been suspended by Democratic Administrations; and what is the first? He tells us that when the first Democratic Vice President of the United States committed treason, the writ was suspended by Jefferson. There was something in the tone of the honorable Senator in referring to Aaron Burr as having been the first Democratic Vice President that would suggest to the mind of a casual listener that the honorable Senator was so shocked that he never could have belonged to or had connection with a party whose first Vice President was a traitor; and yet, notwithstanding the treason of Aaron Burr, the honorable Senator was a most devout worshiper at the Democratic shrine.

But was the honorable Senator correct in his historical reference? I ask you, sir, to notice the difference in the view taken by the Senator from Wisconsin and the Senator from Nevada, these two new converts to Republican faith, and old Democratic sinners—without any personal disrespect, however, to either. See how they differ. The honorable Senator from Wisconsin denies that Jefferson was a Democrat. The honorable Senator from Nevada, to give a thrust at the Democratic party, quotes him as a Democrat, and says that he suspended the writ of *habeas corpus*, and therefore the suspension has Democratic warrant. Sir, Thomas Jefferson never did any such thing. Here is the record. I have had occasion before to discuss that question in the Senate of the United States, and I now refer to it as taken from the *Annals of Congress*, which I presume the young Republican from Nevada has not yet consulted, having taken it upon faith when he was a Democrat. Here it is, sir. Let us see whether Thomas Jefferson ever assumed to do any such thing. I quote from remarks heretofore made by me in the Senate of the United States upon the suspension of the writ of *habeas corpus*:

"The first occasion for the practical consideration of the question arose in 1807, and grew out of the alleged conspiracy of Aaron Burr. Thomas Jefferson was President, and James Madison, who had much to do with the framing of that instrument, and who is universally admitted to have had as correct a knowledge of its provisions as any man of his day, was his Secretary of State. Three men, Bollman, Swartwout, and Ogden, were arrested at New Orleans, on affidavits charging them with treason, made by Generals Wilkinson, Eaton, and others; and the two former were sent to the District of Columbia, and thereupon—"

Mark you, it was no act of Thomas Jefferson, no act of a Democratic Administration, but the act of military officers assuming to act independently of law—

"and thereupon, on the 26th of January, 1807, Mr. Jefferson sent to the Senate and House of Representatives the following message:—"

I will quote it in full, so that the new Republican from Nevada and the old Democrat from New York may have the benefit of the message, to see what is the truth of the record:

"I received from General Wilkinson, on the 23d instant, his affidavit, charging Samuel Swartwout, Peter V. Ogden, and James Alexander with the crimes described in the affidavit, a copy of which is now communicated to both Houses of Congress. It was announced to me at the same time that Swartwout and Bollman, two of the persons apprehended by him, were arrived in the city in custody each of a military officer."

That was the first thing Mr. Jefferson knew about it.

"I immediately delivered to the attorney of the United States in this District the evidence received against them, with instructions to lay the same before the judges."

Not before a military commission, not before a court-martial, as this modern Democratic pa-

triot, Edwin M. Stanton, is in the habit of doing, whose record I propose to give in evidence, before I shall have concluded, upon this very subject of loyalty; for I find that the most loyal men now in the country are backsliders from the Democratic faith, from the principles the Democratic party has held from the beginning, and from the great doctrines of State rights which I was taught to believe were true in my infancy, which I believed in my ripening manhood, and which the future experience of this country will prove are true.

"I immediately delivered to the attorney of the United States in this District the evidence received against them, with instructions to lay the same before the judges, and apply for their process to bring the accused to justice, and put into his hands orders to the officers having them in custody to deliver them?"

To whom?

"to the marshal on his application."

What kind of a marshal? A provost marshal? No, sir; the civil officer, the marshal of this District. There is the record of how Thomas Jefferson and Mr. Madison acted. Sir, they were giants, and could tread majestically on Alpine heights and be recognized as giants still. To compare them with the men of the present day would be to compare giants with pigmies, who though perched on Alps are pigmies still.

Such is the history of that case. What is it in reference to General Jackson? General Jackson's action was not in accordance with the action nowadays. New Orleans was his camp. A judge was in his camp; and I believe it is admitted by most men, although I do not know exactly whether it ought to have been admitted, that within the military lines the will of the commanding officer is the law. But, sir, does that precedent support the position which the honorable Senator has assumed? Not so. When the immediate danger in that case passed process was issued against the commanding general of that department, Andrew Jackson. What did he do? Did he do as your officials do now, set at defiance the mandates of the courts and say, "We strut the stage a brief hour with military authority, and we will not heed the commands of a judicial tribunal?" No, sir; the man whose whole life had been devoted to his country walked into the court-house, obeyed the process, heard the sentence imposed, and paid the fine in obedience to law, and, though a grateful country afterward, in consideration of the valuable services he had rendered, refunded that fine, it was no judgment of the country that the act was in compliance with law.

But the honorable Senator from Nevada speaks of modern Democrats, and he seems rather indignant that the history of the Democratic party should be put in opposition to the history of the Republican party. Sir, what history have you? He talks of his State of Nevada in her swaddling-clothes. Before your party was in its swaddling-clothes your country became great, powerful, and mighty among the nations of the earth through the action of the Democratic party. What record have you? What great principle in legislation having reference to the interests of the white race have you ever inaugurated? What word in behalf of that race has your party ever uttered? Your record, as far as utterances go, is simply that of sympathy, and I must say from your legislation, affiliation with the negro race at the expense of the race to which you belong. For the first time since God made man and since the organization of human government we behold the example of a proud, gallant, superior race bending their energies to degrade themselves down to the level of an inferior race. Thank God! the proud mission of the Democratic party has ever been to develop the godlike elements of the white man.

Another charge brought by the honorable Senator against the old party at whose breast he first drew the milk of life was that it was in favor of peace. It has become treasonable nowadays to be in favor of peace. Whence the origin of your doctrine, and whence the origin of ours? Peace descends from heaven; war springs from hell. At midnight, on old Judea's plains, the peaceful shepherds watched their flocks by night, when, lo! the angelic messengers of heavenly mercy thronged the air and swept the land, proclaiming "Peace on earth." The heralding of a Saviour's birth was followed by a life devoted to the incul-

cation of the duty and principle of peace. His salutation upon every humble dwelling was "Peace be with you;" his farewell on his departure thence was "Peace I leave you." When Heaven's inspired prophet would foretell the coming of the world's Redeemer, even Omniscience itself knew no higher name to bestow than that of the "Prince of Peace." Hear Isaiah: "Unto us a child is born, unto us a son is given, and the government shall be upon his shoulder; and his name shall be called Wonderful, Counselor, The mighty God, The everlasting Father, The Prince of Peace." When Israel's bard would tune his harp to noblest song, he sings not of war or discord or strife, but he sings the song of peace: "Behold how good and how pleasant it is for brethren to dwell together in unity." And oh! ye assumers of modern wisdom, hear what the wisest of his race, Solomon, said when speaking of the ways of wisdom: "Her ways are ways of pleasantness, and all her paths are peace." And when you talk of national greatness, glory, and renown, and of the great blessings that are to come from a people at war, hear what the I Am, the Jehovah, said to the chosen people of Israel. What did He promise them? The development of rich mines in mountain districts, extended country, vast empire? No; but "Peace shall be within thy borders." And yet, sir, what prophets foretold, what inspired poets sang, what a world's Redeemer practiced and inculcated, and what the eternal God promises as the greatest blessing to man, is evidence of disloyalty!

Mr. President, instead of charging upon the good, great, and glorious Democratic party, which is in favor of peace, disloyalty and treason, let those who so charge go and consult their own voices, and review the action of their own party, and join with me in the invocation against the traitor—their own principles and their own party—that has brought this upon the country:

"Oh! for a tongue to curse the slave  
Whose treason, like a deadly blight,  
Comes o'er the counsels of the brave,  
And blasts them in their hour of might."

As yours did when we, the friends of peace, were advising conciliation and compromise:

"May life's unblest cup for him  
Be dregged with treachery to the brim,  
With hopes that but allure to fly,  
With joys that vanish while he sips,  
Like Dead-sea fruits, that tempt the eye,  
But turn to ashes on his lips.  
His country's curse, his children's shame,  
Outcast of virtue, peace, and fame,  
May he at last, with lips of flame,  
On the parched desert thirsting lie,  
While lakes that shone in mockery nigh  
Are passing off untouched, untasted,  
Like the once glorious hopes he blasted.  
And when from earth his spirit flies,  
Just Prophet! let the damned one dwell  
Full in the sight of Paradise,  
Beholding heaven and feeling hell."

Mr. GRIMES. Mr. President, I would, if I could, bring the Senate back to the consideration of the subject immediately before it. I shall attempt to do so in the few remarks I have to submit this evening.

I shall not follow gentlemen in the wandering debate that has characterized this occasion. I shall discuss no party issues. I have no encomiums to pronounce upon and no denunciations to utter against the old Democratic and Whig parties, for I am content that the dead should bury their dead.

I shall say nothing of the alleged corruptions in the Navy Department, for all these charges have been triumphantly refuted by the Senator from Wisconsin, who was a member of the select committee of this body specially instructed to investigate them.

I have nothing to say of the attempted purchase of a part of Seavey's Island for the use of the Portsmouth navy-yard, for it is in the recollection of most of the Senators here that all the remarks that have been submitted to the Senate to-day upon that subject have been annually replied to by the distinguished gentleman now at the head of the Treasury Department, very much to the satisfaction of the Senate. I cannot help, however, remarking in this connection that all the wrong in that case, if there were any wrong, was done by a rear admiral of the Navy, an officer of the very class whom it is sought by the amendment under consideration to make omnipotent on this subject as well as upon every other connected

with naval affairs. Nor have I any reply to make in relation to the contemplated purchase of land for additions to the navy-yard at Charlestown, except to state the significant fact that that purchase also was recommended by the officers attached to that yard—the same class of men, be it remembered, who will be made Lords of the Admiralty should the amendment proposed by the Senator from Ohio be adopted.

Mr. President, I suppose this question will be decided—it certainly ought to be—without any regard to personal considerations. We ought to approach this question without being influenced in the remotest degree by our likes or our dislikes of any individual now connected, or who has hitherto been connected, or is likely to be connected, with the administration of the Navy Department. We are not legislating in regard to any individual. There may be an objectionable man connected with the Navy as Assistant Secretary, or as Secretary, or as head of a bureau. Our remedy in such a case is to get rid of that man, and not by one swoop, upon an appropriation bill, attempt to overturn the entire naval organization.

I do not stand here to-night as the defender or as the advocate of any man, but to maintain what I believe to be the public interest in connection with the Navy Department. It is the public service we are to promote, and not the interests of any man or set of men. I shall not seek to defend or palliate any wrong, no matter by whom committed. I believe that this Department, as all other Departments, has made mistakes, but the true remedy for them is not the one set forth by the Senator from Ohio; and entertaining the opinions that I do on the subject, there is no alternative for me but to oppose as strenuously as I may be able the amendment that he proposes.

I have no fault to find with the Senator from Ohio for proposing this amendment. It is true that we have a Naval Committee, of which I happen to be a member. It is true that it is the business of that committee to examine into all the laws in connection with naval affairs, to inform themselves of the operations of the naval organization, to understand not only its written but its unwritten laws, to know what vessels have been built or are being built, the character of their armament, the character of the machinery by which they are to be propelled, their efficiency and speed, and the character of the contracts under which they are to be built. I think I can say that the Committee on Naval Affairs have endeavored, as far as their capacity and time would allow them, to thus inform themselves on all these points. It is the duty also of this committee to inform themselves, and I think they have attempted to do it, not only in regard to our own particular naval organization, but in regard to the naval organizations of the different nations of the earth, and if in their opinion there be any advantages over ours in any of those organizations to suggest them to the Senate for adoption into our own. I think the Committee of the Senate on Naval Affairs have informed themselves in regard to each of the many descriptions of vessels, some twenty-five or thirty, that have been built by the Navy Department, and that now constitute parts of our Navy.

Nor am I going to find fault with the Senator because in obedience to an instruction which he received from the Senate, as a member of the committee on the conduct of the war, he examined only one particular type of vessels that had been built by the Department, and found some objections to that class. But I submit to the Senate that it would hardly be wise for them in a time like this, upon a supply bill, because there happened to be in the estimation of the committee on the conduct of the war some objections to that particular kind of vessels, to overturn the entire Navy organization, when the Naval Committee, who have examined into ALL the various descriptions of vessels that have been built, and have been able to survey the whole field, and having done it in obedience to the general instructions which they have received from this body, have not deemed it advisable to propose any such change.

Nor am I going to object that this amendment was studiously kept secret—I will not say that; but that it was not communicated to the Senate or to the Naval Committee before it was offered. It is possible that we might have taken a different view of the subject if our attention had been called to it earlier, if we had been permitted to

pass upon it and investigate it as an independent measure by itself; but coming to us as it does, and informed as we are in regard to the general operations of the Navy, knowing the success that it is admitted on all hands has been achieved by the Department in the construction of the varied descriptions of vessels; knowing what has been accomplished for the country and for our national reputation by the Navy during the last four years under its present administration, we have unhesitatingly come to the conclusion, as the organ of this body in connection with naval affairs, that this change ought not to be made, and would prove to be most disastrous if made.

The whole argument upon which this amendment is based proceeds upon one assumption, and that is that there have been mistakes made in the construction of what are known as the light-draught iron-clads. Admit it. Is that a reason for overturning the Navy Department? Is this the first mistake that has been made? If the committee on the conduct of the war had inquired of the Naval Committee, we could have told them that a similar mistake was made in regard to the second class of monitors that were built, that same class of monitors which have been doing such efficient service at Fort Fisher, and of which Admiral Porter speaks in such eulogistic terms. Is it unknown to the committee on the conduct of the war that at least one half of all the old sailing vessels that have been built since the establishment of the American Navy have been modified and changed? Does not the Senator know as well as I do that within five years the Pensacola was changed under our own eyes at the navy-yard in Washington, and forty feet added to her length? Was that a reason for overturning the Navy Department? Does not the Senator know—if he had informed himself he might have known—that nearly all of the British iron-clad vessels, such as the Warrior and Black Prince, are now pronounced failures? Does any man doubt it? I have the highest British authority for saying it lying upon my desk to be read if desired; and the Warrior is now being dismantled, being considered unfit to go to sea.

Did the Senator ever know that a peer of the realm or any member of the House of Commons rose in his place in the British Parliament and gravely proposed to overturn the whole Admiralty system of that empire upon a supply bill because mistakes had been made in the construction of their iron-clad vessels—vessels that have cost millions of pounds sterling? What would be thought of such a proceeding were it attempted?

Admit the mistake to be as great as it is charged to be. Is this the only mistake that has been made? Has no other Department blundered? Have there been no mistakes in the Treasury, and will you put that Department in commission also? Has the War Department been entirely free from blunders during the last four years, and if not, will you overturn that Department upon an amendment to the Army appropriation bill?

But how great is this alleged mistake, where did it originate, and how is it to be obviated by the Senator's amendment? If I understood the Senator correctly, he entirely exonerated the Secretary and the Assistant Secretary of the Navy from all blame in this matter.

Mr. WADE. Perhaps that statement is a little too broad. I certainly did not accuse them of any intentional wrong, but there were sins of omission perhaps that will be found when we come to report the evidence. The statement of the Senator is a little broader than the one I intended to make.

Mr. GRIMES. I understood the Senator to say so. Perhaps I misunderstood what he said. Mr. WADE. I did not exactly mean that.

Mr. GRIMES. If I remember aright, the charge of malfeasance, or misfeasance, or non-feasance, whatever it was that the Senator brought, was against the chief of the Bureau of Construction principally, or perhaps against a board of which he spoke, and of which the chief of the Bureau of Construction and the chief of the Bureau of Engineering were members.

Mr. WADE. If the Senator will allow me, I will state that I complained of a general looseness and inattention to the business. It does not seem to have been anybody's business to attend particularly to the construction of these vessels. They were passed from hand to hand, and fre-

quently the person engaged and charged with it, Mr. Stimers, was sent on other duty, and so it would pass into other hands. There was a general inattention; it was nobody's business really to trace the matter through. That is what I charged. That was the principal complaint I made.

Mr. GRIMES. I think I did not misunderstand the Senator when he said that the charge was based principally upon the testimony of Mr. Stimers, which was given two or three days before he made his speech here yesterday, and which yet remains untranscribed in the notes of the reporter, and that Mr. Stimers said he had applied to Mr. Lenthall, or Mr. Isherwood, or to a board of which they were members, to compute the displacement of those vessels, and that they refused to do it.

Mr. WADE. They did not do it.

Mr. GRIMES. I was at once satisfied that there was some mistake about that statement of the Senator. I was satisfied that the Senator from Ohio was misinformed, and that his criticisms upon the chief of the Bureau of Construction were unjust. It is a singular fact that the gentlemen who advocated and opposed this amendment in the House of Representatives united in one thing, and I believe only in one thing, and that was in the encomiums pronounced on the chief of the Bureau of Construction; while the advocates of the same measure in the Senate also unite in one thing, and perhaps only in one thing, and that is in their condemnations of the chief of the Bureau of Construction. After I listened to the remarks of the Senator from Ohio I had a conversation with him on the subject, and discovered that I did not misunderstand the statements of his speech in this regard. I then addressed a note to the chief of the Bureau of Construction, satisfied as I was that the Senator was wholly mistaken, first as to Mr. Lenthall having had any connection with the light-draught iron-clads, and second, as to his being opposed to the construction of iron vessels, for I think the Senator made that charge also. I have a letter from the chief of the bureau, written this morning, which I will read. It is as follows:

NAVY DEPARTMENT,  
BUREAU OF CONSTRUCTION AND REPAIR,  
February 17, 1865.

Sir: In reply to your inquiry of this date, I have respectfully to say that I was never a member of any board to which the subject of the light-draught monitors was referred. I have no knowledge that any such board was ever called; nor was I ever asked to calculate their displacement, and therefore did not refuse to do so. To this day I have never seen any of the plans or specifications of these vessels or of their machinery, except the general outline of the hulls deposited in this bureau by Chief Engineer Stimers at the time the advertisement to contractors referring them to Chief Engineer Stimers's office at New York was issued inviting propositions from bidders.

It is not true that I am now or that I ever have been opposed to the building of iron-clad vessels, or so intimated to any one. But, on the contrary, I have strongly advocated vessels of that class. I have views of my own as to the adaptation of certain classes of these vessels for sea-going purposes; but I have never doubted the value or necessity of the monitor type for the purposes of harbor defense, and the unsatisfactory result of the light-draught monitors is altogether due to errors of detail made by Chief Engineer Stimers, and not to the general principle of these vessels.

Respectfully, your obedient servant,

JOHN LENTHALL, Chief of Bureau.  
Hon. JAMES W. GRIMES, Chairman of Committee on Naval Affairs, United States Senate.

Mr. Lenthall is one of the most competent and one of the purest men, in my estimation, notwithstanding what has been said by Senators on this floor, that I have ever had the fortune to be acquainted with—a gentleman of whom an eminent officer of the Navy, speaking of his merits, said that if he had lived under any other Government he would long since have been knighted for the services he had rendered his country.

Now, I think, Mr. President, it will be admitted even by the Senator himself, that the whole substructure of his argument is removed. He based his argument entirely upon the testimony of Stimers—Stimers, who made the mistake in the calculation of displacement, and who was therefore directly interested in swearing, as he did swear, according to the Senator's version of his testimony, that the blame rested, not upon himself, but on some one else. He must fix it upon some one, so a mythical board that never had any existence, but which was said to be composed in part of two persons toward whom he does not entertain very friendly feelings, was se-

lected as the scape-goat to bear the burden of his sins.

The Senator will remember that yesterday he was not able to tell me who was the third member of this apocryphal board of officers. He said that Stimers stated that it was composed of Lenthall and Isherwood, and some one else whose name he could not recollect, and who, it seems, is destined to be unknown in history. I cannot secure the testimony of this unknown man, but I have the testimony of Mr. Isherwood on this subject, which I will read:

NAVY DEPARTMENT,  
BUREAU OF STEAM ENGINEERING, Feb. 17, 1865.

Sir: In reply to your note of inquiry concerning certain facts in relation to the light-draught monitors, I have to say that I never was a member of any board to consider or pass on that subject, that no such board was ever, to my knowledge, called, nor was my opinion on the subject ever asked of me further than to estimate (after the designs had been adopted) what speed a certain boiler-power would give a certain immersed amidships-section assumed at a draught of six feet.

I never saw either the plans or specifications of these vessels, or of their machinery; never gave any directions in regard to them; and did not have in any way the slightest connection with their design or construction.

I have always been strongly in favor of building iron-clad war steamers of the type and proportions which my professional experience could approve.

Very respectfully, your obedient servant,

B. F. ISHERWOOD.

Hon. J. W. GRIMES, United States Senator.

So much for the testimony of Stimers before the committee on the conduct of the war, and the mythical board of construction or computation that has been so thoroughly denounced as old and incapable. Can there be a lingering doubt in the mind of any one as to the weight that should be given to Stimers's testimony in this matter? If such a board ever existed the record of its creation is in the Navy Department. Where is that record? It has no existence.

Now, Mr. President, I repeat the inquiry, how much of a mistake has been made, after all? I think not a great one; I think that the Government has not been greatly injured. If I am not mistaken the Senator stated that these vessels had been raised so as to give them a larger draught than was at first intended, and, if I did not misconceive what he stated, he said, in answer to a question of a Senator on the other side of him, that they were raised with wood. Am I right?

Mr. WADE. I said they were continued up twenty-two inches.

Mr. GRIMES. Of wood?

Mr. WADE. Yes; of wood and iron—iron-clad as the rest of it was.

Mr. GRIMES. The Senator is mistaken in regard to that. They are iron, and not wood, as I understood the Senator yesterday.

Mr. WADE. Wood faced with iron.

Mr. GRIMES. The Senator is mistaken. They are wholly of iron. Well, Mr. President, how great are the mistakes that have thus been made? How much is the Government going to be injured? On this subject I beg leave to read a letter addressed to the Senator from Ohio himself by the Secretary of the Navy, and which will doubtless considerably enlighten the Senate on this subject. Every Senator who has engaged in this discussion has asserted his belief that the Secretary of the Navy is a strictly honest man. He would not seek to mislead us or the country. What are his opinions on this subject, founded upon research and information far more thorough and extensive than it was possible for the Senator from Ohio to make? I will read:

NAVY DEPARTMENT, January 16, 1865.

Sir: I have the honor to acknowledge the receipt of your letter of the 14th ultimo, inclosing a copy of a resolution of the Senate in the following words:

"Resolved, That the committee on the conduct of the war be instructed to inquire what progress has been made in the construction of the iron clad gunboats contracted for in the year 1862—by whom the contract was made on the part of the Government—who planned the models of the same, and who is responsible therefor? Have any of them been finished? If so, what was the condition of the vessel after she was launched? Are the other vessels contracted for to be built on a plan or model similar to the Chimo lately launched at Boston? and all information which may be had touching said gunboats."

I am requested in the letter transmitting a copy of the resolution to "furnish the committee, as soon as convenient, with such information upon the subject-matter of the resolution as may be in possession of the Navy Department."

I presume that a mistake has been made by the committee or by the Senate in their inquiry relative to the "iron-clad gunboats contracted for in the year 1862." In the spring and summer of 1863 contracts were made for twenty

turreted vessels of the Monitor class. Not doubting that the resolution of the Senate and the investigations and inquiries of the committee have reference to those contracts and those vessels, my response will be made as if the resolution read 1865 instead of 1862. The mistake of a year in regard to the execution of these contracts, provided they are, as I suppose, those referred to, is important to the contractors as well as to the Department, and should therefore be corrected.

In answer to that part of the resolution which inquires "by whom the contract was made on the part of the Government," I have to state it was by the Chief of the Bureau of Construction under advertisement issued by this Department, on the 10th of February, 1863. A reference to the message of the President and accompanying documents of the first session of the present Congress may be had for a list of bidders and award of contracts under direction of this Department.

It is asked "who planned the models of the same, and who is responsible therefor?"

The general idea of a light-draught iron-clad inside of a raft of wood was furnished by Captain John Ericsson, of New York, the distinguished inventor, at the request of this Department. The details of the plan and the preparation of the working drawings were intrusted to Chief Engineer A. C. Stimers, who was instructed by the Bureau of Construction to consult with Captain Ericsson and take directions from him.

It will be observed that this relates to all the monitors.

Mr. WADE. The twenty light-draught monitors?

Mr. GRIMES. Yes, all of them.

To that extent Chief Engineer Stimers is responsible.

"Have any of them been finished, if so, what was the condition of the vessel after she was launched?"

None of the light-draught turreted vessels are quite finished. The Casco, converted into a boat for reconnoitering and torpedo purposes has recently made a passage from Boston to New York. Complaints were made by the officers of discomforts, as complaints were formerly made of the brigs and schooners of the Navy, so many of which, like the Grampus, Somers, Porpoise, and Bainbridge, have gone to sea and never been heard of.

The Secretary might have added the Levant and several others.

The Chimo was the first of her class which was got into the water, and led to the discovery that due allowance had not been made for all the weights. She floated on an even keel only about three inches above the water, instead of fifteen, as was intended and expected. Several of the same class which have been since launched have varied considerably from this, all of them being high out of the water, notwithstanding all were made from the same drawings, showing that there have been variations in model or in the weight of materials used in construction.

Before any of this class of vessels had been launched, Rear Admiral Dahlgren and Acting Rear Admiral Lee had strenuously urged the Department to send them some monitors—hulls without turrets—to be used for the purpose of reconnaissance and as torpedo-boats. Five of the light-draughts most advanced were therefore ordered to be finished without the turrets. When relieved of this weight, the necessity and expense of raising their sides and thereby increasing their capacity was obviated. The other fifteen were recommended to be enlarged by building them higher, thus increasing their capacity about one hundred and thirty tons, and rendering them consequently more efficient. Previously the same plan was adopted in constructing and completing the second batch of monitor vessels, which have just passed through the baptism of fire at Fort Fisher, and have remained at anchor on that coast, exposed as it is in the winter season ninety miles from a harbor, during the most terrific gale of wind ever experienced, according to the Wilmington papers, and performing, as Rear Admiral Porter reports, to the admiration of everybody.

"Are the other vessels contracted for to be built on a plan or model similar to the Chimo, lately launched at Boston?"

I have already stated that twenty light-draught monitors were contracted for in the spring and summer of 1863. All were designed upon the monitor plan which has been so serviceable, but modifications and alterations have been made of five, omitting the turrets for special purposes, by special request of naval officers.

The resolution, in conclusion, calls for "all information which may be had touching said gunboats."

The necessity of light-draught iron-clads to operate in the bays, sounds, and rivers, as well as for defensive purposes, was forced upon the Department at an early period of the present struggle. Not only was the contest in which we were engaged peculiar, but the means and measures to meet and suppress it, particularly those of the Navy, were novel and without precedent. Most of the lines of Army communication were by water, and the Navy was expected to protect them and render them secure. A brief experience and a few engagements made it evident that light-draught, unprotected, wooden boats, with magazines, machinery, and boilers exposed, could be driven off by field artillery behind earthworks. Light-draught iron-clads became, therefore, an imperative necessity, and the convictions of the Department, and of all indeed who gave the subject intelligent consideration, were irresistibly in favor of such vessels; but we were without models, and the wants of the country were pressing. Neither of the maritime Powers of Europe had built, or attempted to build, a light-draught iron-clad.

The Navy Department, in this emergency, was compelled to feel its way, without experience or precedent in any quarter to guide it. Appeals had been made in vain to Congress to provide a proper establishment for the construction of iron and armored vessels, where plans and models might have been developed and matured with studied deliberation and skill. When the contracts for these vessels were entered into, delays were inadmissible. Difficulties with foreign Powers seemed imminent, and in



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the absence of any national establishment immediate contracts for the construction of armored vessels were called for on every hand. The authorities of the States and cities on the seaboard were appealing to the Department and the Government for iron-clad vessels to defend their harbors from the two or three rovers that were then already abroad, and great apprehensions were entertained that certain formidable ships in the process of construction in France and England for the rebels would soon visit our coast. Many who may now be forward to criticize and censure the enlarged and energetic action that was taken were at that time profuse in censure of the Department for delays in not more promptly providing whatever vessels were necessary for the service.

Congress having omitted to provide an establishment for the construction of an iron navy, where this class of armored vessels of light draught could be constructed, the Department has been compelled to rely on contractors and outside parties in different sections of the country for the work.

The parties contracting have generally exerted themselves to meet in good faith the requirements of the Government, and it is a subject of just congratulation that, in this great emergency, when the Department was compelled to act without precedent to guide it, and when the Government had omitted to furnish a suitable establishment, private enterprise and our skilled mechanics have so well met the difficulties presented.

Mr. J. B. Eades, of St. Louis, furnished the light-draught river boats which have been so successful on the Mississippi and also in the bay of Mobile. Captain Ericsson, the inventor of the monitor class of vessels, furnished the idea which is now near practical consummation. Although as yet untried these vessels differ so little from the original monitor that there is every reason to anticipate their success. To predict otherwise would be presumption; yet it has been the misfortune of the Department to encounter hostility and forebodings of failure with every improvement which has been made during the war, and often from those of whom encouragement and support might reasonably have been expected. Some of the best engineers and constructors in the service of the Government, as well as others, expressed their want of confidence in the first monitor and declared it would prove a failure. It was represented that she could not float, that she would plunge to the bottom when launched, and that to send her to Hampton Roads would be recklessness amounting to crime. A constant succession of struggles against prejudice, ignorance, and fixed habits and opinions, has been the fate of the Department at every step which the extraordinary exigencies of this war have compelled it to take. While it is not difficult to criticize and point out mistakes in a new description of vessels which the change in naval warfare has suddenly called into existence, and to suggest alterations and improvements on what has already transpired, it is a satisfaction to the Department which was compelled to encounter this opposition to know that this class of vessels, subjected at the beginning to ridicule and subsequently to obloquy and denunciation, has been successfully tried in battle and in storm—that these vessels have equalled the expectations of the country in periods of peril, and have been extensively copied abroad. Other Governments are adopting them, while many of the discontented of our own country still question the wisdom of building vessels of the class which has at a critical moment rendered unequalled service to the Union and saved the capital of the nation.

In encouraging contrast with the illiberal and prejudiced opinions which have opposed all improvements, denounced them in advance as failures, and been dissatisfied even with successful results, are the observations and reflections of the sagacious and sensible author of the recent valuable work on "English and French neutrality," who, appreciating the difficulties of the Department, remarks at page 458 of his instructive volume:

"It is no small proof of ability in the management of the Navy that there was skill enough to provide, and independence enough to use, a form of war-ship and a kind of cannon before untried, but which time and experience have shown were alone of all ships and weapons then known capable of meeting the emergency."

At the present time the call for light-draught iron-clads comes from every squadron engaged in this struggle. Acting Rear Admiral Lee says that within the limits of his command there must be a large increase of light-draught iron-clads. Vice Admiral Farragut, before he left the scene of his great exploits, asked for additional iron-clads especially those of light draught, and declared that the coast could not be held unless he had them. In each of the blockading and river squadrons they are required.

Nearly two years have elapsed since any contracts have been entered into for this class of vessels, and it is hoped the present war is so near its close that no further expenditures for additional ones will be necessary; but should the war continue a year longer more will be wanted.

My acknowledgments are due to the committee for this opportunity to express my views. I shall feel under obligations to them or others, as will the whole country, for any improvements or suggestions which they may propose in consequence of their investigations, or for any undetected errors or mistakes which they may discover, in order that their conclusions and recommendations in this great emergency may be brought to the aid of the Department on this most interesting and important subject.

I am, very respectfully, your obedient servant,

GIDEON WELLES,  
Secretary of the Navy.

B. F. WADE,  
Chairman of the Committee on the Conduct of the War.

Mr. President, here is the committee on the conduct of the war pursuing an *ex parte* examination, calling before it whom it pleases, and only whom it pleases, reaching the conclusion that these vessels are a failure. The Secretary of the Navy, surrounded by naval officers, seeing daily, if not hourly, the men who are conversant with naval constructions and the performance of naval vessels, having reports at the end of every week from the experts and inspectors who are placed in charge of the construction of these vessels, knowing what the reports are from the officers who are in command of the various squadrons of the performances of similar or nearly similar vessels, comes to the conclusion that they are not failures; but on the contrary that they will be of great value to the Government. Now, what is the wise course for us to pursue? Would it be wise for us, upon a supply bill, an appropriation bill, on the mere suggestion of the Senator from Ohio, predicated upon testimony that is not before us, which we have not an opportunity to read, or to analyze, or to examine at all, to undertake to condemn these vessels as though we were naval experts, revolutionize the entire Navy Department, and put it into commission? Could a more absurd proposition be submitted to us? After hearing this letter from the Secretary, is any one satisfied that we have squandered \$10,000,000 upon these iron-clads?

In regard to these light-draught iron-clads, the facts are very simple. We had a board that sat originally in 1861 to determine the character of the vessels that should be built with the million and a half of dollars appropriated at the extra session in July of that year for the construction of iron-clad vessels-of-war. That board was composed of three superior officers in the Navy. They reported in favor of three different classes of vessels. They reported in favor of the Ironsides, which is an excellent vessel; in favor of the Galena, which has turned out to be a failure; and they said to Mr. Ericsson, who proposed to build the original Monitor, that he might build that vessel for a given sum of money, a small price, and run his own risk upon her; if she turned out to be a success the Government would take her, and if otherwise it would not. That Monitor, at the time she fought the Merrimack, and relieved us of the great weight that rested upon every man here in Washington after the destruction of the Congress and Cumberland, was not the property of the United States, but belonged to John Ericsson and the men who were associated with him in building her.

Whenever the Government has any of these works going on at private yards it directs an engineer to supervise the work, and to see that the contractors put the proper material and the proper kind of workmanship in the vessel. The engineer in the Navy who was engaged in that business in New York at the beginning of the work on the first monitor was Mr. A. C. Stimers, the gentleman who was the witness before the committee on the conduct of the war. He is quite a skillful man. I believe he has the reputation of being an excellent engineer. He was associated with Mr. Ericsson, and Mr. Ericsson furnished to him the computations, or they made them together, as to the floating capacity, or the buoyancy, or the displacement, or whatever may be the technical term, of the different vessels of the monitor type that were built. When the contract was made for building these light-draught iron-clads, the Department directed that they would be built under the supervision, with the advice, and under the direction of Ericsson and Stimers, as all the preceding ones had been built. But it seems that some misunderstanding grew up between Ericsson and Stimers, and Mr. Stimers, without letting the Department know anything about it, undertook to make the computations himself, unaided by and without consulting Ericsson. He never sent the plans or specifications of these vessels to the Navy Department as is testified before you here this evening by both

John Lenthall and Benjamin F. Isherwood. There was where the trouble arose. There was a mistake made in the computation of the displacement of the vessels. There is no question about that. That mistake was not detected until the first vessel was launched, and would not have occurred had Mr. Stimers consulted with Mr. Ericsson as he had been instructed to do, and as he had done from the time the first monitor was contracted for.

Now, Mr. President, let us see what it is proposed by the Senator from Ohio that we should do. This amendment provides:

*And be it further enacted, That the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral, one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer of highest rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the subject.*

I should be pleased if the Senator would inform me what will be the tenure of office of this Board of Admiralty.

Mr. WADE. I suppose they will hold their offices at the will of the President, as others do. I suppose the President will have power to turn them out of office and displace them if he sees fit, as there is no time limited.

Mr. GRIMES. Five naval officers, officers of the line, sea officers, are provided for who are to hold their offices during the will and pleasure of the President according to the construction the Senator from Ohio gives here, and the Secretary of the Navy is to preside over them. It is to be a kind of New England town meeting. If any question comes before this Admiralty Board in connection with any one of the bureaus, the head of that bureau is then to be permitted to come in and participate in the discussions.

Has the Senator forgotten, or has he not been informed that within the last few years a great revolution has come over all the navies of the world? Does he not know that the most important officer on board of every ship-of-war, next to the man actually in command, is the engineer? Is he going to intrust the whole Navy of the United States to the hands of five line officers, without any consultation or advice or uniting with them and giving any voice to the staff officers of the Navy?

Mr. WADE. It is provided that they may take the advice of any one skilled.

Mr. GRIMES. Can they not do that now?

Mr. WADE. They do not.

Mr. GRIMES. I assert that they do. I assert that there has not been any important measure taken by the Navy Department in the last four years without calling to its aid a board of officers, and the advantage of the present system over that proposed is obvious. There are some particular officers who are experts in ordnance. The Secretary of the Navy can convene a board of experts of five or seven or nine men who are distinguished in that particular department; they would be able to report something that would be valuable to the Secretary of the Navy and advantageous to the country. But every question in regard to ordnance is to be submitted, under this proposition of the Senator from Ohio, to a board of sea officers who may or may not know anything about ordnance. We have had time and time again boards of engineers assembled to which various questions have been referred by the Secretary of the Navy. They have been composed of experts in that particular Department. The advice that they have been in the habit of giving to the Secretary of the Navy has been of value and will continue to be of value to the Government; but of what value, I pray to be informed, would be the opinion of these five sea officers in regard to the construction of engines? They know no more about engines than the Senator from Ohio or I know about them, and I apprehend that we are about equally ignorant on that subject. So, also, in relation to various special

branches of the service. The amendment further is:

Sec. —. *And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war, when required by him. All such opinions shall be recorded.

Sec. —. *And be it further enacted*, That no vessel of war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel of war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon; and all courts-martial ordered by the Secretary of the Navy shall be detailed by the board.

Sec. —. *And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

Sec. —. *And be it further enacted*, That the Secretary may add to the board from time to time other officers of the Navy eligible to the position of chief of bureau, not exceeding three at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mark the second section of the proposed amendment. As I construe it, it virtually takes the control of the Navy from the Secretary and gives it to this board. Not the most trivial thing can be done by him independently of the board, and he is expressly denied the power to even detail a court-martial.

This board may take the advice of engineers and naval architects, but there is nothing requiring them to do it. The Senator does not put a naval architect, or constructor, or engineer upon the board, and—that is a very important item—he puts upon it no one to represent the supply department of the Navy, but he leaves the whole charge and control of the Navy, in fact, to this board of line officers, saying that they may if they choose ask the advice, not receive the counsel of, not to allow to participate in their deliberations, these officers of staff branches of the service.

The amendment means neither more nor less than this, if it means anything: to put the Naval Department into commission, to put it into leading strings, to put it in the control of some line officers who have been for a long time in the service; or else it means to furnish to the Naval Department a subterfuge by which it can at all times avoid responsibility. Either it means to give the control of the Navy Department to these commissioners, or else the effect will be to furnish the Secretary of the Navy the means in the future of avoiding all responsibility for his acts by thrusting everything off upon this board of commissioners. Do you wish to divide responsibility thus? Do you wish to give the Secretary of the Navy an opportunity to shuffle off all responsibility for his acts upon this board of irresponsible officers, who hold their commissions by a life tenure? I surely do not.

Yet, Mr. President, that will be the effect of this amendment if adopted. That is the effect of the British admiralty administration to-day. There is nothing that the members of the naval profession in England are so anxious to get rid of as their admiralty system, after which this amendment is modeled. They saw fit two hundred years ago to put their office of lord high admiral into commission, and it is now wielded by just about such a board as the Senator has proposed to create here, and what is the result of it? Precisely the result that I predict will follow here. A British writer on the admiralty administration says:

"It is unnecessary to insist at any length on the evil of divided councils, which must often occur among six persons brought together by the chapter of accidents, without previous knowledge of each other's views, and in fact the admiralty often represents nothing so completely as the endless diversity of opinions which prevail among naval officers; a diversity which on the other hand is partly ac-

counted for by the absence of any standard course of policy to be discovered in the conduct of successive naval administrations."

And he says, further:

"With respect to naval officers the cases not more encouraging, for the only one subject on which there is general agreement among them is the utter hopelessness of any good result arising from a system which is felt to hang like a blight over the navy."

That is a navy board which the Senator from Ohio would induce the American Senate to adopt and incorporate into our system. Sir Charles Napier, a great naval authority, says:

"Believing, as I do, that no permanent good can be done for the service until the Board of Admiralty is abolished, I shall point out what appears to me would be the best mode of ruling the navy, although that step has not been taken."

Sir George Cockburn has said:

"Having filled the station of confidential or principal sea lord of the admiralty for more than seventeen years, I feel that my opinion regarding the constitution of the board may sooner or later be deemed worthy of consideration and attention. I am induced, therefore, to place in writing the decisions to which my experience has brought me on this point.

"I have no hesitation in stating that I consider the present establishment of that board to be the most unsatisfactory and least efficient for its purpose that could have been devised."

Mr. President, if you adopt this scheme for a Board of Admiralty, one or two things will follow: either the appointments that will be made under it will be made by the President of the United States upon the suggestion of the Secretary of the Navy, and therefore you will have no more nor less than the tools, the pets, or the friends of the Secretary of the Navy to compose it; or the appointments will be made independently of him and will be antagonistic to him, and thus you will secure divided councils. Which of the horns of that dilemma will the Senate prefer? Suppose that a new Secretary of the Navy should come into office on the 4th of March, will not the President detail or appoint for his associates in this board men whom he will designate, with whom he is familiar, and with whom he is willing to cooperate? Or, if the present Secretary shall be continued, do you suppose the President will select men whom Mr. Welles will not desire to unite in his councils? If they are not thus appointed, if the President does not regard the wishes of the Secretary, as I suppose he will, he will select men who are in opposition and in hostility to him, and in that case how will the Navy Department be conducted? You will have such confusion as no executive officer in this Government was ever yet cursed with.

Mr. President, I trust that it is hardly necessary for me to say anything more this evening in opposition to the adoption of this amendment. I believe that a more disastrous measure for the Navy could not be devised. I know that there are some officers who are in favor of it. I am tolerably familiar with the sentiment of the Navy, and while some of the older officers who have spoken with me, and others who have not spoken with me, with whom I am acquainted, are in favor of it, I know that the bone and sinew, the heart and the muscle of the Navy, the men who do the labor and who are destined to do it, the men in mature life, and from that down to the young passed midshipmen, are utterly and wholly hostile to it.

Sir, what has been our experience on this subject? We had this Navy board once or something tantamount to it. As a friend said to me yesterday, when the proposition was introduced here, "When we got rid of the old board in 1842 we felt as Sindbad the sailor felt when the Old Man of the Sea was lifted off his shoulders." It was an incubus on the Navy, and was so regarded at that time by everybody except some of the old post captains who were assigned as members of the board. It was an inefficient organization, and was so considered by every one whose opinion was worth anything. Every nation on the face of the earth that has had it or anything like it is attempting to abolish it. The Senator from Ohio proposes that we now in a time of war, when of all other times there should not be any division in council, shall adopt it, and make it part of our system, without any consideration, and without any report by a committee of this body in favor of it, and adopt it, too, upon an appropriation bill!

Mr. President, I have been asked two or three times in private conversation, by members of this

body and of the other House, why it is that we have not built any other iron vessel of the description of the Ironsides, why we have not built larger vessels corresponding with the large vessels that have been built by France and England.

Mr. WADE. They are failures; that is the reason.

Mr. GRIMES. That is one reason, and it is also because the Senate and House of Representatives very wisely refused to do it. The Navy Department, it will be remembered by the members of this body, made estimates for large iron-clad ships, in obedience to the expressed wishes of the commercial cities on the Atlantic coast, and sent those estimates here. We refused to vote them. For one, I refused my vote because I relied upon that system which is now proved to be the best naval system in the world, with the best ships for the purpose that the American nation desires to accomplish. Everybody admits that the monitors are an admirable sea defense; that for the purpose for which they were originally designed, the protection of our harbors, nothing exceeds them; the Senator from Ohio says "Provided you can get them from one harbor to another." Have any gone down except the earliest built and most incomplete, the Monitor and Weehawken? Have they not been taken from our north Atlantic cities around Cape Hatteras to the Gulf of Mexico?

The trouble about the monitors has arisen from the fact that their friends have claimed too much for them while their enemies have too greatly undervalued them. The truth, as is generally the case, lies in the mean between the two parties. I am not much of a believer in them as sea-going vessels; I would not recommend them as cruisers; but for harbor defense, the purpose for which they were originally devised, they are unapproached by anything yet invented by the ingenuity of man.

Mr. CONNESS. Will the Senator permit me for an instant to make a suggestion on that point?

Mr. GRIMES. Certainly.

Mr. CONNESS. I wish simply to state that there are demands for an increase of the Navy on the Pacific coast, and there is great propriety in making that increase; and in some of my most recent conferences with the Navy Department they have announced it as their intention to send some of the monitors around through the straits of Magellan to that coast, and said at the same time that they were willing to take passage in them.

Mr. GRIMES. In answer to the suggestion which has just been made it will not be inappropriate for me to read a short extract from a report of Admiral Porter in regard to vessels of the monitor class of which the Monadnock is the type. Here let me say what may perhaps be known to every Senator, but I will state it nevertheless, that the Monadnock is the only one of these vessels that has been built by the United States Government at a navy-yard. All others have been built by contractors; and many of the difficulties that have been experienced in regard to these vessels have originated from the fact stated by Mr. Welles in his letter to the Senator from Ohio, that the vessels were not made at our navy-yards, under our own superintendence, and have suffered from overweight and underweight and defective materials. Where the vessels have been made at our own navy-yards, under our own superintendence, by our own workmen, no such difficulties have ever been experienced. Admiral Porter says:

"As to the Monadnock, she could ride out a gale at anchor in the Atlantic ocean. She is certainly a most perfect success, so far as the hull and machinery are concerned, and is only defective in some minor details, which in the building of these vessels require the superintendence of a thorough seaman and a practical and ingenious man.

"The Monadnock is capable of crossing the ocean alone, (when her compasses are once adjusted properly,) and could destroy any vessel in the French or British navy, lay their towns under contribution, and return again (provided she could pick up coal) without fear of being followed. She could certainly clear any harbor on our coast of blockaders, in case we were at war with a foreign Power. As strong and thick as the sides of this vessel are, one heavy shot from Fort Fisher indented the iron on her side armor, without, however, doing any material damage. These vessels have laid five days under a fire from Fort Fisher, anchored less than eight hundred yards off, and though fired at a great deal, they were seldom hit, and received no injury, except to boats and light matter about decks, which were pretty well cut to pieces."

I suppose that is sufficient testimony as to the

ability of vessels of that description passing from port to port along our coast.

I was saying, Mr. President, that I think we have the best Navy in the world for our purposes. What are our purposes? First, to protect our own harbors; and if there are any vessels superior to the monitors for that purpose I confess I do not know what they are. Such is not only the judgment of naval men in this country, but of the commercial marine and of foreign Powers, many of which are at this moment engaged in constructing them. Some have already been built, and many more are being built by the Powers of continental Europe; and some very similar, known as the Captain Cowper Coles's pattern, are being built by Great Britain. Then we have the fastest sea-going naval vessels in the world. I know that that has been denied, but I have here the testimony to prove it if it be doubted; testimony that cannot be controverted.

All we want is the monitors to protect our harbors, and then fast vessels to destroy the commerce of a hostile Power. It is utter folly for us to undertake to build a navy with which we can compete with France and England in immense naval battles. That is not our policy. Our true policy is to protect ourselves at home, and then to sweep the commerce of our enemy from the sea; and the system that has been pursued by the Navy Department during the last four years in building up the Navy we now have is calculated to accomplish that purpose in a higher degree than any other plan that could possibly be devised.

Mr. McDougall. Allow me to ask the Senator a question. What is the reason that no action has ever been taken under the law authorizing the President to issue letters of marque so as to place our volunteer marine on the seas to enable us to maintain ourselves? I should like to understand that, because the Senator speaks *ex cathedra*.

Mr. GRIMES. I do not speak *ex cathedra*. The Senator from Massachusetts [Mr. Sumner] probably can answer that question more satisfactorily than I can. I was in favor, as the Senator from California will remember, of the passage of the law authorizing the issue of letters of marque, and the Senator from Massachusetts was opposed to it, and as he has the conduct of foreign affairs here, he can answer better than I can.

Mr. McDougall. I should like to ask him, then, for I have been in great trouble to know, the reason why letters of marque have not been granted; for that would have swept the adversary from the seas.

Mr. GRIMES. I do not conceive that it is necessary for me to pursue this subject any further. I have only a word to say in regard to the charge that was made to-day by the Senator from New Hampshire against the Navy Department, that it had assumed extraordinary powers in the creation of acting rear admirals. It will be remembered that when this war began, and until 1862, the highest officer in the American Navy was a captain. When one of those captains was appointed to the command of a fleet or a squadron he was called a flag-officer, and from that time and ever afterward took the courtesy title of commodore, there not then being any such rank as commodore. On the 21st of December, 1861, Congress passed a law declaring—

"That the President of the United States shall have the authority to select any officer from the grades of captain or commander in the Navy, and assign him to the command of a squadron with the rank and title of a 'flag-officer'; and any officer thus assigned shall have the same authority and receive the same obedience from the commanders of ships in his squadron holding commissions of an older date than his that he would be entitled to receive were his commission the oldest; and to receive, when so employed, the pay to which he would have been entitled if he were on the active list of the Navy."

After the passage of this law Congress passed another act by which it authorized the creation of the grade of rear admiral. In three or four instances persons were detailed from the ranks of captain or commander to command squadrons, and as the title of acting rear admiral, after the passage of the law creating the office of rear admiral, corresponded with the title of flag officer under the law of 1861, they were designated in letters from the Department and in public documents by courtesy as "acting rear admirals," and that is the only way in which that assumption of the Navy Department originated. The rank was the same and the pay the same.

Mr. HALE. I wish to ask the Senator a question, whether they are not designated in the letter he read from the Secretary of the Navy to the Senator from Ohio as acting rear admirals?

Mr. GRIMES. Yes, sir.

Mr. HALE. When they are thus appointed do they not receive rear admiral's pay?

Mr. GRIMES. I understand that they do not receive rear admiral's pay. They are called acting rear admirals precisely as the Secretary three years ago would have called the present Rear Admiral Smith a commodore; he being then only a captain.

Mr. HALE. I understand the fact to be contrary to that, and that they do receive the pay and emoluments of a rear admiral while they are in that command as acting rear admirals.

Mr. GRIMES. I have understood the reverse of that. They receive the pay a flag officer draws, whatever that may be.

Mr. HALE. I had it from the Secretary of the Navy himself, for I asked him and he told me it was so.

Mr. WADE. Mr. President, at this time of the night I do not propose to enter into an argument on this matter at large. Indeed I never supposed that the amendment which I offered would lead to so protracted a discussion.

The reason why I mentioned the failure of the light-draught monitors was simply for the purpose of showing that something was defective in the organization of this Department in the matter of ship-building or the construction of vessels. Undoubtedly the committee on the conduct of the war would not solemnly have been charged with the duty of making these inquiries unless the Senate had been pretty thoroughly impressed with the idea that there was something wrong about this matter. Most assuredly no member of that committee ever sought this investigation. It was furthest from my thoughts, furthest from my wishes to be engaged in any such enterprise; but when the Senate deliberately made it our duty to make these inquiries I went cheerfully into it, and we have labored pretty hard and endeavored to understand all about it. We have not acted *ex parte*, as the Senator from Iowa supposes we have. We examined all the high naval officers that seemed to have a peculiar knowledge upon this subject without the least inquiry what their bias was or what their opinions were, or anything else about them. If they stood in such relation to these light-draught monitors, which were the subject-matter of our inquiry, as to induce the committee to believe that they had any particular knowledge on the subject, we took their testimony, and we have taken a great deal of it, and I expect in due time a report will be made, and that evidence will all be before the Senate, and I believe that evidence will throw a great deal of light on this subject.

That there is something wrong in the organization of the Government that has led to such an error as this does not need very much argument. I do not place it on the testimony of Mr. Stimers, or any other particular witness. Indeed, to show that these twenty monitors for which \$10,000,000 were appropriated have proved an entire failure for the original purpose for which they were designed, I should not want any other testimony than that furnished by the Department. They tell you that they were of no value as they stood; they have said so in one of their communications to us. The whole appropriation which was made for these monitors was expended on them before it was pretended they would be of any value whatever, because they could not carry their armament and the necessary naval supplies and coal. They have divested six of them of their turrets; they have divested them of all the weight they could with propriety for the purpose of using them as they say as torpedo-boats, a thing never thought of in their original construction. They were to be light-draught monitors, not drawing more than six and a half feet of water, for the purpose of navigating our shallow harbors in the South and ascending our rivers. That was the contract, that was the design, and it has proved a total failure, and out of the \$10,000,000 that was appropriated for that purpose you have not yet got a scintilla of use. About two years have expired; the war, I hope, is near its end; and yet from this great appropriation you have not so far received any benefit whatever.

I have said that something was wrong in this

matter. I do not charge any moral delinquency on anybody. I suppose the Navy Department have done all they knew how to do under the circumstances. I can excuse them in a great measure because of the immense amount of business they had on their hands. I believe their organization there has been entirely incompetent to the vast work that the Government enjoined on them to do. What was Mr. Lenthall, that the Senator from Iowa says in any other Government would have been a lord or a noble for his merits, doing, that he could not attend to this business? He did not make any calculation as to the displacement; the Senator says he had nothing to do with it. Where was Mr. Isherwood, another man who it seems ought to have had something to do with it? He swears he had nothing to do with it. What was he doing? What was he there for? What were this naval bureau, if you please to call it so, doing? Were they building any ships?

Mr. Stimers says that before he could have time to make the calculation of the displacement he was sent on other business for the Government, and had to leave it in its unfinished state, and to trust to the young engineer of whom I spoke the other day; and he says that he enjoined it upon the board of construction, or the bureau, or whatever it was, to make the calculation over again; not that he distrusted the young man, but he feared that there might be a mistake, and it was necessary that it should be very particularly looked at.

Gentlemen say that these vessels will ultimately be made good. I do not know but that they will. I know that on that point there is the greatest variety of opinion among men most competent to judge. Is not Admiral Gregory a man that ought to be avouched as a witness in such a case? We have the testimony of the highest and the best naval officers you have got, some of them believing that they will never be good for anything, others hoping that by expending a vast amount of additional money that has not yet been appropriated by Congress, something may be made out of them. In order to try the experiment whether they will be good for anything or not, you have to expend \$90,000 on each of these vessels to build them up, to say nothing of other expenses. I suppose you will have to expend full two million dollars more than you have already appropriated for no better purpose than to try the experiment whether anything useful can be made out of them.

Mr. COLLAMER. Have they not tried it on one?

Mr. WADE. They try it on all, and in my judgment that is very wrong. The building of these light-draught monitors was in itself an experiment. None of this class had ever been built before. There had been a monitor built, but not of the same class. It was considered as an experiment, and yet they contracted for twenty at once, all of the same model, and they have all failed. There is not a good one among them; there is not one that you can do anything with. Two long years have passed and you have not yet derived a single iota of benefit from the appropriation of the \$10,000,000. Yet when we are charged to inquire into this, and when we find these vessels to be a failure, because we are anxious that some remedy should be applied we are treated as we have been. I do not blame the Navy Department about it, but I say there never was a nation that expended as much for naval purposes in the same time as we have done. Nay, sir, we have incurred a debt in four years almost as large as Great Britain has incurred in two hundred years, and she has been at war nearly one half that time.

I say, then, we must make some different arrangement. We want additional help. If you have no board of construction that can look to the expenditure of \$10,000,000, that will not make the models of the ships, that will not look to them and see whether they are right or wrong, and it is not shown that they are doing any other business, I think it is time for us to interpose. What are they there for? Why do you keep them there? Why do you take a young man like Stimers and send him off on this expedition to construct these vessels alone, with nobody to help him, and yet send him on other business at the same time? There is something wrong about it. You have not help enough. You want a board there that can superintend these matters all the time. You



want something like what this amendment proposes. If you do not want the board to be composed entirely of line officers, propose amendments. I suppose they are as good men to superintend this work as anybody else. The Senator says there are no engineers proposed by this amendment to be on the board. That is very true. I have no objection, however, to substituting the best engineer in the world for any one of the officers named in the amendment. The idea was that these men are to preside over the Department and look into all these matters, somewhat as we now send an eminent officer in the Navy to superintend the building of a ship. He is no great ship-builder, I suppose, but nevertheless he attends to it, he superintends it, he sees that everything goes on right. So this board is to superintend matters, not that its members are to be mechanics, not that they are to wield the ax and the auger, but they are to employ and consult the best men and the best skill in the country. It is to bring additional force into the heads of your Department there to aid and assist in this business. That is my object. I believe you have not got men enough there; you have not got force enough at the head to do all this work. I do not believe that the Department which was organized for looking after a Navy consisting of a few old wooden ships is competent on that old arrangement to manage a naval force so vastly increased as ours has been, so that there is a hundred-fold more to do, and which ought to be done upon new and improved principles. I do not believe that the old arrangement is altogether adequate to it. It is unreasonable to suppose so, and the result of trying shows that just what a man would naturally have expected has turned out to be true; we have tried it and it has failed.

I am not going into an argument about these iron-clads. I believe with the Senator from Iowa that many of the monitors of the largest class will be the most formidable ships in the world for harbor defense. I am inclined to think so. I think it is the best model, because, though I am not an engineer or a mechanic, I can see that it is the best form; you can make your armor thicker, stronger, more impenetrable with the same surface in a monitor than you can in any other form of vessel. That is the reason. The great ships built in Europe and cased with iron have utterly failed because of the enormous surface they have undertaken to plate with armor; the heft is so great that they go to the bottom; they will not sail; they cannot do anything; the mark for the shot of an opposing force is too great; but your monitor, with a turret that is movable and with a smaller compass, may have her armor three times thicker and perfectly impenetrable and still be able to float. That is the reason why ours are the best. I believe with the Senator from Iowa that they are among the most formidable ships in the world.

I hope that Senator will bring his astute mind with his usual zeal to inquire into the armor they carry and the guns they carry to see that this best of all ships and stoutest of all ships shall be armed with a gun that can be used without destruction to your own men; for our investigations have shown that some of these great guns are deficient. You ought not to rest contented with the best ships in the world armed with a gun that you cannot depend upon. I believe there is a gun now known, and which may be brought into use, that will be as strong as the ship on board of which it is placed; but you have not got it now, and you will find with all the vast expenditure you have laid out on these great monitors, that unless you improve their armament you have but half done your work and left the most essential part undone. The committee on the conduct of the war have made a report on that subject which has been sent to the Naval Committee, and I hope they will attend to it and perfect the work.

I am not complaining of your monitors; I am finding no fault generally with your Navy Department; I do not intend to find fault with it. I know the immense difficulties with which the Department has had to grapple. It has had the shortest possible time in which to create the most formidable navy in the world, and very well, in my judgment, has it accomplished the result.

The Senator says that the committee on the conduct of the war have taken *ex parte* evidence; for what? My God, sir, I know no party but my

country in matters of this kind. Why should I by this inquiry seek, as the Senator insinuates, to pick out an officer here and there for the purpose of obtaining testimony to support some favorite theory? God forbid. I wish to elicit the truth. I have no other interest in it, no other purpose to subserve, than to come at the truth from the best lights that the Navy can furnish us. Such we have got, and in due time you shall have it before you.

Complaint is made because the deposition of Mr. Stimers, an important witness before the committee to show the inadequacy, I think, of the organization of the Navy to accomplish all its great purposes, is yet in the reporter's notes. We cannot help that. Mr. Stimers was actively engaged in the Navy; he has but just returned from a distant scene of labor; he has been an active man, and it has only been within a few days past that we could get him as a witness before the committee. I do not intend to go into the evidence we have taken. I simply say that it shows, what stands confessed by the Navy Department and by everybody else, that these light-draught monitors are a failure; certainly the original design or purpose they were intended to execute is a confessed failure by everybody. There is no contrariety of evidence upon that point. It is a matter of some little consequence to know whether we have thrown away our \$10,000,000 or not. We certainly have not reaped any benefit from that expenditure. I hope we shall yet. I hope it will prove that those witnesses are correct who think something can be made out of the vessels, but still I say that I have the gravest doubts myself on that point. The original purpose is abandoned. I do not know of any one who has been called to the stand who believes that you can ascend rivers with them, who believes they are adequate for the purpose for which they were originally designed; but some hope they may be used in some way for harbor defense, and some talk of them as torpedo-boats, as I have already said. But what kind of a torpedo-boat would a vessel make that cannot go faster than three and a half miles an hour and which cannot be trusted by herself at that? for not one of these vessels has ever gone on her own hook ten miles. When one of them has been taken from harbor to harbor she has been dragged there by a boat towing her along. How would one of them approach a torpedo under tow of a boat that certainly would be ruined by the explosion? The best nautical men say that would be the consequence. These vessels are not fast enough for that purpose; they are too logy. That is an afterthought entirely. As it could not be seen that they would be good for anything else, it was thought that perhaps they might be used for this purpose, and hence the attempt to use them in this way after they have failed for the purpose for which they were designed. It was then thought that an attempt might be made to use them as torpedo-boats, hoping that something might be done with them for that purpose. It has been found, however, that that cannot be done, that they are not good for that purpose, and that you have the best constructed torpedo-boat which can be built at one fifth the cost of one of these vessels.

Mr. President, I do not wish to take up the time of the Senate in arguing this question. I believe that it was incumbent upon the committee to whom this inquiry was referred, and who were directed to make it, if they found anything that they believed to be defective in the organization of the Department, to propose a remedy, if they could contrive one. That is my idea; and if the Senate judge that the amendment that I have offered is not the way to do it, let them help me to perfect it. If they will not do it, we must let the thing drop, and the result will be that you say that an organization of the Navy Department and of the board of construction, which sends out a young man carelessly charged with other business at the same time and leaves this great work to be done in this careless manner, is the best you can do. I want a board that will be adequate to the great work that we have for them to accomplish, that will be on hand there all the time, that will employ the best mechanical skill in the country in the shape of engineers, ship-builders, and naval architects.

The Senator tells me that I am for putting the Navy Department into commission. Why, sir,

the Navy Department is to be superior over this Board of Admiralty just as it is now, but it will be a more permanent organization; it will be an organization that I trust will try to do something, and not, like the old one, turn away and do nothing with these things. I ask you again what are they there for? Mr. Lenthall tells you he did not do anything about it. Mr. Isherwood says he would not or did not do anything about it, did not even know anything of the kind was going on. What were they about? They were not constructing any of the rest of these monitors; they were doing nothing that I know of. Why did not this man, who the Senator says ought to be a lord of the admiralty, raise a hand here? Why did he not know that there was work for him to do? Mr. Stimers was sent off to work with Mr. Ericsson, and they got into a misunderstanding, which resulted in a quarrel; but if Mr. Stimers tells the truth, the Department knew all about it all the time, and I think they were faulty in not attending to the matter more assiduously than they did. I know, however, that they had a great many other cares on their minds. They had everything to look to. They had a great Navy on their shoulders and they wanted help. They wanted such a board as I have proposed to be their advisers, to look to the construction of these vessels, and to employ skill to do it. I think so, and consequently I have offered this amendment. I believe it is a remedy for the defect. I have no idea that if you had had such a board, this fatal mistake could have been committed. I believe that your money would have been expended so that these monitors would be serving the country as they were designed to do to-day, ascending our rivers, cutting off the action of the guerrillas everywhere, and protecting our coast; but as the Department had not the strength, the power, the organization to do it, you have got nothing of them, and in my judgment you never will have anything.

Mr. McDougall. Mr. President I am impressed with the opinion that upon the committee on the conduct of the war there are three skillful naval constructors, and if George Steers was alive to-day he would not equal either one of them. I am impressed with the opinion that there are also three excellent engineers; that Ericsson is not equal to one of them; and the remaining member of the committee is a man of superabundant genius; knowing more than any one else about the business of how first to invent, and then to construct, and then to execute these vessels that belong to the high seas. If wisdom could culminate into an absolute and determinate form, be resolved into a globe, and be put down into the committee on the conduct of the war, it should be done by all means.

We all know that in the start of these vessels it was an experiment, an American experiment, which has resulted in great success. The Senator from Ohio is wrong when he says that the monitors have not been a success. There is the Comanche that, under great difficulties, having gone down into the sea on the coast of the Pacific, now sails her waters, a great success, and a safeguard to our coast.

Sir, we have done great things in the production of our iron-clads, and they make us now the most formidable Power upon the seas in the world. We have sea-going vessels, and we have coast-defending vessels. A small monitor is not intended for a far sea-going vessel, and yet it is able to go to sea, and to stand the sea as long as it can carry coal. Our improvements upon our first enterprise furnish us great ships that, as Porter says, can go abroad and command the ports of the world. This great triumph of American skill has done more to exhibit our strength, and the power possessed by the American people in comparison with any and all the other Governments of the world, than any single thing we have ever done.

I say this much as differing from the Senator from Ohio; and then, as I do not propose to make a speech, I wish to say a single word with regard to his proposition. If our Government is built on proper foundations, if our system has any value, if our powers have been properly distributed, it is not for us by legislation to usurp the power belonging to another and an independent department of the Government. I have been disposed to say, and have said, that our rights have some-

what been usurped by other departments of the Government; but one wrong does not justify another, and I maintain that it does not belong to the legislative department of the Government to put a commission around the Commander-in-Chief of the Army and Navy and his appointees, so that he may not be able to direct the conduct of the Navy Department. I maintain in the first place that it is a departure from the Constitution, it is a departure from principle, and a departure from policy, and it ought for these reasons to be rejected.

The amendment was rejected.

Mr. ANTHONY. I desire to offer an amendment as a new section:

*And he it further enacted,* That hereafter in all appointments of midshipmen to the Naval Academy the selections for such appointments in the several districts shall be made from the candidates according to their respective merits and qualifications, to be determined under such rules and regulations as the Secretary of the Navy shall from time to time prescribe.

I do not propose at this time of the evening to make a speech. I think my practice in the Senate will protect me from that imputation. At the last session, upon offering a similar amendment to the military appropriation bill, I adduced abundant evidence of the advantages of the plan of competitive examinations, and I endeavored to show that it had been recommended not only by the advice of the best educators, civil, naval, and military, in the country, but by the experience of the most military nation. It has long been the system of France, and it has been adopted recently into the military service of England, where all the traditions are aristocratic, but where they have found that while wealth, rank, and family may be made the test of promotion in the civil service, it is absolutely necessary to the success of the military service that appointments and promotions should be made by merit. I offer this amendment now because I have some cumulative evidence in its favor. We appoint every year a Board of Visitors to the Naval Academy. That board is selected from the best naval officers and from eminent men in civil life who have given attention to the subject of education, and that board annually makes recommendations. Now, sir, I desire to place before the country the recommendation which the last Board of Naval Visitors has made on this subject. I send to the desk, and ask the Secretary to read, the extract from the report which I have marked.

The Secretary read, as follows:

"As the most direct blow to the hindrances which practically exclude a large portion of the youth of the country, no matter how strong may be their predilection or great their acquired fitness for the naval service, from even a chance of being admitted to this Naval School; as the most effectual preventive of the disappointments now experienced by individuals and families in the failure of many appointees to pass the entrance examination, or to meet even the low requirements of the first year's course; as the only effectual way of ridding the institution of the low average ability and attainments which characterize the lower sections of every class, and of bringing up the talent and scholarship and conduct of the whole corps to the average of the first two sections; as a sure guarantee against the early resignation of officers educated at the public expense for a life service in the Navy, and of a progressive and honorable career as long as life and health last; as a powerful attraction to draw to this department of the public service a fair share of the best talent and loftiest ambition of the youth of the country, and as a stimulus to their best efforts for self and school improvement for this purpose, the visitors recommend the immediate abandonment of the custom of selecting candidates for admission by individual patronage, in consideration of neighborhood, relationship, or party connection, or the better motives of the poverty, or public service of parents, and that all appointments be hereafter made in consideration of the personal merit of the applicant, ascertained by a public competitive examination, conducted before an impartial tribunal, constituted as shall be prescribed by law. Admission sought and obtained in this way will be honorable to the successful candidates, a source of pride to the neighborhood and State from which they come, a reward to the teachers who have prepared them, and a stimulus to the industry and good conduct of their comrades at home. The classes of the Academy replenished every year by new recruits, all of whom have sought the service from personal choice, and won the place by personal merit founded on natural aptitude and vigor of mind and acquired knowledge, and who regard the diligent improvement of these opportunities for professional study and practice as the true road to honorable promotion hereafter, to be gained by further industry and devotion, will at once have an average ability and scholarship equal to that now obtained by only five or six out of every hundred, and the dead weights, the re-examination, and the failures from inability, distaste, or want of preparatory knowledge, will forever disappear from the records of the Academy.

"These suggestions have not the merit of originality, nor the objections of novelty. The principle recommended has

stood the test of seventy years' trial in France in naval and similar public schools, and is now in successful operation in England, as well as in most of the military schools of Europe. It has been again and again urged by thoughtful friends of this institution, and of our other national school at West Point, as the most effectual remedy for the evils complained of. The Academic Board of this Academy, in answer to a request from a committee in 1855 for its opinion on this point, replied: 'The Academic Board has long been of the opinion that the present system of appointing midshipmen without care in their selection was undermining the very existence of the institution. The records of the Academy show that scarcely more than one fourth of those admitted graduate. The fault lies with the appointing power, which has not kept the institution supplied with the proper material, and the board has been powerless in applying a remedy. It has done all in its power by recommending a higher standard of proficiency.' The visitors for 1862, in the report of their examinations, remark: 'After a careful examination of the subject, the board has been forced to the conclusion that the selection of candidates has not been made with sufficient reference to the want of the public service, but has been and continues to be regarded as a portion of the patronage of the members of Congress making the nominations. The evil does not stop here; for in many cases, after they have been appointed without regard to talents or fitness, and have obtained admission to the institution, and subsequently have been found incapable to pursue the studies of the class to which they belong, the influence of the same member of Congress originally nominating them is successfully used to continue them at the institution in obtaining authority for them to recommence their studies by joining a lower class, thus retaining those wanting in talents and fitness, to the exclusion of others of suitable qualifications that might be presented. An institution like this, in which the students are educated and supported by the Government, ought to have them selected from the highest and most promising youths of the country.'

"The same general principle, selection by merit, ascertained by the same general method, competitive examination, conducted on such conditions as Congress shall authorize or prescribe, has been recommended for appointments to the kindred national institution—the Military Academy at West Point—with the view of removing the same hindrances and remedying the same defects in the practical working of that school. That eminent military teacher and administrator, General Thayer, under whom the Academy, notwithstanding many hindrances and defects, attained its highest development, recommended the adoption of this principle at the outset of his administration, after having seen its successful operation in the military schools of France; and he has recently, after a lapse of nearly fifty years, all of them spent in actual experience or observation of the practical results of a different principle, renewed the recommendation in a communication to the Secretary of War. He has, within the present year, declared his belief that the adoption at the start, and the continuous recognition of this principle—the selection of candidates for admission on the ground of personal merit and aptitude for the special purposes of the institution, in appointments to the Military Academy—would have more than doubled its usefulness, would have prevented most of the difficulties of administration which it has encountered, would have prevented the popular prejudices which denigrate and disappointed parents and Congressmen have fostered, and would have gained for it a larger measure of the popular favor.

"The Visitors of the Military Academy for 1863, in their report to the Secretary of War, go into an extended discussion of the advantages and objections to this principle and mode of making appointments. To this document reference is made as embodying the convictions of this board as to the probable working of the same principle in admission to the Naval Academy."

Mr. SHERMAN. I object to any more reading of documents.

Mr. ANTHONY. I have waited here all day and heard Senators talk about the Democratic party, and there has not been until this evening one word said on the subject before the Senate; and now when I ask the attention of the Senate to the report of the Board of Visitors of the Academy, not suggestions by indifferent men, but the well-considered deliberations of those who, of all others in the country, are best qualified to decide on the question, and to whom questions affecting the Academy have been especially committed, Senators think that I am occupying their time very much to their inconvenience and am very much imposing on them.

Mr. JOHNSON. Nobody has said that.

Mr. HALE. I think as a matter of fact the statement which the Senator from Rhode Island makes, if he intends it to be applicable to the appointment of midshipmen in the naval service, is a mistake, and if the Board of Visitors to our Naval Academy mean to make that statement, it is a statement that I think is not founded in fact.

Mr. ANTHONY. I am not certain that the naval appointments of Great Britain are made after a competitive examination, but the military appointments are, and have been since the Crimean war. At the time of the Crimean war the English Government found that they were far behind the French in the efficiency of their military service, and upon an investigation into the causes, it was decided that the reason they were behind the French was because the French made merit the

test of appointment and promotion in the army, and the English made family the test; and the English have since adopted the French system in the military service.

Mr. HALE. I am not prepared to say how it is in the British military service; but I have made some inquiries in regard to their naval service, and I have visited some of their ships, and I understand that the appointments of midshipmen there are never made from boys over fourteen years of age. Fourteen years old is the extent. If you adopt this provision, and it becomes a law, the effect will be that the boys in towns where they have high schools and have made rapid advancement will universally get the appointments, and boys from the country, who do not have the advantage of these high schools and of the training and education obtained in them, will be entirely excluded. I think it is better to leave the matter as it now is.

The question being put upon the amendment, it was declared that it appeared to be carried in the affirmative.

A division was called for.

Mr. ANTHONY called for the yeas and nays; and they were ordered.

Mr. GRIMES. Heretofore I have always voted against this amendment, but I am going tonight to vote for it. The object that is sought to be accomplished by the Senator from Rhode Island has always met my approbation, but it has seemed to me at the same time incapable of being carried properly into execution. I doubt it now; but I am willing to try it one year, and see what the result will be.

Mr. SHERMAN. I trust the Senator from California will withdraw the call for the yeas and nays, and let the amendment be attached and sent to the House of Representatives.

Mr. McDougall. I did not call for the yeas and nays.

Mr. ANTHONY. The Chair decided that the amendment had been carried in the affirmative, and then a division was called for, and I asked for the yeas and nays.

Mr. SHERMAN. Let the call for the yeas and nays be withdrawn, and the Chair put the question again.

The PRESIDENT *pro tempore*. The call for the yeas and nays may be dispensed with by unanimous consent.

Mr. SHERMAN. I hope it will be done. I desire very much to have the bill passed to-night.

The PRESIDENT *pro tempore*. The Chair hears no objection; and the call for the yeas and nays is withdrawn.

The amendment was agreed to.

Mr. SPRAGUE. I submit the following amendment as a new section:

*And he it further enacted,* That so much of the proviso of the act of March 3, 1813, entitled "An act making appropriations for the naval service for the half calendar year beginning the 1st of January and ending the 30th of June, 1844," as requires that provisions and all materials of every name and nature for the use of the Navy be furnished by contract with the lowest bidder after advertisement, shall be and the same is hereby so far modified that it shall not apply to bunting delivered for the use of the Army and Navy, and that it shall be lawful for the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury to enter into contract for bunting as their respective services require for a period not exceeding one year, and at a price not exceeding that at which an article of equal quality can be imported.

Mr. SHERMAN. With the restrictions that are contained in the section I think that amendment is right and proper.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. It was ordered that the amendments be engrossed, and that the bill be read a third time. The bill was read the third time, and passed.

#### ARMY APPROPRIATION BILL.

Mr. SHERMAN. I move now to take up the Army appropriation bill, with a view to let it stand as the unfinished business.

Mr. SUMNER. I wish to remind the Senator from Ohio that there is a special order for one o'clock to-morrow.

Mr. SHERMAN. I have consulted the Senator who has the floor on that subject, and he is perfectly willing to let it be postponed until Monday. I will state to the Senator from Massachusetts that there are reasons why the Army appro-

priation bill should be disposed of to-morrow. The tax bill will come to us to-morrow, and the Committee on Finance will be engaged in its consideration next week, and probably will not be able to retain their seats in the Senate during the time it is under consideration. I desire, therefore, to have the Army appropriation bill passed to-morrow, and then I shall not interfere with other Senators.

Mr. SUMNER. Then, with the permission of the Senator from Ohio, in the absence of the Senator from Michigan, [Mr. CHANDLER,] I propose that the special order for to-morrow be transferred to one o'clock on Monday.

Mr. SHERMAN. I have not the slightest objection to that.

Mr. TRUMBULL. I hope that will not be done. That bill has been in the way of everything else.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

Mr. WILSON. I move that the Senate now proceed to the consideration of executive business for the purpose of allowing some important reports to be made which will not take long.

Mr. SUMNER. Before that motion is put, I would like to ask to have the special order for one o'clock to-morrow taken up and transferred to Monday at one o'clock.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent.

Mr. TRUMBULL. I object to it.

The PRESIDENT *pro tempore*. Then the motion cannot be entertained at the present time.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Massachusetts, [Mr. WILSON.]

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 17, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THURSH, of Washington.

The Journal of yesterday was read and approved.

### PUBLICATION OF DEBATES.

Mr. WASHBURN, of Illinois. I ask unanimous consent to introduce the following resolution:

*Resolved*, That the Committee on Printing be directed to inquire into the cause of delay in getting out and delivering the Daily Globe, and to provide a remedy for such delay.

No objection was made.

Mr. WASHBURN, of Illinois. I merely desire to state that members will observe that the Globe is three or four days behind with our debates. We made an almost stupendous appropriation for the Congressional Globe during the last session of Congress, and with the express promise on the part of the publishers that the debates should be promptly delivered. It has fallen behind now at an earlier stage in the session than I have ever known it before, and it is very important for us that we should have the previous day's proceedings on our tables when we meet. And there is no reason for the delay. All that is wanted is that they should give us a little more force. If they have not reporters enough let them get a few more, and if they have not printers enough let them get a few more printers.

Mr. MALLORY. I will state that I do not think we have ever known, since I have been in Congress, a time at this period of the session at which the Daily Globe has not been behind to some extent, and I, for one, so far from regarding it as objectionable, think that it is fortunate, because when there is a discussion on an important subject and many speeches are made, the delay gives members an opportunity to revise their speeches, and I have no doubt the gentleman from Illinois has availed himself of such opportunities.

Mr. WASHBURN, of Illinois. Let the speeches be delayed as long as gentlemen desire.

Mr. MALLORY. Let me suggest to the gentleman from Illinois that if the publishers of the

Globe were to employ a force constantly at the reporters' desk and in the printing office to have the Daily Globe at all times printed punctually, they would have ordinarily too large a force, and the expense would be very heavy from the fact that they would constantly have on hand a force too large for ordinary occasions, and too expensive.

Mr. WASHBURN, of Illinois. I am advised that the reporters are up with the proceedings of the House, and that the proceedings are written out every day ready to be put in the Globe. The fault is in not having printers enough to set up the copy. I speak of compositors and printers, and so far as that is concerned it is certainly the duty of the proprietors of the Globe to get printers enough to enable them to lay the proceedings on our tables the next morning. We pay them with that understanding.

Mr. MALLORY. I have no objection to having the resolution passed.

Mr. RADFORD. I object to the resolution.

The SPEAKER. The Chair thinks the objection comes too late.

Mr. WASHBURN, of Illinois. Certainly; the resolution has been discussed.

The SPEAKER. The resolution has been debated, and it is too late to make objection to its reception.

Mr. RADFORD. Then I suggest to the gentleman that all the printing is behind. The objection I have is to singling out the Globe. I would move to amend the resolution by extending the inquiry to all the printing that is behind.

Mr. WASHBURN, of Illinois. I have no objection to that.

Mr. RADFORD. Then I suggest that the gentleman insert after the word "Globe" the words "and also as to the cause of the delay in all the other printing."

Mr. WASHBURN, of Illinois. I will accept that modification of my resolution.

Mr. MALLORY. I wish to state what I learn to be the cause of this delay, and it is one not peculiar to the Globe office. I understand it to be impossible at this time in Washington city to get compositors for the various printing establishments. The same difficulty has presented itself at the Public Printing Office and perhaps at most of the newspaper offices in the city of Washington. I am very sure that this or some equally good cause explains the delay.

Mr. WASHBURN, of Illinois. The Committee on Printing can ascertain the cause. But I do not think it a good reason that they cannot get compositors enough. If they are short I will turn in myself. I am a pretty good compositor.

Mr. MALLORY. I think that is the most useful purpose to which we can apply the gentleman from Illinois. [Laughter.] I hope he will go at it at once.

Mr. WASHBURN, of Illinois. I profess to be an adept in that art. I now move the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### LOUISIANA ELECTION CASES.

Mr. DAWES, from the Committee of Elections, submitted a report, accompanied by the following resolution:

*Resolved*, That A. P. Field is entitled to a seat in this House as a Representative from the second congressional district in Louisiana.

The report was laid on the table, and ordered to be printed.

Mr. DAWES also, from the same committee, presented a report, accompanied by the following resolution:

*Resolved*, That W. D. Mann is entitled to a seat in this House as a Representative from the third congressional district in Louisiana.

The report was laid on the table, and ordered to be printed.

### ARKANSAS ELECTION CASES.

Mr. DAWES also, from the Committee of Elections, presented a report, accompanied by the following resolution:

*Resolved*, That T. M. Jacks is entitled to a seat in this

House as a Representative from the first congressional district in Arkansas.

The report was laid on the table, and ordered to be printed.

Mr. DAWES also, from the same committee, presented a report, accompanied by the following resolution:

*Resolved*, That J. M. Johnson is entitled to a seat in this House as a Representative from the third congressional district in Arkansas.

The report was laid on the table, and ordered to be printed.

### DIGEST OF ELECTION CASES.

Mr. A. W. CLARK reported from the Committee on Printing the following resolution:

*Resolved*, That there be printed one thousand extra copies of the Digest of Election Cases, for the use of this House.

Mr. DAWES. Mr. Speaker, this Digest when prepared closed necessarily with the beginning of this Congress, because it was impossible to embrace in it the cases of this Congress. But now, the present Congress being about to close, these cases can be included, and I think it very important that they should be, for they involve principles of importance. I therefore move to amend the resolution by adding the words, "including the cases which have occurred during the present Congress."

The amendment was agreed to.

Mr. A. W. CLARK moved the previous question on the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution as amended was agreed to.

### PATENT OFFICE REPORT.

Mr. A. W. CLARK also reported from the Committee on Printing the following resolution, on which he moved the previous question:

*Resolved*, That there be printed thirty thousand copies of the report of the Commissioner of Patents, twenty thousand for the members of the House of Representatives, and ten thousand for the Commissioner of Patents.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### REPORT ON COMMERCIAL RELATIONS.

Mr. A. W. CLARK also reported from the Committee on Printing the following resolution:

*Resolved*, That five hundred copies of the report on the commercial relations of the United States with foreign nations, for the year ending September 30, 1864, be printed for the State Department.

Mr. WASHBURN, of Illinois. I would inquire what number of copies of this report are printed for the use of the House.

Mr. A. W. CLARK. Three thousand. I will state, Mr. Speaker, that, in accordance with a law passed at the last session, a certain number of these documents are printed for the House and the Senate. But it is found that the State Department require one thousand copies, while the law provides for furnishing that Department with only five hundred. The object of this resolution is to give the Department an additional five hundred.

Mr. WASHBURN, of Illinois. I would like to inquire of the gentleman why the State Department requires one thousand copies of this report.

Mr. A. W. CLARK. They are required for distribution among consuls and ministers abroad. Five hundred copies are insufficient for the purpose.

Mr. WASHBURN, of Illinois. Is the work in type at the present time?

Mr. A. W. CLARK. It is being set up. It has not yet been printed. No resetting of the type will be necessary.

Mr. WASHBURN, of Illinois. No portion of the work has yet been printed?

Mr. A. W. CLARK. No, sir.

Mr. WASHBURN, of Illinois. I have no objection to giving the State Department the number that is absolutely required; but I thought one thousand a larger number than was necessary. But if the gentleman speaks by authority of the Department, and says that that number is necessary, I will interpose no objection.

Mr. A. W. CLARK. I do speak by author-



ity. The Department finds this number necessary for consuls and ministers abroad.

The resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY A. BRIGHAM.

The SPEAKER stated the question in order to be the consideration of Senate bill No. 212, for the relief of Henry A. Brigham, pending last Saturday on the expiration of the morning hour, on which the previous question had been demanded.

Mr. GARFIELD. I hope that the previous question will not be seconded until we can have some explanation of this bill.

Mr. HALE. I withdraw the demand for the previous question.

Mr. GARFIELD. Mr. Speaker, I read very carefully the report on that subject as well as the debate which took place in the other end of the Capitol, and I ask attention to this very singular fact. The whole case turns upon what is the delivery of money. The pay agent went to the desk of the counting-room where he was to receive his money, and the party who was to deliver it laid it in a tray, package by package, and scored it off. When it was laid down he passed it over and told the pay agent to look to see that it was right. On counting it over that time \$2,000 was found to be gone. Was that a delivery of money? That is the proposition before the House. This bill goes upon the supposition that it was a delivery, this party receiving the money on the outside of the counter and before he had accepted it as a delivery. It is now declared that it was a delivery.

It seems to me, Mr. Speaker, that the teller of the bank is the man who ought to ask for relief; that the bank ought to suffer the loss and not this party.

Mr. HALE. It is not pretended that the money was delivered to or received by the paymaster. The ground of relief is that he gave his check and they refused to return it to him. They hold the paymaster's check for \$2,000, when he received no consideration for it; and the Government has charged him with \$2,000, from which this bill proposes to relieve him.

Mr. GARFIELD. I wish to correct the gentleman. If he has read the report carefully he knows that the teller stated, "I have counted the money out to you," and the paymaster replied, "I have not received the money." The teller responded, "According to the rules of this bank I have delivered this money to you."

Mr. HALE. It is not a bank.

Mr. GARFIELD. I use the word bank in a generic sense. They agreed that they would go before Mr. Cisco, the Assistant Treasurer of the United States at New York. They did go to Mr. Cisco, and he declared that it was a delivery of money by the teller. According to that, if I go to a bank with a check for \$100, and the teller takes it, handing me only seventy dollars, that is a delivery and I will have to lose so much money.

Mr. HALE. That is what Mr. Cisco has done in this case. His teller handed the paymaster the money \$2,000 short and took his check. It is to relieve the paymaster from a charge that is manifestly unjust that this bill is brought in.

Mr. ARNOLD. Who has the money?

Mr. GARFIELD. It does not make any difference who has received the money. The Assistant Treasurer of the United States should be responsible for it.

Mr. HALE. I demand the previous question.

Mr. GARFIELD. I have the floor. I think that we should charge the Assistant Treasurer of the United States at New York with this \$2,000, and I understand that the bill before the House does not do that, but relieves all parties and lets the Government be the loser. The bill should be amended so as to make the Assistant Treasurer responsible for this money.

Mr. WASHBURNE, of Illinois. Why should the Government be held responsible in a dispute between a paymaster and a teller?

Mr. HALE. For the very reason that this man never received the money that the Government claimed that he did, and because the Government keeps his check for \$2,000.

Mr. GARFIELD. If we pass this bill we simply relieve the pay agent, and the Government will lose the \$2,000, the Assistant Treasurer being straight in his account. There is no testimony that the money was stolen, notwithstanding the report states that a stranger was there and put his hand on some postage currency, for that does not relieve the case, as it was not postage currency that was missing. It was \$2,000 in bills, and not postage currency, which was lost. So there is not the slightest evidence before the House that the money was stolen. It seems to me perfectly evident that the money was improperly counted in the first place inside the bank, and that the Assistant Treasurer in New York should be responsible for it.

Mr. HALE. I believe it is understood or supposed that the clerk himself is to blame; and I am informed, though it does not appear from the evidence in the case, that the clerk was discharged soon after upon an allegation that in some way or manner he had kept the money or miscounted it, or made some mistake. Mr. Cisco, the Assistant Treasurer, was not at all to blame. He decided that the paymaster was responsible for the loss of the money; but it is not alleged that he received the money or had it in his possession at all.

Mr. ELDRIDGE. I wish to know whether, if we pass this bill, the Treasury of the United States will not lose \$2,000.

Mr. HALE. I do not believe a cent would be lost to the Treasury. I have no doubt that there was a mistake, and that the money was never counted out at all.

Mr. ELDRIDGE. But will not the Government lose it?

Mr. HALE. No, sir; I think a mistake of \$2,000 was made, and that the Government never delivered the money to the paymaster, but took his check for \$2,000 more than they paid to him.

Mr. KERNAN. We are not relieving anybody by the passage of this bill from accounting for this money; we simply relieve this gentleman to whom the money was never paid, and leave others to account for it as they can. We simply relieve him from a liability of \$2,000 for which the Government holds his voucher, when it is conceded by everybody who has looked into the evidence that he never had the money. The Government simply hold his voucher arbitrarily, and every lawyer will concede that had it been a bank he could have sued the bank for \$2,000. He could not sue the Government, and we simply ask to exempt him from responsibility, he being free from blame. I trust the bill will pass.

Mr. HALE. I demand the previous question.

Mr. SCHENCK. I ask the gentleman to withdraw that for a moment, to allow me to make an explanation.

Mr. HALE. Certainly.

Mr. SCHENCK. I wish to set myself right in reference to this case. I stated a short time ago, in reply to the gentleman from Illinois, that I was in favor of the passage of this claim. I thought it was another claim which had been before the Military Committee. I am not committed to this claim.

Mr. HALE. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was read the third time.

Mr. WASHBURNE, of Illinois. I ask for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 73, nays 37, not voting 72; as follows:

YEAS—Messrs. Ancona, Anderson, Bailly, John D. Baldwin, Baxter, Broomall, James S. Brown, William G. Brown, Chandler, Freeman Clarke, Coffroth, Cravens, Denison, Dixon, Driggs, Edger, Edgerton, English, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herick, Hutchins, William Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, Kernan, King, Knapp, Knox, Lazear, Le Blond, Littlejohn, Mallory, Marcy, Marvin, McAllister, William H. Miller, Moorhead, James R. Morris, Amos Myers, Nelson, John O'Neill, Patterson, Pendleton, Perham, Pruyn, Radford, Ross, Scofield, Smith, Starr, John B. Steele, William G. Steele, Sweet, Thayer, Thomas, Townsend, Van Valkenburgh, Webster, Whaley, Joseph W. White, Williams, Wilder, Winfield, Fernando Wood, Woodbridge, and Yeaman—73.

NAYS—Messrs. Alley, Allison, Arnold, Boutwell, Cobb, Cole, Henry Winter Davis, Dawes, Donnelly, Dumont,

Eckley, Eldridge, Eliot, Finck, Garfield, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Samuel F. Miller, Morrill, Daniel Morris, Noble, Norton, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Shannon, Tracy, Elihu B. Washburne, William B. Washburn, Wilson, and Worthington—37.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Ames, Ashley, Augustus C. Baldwin, Beaman, Blaine, Blair, Bliss, Blow, Boyd, Brandegee, Brooks, Ambrose W. Clark, Clay, Cox, Creswell, Thomas T. Davis, Dawson, Deming, Farnsworth, Frank, Ganson, Gooch, Grinnell, Hall, Benjamin G. Harris, Holman, Hotchkiss, Jenckes, Philip Johnson, Kelley, Francis W. Kellogg, Law, Loan, Long, Longyear, McBride, McClurg, McDowell, McIndoe, McKinney, Middleton, Morrison, Leonard Myers, Odell, Charles O'Neill, Orth, Perry, Pike, Price, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Scott, Sloan, Smithers, Spalding, Stevens, Stiles, Strouse, Stuart, Upson, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Windom, and Benjamin Wood—72.

So the bill was passed.

During the call,

Mr. SHANNON stated that Mr. BEAMAN was confined to his room by sickness.

Mr. PENDLETON stated that Mr. WARD was detained at his room by indisposition.

Mr. WEBSTER moved that the vote by which the bill was passed be reconsidered; and also that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHRISTIAN CHANEY.

Mr. HALE, from the Committee of Claims, reported a bill for the relief of Christian Chaney; which was read a first and second time.

The bill directs the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to pay to Christian Chaney the sum of \$200, to refund him for the same amount of interest-bearing Treasury notes accidentally burned in July, 1864.

Mr. WASHBURNE, of Illinois. That bill contains an appropriation, and I object to its being considered in the House.

Mr. HALE. I hope the gentleman from Illinois will withdraw that objection. This is a very meritorious claim.

Mr. WASHBURNE, of Illinois. It is not the amount that I object to, but the principle, to which I have objected during the whole of this Congress, and expect to object to as long as I am here.

Mr. THOMAS. If the gentleman from Illinois will allow some brief explanation I think he will not object to the passage of the bill.

Mr. WASHBURNE, of Illinois. I do not object to any explanation, but I do object to the passage of this bill or any other of a similar character. It is establishing a principle which I think Congress ought not to indorse.

Mr. THOMAS. I do not see of what avail an explanation would be unless the gentleman from Illinois would say that in the event of being satisfied the case is a very clear one he will let it pass without objection.

The SPEAKER. The gentleman from Illinois declines to do that.

Mr. THOMAS. I will state the nature of the case. It is the case of a soldier in our Army who placed in the hands of his wife, a very poor and needy woman, at Hagerstown, some two hundred dollars of his pay, saved from his hard earnings. This woman, acting under the advice of her friends in Hagerstown, invested the money, with the consent of her husband, in two \$100 interest-paying Treasury notes. They were in her custody personally when Lee's army made its appearance at Hagerstown in July, 1864. In the hurry of the moment she supposed that the safest place in which to deposit the funds would be in a stove-pipe. She placed them in the pipe of a stove in which there had not been a fire for a long time, it being in the summer season, and went into the garden to collect some clothing that she had been engaged in washing for persons in the vicinity. Unfortunately her daughter, fourteen years old, who was out at service, came home in a hurry, and seeing her mother thus engaged, without exchanging a word with the mother, concluded that the clothing was being gathered in for the purpose of being ironed, and stepping to the stove made a fire and consumed this money.

Now, this is clearly proved by incontestable testimony, and I will simply remark to the gentleman from Illinois that a postponement of this case for twelve months, involving a loss of twelve dollars out of the earnings of a soldier in the field,

would be very hard upon this necessitous woman. That is all I have to say.

Mr. WASHBURN, of Illinois. I do not withdraw my objection.

The SPEAKER. Then the bill will have to go to a Committee of the Whole House.

Mr. HALE. If there is no objection I will withdraw the report.

No objection was made, and the report was withdrawn.

#### JOHN WELLS AND SONS.

Mr. HALE, from the Committee of Claims, reported a joint resolution for the relief of Messrs. John Wells & Sons; which was read a first and second time.

The joint resolution was read. It authorizes and directs the Quartermaster General, in settling with Messrs. John Wells & Sons for repairs to the steamer City of Albany, under their contract of the 24th of October, 1863, to remit the penalty of \$200 per day contained in said contract, and to pay them for their work under said contract without any deduction on account of said penalties.

Mr. HALE. I ask that the joint resolution be considered now.

Mr. WASHBURN, of Illinois. I hope the gentleman will either explain the joint resolution or have the report read.

Mr. HALE. Certainly; I will make a statement to the House unless the gentleman wishes to have the report read.

Mr. WASHBURN, of Illinois. I want to have the report read. I think the gentleman had better let the joint resolution be referred to a Committee of the Whole House, and printed with the report.

Mr. HALE. I will state the particulars of the case, and then the gentleman can do as he pleases.

These men were contractors for repairing the machinery upon the steamboat City of Albany. They were to receive \$10,800, and the work was to be done by the 10th of January, 1864. In default of its being done by that time they were to pay \$200 a day to the Government for every day lost before the work was finished. They immediately commenced work. But some of the heavy machinery they were unable to make themselves, and for the construction of this they contracted with one of the most extensive establishments in New York. In consequence of a strike in that establishment the cylinders and other heavy machinery could not be furnished within the specified time. The contractors, however, proceeded with all possible diligence, and finished the work as soon as it was possible for them to get the machinery. The work was finished to the entire satisfaction of the Government. Indeed, the evidence shows that the work was better done than the contract called for. Under these circumstances the contractors applied to the Quartermaster General for a remission of the penalty. He decided that he could not remit the penalty; that relief must be sought from Congress.

The Committee of Claims, in considering the case, were led to the conclusion that where a contractor performs his part of the contract faithfully and honestly, and delay arises from circumstances which he cannot possibly control, it is unreasonable and unjust to insist upon the enforcement of the penalty. The penalty in this case would cover nearly the whole amount of the work. The contractors are men of small means. The contract amounted to about ten thousand dollars. The work was honestly and faithfully performed, and performed just as soon as it was possible for them to do it. There was no delay or neglect on their part; it is not alleged that there was any. Under these circumstances, the Committee of Claims, in accordance, as I understand, with the request of the Quartermaster General, and his opinion of the justice of the claim, recommend that payment should be made according to the terms of the contract, without deducting the amount of the penalty.

Mr. WASHBURN, of Illinois. I demand the reading of the report.

The SPEAKER. The gentleman has no right to demand the reading of the report. The gentleman from Pennsylvania [Mr. HALE] is entitled to the floor, and the report cannot be read unless he yields for that purpose.

Mr. HALE. I am perfectly willing that the report shall be read.

Mr. WASHBURN, of Illinois. I suppose that I am entitled to have it read at some time.

The SPEAKER. Not unless the gentleman [Mr. WASHBURN, of Illinois] is on the floor, and the reading of the report comes out of his time. At present, the gentleman from Pennsylvania is entitled to the floor.

Mr. WASHBURN, of Illinois. Does the Speaker decide that a member has not a right to demand the reading of any report or paper?

The SPEAKER. The Chair has consulted on the point, and decides according to his own opinion, and according to the opinion of others, better parliamentarians than himself. When the House is in Committee of the Whole on objection day, a gentleman demands the reading of a report because he claims the right to object unless he hears the report read, and the report is read to satisfy his mind. But when a bill, public or private, is before the House, the gentleman in possession of the floor has a right to demand a vote on the question.

Mr. A. MYERS. I desire to ask my colleague [Mr. HALE] a question. I understand him to state that the contract has been substantially completed with.

Mr. HALE. Very faithfully and honestly completed with.

Mr. A. MYERS. Has the Government sustained any damage by the delay?

Mr. HALE. Not at all, so far as I know. The Government, according to the admission of its own officers, has received an equivalent for the full contract price. The work has been fully as well done as it was contracted to be done. I call the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw the demand for the previous question and let the House hear the report of the committee. I think it a most extraordinary thing if the House cannot be advised as to the contents of a report on which they are called upon to act.

Mr. HALE. I am perfectly willing that the report shall be read if I do not thereby lose the right to the floor.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor, and the report will be read as a part of his speech.

The report was read.

Mr. HALE. The report bears out all the statements I made. I demand the previous question and submit the case to the justice of the House. If they think that the Government ought to exact this penalty under the circumstances they will refuse to pass the resolution.

The previous question was seconded, and the main question ordered, and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The House divided; and there were—ayes 63, noes 8; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. WASHBURN, of Illinois, and HALE.

The House again divided; and the tellers reported—ayes 83, noes 10.

So the joint resolution was passed.

Mr. WEBSTER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARMISTEAD T. M. FILLER.

Mr. HALE, from the Committee of Claims, reported a joint resolution to refer the claim of Armistead T. M. Filler to the Court of Claims, which was read a first and second time.

Mr. WASHBURN, of Illinois. I hope that the gentleman from Pennsylvania will give some reason for referring all these matters to the Court of Claims. I have no idea that the House will not sustain it, but I would like to have it upon record why we are putting this jurisdiction upon the Court of Claims. If this goes, every like case will go to that court.

Mr. HALE. Mr. Speaker, it will be recollected that at the last session we conferred upon the Quartermaster General and the Commissary General the power to settle all claims for property destroyed by our Army where no vouchers were given. They were allowed to examine the evidence, and, if they were satisfied that the property

was taken from loyal citizens in the loyal States, to settle the claims. This is one of the same kind of claims, the only difference being that this man lives in Loudoun county, Virginia. It has been proved to the satisfaction of the committee that this claimant is a loyal man. His case does not come within the provisions of the general law, and he has, therefore, to go to the Court of Claims. It is the only place where this man can have his claim adjusted.

Under the circumstances the committee thought that this was a fair case to be referred to the Court of Claims. If this man lived in Maryland, he would not have to ask for this resolution; but as he lives upon the other side of the Potomac he has to ask for this legislation. I do not believe that it is for this Government to refuse to this man an opportunity to have his claim considered. The Commissary General cannot consider it, the Quartermaster General cannot consider it, and the Court of Claims cannot consider it. This legislation is necessary for the reference of the claim to the Court of Claims. If it is right, they will pass it; if not, they will reject it. I demand the previous question.

Mr. SCHENCK. I understand this to be a case that does not come within the provisions of the general law passed by Congress, because this man lives in one of the rebel States; and if it be passed we will have a shoal of like claims. Relief ought to be granted in Congress, and not in the Court of Claims.

Mr. HALE. If we do not pass this resolution this man will lose his property, and never get a cent for it. I demand the previous question.

The House divided; and there were—ayes 44, noes 40; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. SCHENCK and THOMAS.

Mr. WASHBURN, of Illinois, moved that the resolution be laid on the table, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 60, nays 70, not voting 52; as follows:

YEAS—Messrs. Alley, Allison, Ashley, Baxter, Blow, Boutwell, Brandegee, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Elliot, Farnsworth, Garfield, Gooch, Harding, Higb., Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Julian, Kasson, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Norton, Patterson, Perlman, Pomeroy, John H. Rice, Schenck, Scofield, Shannon, Smithers, Spalding, Starr, Thayer, Upson, Elith B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Woodbridge, and Worthington—60.

NAYS—Messrs. James C. Allen, Ancona, Bailly, Augustus C. Baldwin, John D. Baldwin, Bliss, Broome, James S. Brown, William G. Brown, Chandler, Freeman Clarke, Clay, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hale, Harrington, Benjamin G. Harris, Charles M. Harris, Hurrick, Hubard, Hutchins, William Johnson, Kaufmann, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, William H. Miller, Moorhead, James R. Morris, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, John O'Neill, Pruyn, Ruford, William H. Randall, Ross, Smith, John B. Steele, William G. Steele, Sweat, Thomas, Townsend, Tracy, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—70.

NOT VOTING—Messrs. William J. Allen, Ames, Anderson, Arnold, Bannan, Blaine, Blair, Boyd, Brooks, Cox, Creswell, Deming, Frank, Ganson, Grinnell, Hall, Holman, Hotchkiss, Jencks, Philip Johnson, Kelley, Francis W. Kellogg, Lazarus, McBride, McDowell, McIndoe, McKinney, Middleton, Morrison, Orr, Pendleton, Perry, Pike, Price, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Scott, Sloan, Stevens, Stiles, Strouse, Stuart, Van Valkenburgh, Voorhees, Ward, Chilton A. White, Windom, and Benjamin Wood—52.

So the joint resolution was not laid on the table.

During the call, Mr. WILSON stated that his colleague, Mr. GRINNELL, was still detained from the House on account of sickness.

Mr. BAXTER stated that Mr. ORTH was detained in his room by sickness.

The result was then announced, as above recorded.

Mr. HALE. I demand the previous question.

The SPEAKER. The previous question was pending, on which no quorum voted. The morning hour has expired.

#### QUANO DISCOVERIES.

Mr. L. MYERS obtained the floor, but yielded to—

Mr. MILLER, of Pennsylvania, who asked and obtained unanimous consent to introduce the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of the act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, as prohibits the export thereof by certain persons referred to in the second section of said act.

#### LAND-GRANT RAILROADS IN MICHIGAN, ETC.

Mr. L. MYERS. I call up the privileged motion I made a day or two since, to reconsider the vote by which the House rejected the bill of the House (No. 710) to extend the time for the completion of certain railroads, to which land grants have been made, in the States of Michigan and Wisconsin; and upon that motion I demand the previous question.

Mr. ANCONA. I move to lay that motion on the table; and on that I demand the yeas and nays.

Mr. MORRILL. I move to postpone the bill until we get through with the tax bill.

The SPEAKER. The gentleman from Pennsylvania has moved the previous question, and the gentleman on the right has moved to lay the motion to reconsider on the table, upon which he has called the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 48, nays 70, not voting 64; as follows:

YEAS—Messrs. Alley, Ancona, Brandegee, Broomall, James S. Brown, Clay, Dawson, Denison, Dixon, Eckley, Edgerton, English, Finck, Gooch, Grider, Hale, Harding, Harrington, Benjamin G. Harris, Hooper, John H. Hubbard, Huburd, William Johnson, Kalbfleisch, King, Mallory, Marcy, Morrill, Daniel Morris, Morrison, Odell, Charles O'Neill, John O'Neill, Patterson, Pendleton, Radford, Edward H. Rollins, Schenck, Scofield, Spalding, Starr, Thayer, Townsend, Elihu B. Washburne, Webster, Joseph W. White, Winfield, and Woodbridge—48.

NAYS—Messrs. James C. Allen, Allison, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Bliss, Blow, Boutwell, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Coffroth, Cole, Thomas T. Davis, Donnelly, Driggs, Eden, Eldridge, Elliot, Farnsworth, Frank, Garfield, Charles M. Harris, Higby, Asahel W. Hubbard, Hutchins, Ingersoll, Francis W. Kellogg, Orlando Kellogg, Knapp, Law, Le Blond, Loan, Longyear, Marvin, McAllister, McClurg, McKimney, Samuel F. Miller, Moorhead, James R. Morris, Leonard Myers, Nelson, Noble, Norton, Perham, Pomeroy, James S. Rollins, Ross, Shannon, Smith, Smithers, John B. Steele, Upson, Wadsworth, William B. Washburn, Whaley, Wheeler, Williams, Wilder, Wilson, Fernando Wood, Worthington, and Yeaman—70.

NOT VOTING—Messrs. William J. Allen, Ames, Beaman, Blaine, Blair, Boyd, Brooks, Cobb, Cox, Cravens, Creswell, Henry Winter Davis, Dawes, Deming, Dumont, Ganson, Grinnell, Griswold, Hall, Herrick, Holman, Hotchkiss, Jenckes, Philip Johnson, Julian, Kasson, Kelley, Kernan, Lazear, Littlejohn, McBride, McDowell, McInroe, Middleton, William H. Miller, Amos Myers, Orth, Perry, Pike, Price, Pruyn, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Robinson, Rogers, Scott, Sloan, John B. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Thomas, Tracy, Van Valkenburgh, Voorhees, Ward, Chilton A. White, Windom, and Benjamin Wood—64.

So the motion to reconsider was not laid on the table.

During the call, Mr. COBB stated that upon this question he was paired off with Mr. McInroe.

Mr. L. MYERS. I called for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. BROWN, of Wisconsin. On the motion to reconsider I demand the yeas and nays.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from Wisconsin that we take a vote only on the passage of the bill.

Mr. BROWN, of Wisconsin. I want them on both.

The yeas and nays were not ordered.

The motion to reconsider was agreed to.

The question recurring on the passage of the bill,

Mr. BROWN, of Wisconsin, demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 75, nays 44, not voting 63; as follows:

YEAS—Messrs. James C. Allen, Allison, Ames, Anderson, Arnold, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Bliss, Blow, Boutwell, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Cole, Thomas T. Davis, Deming, Donnelly, Driggs, Eden,

Eldridge, Elliot, Farnsworth, Frank, Gooch, Griswold, Charles M. Harris, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Knapp, Law, Le Blond, Loan, Longyear, Marvin, McAllister, McClurg, McKimney, Samuel F. Miller, James R. Morris, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, James S. Rollins, Ross, Shannon, Smith, Smithers, John B. Steele, Upson, Wadsworth, William B. Washburn, Wheeler, Wilder, Woodbridge, Worthington, and Yeaman—75.

NAYS—Messrs. Ancona, Broomall, James S. Brown, Clay, Cobb, Dawson, Denison, Dumont, Eckley, Edgerton, Finck, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Hutchins, William Johnson, Kalbfleisch, King, Lazear, Marcy, Moorhead, Morrill, Daniel Morris, Morrison, Odell, Charles O'Neill, John O'Neill, Patterson, Pendleton, Radford, Edward H. Rollins, Scofield, Spalding, Starr, Thayer, Thomas, Townsend, Elihu B. Washburne, Webster, Joseph W. White, Wilson, and Winfield—44.

NOT VOTING—Messrs. William J. Allen, Alley, Beaman, Blaine, Blair, Boyd, Brandegee, Brooks, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Dawes, Dixon, English, Ganson, Garfield, Grinnell, Hale, Hall, Holman, Hooper, Hotchkiss, Huburd, Philip Johnson, Kelley, Kernan, Knox, Littlejohn, Long, Mallory, McBride, McDowell, McInroe, Middleton, William H. Miller, Orth, Perry, Pike, Price, Pruyn, Samuel J. Randall, Robinson, Schenck, Scott, Sloan, William G. Steele, Stevens, Stiles, Strouse, Stuart, Sweat, Tracy, Van Valkenburgh, Voorhees, Ward, Whaley, Chilton A. White, Williams, Windom, Benjamin Wood, and Fernando Wood—63.

So the bill was passed.

#### TAX BILL.

Mr. MORRILL. I move that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union on the special order.

Mr. GARFIELD. I desire to ask that when we go into Committee of the Whole on the state of the Union the debate on the proposition to impose a tax on sales be limited to fifteen minutes for each speech instead of five minutes.

The SPEAKER. That can only be done by unanimous consent.

Mr. MORRILL. I object; five minutes is enough.

The question was taken on Mr. MORRILL's motion, and it was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The CHAIRMAN stated the pending question to be upon the amendment offered last evening by the gentleman from Massachusetts, (Mr. BOUTWELL;) which is as follows:

Strike out all after the enacting clause in the fourth section, as follows: "That in addition to the duties imposed in section ninety-four of the act to which this is an amendment, as hereinbefore amended, there shall be levied, collected, and paid, upon the goods, wares, and merchandise therein mentioned, except as hereinafter otherwise provided, an increase of one fifth or twenty per cent. of the duties or rates of duty now provided in said section, whether ad valorem or specific: *Provided*, That the additional duties or rates of duty herein mentioned shall not apply to coal illuminating oil, refined, and naphtha, benzine and benzole, paper of all descriptions, printed books, magazines, pamphlets, reviews, and similar publications, cotton, manufactured tobacco, snuff, cigars, cigarettes, and cheroots;" and insert in lieu thereof as follows:

That all persons licensed under the provisions of this act or of the act to which this is an amendment, and who are engaged in the sale of goods, wares, or merchandise, or of articles produced or manufactured, whether foreign or domestic, shall, within ten days after the last day of each and every month, make return, under oath or affirmation, of the amount of goods, wares, and merchandise or articles sold during the month preceding, and shall pay thereon a tax of one half of one per cent., and all such persons in the assessment and collection of the tax imposed by this section shall be subject to the provisions of law relating to the assessment and collection of taxes of manufacturers, mentioned in the eighty-second section of the act to which this is an amendment, as far as the same are applicable.

Mr. GRISWOLD. I desire to ask if it would be in order to offer an amendment substituting one per cent. for the half of one per cent., and offering this amendment of the gentleman from Massachusetts then as a substitute for the clause providing for an income tax?

The CHAIRMAN. That is not in order.

Mr. GRISWOLD. Would it be in order to move to strike out all in relation to the income tax?

The CHAIRMAN. It would not be in order. That is not in the pending paragraph. The pending paragraph is in regard to sales exclusively.

Mr. GRISWOLD. Then I move to strike out "half of one per cent." and insert "one per cent."

I should be glad if the Committee of Ways and Means had either had time or had felt that it was the true policy for them to have considered more fully, perhaps, than they have had an opportunity of doing, this question of substituting a tax upon sales in place of the income tax, for I am persuaded that if time were given those gentlemen to consider it they would arrive at the conclusion, which I think most practical men who have thought on this subject have arrived at, that some such mode of indirect taxation must be resorted to in order to collect the necessary revenue for the country.

Now, Mr. Chairman, I submit to the Committee of Ways and Means so far as the income tax is concerned, that there is no mode of taxation that is more unjust and unequal or that is subject to greater frauds or more susceptible of evasion than the income tax; and if a plan could be substituted for it by which indirectly a far greater amount could be raised, as it could be by the imposition of a tax upon sales, I am satisfied that it would bear more lightly upon the people and secure, with still greater certainty, a far larger revenue.

Now, Mr. Chairman, I submit that the policy adopted and recommended by the Committee of Ways and Means is to a very great degree oppressive. As an illustration, take, for instance, the duty on manufactures; I can see no reason why the manufacturer of an article should be heavily taxed for its production, while the man who sells that very article should be exempt from taxation. I can see no good reason why the manufacturer, for instance, who manufactures \$100,000 worth per annum should be taxed his \$5,000, while the man living on the very same block, who sells that very same commodity, and perhaps secures a far greater profit, shall be exempt from any taxation except a mere license limited to \$100.

Now, I desire to say in connection with this subject that I hope that either at the present session or at some future time, either the present or some future Committee of Ways and Means will see fit to consider this subject fairly, and to devise some mode of raising revenue by indirection rather than by this oppressive mode of direct taxation.

Mr. MORRILL. I can inform the gentleman from New York that this question in relation to the income tax and a tax on sales has been often and long considered by the Committee of Ways and Means. It is by no means a new question to the Committee of Ways and Means.

I said in the few remarks which I made upon the general question of taxation upon presenting this bill that if the policy were to become the permanent policy of the country I believed that the more just mode of arriving at an income tax would be to levy it upon the amount of property held by every person; but not believing that it will be a part of the permanent policy of the country I think it better to go on collecting it as we are now collecting it, upon profits, which have been rather large during the last year or two, rather than make any radical change at this session.

But this question of a tax on sales is by no means a new question. It was considered by Adam Smith, and denounced by him. If the gentleman is conversant with works on political economy he knows the opinions of that eminent writer. Let me read the language of Adam Smith:

"The famous alcavala of Spain seems to have been established upon this principle. It was at first a tax of ten per cent., afterward of fourteen per cent., and it is at present only six per cent. upon the sale of every sort of property, whether movable or immovable; and it is repeated every time the property is sold." (*Mémoires concernant les Droits, &c.*, tome 1, p. 455.) "The levying of this tax requires a multitude of revenue officers, sufficient to guard the transportation of goods not only from one province to another, but from one shop to another. It subjects not only the dealers in some sorts of goods, but those in all sorts, every farmer, every manufacturer, every merchant and shop-keeper, to the continual visit and examination of the tax gatherers. Through the greater part of the country in which a tax of this kind is established nothing can be produced for distant sale. The produce of every part of the country must be proportioned to the consumption of the neighborhood. It is to the alcavala, accordingly, that Ustaritz imputes the ruin of the manufactures of Spain."

A writer in the Social Science Review for January, 1865, says:

"The imposition of this tax in Spain and Naples could not have been so burdensome as it proved in Holland, for the latter was a country supported by intense commercial



activity, where the national prosperity depended upon the freedom of its internal and foreign intercourse. It is in such countries—and the United States is such a country—that a tax of this nature proves most unbearable. The rigor with which it bore upon the Dutch is proved from the fact that, while they were patient under Alva's revengeful cruelties and religious persecutions, the moment he laid the alcavala, or, as it was called in Holland, the tenth denier, upon them, they revolted, and their revolt finally secured the independence of the Dutch provinces, and led to the establishment of the greatest republic which had ever existed since the days of Rome. It is related that at the siege of Haarlem the Dutch insurgents, enraged at the cruelty of the besiegers, beheaded eleven of their Spanish prisoners, and with grim facetiousness threw their heads over the walls into the camp of the Spaniards, with this note: 'Duke of Alva, thou hast demanded a tenth from the town of Haarlem. Here is the sum, with an extra head for the interest.'

Motley, one of the most distinguished of our recent historians, in his *Rise of the Dutch Republic*, characterized this tax as "monstrous," "fatal to all trade and manufactures," "productive of an entire prostration of industry."

If we impose this tax upon sales it will become the most odious tax ever levied in this country. No complaints that have been made with regard to all the other taxes will compare with the complaints which this tax will excite.

Mr. GRISWOLD. I withdraw my amendment.

Mr. J. C. ALLEN. I move to amend the amendment of the gentleman from Massachusetts by striking out "one half of one per cent.," and I do so for the purpose of presenting a few suggestions to the House in reference to this subject of taxation upon sales. In my judgment, it is but another mode of imposing the entire burden of taxation upon the consumers of this country. The proposition just made by the gentleman from New York [Mr. Griswold] to abandon the taxation upon incomes and substitute a tax upon sales is but another mode of exempting the great body of the capital of this country from any burden of taxation whatever.

Mr. GRISWOLD. I merely suggested that.

Mr. J. C. ALLEN. Then, if the gentleman does not insist upon it, I go to another point.

If we impose a tax upon sales, upon whom will the burden of this taxation fall? It will fall upon the consumers of this country, who are, as a general thing, the poorer class. It may be said that all taxes fall upon them. They are relieved somewhat by our present system of taxing incomes; and that is almost the only instance in which our taxation does not fall entirely upon the consumers of the country. A tax upon sales would but impose another burden upon this class. You tax the sales of the manufacturer; then you tax the merchant when he sells to his western customer; and when that western dealer sells to his customers these different taxes are all summed up, and constitute a part of the price which poor men, with families to feed and clothe, are obliged to pay for the articles which they need. Thus, in the end, they are made to bear the burden.

Mr. TOWNSEND. I desire to ask the gentleman a question; upon whom should the burden of carrying on the war fall?

Mr. J. C. ALLEN. The burden of carrying on the war should fall chiefly upon that class of the community who have the greatest interest in maintaining our Government, and they are the men who wield and control the capital of this country.

Mr. TOWNSEND. Have the capitalists the greatest interest in maintaining the Government?

Mr. J. C. ALLEN. They have a more direct pecuniary interest in maintaining the Government than have the great masses, because they have more to protect. The principal part of the burden of supporting the Government should fall upon those who have most to protect and are best able to bear this burden.

Mr. GRISWOLD. I desire to ask the gentleman a question. He maintains that if a tax be laid upon sales the burden will fall upon the consumer. Now, does not a tax upon manufactures fall indirectly upon the consumer, because the manufacturer must supply the consumer?

Mr. J. C. ALLEN. Of course it does. But if we tax the merchant upon his sales this tax is added to the burdens already borne by the consumer. The widow of the soldier, when she goes to buy the necessities of life for her family, pays a portion of that burden. The merchant and the manufacturer do not feel the tax, because under our system they are able to add it to their sales.

Hence I oppose the system. I am in favor of increasing the burdens of taxation upon the capital of the country. I would rather vote for an increase of the tax upon incomes than to diminish it, for it is the only mode by which we can make the taxes bear equally. Where we resort to the tax upon incomes we do to some extent relieve the consumers of the country, who are poor, from the burdens of taxation, and make them fall upon those who hold the wealth of the country in their hands.

I am therefore opposed, I repeat, to any tax upon sales whatever. The practical working of the system of taxation upon sales would be to compel the merchants of the country to buy their goods at first hands.

Mr. GRISWOLD. The gentleman will allow me to ask him another question. Is there any more justice in imposing a direct tax upon the manufacturer of \$100,000 of goods, wares, and merchandise, who perhaps makes no profit upon the manufacture, than upon the man who sells that amount and makes a large profit? Is there any more justice in imposing a direct tax upon one than upon another?

Mr. J. C. ALLEN. No more justice; but by this system of taxation you make the consumer in the end pay the tax. The manufacturer is protected by the tariff. No, sir; there would be no justice in either event, according to the gentleman's showing. I oppose the tax upon sales because it imposes an additional burden upon the great consuming classes of the community. I am endeavoring to combat the position of the gentleman from New York, that we ought to abandon the tax upon incomes and resort to some other mode of taxation.

[Here the hammer fell.]

Mr. BOUTWELL. Mr. Chairman, I think that the committee will see that every tax we impose, unless it be the income tax, and I am not sure about that, is a tax on consumers. We might as well admit the fact. The tax which is levied by Congress upon the manufacturers, and which the Committee of Ways and Means now propose to increase, is a tax upon consumers. The only distinction which can be made is that the income tax is a tax upon the producers; but in this country the class of producers is almost the same as the class of consumers. And finally, when you come to analyze this system of taxation, whether on incomes, on manufactures, or on sales, the result is the same, the producers and consumers of the country pay the tax; and the only difference there is, and in that difference I find some advantage in the tax upon manufactures and on sales over the income tax, is that the consumers in this country are a larger class than the producers.

If it were possible, I think that the larger portion of the pecuniary burdens of this war should be upon property, and not upon labor and laborers, for wherever you find a man poor you find a man able to defend himself; but it is property, in and of itself, which is indefensible, and relies upon man for protection.

The advantage of the system in this section is simply this, not that it exempts the consumers, not that it exempts the producers, and it is no more offensive and objectionable than the tax upon manufactures, but it is in this: that it touches larger transactions because it levies a tax upon all convertible and exchangeable merchandise in the country, while the tax upon manufactures levies it only upon a portion, that which relates to manufactures of domestic production. This tax upon sales includes foreign products imported into the country. It enables us to tax these articles in being transferred from one to another without affecting at all the tariff system of the country. Therefore there is an advantage in this system.

Then, again, we deal with business men—those who are licensed as manufacturers or dealers of some sort—and every man whose sales come up to \$1,000 under the law has to pay a license; and as a business man he arranges his business with reference to the tax, and governs himself at the end of the month by it when he renders his return. He pays his tax without complaint, because his business is based upon the expectation that he has to pay the tax; and I believe that it will be found the most easy of all the various modes of taxation in the method of assessing and collecting the tax. It will yield a large revenue. It

will furnish means which the Government needs. I have not time in this five minutes to show why, if this war is to cease in the next six months, we ought to have large revenues for the purpose of liquidating the floating debt of the country without funding it. If a portion of the public debt which has not been funded can, with a large revenue, be paid as the war draws to a close, it will be a relief to the country in this particular, that it will be paid in a currency which represents in some degree the value of the property which the Government received, founded upon estimates based upon a depreciated currency. Therefore, if the war is to come to a close, so much more do we need large revenues for a year or two in order that the floating debt of the country may be liquidated.

Nor am I alarmed at the suggestions drawn from the history of Spain. The gentleman from Vermont should understand that that was a tax which affected not sales so much as the manufacturing industry of the country; and if any argument were to be drawn from the experience of that effete and worn-out people, it would go to show that the tax upon manufactures, which the gentleman from Vermont proposes to increase, ought not to be levied, because that was a tax upon the manufactured articles, and affected materially that branch of industry in that country.

[Here the hammer fell.]

Mr. J. C. ALLEN withdrew his amendment.

Mr. GARFIELD. I renew it, in order to notice the remarks made by the gentleman from Massachusetts, [Mr. BOUTWELL.]

Before doing that, I will say that it seems immaterial whether this tax falls on the producer or the consumer, or on any particular class of society. The question is not on whom it falls so much as where its weight will strike the industry of the country. It is quite material to me, if I have to carry a weight of ten pounds, whether it is laid upon my shoulders or fastened to my ankles; and that illustrates the relative nature of these two systems of taxation. A tax on sales is a burden fastened to the ankles of the nation, while taxes of other kinds are burdens laid upon its shoulders, which it can bear without exhaustion.

No one, I believe, will controvert the position that a tax on sales is in reality a tax on the commodity sold. Is it the policy of this House to tax all commodities without discrimination? Do we propose to tax lands? Do we propose to tax beef, pork, wheat, and corn? A tax on sales is a tax on all the necessities of life. A tax on sales is a tax on everything which is sold under the license law, as regulated by the ninety-second section of the revenue law of last session. And if any gentleman here thinks it unwise to tax the necessities of life he must think it unwise to tax sales which reach all these necessities. It is therefore a grave objection to this mode of taxation that it does not discriminate between those commodities which should be free and those which ought to bear the public burden.

Another thing: the gentleman from Massachusetts has given what he regards the strong argument in favor of this mode, namely, that it is an easy method of collecting the tax. It puts property in a place where the Government can lay hands upon it in bulk. To my mind, sir, that is one of the great dangers of this tax. It is precisely similar to the method of procuring a loan by issuing legal-tender notes. It is so easy a thing to do that we are constantly in danger of inflating the currency; a tax on sales is so easily authorized that it only requires a dash of the pen to run it up from one half per cent. to ten per cent., as they had it in Spain. What the greenback currency is to loans, a tax on sales is to the general revenue. There is our danger.

I refer again to the teachings of history on this subject. I have this morning looked over the parliamentary debates of Great Britain for the last thirty years. During that period there were three revisions of the whole system of British taxation. The discussion in Parliament on one of those occasions, (1842,) as reported in Hansard's Parliamentary Debates, runs through five volumes, and is very full. But in all those debates no member of either House of Parliament proposed such a thing as a tax on sales. So completely is it understood in that country—that country which, perhaps, is better educated upon

the subject of taxation than any other—that no gentleman in the Parliament of England had the temerity to propose a tax on sales.

But it is proposed here this morning to do a thing which no civilized nation is now doing, which was never done but by three nations, and resulted disastrously in each case. The attempt to introduce it into Holland caused the wars of Alva, and originated the Dutch Republic. How was it in Spain, and in Naples? Some of the subdivisions in each of those countries sought and obtained permission to commute the tax on sales by raising the same amount in other modes, not so injurious to the interests of industry. The districts that obtained the privilege of commutation paid their taxes, and were able to bear it, while the provinces that paid the tax on sales fell to decay, when all other conditions of growth were equal. Of this tax Prescott says:

“Whatever may be thought of its legality, there can be no doubt it was one of the most successful means ever devised by a Government for shackling the industry and enterprise of its subjects.”—*Note to Ferdinand and Isabella*, vol. 3, p. 488.

I call attention to the intrinsic injustice of this measure. A just tax is one in which the citizen shares his prosperity with the Government. But a sale is by no means a mark of prosperity. It is often a serious compulsory sacrifice, in which case this law taxes the loss of the citizen. To tax misfortune is not merely injustice, it is cruelty. I hope the ingenuity of the Committee or Ways and Means will show us a more excellent way for sustaining the expenses of the Government.

[Here the hammer fell.]

Mr. MALLORY. Mr. Chairman, the gentleman from Illinois [Mr. J. C. ALLEN] has said nearly all that I wished to say on this subject. I endorse what he has said. But there was one remark made by the gentleman from Massachusetts [Mr. BOUTWELL] to which I wish to pay some little attention. The gentleman from Massachusetts acknowledges that the tax imposed upon manufactures is now paid by the consumer, and must continue to be the case. I concur with him in that opinion. But I wish to suggest to those gentlemen who wish to relieve the consumers from the payment of this tax and to impose it to some extent upon the manufacturers, that after this bill shall be completed, and when the tariff bill comes up, we may attain that end. I am opposed to burdening the consumers with the whole tax laid upon manufactured articles; and yet they will be burdened with that tax so long as we permit the ruling power in this House so to shape the tariff as to prevent the articles that come into competition with domestic manufactures coming to market. When we abandon our protective policy, and lower the duty so as to allow foreign articles to come into competition with home manufactures, then we can make the manufacturer pay the tax, and relieve the consumer. In order to do that, I hope that when the time will come gentlemen will help me in an effort to relieve the consumers and make the manufacturers pay the tax.

Mr. GARFIELD withdrew his amendment.

Mr. THAYER. I move to amend the amendment of the gentleman from Massachusetts by adding thereto the following:

*Provided*, That the provisions of this section shall not extend to sales made by manufacturers or producers of the articles, goods, wares, and merchandise sold.

I do not understand, sir, that the motion of the gentleman from Massachusetts is to substitute the proposition which he has advanced for the fourth section of the bill now before the committee.

The CHAIRMAN. It is to follow that section.

Mr. THAYER. It is to follow, as I understand, that section, and is to constitute a new and substantive section itself. The fourth section contemplates an additional duty of twenty per cent. on sales made by manufacturers to the already heavy taxation imposed by the original act. If we are to adopt the fourth section it would certainly be most impolitic for us to levy this additional tax on such sales as are made by manufacturers; in other words, to add to the burdens already imposed on the manufacturing interest this further twenty per cent. contemplated by the bill and the burden proposed by the amendment of the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. KASSON. Will the gentleman allow me to ask him whether it would not simplify the method and avoid embarrassments if, instead of putting twenty per cent. additional on manufactures as proposed by the bill, we should put on only ten per cent? It would then leave the burden identically where it is, and avoid some complications by reason of the proposed exemption. Does the gentleman from Pennsylvania understand that?

Mr. THAYER. I cannot act upon the theory of some proposed action which I do not know will take place. I do know that there is now before this committee no proposition to strike out this fourth section. I do not know that the committee of Ways and Means have abandoned this fourth section for the one proposed by the gentleman from Massachusetts, [Mr. BOUTWELL.] If this fourth section is left in the law, it would be manifestly absurd, in my opinion, to inflict a further tax upon sales made by manufacturers, after adding twenty per cent. to the already heavy taxation imposed upon that interest.

Mr. ALLISON. I rise to oppose the amendment of the gentleman from Pennsylvania, [Mr. THAYER,] as well as the original proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.] It seems to me that this is not only a tax upon consumption, but it is also a tax upon a very large class of the products of this country that cannot afford to bear the burden of such a tax, particularly the articles of wheat and flour, which are the great staple products of the western States. It is well known, and cannot be denied, that the price of flour in Liverpool tends largely to regulate the price of wheat and flour in this country, and if there is a tax upon the sales of those articles it will be a tax upon the producers of those articles in the States where they are produced, as they cannot add the tax to the price of the article; and not only that, but every single transfer of wheat and flour from the West to the East will result in a tax not only of the half per cent. here proposed, but there will also be from one half to one per cent. imposed in the way of profit, and it will be equivalent to levying a tax of from eight to ten per cent. upon the producers of wheat and flour particularly, for every barrel of flour that passes from the West to the East passes through the hands of from eight to ten persons from the farmer who produces it in the shape of wheat before it reaches the consumer; and if, as has been suggested to me, you exempt wheat and flour from the operation of this tax, you would really exempt the great basis of the internal commerce of this country.

But although in favor of vigorous measures of taxation, I am opposed to any check upon that commerce. If we undertake to impose a tax upon those articles, we would destroy or greatly impair the production of those articles, and would, in addition, destroy the great class of middlemen who deal in these articles between the Mississippi river and the Atlantic sea-board. I am not surprised that gentlemen representing constituencies in New York and other great cities in the eastern States are in favor of this tax upon sales, because the necessary tendency of such a tax will be to consolidate trade in those large cities and break down the smaller traders throughout the country.

Last night we refused to impose a tax of more than five per cent. upon cotton, an article produced with great profit to the planter, and although that article of production is more than any other transferred directly to the consumer abroad from the producer here. Yet by imposing a tax of one half of one per cent. upon sales you really impose a tax of from eight to ten cents upon every bushel of wheat raised in the western States, upon which there is at best but a small profit to the producer. It will not only check commerce, but tend to destroy one great interest in this country, the interest of agriculture, and it will also tend to destroy the interest of manufacture, as in the case of the “alcavala” in Spain. There not only the manufacturing interests were destroyed, but the agricultural interests of that country were also almost wholly destroyed; and in the case of Naples, as the gentleman from Ohio [Mr. GARFIELD] has truly said, the tax became so odious that the people of towns and districts there undertook by compositions of that tax to get rid of it.

I am upon principle opposed to this tax, because I believe it would be a radical change in our system of raising revenue, and would require the presence of the tax gatherer and collector in every district and hamlet in the country. I think this proposition ought not to be adopted, because it will act injuriously upon all the great western States, and also upon the eastern States, outside of the cities.

[Here the hammer fell.]

The amendment of Mr. THAYER was rejected.

Mr. FERNANDO WOOD. I move to amend by striking out the last line of the pending amendment. It is obvious that this is a proposition either to tax classes or to tax consumption; it is one of the two. If it be a proposition to tax consumption, as argued by the gentleman from Illinois, [Mr. J. C. ALLEN,] I am surprised that the West should complain of that mode of taxation, because consumption prevails where the population prevails, and it is in proportion to the population, and therefore it is that the eastern States, principally the large cities of the eastern States, would pay the larger proportion of this tax.

Now, sir, in my judgment this is not a tax upon consumption, but it is a tax upon trade. There are three classes in our community: the producing class, the trading class, and the professional class. They are all consumers. This is a proposition to tax the trading classes, a tax on sales. Capital can always take care of itself, and it has almost become the rule in this country that those who produce everything get nothing, and those who produce nothing get everything. The trading class as a class are a useful and respectable portion of the body-politic, but they are not producing classes. They produce nothing. They create nothing; but by their brains and wit, and if you please, by their energy and perseverance, they avail themselves of the productions of others, and live and make money by it.

Now, this amendment proposes, as I understand it, to levy a tax upon sales. If you tax sales it does not necessarily follow that the tax imposed runs into the consumption of the article, and the consumer finally pays it. Therefore, I can see no objection to this mode of taxation, and I am a little surprised that that portion of our country where population is sparse and where consumption is necessarily not so great as it is in the Atlantic States should take exception to this mode of taxation, provided the taxation is really imposed. Whether considered as a tax on trade or consumption, (it is one or the other,) it seems to me that that portion of the country represented by the Atlantic States must pay the greater part of it; hence the West should not complain.

Mr. DAVIS, of New York. Mr. Chairman, it is essential to us, as every one must admit, to raise revenue. All taxes are burdensome; but taxation is now inevitable, and the question which we are to consider is what is that mode of taxation which shall rest most uniformly and equitably upon the varied interests of this country? and, in my judgment, there is no way of imposing taxation which is so just and so equitable as this upon sales. I know that it may affect manufacturers, producers, and consumers, but that we cannot avoid. We must have money or else we must let this Government go; and, sir, for one, I stand ready to tax every interest in this country rather than surrender the Government, and if it takes half per cent. or five per cent. on sales and ten per cent. or fifty per cent. on incomes, I am ready to vote the tax if only, in my judgment, it shall be necessary to sustain the Government.

It is alleged here that this tax is oppressive upon peculiar interests, upon the middlemen, upon the small dealers scattered throughout the western country. I undertake to say, from some little personal knowledge on the subject, that you may start from the city of New York, from the wholesale dealer there, and go to the purchasers from him in Albany, Syracuse, Rochester, Buffalo, Cleveland, Toledo, and so to various points even beyond the Mississippi river, and you will find that the profit made by the retailer in each instance as you go further West is greater than the profit made by the wholesale dealer who supplies the traders with the goods. I know that in the State of Iowa the profits of the retailer there are greater than the profits either of the wholesale dealer or the retailers in the States of New York and Ohio, and it is immaterial to what class

of goods you apply that proposition. I say, therefore, that it is just and right that this tax, which reaches every interest, should be imposed.

For myself I am interested largely in the production and sale of coal in this country, and I say, "Come on with your taxes and I will try to take care of my interests and to pay my proportion." I hope that every interest in this country will respond in a similar spirit, and that gentlemen upon this floor will not be afraid of taxation because it may be unpopular, but will support it because taxation is a necessity.

Mr. FERNANDO WOOD. I withdraw my amendment.

Mr. HULBURD. I move to strike out the last three lines of the amendment. It seems to me, Mr. Chairman, that the historical instances cited here are not altogether relevant, certainly not conclusive. The cases cited by the gentleman from Ohio, [Mr. GARFIELD,] as well as those read by the gentleman from Vermont, [Mr. MORRILL,] indicate that the percentage was ten per cent. in Naples and fourteen per cent. in Spain and the Netherlands.

The proposition of the gentleman from Massachusetts is to impose a tax of one half of one per cent. If it were proposed to make this a tax of ten per cent., that would certainly tie up property, or, as has been said, prevent its mobility. But this is a very small per centum. It is very well known that in New York and in Chicago property in its exchange is burdened with a commission of two and a half per cent. Yet who ever heard that that prevented the transfer of property? Who ever heard that, because there is a broker's commission in New York, therefore property is tied up? This objection has no relevancy, because the percentage here proposed is so small that it will not be directly felt.

The gentleman says that the adoption of this proposition will break up the middleman. Well, sir, he has learned, and so have I, that the nearer the producer and the consumer come together the better it is for the consumer. If business men generally desire this change, why not try the experiment? Sir, within the last three weeks I heard one of the largest operatives in the city of New York, the man who pays a heavier income tax than any other man in the United States, say that if such a proposition as this should become a law, he would lift up both his hands in favor of it. It will be said, of course, that he will add this per centum to the price of his goods. Very well. The jobber will put it upon his; the retailer will put it upon his. And if it be true, as has been said here, and to a certain extent it is true, that the people desire taxation, they desire it because they are earnest in their determination that this war shall be carried on and the rebellion put down; and as they are freely pouring out their blood they will not spare the money that may be required; and why shall they not contribute their money in this indirect way?

Mr. SPALDING. Mr. Chairman, I have made up my mind to support this proposition to tax sales. But I must observe that, if I believed my colleague from Ohio, or my respected friend from Iowa, to be correct, I should hesitate before giving my vote for this proposition. But, sir, I have no idea that a tax upon sales is to operate as a ball and chain upon the ankle of industry. On the contrary I maintain that the weight of that ball and chain would rest upon the rich and those who are plethoric with money. There can be no question of that.

Mr. ALLISON. I desire to ask the gentleman a question. What is it that regulates the price of wheat and flour in this country?

Mr. SPALDING. I will answer the gentleman presently.

If, sir, the producers of wheat and corn should be obliged to pay their proportion of the taxation of this country, I, as a representative of that class, would not complain; for they are now as lightly taxed as any class of the community. Our farmers, who are making money out of the produce of their lands, are the least taxed of any of the producing classes of the country; and they can well afford to pay something of tax in this direction. They will not feel it.

The bulk of sales made now are made to and from the shoddy contractors, men who have an abundance of money; men who buy houses at extravagant prices; men who buy lands; men

who buy silks and satins; men who buy diamonds. The men who deal in these articles of luxury are those who would feel this tax. The ball and chain will rest there, if it rests anywhere.

Now, I say that it is unfair in discussing this question to appeal to the passions of members of the House by saying that the honest and industrious poor of the land will have to pay this tax. The major part of it will rest upon those who can afford it. No doubt it will be felt to some extent in all directions and by all the people; but it will be felt proportionately. Articles of necessity will not feel the tax so essentially as articles of luxury. Consequently those who deal in articles of luxury will bear the greater part of the burden.

I believe that at this time the exigencies of the country are such that in spite of the fine-spun theories found in the books, which are now guiding some of the learned gentlemen on this floor, we must either try this experiment or adopt something that will operate more grievously upon the population of our common country. I am in favor of trying this experiment.

Mr. FRANK. Mr. Chairman, I do not propose to discuss this question at any length. I always feel a hesitation in giving my views in this House on any question of importance, but I must in this case act according to the best of my judgment, which is decidedly in favor of this tax. The theory which has been advanced, and the extracts which have been read from publications as to the tax upon sales in other countries, I do not think apply to us. We are a different nation from any other. Our whole system of government is different from others. We are a free people—a people who read, write, and think for ourselves.

Again, sir, we have tested this matter of a tax upon the sales ourselves, and it is believed that that mode is better than any other one by any other nation. You will remember that last year we taxed the sales of stocks, bonds, and other securities. At that time there was serious opposition made to it. The Committee of Ways and Means, if I remember correctly, reported a tax of one fiftieth of one per cent. This House after discussion made it one tenth of one per cent. Afterward the conference committee fixed it at one twentieth of one per cent., two and a half times greater than was reported by the Committee of Ways and Means. That has been to a certain extent carried into effect. The result was, as we were told last evening by the gentleman from New York, [Mr. ODELL,] that a large amount of money had been received into the Treasury from the tax upon these sales.

We were told that it would decrease the business. Instead of decreasing, the business has increased; not because it is taxed, but because the business of the country has not been impeded by this tax upon the sales of bonds and other securities.

I know, and every gentleman of this House understands, that this will be a precedent. Taxation is, and always will be, a precedent. That is accepted. We can by this tax increase the revenue. The bill reported by the Committee of Ways and Means cannot, I think, increase the revenue very largely; and I do think that the tax upon sales would add to the revenue of the country largely at this time, when it is so very necessary to us.

I am decidedly in favor of this tax. As I remarked last evening, I think that the people of the country are in favor of it, and willing to sustain us in our action.

Mr. HULBURD, by unanimous consent, withdrew his amendment.

Mr. TOWNSEND. Mr. Chairman, I move to strike out one half of one per cent. and insert one quarter of one per cent. If this proposition had come before the House without the heavy tax upon incomes, and with a general increase, it would have obtained my cordial support. But as the gentlemen from the Committee of Ways and Means inform us that they expect to raise from this additional tax now presented from three hundred and fifty to four hundred million dollars, I think it a matter of grave doubt whether at this time, when the country is suffering from the great and necessary burdens for carrying on the war, to attempt to pay off any large portion of our public debt which the gentlemen on the committee

propose. To glance a moment at our debt, and estimating it at \$2,000,000,000, seven per cent. upon this sum would be \$140,000,000 to be raised per annum. The estimate for the coming year is, as I before remarked, three hundred and fifty to four hundred million dollars, so that we have sufficient to not only pay the interest, but provide two to three hundred million dollars toward paying the expenses of the war. If I understand the gentlemen correctly who advocate this measure it is proposed to raise an additional sum of sixty to eighty million dollars. If the section to which this is an amendment is struck out altogether it would appear to me more acceptable. In view, therefore, Mr. Chairman, that we have already taxed very heavily the mercantile interests, I propose that the tax should be reduced to one quarter of one per cent. The experiment would not be of so much consequence if it failed to realize the views of those who promote it, and it would not bear so heavily upon the already heavily taxed manufacturing interests of the country. It has always been a matter of astonishment to the country why persons who happen to have their money invested in land should refuse to pay their just proportion of taxes, and through their Representatives in Congress steadily vote down any measure calculated to reach them; while persons who, after accumulating some property by self-denial and application, investing it in railroad bonds and other securities, should be taxed to such an extent as to be unable since the war begun to scarcely support their families. I know of many cases of the most extreme hardship and positive suffering among a large class of people, while the great landed and farming interest of the country, sufficient to lessen the burdens of the war to an enormous extent, escape. This tax of even one half per cent., if it reaches the farmer, would only involve, in case his crops should realize \$2,000, but ten dollars; and I ask whether any farmer in the country is unpatriotic enough to refuse to pay that sum.

[Here the hammer fell.]

Mr. THAYER. I do not understand that the farmer would be obliged to pay anything by the amendment proposed by the gentleman from Massachusetts, because it is confined to those who are obliged to take out a license.

Mr. TOWNSEND. It applies to all sales, without reference to licenses.

Mr. THAYER. No, sir.

Mr. TOWNSEND. Then it is still more ridiculous that any objection should be made.

Mr. THAYER. It is confined, the gentleman will ascertain, to persons who are obliged to take out a license. I should be more in favor of it if it extended to all classes of persons; because I believe it would be more equal and just.

Mr. TOWNSEND. I withdraw my amendment.

Mr. HOOPER. I move to amend the amendment by inserting the following:

Including all sales of stock and bullion by brokers and others, and excluding all sales of agricultural products.

Mr. Chairman, it would seem at first sight that a tax on sales might be an unobjectionable and a productive tax; but an examination of its true character and of the difficulties in assessing and collecting it will, in my opinion, satisfy any one that it is the most objectionable, the most vexatious, and the least productive, in proportion to the cost of collecting it, of all forms of taxation.

Experience has demonstrated that it is far more economical and less vexation to tax more heavily the fewest objects, and at the fewest points where it will bear alike upon the whole community in proportion to their means or annual expenditure, than to tax lightly many objects at a great many points, to be collected in small sums from a great many persons. The correctness of this principle is recognized by many who urge the "tax on sales," and they present it as an argument in its favor. The mistake they make is, that because such a tax is comprehended in the single expression of a "tax on sales," they overlook the important fact that no other tax could be imposed which reaches so many objects of taxation or so many subjects to collect it from.

As an illustration of the principles by which the Committee of Ways and Means have been guided in preparing their tax bills in this and in the preceding Congress, I would refer to the tariff of duties on imports. Before this civil war com-



menced the revenue of the nation came almost entirely from the duty on imports. The farmers, the mechanics, the producers and manufacturers throughout the country, were exempt from the visits of the national tax gatherers, though every man, woman, and child in the country contributed to the revenue in proportion to their consumption of imported articles. The amount of tax thus raised was sufficient for all the expenses of the national Government; it was equal to about three dollars annually to each one of the whole population; being contributed by each of them in proportion to their style or expense of living. It was probably as justly apportioned among the people as any tax could be. This duty was, however, collected from comparatively few. The Government received it from those who were best able to advance the tax until the consumers, who eventually pay whatever duties are assessed, could refund the amount. The importing merchant who paid a duty of over one hundred per cent. on the cost of a cargo of tea or spices never considered himself taxed to that extent because he had paid the duty on his cargo to the Government. It was returned to him when he sold his cargo, together with the cost abroad and the expenses of the voyage. And so in regard to each purchaser of any portion of the cargo; when sold again the cost was returned, until the articles came into the possession of the consumer, who finally paid the whole cost, including all duties and expenses.

The same principle prevails in regard to the internal revenue duties on products and manufactures. The tax is paid by the consumers; but the duty should be collected from the fewest number possible, and on the fewest articles; and it should be collected by the Government from those who are best able to advance the payment, which will in the end be reimbursed by the consumer. It is a tax on the consumer, and the manufacturer or producer who pays the duty to the Government is no more taxed than is the merchant who pays the duty prescribed by the tariff on an imported cargo.

The income and other taxes are different; they are intended to be imposed directly on those who pay them.

It seems to me important to keep in view the distinction between duties and taxes; the duty being a general tax on the consumers, and not upon those who pay it to the Government, except so far as they may be consumers of the articles on which duty is imposed; while a tax is borne by the party from whom the Government collects it.

In preparing the tax laws, four great principles have been kept in view by the committee who have had the duty of preparing those measures, though they have not always been adhered to: that the taxation should, as far as possible, be definite in regard to its application and the rate upon the articles to be taxed; that it should be in the form and mode least liable to be evaded, and apportioned equally upon those from whom it was to be collected; that the payment should be convenient by assessing the duty on articles when in the form required for general use or consumption and in the possession of those who were best able to advance the amount of the tax, which comes at last from the consumer of the articles on which the duty is assessed; and finally, that it should be economical in regard to the labor and care and attention to insure its efficient assessment and collection.

This proposed "tax on sales" seems to violate all these principles of taxation. As I have said before, it taxes every object that can be sold, and taxes almost every person in the community. It will be vexatious and inconvenient, because it requires every farmer and mechanic who is above the condition of a hired laborer or journeyman to go each month with his list or return to the assessor and then to the collector to pay the tax on all the sales he has made during the preceding month. To a vast majority of such persons, the time required and the trouble in preparing the returns will be more of a tax than the amount of money they have to pay.

In regard to the economy of collecting such a tax, if it is intended to enforce its collection monthly upon all transfers of property by sale, every tenth man in the community should be in the revenue service to watch the business of his neighbors and pry into every petty detail of every

transaction, and upon the greater number the tax imposed will not be enough to pay the cost of collection.

It is indefinite, and especially so in the opportunity it will afford to cheat the Government on the one hand and to cheat the consumer on the other. The honest, conscientious seller will make true returns of his sales, but who can know anything about the correctness of the returns made by those who are dishonest and unscrupulous? After this tax is imposed what proportion of all the sales that are made will be a subject of record, and in what possible manner can any returns of sales to the assessor be verified?

It will operate unequally because, to a consumer far removed from the centers of business, many articles must pass through many hands and be sold many times before they reach him. He may have to pay the tax many times over on the flour, or groceries, or cloth which his family consume; while those who live in or near the great centers of trade can purchase from the large wholesale dealers. The effect will be to discourage small traffic, and to concentrate trade in great establishments. Equality of taxation would require that every barrel of flour consumed in any part of the country should have paid but one and the same tax to the Government; but with this "tax on sales" the tax on a barrel of flour will depend on the number of transfers by purchase that may have occurred from the sale of the wheat by the farmer who produced it until it reaches the consumer in the shape of flour.

It is said that this "tax on sales" will reach the farmers and mechanics and all those persons having annual incomes less than \$600 or producing annually less than \$1,000, who, it is said, are now exempt from taxation. But it is not true that such persons are not taxed now, unless it is assumed that the amount of duty paid by a manufacturer or by an importer is a tax upon them and not upon the consumer. If it were possible, I would willingly exempt from taxation all who depend for their support upon their daily labor, and all the brave soldiers in our armies, who are now exempted only from the inconvenience and vexation of making returns to the assessors and the payment of duties in small amounts which would not be worth the cost of collection. The proposition to impose a tax on every transfer of property by sale has been presented and urged before both of the committees of Congress for the last four years as a novel, original, and ingenious form of taxation, when in fact it is an old and exploded form which has long been condemned as most unjust and oppressive in all European countries. As early as the fourteenth century it existed in Spain, and the experience of its effect there, as recorded, is well worthy of consideration by those who propose to introduce it into this country. It was called the "alcavala," and was an *ad valorem* tax on all transfers of property as often as it changed ownership.

The "alcavala" applied to wholesale and retail transactions of all kinds, and all sales of real estate. The provinces of Catalonia and Arragon purchased about a hundred and fifty years ago an exemption by substituting for it a special tax on incomes and rents. After that substitution those provinces began to prosper, while the rest of the country was languishing in feebleness and decay. It has been said the Catholic religion caused this decay in Spain. But France, situated by her side, though Catholic, was flourishing and prosperous, and is now unquestionably the first of European Powers. Historians have generally agreed in attributing the decline of Spanish prosperity and power to her laws of trade, and have represented the "tax on sales" as one of the most injurious of them. An intelligent writer has said of it, "When traffic stops prosperity stops, and we affirm without fear of contradiction that it was the 'alcavala' which took the life-blood out of Spanish prosperity by checking the circulation of property."

I have stated the principles which have influenced the committee in preparing the measures for taxation which they have submitted in this and in the last Congress. I now ask the patience of the House for a few moments longer, to make some general remarks on those measures which have been adopted and the bill now under consideration. If the measures are properly administered, in the present condition of the country, the

annual revenue of the Government will be about \$400,000,000, which is more than the revenue of the Government of Great Britain, if we assume the dollar to be worth a hundred cents in coin. This amount of revenue leaves a surplus, after paying the ordinary expenses of the Government, as they were before the war, and the interest on the public debt as it will be at the close of this fiscal year, of more than \$200,000,000 to be applied to the extraordinary expenses of the war. I claim that no country has ever done so much in the same space of time to increase its revenue.

The honorable gentleman from New York [Mr. FERNANDO WOON] told us during the last session of Congress what Great Britain did during the Napoleonic wars, which spread over a period of nearly a quarter of a century, to increase the revenue of the kingdom. He stated that taxation was increased until at last three quarters of the annual expenditures of that Government were raised by taxation, and only one quarter from loans. I venture to say that we have already done more to sustain the credit of this Government than Great Britain did during any year of that long war. Great Britain did not begin to raise by increase of taxation the additional means to carry on that war before it had reached its fourth year. Until then loans were relied upon for the extraordinary expenditures; and in no year of the war was a larger amount of revenue realized than we shall realize the coming year from the measures of taxation which we have established and proposed. No nation has ever been engaged in so expensive a war as this has been. The power of Great Britain has not been arrayed against us; but all the resources of that country have been at the command of the rebels to supply them with everything requisite in the way of armament to carry on this war of rebellion. British arms and ammunition, British ships, British officers and men. The great interest in Europe, as well as in this country, in the contest between the Kearsarge and the Alabama, was owing to the fact that the Alabama was a British vessel, armed with British guns, and manned with British seamen and artillerymen. In some of the forts recently captured, guns are said to have been found which, by contract, can be made only for the British Government, and having upon them the broad arrow of the British admiralty. I refer to these facts only to show the necessity for the great outlay that has been required to meet the rebels in this contest, and to account for the vast expenditures of this war.

I claim that thus far Congress has done all that was requisite to provide means for the conduct of the war and to sustain the credit of the Government; and that now it is only necessary that the laws which have been enacted and are proposed should be faithfully and efficiently administered. The tax laws which have been passed have been well considered and judicious, and are cheerfully sustained by the people. Time is required to perfect the system and the machinery for the collection of the taxes. Believing, as I do, that the present condition of the system is hardly yet equal to the efficient and faithful collection of those taxes which have been imposed, I hope we shall wait for the further development and perfection of the system of collection before venturing upon any more experiments in taxation that are new and untried in this country; and that we shall leave the question of any greater increase of taxation than the committee have recommended to the next Congress, when there will be the additional information derived from the experience of another year to guide them.

It is sometimes profitable to look back for the purpose of comparing the past with the present time, that we may judge of our progress and how far the promises made in the past have been fulfilled. In a speech which I made in this House three years ago I stated that the Committee of Ways and Means were engaged in perfecting the details of a tax bill, proposing a moderate rate of taxation upon most of the articles of necessary consumption, with higher rates on distilled spirits and other articles of luxury, and on legacies and incomes; and that from those sources, in connection with the duties on imports, the committee confidently expected the Government to derive an annual revenue of at least \$150,000,000; sufficient to pay the ordinary expenses of the Government and the interest on a public debt of

\$1,250,000,000. I stated then that the committee recommended loans, with taxation sufficient to meet the ordinary expenses, the interest on the public debt, and an excess beyond, to be applied, after the war was over, to the extinguishment of the public debt.

The actual results have more than realized those expectations of the committee. It appears from the last annual report of the Secretary of the Treasury, that the revenue for the year ending 30th June, 1864 was \$260,632,717. He also estimates the revenue for the year ending 30th June, 1865, at \$344,512,000, and for the year ending 30th June, 1866, including the taxes now proposed, at \$396,000,000; these estimates include only \$70,000,000 each year from customs, the actual receipts of which in the last year were \$102,000,000.

The foregoing figures seem to me fully to warrant my previous assertion that the revenue of the next year will be \$400,000,000; and I think it is more likely to exceed than to be below that sum. The result of the measures proposed for revenue have fully realized the expectations of the committee; and I believe they have realized all the reasonable expectations of the country, notwithstanding the indignation expressed by my colleague, who seems to be afflicted with "taxation on the brain" since being brought to the bar of the House to excuse himself for the neglect of his duties on the evening when the tax bill was under consideration.

Mr. BROWN, of Wisconsin. I rise to oppose the amendment. I do not agree with those gentlemen upon this floor who express a desire for further taxation. And I almost think that this House has so squandered the funds and property of the country that they have almost excluded themselves from increasing the taxes to any great extent. But I do recognize the fact that in some way we must raise a sum of money sufficient to meet the current expenses of the Government, and the question is, where most conveniently and with the least burden to the people can we lay this tax? For my own part, instead of believing, as the gentleman from Illinois [Mr. J. C. ALLEN] has declared, that this kind of tax will be a burden upon the poorer classes of the community, I think it places the heavier burden upon the large consumers, and enables those who can limit their consumption almost to escape from taxation.

It is not true that the tax we levy upon sales necessarily falls upon the consumer alone. If this is so, then when you levy a specific tax on manufacturers, by a combination they can increase the price of the articles, and all that comes out of the poorer classes of the community. That is an evil we could not avoid. The question is this: where, with the least injustice, are we enabled to collect this money? Take the city of New York and compare it with almost any agricultural district of the State of my friend from Illinois, [Mr. J. C. ALLEN], and you will find that in proportion to wealth ten times the amount will be paid in New York that is paid in any agricultural portion of the State of Illinois.

But I recognize this difficulty at this present time; that in introducing a new principle it requires guards, requires time and caution in applying it to existing taxation. I should prefer that this proposition had had the serious indorsement of the Committee of Ways and Means, but as it is, if in any tolerable shape it can be presented to the committee I shall vote for it; and I believe, so far as the West is concerned, they, as a general thing, would be in favor of the principle.

The amendment was not agreed to.

Mr. MORRILL. I move to amend the amendment of the gentleman from Massachusetts [Mr. BOUTWELL] by reducing the amount to one mill. I offer the amendment in order to enable me to make a few remarks.

Anxious as I am to increase the revenues of the Treasury, nothing but the clearest conviction of the impolicy of this tax at all would lead me to vote against it. The gentleman from Massachusetts [Mr. BOUTWELL] has asserted that the tax upon manufactures now levied by the present law comes out of the consumer. Now that remark needs a very large amount of qualification. I admit that in prosperous times, when prices are advancing, it does come out of the consumer; but whenever prices shall begin to recede, as they have already, then the tax will come out of the

manufacturer. It is inevitable, and cannot be avoided.

I was surprised to hear the gentleman from Kentucky, [Mr. MALLORY], representing such a community as he does, remark that we should so regulate our tariff as to reach manufacturers. Why, do not gentlemen know that whenever we do reach the manufacturers in that way we are cut off entirely from all our resources from that source? That is the only way the gentleman could reach the manufacturers by his proposed anomaly of reducing the tariff.

But, Mr. Chairman, the gentleman from Massachusetts [Mr. BOUTWELL] says that this tax will be one of easy collection. I deny that. I say that it will be necessary to have an inspector or collector to follow and run down every transaction of the country. In order to collect it you must multiply tax-gatherers and inspectors. There are a great number of transactions that cannot otherwise and will not otherwise be reached. How are you to reach trades made by barter under this section? If persons choose to make a barter-trade, will they be exempt? If two men who have licenses are taxed when they buy horses, will they be taxed when they swap horses? When a man who brings his basket of eggs or some muskrat and coon skins to a store and sells them for tobacco and salt, will he be taxed?

Mr. BOUTWELL. If the gentleman from Vermont had observed the amendment proposed, not his own amendment which he suggested to the House a few days ago and had printed, but the amendment which I had the honor to submit last night, he would have seen that the tax is levied only upon licensed dealers, and licensed dealers are persons, under the law, who sell \$1,000 or more.

Mr. MORRILL. I understand that, and I believe that that is an improvement. I am ready to concede that. But, at the same time, look at the inequality in the business of the country which it would involve. Here is a man to-day who buys wool or produce, who is not licensed, and not subject to taxation. If he were licensed he would have to pay a tax of one half of one per cent.

Now, Mr. Chairman, one gentleman here from New York [Mr. FRANK] suggested that the largest income tax payer in the city of New York is in favor of this tax. Of course. Why, he owns a whole block, and he can sell his goods, import as he is, and manufacturer as he is, either at retail, as a jobber, or as a wholesale dealer, and it will necessarily concentrate the business in New York more and more into the hands of such capitalists as he is.

Mr. BOUTWELL. I ask the gentleman, in fairness to the committee and to the magnitude of this question, that he keep in mind the provisions of the law passed by Congress under his lead, which sets forth very distinctly that produce dealers are persons liable to license, and under the amendment I propose they will be liable to tax upon their sales.

Mr. MORRILL. That depends entirely upon the amount.

Mr. BOUTWELL. Over \$1,000.

Mr. MORRILL. If their business does not amount to over \$1,000, then they are exempt; but all over \$1,000 will not be exempt. The effect would be to scatter the sales of the country into the hands of small dealers, for the very purpose of evading this tax so far as produce is concerned.

Now, Mr. Chairman, in relation to another point, I believe that this amendment is going to operate upon the poor of the country. The articles of luxury consumed in this country are by no means the major part. The vast amounts of the sales of the country are purely and simply of the necessities of life; and you are therefore proposing to tax the poor man with a large family, who is compelled to buy the necessities of life, almost as much as you do the rich man. There is no escape from that. The very men that we have exempted from license, the very men that we have exempted from the income tax, will not be able to escape this tax.

Mr. ODELL. Mr. Chairman, I oppose the motion before the committee, and do so simply to call the attention of the members of the House to the statement made a few days since by the Representative from Vermont [Mr. MORRILL] when he introduced the bill now under consideration

from the Committee of Ways and Means. His estimate was that the sales of the country would reach only \$3,000,000,000 per annum, and the tax proposed would yield but \$15,000,000. I do not know upon what basis my friend made his estimates. I confess his statement surprised me, and I have no doubt the same effect was produced upon the minds of other members of the House. An investigation, partial, it is true, has led me to a widely different conclusion. I am well aware, Mr. Chairman, that the amount to be obtained by the proposed tax is as yet a problem—one difficult to solve while our nation is engaged in war. The unsettled condition of our commerce increases the difficulty. Yet we have data at our command that justifies a different conclusion.

From the annual report of the Secretary of the Treasury, just made, I find our imports for the fiscal year ending June 30, 1864, were \$314,514,559. Our exports for the same period were \$340,666,080. Add the duty collected upon imports, as given in report referred to, amounting to \$102,316,153 in gold, then add to that the premium upon gold, estimating it at 200, and to these the cost of freight, insurance, charges, and profits, at say ten per cent.; these make the total of values of foreign trade alone the sum of \$905,264,397 as the first valuation, upon which this tax of one half per cent. *ad valorem* is to be assessed. Estimating goods to change hands by sales three times, which is the lowest calculation, you have a total upon which the tax will be levied of \$2,715,793,191. The proposed tax, if assessed and collected, would yield \$13,578,965. It will be seen the amounts thus given for our foreign commerce alone are in close proximity to the amount stated as the total sales of the country.

The products of our fisheries and manufactures, as stated by the census returns, show a total valuation of \$1,751,650,000, not including the valuation of the States in rebellion, and this total is in prices of 1860. Upon the same basis of calculation, that goods change ownership by sale at least three times, the revenue to be derived from this class of sales would be \$26,274,750. Thus it will be seen, if these estimates of value are correct, we shall obtain a revenue of \$39,853,715 from sales growing out of our foreign trade and the manufactures of the country.

To these are to be added the vast agricultural products of the country sold as merchandise, which we think demonstrate most clearly that the estimate of the Commissioner of Internal Revenue that the sales of the country will aggregate \$11,000,000,000, and yield a revenue of \$55,000,000, are not over-stated; on the contrary, we believe if this measure shall become law that the receipts under its provisions will be much larger than his estimates. During the discussion of this measure, among the objections urged by members opposing it is that its collection would be attended with great difficulty and open to extensive frauds.

Our best informed collectors and assessors do not agree in this opinion.

Frauds have been committed in all ages and under every system of levying taxes and imposts. There is great security in the low rate of tax proposed under this bill. It has been alleged that this is an untried system. This statement is not entirely correct; under existing laws a tax on sales of merchandise by brokers of one eighth of one per cent. is levied, and also at same rate all sales made at auction. I referred last night to the sales of gold, stocks, bonds, &c., upon which an *ad valorem* tax of one twentieth of one per cent. is levied and collected. So far as I have learned there has been no difficulty in the collection of taxes upon this class of sales. I fully believe no difficulty will arise if a similar tax is levied upon the sales of produce and merchandise, but, as in the cases referred to, it will be promptly and cheerfully paid. Only parties selling \$1,000 and upward per annum, are taxed upon their sales.

This system commends itself to my judgment, and sense of justice, in the fact that it equalizes the burden of taxation, levying upon rich and poor in exact proportion to their consumption, be it more or less. As stated by my colleague, [Mr. FRANK] it has the approval of our leading influential commercial men, who not only see in its provisions a means of revenue, but also what is most desirable, it will give confidence in the securities of the Government.

No system of taxation adopted since our ne-

cessities compelled an internal tax to aid in the prosecution of the war has to so great an extent the indorsement of the country.

The Secretary of the Treasury recommends it now, although formerly opposed to it. The Commissioner of Internal Revenue strongly recommends it as the most available means of increasing our revenue, which they both urge upon us as a duty to provide. We are still engaged in prosecuting the war for the restoration of the Union, hence our duty is a plain one to enact such laws as will secure the means of carrying it on successfully. The people are ready and willing to respond to any levies that may be necessary for us to make upon them by law for this patriotic object. I hope, Mr. Chairman, this measure will be adopted by both Houses of Congress, believing fully that it will prove an efficient method of raising money.

Mr. MORRILL. I move that the Committee rise for the purpose of closing debate upon this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the tax bill, and had come to no resolution thereon.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the tax bill close in five minutes after the committee shall resume the consideration of the same.

The motion was agreed to.

Mr. MORRILL. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. ALLISON. I move to amend the amendment by adding thereto the following:

*Provided*, That unmanufactured breadstuffs shall be exempt from the operation of this tax.

Mr. WASHBURN, of Illinois. I ask the gentleman to add "and provisions."

Mr. ALLISON. I modify my amendment in that respect.

The amendment was rejected.

Mr. GRISWOLD. I move to amend by striking out section four, and inserting as a substitute for it the amendment offered by the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. MORRILL. I ask for a division of the question on striking out and inserting.

The CHAIRMAN. The question will first be on the motion to strike out.

The motion was not agreed to.

Mr. INGERSOLL. I move to amend the amendment by adding thereto the following:

*Provided*, That all sales of breadstuffs and provisions which are sold by the original manufacturers and producers shall be exempted from this tax.

The amendment was rejected.

Mr. ALLISON. I move to amend the amendment by adding thereto the following:

That unmanufactured breadstuffs shall be exempt from the operation of this tax.

Mr. MORRILL. I make the point of order that that amendment has been already rejected.

The CHAIRMAN. The amendment before proposed covered breadstuffs and provisions. This amendment is confined to breadstuffs alone. The Chair thinks it is in order.

The amendment was rejected.

Mr. RADFORD. I move to amend the amendment so as to provide that sales shall be taxed where the amount does not exceed \$200.

Mr. KASSON. Sales are not proposed to be taxed where they do not exceed \$1,000.

Mr. RADFORD. My amendment is to tax all sales over \$200, irrespective of license.

The question was taken, and the amendment was rejected.

Mr. SPALDING. I move to amend the amendment by inserting the following as a substitute:

That from and after the 1st day of April, 1865, there shall be levied, collected, and paid, on all sales of produce and merchandise and other articles, including all personal property, but not including bullion or coin of any description, nor securities for money, evidences of debt, nor sales made at auction, one half of one per cent. where the amount of such sales exceeds fifty dollars in any one month, the amount of sales to be returned by the vendor monthly, in the same manner and at the same time as is provided by law for the returns of manufactures; and all the provisions of the act to which this act is an amendment relating to the assessment and collection, and to the enforcement of the law relating to manufactures, shall extend to and be applied, as far as applicable, to sales of produce and merchandise as aforesaid. This section to remain in force for the period of one year, during which period no person or persons who shall be required to pay the tax or duty enforced by this section shall be required to pay an additional license tax or duty where the rate of such license tax or duty is graduated, under existing law, by the amount of sales or receipts.

Mr. BROOMALL. I move to amend the substitute by striking out the words, "but not including bullion or coin of any description, nor securities for money, evidences of debt, nor sales made at auction."

The amendment to the substitute was rejected.

Mr. HUBBARD, of Iowa. I move to amend the substitute by adding the following proviso:

*Provided*, That all sales of farm products by first and second holders shall be exempt from the provisions of this section.

The amendment to the substitute was rejected.

The question was taken on the substitute; and it was rejected.

The question recurred on Mr. BOUTWELL's amendment.

Mr. KASSON demanded tellers.

Tellers were ordered; and Messrs. ODELL and MORRILL were appointed.

The committee divided; and the tellers reported—ayes 58, noes 56.

So the amendment was adopted.

Mr. A. MYERS. I move to amend the section just adopted by adding thereto the following:

*Provided, also*, That in section ninety-six of the act to which this is an amendment, where the word twenty occurs it shall be stricken out and the word ten inserted, so that the duty on coal illuminating oil, refined, and naphtha, benzine, and benzole, produced by distillation of coal, asphaltum, slate peat, petroleum or rock-oil, and all other bituminous substances used for like purposes, shall be ten cents per gallon.

Mr. FARNSWORTH. I rise to a question of order, that this amendment is not in order at this time.

Mr. A. MYERS. I cannot see why it is not in order. Coal oil does not seem to be in order at any time.

The CHAIRMAN. The committee having passed by that section, the Chair rules the amendment out of order.

Mr. TOWNSEND. I move to strike out section four.

The CHAIRMAN. That question has already been taken and decided in the negative.

Mr. BROOKS. I offer the following as a proviso to the section just adopted:

*Provided*, That there shall be levied and collected from the vendor on all sales of personal property not goods, wares, or merchandise, one fourth of one per cent. of each vendor.

Mr. FARNSWORTH. I would ask what kind of personal property is that which is not comprised in goods, wares, or merchandise?

Mr. BROOKS. Cattle, corn, wheat, beef, pork, butter, cheese, &c. I do not want the dealers in merchandise in cities to be taxed alone. I do not want a man who sells \$5,000 worth of cheese to avoid all taxation.

The amendment of Mr. Brooks was rejected.

The committee rose informally, and the Speaker having resumed the chair,

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and a bill of the following titles; when the Speaker signed the same:

Resolution (S. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

An act (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China.

The committee resumed its session.

Mr. HOOPER. I offer the following as an additional section:

*Sec.—And be it further enacted*, That section one hundred and ten be amended by inserting after the words "1st day of July, 1864," the words: "Provided, That on and after the 1st day of July, 1865, in lieu of the rates of duty on deposits and on circulation prescribed by this section, there shall be levied, collected, and paid a duty of one tenth of one per cent. on the average amount of deposits of money subject to payment by check, draft, or represented by certificates of deposit or otherwise, and of one fourth of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or persons; and from and after the 31st day of December, 1865, a duty of one half of one per cent. each month upon the average amount of such circulation as aforesaid, except that banks which before the 1st day of July, 1865, shall have reduced the circulation since the 1st of January, 1861, to the extent of three quarters, shall be subject only on their remaining circulation to a tax of one twelfth of one per cent. each month. And whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital, when the same was issued, said circulation shall be free from taxation; and whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its circulation, or in case a national banking association shall become the owner or possessor of the assets of any State bank that has surrendered its charter or ceased to exist, or shall become liable for the redemption of the circulation of any State bank, such national banking association shall be held to make the required return and payment on such circulation outstanding, so long as it shall exceed five per cent. of the capital while it existed as a bank or banking association;" and by inserting before the words "nor to any savings bank" the words "nor to trust companies which shall receive no deposits subject to payment by check or draft."

Mr. BROOKS. I rise to a point of order, that this is substantially the same amendment which has already been rejected by the committee.

Mr. HOOPER. This is an additional section, and has never been offered before. Some parts of this amendment were not in the former amendment.

The CHAIRMAN. In order to bring it within the rules, the Chair holds that it must be literally the same amendment.

Mr. BROOKS. Is not this substantially the former amendment?

The CHAIRMAN. The Chair overrules the point of order.

Mr. KERNAN. I would ask if this mode of tearing legislation through is very commendable.

Mr. HOOPER. Several members on this side have said that they misunderstood the question when it was presented before.

Mr. GANSON. Do those gentlemen intend to vote against it? I do not suppose that anybody has changed the other way.

Mr. HOOPER. I think that some of the gentlemen on the other side may have changed their opinions after sleeping on the subject.

Mr. KERNAN. Mr. Chairman, this amendment is substantially the same proposition that has been before this House over and over again. What is the reason of this persistent effort of the gentleman from Massachusetts, [Mr. Hooper,] at the last session and at this, not only to build up a system of banks which shall enjoy special advantages under the national law, but to strike out of existence at one blow, without any reasonable time for a change, State institutions which are interwoven with business of the country, and which, if we may rely upon the testimony of intelligent bankers and business men of all parties, cannot be stricken down without great detriment to the best interests of the business community?

The State banks are now paying more than two per cent. a year on their circulation and deposits. They labor under great disadvantages as compared with the national banks. They are liable to heavy State taxation. Owing to the policy adopted toward them by our legislation heretofore they will doubtless be obliged to change their plan of operations and come under the national system. Why should we not allow the change to go on gradually? Why should we seek to inaugurate hostile legislation against a very large amount of capital, against a numerous class of business men, and against institutions which the States have clearly the right to incorporate? The harmony and good feeling which should exist between the Federal Government and the Legislatures of the various States will be greatly marred, by this endeavor to strike down these State insti-



tutions, the capital invested in which is being beneficially employed in the business of the country.

This House has again and again declared its judgment on this question. This proposition received but a very small vote yesterday. The chairman of the Committee of Ways and Means expressed himself strongly as to the evils which would result from this harsh legislation, as he justly termed it. I hope that the House will not to-day contradict its deliberate judgment declared yesterday. The continued agitation of this violent attack upon the banking system of the States cannot do any good. To impose, as proposed in this amendment, a tax of six per cent. per annum upon the circulation of these State institutions is equivalent to saying that they shall be destroyed after the lapse of six months.

I trust, sir, that the committee will adhere to the opinion which it clearly and deliberately declared yesterday, as well as on former occasions when efforts of this kind have been made. It seems to me that it is due to ourselves that we should show that no member can succeed in carrying through, by mere pertinacity and persistence, a proposition like this, so sweeping and so destructive to the business interests of the country.

Mr. FARNSWORTH. I move, *pro forma*, to amend the amendment by striking out the last word. An amendment in many respects similar to this was, on my motion, adopted by this House at the last session. In the Senate it was stricken out, or rather so modified as to take away its effect. The present Secretary of the Treasury, then the chairman of the Finance Committee of the Senate, opposed the amendment adopted by the House. That gentleman has since become convinced of the necessity of changing these State banks into national institutions. He then announced from his seat in the Senate, giving the people of the country fair warning, that if they did not convert their State banks into national institutions he would at the next session favor legislation similar to that now proposed here.

Mr. MALLORY. I rise to a question of order. The gentleman has no right to lug in the debates of the Senate.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FARNSWORTH. I am not talking about the proceedings of the Senate, but I am merely replying to the gentleman from New York, [Mr. KERNAN.]

Mr. GANSON. I rise to another question of order. The gentleman is not confining his remarks to the amendment.

Mr. FARNSWORTH. I hope that the amendment will be adopted. Sufficient time has been taken up with the discussion of this subject. We are all acquainted with the bearings of the proposition. I hope that the amendment will be adopted without further delay. I know that members were absent yesterday when the vote was taken. Those members are now here. I suppose some members, as was stated by the gentleman from Massachusetts, were not advised of the nature of the question when they voted. Let us have a fair test in the committee of taxing the State banks out of existence or compelling them to be metamorphosed into national banks.

Mr. WOODBRIDGE. Mr. Chairman, had I been a member of this House when this national banking system was adopted, with the little knowledge I have on banking, I would have voted against it; but the system has been adopted through the wisdom of Congress, and has become one which is favored not only by the country generally but is highly favored by the Department having our finances in charge.

It is very clear to me that both systems cannot exist together; that this great national banking system having been adopted as the system of the country, the State system, if it exists, will come into collision with the national system and will prevent its full and perfect play and harmony of development. In that view, although I have a good deal of doubt in regard to the amendment, I have concluded that I shall favor it. I believe that it will be for the best interests of the country. I believe that it is called for by those having charge of our national finances. For one, with the limited knowledge I have on finances, I am not able to oppose such an amendment. Certain time is given, up to next January, for all State banks now

existing to become national banking institutions. It is time enough; and I believe that the policy of the Government having been established in favor of the system, we must take measures to prevent the State system coming into collision with the national system.

Mr. FARNSWORTH withdrew his amendment.

Mr. KERNAN. Mr. Chairman, the gentleman from Illinois expressed his desire that we should take such action as to compel the State banks to give up their State charters. Does he hold that Congress has a right to destroy institutions which the States have constitutionally created? I conceive we may for the purpose of revenue tax.

Mr. WILSON. I make the point of order that no amendment is pending.

Mr. KERNAN. I renew the amendment.

Mr. Chairman, while you are passing a revenue bill here, which it is proper to do, under cover of that it is proposed to destroy these State institutions. Can we destroy railway corporations which the States have created, by putting a tax upon them so that they will be compelled to destroy the State charters and take charters from us? Is that the doctrine in reference to the legitimate rights of the States and of the Federal Government? It seems to me that this is putting forth a precedent showing that we are disposed to claim the exercise of a power to destroy the institutions which the courts have said that the States may legitimately incorporate. The courts of the United States have decided over and over again that the States have a right to establish them. My friend is a lawyer and knows it. The doctrine in the early days was whether the Federal Government could incorporate a single bank as a fiscal agent. I hope that the amendment will be rejected. I withdraw my amendment to it.

Mr. MORRILL. I move that the committee rise for the purpose of terminating debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; and had come to no resolution thereon.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles:

An act (S. No. 212) for the relief of Henry A. Brigham; and

An act (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia; When the Speaker signed the same.

#### KEWEENAW CANAL BILL.

Mr. DRIGGS. I rise to a question of privilege. I move to reconsider the vote by which the bill known as the Keweenaw canal bill was yesterday recommitted to the Committee on Public Lands.

The SPEAKER. The motion will be entered.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that the Senate had passed an act (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City," approved February 21, 1863; in which the concurrence of the House was requested.

#### TAX BILL.

Mr. MORRILL. I move that all debate be terminated in the Committee of the Whole on the state of the Union on the proposition for taxing banks in one minute after the committee shall resume its consideration.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. GANSON. As the law now stands, the local banks of the city of Buffalo pay a tax of about six per cent. upon their capital—two to the Government and four for local purposes. If the pending proposition is adopted, all the banking capital of the State of New York will be entirely withdrawn from local taxation. I say, therefore, that no gentleman who has the interest of the people of his own locality at heart will favor this amendment.

The question recurring on the amendment of Mr. HOOPER,

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered; and Messrs. HOOPER and KERNAN were appointed.

The committee divided, in the midst of much confusion, and the tellers disagreeing on the count,

The CHAIRMAN ordered new tellers, and appointed Messrs. GANSON, and WASHBURN of Illinois.

The committee divided; and the tellers reported—ayes 61, noes 63.

So the amendment was not agreed to.

Mr. WILSON. I offer the following as an additional section:

*And be it further enacted*, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866.

Mr. KERNAN. I move to amend the amendment by inserting after the words "State banking association" where they last occur the words "or national banking association," so that the tax shall be imposed upon all bills of any State bank or national bank paid out. The amendment merely imposes a tax upon banks which pay out State bank bills. I want to include all bills.

Mr. WILSON. Mr. Chairman—

The CHAIRMAN. All debate is closed.

Mr. MORRILL. As the gentleman from New York has spoken in favor of his amendment to the amendment, it is but just that the gentleman from Iowa should have an opportunity to reply. After that I shall insist that all debate be closed.

Mr. WILSON. The gentleman from New York but a few moments ago said that the renewal of this proposition, after the expression of the committee yesterday, was trifling with the committee. In the same speech he told us that any interference with the circulation of State banks would interfere materially with the business of the country. Now, sir, he proposes not only to interfere with State bank circulation, but also to cut off the circulation of national banks. I submit that, according to the gentleman's own argument, he is trifling with the committee in proposing this amendment.

Mr. KERNAN. I am not in favor of this proposition; but if we are to tax these bills ten per cent. I propose that it shall be on all the bills of all banks.

Mr. WILSON. The gentleman has told us that a tax of this kind would drive out of circulation the notes of the State banks and would interfere with the business of the country. And now he proposes to drive out of circulation also the notes of the national banks, and thus interfere to a greater degree with the business of the country. Sir, the proposition which I have submitted is simply this: it permits the present system of taxation upon the circulation of State banks to continue until the 1st day of January, 1866; and after that time, upon all notes paid out by State banks, or national banks and issued by State banks, there shall be a tax of ten per cent., in order to retire from circulation, and thus diminish the volume of our currency, notes issued by State banks or banking associations. It is a proposition to permit the present system to remain up to that time, giving abundant time even to the banks of Pennsylvania to comply with the provisions of the statute of that State in winding up their affairs,

# THE CONGRESSIONAL GLOBE.

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and prepare to take their places under the national system, if they are to continue the business of banking.

The question now being upon Mr. KERNAN's amendment to the amendment, Mr. WILSON demanded tellers.

Tellers were ordered; and Messrs. GANSON, and WASHBURN of Illinois, were appointed.

The committee divided; and the tellers reported—ayes 46, noes 61.

So the amendment to the amendment was rejected.

The question recurred on Mr. WILSON's amendment.

Mr. BROOMALL demanded tellers.

Tellers were ordered; and Messrs. WILSON and PRYOR were appointed.

The committee divided; and the tellers reported—ayes 64, noes 62.

So the amendment was agreed to.

Mr. INGERSOLL. I move to amend on page 38 by striking out in line four the word "six" and inserting "twelve" in lieu thereof; so that the section will read:

Sec. 5. And be it further enacted, That there shall be levied, collected, and paid on all crude petroleum or rock-oil that may be produced or sold, or removed for consumption or sale, a duty of twelve cents on each and every gallon, &c.

Mr. Chairman, when the original system of internal revenue was adopted it was plain that the article of high wines could not stand a tax of more than twenty cents per gallon, and the committee finally fixed that as the amount of tax to be imposed upon the production of domestic liquors throughout the United States.

The manufacturers of that article supposed that that would destroy the business; but instead of destroying the business it gave an increased impetus to the manufacture of high wines. The tax was afterward increased to sixty cents per gallon, and still the manufacture of high wines continued, until Congress put upon it a tax of two dollars per gallon, which it is calculated will yield to the Government a revenue of \$80,000,000.

Now, sir, here is the article of petroleum, which is produced with less cost and less labor than the article of high wines, and which is proposed to be taxed only six cents a gallon. Here is an article which, in the time of our country's need, seems to have been produced by Providence, in its wisdom, in this great emergency, which can pay the national debt and maintain the national credit if we tax it as we ought to do.

Sir, this article alone ought to yield to the Government, by a tax of twelve cents per gallon, at least \$25,000,000 per year; and that amount this Congress can get out of it if they will tax it as they ought to do. The tax would not be materially felt; it would not interfere with consumption; and time will show that petroleum itself can stand a tax of twenty-five cents a gallon without materially interfering with the consumption of the article.

I move, then, that the tax be made twelve cents per gallon, and I hope that the amendment will be adopted, and that Pennsylvania will be let contribute, as she can well afford to do, to pay the national debt and support the national credit.

Mr. SCOFIELD. I wish the gentleman from Illinois, having spoken, would withdraw his amendment and allow me to offer another.

Mr. INGERSOLL. An amendment to my amendment would be in order.

Mr. SCOFIELD. I do not want so trifling an amendment voted on at all.

Mr. INGERSOLL. Then I shall not withdraw it, because I desire it to be voted on.

Mr. SCOFIELD. I supposed the gentleman was in fun in offering an amendment of this kind.

Mr. INGERSOLL. There is where the gentleman from Pennsylvania is mistaken.

Mr. SCOFIELD. Well, sir, I will make one remark, and I do not wish to make it offensively at all to the gentlemen, but I do think, if he is not jesting now, that before he offers an amendment of that kind he ought to make himself ac-

quainted with the subject about which he proposes to legislate.

Mr. INGERSOLL. Without being offensive to the gentleman from Pennsylvania, I will state that I have made myself familiar with the subject.

Mr. SCOFIELD. The gentleman from Illinois has told us that he thinks this article can stand in the future a tax of twenty-five cents a gallon. He has made himself well acquainted with the subject, and he proposes here to put on it a tax of forty cents per gallon. He says he knows all about the subject, and thinks that after awhile it will be able to stand a tax of twenty-five cents, and therefore he proposes to put on a tax of forty cents now.

Mr. INGERSOLL. The gentleman is mistaken. I propose a tax of twelve cents, not of forty.

Mr. SCOFIELD. The tax on refined rock-oil (for I never use the pompous term "petroleum," my own language is good enough for me) is, by the law of last session, twenty cents a gallon. The gentleman now proposes to put on twelve cents a gallon more, which is equal to twenty cents more on the refined article—the article used by the people—making forty cents per gallon. I thought it probable that the gentleman did not consider that part of it; and that was why I made the remark, in which I did not design to be personal at all.

I think, Mr. Chairman, it was Burke who complained that the English minister of finance did not distinguish between taxation and revenue. If you pass this section, not as the gentleman from Illinois proposes to amend it, but even as it has been reported by the Committee of Ways and Means, the American people can, with propriety, make the same complaint of us. The tax proposed by the Committee of Ways and Means would leave a tax of thirty cents a gallon on refined rock-oil for home consumption. When that article comes in competition with the oil refined from coal, which only pays a tax of fifteen cents, and which only needs an advantage of from three to five cents in the market to undersell it, the revenue from that source will be destroyed altogether. The people will study economy in the use of the article. You will introduce everywhere its domestic competitor, candles, and its manufactured competitor, coal-oil; and you will find, when Congress meets next session, that the Commissioner of Internal Revenue will report a diminished amount of revenue, although you will have imposed the increased vexation to the people of a double assessment, a double collection, and a double inspection.

Mr. A. MYERS. I move to amend the amendment by inserting three cents a gallon instead of twelve. I certainly did think, Mr. Chairman, that the gentleman from Illinois [Mr. INGERSOLL] was in fun when he offered his amendment. I thought so because I had been impressed with the very good-humored countenance which that gentleman wore while he was making his speech. The gentleman from Illinois should recollect that when the question of a duty on pamphlets, magazines, and American poets and poetesses, was up, we were extremely liberal to him. Now, sir, he has said that this article should pay a duty of \$25,000,000, and he has referred to the question of high wines. Does the gentleman know what the present production of rock-oil is? Does he call it a manufactured article? Does he think that because it flows out of the earth sometimes, we get it in pumping wells for nothing? I ask the gentleman and I ask the committee to aid us in promoting the interests of petroleum. Its present product is about six thousand barrels a day. At three cents a gallon we will get a revenue of \$1,800,000.

Now, gentlemen will recollect that when you put a duty upon the crude oil you must double that amount in order to get at the true tax upon the refined oil. My colleague [Mr. SCOFIELD] has said that a duty of twelve cents a gallon on crude oil is equal to twenty cents a gallon on re-

fined oil. He is certainly, in my opinion, rather under than over the proper estimate.

Mr. INGERSOLL. The gentleman from Pennsylvania [Mr. A. MYERS] will allow me to correct him. His colleague [Mr. SCOFIELD] said that a tax of twelve cents on the crude oil would be equal to forty cents on the refined oil.

Mr. A. MYERS. That shows that the gentleman from Illinois [Mr. INGERSOLL] did not understand my colleague. It is now twenty cents on the refined oil, and every cent of tax put on the crude oil is doubled on the refined oil; so that, to put twelve cents on the crude oil would raise the tax on the refined oil to forty cents a gallon.

Now, I appeal to gentlemen upon this floor to take into consideration and ascertain whether, by this kind of legislation, they will increase or decrease the revenue by this addition. During the first year these laws were in operation there was collected from the article of rock-oil \$700,000 of revenue. During the last year, after you had raised your tax from ten to twenty cents, the revenue derived from the same source did not amount to as much as the year before, when the tax was only ten cents a gallon. That is what we told Congress last session; and the facts have shown that our predictions were correct. The oil interest is not asking any favor on this floor. We are willing to pay our share of the burdens of this country in putting down this rebellion. If we could break down the rebellion by turning a flowing oil well upon it, and setting fire to the pipe, we would be glad to do it.

It is not proposed, as I understand it, by the committee to do away with the drawback duty so far as the refined article is concerned, but it is to be done away with on the crude oil. When you put this tax of twelve cents upon the crude article, which amounts to twenty or twenty-five cents on the refined article, you put that much extra tax upon it before it is exported to foreign markets. The committee will see the danger they are in from foreign competition in foreign markets.

[Here the hammer fell.]

Mr. KASSON. I wish to state in a few words the motives that have controlled the Committee of Ways and Means in endeavoring to adjust this tax without prejudice to the great oil-producing interest of the country on the one hand and the Treasury of the Government on the other. It is stated by the gentleman from Pennsylvania [Mr. A. MYERS] that the production of this oil is about six thousand barrels per day, which in the course of the year will amount to one million eight hundred thousand barrels, throwing out Sundays and holidays, and the revenue upon that, at six cents a gallon, will amount to \$4,320,000.

Now, it will be observed that the committee recognize the tax upon the refined article to be twenty cents a gallon, and propose no increase of that. It has been found, however, that we have been deprived of a very considerable portion of the revenue to which we are entitled in that way. It has been deemed best, therefore, to take the article at the fountain-head, and impose a low rate of tax upon the article as it flows from the earth, in lieu of any enhancement of the tax upon the refined article. We allow no drawback upon the crude article. It is an excise duty, and therefore whether exported or retained, the amount of the duty is added to the price of the article itself. We found by our inquiries that by this mode of retaining the drawback upon the refined article we leave the markets of Europe open upon perhaps more advantageous terms than to the foreign refiner himself. That does not prejudice the refiner in respect to the article he exports to foreign countries. We enhance the tax upon the crude article, which is levied not only from our own citizens, but from the citizens of foreign countries. We adopted it in this case because it was found, in our judgment, after very careful inquiries, that there was no article produced abroad that could successfully compete with the crude article subject to the tax proposed by the committee. If you enhance that tax, as

proposed by the gentleman from Illinois, I fear that, with so large an enhancement of the price of the crude article, you may be disappointed in respect to the consumption of the article abroad. I trust, therefore, that the House will see fit to adopt the system reported by the committee after the most careful consideration, consulting the oil-producing interest as thoroughly as any other interest has been consulted. I trust that we shall neither go too far in the enhancement of the tax on the one side, nor reduce it too low on the other, thus depriving the Treasury of the fair proportion of revenue that ought to be derived from an article holding such an exceptional relation to the business of the country and of foreign countries as this article does.

Having explained thus the controlling motives of the committee, I move, at the request of my colleague, [Mr. MORRILL,] that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union, having had under consideration as a special order the tax bill, had come to no resolution thereon.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union resumes the consideration of the tax bill, all debate upon the subject of coal-oil be terminated in five minutes.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union to resume the consideration of the tax bill.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

Mr. A. MYERS. I withdraw my amendment.

Mr. SCOFIELD. I move to amend the amendment by inserting "two and a half."

Sir, I warn the committee that if this section shall pass as the Committee of Ways and Means have reported it (because I suppose no one seriously thinks of a duty of twelve cents) no crude oil can go abroad, and the domestic sale will be greatly diminished. By the imposition of this tax you will get less revenue than you now get from the tax of twenty cents per gallon on the refined oil, because you will diminish the sale at home and entirely stop the exportation.

Mr. A. MYERS. Mr. Chairman, the Commissioner of Internal Revenue recommended a tax of three cents only on crude oil. Why the Committee of Ways and Means has not pursued the usual course and accepted the opinion of the head of the department I cannot say. I hope that the House will take, on this subject, the judgment of the Commissioner of Internal Revenue, who examined this subject very carefully, having before him numerous letters from collectors and other persons conversant with the actual business of collecting this revenue.

I think, Mr. Chairman, that if there is to be a change in the law on this subject, the proper method of regulating the matter is to impose an *ad valorem* tax. I believe that the oil interest can better stand an *ad valorem* tax of fifty per cent. than this tax of six cents a gallon. Without presuming to possess any great knowledge of this subject, I do undertake to say that many gentlemen here do not understand the facts with regard to the situation of these oil wells. At a well on the Allegheny river, within one mile of the railroad depot, crude oil brings on an average eleven dollars per barrel; while at a well on one of the small tributaries of Oil creek, six or seven miles from navigation or railroad, this oil brings but eight dollars per barrel. I ask this committee whether it is just that a man should pay six cents per gallon, or \$2 40 a barrel, (a barrel holding forty gallons,) for which he gets eight dollars; while a man upon the Allegheny river only pays the same amount on a barrel for which he gets

eleven dollars. I would make this tax, instead of so much per gallon, a percentage *ad valorem*. Although I am opposed to *ad valorem* being the established principle in a tariff, yet it operates very well in the internal revenue. I am compelled to refer to these things now, as debate has been cut out on all the succeeding paragraphs.

Sir, the true, just, and equitable way of imposing this tax is upon the *ad valorem* principle; and if I get the opportunity I will move that amendment to this bill.

This coal-oil interest is the interest which we are told is going to bear millions and millions of taxation. So it will if it is properly taken care of. Gentlemen suppose that every hole that is bored is a flowing well, whereas nine out of ten fail to produce oil in paying quantities. Let this new and young child of American wealth have a chance to grow, let its limbs and muscles become strong and powerful by use, and then it will bear all the reasonable taxes that you may impose on it. Sir, I regret that the haste of the committee has so abruptly cut off amendment and debate.

Mr. SCOFIELD's amendment was disagreed to.

The question recurred on Mr. INGERSOLL's amendment, and it was disagreed to.

Mr. SCOFIELD. I move to amend by striking out "six" and inserting "three," so that it will read:

SEC. 5. *And be it further enacted*, That there shall be levied, collected, and paid on all crude petroleum or rock-oil that may be produced and sold, or removed for consumption or sale, a duty of three cents on each and every gallon.

A MEMBER. Say five.

Mr. SCOFIELD. I will say "five" instead of "three," at the suggestion of some of my friends.

The amendment was disagreed to.

Mr. A. MYERS moved to strike out "six" and insert "three."

The amendment was disagreed to.

Mr. A. MYERS moved to add the following proviso:

*Provided, however*, That the duty on crude oil that may be produced for sale or consumption shall be ten per cent. *ad valorem*.

Mr. MORRILL. I raise the question of order that the amendment is not in order, not being germane to the pending section.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCOFIELD moved to strike out the following:

SEC. 5. *And be it further enacted*, That there shall be levied, collected, and paid on all crude petroleum or rock-oil that may be produced and sold, or removed for consumption or sale, a duty of six cents on each and every gallon; and all petroleum or rock-oil that may be in possession of the producers at the place of production, as aforesaid, shall be held and treated as if produced on that day; and the said duty shall be paid by the owner, agent, or superintendent of the well from which the petroleum or rock-oil has been produced within five days after the time of rendering the account required to be rendered by law of petroleum or rock-oil so chargeable with duty; and the said duty shall be a lien upon the same and on the well producing the same, with the buildings, fixtures, vessels, machinery, and tools, and on the lot or tract of land where the same may be, until the said duty shall be paid; and the person paying such duty, if other than the actual owner of said petroleum, shall have a lien on such petroleum for the repayment of the duties so advanced by him: *Provided*, That any person who shall produce petroleum or rock-oil, and use or refine the same without having paid the duty as aforesaid, shall, in addition to all other penalties and forfeitures, be liable to pay double the amount of duties as aforesaid thereon.

SEC. 6. *And be it further enacted*, That every person who shall be the owner of any well producing petroleum or rock-oil, or who shall have such well under his superintendence, either as agent for the owner or on his own account, and every person who shall use any well as aforesaid, either as owner, agent, or otherwise, shall, from day to day, make true and exact entry, or cause to be entered in a book to be kept for that purpose, the number of gallons of crude petroleum or rock-oil produced, and also the number of gallons removed for storage, or for sale, or for consumption, which book shall be open at all times when required for the inspection of the assessor, assistant assessor, collector, deputy collector, or inspector, who may take any memorandums or transcript thereof; and on the 1st, 11th, and 21st days of each and every month, or within five days thereafter, the owner, agent, or superintendent, shall render to the assessor of the district an account in duplicate of the number of gallons of petroleum or rock-oil produced, and also of the number of gallons sold, and of the number of gallons removed for consumption or sale or storage, not before accounted for.

SEC. 7. *And be it further enacted*, That all petroleum or rock-oil, before the same is used or removed for any purpose, shall be inspected and gauged by some inspector appointed for the performance of such duties, who shall mark upon the cask, tank, or other vessel, containing such petroleum or rock-oil, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity of the con-

tents of such cask, tank, or vessel, with the date of inspection and the name of the inspector, and shall make a return of all petroleum or rock-oil so inspected, with the name of the producer, to the collector, and a duplicate thereof to the assessor of the district. And any person who shall attempt fraudulently to evade the payment of the duty, upon any petroleum or rock-oil by changing in any manner the mark upon any such cask, tank, or vessel, shall forfeit the sum of \$100 for each cask, tank, or vessel so altered or changed, to be recovered in the manner provided for the recovery of penalties imposed by the act to which this act is an amendment; and any inspector or other person who shall knowingly put upon any such cask, tank, or vessel, any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask, tank, or vessel so fraudulently marked; and any person who shall purchase or sell any empty cask, tank, or vessel with the inspection marks thereon, or who shall use the same without removing the inspection marks therefrom, for the purpose of selling any other petroleum or rock-oil than that so inspected, shall be subject to a like penalty for each cask, tank, or vessel so purchased, sold, or used.

Mr. MORRILL. I make the point of order that these sections have been passed upon and cannot be stricken out.

The CHAIRMAN. The Chair sustains the point of order.

Mr. KASSON. In conformity to the direction of the Committee of Ways and Means I offer the following:

*And be it further enacted*, That wherever, under the proviso to section one hundred and three, the addition to any fare shall amount to a sum involving the fraction of one cent, any person or company liable to a duty of two and a half per cent., as said section provides, shall be authorized to add to each fare one cent in lieu of said fraction.

This matter has made some local trouble and litigation, and the committee have deemed it right to perfect the section in that way.

Mr. THAYER. I move the following substitute:

*And be it further enacted*, That section one hundred and three be amended so as to read as follows: That every person, firm, company, or corporation owning or possessing or having the care or management of any railroad or steamboat engaged or employed in the business of transporting passengers or property for hire, or in transporting the mails of the United States, shall be subject to and pay a duty of two and a half per cent. on the gross receipts of such railroad or steamboat: *Provided*, That the duty hereby imposed shall not be charged upon receipts for the transportation of persons or property or mails between the United States and any foreign port; and any person or persons, firms, companies, or corporations, owning, possessing, or having the care of any toll-road, ferry, or bridge, authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description over such toll-road, ferry, or bridge, shall be subject to and pay a duty of three per cent. on the gross amount of all their receipts of every description. But when the gross receipts of any such bridge or toll-road shall not exceed the amount necessarily expended to keep such bridge or road in repair, no tax shall be imposed on such receipts: *Provided*, That all such persons, companies, and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare or freight whenever their liability thereto may commence, any limitations which may exist by law, or by agreement with any person or company which may have paid or be liable to pay such fare, to the contrary notwithstanding.

Mr. KASSON. I rise to a question of order. This is a substitute for the whole original text, imposing a tax, and is not germane to my proposition.

Mr. THAYER. I will offer it as a new section.

The CHAIRMAN. The Chair overrules the point of order. The amendment of the Committee of Ways and Means is to section one hundred and three, which is the same subject-matter covered by the amendment of the gentleman from Pennsylvania.

Mr. THAYER. Mr. Chairman, this House, by a respectable majority, when this subject was under consideration in another place, adopted the amendment proposed by my colleague on the other side, [Mr. STROUSE,] and that amendment was subsequently overridden by an amendment proposed by the gentleman from Wisconsin, [Mr. BROWN,] which last amendment proposed to reduce the tax imposed by section one hundred and three on common carriers to two and a half per cent. on the net receipts. The amendment of the gentleman from Wisconsin, which being offered as a substitute superseded that of my colleague, includes within its operation those methods and means of transportation such as ships, canal-barges, and boats.

Mr. BROWN, of Wisconsin. I wish simply to state to the gentleman from Pennsylvania that while I am perfectly willing, so far as I am concerned, to accept his amendment as a substitute for the one I offered the other day, yet there are many members on this side of the House who desire to strike out the word "steamboats" from



his substitute. I ask him to modify his amendment by striking that out.

Mr. THAYER. I have no objection, if it were possible, to take the sense of the committee upon the propriety of striking that out; but really I have not sufficient data, of my own knowledge, to adopt the suggestion of the gentleman from Wisconsin.

Mr. Chairman, I will state briefly to the committee that the object of my proposition is to exempt from the operation of the one hundred and third section (which section the committee will remember imposes a tax of two and a half per cent. upon the receipts of common carriers) sailing vessels, canal-boats, and canal-barges. I believe that every one who has examined this subject, and who knows anything about the operation of the law upon these interests, must agree that the operation of this one hundred and third section upon our sailing vessels, canal-boats, and canal-barges, and the owners of those methods of transportation, has been very injurious and very unjust.

If we intend to collect a tax upon shipping we should collect it in such a manner as shall not discriminate against our own shipping to the advantage of foreign shipping and to the prejudice of our own. If we must tax shipping, let us do it in the way of a tonnage tax, because by a tonnage tax we reach foreign shipping as well as our own. But this law operates to the prejudice of our own vessels. It imposes a burden upon our own which foreign vessels are exempt from; and upon that account it is unjust and impolitic.

In regard to its operation upon the other interests, canal-boats and canal-barges, I know from information received from those interested in that branch of the carrying trade, that its operation has been exceedingly unjust. It is impossible for them to pay the tax of two and a half per cent. which is imposed by the one hundred and third section of the recent act and carry on the business in which they are engaged with any profit at all. It is a destruction of the business itself.

Mr. TOWNSEND. Will the gentleman tell me whether, if this tax is reduced, the gentleman and his friends from Pennsylvania will reduce the price of coal at the same rate?

Mr. THAYER. I am very sorry, but there is so much confusion I cannot hear the question of the gentleman from New York.

The CHAIRMAN. Debate is exhausted.

Mr. BROWN, of Wisconsin. I move to amend the substitute proposed by the gentleman from Pennsylvania by striking out the word "steam-boats." I move it merely to take the sense of the committee upon the propriety of striking it out.

Mr. KASSON. I wish to say a word before the vote is taken upon these amendments, in order that there may be a full understanding of this subject. The amendment I proposed has arisen out of the construction of the law which has been adopted by the court of at least one State of the Union, and its object is to adopt that construction as a matter of law, with a view of avoiding future litigation on that point; that is, that where a former law in its execution results in the fraction of a cent, it shall be considered as equivalent to a cent.

The gentleman from Pennsylvania [Mr. THAYER] offered a substitute relating to an entirely independent question, and which does not even embrace the object of my amendment; and I think, upon examination, it will be scarcely considered in order.

Mr. THAYER. I rise to a point of order. This question of order was raised by the gentleman from Iowa and decided against him. He is now arguing an appeal from the decision of the Chair without taking an appeal.

The CHAIRMAN. The Chair will state that when the amendment of the gentleman from Iowa was presented the Chair supposed that it was offered as a proviso to section one hundred and three; and therefore he ruled the amendment of the gentleman from Pennsylvania in order, otherwise he would not have done so. The amendment being before the committee, it must be acted on.

The amendment to the substitute was not agreed to.

Mr. PIKE. I wish merely to say one word,

and for that purpose I move to amend by striking out the last word. This is an endeavor to change the form of taxation upon tonnage. It is now taxed two and a half per cent. upon the gross receipts, irrespective of net receipts. An instance was given yesterday, during the discussion, where a vessel earned \$6,000 by a charter from the Government, and there was expended in repairs \$6,500, leaving a net loss of \$500; and still the Government obliged them to pay \$150 revenue tax on the \$6,000. I have a gentleman in my eye upon the other side of the House who had a vessel that went to California, and they there made him pay a tax on the gross receipts when the net receipts amounted to nothing at all, and instances are common where no revenue has been derived by the owners of vessels from the receipts for freights and yet a tax of two and a half per cent. on the gross receipts has been imposed. There is no other instance in the whole tax bill from the alpha to the omega where such gross injustice is done as is done in relation to this matter.

Sir, the shipping interests of the country do not wish to escape taxation, but they do wish to have the system changed and that you shall place your tax on tonnage; let it be ten, twenty, or thirty cents a ton, and let it apply to foreign tonnage as well as to domestic tonnage.

As the matter stands now, this tax simply applies to the coasting tonnage of the country, the foreign tonnage being exempt, and the coasting tonnage comes in competition with the provincial tonnage, so that it is a bounty, as it stands now, in favor of provincial tonnage and a discrimination against our own tonnage.

This proposition of the gentleman from Pennsylvania [Mr. THAYER] relieves our difficulties. It does not provide for a tax on tonnage, because that must come in in the tariff bill as that tax is collected at the custom-house. The Committee of Ways and Means assure me, however, that they are to bring in a bill which shall tax tonnage, *eo nomine*, so as to make our revenue certain.

At present, according to the decision of the Commissioner of Internal Revenue, if a man happens to have property enough that he may own the cargo as well as the vessel, he pays no tax, but if he has not property enough to own the cargo and vessel, and sends the vessel to seek freight, he is obliged to pay the tax. It is a discrimination against the poor owner and in favor of the rich owner, a discrimination in favor of foreign tonnage against American tonnage.

Mr. WOODBRIDGE. Of course, Mr. Chairman, I am not prepared to say what the gentleman from Maine [Mr. PIKE] designs to do hereafter, neither do I know what the House will do hereafter; but I am certainly prepared to say that the proposition of the gentleman from Pennsylvania [Mr. THAYER] would work most obvious injustice to the great public works of the country. Throughout the northern country, a portion of which I have the honor to represent here, we have competing means of transportation between the railroads, the canals, and the inland waters, and it is known to all the business men of the North that the revenue to the individual or company derived from water transportation for the last two years has been very large and the business very lucrative. We who know anything about the railroads of the North know that they pay no dividends whatever, and hence there should be no discrimination between the tax to be levied upon persons who transport by water and companies that do this business by rail. This proposition, if adopted, will make a great discrimination against the railroad companies.

Mr. PIKE. I would remind the gentleman that canal-boats pay a tonnage duty while railroad cars pay no tonnage duty. You may put the duty on tonnage as high as it will bear, only put the tax in that form.

Mr. WOODBRIDGE. That is very true, but I am discussing the proposition now before the House, and not the proposition which the gentleman from Maine, who is a truthful gentleman, says he shall bring before the House when some other bill comes up; because if I could trust, as I always would, my friend from Maine, of course I do not know what the opinion of this House may be.

We all know that the expenses of transportation by rail are quadruple those of transportation by water, and that when they come in competition

the charges for railroad transportation are barely remunerative and often not remunerative prices, because they come in collision with cheap water navigation.

Now, I say that it would be obviously unjust for this House to adopt a proposition which will give to the water communications of the country the privilege of doing business without yielding a revenue to the Government, and impose the burden upon railroads, in which far greater amounts of capital have been expended, and where the revenues have been really, in our country, nothing at all to the stockholder from the day he subscribed for the stock until the present moment. It is true that these railroads have been the means of developing the resources of the country, and that the country has been made more prosperous and richer; but the people who have invested their money in them have not had it returned, and I believe they will not for the next twenty years. I go for doing justice to all interests, discriminating in favor of none. If the present tax on transportation is not enough, increase it. If two and a half per cent. is not enough, raise it to five per cent., and I will vote upon the proposition according to my own best judgment. I will vote to make all interests that go to develop the interests of the country equal, and will not discriminate in favor of any.

Mr. PIKE withdrew his amendment.

The question was taken on Mr. THAYER's amendment in the nature of a substitute; and it was rejected.

The question recurred on Mr. KASSON's amendment; and it was adopted.

Mr. FARNSWORTH. I move to amend by inserting the following as a new section:

*And be it further enacted, That all officers in the military service of the United States below the rank of brigadier general shall be exempt from the income tax provided by this act or the acts to which this is an amendment.*

Mr. MORRILL. I suggest to the gentleman from Illinois that we had that question up the other day, and that then, on the suggestion of the chairman of the Military Committee, it was postponed, to be considered when reported from that committee.

Mr. FARNSWORTH. That is all very true. The Military Committee has agreed to report a bill containing a provision of this kind; but I greatly fear that the committee will not have an opportunity of reporting it or of having the action of Congress on it this session.

As this is a revenue bill it seems to me that it is the proper place to put in this provision. It seems to me that it is neither incongruous nor improper to determine in this bill whether these officers shall be subject to the income tax or not. It ought to be adopted. All officers below the grade of brigadier general should be exempt from this income tax—lieutenants, captains, majors, colonels, &c. Their pay is scarcely sufficient to maintain them. If we adopt this provision now, and have afterward an opportunity of passing upon the bill to be reported by the Committee on Military Affairs we can strike the provision out of that bill. If the sense of this committee be in favor of relieving these officers from the payment of income tax on their salaries it will take but a moment to have a vote upon it.

Mr. MORRILL. Mr. Chairman, the Committee on Military Affairs is to have the day as soon as this bill is disposed of. I hope we will dispose of it to-night. The chairman of the Military Committee is now absent at the War Department. I trust we will not put the provision in this bill.

Mr. ROSS. I suggest to my colleague [Mr. FARNSWORTH] that if his committee had reported back the bill which I had referred to it, to increase the compensation of officers, they could afford to pay this tax to the Government.

The question being on the amendment,

Mr. FARNSWORTH withdrew it.

Mr. KASSON. I move to amend by inserting after the word "do" in the tenth section, the words, "under such rules and regulations as shall be prescribed by the Secretary of the Treasury;" so that it will read:

SEC. 10. *And be it further enacted, That all persons and every person who shall engage or be concerned in the business of a lottery dealer without having first obtained a license so to do, under such rules and regulations as shall be prescribed by the Secretary of the Treasury, shall forfeit*

and pay a penalty of \$1,000, to be assessed by the assessor of the proper district and collected as assessed taxes are collected.

The amendment was adopted.

Mr. STEVENS. I offer the following as an additional section, immediately to follow section ten:

Sec. — *And be it further enacted*, That the capital of any State bank or banking association which has ceased or shall cease to exist, or which has been or shall be converted into a national bank, was intended to be and shall be assumed to be, for all the purposes of the act to which this is an amendment, the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid.

It is perhaps not known that there is some difficulty about construing what the capital of a bank shall be considered to be for the purpose of taxation. The Commissioner of Internal Revenue holds that where a bank has been converted, inasmuch as it becomes a national instead of a State bank, it has no capital to be taxed; that its capital has ceased to exist; and therefore the notes which may be out are construed to be beyond the effect of the tax.

The amendment of Mr. STEVENS was adopted.

Mr. KASSON. I move, with the approval of my colleagues on the Committee of Ways and Means, to strike out section eleven. It is believed that it will probably result adversely to the public interest, rather than as a benefit.

Mr. INGERSOLL. I object.

The CHAIRMAN. The motion is not in order, that section having been passed.

Mr. INGERSOLL. I want to move an additional section, that the provisions of section nine shall apply to manufacturers of domestic liquors.

The CHAIRMAN. That is not in order.

Mr. KASSON. The part in relation to photographs was passed over by consent of the committee. I move to strike out on page 19 the words, "by striking from the paragraph relating to photographs the words 'being copies of engravings or works of art, or,' and inserting in lieu thereof the following:

By inserting in the paragraph relating to photographs, after the words "being copies of engraving or works of art," the words "when the same are sold by the producer at wholesale at a price not exceeding ten cents, or are."

The amendment of Mr. KASSON was adopted.

Mr. ROSS. I would ask the attention of the committee to the paragraph on page 27, relating to section one hundred and seventeen. I think the word "county" should be inserted after the word "State," and before the words "and municipal taxes."

Mr. MORRILL. That is right.

Mr. ROSS. Then I make that motion.

The amendment of Mr. Ross was agreed to.

Mr. MORRILL. There is one amendment I desire to offer; it was passed over by accident. I move the following amendment, to come in on page 34, at the end of line eighty-two:

By inserting before the word "injury" the word "accidental"; and by striking out the words, "while traveling"; also, strike out the word "by."

The amendment of Mr. MORRILL was agreed to.

Mr. STEVENS. I move to amend by inserting after section twelve, the following:

Sec. — *And be it further enacted*, That whoever buys or sells gold bullion or coin for a price above the Mint value, whether to be paid for in legal-tender notes or in the notes of any bank, or individual, or in any other commodity, shall be deemed a bullion broker: *Provided*, That this section shall not apply to miners of the precious metals nor to persons purchasing gold or coin solely for the purpose of paying duties on imports, or for exportation, and who shall actually apply the same to one of those purposes without a resale.

Sec. — *And be it further enacted*, That every bullion broker shall take out a license and pay \$1,000 therefor, whether he operates at the brokers' board or elsewhere. Whoever deals in gold or coin, as above stated, without first having obtained such license, shall be deemed guilty of a misdemeanor; and shall, besides, forfeit and pay the sum of \$2,000, to be recovered in a *qui tam* action, the one half to go to the prosecutor and the other half to the United States. Whoever shall buy or sell gold or coin, or bargain to buy or sell the same at or for any price above the Mint value, whether such purchase or bargain be executed or not, each of the said parties shall pay a duty or tax of ten per cent. on the full amount or value of said purchase, sale, or bargain; and if the said bargain, purchase, or sale should be sold, assigned, or transferred to others, such assignor and assignees shall pay ten per cent. on the full amount of said transaction.

Sec. — *And be it further enacted*, That every such sale or bargain to sell shall be deemed to be above the Mint value if more than one dollar in legal-tender notes or in the notes of any bank, company, or individual, shall be exacted, taken, paid, or received at less than one dollar in gold or coin.

Sec. — *And be it further enacted*, That every bullion

broker shall make out and return to the assessor of his district a full and true statement of all his transactions in gold or coin within twenty-four hours after such transactions shall have taken place; in default whereof he shall be deemed guilty of a misdemeanor, and shall forfeit and pay the sum of \$500 for each offense, to be recovered as provided for in the second section of this act, unless he shall have been unavoidably prevented from making such return.

Mr. Chairman, I think that this is a practical measure if it meets the approbation of this committee. It is simply a question of taxation upon transactions in a particular commodity, that is, gold. It proposes a tax upon all sales of gold where made for any purpose except exportation, or for the purpose of paying duties, or paying the interest on the public debt, where it is used by the party. It proposes to impose a tax of ten per cent. upon each purchase and sale. Now, it is well known that there are boards organized exclusively for operations in gold, where full records are kept. There is therefore no difficulty in getting this tax except the difficulty presented by dishonesty. The question is whether it is worth while to do it.

The other day, when I introduced the proposition, it was most keenly satirized by gentlemen of most excellent taste and unquestioned judgment in many matters.

I have received this morning, in answer to an inquiry, a letter from a gentleman who was formerly one of the Representatives of the State of New York in this House, a gentleman of great intelligence, who has taken great pains to investigate the subject, and he says that these transactions, which I propose to tax by this amendment, amount, including both parties, to \$30,000,000 a day. A tax of ten per cent. on this amount would yield a revenue of \$3,000,000 daily. These transactions are a fair subject of taxation. There remain, then, in my view, only two questions for the consideration of the House: first, whether the tax proposed is so heavy that it is likely to discourage this trade; and next, whether, if we do discourage the trade, we inflict any injury on the country.

My notions on this subject are well understood, and are deemed extreme by many gentlemen in this House, as well as by the gold operators. I have no doubt that, by concert among the gold gamblers, gold will to-morrow be run up ten or fifteen per cent., and then we shall be told to look at the alarming consequences of attempting to meddle with these transactions. But, as I believe, this trade in bullion constitutes a proper subject of taxation, and it is practicable to raise from it a very large revenue. It is for the House to say whether this tax shall be imposed.

Mr. MORRILL. For the purpose of terminating debate, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration, as a special order, the tax bill, and had come to no resolution thereon.

#### AMENDMENTS TO ENROLLMENT ACT.

Mr. SCHENCK. I desire to report from the Committee on Military Affairs a number of amendments to the enrollment act. I move that these amendments, together with the bill, be printed.

The motion was agreed to.

#### RECONSTRUCTION.

Mr. ASHLEY. I ask unanimous consent to report from the select committee on the rebellious States a substitute for the bill (H. R. No. 602) known as the reconstruction bill.

Mr. WADSWORTH. I object.

#### LEAVE OF ABSENCE.

Mr. FRANK. I ask leave of absence for myself until Wednesday of next week.

Leave was granted.

#### EXTENSION OF DAY'S SESSION.

Mr. MORRILL. I ask unanimous consent that the rule terminating the daily sessions at half past five o'clock be rescinded for this day in order that we may get the tax bill through the Committee of the Whole to-night.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection.

#### TAX BILL—AGAIN.

Mr. MORRILL. I move that when the House shall again resolve itself into the Committee of the Whole on the state of the Union on the tax bill all debate on the concluding section of the amendments thereto be terminated in one minute.

The motion was agreed to.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair), and resumed the consideration of the special order, being bill of the House No. 744, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The question being on the amendment of Mr. STEVENS, there were, on a division—ayes 40, noes 39; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. STEVENS and PENDLETON.

The committee divided; and the tellers reported—ayes 51, noes 43.

So the amendment was agreed to.

Mr. A. MYERS. I move to amend by adding the following as a new section:

*And be it further enacted*, That there shall be levied, collected, and paid on all crude petroleum or rock-oil that may be produced and sold, or removed for consumption or sale, a duty of twenty per cent. *ad valorem*; and all petroleum or rock-oil that may be in possession of the producers at the place of production, as aforesaid, shall be held and treated as if produced on that day; and the said duty shall be paid by the owner, agent, or superintendent of the well from which the petroleum or rock-oil has been produced within ten days after the time of rendering the account required to be rendered by law of petroleum or rock-oil so chargeable with duty; and the said duty arising from the royalty or land interest to be a lien on such interest and its share of oil, and the duty arising from the working interest to be a lien on such interest and its share of oil, and on the well producing the same, with the buildings, fixtures, vessels, machinery, and tools, and on the lot or tract of land where the same may be, until the said duty shall be paid; and the person paying such duty, if other than the actual owner of said petroleum, shall have a lien on such petroleum for the repayment of the duties so advanced by him: *Provided*, That any person who shall produce petroleum or rock-oil, and use or refine the same without having paid the duty as aforesaid, shall, in addition to all other penalties and forfeitures, be liable to pay double the amount of duties as aforesaid thereon; and anything in this or any other act imposing a duty on crude petroleum or rock-oil, be, and the same is hereby, repealed.

Mr. MORRILL. I make the point of order, that having passed that part of the bill the amendment is not in order.

The CHAIRMAN. The Chair overrules the point of order.

The amendment was rejected.

Mr. INGERSOLL. I move to add the following:

That hereafter, unless by special contract to the contrary, the instruments used by all inspectors and gaugers for the inspection and gauging of all high wines and domestic liquors throughout the United States shall be in all respects such as are or may be prescribed by the Secretary of the Treasury for the inspection and gauging of spirits subject to duties throughout the United States; and a gallon shall be taken in all cases to be a gallon of first-proof, according to the standard set forth and declared for the inspection and gauging of spirits throughout the United States.

The amendment was rejected.

Mr. PENDLETON. I move to add the following as an additional section:

That the privilege of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, which now does or hereafter shall exist by provision of law, shall be extended under such regulation as the Secretary of the Treasury may prescribe to all articles of domestic production which are subject to tax by the provisions of this act.

The amendment was agreed to.

Mr. KALBFLEISCH. I move to amend the proviso which reads "That coal tar and ammoniacal liquor produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced shall be exempt from duty;" so that it will read as follows:

*Provided*, That coal tar and ammoniacal liquor produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar, and the products of the manufacture of ammoniacal liquor thus produced shall be exempt from duty.

The amendment was agreed to.

Mr. PENDLETON moved the following amendment:

Add at the end of line two hundred and forty-seven the following words:

But one license fee of ten dollars shall be required from any one person, firm, or company in respect to all the business to be done by such person, firm, or company on a continuous route, and the payment of such license fee shall cover all business done upon such route by such person, firm, or company, anywhere in the United States; and such license fee shall be required only from the principal in such business, and not from any subordinate.

The amendment was agreed to.

Mr. MORRILL. I move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the tax bill under consideration, and had directed him to report the same back, with sundry amendments.

Mr. MORRILL demanded the previous question on the bill and amendments.

The previous question was seconded, and the main question ordered.

And then, on motion of Mr. MORRILL, (at twenty minutes to six o'clock, p. m.,) the House adjourned.

#### IN SENATE.

SATURDAY, February 18, 1865.

Prayer by Rev. JOHN LANAHAN, D. D., of Washington city.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War transmitting, in answer to a resolution of the Senate of the 14th instant, a report from the Commissary General of Subsistence, stating that he does not consider any increase in the quantity of the Army ration required for the comfort of the men or the efficiency of the service; which was referred to the Committee on Military Affairs and the Militia.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of citizens of New York, praying for the passage of an act declaring slavery to be unconstitutional and criminal, and providing for the punishment of slaveholding as a criminal offense; which was referred to the select committee on slavery and freedmen.

Mr. RAMSEY presented resolutions of the Legislature of Minnesota in favor of the payment of the "New Ulm Mill claims," being for labor and materials in building a mill at New Ulm, in 1862, by order of General Pope, commanding the military department of the Northwest; which were referred to the Committee on Claims.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for a repeal of the law taxing cigars, and that a tax may be imposed upon leaf tobacco; which was referred to the Committee on Finance.

Mr. HOWARD presented a memorial of Nicholas Thelen, praying that an appropriation may be made for the encouragement of silk culture in the northern and middle States, and that a superintendent may be appointed to direct and control the undertaking; which was referred to the Committee on Manufactures.

Mr. HENDRICKS presented resolutions of the Legislature of Indiana, in favor of the improvement of the harbor of Michigan City, and recommending an appropriation for that purpose; which were referred to the Committee on Commerce and ordered to be printed.

#### BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 455) to amend an act entitled "An act to amend an act entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property, approved July 22, 1861,'" approved March 3, 1863; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a bill (S. No.

356) for the purpose of checking contraband trade, and to provide a fund for indigent loyal refugees from the State of Texas; which was read twice by its title, and referred to the Committee on Finance.

#### NOTICE OF A BILL.

Mr. SUMNER gave notice of his intention to ask leave to introduce a bill to repeal the act to incorporate the Washington and Georgetown Railroad Company.

#### REPORTS OF COMMITTEES.

Mr. FOOT, from the Committee on Pensions, to whom was referred the report of the Secretary of the Interior, communicating information in relation to agents employed in the payment of pensions, asked to be discharged from its further consideration, no further legislation being called for, in the judgment of the committee; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Evelina Porter, widow of Commodore David Porter, praying for arrears of pension, asked to be discharged from its further consideration; which was agreed to.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 456) for the relief of the Mercantile Mutual Insurance Company, of New York, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. SUMNER, from the select committee on slavery and freedmen, to whom was referred the bill (S. No. 443) to incorporate the Freedmen's Savings and Trust Company, reported it with an amendment.

#### MEETING OF CONGRESS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution to print the compilation of the provisions of the Constitution and laws of the United States for fixing the terms of the meetings of Congress in extra session, prepared by the principal Clerk of the Senate, have instructed me to report it back without amendment, and recommend its passage; and I ask for its present consideration.

There being no objection, the resolution was considered and agreed to, as follows:

*Resolved*, That the compilation of the provisions of the Constitution and laws of the United States for fixing the time of the meetings or sessions of Congress, and of the extra sessions of the Senate, and the practice under the same from the 4th of March, 1789, to the present time, prepared by the Chief Clerk of the Senate, be printed.

#### REVENUE COMMISSION.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom the subject was referred, to report back a joint resolution providing for the appointment of a commission on the subject of raising revenue by taxation. As a similar resolution was passed by the Senate at the close of the last session, I hope that by unanimous consent this resolution will be put on its passage at once and sent to the House of Representatives.

There being no objection, the joint resolution (S. R. No. 115) providing for the appointment of a commission upon the subject of raising revenue by taxation was read twice by its title and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to appoint a commission, consisting of three persons, to inquire and report at the earliest practicable moment upon the subject of raising by taxation such revenue as may be necessary in order to supply the wants of the Government, having regard to and including the sources from which such revenue should be drawn, and the best and most efficient mode of raising the same; and such commission is to have power to take testimony in such manner and under such regulations as may be provided by the Secretary of the Treasury.

Mr. GRIMES. I will inquire if the chairman of the Finance Committee if he does not think it would be better to establish what shall be the rate of pay that shall be paid to these commissioners.

Mr. SHERMAN. The resolution as it is now prepared was drawn by the Secretary of the Treasury. That difficulty has been suggested, but it is very difficult to ascertain or state precisely what will be a reasonable pay. I can state, however, that if this resolution had become a law at the last session—it was passed here and sent to the House of Representatives, and met with a single

objection, which defeated its passage—I believe it would have saved to the Government over a million dollars in the details of the present tax law; and I believe that is the judgment of the members of the Committee of Ways and Means. The reason why I have not inserted in the resolution any provision for the compensation of these commissioners is because it would create delay in its passage in the House of Representatives. All bills appropriating money must be referred to the Committee of the Whole, and that creates delay. I presume a very small expenditure, not over \$10,000, will pay the expense of this commission for a year or two, and probably accomplish the purpose; and that provision may be inserted in any of the general appropriation bills.

Mr. CONNESS. Mr. President, this is an important resolution in every view that can be taken of it. It would be useless to appoint such a commission as is proposed by this resolution unless after they had been appointed, had met and taken testimony, and presented their report, the report and recommendations they should make should be regarded as of so strong a character as to be heeded and to demand the most serious attention.

I wish to call the attention of the Senate to the fact that in regard to matters of revenue there is a very considerable want of accurate knowledge prevailing on this side of the continent touching those questions in the Territories and States bordering on the Pacific coast. A commission of this kind, therefore, should have at least one member of it selected from that country. The objects of taxation there are many; the amount of revenue that is now being received from those States and Territories is very large; and I therefore desire to add as an amendment the following proviso, to come in after the word "same":

*Provided*, That one of the said commissioners shall be selected from the Territories or States on the Pacific coast.

I make this suggestion, not simply to put a man in office, but that the peculiar condition of the industries of that country, as well as the sources of taxation, shall be made known and revealed to this commission when they shall take action. I think the Senate will understand and the chairman of the Finance Committee will concede the importance of this proposition. It may be said in reply that in the appointment of such a commission the Treasury Department will pay attention to this subject. If so, the provision will do no harm; but I desire that the States and Territories of the Pacific slope shall be guaranteed as well in the action that shall be taken, as that the Government shall have the information which can only be derived concerning our industries and country from one of our own people. I therefore move to insert the words:

*Provided*, That one of the said commissioners shall be selected from the Territories or States on the Pacific coast.

Mr. SHERMAN. I sincerely trust that a general proposition of this kind will not be incurred by an unusual provision limiting the power of appointment. The President or the Secretary of the Treasury has the power to make this commission. It will no doubt be carefully made, and with proper consideration for all the local interests of the country. I regard this measure, although simple in its phraseology, as one of the most important propositions affecting our revenue that can be offered, and therefore we ought not to limit, or restrain, or define the power of the President or the Secretary in forming this commission. The officers who will be appointed under this resolution, if it be adopted, as I think it will be without any objection, or scarcely any objection, in the other House, will perform the most important functions of any officers of the Government. If we had had such a commission at the commencement of our system of internal taxation we should have avoided a great deal of crude legislation. The tax bill will be passed to-day in the House of Representatives and will be sent to us, and we shall have but ten or twelve working days to consider it in the Committee on Finance and in the Senate. It will be impossible for us, in all the multitudinous duties imposed upon the Senate, to consider it with care. Three gentlemen taking up this whole subject, examining the financial systems of Great Britain and France and other countries which have maintained a large internal taxation, will be able to bring to the discharge of their duties an amount of reflection and care that we could not possibly bestow upon the subject.



I therefore do not think that this proposition, so important in its character, should be limited and restrained by any qualifications as to any locality. I have no doubt a gentleman from California may be found with all the requirements for such an office. I have no doubt such persons can be found in every State of the Union. But it is unusual, and I think improper, to limit or control the power of the Executive in selecting persons to constitute this commission.

I may say also that the State of California and the whole Pacific coast, although very important to our system of Government, will not pay in internal taxes probably one fiftieth of the aggregate of taxation levied upon the country. If we derive \$4,000,000 from the Pacific coast, or even if we derive \$10,000,000 from the Pacific coast—a much larger sum than we ever have or probably shall soon derive—it will be only one thirtieth part of the whole aggregate of internal taxation. Why, therefore, by law, compel the President in the selection of three commissioners, to take one from a region of country that will not pay more than one thirtieth part of our entire taxes?

But all these are considerations for the President and the Secretary of the Treasury, and I trust, therefore, that this resolution will not be incumbered by any such proposition. I might just as well, representing a portion of the great West, say that one of these commissioners should come from the interior region of the country; but I would not ask it because I think it is better to leave all these propositions of detail to the proper officers of the Government, who, I have no doubt, will discharge this duty well.

Mr. STEWART. I hope this amendment will prevail, and I believe gentlemen will think differently upon it after a little reflection. The Secretary of the Interior and the heads of the other Departments send out reports annually to the effect that the mineral resources of the country will be able not only to pay the interest but the principal of the national debt. There is a prevailing idea to that effect. The mode of getting at that, the mode by which it is to be accomplished, and how we are to pay the national debt, has not been suggested; or if suggested it has been suggested in the most obnoxious form. The whole country is constantly pointed to that region for supplies. It is impossible for a people situated as are the people on this side of the continent to understand the condition of things there. The people of the United States have not turned their attention to mining pursuits. You have no mining bureau; you have not even a mining committee; you have no mining colleges. You have to send to Europe for your mining engineers. You do not educate your young men to mining in this country at all. California and the Pacific coast are paying annually thousands of dollars for engineers from Europe to aid them and to direct them in developing the mineral resources of that region. It is a subject that cannot be investigated except by those who have given years of attention to it. Years of attention are required to understand it. They must have seen the country, they must understand how it is situated, before they can form any idea of it. If you get men from this side of the continent to make such a report as is proposed in this resolution, they will undoubtedly come in here with a proposition to sell the mineral lands, something arbitrary, something that will upset the whole condition of things there, because the prevailing idea here is that those lands should be sold. Now, I will right here make a few remarks with regard to the condition of things in that country.

Since the organization of the State government of California, about sixteen years ago, there have been probably eight hundred thousand miners on the Pacific coast. At least forty per cent. of these have died, and ten per cent. of the balance are disabled, and unable to work. We have to support them. They are supported, as it were, by the charity of those who do work. Twenty-five per cent. have gone into other pursuits; they have made a little money by mining and then left it. The other twenty-five per cent., or about two hundred and fifty thousand, are still there. There has been an average during the whole time of about two hundred and fifty thousand. Out of that two hundred and fifty thousand at least two hundred thousand are engaged in the unproductive business of hunting for mines, in attempt-

ing to develop the country. They have to labor against all manner of embarrassments, the want of transportation, want of title, the General Government continually saying that they will at some day sell those mines. Every obstacle is thrown in the way to discourage the development of the mines, not from any desire to injure our interests, but from a want of information, the want of such information as could be given by an intelligent gentleman representing the Pacific coast upon a commission of this character. They will need such information and counsel.

If we had means of transportation, if we had this question of title settled, if we had such encouragement as could be given to capital, if we had security to property, which the Government of the United States will be undoubtedly willing to give, we should be able to send you a stream of gold and silver, not of sixty million or seventy million per annum, but we should be able to send you from three hundred to five hundred million dollars per annum. How is this to be accomplished? Its effect upon the commerce of the country and its effect upon your debt is to be enormous; but if you pursue the policy recommended by the Departments here generally, you will close the mines. Levy your tax of five per cent. upon the gross proceeds of the mines; leave their titles still in chaos; leave them without transportation; treat them as a foreign and rejected community; break up their business; break up the present condition of things, and you will have no revenue from the Pacific coast.

Here is one of the great and leading interests of the country—an interest entirely misunderstood, misapprehended, throughout every department of the Government; and yet when we come here to expostulate we are told that universal rules must be applied; that we cannot be an exception. We do not ask to be an exception to the general rule; we are willing to come under it; but we do want a system which shall secure to us what we have for the last seventeen years developed. We want a system that will encourage miners hereafter to develop. Instead of two hundred thousand men engaged in prospecting the hills and traversing the deserts of the West, we want occupation for three or four million. We want to be able to give you a market. We want to be able to afford to the present generation some relief by reason of our mineral resources.

Suppose this commission, when organized, take the testimony of the heads of the various Departments here upon this question, what will they recommend?

Mr. CONNESS. The collection of a royalty.

Mr. STEWART. Yes, they will recommend the collection of a royalty; they will recommend levying upon us a tax of five or ten per cent. upon the gross proceeds of the mines. That has been recommended. We want to have that question investigated and understood, to see whether that is the best way to raise revenue. Last year you levied one half of one per cent. upon the proceeds of the mines, and you have lost money by it. I will pledge my honor to come here next winter with facts and figures and show you that the Government lost money by that tax; and I will show you now how it is very reasonable to suppose that it has lost money by that arrangement.

As I have said, there are two hundred thousand men who are working in unproductive mines. Those men, although working in unproductive mines, work by the day and get a little money, and then go out prospecting. They constantly pay a revenue to the Government in the way of tariffs, for we consume a great deal of foreign productions. They are useful, and are paying revenue. We come here to tell you the facts on this subject. The newspapers deceive you all. They only speak of one kind of luck. They never speak of bad luck; but in order to legislate you must have the facts. Out of the fifty thousand miners upon that coast who are producing the bullion that is creating and stimulating your commerce all over the world, and enabling you to have a metallic basis for the redemption of your bonds, only about one in five is making net gains. The others are going on in the hope that something may turn up for the better. They produce the great mass of the bullion at an expense in production equal to the whole production. They go along until they expend their means. They

find something better and go into the class of the one tenth, or they go back into the great mass of prospectors. Now, if you put a tax of five per cent. upon the mill of a mining company that is producing \$500,000 per year at an expense of \$550,000, you stop them so much the quicker, and you cut off the possibility of their continuing until they get that mine developed so as to bring it into the paying class of mines, where there can be net dividends.

If you put a tax of five per cent. upon the proceeds of the mines on that coast, you destroy all the common ordinary paying mines at once; you knock out of existence four fifths of the productive enterprise of the country; and you discourage the two hundred thousand who are still hunting for gold; so that you take from them the reward that we have held out. The reward to them is an important circumstance. But for this reward, the hope of finding something, they could not afford to do it. The Government of the United States could not carry on this prospecting. It can only be done by those who are insured to it, and who are willing to gamble. Then you will cut off by a tax such as is advocated by all the heads of Departments here four fifths of the resources of that country and reduce the production one half. Suppose you reduce the production of the Pacific coast from an aggregate of seventy or eighty millions per annum to \$40,000,000, and you get five per cent. on that. That is \$2,000,000. How much do you lose? You lose one half of the present revenue; you lose three or four millions on the Pacific coast alone, besides destroying the commerce of the world and locking up the future prosperity of that country.

Now, in order to understand this great question, what ought to be done, in justice, for the development of that country? I say it is due that some gentleman of experience there shall bring before this commission his experience, that such rules may be provided that this great source of wealth may be opened to the people, and that the present generation may realize something from it. Boast not of your mines. It is the development and working of those mines that creates commerce and gives employment to men, and will make the country rich. But you can by a commission that is not informed on this question introduce a policy that will entirely annihilate the prospect of realizing anything from your mineral lands during the present age and until we shall become informed as a mining people. I do hope, in view of the great interest at stake, one of the leading interests of the country, that the chairman of the Committee on Finance will consent that one of the members of this commission shall be selected from that coast, who is familiar with the facts.

Mr. CLARK. This is certainly a very singular proposition from the Senator from California. I think it is the first instance in the history of legislation that we have attempted in this way to make a sectional appointment. I did not like the beginning of it. I still want to regard this country as a common country; and when a thing of this kind is to be done, I desire to give it to the appointing power without restriction, so that they may hold it as a common country. Suppose I should move to amend that amendment of the Senator from California by adding to it "and one from New England, and one from the middle States, and one from the great West." We raise a large amount of revenue from the manufacturers of New England. We raise a large amount of revenue from the incomes of New England. Why should we not have a commissioner from New England to look after those great interests?

Mr. CONNESS. You will have one.

Mr. CLARK. We shall have one, says the Senator from California. We shall, if we deserve to have one; and so will he.

Mr. CONNESS. I said "you will" have one; not "you shall."

Mr. CLARK. That is as I understood it; we shall have one if our interest demands it, and we find a good man there for it, and if we do not, we do not ask it. But the middle States will want one. They have a large variety of subjects of taxation. The House of Representatives, as I understand, propose to tax sales. The great commercial city of New York will say, "We have more sales in our city than all the rest of the country; give us a commissioner." Pennsylvania

is developing her wealth in petroleum, and iron, and coal, and she will say, "Give us a commissioner." Then comes in the great West, and they will say, "We are the granary of the world; we supply the markets of the world with grain, and that is to be sold and we are to be taxed; give us a commissioner." I hope the Senators from the West will not say that I am at all invidious when I say that it is a great whisky-producing region also, and that great interest is not to be neglected; and we must have a commissioner for whisky.

Mr. RICHARDSON. Did you say it was a great whisky-consuming country?

Mr. CLARK. No; I did not say that. I would not be so invidious. I know they ship and sell large quantities of it, and taxes are to be assessed upon it; and therefore they will want a commissioner to see that it is rightfully done, if we are to carry out the idea of the Senator from California.

I am not antagonistic to any interest of California. I desire, as much as the Senators from that coast can desire, that their great interest, to which they are looking for so much wealth, should be developed. I hope it will not be neglected by the Treasury or by the Government; and I have no idea that it will be neglected. It cannot be neglected. Wherever the gold is to be found, there will be the men to seek it; and wherever the Government interests are, there will be the Government to take care of those interests.

I do not desire that there should be any commissioner from New England, unless the best man is found there, nor from the middle States, nor from the West, nor from California; but where ever the best men are found, there let them be selected. But there is no necessity for taking one of these commissioners from California to represent the interests of California. You may find a man of broad and liberal views in some other State. These commissioners will have power to hear all the people from California if they will; they will have ample power to protect California; and I have no doubt they will desire to do it. They may take testimony from all California, and from Nevada too, that young giant who seems to come in here to grasp the land by degrees of latitude and longitude. They will all be protected where they should be protected. We are to look to them for aid; we are to look to them for counsel; but I desire that we should stand locked together, with no divisions even upon the statute-book between us that shall require a peremptory law that one of these commissioners shall be from that section. I desire that those Senators should trust in the East, I desire that the East should trust in the West and the Pacific slope; and that we shall be content to provide for the common country without any particular legislation of this kind, that in the appointment of a commission one of them shall be taken from that slope.

I have heard a great many times the argument offered here by the Senator from Nevada, that if you lay this tax and that tax upon this interest or that interest you will not get half so much revenue. The man that produces an article always says, "Tax it less, and we will produce more, and give you more money." The manufacturer will say, "Your tax will decrease manufactures; tax less, and your revenue will be larger in the aggregate." So will say the tobaccoist, "Make your tax small on tobacco, and more will be consumed." So will say the producer of whisky, "You have got your tax too high; you are diminishing the production; you do not get so much revenue as you would if you did not lay so large a tax." I say this is matter for adjustment; and it is a nice point, to be ascertained by a commission, or in some other way, what taxes can be imposed upon the different articles to give the most revenue with the least burden. That can be ascertained, in my judgment, without special legislation that we shall appoint one of these three commissioners from the Pacific slope. Has California been neglected?

Mr. CONNESS. Yes, I think so.

Mr. CLARK. The Senator thinks so, and perhaps so thinks every section of the country of its own particular section; but there may be others who think she has been favored. I do not think she has been favored more than she deserves. I feel proud of that portion of the country. I want it to be developed; and I hope, if this resolution be passed and this commission be established, if

the Secretary of the Treasury thinks the interest of that portion of the country or her particular employments demand it, she will have one of these commissioners; but I would not tie up the hands of the Secretary of the Treasury, and make it imperative upon him to take one of these commissioners from the East or from the West, from the Atlantic or the Pacific coast, from the North or the South. Let us leave it to him to judge of the whole broad country, and do what the whole broad country demands.

Mr. CONNESS. I shall not occupy much of the morning hour in the discussion of this subject, for I grudge it on my own account, as I desire to call up a bill, and am really sorry that so much of it has been consumed on a motion made by myself; but I cannot consent to have this matter closed without saying a few words in reply to the peculiar argument of the honorable Senator from New Hampshire.

The honorable Senator discovered in the amendment that I have had the honor to submit to this proposition what the directors of the United States Mint discovered last year in a bill to establish facilities for coinage in one of the Pacific States, a tendency to disintegration. He says he trusts that we will not begin to sectionalize the country, as this amendment proposes; and then he goes on to present the interests of New England, the interests of the West on this side of the Rocky mountains, the interests of the South, and then to speak specially of the interests of the Pacific slope, and to argue that there is not an existing reason, but a sectional reason, for the adoption of the amendment that I have proposed. Let me tell that Senator here, in behalf of the people whom I have the honor to represent, that there is no sectionalism in them; that they represent a broader nationality, a deeper and a more abiding love for our country, than even the constituency represented by the Senator from New Hampshire. Although they have been separated far and wide from the power of the national arm, by their love of country, without the arms of the Union they have preserved peace and nationality in that far-off country by the power of opinion and the readiness with which they have stood at all times for any conflict that was necessary to maintain the power of our Government there. Sir, the power of the Union has not been maintained on the Pacific coast by the arms of the Union. We have had there an enemy frowning in our faces, made up to a large extent of the vilest enemies of our country coming from the rebel States; but, sir, the sentiment of nationality in the breasts of a majority of those people was, and is, so strong that the Government has had to make but few expenditures and but few demonstrations of its power to preserve the most intense and devoted loyalty in California and on the Pacific slope. Let not the Senator say that there is sectionalism in a motion of this kind.

Mr. President, I made this motion because there is danger to the industries of that portion of the Union which we represent here. What is the danger? It is found in the annual reports of the Department which this resolution proposes shall appoint a commission to seek out sources of taxation, modes of taxation, to devise systems of taxation. Why, sir, the head of that Department in his last annual report recommends that what he calls a *royalty* shall be collected from our people and paid into the national Treasury. What does a *royalty* mean? It is based upon the theory that invests the sovereign power with the precious metals that are found in the earth, and as they own all, it belongs to that sovereignty to have a part, a tithe, if you please, of the proceeds, and hence a *royalty*. The Secretary of the Treasury—ay, in the year 1865—confesses that with all the light before him, with all the means at his command, with all his great ability, there has been discovered no means by which the mines of the United States, or belonging to the United States, have thus far paid what they should have paid into the national Treasury; and he confesses further that he knows of no measure by which the nation can be paid what belongs to it from that source, except by the collection of what he denominates a *royalty*.

Mr. President, I say here, individually, as one of the most devoted citizens of this Union, and as the representative in part of *ay* loyal a constituency as there is in the Union, that it is not

in the power of the Government to collect a *royalty* from the Pacific States. The very term is odious, and justly so. The industries of that people have grown up without encouragement from the Government. They have grown up without representation in the Executive Departments of this Government. They have no voice in the Cabinet Council of this Government. There is not a bureau here, no matter how small, that is represented from the Pacific coast. Nay, more than that, the common usage here is to pick up the lazzaroni of the East, the unemployed, and therefore the unworthy of the East, whenever an office of the Government in the West is open, and send them there, whether the office be an administrative or a judicial one. Why, sir, our courts have been filled with men selected in that way, who had neither legal ability, moral fitness, nor capacity, and who have gone into our western Territories and States to make our industries their sport and the object of their spoiliations. That has been done to such an extent that it has produced nearly a condition of revolution there. Nay, in one of our Territories, now a State, the people rose up *en masse* and compelled the judiciary thus selected to resign their office and leave the places they had so disgracefully filled. Such appointments have been wrung out of the Executive by the importunate friends of the incompetents, strangers to our country, and reckless of our interests.

And yet Senators say that the Pacific coast has not been neglected. More than once since I have had the honor to sit here I have called attention to that country. I confess, and I am proud to acknowledge, that I have found honorable Senators who have understood its great necessities. From the bottom of my heart I thank them, and feel grateful to them for the services they have rendered in protecting that gallant, fearless, and honest people in what properly belongs to them. They do not know the depth of love I feel in return for their assistance. But, sir, I have also found Senators and members of Executive Departments who, too disregarding of the voice of representation that came from that country, were not only unwilling to deal fairly with us, but unwilling to give us a hearing.

I trust, Mr. President, that this is coming to an end. I trust gentlemen on this side of the Rocky mountains are beginning to understand that there is a great and increasing interest and glory coming to our nation from the great West. The Senator from New Hampshire sees the beginning of a new secession in the simple amendment that I have had the honor to offer, that there might be one of this commission who would be able to state whether a tax of five per cent. upon the gross products of the mines, as proposed last year and passed by the House of Representatives, would be a tax fit to be imposed or not!

But the honorable chairman of the Committee on Finance says we do not pay taxes. Why, sir, our small population pays \$8,000,000 a year into the national Treasury on imports at the port of San Francisco.

Mr. SHERMAN. I did not say any such thing. The Senator must not misrepresent me in his excitement. I simply said that the whole Pacific slope at the best would not pay one thirtieth of the taxes. I said that if these three commissioners were to be appointed, it was not just or proper to say that they should come from any particular locality. And let me say to the Senator that a great deal of the declamation in which he has indulged is not pertinent. No man is more friendly to the Pacific coast, the mining interest, and the great mountain region of our country, than I am. I did not suppose that this proposition, which received the Senator's assent at the last session, and which passed the Senate without a single objection, would excite the slightest debate; but it seems to have given rise to a great deal of unnecessary excitement on the part of the Senator about his section and his State, which has not been arraigned, or anything said against it or about it, so far as I know, in the whole controversy.

Mr. CONNESS. I do not wish to misrepresent the Senator. The Senator certainly intended to say to the Senate that there was a little revenue from our portion of the country, and that, therefore, in point of fact and fairness, we would have no right to the appointment of one of these commissioners. I care nothing about the appoint-

ment; but the Senate will remember that since this movement was proposed last year, and since I permitted it to pass without any objection, this objectionable recommendation has been renewed by the Treasury Department. The Senator does not know what intense excitement and feeling these increased and renewed recommendations by the Executive Departments have made in the country that we represent here. The Senator does not feel it. I cannot blame the Senator.

The Senator alludes to my declamation. Mr. President, if the State of Ohio and its industries had been menaced as the State that I in part represent here was menaced last year, the Senator from Ohio would be the most excited man in this Chamber. But, sir, in what has been said perhaps our object has been partly, at least, accomplished. I have no confidence that if this commission is immediately appointed it will be one that will fairly represent our interests; and I undertake to say that here. I do not wish to persist in pressing this proposition upon the Senate; but I could not listen to the class of argument presented by the honorable Senator from New Hampshire without a response to it. I wish now to say that I will withdraw the amendment that I offered.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from California withdraws the amendment.

Mr. McDougall. Mr. President, I trust that the sound of voices from the Pacific coast shall not be so voluminous and so continuous as to deafen the ears of the Senate. The proposition before the Senate is a simple one. It should have been adopted at the opening of the Congress in July, 1861. Such a commission was demanded then by the exigencies of the country. We should have selected then the most eminent ability and talent in this country or that we could derive from Europe to consider the grave question of deriving internal revenue. The chairman of the Committee on Finance knows very well that I urged that such a commission was advisable. So knows the Senator from Pennsylvania, [Mr. Cowan,] who was then on the Committee on Finance. If we had done so we should have derived much more revenue, and we should have had a system. I remember very well asking in the Committee on Finance whether any of the gentlemen of the committee had studied this question of internal revenue. It was a new question to us. None of the gentlemen on the Finance Committee had studied it. It required special investigation. It is known to the Senators who were members of the Finance Committee at that time that I proposed the appointment of such a commission. I asked for it then; I wish for it now. It will enable us to organize our system of revenue.

I have been told, and I think I am well informed, that our first internal revenue bill was based upon the old bill of 1813, which was a bill drafted before McCulloch and the persons interested in the subject in Great Britain had developed the system of internal revenue; and we have been going along on an imperfect basis all the time. A commission of three eminent men who understand finance—whether they come from California, or Maine, or Boston, is a matter of indifference to me—setting themselves to work in and about that business, will do more for us than any one of our separate armies in the field.

I trust the resolution will be passed as it is presented. I do not think it requires amendment. Let us give the authority to organize this commission, and set men at this work who will engage in it not merely from motives of patriotism, but from a high sense of patriotism and a love of high office in the true sense of high office—not office to be compensated for. Three such men selected would do what this Senate cannot do; what the House of Representatives cannot do; what we cannot do all together—for they will concentrate their force upon our finances, and give us a system, which we have not yet had. I trust that the resolution may be passed as presented. It is a thing that should have been passed long since.

Mr. CLARK. I move to amend the resolution by inserting after the word "power" the words "to inquire into the manner and efficiency of the present and past method of collecting the internal revenue," directing their attention to the manner of collecting it, so that they may see how it can be collected.

The amendment was agreed to.

Mr. HOWE. If there is no immediate necessity for passing the resolution, I wish it might be laid over and printed.

Mr. SHERMAN. I have no objection.

The PRESIDENT *pro tempore*. It will be laid aside if there be no objection, and the order to print will be made.

LUCY A. RICE.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia; which was read twice by its title.

Mr. HOWARD. I ask the Senate to consider the resolution now. I presume there will be no objection to it.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. The preamble declares that Mrs. Lucy A. Rice, late of Richmond, Virginia, by her courage and patriotic devotion in saving Colonel Streight and his party, and enabling them to make their escape from the hands of the rebels, has deserved well of the country; and the resolution therefore appropriates the sum of \$1,500 to her, her heirs, or administrators.

The joint resolution was reported to the Senate without amendment.

The PRESIDENT *pro tempore*. The time has arrived for the consideration of the special order, being the unfinished business of yesterday, and it is now before the Senate.

#### NAVY-YARD ON THE MISSISSIPPI.

Mr. ANTHONY. With the consent of the Senator from Ohio, I beg leave to make a report. The Committee on Printing, to whom was referred a resolution to print two thousand extra copies of the report of the commissioners appointed to select a site for a navy-yard on the Mississippi, have directed me to report the same back without any recommendation. The printing of the report will cost about two hundred and thirty dollars, and the printing of the maps will cost \$2,000. The Committee on Printing are not able to state whether it is desirable that the maps should be printed or not. There are Senators here who can answer that question.

Mr. SHERMAN. I hope the report will be printed without the maps; and if it is in order I will move that the report be printed without the maps.

The PRESIDENT *pro tempore*. It can be done by unanimous consent.

Mr. TRUMBULL. I hope not.

The PRESIDENT *pro tempore*. Is objection made to the present consideration of the resolution? Mr. TRUMBULL. No, sir; I do not object to its consideration, but I object to the proposition of the Senator from Ohio.

Mr. ANTHONY. That will require an amendment of the resolution.

The PRESIDENT *pro tempore*. The resolution is before the Senate, and will be read.

The Secretary read it, as follows:

*Resolved*, That two thousand extra copies of the report of the commissioners to report a proper site for a navy-yard on the Mississippi be printed for the use of the Senate.

Mr. ANTHONY. I understood the Senator from Ohio to move an amendment by inserting the words "without the maps."

Mr. SHERMAN. The Senator from Illinois objected to it. I do not see any use in publishing the maps with that report. I am very anxious to have the report printed.

Mr. TRUMBULL. I am not very well advised about the report, but I suppose the maps are necessary, in the opinion of the commissioners at any rate, for a proper understanding of the report. The report is in reference to a matter of very great national importance, and these maps, I understand, will show the depth of water, bars, &c., connected with the sites which have been examined by this commission; and when Congress comes to act and locate this navy-yard, as I had hoped it would be able to do at the present session, we shall want these maps for a proper understanding of the whole subject. I have not been able to get hold of the report and read it and examine the maps, and cannot speak very advisedly; but inasmuch as the commission thought the maps necessary in their report I think we had better have the whole of it published. The ex-

pense, it seems, will be some two thousand dollars. That is a very small sum in connection with the great object which it is desired to accomplish. The Senator from Ohio appreciates that. I think we had better print the whole report, or else very likely when part of it is printed we shall have to call for the rest of it afterward.

Mr. SHERMAN. I have no objection, except to the cost.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House of Representatives had passed the following bill of the Senate:

A bill (S. No. 385) to authorize the President to appoint a Second Assistant Secretary of War; and

A bill (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located."

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Africans in Liberia; which thereupon received the signature of the President *pro tempore* of the Senate.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed the following bills and joint resolution:

A bill (S. No. 112) for the relief of the heirs of Almond D. Fisk, deceased;

A bill (S. No. 392) supplementary to an act approved July 14, 1862, entitled "An act to establish certain post roads;"

A bill (S. No. 413) to establish a bridge across the Ohio river at Cincinnati, Ohio, a post road;

A bill (S. No. 407) to authorize the establishment of ocean mail steamship service between the United States and China; and

A joint resolution (S. R. No. 42) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion of said road.

#### OBITUARIES ON SENATOR HICKS.

Mr. JOHNSON submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be published in pamphlet form, for the use of the Senate, two thousand copies of the addresses made by the members of the Senate and members of the House of Representatives upon the occasion of the death of Hon. Thomas H. Hicks.

#### TOWN LOTS IN CALIFORNIA.

Mr. CONNESS. I ask the consent of the honorable chairman of the Committee on Finance to call up a bill which will excite no discussion. It has been reported favorably from the Committee on Public Lands, and will not occupy five minutes. It is Senate bill No. 380.

Mr. SHERMAN. I suppose it can be taken up informally, without displacing the special order.

Mr. CONNESS. Certainly.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 380) to give title to the occupants of lots in cities and towns in the State of California.

Mr. CONNESS. The Committee on Public Lands have reported the bill with an amendment in the form of a substitute. I suggest that the substitute only be read.

The PRESIDENT *pro tempore*. The reading of the original bill will be omitted, unless desired by some Senator.

The Secretary read the amendment of the committee, which was to strike out all of the original bill after the enacting clause and to insert in lieu thereof the following:

"That in the case of any citizen of the United States who, at the passage of this act, may be in the business of bona fide actual coal mining on the public lands for pur-



poses of commerce, such citizen, upon making proof satisfactory to the register and receiver to that effect, shall have the right to enter, according to legal subdivisions, a quantity of land not exceeding one hundred and sixty acres, to embrace his improvements and mining premises, at the minimum price of twenty dollars per acre, fixed in the coal and town-property act of 1st July, 1864: *Provided*, That where the mining improvements and premises are on land surveyed at the passage of this act, a sworn declaratory statement descriptive of the tract and premises, showing also the extent and character of the improvements, shall be filed within six months from the date of this act; and proof and payment shall be made within one year from the date of such filing; but where such mining premises may be on lands hereafter to be surveyed, such declaratory statement shall be filed within three months from the return to the district land office of the official township plat, and proof and payment shall be made within one year from the date of such filing.

Sec. 2. *And be it further enacted*, That in the case of any city or town which, at the passage of this act, may be existing on the public lands, in which the lots therein may be variant as to size from the limitation fixed in the said act of 1st July, 1864, and in which the lots and buildings as municipal improvements shall cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim, under said act of 1st July, 1864, effect to be given to this act according to such regulations as may be prescribed by the Secretary of the Interior: *Provided*, That where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof: *Provided, however*, That nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes as against the Government of the United States.

Mr. SHERMAN. As that is an important bill, and one which I know will give rise to debate from what I hear all around me, I feel it my duty to interpose an objection and to call for the special order. I hope we shall go on with the Army appropriation bill.

Mr. HENDRICKS. I do not think this bill will excite any debate. I propose simply, representing the Committee on Public Lands, to explain to the Senator its provisions, which will not occupy, I presume, four minutes.

Mr. SHERMAN. I call for the order of the day, which is the Army bill. I think we should proceed with that, and get it out of the way, and I shall have no objection then to taking up this bill. The Army bill is the only bill I have charge of that I shall press upon the Senate at present, and then Senators can call up other bills in which they are interested.

Mr. HOWARD. I hope the Senator from Ohio will allow my resolution to pass. It has been reported to the Senate and will lead to no debate.

Mr. SHERMAN. It is not any more my duty to object than any other Senator; but I have charge of the Army appropriation bill, and I must press it upon the Senate.

Mr. HOWARD. If it gives rise to debate, it can be laid aside.

The PRESIDENT *pro tempore*. The special order, being the unfinished business of yesterday, is now before the Senate.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. House bill No. 307 was the special order for one o'clock to-day.

Mr. CONNESS. That was postponed until Monday last night.

Mr. CHANDLER. I move that the bill be postponed until Monday next at one o'clock, and be made the special order for that hour.

Mr. CONNESS. That has been done.

Mr. CHANDLER. The Senator is mistaken. It has not been done.

The PRESIDENT *pro tempore*. That order will be made unless—

Mr. TRUMBULL. That bill is not up.

Mr. CHANDLER. I will move to take it up for that purpose.

Mr. TRUMBULL. I hope it will not be taken up and exclude everything else.

The PRESIDENT *pro tempore*. It cannot come up without postponing the special order.

Mr. TRUMBULL. I have been trying for a week to make some reports and to dispose of some business in my hands, and I shall never be able to do it if these special orders come up every day and cut off everything else.

Mr. CHANDLER. I gave notice that I would not antagonize this bill against the appropriation bills, and I give way to-day, and I hope the Senate will consent to replace the bill on the docket where it would have stood to-day but for the appropriation bill. I ask that the order making it a special

order may be transferred to Monday at one o'clock.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. TRUMBULL. I object to it.

The PRESIDENT *pro tempore*. Objection being made, it cannot be done.

Mr. CHANDLER. I move to postpone the pending and all prior orders and take up House bill No. 307, for the purpose of making it a special order.

Mr. SHERMAN. We can pass the Army bill in a short time, and then the motion will be just as much in order as it is now; and I will say to the Senator from Michigan, as I have interposed this bill in advance of his bill, that I shall feel bound to vote to take up his bill whenever he submits the motion at some other time; but now if we get up a controversy about the order of business the effect will be, I think, to delay both bills. We had better proceed with the Army bill now. It is the unfinished business, and overrides everything else.

Mr. CHANDLER. I suppose it is understood that the Senator from Nevada [Mr. NYE] has the floor on this bill and is prepared to make a speech upon it, and I hope the Senate will at least give him an opportunity in the morning hour on Monday to make his speech. I insist on my motion that all prior orders be postponed and that the Senate take up House bill No. 307.

Mr. CONNESS. If it is to consume the entire morning hour on Monday I shall vote against it.

Mr. CHANDLER. Not the morning hour; I mean at one o'clock.

Mr. CONNESS. I understood the Senator to say the morning hour.

Mr. CHANDLER. No, sir; at one o'clock.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan to postpone all prior orders and proceed to the consideration of House bill No. 307, to regulate commerce among the States.

The motion was agreed to; there being, on a division—ayes 16, noes 14.

Mr. CHANDLER. I now move that that bill be postponed until Monday at one o'clock, and be made the special order for that hour.

Mr. DOOLITTLE. I hope the honorable Senator will say Tuesday, because on Monday I desire to have some Indian bills considered that I have been trying to get up for a long time, and which will occupy perhaps an hour of the time of the Senate.

Mr. CHANDLER. I hope to get a vote on this bill on Monday.

Mr. DOOLITTLE. It is necessary that those bills should come up as soon as possible.

Mr. CHANDLER. Let them come up on Tuesday.

Mr. DOOLITTLE. The question whether this railroad in New Jersey shall continue to exercise the same powers it has exercised for thirty years is not a question of life and death; but there are some bills in relation to the Indian service and Indian affairs that must be passed. We must act upon them at once, or they will fail for this session. I have been struggling for some time to get an opportunity to bring them up. I ask the Senator from Michigan what great difference can it make with his bill whether it is considered on Monday or Tuesday.

Mr. CHANDLER. What great difference does it make with the Senator's Indian bills whether they are considered on Monday or Tuesday?

Mr. DOOLITTLE. It makes this difference: they will lead to no discussion, they will probably not occupy two hours, and this other bill will lead to discussion and may not be passed under three or four days; and then these bills have to go to the House of Representatives. Some of them are amendments to bills from the House. The bill the Senator from Michigan has charge of is a bill that has passed the House, and if it passes here it is not necessary to go back to the House. So the difference of one day is nothing to his bill. I will move to amend the Senator's motion by fixing it for Tuesday instead of Monday.

Mr. CHANDLER. I hope not.

Mr. TRUMBULL. I hope that bill will not be made a special order for either day. We are now within twelve days of the close of this ses-

sion; there is very important business to be considered; and there has been no opportunity to consider it for some time in consequence of this bill which the Senator from Michigan has charge of, and another measure in the hands of the Senator from Massachusetts, [Mr. SUMNER.] There has not been an opportunity to make reports. The morning hour is consumed almost every day, and the general business of the country must all stop for the discussion upon these questions. At this stage of the session, I think, a bill that is to lead to an elaborate debate in which set speeches are to be made, a bill of the character of that which the Senator from Michigan has charge of, should not be pressed till the important legislation of the country, which must be acted upon at the present session, is considered. Then, if we have time enough, let us come here at night; I will come and sit with the Senator from Michigan and listen to the speeches that are to be made on that subject, and see if we can get to a vote upon it; but I think it is improper, and that the Senate ought not to agree to make it a special order to the exclusion of the other business of the Senate. I hope we shall vote against making it the special order for Monday, or any other day.

In addition to that, I wish to say that very little is gained by making it a special order. The Senator from Michigan knows very well that if it is made the special order for Monday a majority of the Senate may postpone it and take up any other measure. He had it made a special order for one o'clock to-day; and what has become of it? It is out of its place without any vote of the Senate. Why was it not called up at one o'clock to-day? Because another measure of which the Senator from Ohio has charge has precedence of it. If he makes it the special order for one o'clock on Monday, very likely this Army appropriation bill will be unfinished at that hour, and it may push it off again; and then the time of the Senate is taken up about the order of business, and making this measure a special order, as if time enough were not consumed in discussing the measure, but we must consume also a part of the day in determining at what hour we will have it up. I think it is injudicious to make special orders of any bills at this stage of the session. My experience is that it retards the business of the body. If we wish to get through with the public business and do the legislation that is incumbent upon us, I hope that we will make a special order of no bill. The Senate by a majority can always call up any bill.

Mr. CHANDLER. The Senator has given us a practical illustration of the truth of his remarks. He has occupied ten times the time I should have taken in making this special order. If it be true, as he says, that it will be displaced on Monday by the Army appropriation bill as the unfinished business, I shall make no opposition to that. What objection then can there be to making it a special order, and letting it be displaced by the unfinished business? I shall try on Monday to get a vote on this bill. I shall try to have a night session and finish it, and get it out of the way on Monday; and I hope that the Senate will stand by me and make it the special order that it may be finished and put out of the way. It is a very important bill.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the bill be postponed to and made the special order for Monday next, at one o'clock. The Senator from Wisconsin moves that it be postponed to and made the special order for Tuesday next, at one o'clock. The question will be first on the motion of the Senator from Wisconsin, that being the longest time.

Mr. BROWN. I understood when the Senator from Wisconsin made his motion and stated the reasons for it, that the Senator from Michigan assented to the agreement, and so intimated, by a bow of his head, that he would agree to the change and make this bill the special order for Tuesday. I know that the matters which are pending in the Indian Committee demand the instant attention of the Senate; that the interests that are there involved are not of a character that we shall be justified in deferring or laying over; and there is certainly nothing in this measure that cannot enable us to pass it over one, two, or three days at least. It is simply a cut-throat arrangement between two railroads who are trying

to see which shall make the most money; and if we are to go to work and postpone the whole business of the nation in this time of war, with all these Indian tribes in our hands, suffering, and all the provisions that are necessary to be made for their safety, for legislation of this kind, I think we had better resign our seats and go home. I trust that the motion of the Senator from Wisconsin, that the day be changed to Tuesday, and Monday assigned to Indian affairs, will prevail.

Mr. HALE. Is the motion divisible?

The PRESIDENT *pro tempore*. It is not, in the opinion of the Chair. It is in fact but one motion to make the bill the special order for a certain day.

Mr. HALE. The motion is to postpone it and make it the special order.

The PRESIDENT *pro tempore*. That is only the method of stating the question. It is in fact one motion to make it a special order.

Mr. HALE. Then I will not make a speech, further than to say that I entirely agree with the Senator from Missouri.

Mr. FOSTER. I hope it will not be made a special order at all. It will not, in my opinion, hasten the action of the Senate on the bill. We shall constantly lose time, as we have been losing it now, in discussing the question of the order of business; and a special order at this period of the session is little better than a nuisance, let the bill be what it may. There are various bills before the body. I will not compare one with another with regard to the matter of importance; but I will say they are of great importance, and require prompt action. One of them is a bill to create a district and circuit court for the State of Nevada, commenced two days ago, which is the unfinished business of the morning hour, upon which the honorable Senator from Nevada [Mr. STEWART] has the floor, his speech having been cut short by the special order intervening and cutting off further discussion on that subject. Then there is the bankrupt bill, which has been on the table for nearly a fortnight, from the Committee on the Judiciary, and which I have been watching a favorable opportunity to ask action upon from the day it was reported until to-day, without the least possible hope of getting it taken up. That is a very important question. The country is interested in it. It has passed the House of Representatives. I should desire greatly to make that a special order, if there was a probability that by so doing I could hasten action upon it. But I see no hope of it. With these and like bills alluded to by the Senator from Illinois and the Senator from Wisconsin pending, I shall vote against making any bill, no matter how important, a special order.

Mr. SHERMAN. The Senate will now see that it is scarcely worth while to continue a discussion about special orders in the future. I therefore move that the pending bill be postponed, with a view to take up the Army appropriation bill. The Senator from Michigan will be just as well off by now taking up the Army bill, as he will have an opportunity on Monday to move to take up his bill, when a majority can decide it; but now two thirds is required to make it a special order. I am satisfied that we only waste time in this sort of discussion; and I trust, therefore, that we shall proceed to the consideration of the Army bill.

Mr. SUMNER. Before that is done I wish to call attention to another measure on which the Senate has not voted, and which has been under consideration several days. I mean the report of the conference committee on the Freedmen's Bureau bill. The Senator from Connecticut has reminded us of the bill on the table known as the bankrupt bill, which has never been acted on at all. He proposes to press that on the attention of the Senate. I think we had better proceed with business according to a certain order and finish what we commence. The Senate has already commenced the consideration of the bill of my friend, the Senator from Michigan, relating to the New Jersey railways. It has also commenced the consideration of the report of the conference committee on the Freedmen's Bureau. I think it would be better economy of our time to proceed with the consideration of those measures and finish them before we take up the bills of my friend from Wisconsin, known as the Indian bills, or the bankrupt bill, which is in charge of my friend from

Connecticut. I am in favor of the bankrupt bill; I am in favor of the measures in charge of my friend from Wisconsin; but I do not think that the time of the Senate will be saved if we push either of those measures against business on which the Senate has already entered.

Mr. FOSTER. If the Senator will pardon me, I have not pushed the bill, and did not propose to push it. I alluded to it as one that I was desirous to bring forward at the earliest moment; one that was important, and that these special orders interfered with, I thought, improperly.

Mr. DAVIS. "Monsieur Tonson come again." [Laughter.]

Mr. SUMNER. That is you, is it?

Mr. DAVIS. A spectator might inquire whether that exclamation referred to the honorable Senator from Massachusetts or to myself. [Laughter.]

Mr. SUMNER. I think it must be the Senator.

Mr. DAVIS. Or the Freedmen's Bureau bill. Now, Mr. President, I wish from the bottom of my heart that that bill and the subject to which it refers, without including the Senator from Massachusetts or myself, was in the sleep that knows no waking. I trust that his freedmen's bill will not be made a special order at this late period of the session. Let it take its chances. I would prefer that it should be postponed till the day of judgment; but if it cannot be postponed that length of time, at any rate, that it be carried, not into the middle of next week, but into the middle of the next session of Congress, and that we hear no more of it at this session.

Mr. SUMNER. I can tell the Senator that he will.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, which had been reported from the Committee on Finance with an amendment to strike out the following proviso at the end of the bill:

*Provided*, That no money appropriated by this act shall be used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

Mr. SHERMAN. This is a question of considerable magnitude, upon which there will probably be a difference between the two Houses, and it is better for us to understand it before we vote upon it. If I can obtain the attention of the Senate I will explain it very briefly.

By the land grant to the State of Illinois for the construction of the Illinois railroad, it was provided, referring to the lands granted by that act:

"That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof for the purposes aforesaid, and no other; and the said railroad and branches shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge for the transportation of any property or troops of the United States."

This provision was afterward inserted in all the land grants made by the Congress of the United States to the various States for the construction of railroads, and the same provision is contained in the grants for canals and other purposes. When the war broke out, a controversy arose between the Government of the United States and the land-grant roads, as they are called, as to whether the companies were bound to transport men and munitions of war for the Government free of expense. The companies contended that while this grant made their roads public highways, which the Government had a right to use as public highways free of tolls, yet they had the right to ask of the Government sufficient at least to pay the running expenses of the road, and they were not bound under the terms and conditions of this grant to transport men and munitions of war without pay. This controversy continued for some time, until finally an arrangement was made between the Government of the United States and the Illinois Central railroad, which is the principal road interested, by which the Government pays to these railroads two thirds of the

allowance made to other railroads. By an agreement made between the various railroads in the country and the United States, the railroads were to receive two cents per mile for each soldier carried, and a certain rate of transportation. An allowance was made to the land-grant roads, as they were called, of two thirds the allowance to other roads. Sixty-six and two thirds per cent. of that allowance was paid to the various land-grant railroads for the use of their cars, and for the use of the men employed upon them, and for the use of machinery. The other third was reserved for what are called the tolls or benefits reserved under the land grant. This arrangement has been continued from 1861 to this time. The whole of it exists in a letter, a copy of which I propose to read:

WAR DEPARTMENT, August 15, 1861.

Sir: Upon consultation with the Quartermaster General it has been decided by this Department that the clause in your charter, section four, gives a clear right to the Government of the United States to the use of your roadway, without compensation, for the transportation of its troops and its property. As a proper compensation for motive power, cars, and all other facilities incident to transportation, two cents per mile will be allowed for passenger travel, subject to a discount of thirty-three and one third per cent. as due to Government for charter privileges.

Payment for transportation of freights, stores, munitions of war, and other public property, will be made at such reasonable rates as may be allowed to other railroad companies, subject, however, to the abatement of thirty-three and one third per cent., as before specified.

The foregoing basis has been arranged with the distinct understanding that transportation shall be furnished by your company at such times and in such manner as the Government of the United States may require, and that preference shall be given to Government transportation in accordance with the requisitions of this Department and of its officers.

If this proposition is acceptable to your company, notice in writing to that effect will be expected within ten days from this date.

Very respectfully, your obedient servant,

SIMON CAMERON,

Secretary of War.

W. H. OSBORNE, Esq., President Illinois Central Railroad.

That proposition was accepted, in these words:

OFFICE OF THE ILLINOIS CENTRAL RAILROAD COMPANY,  
NEW YORK, August 17, 1861.

Sir: I have the honor to acknowledge your communication of the 15th, containing the determination of the Government in relation to the use of the railroad of this company.

Under present circumstances, an important part of our line is imperiled; an active cooperation with the Government is indispensable, and I beg to notify you that the proposition of the Government is accepted.

The company will endeavor to forward the troops and property with the utmost promptitude, preference always being given as indicated.

I am, sir, very respectfully, your obedient servant,

W. H. OSBORNE,

President.

Hon. SIMON CAMERON, Secretary of War.

By this arrangement the Government of the United States paid to the land-grant roads two thirds of the price stipulated to be paid to other railroads, reserving one third for the tolls, &c., provided for by the grant. This arrangement was continued, it seems, without any material objection until the present time. The House of Representatives, however, have inserted the following proviso in this bill:

That no money appropriated by this act shall be used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

When this proviso came to the Committee on Finance, we sent to the Department and have received copies of the contract entered into between the Illinois Central railroad and the Government, and we also called for the views of the Secretary of War and the Quartermaster General on the subject. The Secretary of War says, in substance, that this arrangement was in existence when he came into the Department; that he examined the subject, and he believed it wise to continue the arrangement. He said that if the Government should refuse to pay anything to the Illinois Central railroad, which it employed very much indeed, and the other land-grant railroads, the effect would be to stop the running of those roads, and to compel the Government of the United States, under the powers granted to it by Congress, to seize and run the railroads on the Government account. The Secretary, I think very properly, says, that any attempt to run a railroad by the Government on Government account would involve the Government in a much larger expense than the arrangement made by his predecessor

He says, however, he has paid the Illinois Central Company no money under this arrangement except under protest, reserving the right to recover it back according to the process of the common law as money received without authority. He says, whether it is worth while to reserve this reservation or not is for Congress to determine; but at any rate, he says, the refusal of the Government to make them an allowance at least for their running expenses, will be substantially to compel the Government of the United States to run all these railroads; a consummation that he wishes to avoid. We have also a letter from the Quartermaster General to the same effect. I think the officers of the Government have endeavored to protect the interests of the Government in this arrangement; and after the most careful consideration we could give to it, we were of the opinion that it would be unwise for Congress by a proviso to an appropriation bill to disturb this arrangement, and therefore we propose to strike it out. I have got a number of documents and papers here on the subject, which I will not read to the Senate unless further information is desired. I believe that finally the committee were unanimously of the opinion that it was wise to strike out this provision.

Mr. JOHNSON. Do you offer any substitute for it?

Mr. SHERMAN. No, sir. I will state another thing in regard to the railroads in Missouri. Congress have already relieved them from this stipulation by authorizing the Secretary of War to pay them the ordinary rates paid to other railroad companies. The ground of this action by Congress was that those roads had been so much interfered with and destroyed by the public enemy that it was impossible to continue running them unless the Government would pay the ordinary transportation. That arrangement has been carried into effect by the War Department; but as against the other railroads, such as the Iowa, Minnesota, Illinois, and Michigan roads, the plan has been to give to them two thirds of the ordinary allowance. We are satisfied that all these roads with the exception of the Illinois Central, would be destroyed and stopped if the Government should insist upon not paying them anything, and yet use them whenever they desired for the transportation of troops and munitions of war.

The Illinois Central railroad, however, is peculiar in this particular. It is a powerful corporation, having a grant infinitely greater than any other grant ever given by the Government to a railroad; a grant of land which I believe is now worth \$17,000,000. I suppose the Illinois Central railroad might conduct their operations and might carry on their business if the Government should refuse to pay them anything. The officers of the road say they cannot. The War Department think they can; but the probability is that it would be a substantial destruction of their franchise; that the Government transportation which is fully equal to one third of the whole transportation over the road, would use up and consume all the profits of the road; and it would require all that could be received from private individuals from transportation to pay the ordinary expenses of the road. My impression is that the effect would be to compel the Government of the United States, in order to secure transportation over that great line of travel, to seize the road and run it on its own account, and the result of that would be injurious to the public service.

By adopting the suggestion of the Committee on Finance, and striking out this proviso, it leaves the question precisely where the War Department have left it. The United States have the right to test the question at any time by refusing to pay this money, or by suing in the courts to recover it back. We thought it very unwise to burden and embarrass an appropriation bill; an appropriation bill for the support of the Army, containing only appropriations for the support of the Army, involving some \$511,000,000, by a provision involving a controverted question of law, and involving a contract which has been acquiesced in by both parties for something like four years; which has been carried out by both parties in good faith. It seemed to us unwise by a provision attached to an appropriation bill to break up this contract without very grave consideration.

I can say further that this matter is now before the Committee on Military Affairs, where they

can more maturely consider it, and report any bill that is necessary to preserve the public interests. It is manifest that if this proviso should be adopted in the words sent to us by the House it would destroy all the western railroads, commonly called land-grant railroads, except the Illinois Central, and that that road, although a very powerful corporation, would scarcely be able to stagger under the load.

Complaint has been made to the Committee on Finance that the Illinois Central Railroad Company have abused the privileges granted to them by the law; that they have raised the price of transporting passengers to seven cents a mile, and have unreasonably raised the price of transporting the produce of the farmers of the country. That question we could not go into. If, as has been stated, that road charges seven cents a mile for transporting passengers it is certainly unreasonable, and there certainly ought to be some way to protect the Government and the citizens of Illinois and the whole country from such unreasonable and improper conduct.

Mr. JOHNSON. Are not the tolls limited?

Mr. SHERMAN. It seems the tolls are not limited. I do not know whether that is so or not. We did not examine into that question, because we considered that we had nothing to do with it. The reason why this proviso was attached, I have no doubt, was because this corporation, a great and powerful one, in the opinion at least of one Representative in the House of Representatives who lives on the line of the road, and in the opinion of many citizens, have abused the franchise granted to them by the State of Illinois. This was a question the State of Illinois was better able to manage than we. It is said that the State of Illinois in granting the lands to the Illinois Central railroad neglected to limit the price of transportation and passengers. If so, it was a very great error. The Government of the United States has certainly made a reasonable bargain to protect its own interests.

Mr. JOHNSON. I rise to inquire of the chairman of the Committee on Finance whether it is very clear that under the grants made to these several railroads, including the Illinois Central, they were to carry the troops and munitions of war of the United States free of charge. In looking at the particular clause of the grant which is supposed to create that obligation, it does not appear to me to be perfectly certain that that is the correct interpretation of the grant. But assuming it to be so, I am at a loss to know by what authority the Secretary of War has entered into an engagement to pay to these companies that compensation which he promised; and as I understand the Senator to say that he has paid it under protest, the object of that protest being to place the United States in the condition in which they can recover the money back hereafter, it seems to me to be desirable that we should guard against what would be an implication, perhaps, in the courts, by striking out this proviso, that we had no objection at all to that arrangement. The case will then be in this situation: the United States may waive, if they think proper, their right to use these roads free of expense, and the Secretary has attempted to do it in point of fact. He agrees to pay a certain amount of compensation, and that he has paid or is in the process of paying. He says he makes the payment under protest; but the matter is brought before Congress, and a proposition is made to take from him the right to continue that engagement, and make it his obligation to recover the money back, and Congress strikes out that provision. Now, it seems to me the inference will be that in point of law the Congress of the nation have assented to that arrangement; and if so, although there was no authority upon the part of the Secretary to make the arrangement, because it was the obligation of the company to carry the troops and munitions of war free of expense, the company may hereafter, perhaps successfully, rely upon the principle that Congress has itself sanctioned it by refusing to interfere with it. I submit that question to the honorable member, whether it is necessary to do it in this bill or in some other bill, is a matter, perhaps, that admits of some doubt. I asked the honorable chairman whether he proposed any substitute for this proviso. I do not know that any substitute could be proposed, the object being to get clear of the proviso;

but in some form or other, either in this bill or in some other bill, if we mean to maintain our right to use these roads free of expense and to retain the right to recover back all the money that has been already paid, or may hereafter be paid, we had better exclude the inference that we have assented to this arrangement.

Mr. SHERMAN. The Committee on Finance did not undertake to decide definitely the legal action involved. Perhaps a brief statement of the legislation of Congress on this subject will be the clearest opinion that I can express.

As early as 1819 Congress granted to turnpike companies public land to aid in building roads; and this very same language was used in making the grants to turnpike companies, reserving to the Government of the United States the right to go over those roads free of toll. As a matter of course, from the very nature of the improvement, that would not compel the turnpike companies to carry the servants and property of the United States over the roads, but simply to allow them to pass over toll free. When we came to grant lands to canal companies the very same words were used; that is, the Government of the United States had the right to use the canal free of toll. No one would claim that this would compel the canal company to furnish the canal-boats to transport the property and soldiers of the United States; because the boats in the one case, and the carriages or stages in the other, are, from the very nature of the company, owned by some one else, and not by the company.

The trouble was, when Mr. Douglas—for I presume he framed the first law on the subject of land grants to railroads—framed the law granting lands to the State of Illinois, or the Illinois Central railroad, he used the same language in regard to railroads that had been used in turnpike and canal charters; but as railroad companies always use their own carriages and drive their own locomotives it raised the question whether or not more was reserved as against a railroad than was reserved as against a canal or a turnpike company. To give to the United States a right of way over a railroad, and nothing else, is an absurdity; because if the United States should attempt to run its cars over that railroad, and other people had the right to run their cars for hire over the road, as a matter of course collisions would be unavoidable, and the destruction of the road would follow.

This was a controverted point, which was argued at considerable length by the attorneys of the railroad. I hold in my hand a report made by a very excellent lawyer, who was a member of the Committee on the Judiciary of the House of Representatives, Mr. Porter, of Indianapolis, in which he comes to the conclusion that the railroad companies were bound to carry in their cars the property of the United States, on the ground that the United States could have no benefit from the reservation of the charter unless that was the intention of the Legislature. That is his ground. We have arguments *pro* and *con*.

But the Secretary of War, when he made the arrangement in August, 1861, came to a different conclusion. He drew a distinction between the right of way and the use of the carriages and servants of the railroad company, and he allowed sixty-six and two thirds per cent. for the use of the carriages, the rolling stock, and the servants of the railroad, and deducted thirty-three per cent. for the right of way. This is the arrangement that has been made and continued from that time to this. There has been no definite judicial decision about it. It is a legal question upon which a good deal may be said. The difficulty grows out of the faulty legislation of Congress in using the same language in regard to a railroad that had been previously used in regard to a canal, or a turnpike company, or any other highway, as my friend from Pennsylvania [Mr. COWAN] suggests.

Under these circumstances the Committee on Finance thought it unwise and inexpedient for us to legislate on this legal question, involving the use of nearly three thousand miles of railway, on an appropriation bill. By striking out this proviso we simply leave the contract to stand where it now stands. The United States undoubtedly will have the right to sue for and recover back this money if the company was bound to transport the troops and munitions of war of the Uni-



ted States free of expense. The Senator from Vermont [Mr. COLLAMER] shakes his head.

If the company was bound to transport the men and munitions of the Government, and, as a condition for transporting them, exacted from the Government this money, it seems to me the United States might recover it back. But if there is any desire on the part of any Senator to reserve to the United States this right, I have not the slightest objection to it. When you come to draw such a provision you will find it very difficult to accomplish your purpose.

On the whole, the Committee on Finance thought, considering that this was the Army appropriation bill, that we ought to strike out this proviso, as not being germane or pertinent to the matter of the bill, and that we ought not by such a provision to interfere with the operations of the Government acquiesced in now for some three or four years, under which the Illinois Central railroad have carried hundreds of thousands of our soldiers, and thousands of tons of our transportation, and for which they have received, I believe, a million dollars—I do not state it precisely—and are entitled at this moment under the contract to receive in the neighborhood of half a million more.

The question is of very little importance when applied to any other railroad, because to enforce the rigid rule claimed upon other railroads would be to absolutely destroy them. There is no doubt that the land grants to the other railroads are not to be compared in value to the burden this restriction would be upon them; and it would be far better for them to surrender to the Government of the United States all their land grants than to hold those lands subject to the restrictions of the bill construed as it is now proposed.

But in regard to the Illinois Central railroad it is very different. Owing to the rapid improvement of the State of Illinois, the rapid development of that country, and the enormous value of the lands, the land grant to the Illinois Central railroad is estimated at from fifteen to thirty million dollars; and perhaps they are able and could carry during this war the men and munitions of war of the Government without charge.

It is to be remembered, too, that when this grant was made Congress could not have contemplated such a state of affairs as that in which we are now involved. If this only applied to the old regular Army, to the transportation of a few thousand, or ten thousand, or twenty thousand, or even one hundred thousand men, it would be very different; but it could not have been within the contemplation of Congress at the time this provision was made that this corporation should be required to transport half a million men, as I have no doubt they have done during the operations of this war. That is a ground, it is true, that does not affect the legal question, the legal obligation to carry these men and munitions of war free of charge; but it is a very equitable consideration, which Congress would be bound to consider, and which was considered by the Secretary of War when he made the arrangement in August, 1861.

Mr. HOWARD. Mr. President, the motion now before the Senate is to strike out the proviso at the end of the bill which is now under discussion. That proviso declares—

That no money appropriated by this act shall be used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of land from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

This proviso, I suppose, was inserted in the bill by the House of Representatives for the purpose of foreclosing and stopping any further payments being made to this description of railroads by the Secretary of War, inasmuch as he has heretofore paid out large sums of money to railroad companies which have been aided by the land grants heretofore made by Congress. It is said that this would leave matters *in statu quo*; and I suppose some gentlemen may expect that if these payments by the Secretary of War were not authorized by the statute, they may be recovered back again in an action for money had and received, or in some appropriate form of action. I do not suppose so. If the money thus paid out by the Secretary of War has been paid voluntarily, without coercion, without fraud, and

with a full knowledge both of the facts and of the law relating to the case, it is impossible that in any court of law or equity there can be a recovery of the money paid. The person holding the money would be entitled to continue to hold it upon the ground that it was a voluntary payment by the United States. Such I understand to be the law of the case.

The main question arising on this motion is one involving the just and true interpretation of the acts of Congress heretofore passed making appropriations of land to such companies. In the case of the Illinois Central railroad, and in all cases of land grants to railway companies in my own State, and I dare say in grants made in other States, the following is the language employed by Congress:

"That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof for the purposes aforesaid, and no other, and the said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States."

In interpreting a statute we are bound to look carefully to the subject-matter to which it relates, and to construe it with reference to the natural objects and purposes of that subject-matter. It is idle to pretend in reference to a railroad that it can be worked, or that cars can be run and employed upon it, by any third person. The universal practice, I believe, is that the corporation itself uses and runs the cars; because, as has been very properly remarked by the Senator from Ohio, if other persons were allowed to introduce cars upon their railroad tracks and to run them, collisions would ensue, and the very object which the public had in view in granting the charter would be defeated by the confusion thus created. When this statute was passed, undoubtedly it was in the mind of Congress, that this was a part of the intention of the Legislature, that this transportation mentioned in the clause should be carried on and perfected by the respective companies themselves. Was it intended that the United States, whenever they wished to transport property over one of these roads, might be at the trouble of purchasing or building their own cars, introducing them upon the track, manning and equipping them in their own way, and running according to their own time and in their own manner? Was this intended? Is it possible that Congress entertained an intention so absurd and so self-destructive as this would seem to be? It seems to me it is impossible to entertain any such idea. If, then, it was the intention of Congress, in speaking of transportation upon these roads, that the word "transportation" should be used in its ordinary and common acceptance, it follows logically that it was the intention of Congress that the company performing the act of transportation should be restrained forever from imposing any tax or any charge upon the transportation. The language is:

"The said railroad shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States."

And it seems to me too plain for argument that this transportation thus performed for the United States was to be performed by the company in the same way that they perform transportation for any other customer. If, therefore, I am right in this interpretation of the clause, it follows clearly enough, does it not, sir, that the company is restrained from imposing any toll or any charge whatever against the United States for the transportation of their property or troops upon this road. I venture the surmise that had the idea been started in discussion at the time this law was under discussion in Congress, that the whole privilege thus granted to the United States was to employ their own cars upon the roads that might be constructed by these land grants, and that the sole exemption which they could claim was an exemption from the payment of the cost of rolling the cars over the road, these statutes would never have been passed. What is the exemption according to the other construction? Why, plainly this, that the United States shall not be charged anything for running and rolling its cars over the iron tracks that are laid by the company; and that that is the whole extent of the exemption. I confess that that, to my mind, is a very unfair and a very unnatural interpretation to give to the language. It possibly would bear that interpreta-

tion, but it leads to an absurd result, to an absurd conclusion; and you are not at liberty to take that interpretation which leads to an absurd conclusion, or which tends to defeat what was manifestly the intention of the Legislature. I therefore hope that this clause will not be stricken out, but that it will be retained.

Mr. COWAN. I move to amend this proviso by striking out the word "no" in the one hundred and fifty-third line, and after the word "act" in that line, inserting the words "or any other act;" and in the one hundred and fifty-fourth line by striking out the words "shall be," and to insert the word "and;" and in line one hundred and fifty-eight, after the word "charge" by striking out the words, "except in such cases as have been modified by act of Congress," and inserting in lieu thereof the following words:

Shall be subject to future adjustment between the United States and said company, it not being intended to admit the right of said companies to compensation for such transportation.

The proviso will then read, as I propose to modify it:

Provided, That money appropriated by this act or any other act, and used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, shall be subject to future adjustment between the United States and said company, it not being intended to admit the right of said companies to compensation for such transportation.

I think this will obviate all the difficulties that have been suggested. It was not thought best by the Committee on Finance to compel these companies to perform specifically the contract which it was believed by the committee they had made for the transportation of these troops; that that perhaps will be to injure ourselves more than the companies; but to go on paying them as we have been paying them for the purpose of enabling the companies to keep themselves on foot, carrying our troops and munitions of war, and reserve to ourselves the right hereafter to insist upon an equitable adjustment of the claims. In the case of a railroad company that had received large and very valuable grants of land, and which will find itself rich after the war, it would be but fair that they should account to the Government for this money advanced to them in the present crisis. This amendment will save to the Government of the United States the right to have that adjustment.

Mr. WILSON. I am disposed to strike out the entire proviso of the House of Representatives and to put nothing in its place. I am disposed to do so for this simple reason: I think it is understood that the Government of the United States intends to require these railroads to perform these duties and make them no compensation, the tendency will be to break down all the small and new land-grant railroads and to prevent their being finished. The Illinois Central railroad can stand this legislation; but I apprehend this reservation in Congress that we are to demand this work and pay nothing for it will prevent the roads in Michigan, Iowa, Minnesota, Kansas, and other portions of the country, that have received land grants and are not yet completed, the roads that are in the market for means to finish them, from being finished, to the injury of those States and to the injury of the whole country. This matter of land grants, I think, stands something in this way: I hold that the public lands of the United States, although purchased by the Government of the country, are for the benefit of the people who live in those new States, the people who go there and take up those lands and cultivate them; and I am always disposed in the management of the public lands to act upon that idea. The benefit the old States receive from the public lands arises from their settlement, opening markets for what they produce, and having the new lands raise agricultural products for their benefit.

Mr. HENDRICKS. The Senator will allow me to suggest to him that the Government also receives a double price for the reserved sections.

Mr. WILSON. Certainly. Acting upon that theory, I have ever been in favor of land grants to railroads for the purpose of developing that portion of our common country. We usually make these grants where the lands are really of no value to us, lands that are far away from the rivers and from the lines of travel, lands that are difficult to reach or bring into market. We make

a grant of land to a railway to run through these vast spaces of territory. We double the price of what we reserve. We give away one half of our land to a railway and we double the price of the balance, and we sell it much faster than we should if we had made no grant at all.

Mr. COWAN. I will ask the honorable Senator whether that is not an argument in the case of making a contract; but here is a contract already made. Take the Illinois Central railroad, for instance. She has carried, say \$2,000,000 worth for the Government of the United States, and if she has had \$20,000,000 of surplus lands given her as a consideration for that very carriage I suggest whether, after the war is over, it would not be fair that she should account for it.

Mr. WILSON. I will come to that in a moment. Take the case of this great Illinois Central railroad. We made a grant to them of a large amount of land. I think we had nine million acres of land there when we made the grant. We granted to them something over two million. Within a very short time we were enabled to bring the balance of our lands into market, when but for that grant we should not have sold them for years, and we have received the benefit arising from their sale. The Government sold those lands for vastly more than they would have sold for if they had not made that grant to the State of Illinois for this railroad. It was a great thing for the State of Illinois; it was a great thing for the Government of the United States; and it was for the benefit of both. In using these lands to build that railroad we have added millions upon millions to the productive wealth of the country and to property in the State of Illinois, and the Federal Government and the whole country have received the benefit. I hold that that grant to the State of Illinois was one of the best acts this Government ever made. It was for the benefit of Illinois and of every section of the country and of the Government of the United States.

Since that time, we have made grants in Michigan, in Wisconsin, I think, in Iowa, Minnesota, and Kansas. We have something like fifteen railroads in the country to which we have made these land grants; but those grants were not so valuable to those companies as the grant to the State of Illinois. Many of those roads are not completed; they are in the market for the means to finish their roads; and this very proposition made here in Congress has a tendency to prevent persons loaning their money or investing their money to finish these roads. If it be understood that the Federal Government intends to exact out of those roads the money paid to them during the war for doing this sort of work, it will prevent the investment of money in them and the finishing of the roads.

Mr. COWAN. I ask the Senator which proposition would be most likely to affect the credit of these roads, the proposition to pay this money under protest, as is done by the Secretary, accompanied with the threat of an action to recover the money back, or the proviso as I propose to modify it, which simply saves the right of both parties, and leaves the question for future adjustment when the equities can be better known than now?

Mr. WILSON. I will tell the Senator precisely what I believe equity demands of us to do. I do not choose to stop here and quibble over the point—I do not apply that term to the Senator—whether this grant meant that we should use the road-bed, the right of way, by our own cars and our own employes to do this work, or whether it meant that we should require these corporations to do the work for the Government. I do not wish to dwell upon that point. There are differences of opinion on that subject. Some of the best lawyers in the country say that it means one thing, and some say it means the other. I take it that when we made this bargain it was expected by the whole country that these railroads would carry our munitions of war and our troops; and if the Army had remained as we then had it, or were likely then to have it, for our Indian wars and other matters, I think they would have performed the work and nothing would have been said about it and they never would have made any charge against the Government. But, sir, we made the grant; and what do we now have? This gigantic rebellion requiring these

roads to do a work that will entirely ruin and destroy every one of them, unless it be the Illinois Central railroad, if we require them to do it without pay.

They had better throw up their lands to-day than undertake to do this work for nothing; and it is not for the interest of the country to check the finishing of these roads or to oppress them in any way. When this great rebellion broke out the Secretary of War made an arrangement with the railroad companies of the country to perform work for the Government at two thirds of the prices they charged the people of the country. That is to say, the rate was fixed in 1861, when the railroads were doing work cheaper than they are now, at two cents a mile for passengers. That was supposed to be a fair arrangement with the railroads of the country, and they agreed to do the Government work for just about two thirds of their ordinary charges. Then the Department made an arrangement with the land-grant railroads, making a deduction for the Government of thirty-three and a third per cent. from these rates. The land-grant railroads therefore do the work for thirty-three and a third per cent. less than the other railroads of the country, and they do it at two thirds of their ordinary charges. The Illinois Central railroad last year did the Government work for half a million dollars less than the other railroads of the country, which were not land-grant roads, performed the same kind of work.

Now, sir, I believe this arrangement to be based upon justice, and a fair and honest arrangement for the interest of the land-grant roads, for the interest of the new States, for the interest of the Government, for the interest of the country. I believe it is based upon equity and justice. Whatever provisions we may put into this bill, or any other bill, I have no idea that we are going to get any of this money back again. We had better not delude ourselves with any such idea. If the money is once paid to these companies they will no doubt keep it. As the arrangement which has been made is a just one, based upon a fair consideration of the case in view of the great burdens which we have put upon these roads which they did not expect, and we did not expect, when we made the grants, and as the land grants have been made for the benefit of the new States, for the benefit of all the people East and West, for the interests of the nation, and have added hundreds of millions of dollars to the wealth of the country; and as it is for our interest to have these roads finished, and to deal justly and fairly with them in view of the burdens put upon them by this war, I think we had better stand by the arrangement made by the War Department, which is a fair one, and let the railroad companies understand, let the Government understand, let the capitalists of the country who may be induced to invest in these new railroad enterprises and to finish them, understand, that we pay these land-grant railroad companies thirty-three and one third per cent. less than we pay the other railroads of the country for the service they do for the Government because of their land grants. I think we had better let the arrangement stand, and say nothing about reserving matters for future trial or for bringing cases into court. It is not for the interest of the country to go into court on these questions; it is not for the interest of the new States; it is not for the interest of the railroad companies; and I do not see that it is for the interest of anybody. I do not want to see any lawsuits grow out of it. I think the arrangement made by the War Department, which has gone on from August, 1861, to the present time—an arrangement made at a time when the railroads of the country did their work for less than they do now, because many of them have advanced their rates of fare and toll, for passengers and freight, forty and fifty per cent.—had better be continued. I think that arrangement is a fair and equitable adjustment between the Government and the railroad companies who have received grants of the public land.

Mr. BROWN. Mr. President, I do not desire to enter into any elaborate discussion of this question, but I feel it perhaps due to state that the same subject which is involved in this amendment offered by the Finance Committee was before the Committee on Military Affairs, and was there very elaborately investigated and discussed; and that committee, after canvassing the matter

very thoroughly, instructed its chairman to offer an amendment to this pending bill similar to the amendment which has already been offered by the chairman of the Committee on Finance. In other words, the Military Committee decided that it was best to leave the matter as it now stands, and under the arrangement and adjustment which has been made by the War Department.

I may state also in this connection, that while the Committee on Military Affairs did not concur fully in that view which was presented, that the language of the grants which required transportation free of toll by these companies involved the idea that the transportation should be made by the conveyances of the United States, and that they were simply to use the road or railway, but believed on the contrary that the language was intended and designed to cover the transportation by the company through their own modes of conveyance, and that was what the language was placed in the law for, yet they thought there was an interior equity in the case which should be considered by the Government as it is accustomed to consider matters of this sort. That equity was this: that when the grant was made it was never contemplated that such a use should be made of these roads as is now being made. In other words, it was never in contemplation that the whole running stock and rolling stock of the roads should be used in the transportation of Government freight and of Government troops, but it was designed simply to cover the case of the ordinary transportation of the Army stores of the Government. The committee were confirmed in that view by the fact that the law, where it recites this transient transportation, which was presumed to occur now and then, of troops and munitions of war, says it shall be free from toll, and where it relates to the mail service of the United States, which was evidently to be an onerous service and a continuous service, it is there provided that payment shall be made to the company.

These were the considerations that moved the Committee on Military Affairs to instruct its chairman to move this amendment. It has not been necessary, however, to do so, as the same amendment comes from the Finance Committee. I have simply felt it due to the Military Committee to make this statement in their behalf.

THE PRESIDING OFFICER. (Mr. HARRIS in the chair.) The question is on the amendment offered by the Senator from Pennsylvania, [Mr. COWAN.]

Mr. HENDERSON. I hope that amendment will not be adopted, but that the proviso will be stricken out according to the report of the Committee on Finance. I think it is unnecessary to declare here that we intend in the future to collect this money from these railroad companies. I do not believe that the Government will do it, and it is unnecessary to make such a declaration unless we intend to carry it out.

I do not know how a proposition of this character will operate on all roads, but I can state to Senators that its operation will be very injurious on some of the roads in my State. I will instance the Pacific railroad, a company chartered to build a road from St. Louis to Kansas City. That company was chartered some years ago. Afterward a grant of land was made to the State of Missouri to aid in the construction of a railroad from St. Louis to the southwest boundary of the State. The Legislature of Missouri granted the lands, that had been so given to the State for the purpose of aiding in the construction of that road, to the Pacific Railroad Company to build it. The line of road from St. Louis to Kansas City has been constructed for a distance, I think, of about one hundred and eighty-nine or one hundred and ninety miles. No lands whatever of that grant have been used in the construction of that main line; but since the grant was made to the company for the construction of the southwest branch railroad, I believe they have constructed of that southwest branch some thirty-seven or thirty-eight miles, from Franklin to Rolla, in the direction of Springfield.

Now, if this section be not stricken out, what will be the effect upon that company? The whole line of road from St. Louis in the direction of Kansas City will be required to carry freight for the Government without receiving a dollar. The road is not entirely completed to Kansas City.

We are attempting now to complete it, and the county of St. Louis a few days ago, I think, subscribed \$700,000 more in order to complete the road to Kansas City. It is on the line of the main Pacific railroad to California. It is exceedingly important that that road should be constructed as early as possible; not only important for the commerce of the country, but important in a military point of view. The Legislature of Missouri is now husbanding resources for the completion of that road. Now, suppose the amendment of the Senator from Pennsylvania should be adopted, and a declaration should be made that it is likely that the Government hereafter will sue the railroad companies who have had land grants, to collect back the money which the Government has paid for its transportation, the result will be to prevent the construction of that road. It is important, I say, in a military point of view that it should be constructed. Last year when Price came into the State, the bridges from Franklin, where the southwest branch starts off in the direction of Springfield, clear up to Kansas City, were burnt. A great many bridges had been built even between Warrensburg and Kansas City, and they were burnt as the bridges of the railroads in Missouri have been burnt again and again. The result of this proposition of the Senator from Pennsylvania, I say, will entirely defeat the construction of that road. You might as well declare at once that it shall not be built.

Let me ask Senators how much good the land grant has done that Pacific Railroad Company. There are eight hundred thousand acres of land lying between Rolla and Springfield, but the railroad company to-day cannot realize twenty-five cents an acre for the land. We can get nothing for the land, and every Senator knows it. The best improved lands in the State can be bought to-day for a mere song. We cannot construct the road with the land. It is utterly impossible to do so. Before we can get possession of the lands and realize on them by selling them, we must build the road. We can only sell the land in sections of twenty miles; as each twenty miles of road is built, we can sell the lands on each side of that section of twenty miles, but until the road is built we cannot sell the land. Here are one hundred and ninety miles of road built on the main line that never received an acre of land, but the same company is required to build the southwest branch railroad, and there are only thirty-seven miles of the southwest branch road built, and because lands have been granted along the line of the unfinished southwest branch you compel the Pacific Railroad Company to carry Government freight and troops and munitions over a line of one hundred and ninety miles, when the company never received a dollar, and never can receive a dollar of benefit from any land grant for that line. That will be the result. It is the same case with the Hannibal and St. Joseph road, except that the line of that road is already completed through; but the bridges and depots have been burnt again and again by the rebels. It has been, I know, with the greatest difficulty that the companies in Missouri have been able to keep up their roads. At times they have talked about surrendering them; giving them up entirely. What would have been the result of that? It would have cost the Government ten times as much to run those roads as it has ever paid for the transportation of its freight upon them. It never will be the case that the companies can pay back what they have received from the Government; and hence I say it is perfectly idle to talk about crippling the construction of these roads even by the amendment proposed by the Senator from Pennsylvania.

I thought we settled this question in 1862. It was then before us, and a resolution was passed, according to my recollection, leaving the matter to the Secretary of War, and he arranged with these companies to carry Government freight thirty-three and one third per cent. less than other companies whose roads had not been aided by land grants. I thought that was a full, complete, and perfect settlement of this whole question. That joint resolution was discussed here in February, 1862, and it was passed; and now the amendment proposes to go back behind that resolution and to declare that we may hereafter sue these companies to recover from them not only what we may hereafter pay under protest, but what has been paid

under the resolution passed in February, 1862. As the chairman of the Military Committee has said, it was properly left to the Secretary of War. He investigated the matter, and, as I understand, called here representatives from the railroad interest in various parts of the country, and agreed with them as to the charges for transportation; and freight and passengers have been carried for the Government ever since under that arrangement; the land-grant roads receiving but two thirds of the regular Government rates.

Mr. President, I am not going to discuss the question now. I did take it up and discuss it in 1862. I do not desire to repeat what was then said. It is not necessary to do so. Nor shall I discuss the proposition whether these companies are bound to use their own cars in the transportation of Government property or not. My belief is that the intention of the laws making the grants was that they should furnish their cars and carry freight for the Government; but at the time of the passage of those laws, was it contemplated that we should ever have a war of this character? Was it contemplated that we should have at one time in this country an army of a million of men? Was it contemplated that the entire and almost exclusive business of long lines of railroad in this country should be the transportation of property and persons for the Government of the United States for a period of three or four years? I undertake to say that nothing of that sort was in the most distant dream of any member voting for those bills. Nothing of that sort entered then into the imagination of man.

What will be the result of the legislation now proposed? It will be that all the land-grant railroads in the country will be turned over to the Government, and Mr. Secretary Stanton will be compelled to furnish men and locomotives and cars to run the railroads in order to carry persons and property that must necessarily be carried for the Government. If such a result as that shall be produced Congress will find that it will cost forty times as much to do the work as we have paid. I think the matter has been properly left to the Secretary of War. Let him continue to deduct thirty-three and a third per cent. from the land-grant companies, and let us stand by the settlement which was made under the joint resolution passed in 1862.

Mr. SHERMAN. I have three papers here relating to this matter which I have not read, but I would like to have them printed that the House of Representatives may have them before them and that we may have the benefit of them in the committee of conference which will be had on this bill. The first is a letter of General Meigs, and documents connected with it. The second is the report of Mr. Porter in the House of Representatives favoring the right of the United States to use the roads for transportation purposes; and the third is the argument of the counsel for the railroad company, all of them containing important references, and I think they had better be printed.

The PRESIDENT *pro tempore*. The order to print will be made, if there be no objection. The Chair hears none.

Mr. GRIMES. Strange as it may seem for a person living in a State interested in railroads, as I do, and that enjoys this benefaction of the Government, I am nevertheless in favor of the adoption of the amendment proposed by the Senator from Pennsylvania, and I think it ought to receive the sanction of this body. I suppose it possible that some of the roads in the State of Missouri are now being prosecuted under very adverse circumstances; it is possible that they have great difficulties to overcome in completing their Pacific railroad; but I think the Senate, and even the Senator from Missouri, will agree with me that it would be hardly safe for us to be governed in our legislation here by any circumstances that may happen in the very anomalous condition of that State at this time.

If I understand the amendment proposed by the Senator from Pennsylvania, it is to leave this whole question in abeyance; leave it open to be settled hereafter as Congress may in the future determine; and that is the way I think it ought to be left. At present, as I understand the Senator from Missouri, the Secretary of War pays to each of the land-grant railroad companies two thirds of the amount that is paid for the transportation of troops and munitions of war on other

railroads. Now let me give an example to show that we ought not to adopt any legislation here to convince the Secretary of War that we approve the action he has hitherto taken. That great mammoth corporation, the Illinois Central Railroad Company, has received, according to the lowest estimate that I have heard placed upon the profits derived by that company from the benefactions of the Government, \$30,000,000. Here is another railroad in the State of Wisconsin that has only received one hundred and fifty thousand acres of land, the value of which does not exceed \$500,000, and it is compelled by the terms of its grant to complete three hundred and fifty miles of road just as the Illinois Central was compelled to complete a certain number of miles of road, say five hundred. According to the rule established by the Secretary of War the company in Wisconsin that only received a grant of land to the value of \$500,000 gets no more for transporting troops and munitions of war for the Government than the Illinois Central Railroad Company, that has received sixty times as much from your Treasury. Is that fair? It seems to me that it is not. I want, therefore, to vote for the amendment proposed by the Senator from Pennsylvania, so that this whole question may stand over and be subject to further adjudication or determination by Congress or such officers as Congress may hereafter designate to determine it.

It is absurd upon the very face of it to say that a company that receives only the sixtieth part of the funds for the purpose of building its road shall be compelled to transport troops and munitions of war upon the same terms with a company who received sixty times more aid for the same distance of travel. I think that I voted on a former occasion to pay the Hannibal and St. Joseph Railroad Company in Missouri the full amount, not only the sixty-six and two thirds per cent. but the additional thirty-three and one third, and I would do it again. I think that if the proposition was before me, I would vote to pay the Pacific Railroad Company, of which the Senator from Missouri has spoken, and which has met with so many disasters in the destruction of its water-tanks and its stations and its engines, the full amount paid to any other company for the same service, not because the company is entitled to it by the strict letter of the law, but because I would be willing in that way to make up as far as I could for the disasters that have befallen it. At the same time it does not seem to me that because of the disasters that have happened to the roads in Missouri, mammoth corporations in other portions of the country should be entirely exempt from performing a reasonable portion of that duty to the Government which they undertook to perform and contracted to perform at the time they received their grants of land.

Mr. TRUMBULL. Before voting on this proposition I wish to make a suggestion to the Senator who has charge of this bill. He has just sent to the table to have printed the different views that are taken in regard to the construction of these land grants. It is most probable that this bill will not be finished to-night, and I suggest that it would be better to let those views be published, so that we may see them before disposing of this question, and let us pass to the other amendments, passing over this amendment for the time being. Then, unless we should get through with the bill to-night, we can have before us on Monday the arguments which have been presented to the committee on both sides of this question.

I by no means regard it as a clear proposition of law that these railroad companies are compelled to furnish hands and brakemen and locomotives to transport the property of the Government of the United States under the acts making land grants. It is an entire mistake also to suppose that the United States has parted with such very great interests by making these land grants. I am no apologist or defender of monopolies anywhere, nor am I the advocate in any shape or form of the Central Railroad Company of Illinois; but Senators should not forget that the Government of the United States never sacrificed a dollar from its Treasury to the Central railroad of Illinois. You charged double price for every acre of land reserved along the line of the road. You gave one section and held the other at \$2 50 an acre, and you have sold every one of them. They had remained there unsold in market for



thirty years, and you have received the money from them, and the same amount that you would without the grant; the people of Illinois have paid for it and paid all that you held your lands at, and they paid earlier than they otherwise would. As the Senator from Massachusetts said, it has been mutually beneficial to the people of this country. To create an impression here that a great bonus has been given, and that therefore some great obligation attaches, is wrong. The company is entitled to its rights, the Government of the United States to its. There is a controversy as to the construction of the grants. I am not going into that argument at this time; I prefer looking into the arguments that have been presented before I do so; but it has been stated here, and I believe it to be true, that the same language employed in the grant to these railroad companies was before employed in grants to turnpike companies and to canal companies; and does anybody suppose that when lands were granted to a canal company for the purpose of aiding in the construction of a canal, upon condition that that canal should be a public highway and forever free for the transportation of the property of the Government of the United States, it was meant that the persons who owned canal-boats should transport that property for nothing? Was that the meaning of the grant, or did it mean just as it does with a turnpike company, that the stages of the Government of the United States or the wagons of the Government of the United States might pass through the toll-gates without paying toll? But it is said that this language is not applicable to a railroad. It is no new language. It had been incorporated into the grants made to turnpike companies and to canal companies; it had been well understood; and I take it to be a settled rule of law that when language has received a construction and it is afterward incorporated into a subsequent statute, the construction it has received in the former statute is the one it must have in the subsequent one.

I do not propose, however, to express even an opinion upon that point at this time; or to go into any discussion in regard to it. My suggestion is that as this matter has been investigated in the documents presented by the Senator from Ohio, certainly more elaborately than I have looked into it, for I have paid no particular attention to it, have made no examination of the statutes even in reference to these land-grants, except in one or two cases that I have casually looked at, we pass by this amendment at present and go on to other amendments. It will not retard the bill; and if we do get through, then let us come back to this amendment, and if it is desirable to pass the bill to-night we can still act upon it. It will not delay anything by passing to the next amendment, and we can, perhaps, examine these papers, even if we should not get them printed, before we are compelled to vote.

Mr. SHERMAN. I have no objection to passing it over informally; but Senators know the pressure of business, and if the bill goes over to Monday—

Mr. TRUMBULL. I do not ask that it go over. We shall see how that may be when we get through the other amendments.

Mr. SHERMAN. Very well, let it be passed over at present.

The PRESIDENT *pro tempore*. This amendment will be passed over informally.

Mr. SHERMAN. I have one more amendment to offer; to come in as the second section of the bill:

*And be it further enacted*, That to supply a deficiency in the appropriations for the current fiscal year for ordnance, ordnance stores, and supplies, including the purchase and manufacture of arms, accoutrements, and horse equipments for volunteers and regulars, the sum of \$7,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The deficiency for the ordnance service was not submitted with the other deficiency estimates, for reasons that are given by General Dyer; and it is found necessary for the ordinary supplies of the Ordnance Bureau to have \$7,000,000 more. We have no means to limit the amount, and therefore recommend an appropriation of the amount asked for. I have no further explanation to make than simply the statement of General Dyer that this is necessary for arms, accoutrements, &c., for the forces that are being called into the service.

Mr. JOHNSON. What is the appropriation in the bill from the House?

Mr. SHERMAN. The appropriation in the bill is for the next fiscal year; this is for a deficiency for the present year.

The amendment was agreed to.

Mr. WILSON. I send to the Chair an amendment proposing three additional sections to the bill.

The Secretary read the amendment, as follows:

SEC. — *And be it further enacted*, That from and after the 1st day of March, 1865, and during the continuance of the present rebellion, the commutation price of officers' subsistence shall be fifty cents per ration: *Provided*, That said increase shall not apply to the commutation price of the rations of any officer above the rank of brevet brigadier general; or of any officer entitled to commutation for fuel or quarters.

SEC. — *And be it further enacted*, That hereafter, during the continuance of the present rebellion, there shall be no deductions made from, or income tax levied upon, the salary of any officer in the military or naval service; and all acts or parts of acts inconsistent herewith are hereby repealed.

SEC. — *And be it further enacted*, That all officers of volunteers, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper: *Provided*, That the provisions of this section shall not apply to officers not on duty, or to officers entitled to commutation of fuel and quarters.

Mr. WILSON. I hope it is not necessary to detain the Senate by explaining at any length the provisions of this amendment. The first section proposes to commute at fifty cents the officers' ration, which is now commuted at thirty cents. This will add especially the line officers, and I am sure we should do something at the present time for the officers of the Army. It does not apply to general officers, or to officers who receive commutation of fuel and quarters; it applies only to officers who are in the field in the performance of their duty.

The next section takes off the tax we have imposed on the pay of Army and Navy officers since the war commenced; it applies to all the officers. I think justice requires that we should take off that tax.

The third section of the amendment simply provides that volunteer officers who will remain in the service until the close of the war shall receive three months' pay proper on being mustered out of service. It is a sort of bounty to them to remain in the service until the close of the war.

Mr. COLLAMER. Permit me to ask one question in regard to that provision. Suppose an officer is ordered away on a court-martial just as the war ends, is that to prevent his getting the three months' pay?

Mr. WILSON. I think the section applies to all volunteer officers who may be in the service of the country at the end of the war.

Mr. COLLAMER. The proviso says that the section shall not apply to "officers not on duty."

Mr. WILSON. I am willing to strike out the proviso to that section.

Mr. SHERMAN. I suggest to the Senator from Massachusetts that he had better offer each of these sections as a separate amendment, and let us vote on each by itself.

Mr. WILSON. I am willing to strike out the proviso to the third section; and then to take the vote on the first and second sections as one proposition, and on the third section by itself, as some Senators may be willing to vote for the first and second sections who are not willing to vote for the third section.

Mr. SHERMAN. I wish to say something against the second section, and I hope each section will be regarded as a separate amendment.

Mr. WILSON. Then I offer simply the first section by itself:

SEC. — *And be it further enacted*, That from and after the 1st day of March, 1865, and during the continuance of the present rebellion, the commutation price of officers' subsistence shall be fifty cents per ration: *Provided*, That said increase shall not apply to the commutation price of the rations of any officer above the rank of brevet brigadier general, or of any officer entitled to commutation for fuel or quarters.

Mr. SHERMAN. Although generally disinclined to the increase of the pay of anybody during the war and till we are better able to pay and have better means to pay, I am satisfied from numerous communications which I have received from officers of the Army that to continue their present pay without relief would be an act of

gross injustice. I am therefore willing to vote for some increase of their pay. I will read an extract from a letter of a very intelligent officer, who gives the details of his own experience and the condition to which he is reduced by his present pay:

"It were needless, perhaps, for me to enter into the facts of the case, as of course you must be conversant with the subject. But let me briefly call your attention to the fact, as shown below, that many non-commissioned officers, hospital stewards, commissary, quartermaster, and first sergeants, with no responsibility, virtually receive as much or more pay, (including rations, clothing, &c.,) as a second lieutenant of the line. For instance:

Pay of second lieutenant, including "allowances," per month.....\$103 50  
Cost of subsistence per month.....\$30 00

That is surely a very low rate.

Servant's hire (average) per month..... 25 00  
Cost of clothing (average, low estimate)..... 10 00

I do not see how an officer can get his clothing for ten dollars a month.

Tax (about) per month..... 5 00

Balance.....\$70 00

Balance.....\$33 50

That is all that is left with which to support his family or those dependent on him.

Pay of first sergeant (veteran) per month.....\$24 00

Bounty (average for three years) per month..... 11 00

Total.....\$35 00

Besides, there are the local bounties, so that I have no doubt the corporals and sergeants are paid better than the first and second lieutenants, and many of those officers, I have no doubt, are really reduced to suffering. For one, I am willing to stretch a point in favor of these officers, and give them at least a decent subsistence. It is by their sacrifices, their courage, and their devotion that we shall be enabled to succeed in this war.

Another officer, known to me personally, who I know is a careful man and a man of no bad habits, says:

"To show how the case stands with a line officer, I will compare the expenses of a first lieutenant with his pay:

Pay proper of first lieutenant per month.....\$50 00

Allowance of ration money per month..... 36 00

Allowance for servant per month..... 13 50

Allowance for servant's rations per month..... 9 00

Total.....\$108 50

Cost of subsistence per month.....\$30 00

That is put at the lowest rate for the commonest fare; it is written from Hardeeville, South Carolina. It is scarcely enough to pay for the pork consumed by one man.

Cost of subsistence per month.....\$30 00

Cost of servant "..... 25 00

Cost of servant's ration "..... 9 00

Tax "..... 5 00

Average cost of clothing "..... 16 00

Total.....\$85 00

Remaining after paying expenses.....\$23 50

It is manifest from this statement, which is known to be true by almost every intelligent man, that owing to the high prices of provisions and clothing these officers cannot subsist on their present pay. I have also another letter which struck me as very forcible, but which I will not read, to the same effect. I have conversed within a few days with line officers in the twenty-third Army corps who have been within reach, and they uniformly say that they cannot subsist at their present rate of pay. Whether the increased allowance now proposed by the Military Committee is enough, I do not know. The twenty cents addition to the commutation of the ration will make about twenty dollars a month addition, I understand.

Mr. WILSON. It adds about \$290 a year to the pay of a second lieutenant.

Mr. SHERMAN. Then I am about right; it is over twenty dollars a month.

Mr. WILSON. This section and the one in regard to the tax make an addition of about \$320 a year.

Mr. CONNESS. I simply rise to concur in what the honorable chairman of the Committee on Finance has said, and to add that I hold in my hand one of many letters addressed to myself on this subject, similar to those read by the honor-

able Senator. This is signed by seven officers, including all ranks from major to second lieutenant, in the second Massachusetts cavalry, that portion of them particularly who came from California and entered the service in that regiment, and who have done good service. They state that their salary is absolutely insufficient to defray their necessary expenses. I hope this slight increase will be voted.

The amendment was agreed to.

**Mr. WILSON.** I now offer the second section as a separate amendment:

*Sec. — And be it further enacted, That hereafter, during the continuance of the present rebellion, there shall be no deductions made from, or income tax levied upon, the salary of any officer in the military or naval service; and all acts or parts of acts inconsistent herewith are hereby repealed.*

**Mr. SHERMAN.** I trust this amendment will not be adopted; or if it be adopted it certainly should not be in this place; it is not pertinent to the appropriation bill, being a proposition to make an exemption from the income tax. We shall have before us next week a bill in relation to the income tax, and this amendment will be pertinent to that. I think I can give very good reasons why no exception or exemption should be made in regard to the collection of the income tax; but whether that is so or not, it is evident that the tax bill will be before us during the next week, and we can then act on this proposition.

Several SENATORS, (to **Mr. WILSON.**) Withdraw your amendment.

**Mr. WILSON.** I am willing to withdraw it; but I assure the Senate that I shall make the effort to relieve the officers from the income tax, for I believe it ought to be done.

The **PRESIDENT** *pro tempore*. The amendment is withdrawn.

**Mr. WILSON.** I now offer the remaining section without the proviso:

*Sec. — And be it further enacted, That all officers of volunteers who shall continue in the military service to the close of the war shall be entitled to receive, upon being mustered out of said service, three months' pay proper.*

**Mr. HOWE.** Does that apply to all officers, of every rank?

**Mr. WILSON.** It applies to all volunteer officers who will remain in the service until the close of the war, and provides that on their being mustered out of the service of the United States they shall receive three months' pay proper, without any emoluments or allowances. This would give to a lieutenant \$135, and to a captain \$150 or \$160. It is not a large sum, but it is a small inducement to men to stay in the service. There is everywhere a strong disposition on the part of the officers now to get out of the service; and I think that if you were to say to the officers of the Army that it would be an honorable thing for them in the face of the enemy to resign their commissions and go home, you would find the great mass of them resigning. The reason is that they do not get sufficient pay to support their families as they ought to be supported. They have to make great sacrifices; they hear from home that all persons engaged in business are making money, and many of them want to get out of the service and go home and take care of their families, after having served, some two, some three, and some nearly four years. Now, in order to show these men that we want them to stay in the service in spite of the present condition of the finances of the country, we propose to say to them, "Remain in the service to the end of the war, and when you are mustered out we will pay you three months' pay," as a sort of bonus. Everybody knows that after they are mustered out it will be some weeks before they can get into any other business or employment. I think we ought to do it. It is a very small matter.

**Mr. RICHARDSON.** I have but very little to say in reference to this subject. I have no doubt there ought to be an increase in the pay of the subordinate officers of the Army, and I think the increase should begin with the lieutenant and go up to the colonel. I would not increase the pay of officers above the grade of colonel. I would make but a slight increase of the pay of the colonel, the lieutenant colonel, and the major, while I would increase considerably that of the captain and the lieutenant, for the latter have nearly the same expenses to incur as the superior officers. I think the pay of field officers of a regiment ought to approximate very nearly to that of a brigadier

general. Everything in an army depends upon the organization and management of the regiment, and the regiment depends upon the proper organization and management of the company. The moment you enter the lines of an army you can tell the difference between a good colonel and a poor one placed in the command of a regiment. I think the pay ought to be increased in order to keep in the field your good officers in command of your regiments and of your companies. As to the expense that will be incurred, I have only to say that an efficient army properly officered will do more good than a greatly increased army with inferior or indifferent officers. It is true you require at the head of the Army an able man. His pay I deem to be sufficient; and the increase of pay necessary to keep good officers in the Army should be confined to those who receive a small amount of pay and have no great rank.

**Mr. HOWE.** I for one do not see any necessity for giving this bonus to secure the continuance in service of general officers. My own impression is that they are paid very liberally now, paid better, I think, than the public servants generally are. I cannot vote for the proposition in its present state. I do not care to move an amendment, but I think I should vote for this proposition if general officers were excepted. I cannot vote for it as it is.

**Mr. WILSON.** I am willing to confine the provision to officers below the rank of brigadier general; and I modify the amendment to read:

That all officers of volunteers, below the rank of brigadier general, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper.

**Mr. COLLAMER.** I suggest that this amendment seems to contemplate it as a matter of the officers' own choice whether they remain or not. There are many officers willing to remain who are mustered out because the term of their regiment has expired.

**Mr. WILSON.** We cannot help that.

**Mr. GRIMES.** This amendment would apply to the cloud of quartermasters, and commissaries, and paymasters who may happen to be in service at the close of the war, and to all the adjutant generals and all the ten or twenty grades of staff officers that we have. It is intended, I suppose, by the chairman of the Committee on Military Affairs, to keep in service the line officers of the regiments; but I do not think we ought at this time to adopt any such legislation as this. I am afraid we are not sufficiently near the close of the rebellion to adopt any such legislation. It is not necessary, in my apprehension; and I hope that at this time we shall not pledge ourselves to any such thing as this.

**Mr. HOWE.** I move to amend the amendment by inserting the words "now in commission" after "volunteers," so as to have it apply only to officers now in commission, and not to apply to those who may be commissioned hereafter.

**Mr. JOHNSON.** Would not that defeat the object?

**Mr. HOWE.** I did not understand that it was the purpose of the amendment to hold out inducements to officers to take commissions, but to hold out an inducement to officers who have held commissions, who are experienced and skilled and worth more than new officers to the service, to continue in the service. With that purpose I sympathize. I have not found any necessity of bribing other gentlemen to come into the service. I have found them very public spirited, and patriotic, and willing to serve; and I think that disposition will continue to the end of the war; but I do not think we ought to adopt a proposition which will oblige the Government to pay three months' additional pay to all officers in commission at the close of the war, including those who may be commissioned three weeks before the close of the war.

**Mr. WILSON.** I think that would be a very small matter after all. There will be very few men commissioned just as the war is about to close. Senators tell us that this provision will apply to staff officers. I do not know of any body of men in the country to whom it could more justly apply than staff officers. There are no more important men connected with an army than staff officers, and there are none that the laws of this country have done so little for. We

have to-day an unorganized staff for our armies, contrary to the whole theory of army organization, because we have refused, session after session, to pass any legislation on that subject. We have now before us a bill recommended by the Secretary of War and by the Lieutenant General of the Army to do something for the proper organization of staffs and to adjust them according to their commands, but I think it is very doubtful whether we shall pass it.

This provision will apply to surgeons; and if there is a class of men in the country who need legislation in their behalf it is the surgeons in our armies. Many of them came into the service at the commencement of this war as majors; they entered the service from patriotic motives, and some of them have been in the service more than three years, and they now have the same rank, pay, and emoluments as when they came in, and they do not get enough to support themselves and their families decently. No opportunity whatever for advancement has been given to them. A surgeon with the rank of major is often at the head of the medical corps of an army, or an Army corps, or a division, with the same rank and the same pay as a regimental surgeon with one hundred on two hundred men to look after.

It is said that the amendment will apply to paymasters, and quartermasters, and commissaries. Well, sir, quartermasters and commissaries are resigning all the time; the best officers you have are going out of the service, and you are appointing every day a cloud, as the Senator calls it, of quartermasters and commissaries; and why? Because a cloud of the best of them is going out all the time. They will not stay in the service, and why not? An honest man cannot get a living in it. Take a quartermaster, a man of real ability as he should be to be a quartermaster; you put him into the service, with a captain's pay, and he has to take charge of millions of your property. Through the hands of some of these men \$10,000,000 have passed annually, and if they are honest men and have done their duty to the Government it is a great loss to lose them; and it is your honest and best men that are going out of the service.

I suppose some of those men have not been honest, but I believe the great mass of them have been. I do not know a quartermaster or a commissary in this country that has made \$1,000 since this war opened. There may be such, and probably are, but I do not know one in my acquaintance. I think there is no reason why the section should not apply to those officers. The commissaries are now asking us to pass a bill to put their department on the same footing with the quartermaster's department; but it is with the greatest difficulty we can ever do anything here for the surgeons, the commissaries, the quartermasters, or any other class of staff officers.

Then as to paymasters; under the present laws of the country a paymaster can make nothing of any account. He is a major; he has to give large bonds; he handles hundreds of thousands of dollars; if he is a dishonest man he may cheat somebody; if he is an honest man he has very hard work to support himself and his family.

Now, sir, taking into view the little we have done for the staff officers, I think we ought not to exclude them from the benefit of this provision. In regard to the line of the Army, I know that, especially among the captains and lieutenants, there is a strong disposition to get out of the service; and hundreds of them are tendering their resignations, and they are not accepted because the Government does not wish to lose their services; and it is generally your best men, men who can do something else, men who can better their condition at home, that want to get out of the service, and they are only kept there by patriotic motives.

I hope this amendment will be adopted, excluding as it now does general officers, who I think are well paid. Many of them have written to me complaining that the commutation price of their rations is not raised; they think it is hard to exclude them from this provision; but I think brigadier and major generals are very well paid under our laws, and I am perfectly willing that they shall be exempted from the benefits of this section. I think this little bonus that we propose to offer to our officers who remain faithful to the flag until the war is over is a small matter any.

# THE CONGRESSIONAL GLOBE.

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way, but it will show them that the Government of the country in this exigency of our finances cares something for them.

Mr. RIDDLE. I wish to ask a question of the Senator from Massachusetts, the chairman of the Committee on Military Affairs. It is generally known that I am disposed to be liberal in my votes in regard to the compensation of all officers of the Government; but I wish to ask the Senator from Massachusetts what is the compensation of a paymaster in Washington, including the privileges and emoluments which he enjoys.

Mr. WILSON. I have not calculated the figures, but it is a major's pay, with commutation for fuel and quarters in the city of Washington, which is higher than anywhere else in the country. Many of the paymasters, portions of the time, have no fuel and quarters.

Mr. RIDDLE. I am told it is \$3,600 a year.

Mr. WILSON. I do not know.

Mr. RICHARDSON. I concur fully in the views expressed by the Senator from Massachusetts in reference to these officers not in the line. Many of your paymasters handle millions per annum. They are very poorly paid; they are going out of the service, as he says, every day; you are losing the best of them, and the reason is that they are not paid enough. The best mode of compensating them, in my opinion, would be to pay them a small percentage upon their disbursements, so that the officer who transacted a large amount of business would receive more compensation than one who did no business; and so it ought to be in reference to the quartermasters and the commissaries. If you retain competent and proper officers to manage these most important departments of the Army you will have to increase the pay of the paymasters, the quartermasters, and the commissaries more than the officers of the line. At one time in our history, I believe, we paid a percentage to our paymasters. That plan has been long discontinued, but I believe it is the best mode of payment; you might make the amount small, but an officer who handles a large amount of money should receive compensation in proportion to that amount. With your present compensation to your paymasters, and quartermasters, and commissaries, you get rid of the best as fast as they can resign and get out of the service, and retain only the most indifferent.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin [Mr. Howe] to the amendment of the Senator from Massachusetts, [Mr. Wilson.] The Senator from Wisconsin moves to amend the amendment by inserting the words "now in commission" after the word "volunteers."

The amendment to the amendment was adopted. The amendment, as amended, was agreed to—aye twenty-four, noes not counted.

Mr. WILSON. I now offer the following, as an additional section:

Sec. —. And be it further enacted, That commissioned officers of the Army, serving in the field, shall hereafter be permitted to purchase rations for their own use, on credit, from any commissary of subsistence, at cost prices, and the amount due for rations so purchased shall be reported monthly to the Paymaster General, to be deducted from the payment next following such purchase. And the Secretary of War is hereby directed to issue such orders and regulations as he may deem best calculated to insure the proper observance hereof.

I will say, in explanation of the amendment, that if this provision had been in existence during the war it would have saved millions of dollars to the Government of the United States. It will cost nothing whatever; we shall not lose a dollar by it; but I think we shall gain a great deal by it annually. Besides that, it will be a great relief to our Army officers, some of whom have not now been paid for six months. They purchase now by paying the cash to the commissaries, and the commissaries pay the money into the Treasury of the United States. If they are honest men they pay the whole of it; if they are not honest they pay as much of it as they choose to pay into the Treasury. It is said—I do not know whether it is true or not—that there are some com-

missaries who have made a great deal of money during this war in this way. I know none such.

Mr. GRIMES. Permit me to inquire if these are the same commissaries whom the Senator has just proposed to give three months' extra pay; to in order to keep them in the service.

Mr. WILSON. I do not say that this is true, but such representations are made. I know of no such officer myself, but it is evident that it is possible the thing may be done. This amendment provides for exactly what is done in the case of a sick officer. An officer wounded or sick comes up from the front and goes to Annapolis, or any of your hospitals; he has no money; the Government furnishes him his support and charges him one dollar a day, and it is charged on his account and deducted from his pay. The Government has not lost a dollar from the beginning of the war in that way, and cannot lose a dollar by this provision.

Mr. RICHARDSON. Allow me to ask a question. If I understand the amendment correctly, the only change is that it allows the officer to buy upon credit instead of requiring him to pay cash down.

Mr. WILSON. That is all. The thing is precisely this: the officer purchases with money now if he has it or can borrow it from his associates or get it from home, when the Government has not paid him for a long while; and many of the officers now have not a dollar and have not had for some time. They purchase from the commissary and pay the money to the commissary, and the commissary pays it over to the Government. If you adopt this provision, the officer will purchase what he desires of the commissary, who will charge it on his account and turn the account over to the paymaster, and the paymaster will take it out of his pay. There is not a chance of losing a dollar by it. On the contrary, if there is an opportunity on the part of the commissaries to keep any of this money now, it cuts that up root and branch. I am told by men who understand this matter and know all about it that in their opinion it will save a great deal of money to the Treasury of the United States, and there is not an opportunity to lose anything whatever. If a man dies, the money is not lost. There is no chance of losing it any more than there is in your hospitals where you are doing the same thing every day in regard to hundreds of officers.

Mr. RICHARDSON. Allow me to suggest to the Senator that the amount which an officer may buy in this way ought to be limited. The amendment, as I understand it, now is without limitation in that respect; but perhaps it is contemplated that it may be limited by regulation.

Mr. WILSON. The amendment provides that the Secretary of War may make such regulations as he deems proper to carry the provision into effect.

Mr. RICHARDSON. That is right.

Mr. WILSON. At the present rates of things at the front, an officer is not likely to buy more than he can help. I have before me a list of the prices now charged to officers in the army of the Potomac—ham 25 cents a pound; coffee 55 cents; tea \$1 35; sugar 25 cents; potatoes \$1 50 a bushel; pork 18 cents a pound; beef 20 cents; and so on.

Mr. RICHARDSON. I am in favor of the proposition. It is a useful one, I think.

The amendment was agreed to.

Mr. SAULSBURY. I desire to be allowed at this time to offer a resolution. I send it to the Chair to be read.

The Secretary read, as follows:

Whereas in a speech recently delivered by Hon. Albert G. Brown, late a member of this body and now a member of the confederate congress, as reported in the New York Herald of the 14th instant, the following statement is made:

"Stanton, the last of this ignoble trio of blatant Democrats, alone remains"

Mr. SHERMAN. It is manifest that enough of that has been read to show that it cannot be received.

Mr. WILSON. I object to the resolution.

The PRESIDENT *pro tempore*. Objection be-

ing made, it cannot be received at this time, the Army appropriation bill being under consideration.

Mr. SAULSBURY. I give notice that I shall offer my resolution at the earliest opportunity.

Mr. WILSON. I move further to amend the bill by adding the following as a new section:

Sec. —. And be it further enacted, That the President of the United States may appoint, in addition to the number of cadets heretofore authorized by law, from among the orphan children of officers or soldiers who have been or may be killed in battle, or who have died or may die of disease incurred in the line of duty during the present rebellion, two cadets for each State represented in Congress, who shall be actual residents of the State for which they may be appointed; and fifty cadets, to be appointed from the military forces of the United States, regular and volunteer, who shall have served for a period of not less than nine months.

Mr. SHERMAN. It seems to me that this amendment is open to serious objection, because of the unequal distribution of these appointments. It gives to each State two cadets. The State of Delaware, with a comparatively small population, would have as many as the State of New York. It is unjust, I think, to the larger States, and I cannot vote for it. Senators are not allowed to designate cadets because of the inequality between the large and small States that would be the result of their doing so. I should like myself to nominate a cadet now; but members of the Senate have no power to do it, and the reason which has been always given is that to allow Senators to nominate cadets would be to make the matter unequal, and the benefits of the West Point Academy ought to be distributed according to population. This amendment introduces a new system in regard to the appointment of cadets at West Point which I think very improper, and of which States like New York, Pennsylvania, Ohio, and Massachusetts would have a just right to complain.

Mr. WILSON. It is estimated that we can increase the number of cadets to four hundred with the present conveniences we have at West Point; that if we do so we shall not have to increase our accommodations there in any respect. The increase now proposed, if the whole country was represented in Congress, would give about three hundred and seventy-five cadets. We have proposed several times that the Senators shall appoint cadets, and I do not think that proposition was ever voted down because of the inequality of it, but rather on the ground of the inconvenience to Senators. Every effort has been made to improve the present system of appointment. A year or two ago we proposed, I think, to allow some to be made by Senators and Governors of the States, and to authorize the President to make more appointments. We proposed several modes, none of which were accepted. Now, it is proposed that fifty cadets, two from each State, shall be appointed by the President from the orphan children of the officers and soldiers who have fallen in the war, and that fifty shall be appointed by the President from the ranks of the Army. I think the arrangement is a good one. If Senators say it is not equal to give two to each State, I am willing to strike that provision out, and let the appointments be made wherever the President chooses to make them in the country.

Mr. HOWARD. I hope this amendment will not be adopted, for the reasons urged against it by the honorable Senator from Ohio. The operation of it will be so unequal and so unjust as to make the School even more odious than it is at present. I think the time is not far distant when Congress will find it necessary to take the subject of the West Point Academy in hand, and make some radical improvements in the whole system. I hope to see that day, and I expect to see it; but I cannot vote for this amendment of the Senator from Massachusetts; it is entirely unequal, and therefore very objectionable.

The amendment was rejected.

Mr. SPRAGUE. I offer the following amendment as an additional section:

And be it further enacted, That all chaplains in the military service of the United States shall, when practicable,



hold appropriate religious services at burial of soldiers who may die in the commands to which they are attached; that they shall devote their entire time to their appropriate work as chaplains, and that it shall be their duty to hold public religious services at least once each Sabbath, when circumstances will permit.

Mr. SHERMAN. I do not like very much the idea of regulating the duties of chaplains on an appropriation bill. If they do not now perform the duties prescribed in this amendment they ought to be turned out.

Mr. FOSTER. I believe what this amendment proposes is the law now, and I do not hear any complaint that chaplains do not do what they can do consistent with the military requisitions of the service. I believe it is precisely the law now.

Mr. SPRAGUE. I have been informed by those conversant with the affairs of chaplains that they do not devote themselves to the burial of soldiers; and if they do not, it is high time that their attention should be called to that subject. It is a well-known fact, also, that chaplains in the service perform other duties, duties connected with religious denominations as ministers, receiving pay from the Government of the United States as chaplains and pay from their respective denominations as ministers. This is the case with a number in this city as I am informed, and it is also the case with numbers of others throughout the country. This is a good time, in my opinion, to make this amendment, and it should be put upon an appropriation bill because it will be sure to pass there sooner than anywhere else. I trust it may receive the sanction of the Senate.

The amendment was rejected.

Mr. WILSON. I offer this as a new section:  
*SEC. — And be it further enacted*, That the Secretary of War is hereby authorized and directed to cause tobacco to be furnished to the enlisted men of the Army at cost prices, exclusive of the cost of transportation, in such quantities as they may require, not exceeding sixteen ounces per month, and the amount due therefor shall be deducted from their pay in the same manner as at present provided for the settlement of clothing accounts.

The amendment was agreed to.

Mr. SPRAGUE. I submit the following amendment:

*SEC. — And be it further enacted*, That the Paymaster General of the United States Army shall hereafter have the rank, pay, and emoluments of brigadier general.

*SEC. — And be it further enacted*, That there shall be added to the pay department of the United States Army, as now organized, two assistant paymaster generals, who shall be ex-officio inspector generals of the department, with the rank, pay, and emoluments of colonels of infantry. And in addition to the two deputy paymaster generals now authorized, there shall be added ten others, subject to the same conditions and provisions as by existing laws provided for deputy paymaster generals.

*SEC. — And be it further enacted*, That the appointments to the offices herein created shall be made by selection from the officers of the pay department of the United States Army, including the additional paymasters and the chief clerk, and who shall have had at least two years' service and experience in the duties of the pay department; after such appointments have been once filled, all vacancies occurring shall be supplied as now by law prescribed for the other staff departments of the Army.

*SEC. — And be it further enacted*, That the assistant and deputy paymaster generals shall give bond in the manner now required of deputy paymaster generals, and shall be subject to any duty in the pay department to which they may be assigned by the Secretary of War.

*SEC. — And be it further enacted*, That whenever a pay district shall be established, for the charge, superintendence, and command of which no assistant or deputy paymaster general shall be available as chief, the Secretary of War may detail any paymaster or additional paymaster of the Army to do the duties of such chief; and during the continuance of such detail and duties, and no longer, the officer so detailed shall have the rank, pay, and emoluments of a deputy paymaster general: *Provided*, That the total number of such acting deputies shall not, at any one time, exceed ten.

*SEC. — And be it further enacted*, That the Secretary of War shall have authority to detail officers of the pay department for duty as inspectors of such department, not exceeding four at any one time, who, during the continuance of such detail and duties, shall have the rank, pay, and emoluments of deputy paymaster generals. And they, together with the inspector generals herein provided for, shall have the powers and authority within their own department now by law and regulations conferred upon inspector generals of the Army.

Mr. LANE, of Indiana. This whole subject has been before the Military Committee, and has been extensively considered, and they have reported a bill reorganizing the pay department. I am opposed at this stage to putting that bill on the Army appropriation bill as an amendment, making a large increase in the staff of the regular Army, and no provision for volunteer officers. The whole subject is now before us in connection with the bill reported by the committee, and I hope the amendment will not prevail.

Mr. SPRAGUE. I agree in some respects with the views expressed by the honorable Senator from Indiana; but it must be observed by the Senate that the pay department of the Army has remained in its present organization since the commencement of the war. That organization was for an army of fifteen or twenty thousand men, and your Army has been increased to a million men. The increased amount of pay which this amendment will draw from the Treasury is but about five thousand dollars. It does not add an additional officer to the regular service or any other service. The officers provided for are to be taken from the service—from the volunteers and from the regulars. It simply grades the officers; I do not understand that it increases their number. Since the war commenced you have reorganized the Surgeon General's department; you have reorganized the Quartermaster's department; you have gone on organizing the regular Army, and yet not the slightest attention has been paid to this most important branch of the public service.

It seems to me that this bill is a good place to which to attach this provision. I move it as an amendment to this appropriation bill, not because it is entirely appropriate to that bill, but because there is so little time before the adjournment of Congress that it is important to seize this opportunity to bring the subject, if possible, before the other House at an early day. The measure comes from the War Department; it has received the sanction of the Secretary of War; it has received the sanction of the highest officers in the pay department; and it has received the sanction of others interested in the public service. They all say that the public service demands that this organization should be made, in order that the pay department may work more efficiently and better than it has heretofore worked.

There is one important idea which should not be lost sight of in this connection. The officer in charge of this department having perhaps a hundred men under him attending to all the disbursements for the pay of the Army, has no more pay, no more rank, no higher command than any one of the hundred paymasters of whom he has charge. I am sure that if the facts in regard to the present organization were known to Senators as they are known to the Army the effect would be at once to induce a change and a reorganization.

I really hope the chairman of the Committee on Finance will not object to this amendment, but will consent that it shall be attached to this bill and go to the House of Representatives. If it shall be objectionable to that body, it may be stricken out by the committee of conference. But, sir, in behalf of this service, one of the most important services of the Government, I appeal to him to let it go on the bill, as he has already consented to other amendments from the Military Committee; let it go before the House of Representatives for its action, and then, if it is objectionable, let the committee of conference finally strike it out.

The amendment was rejected.

Mr. SHERMAN. If there are no other amendments to be proposed, I ask that we now go back to the amendment which was passed over.

The PRESIDENT *pro tempore*. The amendment which was passed over will now be taken up. The Committee on Finance proposed to strike out the proviso at the end of the bill. The Senator from Pennsylvania [Mr. COWAN] proposed to amend the proviso so as to make it read:

*Provided*, That money appropriated by this act, or any other act, and used for the purpose of paying any railroad company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, shall be subject to future adjustment between the United States and said companies, it not being intended to admit the right of said companies to compensation for such transportation.

The first question is on this amendment of the Senator from Pennsylvania to the proviso.

Mr. BROWN. I do not see in his seat the Senator who offered this amendment, but I would call attention to the fact that he strikes out the words "except in such cases as have been modified by act of Congress." Those words are to be stricken out, and yet those cases are already covered by act of Congress, and are legalized, and the result of this proviso would be to unsettle that class of cases, cases that are covered now, and that occurred in my own State.

Mr. JOHNSON. I submit to the Senate that the authority is only to adjust them. Of course they are to be adjusted under the law. No law is repealed by this provision. If by the laws to which reference is made, and which are not mentioned in the proviso, the Government has surrendered its right to use the roads, of course there can be no claim on the part of the Government.

Mr. BROWN. I would suggest to the Senator, in reply, that here are cases in which Congress by special act has authorized the Secretary of War to go on and make payments to certain railroad companies. Now, this proviso here covers all payments that are made to all the roads that have had land grants, and unsettles all those payments, leaves them for future adjustment.

Mr. JOHNSON. What I meant to say was that if the laws are as the honorable member supposes them to be, if Congress has by law authorized and directed the Secretary to go on and make those payments, we cannot afterward call in question the validity of those payments, and all that the amendment suggests is that hereafter this matter is to be adjusted—adjusted of course upon the law as it is and the facts as they may turn out to be. Certainly it cannot be the purpose of this amendment to interfere with any payment which Congress has authorized to be made.

Mr. BROWN. The Senate will perceive that in the language of the proviso as incorporated in the bill as it came from the House of Representatives is this phrase: "except in such cases as have been modified by act of Congress." That is the assumption that they have been modified, that the payments have been authorized; but if the amendment of the Senator from Pennsylvania be adopted and the proviso remain as it will then stand it will unsettle all that class of cases. I am opposed to it for that reason if for no other.

Mr. JOHNSON. There can be no objection to retaining those words in the proviso as they came from the House of Representatives. What I meant to say was that whether the words were in or not the result would be the same; but there can certainly be no objection to keeping the words in.

Mr. HENDRICKS. I think the proposition of the Senator from Pennsylvania, so far as the present railroad enterprises in the West are concerned, will have all the bad effects of the House proposition without any of the present benefits of the House proposition. I am opposed to the amendment and also to the original proviso; and I express a dissent to this policy with very much reluctance, because my views are not in accordance with those of a colleague of the House of Representatives, for whose opinion, as a legislator and a lawyer, I have a very profound respect. But, sir, I prefer to leave this question where it has been since the war, with the War Department. I am not prepared to say that the arrangement between the Government and these railroad companies has been an unjust or an inequitable one. A deduction, I understand, is made of thirty-three per cent. from the pay of these companies, because of the aid the Government gave in the construction of the roads. I suppose that the Secretary of War has looked over the whole subject, and has come to the conclusion that, in view of the investment that the Government made and of the investment that the stockholders have made, that is fair and just, and I am willing to leave it to his judgment. I am not prepared to say that the construction of the act of 1850 granting lands to the State of Illinois, which this proposition assumes to be right, is correct. The language is, "And the said railroad and branches shall be and remain a public highway for the use of the Government of the United States," (the right to use is made free,) "free from toll or other charge upon the transportation of any property or troops of the United States."

Mr. JOHNSON. The road itself was made under a charter granted by the State of Illinois, and under that charter nobody could use the road except the company itself; that is to say, the cars and the locomotive power were to belong to the company. Nobody was authorized to run a locomotive on it or put cars on it without the consent of the company; but when we, in the law, give to the United States the right to use the road, it is to use it as it is, to use the locomotives and to use the cars. At least I think that is the interpretation. Otherwise, merely to give to the United

States a right to use the road, and to deny them the right to have the use of the locomotives and cars, would destroy the very purpose.

Mr. HENDRICKS. I do not express any opinion conclusively arrived at as to the proper construction of this act, but the language itself gives to the Government the use of the road, and the Senator from Maryland thinks that that carries with it the use of the rolling stock. But, sir, in what I have to say on this subject I do not intend to discuss it with reference to the strict construction of this language; the question is, what is fair? The Department has adopted a policy which I think is a fair policy. I do not undertake to say that thirty-three per cent. is the exact deduction that ought to be made. I do not undertake to say that the same deduction ought to be made in the State of Missouri that should be made in the State of Illinois in view of the grant that was made to the roads in the different States; but that an arrangement ought to be made between the Government and the companies with a view to the business that the Government now requires, taken in connection with the grant that the Government has made and also the contribution made by the stockholders to the construction of the road, is fair and right. I think there are equities in the present condition of the country that ought to be respected, and I think the War Department has attempted to respect these equities.

It is suggested that the War Department has merely paid under protest. If this law is to be strictly construed, and it carries the right to use the rolling stock as well as the road, then the Secretary of War had no right to pay anything, and he has made a payment without authority of law, and his protest amounts to nothing. If his protest means anything it means "I am paying money here without authority of law, and I protest against my own acts;" so I choose to consider his protest as amounting to nothing, and as not affecting the arrangement made upon equitable principles between him and these companies.

Now, sir, what did the Government give to these railroads? Take the original grant to the State of Illinois, made in 1850, take the grants that have been made to other States, and as the grant was then made it was not of much value. The grant to the State of Illinois was of a wilderness, if I may so express it, of prairie land; a country that was not being settled; a country that could not be settled; so far from the timber that without a railroad that land must have lain waste to this day. The land itself did not and could not build the road. Private individuals had to furnish the means, and then the road was built; and then the lands not only of the State became of value, but the reserved sections of the Government, for the first time in their history, became of value. What is a quarter section of land worth a hundred miles out in a prairie? You might as well ask me what a quarter section of the ocean is worth a hundred miles from the coast. It cannot be used; it cannot be occupied; fuel cannot be carried there except by the use of a railroad. Then this land was comparatively valueless; but as soon as a railroad is constructed through it, that land, the reserved sections that were worth nothing to the Government, that she could not sell, became worth \$2 50 an acre, and she realized on them. She did in the case of Illinois and in the case of other States; she gets dollar for dollar what all the lands were worth before she made the grant. Under her policy the lands were worth \$1 25 an acre, but when the grant is made and a railroad is constructed the reserved sections are worth \$2 50, and sell readily for that. My own observation of the fact is that these lands were sought for, and there was quite a controversy along the line of the Central railroad of Illinois to secure the lands at \$2 50 an acre—lands that the Government never could have sold, many of them, except for the construction of this road. Then, I say, the Government is benefited as well as the State. The Government in fact contributes nothing, for she gets \$2 50 per acre for half of her land, instead \$1 25 an acre for the whole.

The truth of the business, I believe, is that Congress, when this law was passed, had not much reference to the particular language that was adopted. It was supposed, I have no doubt, that the Government would have some use for the road, and provision was made that the railroad company should be required to accommodate the

Government; but it was never thought at that time that the country would be in such a condition as that the Government would require a greater use of the road than all the other interests of the country put together.

Now, what is fair in this matter? Take the great Central road of Illinois as an example. Its entire capacity is taxed to carry the troops and munitions of war of the Government. Is it fair toward the stock that was subscribed by individuals to say that the road shall be taken entirely for the use of the Government, and that no compensation shall be made to the men who have invested their money, along with the money that was realized from the sale of the granted lands? I say it is not equitable, it is not just, and I think the arrangement the War Department has attempted to make is a fair arrangement.

But, sir, I do not wish to see the enterprise that the Government within the last year have encouraged entirely defeated. At the last session you granted lands to the State of Wisconsin for the purpose of constructing roads through that densely timbered land in the northern portion of that State; you have extended the grants in Minnesota I believe; perhaps in Kansas also. Now let it be understood that the Government has a right to appropriate the entire road, to cut off the revenues of all other stockholders, and is it possible for these enterprises in the present embarrassed condition of the country to be a success? I think the Government has a large interest in the construction of these roads through the West, and I do not think a policy ought to be adopted or a construction given to this language which will defeat the purposes of the grants of the last session.

Mr. HOWE. Mr. President, I am bound to say, with all respect to the origin of this proviso, that I regard it as the most monstrous one I ever found in a bill before this body. It declares "that no money appropriated by this act shall be used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress on condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress." Perhaps I ought to apologize for saying that it was absolutely monstrous, because it is not very certain that the effect which it was expected that this proviso would have will actually be realized. I do not know that there is a company in the United States which ever has accepted a grant of land from Congress upon the condition of furnishing transportation free of toll. Congress has made to various States grants of land upon the reserved condition that the road should be a highway free from toll for the transportation of Government troops or property; but I do conceive that there is a vast difference between declaring a railroad to be a public highway free of toll and declaring that the company which owns the highway shall become forwarders and shall transport Government troops and property free.

Mr. COLLAMER. I ask the gentleman whether, if they did not have any grant on such a condition, they would be foreclosed by the proviso.

Mr. HOWE. It was that very doubt I suggested, whether the proviso, if it were enacted, would have the effect which it is designed to have. If I am right in my construction of the grant, it clearly would not; nevertheless, in that case it would do no good but it would do a great deal of hurt, because it would create this contest between the Government and the companies; it would raise this cloud upon their titles; it would involve them perhaps in litigation; it might have all the disastrous effects upon the companies that the proviso would have if properly drawn. It might cripple them and disable them from going on with their business, and yet the Government might after all have to pay for the transportation of their troops.

Mr. President, if I am wrong on the point of law I cannot be wrong upon the point of what is equity and fair dealing. If there is to be found in these grants a contract, not that the State should leave the road open as a highway, but a contract that the company which might be employed to administer the grant should be forwarders and transporters of Government products, it is still, I say, unconscionable to enforce it upon these roads under the present condition of affairs. When

these grants were made, your Army consisted of about thirteen thousand men; it has during this war sometimes reached a million. A contract to furnish transportation for those troops, and the supplies necessary for their support, is a very different thing from saying that they will still furnish transportation for the troops and supplies when the Government shall have turned the whole population of the Union into troops and shall have become the purchasers of the whole products of the nation to supply them. The transportation which the Government could ever require for the Army we then had was trifling in amount; it could impose no great hardship upon any company to undertake to furnish that; but in the altered state of things which we now find, to enforce that same contract is a great hardship. I believe the Government does not stand on any contract made two years ago, as prices then were, does not attempt to enforce any of those contracts now; certainly not where there are any other alleviating circumstances to relieve against the hardship. There is no private contractor that could stand up under such contracts. I know of none.

I am therefore, Mr. President, entirely opposed to the proviso. The amendment which is offered to the proviso and which is the pending question, I understand proposes to allow the Government to go on and pay these companies under the present arrangement, but to still hold out the intimation that it is not after all a payment, but only a loan to the companies, and that the Government reserves the right to recall that loan whenever it sees fit to do so. Thus, as was said by I think the Senator from Indiana just now, you do not relieve the Government from any disbursement, whereas you do impose all the hardships on the companies and all the danger to the enterprises still on foot.

Mr. COLLAMER. I inquire whether that is not the present condition of things. Is not the payment made under protest?

Mr. HOWE. No, Mr. President, I think it is not precisely the condition of things under the present mode of payment. I understand there is a contract between the Secretary of War and these companies by which the Secretary of War stipulates to pay them sixty-six and two thirds per cent. of the ordinary price awarded to other companies.

Mr. COLLAMER. He pays under protest.

Mr. HOWE. I understand that the Secretary of War assumes to pay that under protest, or as he calls it under protest, by which I understand him to say that he does not mean himself to foreclose any right the Government may have under the original grant, but to let the case stand. The companies, in consideration of the conditions of the grants, relinquish voluntarily thirty-three and a third per cent., and the Secretary acting for the Government pays them sixty-six and two thirds per cent. of the ordinary price; and he accompanies that by the declaration that he does not mean to foreclose the rights of the Government under the grant, which he could not do. What possible effect his protest can have on the character of that payment, or the fact of that payment, I do not understand; but if it has any effect whatever, it is mischievous, I think, and only mischievous, and I would not like to have the Congress of the United States do a thing or say a word to increase the mischiefs. I think it is mischievous, because I think it is holding out a distinct threat that a hardship may be enforced hereafter. What will be the effect of it, and the only possible effect? If there is any one company or any two or three companies doing a large amount of forwarding for the Government, so that they will be advanced under this proviso as amended millions, it is held out to the public as a debt constantly accumulating against that company; and when it gets up to the sum of millions what is the condition of the company? It is advertised as a bankrupt, and it becomes the merest piece of stock-jobbing in the world. The only chore to be done then is for enterprising men enough to get hold of the stock to make it an object to bring it up again to par, and to let your Legislature confront the holders of that stock and then see which is the strongest, whether you will enforce the debt or will release the debt. That is the only effect, as I conceive, that it can possibly have.

I believe it is honest to pay these companies. The Senator from Indiana has told you a gospel

truth: these grants instead of impoverishing the Government have benefited the Government. Every acre of land you have dedicated to the building of a railroad has been the best expenditure of an acre you have made; and, having already received a full and ample and rich equivalent for every acre you have ever granted, it is not just in the Government, I do not say generous or magnanimous, to stand upon a condition so hard and intolerable as this is.

Mr. TRUMBULL. I would rather hope that this amendment would not be pressed to a vote this evening, because I desire to look a little more carefully than I have been able to do at the act of Congress already referred to and other acts of similar character, to arrive at the just construction of the law itself.

Mr. COLLAMER. If the gentleman will indulge me a moment, if he wishes time I will move an adjournment.

Mr. TRUMBULL. I have no speech to make in regard to it.

Mr. COLLAMER. The Senator says he desires to look at it.

Mr. TRUMBULL. There were laid on the table some papers which I think it would be well to have published, but I shall not ask that this bill be laid over on my account until next week, because I shall not occupy more than a few minutes in what I have to say. Unless the chairman of the committee having the bill in charge consents to its going over, I will not ask it on my account.

I wish to call the attention of the Senate for a few moments to the act itself, to the very terms of the grant. It seems to have been conceded by quite a number of Senators who have spoken on this subject, that by the law the terms of the grant were upon condition that the company should transport, should carry the property and troops of the United States over the road; that it should furnish the cars; that it should furnish the necessary hands to handle the property, and the engineers, conductors, and brakemen to run the trains. I was a little surprised to hear that construction put upon the law, and I was more surprised when I heard one gentleman after another rise and give that as the true meaning of the law. I think an examination of the statute shows that that is not the law, and if we were sitting here as judges, and the case was now presented for our determination, when we came critically to read and look at the law we should find that it was not thus written.

Now, sir, what are the terms of this grant? "And the said railroad and branches shall be and remain a public highway." What is a public highway? Is it a road that the owners of the highway are compelled to transport people upon? This road is by act of Congress declared a public highway, for what? "For the use of the Government of the United States." That is what it is a highway for. Now, suppose the grant had stopped there; that the land was granted to the company on the condition that the railroad and branches should be a public highway for the use of the Government of the United States, and nothing more had been said, would anybody have contended that there was anything more than a grant to the United States of the right to use it? What is the meaning of a public highway? It means a road that, if it were not restricted by the subsequent terms of the grant, anybody would have a right to use. A public highway anybody has a right to travel over. Here it is restricted by the words "for the use of the Government of the United States." Then the Government has the right, by this grant, to use this public highway. These are the very terms of the grant. Thus the law is written, that the Government may use it, and there is no such word in it as that the railroad company shall transport this property. The road is to be a highway, free to the Government of the United States to use it—that is the word; to "use" it for what? To use it "for the transportation of any property or troops of the United States." There is not a word in the grant about the company being compelled to transport the troops and the property of the United States.

What is a railroad? Does a railroad consist of brakemen, and engineers, and conductors, and locomotives? Is that the meaning of the term "railroad"? It is the "railroad" and its "branches" that are granted for the use of the United States

free from toll in the transportation of any property or troops of the United States, not in the transportation by the railroad company. Can it be said that the right exists here to compel the railroad company to furnish engineers, and conductors, and brakemen, and the necessary hands to handle the property of the Government of the United States, because the Government of the United States has reserved the right to use the road as a public highway for certain purposes? The Government of the United States cannot use it for all purposes, but simply for the transportation of the property or troops of the United States; and another clause of the grant provides that "the mails shall be transported on the said railroad under the direction of the Post Office Department at a price which Congress may fix."

So, sir, I deny the construction put upon this law. I say that if you are to give any meaning to the term "public highway" and the language of the act itself it does not compel the company to transport over this road. But, says the Senator from Michigan in reply to this, "Oh, but it meant something; everybody cannot run their trains on the road, and if the United States put a car upon the road there will be collisions." Why so? It is not to be presumed that the Government of the United States in the exercise of one of its rights will so use the roads as improperly to interfere with the rights of others. You might just as well say that there would be collisions on the turnpike roads of the country because the Government of the United States has its mail carried in a coach over a turnpike road. I suppose the coach that goes along bearing the United States mail, when it meets a team coming in the other direction turns to the right hand and they pass each other as the local laws regulating the use of the road direct, just the same as if the coach did not belong to the Government of the United States; and I suppose if the Government of the United States put a car on one of these roads they would have to run their car in accordance with the regulations adopted by law for the running of the road.

Mr. JOHNSON. If the honorable Senator from Illinois will give way for a moment, I will make a motion to adjourn. It is evident that we cannot get through with this bill to-night.

Mr. TRUMBULL. I am not going to prolong this debate unless others desire to do so. The Senator from Ohio has charge of this bill, and I do not wish it put over on my account. I have said about all that I desired to say, which was to meet the position which seemed to be taken for granted in this body, to my utter astonishment, that this law imposed upon the company the necessity of furnishing all these employes and all this machinery to carry the property of the United States. It does no such thing, in my judgment.

Mr. JOHNSON. I move that the Senate adjourn.

Mr. SHERMAN. I trust not. This is the only appropriation bill before us yet undetermined, and I think we can soon have a vote.

Mr. JOHNSON. If I can have any assurance that there is to be a vote, I will withdraw the motion.

Mr. SHERMAN. I think we can have a vote now.

Mr. JOHNSON. Very well; I withdraw the motion.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

Mr. COWAN called for the yeas and nays; and they were ordered.

Mr. HARLAN. I think about the only effect that will be produced by this amendment will be to reduce the value of railroad stocks and railroad bonds in the market. If this amendment shall prevail and the railroad companies shall be compelled to carry all this property free of charge, many of the companies will have to give up business. The Secretary of War could seize the roads and run them himself, I suppose, under existing laws; but this would only embarrass the roads and reduce the value of this property without any resultant advantage to the Government. None of the railroads now in the course of construction have derived any great advantage from these grants of land. There is but one railroad company named that has derived any considerable advantage, and that is the railroad in Illinois

styled the Central railroad, and I suppose this whole measure is intended to strike at it. I am unwilling that the roads in course of construction in Missouri, Iowa, Minnesota, Wisconsin, and Michigan shall be damaged for the purpose of extorting justice from that company, if it would indeed be just to that company, which I gravely doubt.

It was said by my colleague—and for his judgment I have very great respect always—that that company derived some thirty million dollars advantage from the railroad grant. If so, the General Government derived \$30,000,000 advantage from the construction of that road. The Government retained alternate sections of land lying along the line of that road, and put up the minimum price to double the previous minimum price. If, then, the railroad company derived \$30,000,000 in value toward the construction of the railroad from the land granted by the General Government, the construction of the road has already realized to the Treasury of the United States \$30,000,000, either in money or in the resulting advantages growing out of the settlement of an otherwise uninhabitable country; and if any one will take the trouble to look at the condition of Illinois preceding this grant, and its condition when the last census was taken, he will perceive in what the Federal Government has derived advantage. The population of Illinois was augmented between 1850 and 1860 over eight hundred thousand people. A very large per cent. of that increase was owing to the construction of the Illinois Central railroad, by which vast sections of country in the central part of Illinois, remote from the Wabash and Illinois rivers, were brought into market and into a condition where they became desirable to people emigrating to the Northwest. If it had not been for the construction of this railroad Illinois would now be a State of far less consequence than it is in the aid it is able to render in the prosecution of this war. It now has been able to turn out some two hundred regiments of able-bodied men to engage in the contest which is being waged against the rebels. In this, then, we derive an immense advantage from the grant of land made to Illinois to aid in the construction of this railroad. First, we sold the land at double the minimum price previously fixed on it by Congress.

Mr. HENDERSON. Let me suggest to the Senator that according to my recollection many of the Government reserved lands on the line of that road were sold for over \$2 50 an acre.

Mr. HARLAN. They could not have been sold for less than the minimum price of \$2 50 an acre, but I doubt not many of them were sold for more than that amount. If the Government had chosen to withhold those lands from market and put them in market only as the railroad company exposed its lands for sale, they would have realized in dollars the whole amount the railroad company has realized from the sale of its lands. The Government, however, chose for satisfactory reasons to put the reserved sections into market in advance of the sales of land made by the railroad company, and may therefore have realized a less amount in dollars; but they have received an advantage in other respects. They have received an advantage from the augmentation of the wealth of the country thus caused. They are now realizing under the internal revenue laws an immense amount of money from month to month that would not otherwise have been derived from that part of our country. They have realized an immense augmentation of the military strength of the country by the grant, and in various other ways the Government have been advantaged. The whole consideration that they originally stipulated has been realized.

Then if this were intended to apply only to the railroad in Illinois, justice as it seems to me would require that the amendment should be rejected; but in striking at that company, you strike at all the railroad companies in the States I have named that have not the pecuniary ability to withstand the shock. And I may say to my friends from New England that their people are as deeply interested in this subject as ours in the Northwest. We derive a local advantage from the construction of these roads, but the money, the capital, is derived from their constituencies. A very large proportion of the money invested in these roads is derived from the old States; and if you enact laws



here that tend to depreciate the value of railroad stocks and railroad bonds, you strike at your own constituencies.

I do not believe that the Federal Government will realize any advantage from the amendment proposed, and in my judgment it will greatly damage the gentlemen who are now actively engaged in constructing these roads in the sparsely populated portions of the Northwest; and hence I must vote against the amendment and for the proposition of the Committee on Finance to strike out the proviso.

Mr. SAULSBURY. I do not know that what I rise now to say is entirely in order, but as the subject of these railroads is progressing with such rapid speed, I wish to say that I submitted a resolution a little while ago that was objected to and not considered, which contains certain statements of fact, and I now declare in the presence of the reporters and of the country, that if assurance can be given to the witnesses that the hand of military power will not be laid upon, but that they shall be allowed to give their testimony freely, I believe I can prove what is alleged in the resolution.

Mr. JOHNSON. I rise to a point of order.

Mr. SAULSBURY. You are too late, sir; I have done.

Mr. JOHNSON. I move that the Senate adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered; as being taken, resulted—yeas 12, nays 26; as follows:

YEAS—Messrs. Chandler, Grimes, Hale, Henderson, Howard, Johnson, Nesmith, Powell, Ramsey, Richardson, Sprague, and Wright—12.

NAYS—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Conness, Cowan, Dixon, Doollittle, Foot, Foster, Harlan, Harris, Hendricks, Howe, Lane of Kansas, Morgan, Nye, Sherman, Stewart, Sumner, Ten Eyck, Trumbull, Wilkinson, Wiley, and Wilson—26.

ABSENT—Messrs. Collamer, Davis, Farwell, Harding, Lane of Indiana, McDougall, Morrill, Pomeroy, Riddle, Saulsbury, Van Winkle, and Wade—12.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania to the amendment of the committee.

Mr. COWAN. I have but a word to say upon that question. Certain gentlemen mistake utterly and entirely the purport of this amendment and the spirit in which it was made. It is not made as a strike at the railroads at all. It is made, if possible, to reconcile all the various conflicting parties here upon some common ground, and to allow the question to go over to a future time for adjustment. Certainly it would be far better for the railroads to have this amendment as it is presented here than that they should have the proviso put in by the House of Representatives, or that they should have the action of the War Department, being paid under protest, with the threat of a suit hereafter. I am utterly astonished that they should object to this amendment. What does it do? It gives them a chance hereafter to have an adjustment of all these things which they now charge as reasons why they should not do this work for nothing.

Mr. HARLAN. If the Senator will allow me, I think it throws the additional doubt or protest of Congress against these railroads. We are told now that the Secretary of War authorizes the auditing and allowing of sixty-six and two thirds per cent. of the usual price paid on other railroads to these land-grant railroads; but he says in the contract that he does not decide their ultimate right to the money.

Mr. COWAN. He pays it every time under protest.

Mr. HARLAN. A legal protest will be the effect of the manner in which it is paid. The Senator from Pennsylvania proposes to remedy this by casting the additional protest of Congress against these railroads; for that is the effect of his amendment—that Congress does not admit the right of these railroads to receive anything. The Secretary of War does not admit their right, but pays them two thirds of what is paid to other railroads. Congress makes an appropriation.

Mr. COWAN. I did not yield to the honorable Senator to make a speech.

Mr. HARLAN. I desired to state the point of difficulty in my mind; but I will wait until the Senator is through.

Mr. COWAN. I do not wish to provoke debate. I offered the amendment in good faith to

reconcile two parties here. Here is a party on my right who insist that this is a subsisting contract, and ought to be enforced specifically now. Here is a party on the other hand who insist that the railroad companies should be released and discharged from it, and that the question should be decided now. The whole meaning of the amendment is to let the question go over for adjustment hereafter, when we shall have time to listen to all the parties and take everything into account.

Mr. HARLAN. I wish to be understood on this point. As before stated, the Secretary of War directs two thirds of the ordinary amount paid to other companies to be paid to these land-grant railroad companies, but does it under protest, not admitting on his part that they are entitled to anything. The Senator from Pennsylvania proposes to remedy that and make it better for the railroads by calling on Congress to say the following:

Shall be subject to future adjustment between the United States and said companies, it not being intended to admit the right of said companies to compensation for such transportation.

That is, he will throw the weight of the doubt of Congress into the scale also against the companies. If there is any doubt now in the mind of the Secretary, I do not wish to have that doubt strengthened by putting it into an act of Congress, and thus throwing the weight of the congressional doubt into the scale against these companies. That is the whole effect of the amendment he proposes. If it is doubtful now, let the companies remain under that doubt; let us not attempt to adjudicate against them, and throw a doubt on our part against them. As I think, they are not receiving any more than they ought to receive. The rate of compensation now being received was fixed early after the commencement of this war. It is much less, I believe, than the railroad companies charge private individuals for transporting like goods. It was fixed early in the war before the price of commodities had risen in the market and before the wages of employes had risen. It is two thirds of that low compensation that these land-grant railroads are now receiving under this decision of the Secretary of War. That is little enough, in my opinion.

Relief has been given to certain railroads in Missouri. I protested against that as partial two years ago. You passed a law granting them full compensation as fixed by the Secretary of War, making no deduction. I thought that was unjust to the railroad companies building railroads in Iowa running parallel with these Missouri roads, because they were to some extent in competition with each other in the money markets of the world. I thought it unjust to take money out of the Treasury and give it to them, which was not given in like quantity to the railroad companies in Iowa that were rival companies. But now the Senator from Pennsylvania proposes to throw additional burdens on these people who are now in the market buying iron at the immense price that it bears, and hiring men at the high wages that labor commands in the market, to throw additional doubt on their right to this trivial compensation, to throw these additional burdens on them when they need assistance most. It seems to me it will be very unfair to these companies to adopt this amendment. It certainly will not have the effect the Senator supposes, but the reverse.

The question being taken by yeas and nays, resulted—yeas 9, nays 27; as follows:

YEAS—Messrs. Anthony, Cowan, Foot, Howard, Johnson, Nesmith, Sherman, Ten Eyck, and Wade—9.

NAYS—Messrs. Brown, Buckalew, Carlile, Clark, Conness, Dixon, Doollittle, Foster, Hale, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Kansas, Morgan, Nye, Powell, Richardson, Saulsbury, Sprague, Stewart, Sumner, Trumbull, Wiley, Wilson, and Wright—27.

ABSENT—Messrs. Chandler, Collamer, Davis, Farwell, Grimes, Harding, Lane of Indiana, McDougall, Morrill, Pomeroy, Ramsey, Riddle, Van Winkle, and Wilkinson—14.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question returns on the amendment reported from the Committee on Finance.

Mr. HALE. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. HOWARD. I cannot vote for this amend-

ment. I prefer rather to hold these various companies to the bargain which they have made, by accepting the grants of land from Congress in the terms in which they are made. I hold it to be the duty of these companies under the statutes granting the lands to do the transportation of the troops and property of the United States whenever they are called upon to do that act. I can give this clause in the statute relating to the Illinois Central railroad and to the various other railroads no other interpretation; and I am convinced that if this question shall ever be raised fairly and squarely in a properly enlightened court of justice or equity, that that will be the decision of the tribunal, and that they will be held to do that transportation free of charge of any kind whatever.

My friend from Illinois differs with me in opinion as to the construction to be given to this clause of the act, and insists that the whole extent of the privilege retained by the United States is that of running their own cars over the mere track of the road after it shall have been constructed by the company, and of course running their own cars at their own expense and by employes paid by themselves, and consequently by no means under the control of the company itself who owns the track of the road. It seems to me that this construction of the act is entirely destructive of the purpose and object of the act itself. Why, sir, it says to the United States, when it presents its regiments, its brigades, its divisions, and its corps of the Army to be transported from one place to another for the purpose of prosecuting this war, "True, you are permitted by the act of 1852 to place your men in your own cars and place your cars thus loaded upon our track, and when you are on our track it is your privilege to pass your men to this or that or the other point, wherever you are going; but if you use our cars and not your own, you must pay us whatever amount of charges we may see fit to impose, and the whole extent of your exemption is that you need not pay for the rolling of the iron wheels upon the iron tracks."

I can give the act no such absurd construction. I am willing to say that if a case shall arise which shall operate hardly and severely upon the companies who are called upon to do this transportation that it would be a debt of honor on the part of the United States to relieve them from that hardship; but when it is put to me as a matter of law, as it is now put, that these companies are exempted from the duty of transporting our troops and goods free of charge as part and parcel of the consideration of the land which we have given to them, I cannot pass it by and by my vote admit that they owe no obligation except that of merely the privilege of passing over the iron track.

It is said by my honorable friend from Iowa that we are making a thrust at the credit of the railroads themselves when we propose to retain to ourselves the rights which we claim were retained by the acts of Congress. I do not understand that we are making any thrust at the credit of the railroads. We are simply holding the railroads which now exist, and those which may hereafter exist, to the bargain which they have made with us. If we find it a hard bargain, and desire relief, let them come and present their applications to Congress, and we will relieve them; but I do not feel justified, by the erasure of this provision from the bill, in suffering the state of things which has existed heretofore still to exist in the War Department. I do not feel that it is our duty to suffer the Secretary of War to proceed and pay these roads whatever sum he may see fit to pay them for the transportation of troops and goods upon their road, which, in my judgment, ought to be transported free of all charge. If we suffer this to go on further the railroads will turn around upon us and say, not only with plausibility, but with legal force, that having had all these facts before our eyes, and having suffered this state of things to exist, and suffered our Secretary of War to settle and pay these roads, it is our duty still to continue to pay them; that we have acquiesced in this absurd construction of the acts of Congress; in short, that we have waived all objection to their claim, and are therefore bound by it. I choose to reserve my rights. I am willing to be liberal and fair with the roads; but I will not give up what is to me an obvious

construction of an act of Congress merely for the sake of peace and quiet with these corporations or any other corporations.

The question being taken by yeas and nays, resulted—yeas 30, nays 5; as follows:

**YEAS**—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Conness, Cowan, Dixon, Doolittle, Foster, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Kansas, Morgan, Nye, Powell, Ramsey, Richardson, Sherman, Sprague, Stewart, Sumner, Trumbull, Wilkinson, Willey, Wilson, and Wright—30.

**NAYS**—Messrs. Farwell, Hale, Howard, Nesmith, and Wade—5.

**ABSENT**—Messrs. Chandler, Collamer, Davis, Foot, Grimes, Harding, Harris, Lane of Indiana, McDougall, Morrill, Pomeroy, Riddle, Sautsbury, Ten Eyck, and Van Winkle—15.

So the amendment was agreed to.

**Mr. TRUMBULL.** I offer the following amendment as an additional section:

*And be it further enacted, That all laws and parts of laws which give additional pay or rank to officers of the regular Army over officers in the volunteer service of the same rank are hereby repealed.*

**Mr. WILSON.** I would like to have the Senator explain that amendment. I do not understand the purport of it.

**Mr. TRUMBULL.** The object of it is to break down the distinction between the officers of the regular Army and the officers in the volunteer service. I hope we may go even further than this. I want the distinction between the officers in the volunteer service of the United States and those in what is called the regular Army abolished; and this is one approach toward it. There is a sort of feeling in the Army, which I think has been very prejudicial to the public service, arising out of these two organizations; and I think if the chairman of the Committee on Military Affairs will mature a bill that shall break down all distinction between the regular forces, so-called, and the volunteer forces who have become regular forces, that we shall accomplish a great object. This is the beginning of it. I wish now to start and destroy the distinction as to pay or as to rank in consequence of a man's being in the regular service. If a man is in the volunteer service who has been a colonel just as long as one in the regular service has been a colonel I want them to rank together. I do not want a junior regular officer to outrank a senior volunteer officer.

**Mr. NESMITH.** I should like to ask the Senator one question: what distinction is there between officers of the regular and volunteer service of the same rank now?

**Mr. TRUMBULL.** The distinction is this: that if there are two officers of the same rank the regular officer takes command of the volunteer. The distinction is again this: where a regular Army officer is brevetted, and has a command corresponding to his brevet rank, he has the pay of the rank to which he is brevetted; and where a volunteer officer is brevetted and performs the duties appertaining to the brevet rank, he does not get the pay. I want to break down all such distinctions.

**Mr. ANTHONY.** How does this amendment work? Does it take away the pay from the regular officer, or give it to the volunteer officer?

**Mr. TRUMBULL.** It puts the regular officer on the same footing with the volunteer, and it takes the pay from the regular officer.

**Mr. WILSON.** I do not understand that there is any distinction now between the regular officer and a volunteer officer in any respect whatever. We passed an act the other day providing that there should be none.

**Mr. WILKINSON.** Then there is no objection to this amendment.

**Mr. WILSON.** I have no objection to it except that there is no distinction whatever between them in regard to pay, rank, or emoluments.

**Mr. WILKINSON.** This will do no harm. The *PRESIDENT pro tempore.* The question is on the amendment of the Senator from Illinois.

**Mr. HALE and Mr. WILKINSON** called for the yeas and nays; and they were ordered.

**Mr. DOOLITTLE.** I am in ignorance upon this subject. I do not know wherein a regular officer is paid any more than a volunteer officer of the same rank.

**Mr. TRUMBULL.** I have stated that he is in case of brevet rank.

**Mr. DOOLITTLE.** Is that the only case? I

will yield to any one who will give me information on the subject.

**Mr. BROWN.** I suggest to the Senator from Wisconsin that there is a difference, by the construction of the War Department. Where brevets are given to officers in the regular Army they carry with them pay; but they do not carry pay when they are given to volunteer officers.

**Mr. WILSON.** We have abolished that distinction.

**Mr. BROWN.** We abolished it, I believe, by passing a bill to that effect through the Senate; but it has not passed the House of Representatives, if I am correctly informed.

**Mr. WILSON.** It was provided for in the report of the committee of conference which we acted upon a day or two ago, and it is now settled.

**Mr. BROWN.** I was not aware of that fact.

**Mr. SHERMAN.** If that is the case, I ask the Senator from Illinois what is the object of the amendment?

**Mr. TRUMBULL.** That is one case; but I understand this also to be the construction at the Department, that a regular officer commands a volunteer Army officer of the same date of commission, and I do not know but even when he is of junior date; but according to my understanding—and if I am misinformed I shall be glad to be corrected—if there are two officers of the same date of commission, one a volunteer officer and one in the regular Army, the regular Army officer takes command as a matter of course.

**Mr. WILSON.** And he ought to do so if he has been in the service longer. Here is the law and the rule laid down in the regulations:

*"When commissions are of the same date, the rank is to be decided between officers of the same regiment or corps by the order of appointment; between officers of different regiments or corps: first, by rank in actual service when appointed; second, by former rank and service in the Army or Marine corps; third, by lottery among such as have not been in the military service of the United States. In case of equality of rank by virtue of a brevet commission, reference is had to commissions not brevet."*

If a man is appointed in the regular Army a captain, and on the same day a man is appointed a captain in the volunteers, and they happen to meet, neither of them ever having served at all, it is settled by lottery; but if the regular officer has been in the service before in some other rank, of course he outranks and takes command of the volunteer officer. There is a perfect equality in rank, pay, and emoluments between the officers of the volunteers and the regular Army under the bill that we passed the other day.

**Mr. RICHARDSON.** The reason that induces me to favor this amendment is this: it will place these officers upon precisely the same footing hereafter. Gentlemen say there is no difference now. I understand this to be the case: you take an officer from civil life and appoint him in the regular Army; he has never seen service; and you place him above the officers who are sent from your States in the volunteer service, who have raised companies and regiments and brought them into the field, and rendered the country more service than those who have received the mere appointment from the President.

**Mr. NESMITH.** I desire to say to the Senator from Illinois that no officers are appointed to the regular Army from civil life.

**Mr. RICHARDSON.** The Senator no doubt thinks that is so; but we confirmed the other day a lieutenant in the regular Army, from the Pacific coast, from civil life.

**Mr. NESMITH.** He was not taken from civil life. He was in service in the volunteers at the date of his appointment.

**Mr. RICHARDSON.** I believe the law now requires that men shall be appointed from the service into the regular Army; but, sir, one half, yes, two thirds, of the officers in the regular Army, so called, to-day, come from civil life. I know a great number of them myself.

**Mr. TRUMBULL.** If my colleague will allow me, I think I can read from the same book from which the chairman of the Committee on Military Affairs read, what will satisfy him. I will read a single sentence:

*"Officers serving by commission from any State in the Union take rank next after officers of the like grade by commission from the United States."*

I should think that was pretty clear.

**Mr. RICHARDSON.** That was the very pur-

pose I had. It was to place our volunteer officers on precisely the same footing as officers that were appointed by the President of the United States.

I desire to state another thing, that Senators may have no misapprehension as to my position. I state here distinctly that no army ought to be confided to the command of any man who had not received military education along with military service. Men may be of equal ability, but when you come to apply the education to the service of the country, it is of vast importance; and I have not been, and am not now, for placing the volunteers any further than it is necessary to do in the command of armies. I think it would be far preferable, if we had the material, to make our colonels of regiments even from the regular Army. But, sir, there is no reason why you should take a civilian and place him in the regular Army, and give him advantages over the civilian who is elected by his regiment and goes into the field after he has performed service.

**Mr. NESMITH.** The regulations of the Army provide that when officers of the same rank are brought into contact, their commissions being of the same date, some one must be selected to command. That establishes the rule. The officer who has seen the longest service, without reference to their present position, supersedes and takes command of the officer who has been most recently appointed. That distinction is established between the regulars and the volunteers; or, in the language of the article of the regulations which the Senator from Illinois has read, where an officer of the United States Government, commissioned by the United States Government, and an officer of a State government come together, the officer of the United States shall take the command, on the supposition that he has been longer in the service. It is a general rule which applies to everybody. I suppose practically it has not been resorted to perhaps half a dozen times during the present war. Not a single instance occurs to me now where an officer of the regular Army and of the volunteer force of the same date of commission have been brought in contact, and where a conflict of jurisdiction or as to the right to command has arisen. I think, as a matter of expediency, where two officers are brought together with the same date of commission, the presumption of capacity and ability is in favor of the officer who has been the longest in the service. I do not think the question ought to be meddled with or any change made.

**Mr. TRUMBULL.** I desire slightly to modify the amendment which I offered, by adding the words "or regulations of the War Department." The amendment provides that all laws or parts of laws giving precedence to regular Army officers over those in the volunteer service shall be repealed. I wish to modify it by adding, "or regulations of the War Department," so that it will read:

*And be it further enacted, That all laws and parts of laws, or regulations of the War Department, which give additional pay or rank to officers of the regular Army over officers in the volunteer service of the same rank, are hereby repealed.*

**Mr. SPRAGUE.** I think this is too important a measure to be discussed or be decided with so limited a number of Senators present; and therefore I move that the Senate do now adjourn.

**Mr. SHERMAN.** Upon that I wish to say it is so important a proposition that the chairman of the Committee on Military Affairs tells us it is now the law; and there is no difference between the two gentlemen except that one insists there is a military regulation that in a certain case may possibly give a preference to a regular officer. I do not think we are required to delay action on this important bill by the pending amendment. I hope, therefore, the Senator from Rhode Island will withdraw his motion, and let us take a vote and pass the bill. I do not wish to stand in the way of other Senators on Monday.

**Mr. SPRAGUE.** I withdraw the motion.

The *PRESIDENT pro tempore.* The motion to adjourn is withdrawn; and the question returns on the amendment offered by the Senator from Illinois.

**Mr. CONNESS.** I am at a loss, and ask the Senator from Illinois to enlighten me, in regard to the amendment. Suppose there shall be a volunteer officer and an officer holding rank in the regular Army, of equal grade and equal time of commission, and they shall appear in a given

place, and it shall become necessary for one of them to take command; there is a command that both cannot exercise, and therefore there is a necessity that one of the two shall be designated; is it not necessary that there shall be a rule on the subject?

Mr. TRUMBULL. This amendment does not repeal the rule. I would leave the question to be decided just as if two officers of the regular Army met, of the same date of commission. The regulations provide for settling that. All that my amendment provides is, that because the one man is a volunteer he shall not necessarily be put under the regular officer, and that the question shall be settled the same as it is between regular Army officers.

Mr. CONNESS. Then my objection to the amendment is this: although it may be true, as stated by the Senator from Illinois, [Mr. RICHARDSON,] that some civilians were appointed from civil life into the regular Army, yet the regular Army contains all the persons that we educate at West Point; and, as a general rule, it is more safe that they should outrank and take command, when there is an equality of rank otherwise, than that the volunteer should take it. The passage of an amendment of this kind would be a discrimination against them. If it can be held that it would not be a discrimination against them, then it is an unnecessary offense offered to them, and therefore it is objectionable to me.

Mr. RICHARDSON. I desire to say a single word in reply to the suggestion of the Senator from California. I would place General Hancock by this provision in the regular Army precisely as he is to-day in the volunteer service. He is, I apprehend, one of the most splendid officers in our Army. He is a major general of volunteers, and he is commanded to-day by his juniors who are in the regular Army, who have graduated long since he has, and seen less service than he has. This is what the amendment of my colleague does; and it does nothing more. It leaves the regular officers in the Army, whether they are major generals of volunteers or of the regular Army, to assume the position precisely that they have occupied and ought to occupy from the date of their commissions and from the term of service.

Mr. WILSON. That is the case at the present time so far certainly as General Hancock is concerned. General Hancock is appointed by the Federal Government, nominated by the President and confirmed by the Senate. If he meets a major general of the regular Army of the same date of commission the question as to who shall command is to be settled according to the rules; but there is a provision, and I think it is a new one that has been adopted since the commencement of this war—

Mr. WILKINSON. It is an old one.

Mr. WILSON. I say I think the rule is a new one, for this reason: I was present early in the war when this question was discussed, and the doctrine was maintained by General McClellan and other general officers that there was no distinction whatever between the volunteer and regular officer, and that commissions dating on the same day must be governed by the same rule. The rule, as I have stated it, applies certainly to the regular Army. The ninth section referred to by the Senator from Illinois does subordinate the man bearing a commission from a State to a man bearing a commission from the Federal Government; and as a general rule it would be best for the service of the country that it should be so. I agree with the remark made by the Senator from California, and there is no doubt or question on that point, I think.

Mr. WILKINSON. I think the chairman of the Committee on Military Affairs must certainly be mistaken in his recollection. I offered a bill at an early period of this war to bring about this very result.

Mr. WILSON. For the consolidation of the two?

Mr. WILKINSON. No, sir; but to abolish the distinction between the regular and volunteer armies of the Union. I was called upon by several prominent military men in regard to it, and they stated the rule precisely as I understand it, and as it appears from the regulations as read by the Senator from Illinois, that where two officers came together of equal rank, and their commis-

sions were of the same date, the regular officer took the command. I think that distinction ought to be abolished. I can see no reason why a clerk who has been kept in the War Department with the rank of brigadier general through this entire war should rank General Terry, after the military talent which he has displayed in the field. I do not believe in it.

Mr. POWELL. I am very decidedly of opinion that the proposition of the Senator from Illinois should not be adopted. It seems that now, according to the laws and regulations, if two officers of the same rank meet and their commissions are of even date, the officer of the regular Army is to take command. I certainly think that is right and proper. General Hancock, who has been mentioned by my friend from Illinois, and who is certainly one of the ablest and most accomplished of our Army, is a brigadier general in the regular Army and also a major general of volunteers. Suppose his commission as major general of volunteers, and that of General Butler, the hero of Fort Fisher, should bear equal date, and those two men were to meet on the field of battle, do you not think General Hancock ought to take command? He would do it under the regulations as they now stand; and I say it is right that he should do it, because he is a regular soldier.

I am therefore opposed to the amendment proposed by the Senator from Illinois. I think the law is right as it stands. This art of war is one that requires not only education but very great capacity. It is not more than once in a century that the world looks upon a truly great military chieftain. He must have great natural abilities and then he must have a military education. It requires the very largest experience and the most extensive education to be a great general. The very idea that you should pass a law that regular officers, whose trade is war, who are educated in all the art of war, should have no preference over volunteer officers when their commissions are of equal date, and when perhaps the volunteer officers only receive their commissions the day before yesterday, in my judgment is absurd. I think the regular and educated Army officer, he who has been trained to arms and seen service, if he meets a volunteer officer on the field of equal rank, should take command, particularly if their commissions are of even date.

Mr. RICHARDSON. The Senator from Kentucky, by voting against this proposition, does not accomplish what he seeks to accomplish.

Mr. POWELL. That will leave the law as it is.

Mr. RICHARDSON. He thinks it would be dreadful if a civilian should command a regular officer.

Mr. POWELL. If my friend will allow me, I did not say it would be dreadful; but I think it would be bad policy, where a regular officer and a volunteer officer of equal rank and whose commissions are of the same date meet on the field, not to allow the regular officer to command. If the volunteer was a major general and the regular officer a brigadier general, then I would allow the volunteer officer to command him.

Mr. RICHARDSON. If you pass the amendment of my colleague you do away with that difficulty. Major General Butler would command General Hancock if they were to meet on the field to-day. Pass this amendment, and if they meet to-morrow Major General Hancock would command General Butler.

Mr. WILSON. No, sir; I beg your pardon.

Mr. RICHARDSON. I beg the Senator's pardon.

Mr. WILSON. It does not alter the case at all; it does not touch it.

Mr. RICHARDSON. I will state to the chairman of the committee that a little experience in this matter is worth a great deal of theory. When you come to settle the rank of officers of the same grade you look back to the prior service, and that would give General Hancock the command to-morrow.

Mr. WILSON. If the Senator will allow me, as General Butler is referred to—

Mr. RICHARDSON. Only for illustration.

Mr. WILSON. I think General Butler is the third major general in the service of the United States. He outranks General Hancock, and there is no law and no change that can be made that could put General Hancock over him.

Mr. NESMITH. The Senator from Illinois is proceeding upon the hypothesis that Butler and Hancock were major generals of the same date of commission.

Mr. RICHARDSON. Yes, sir. It is for the purpose, I have stated heretofore, to show that there is no reason why, because a man is designated as belonging to the regular Army in the particular commission he holds, he should rank an officer of equal skill and equal ability who had seen more service, because he was designated as belonging to the volunteers.

The question being taken by yeas and nays, resulted—yeas 15, nays 12; as follows:

YEAS—Messrs. Brown, Clark, Farwell, Harlan, Eward, Howe, Morgan, Nye, Ramsey, Richardson, Sherman, Stewart, Sumner, Trumbull, and Wilkinson—15.

NAYS—Messrs. Anthony, Buckalew, Conness, Doolittle, Foster, Henderson, Nesmith, Powell, Sprague, Willey, Wilson, and Wright—12.

ABSENT—Messrs. Carlile, Chandler, Collamer, Cowan, Davis, Dixon, Foot, Grimes, Hale, Harding, Harris, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Pomeroy, Riddle, Sausbury, Ten Eyck, Van Winkle, and Wade—23.

So the amendment was agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in, and ordered to be engrossed. The bill was ordered to be read a third time; and it was read the third time, and passed.

#### SENATORS FROM LOUISIANA.

Mr. TRUMBULL. The Committee on the Judiciary, to whom were referred the credentials of Charles Smith and R. King Cutler, claiming seats as Senators from the State of Louisiana, have instructed me to make a report on the subject, accompanied by a joint resolution. I move that the report be printed.

The motion was agreed to.

The joint resolution (S. No. 117) recognizing the government of the State of Louisiana was read a first time by its title.

Mr. SUMNER. I ask for the reading of the resolution at length.

The Secretary read it, as follows:

*Resolved, &c.,* That the United States do hereby recognize the government of the State of Louisiana, inaugurated under and by the convention which assembled on the 6th day of April, A. D. 1864, at the city of New Orleans, as the legitimate government of the said State, and entitled to the guarantees and all other rights of a State government under the Constitution of the United States.

Mr. POWELL. I merely wish to remark at this stage of the proceedings that as a member of the Judiciary Committee I was opposed to the report and the resolution.

Mr. SPRAGUE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, February 18, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THERSH.

The Journal of yesterday was read and approved.

#### PACIFIC RAILROAD.

Mr. COLE, of California. I ask the unanimous consent of the House to report from the select committee on the Pacific railroad a bill to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864. It will take but a few moments to pass upon.

Mr. WILSON. I object to its consideration at this time.

Mr. COLE, of California. The bill only extends the time for the completion of a certain part of the road for six months, and I have been directed, unanimously by the committee on the Pacific railroad to report it and put it upon its passage.

Mr. WILSON. I will not object if the bill is reported and its consideration postponed so that we may examine it.

The SPEAKER. The Chair will state that postponements will be hard to reach during the remainder of this session.

Mr. COLE, of California. It might be made a special order.



The SPEAKER. Other special orders will antedate it. Business has been assigned for each day for nearly a week ahead.

Mr. WILSON. Let the bill be received, ordered to be printed, and a motion entered to reconsider.

Mr. COLE, of California. Very well.

There was no objection, and it was ordered accordingly.

#### RESOLUTIONS OF THE STATE OF MICHIGAN.

Mr. BEAMAN, by unanimous consent, presented the following resolutions of the State of Michigan; which were laid on the table, and ordered to be printed:

In relation to the improvement of the mouth of the Saginaw river;

Instructing the Senators and requesting the Representatives to urge upon the General Government the necessity of establishing a general naval recruiting and muster-in office for the State of Michigan;

Asking the General Government for a grant of land to aid in the construction of the Mineral Range railroad;

Asking an appropriation of lands by Congress for the construction of a wagon road from Escanawba to Sault Ste. Marie; and

Requesting the members in Congress to call attention of the General Government to the importance of the construction of light-houses and fog-bells on the straits of Michilimackinac.

#### RATIONS OF SOLDIERS.

Mr. INGERSOLL, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs are hereby directed to inquire into the expediency of reporting a bill providing that in all cases where less than full rations are issued to the soldiers they shall be paid the value of such deficit in cash.

#### DISABLED REGIMENTAL SURGEONS.

Mr. INGERSOLL, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for the transfer of such efficient and competent regimental surgeons, who have been wounded or disabled while in the line of their duty to such an extent as to render them unfit for service in the field, to duty as post or hospital surgeons.

#### PRINTING A BILL.

Mr. ASHLEY. I am instructed by the select committee on the rebellious States to ask for the printing of a substitute for the reconstruction bill, which will be acted on on Monday.

No objection being made, the substitute was ordered to be printed.

#### CONTINENTAL HOTEL COMPANY.

Mr. ASHLEY, by unanimous consent, introduced a bill to incorporate the Continental Hotel Company of the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### WAGON ROADS IN TERRITORIES.

Mr. ARNOLD, by unanimous consent, from the Committee on Roads and Canals, reported back a bill (H. R. No. 752) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; which was read, and recommended to the Committee on Roads and Canals.

Mr. ARNOLD. I move to reconsider the vote by which the bill was recommitted.

The SPEAKER. The motion will be entered.

#### TAX BILL.

Mr. SCHENCK. I demand the regular order of business.

The SPEAKER. When the House adjourned last evening, the previous question was seconded and the main question ordered to be put on the amendments reported from the Committee of the Whole on the state of the Union on the tax bill.

Mr. MORRILL. Before the question is taken on these amendments, I desire to say a few words.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Vermont that the Clerk read over the amendments first, and pass upon the informal ones, and by that time members will be in, when he can make his remarks before taking the vote on the important amendments.

Mr. MORRILL. I have no objection.

Mr. GANSON. I suggest that the amendments be read over, and that all amendments upon which a separate vote is not required by some member shall be considered as passed. The gentleman from Vermont can then submit his remarks, and the House proceed to consider the amendments upon which a separate vote is demanded.

No objection being made, the proposition was agreed to.

The Clerk proceeded to read the amendments reported from the Committee of the Whole on the state of the Union, and they were all agreed to, except those upon which a separate vote was demanded. Such amendments will appear below.

Mr. MORRILL. I do not propose to detain the House more than five minutes. I desire to have a separate vote on the amendment relating to the tax on beer and ale, because I think that when the House considers it they will conclude that the proposition of the Committee of Ways and Means is no greater hardship, at least, in reference to that article, than the tax already imposed upon whisky, with which it competes.

In relation to section one hundred and three of the tax bill, as amended by the gentleman from Wisconsin, [Mr. BROWN,] I will say that it includes altogether too much even for his own purpose, which was to relieve vessels engaged in the lake trade. It will reduce the tax upon railroads from five per cent. to two and a half, and I take it that is not the purpose of any portion of the House. Whatever may have been proper to have done in relation to canal-boats and vessels engaged in our coasting trade, certainly this amendment is altogether wrong. I should be willing to accede to the proposition to make some amendment in relation to the lake, coasting, and canal business, and I have no doubt such amendment will be made in the Senate. It will be time enough to consider that subject when we shall have considered the tariff question; and I presume the suggestion of the gentleman from Maine [Mr. PIKE] will be adopted by this House, by imposing a tonnage duty upon at least all sailing vessels.

Mr. PIKE. Why not let it go to the Senate?

Mr. MORRILL. Because I consider that no man in this House would be willing to commit himself to the proposition now before the House, as it embraces entirely too much, and proposes one thing in order to obtain another.

In relation to the tax on sales, I merely desire to call the attention of the House to the subject for a single moment. I think we may very well bear the restriction of the tariff upon foreign trade upon the boundaries of our country; but within the vast area of the United States, it is vitally important that we should leave our own domestic trade free. Unless we do that, in my judgment, it will immediately cripple the industry and productions of the country. It is a tax which I do not believe such taxation would stand longer than the first day of the next session of Congress, if it should be imposed; and I say this, although I am as anxious as any man can be to increase the revenue of the Government at the present time.

There was another amendment introduced by the gentleman from Indiana [Mr. HOLMAN] not now in his seat, in relation to the stamp tax upon land conveyances. I do not think that there can be any doubt about our power to impose the forfeiture. The law as it now stands is well enough, and it will be found in this proviso:

*Provided*, That the title of a purchaser of land by deed duly stamped, shall not be defeated or affected by the want of a proper stamp on any deed conveying said land by any person from, through, or under whom his grantor claims or holds title."

It is only necessary to make out a new conveyance with the proper stamp to make good any title granted without such a stamp. I trust that neither the amendment of the gentleman from Indiana, [Mr. HOLMAN,] nor that of the gentleman from Pennsylvania, [Mr. THAYER,] will be adopted. I believe that it is far better to maintain the existing law, as it is now getting to be understood by our people, than to make these repeated changes without sufficient cause. There is no general complaint in relation to this matter.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. MORRILL. Certainly.

Mr. THAYER. If the gentleman is in favor of maintaining the existing law, I would like to

ask him why he is in favor of passing every year a remedial act which is in the face of the existing law, and which gives, contrary to the existing law, validity to instruments from which the stamps have been omitted.

Mr. MORRILL. That has been rendered necessary in consequence of the ignorance of the people that we had a stamp law. When it shall come to be thoroughly understood here in this country as it has long been in England that all of these instruments must have a stamp, it will then be possible for us to remove the severity of the penalties that are now imposed. But if it is the purpose of Congress to collect any considerable duty upon stamps, it is indispensable that we shall maintain this provision. I think it would at least rob us of half our revenue. Parties in business who could rely upon the honor of one another that they would take no advantage of the penal statute would, of course, go on with all kinds of business and there would be no remedy for it; we should be utterly incapable of enforcing any penalty upon parties who might have ever so numerous transactions daily, each one relying upon the honor of the other that they would not be pursued by any penalties, and thereby the Treasury would suffer, as I think, immensely.

Now, Mr. Speaker, there is another amendment offered by the gentleman from Pennsylvania, [Mr. STEVENS,] and there is no man in this House who has a more hearty admiration for the vigorous intellect of the gentleman from Pennsylvania than myself; but I will say, as he said of me yesterday, that if this proposition had not been presented by him, I would have regarded it as absurd.

Mr. Speaker, when a patient becomes so low as to adopt quack medicines, his case becomes a desperate one, and I regard this measure as very much in the nature of a quack medicine. Let me call the attention of the House for a single moment to the utter absurdity of this proposition.

The gentleman proposes to tax all sales of gold unless it be for the purpose of paying duties or for exportation. That would prevent even the miner from selling the coin which he produces. It would operate mischievously in all of our gold and silver-producing States, where they have no currency but gold and silver, and all business is conducted on the basis of coin.

Mr. STEVENS. I have already modified it so as to except "miners of the precious metals." And the gentleman will allow me to say that I intend to ask liberty before the vote is taken to modify it so as to suit my own absurd notions. [Laughter.]

I propose to add the following:

Nor to any person who has received gold or coin for interest on the public debt and sells the same, nor which was received in the regular course of business other than by traffic in coin for speculative purposes.

Mr. MORRILL. I do not know what the gentleman from Pennsylvania proposes to do. I must take the bill as I find it.

Now, sir, suppose that a jeweler desires to purchase coin for the making of silver spoons for a girl about to be married, under this bill there would be the penal sum of ten per cent. imposed upon the purchase. So, too, the dentist could not buy coin or gold for the manufacture of teeth without paying this penalty. The use of the precious metals except for duties on imports and for exportation would be prohibited. The gold-leaf manufacturer would be taxed out of existence, and so of all others who make use of silver in the manufacture of plate, trimmings, &c.

The gentleman has stated that the revenue to be derived from this source would amount to \$3,000,000 per day if the whole tax should be collected. Now, if that idea should be adopted, of course we would collect \$1,095,000,000 a year on this article!

Mr. Speaker, I trust that the vote to-day will show that the vote given on yesterday was given in mere good nature, and that when we come to record our serious opinion, it will not go on to the record for any such proposition as this. We have tried these extravagant penalties, and they have miserably failed as they always will. A tax of \$1,000 is imposed for a license as a gold and bullion broker. We imposed such a license tax as that upon that unpopular class of our community who deal in lottery tickets, and it was found utterly impossible to enforce it; we cannot impose

any such duties upon officers who can be made to obey them. The parties will never be reached. Many of the men engaged in the business of brokers are as high-minded and as honorable as any to be found in our whole country. We all remember the distinguished gentleman from New York, a member of this House at the last session of Congress. I do not suppose it to be the intention of the gentleman from Pennsylvania to reach such parties, and yet I do not see how they can escape.

Mr. Speaker, I am gratified that the House has with so much unanimity agreed upon a bill which I think will be efficient and capable of sustaining the Treasury in this its greatest hour of need. I trust that we shall have nearly if not quite a unanimous vote for this increased taxation. I believe that this is a step in the right direction to reduce the price of coin; and when we have adopted the true remedy I hope we shall not pursue any that is false.

Mr. STEVENS. I ask unanimous consent now to modify my amendment before the vote be taken on it.

Mr. BROOKS. I object. Let us take the whole medicine at once.

Mr. MORRILL. I hope the gentleman will be allowed to modify it.

Mr. STEVENS. Then I move to reconsider the vote by which the main question was ordered.

Mr. KERNAN. I concur in that, if we can get a separate vote also on section eleven.

Mr. STEVENS. I hope the gentleman from New York [Mr. Brooks] will not put me to the necessity of moving to reconsider. If he does, I will make the motion.

The SPEAKER. The ordering of the main question cannot be reconsidered at this time, it having been partly executed. The rule is that it is not in order to move a reconsideration of the vote ordering the main question when it is partly executed. This has been partly executed; and it is therefore not in order to move its reconsideration, a number of amendments having been passed upon under the operation of the previous question.

Mr. STEVENS. I will have my amendment modified in the Senate if it pass the House.

The House then proceeded to the consideration of the amendments reported by the Committee of the Whole on the state of the Union on which separate votes had been demanded, as follows:

#### Sixth amendment:

Strike out the following paragraph:

That section sixty-four be amended by striking out "one dollar," wherever it occurs, and inserting in lieu thereof the words "one dollar and fifty cents."

The section to which the paragraph refers is as follows:

Sec. 64. *And be it further enacted*, That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity, or for fractional parts of a barrel, which shall be brewed or manufactured and sold, or removed for consumption or sale, within the United States or the Territories thereof, or within the District of Columbia.

Mr. MORRILL called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 68, not voting 42; as follows:

YEAS—Messrs. James C. Allen, Allison, Ancona, Arnold, Ashley, Augustus C. Baldwin, Bliss, Blow, Brooks, James S. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Dumont, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Charles M. Harris, Herick, Hutchins, William Johnson, Kalbfleisch, Kasson, Kelley, Kernan, King, Knapp, Lazear, LeBlond, Long, Mallory, Marcy, McAllister, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Pendleton, Pruyn, Radford, James S. Rollins, Ross, Spalding, Starr, John B. Steele, William G. Steele, Stuart, Townsend, Wadsworth, Ward, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Winfield, Fernando Wood, and Yeaman—72.

NAYS—Messrs. Ames, Anderson, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Deming, Dixon, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Julian, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smith, Smithers, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Woodbridge, and Worthington—68.

NOT VOTING—Messrs. William J. Allen, Alley, Blair, Henry Winter Davis, Dawes, Donnelly, Frank, Grinnell, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Higby, Holman, Hotchkiss, Jencks, Philip Johnson, Knott, Law, McBride, McDowell, McJode, McKimney, Middleton, Nelson, Orth, Perry, Price, Samuel J. Randall, Robinson, Rogers, Scott, Sloan, Stiles, Strouse, Sweet, Voorhees, Webster, Chilton A. White, Windom, and Benjamin Wood—42.

So the amendment was adopted and the paragraph was struck out.

Pending the roll-call,

Mr. COBB stated that his colleague, Mr. McINDOE, was absent on account of sickness, and his colleague, Mr. SLOAN, absent on account of sickness in his family.

Mr. ALLISON stated that his colleague, Mr. GRINNELL, was absent on account of illness.

Mr. BAXTER stated that Mr. ORTH was absent on account of illness.

The result was announced as above recorded.

Mr. ANCONA moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### Eighth amendment:

In paragraph forty-nine, insert after the word "manufacturer" the words "and no other;" so that it will read:

49. Miners shall pay for each and every license the sum of ten dollars. Every person, firm, or company, who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having taken out a license as a manufacturer, and no other, shall be regarded as a miner under this act.

The amendment was rejected.

#### Ninth amendment:

In paragraph fifty-one, after the word "license" insert the words "and, in addition thereto ten dollars for every substitute procured by them and actually mustered into the service of the United States;" so that it will read:

51. Substitute brokers shall pay \$100 for each and every license, and in addition thereto ten dollars for every substitute procured by them and actually mustered into the service of the United States. Every person who shall furnish, or offer to furnish, for pay, fee, or reward, volunteers, representative recruits, or substitutes for men drafted, or liable to be drafted, for the military or naval service of the United States, shall be deemed a substitute broker under this act.

The amendment was adopted.

Mr. SHANNON. I move to reconsider the vote by which the eighth amendment, on page 11, to insert the words "and no other" in relation to the tax or license upon miners, was inadvertently non-concurred in. The House evidently did not understand the amendment.

Mr. MORRILL. It makes no difference. It only makes the language awkward, without adding to its sense.

Mr. SHANNON. It does make a great deal of difference with some assessors and collectors. It does not change the provision at all; it simply makes the law explicit and plain, so that every man can understand it.

The motion to reconsider was agreed to.

The amendment was then concurred in.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Clerk, informed the House that the Senate had passed a concurrent resolution against any recognition of the rebel debt or loan under any circumstances; in which he was directed to ask the concurrence of the House.

Also that the Senate had passed, with amendments, in which he was directed to ask the concurrence of the House, House bills of the following titles:

An act (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866; and

An act (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862.

#### TAX BILL—AGAIN.

#### Thirty-second amendment:

Strike out the following:

And not mixed with leaf or leaf and stems, and on fine-cut, and shorts, and scraps of tobacco, the refuse of cigars manufactured, and also on all scraps or refuse of plug manufactured, when sold for smoking tobacco, or for consumption, or otherwise.

So that the paragraph, if amended, will read:

On smoking tobacco made exclusively of stems, fifteen cents per pound.

Mr. MALLORY called the yeas and nays upon concurring in the amendment.

Mr. WADSWORTH. I want the provision reported by the Committee of Ways and Means adhered to.

Mr. MORRILL. The other part of this provision was amended in Committee of the Whole, and the amendment has been concurred in.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 66, not voting 42; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Driggs, Eliot, Farnsworth, Garfield, Gooch, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jencks, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Spalding, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, Woodbridge, and Worthington—74.

NAYS—Messrs. James C. Allen, Ancona, Anderson, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Dumont, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Grinnell, Griswold, Harding, Harrington, Charles M. Harris, Herick, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Lazear, LeBlond, Long, Mallory, Marcy, McAllister, William H. Miller, Morrison, Leonard Myers, Noble, Odell, John O'Neill, Pendleton, Pruyn, Radford, William H. Randall, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stuart, Sweet, Thomas, Townsend, Wadsworth, Ward, Whaley, Wheeler, Joseph W. White, Winfield, and Yeaman—66.

NOT VOTING—Messrs. William J. Allen, Alley, Blaine, Blair, Creswell, Henry Winter Davis, Dawes, Donnelly, Eckley, Frank, Hale, Hall, Benjamin G. Harris, Higby, Holman, Hotchkiss, Philip Johnson, Law, McBride, McDowell, McJode, McKimney, Middleton, James R. Morris, Nelson, Orth, Perry, Price, Samuel J. Randall, Robinson, Rogers, Scott, Sloan, Stiles, Strouse, Tracy, Voorhees, Webster, Chilton A. White, Windom, Benjamin Wood, and Fernando Wood—42.

So the amendment was concurred in.

During the roll-call,

Mr. GOOCH said that Mr. ALLEY had been detained from the House to-day in consequence of an injury received yesterday while on his way to the Capitol.

The result was announced as above recorded.

#### Thirty-sixth amendment:

Strike out the words "sugar and," and insert the words "and cider vinegar, sugar or;" so that the paragraph will read:

That section ninety-six be amended by inserting, after the words "concentrated milk," the words "cider and cider vinegar, sugar or molasses."

Section ninety-six contains a list of articles exempt from taxation.

The amendment was concurred in.

#### Thirty-seventh amendment:

Strike out the following:

That section one hundred and three be amended by inserting, after the words "foreign port," the words "and the amount actually paid for canal tolls by any person or company owning or possessing or having the care or management of any canal-boat or other vessel shall be deducted from their gross receipts;" and by inserting, after the word "fare," wherever it occurs in the proviso to said section, the words "or freight."

And insert in lieu thereof the following:

That section one hundred and three be amended by striking out the words "two and a half per cent. upon the gross receipts," and inserting "two and a half per cent. upon the net receipts under \$3,000; and five per cent. upon the excess."

That portion of section one hundred and three proposed to be amended is as follows:

Sec. 103. *And be it further enacted*, That every person, firm, company, or corporation owning or possessing, or having the care or management of, any railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers or property for hire, or in transporting the mails of the United States, or any canal, the water of which is used for mining purposes, shall be subject to and pay a duty of two and one half per cent. upon the gross receipts of such railroad, canal, steamboat, ship, barge, canal boat or other vessel, or such stage-coach or other vehicle.

Mr. MORRILL called the yeas and nays upon concurring in the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 58, not voting 40; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Blaine, Bliss, Blow, Brandegee, Brooks, James S. Brown, William G. Brown, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Dixon, Dumont, Eden, Edgerton, Eldridge, Eliot, English, Finck, Ganson,

Grissold, Harding, Harrington, Charles M. Harris, Herrick, Asahel W. Hubbard, Hutchins, Ingersoll, Jenckes, William Johnson, Kalbfleisch, Orlando Kellogg, Kernan, King, Knapp, Lazear, Le Blond, Littlejohn, Long, Marcy, Marvin, McAllister, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pike, Pruyn, Radford, William H. Randall, John H. Rice, James S. Rollins, Ross, Scofield, Spalding, John B. Steele, William G. Steele, Stuart, Thayer, Thomas, Townsend, Tracy, Wadsworth, Ward, Whaley, Joseph W. White, Winfield, Fernando Wood, and Yeaman—84.

**NAYS**—Messrs. Allison, Ames, Baily, John D. Baldwin, Baxter, Beaman, Boutwell, Boyd, Broomall, Cobb, Cole, Thomas T. Davis, Deming, Driggs, Eckley, Farnsworth, Garfield, Gooch, Grider, Higby, Hooper, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, McClurg, Samuel F. Miller, Moorehead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pomeroy, Edward B. Rollins, Schenck, Shannon, Smith, Smithers, Starr, Stevens, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Wheeler, Williams, Wilder, Wilson, Woodbridge, and Worthington—58.

**NOT VOTING**—Messrs. William J. Allen, Alley, Blair, Creswell, Henry Winter Davis, Dawes, Donnelly, Frank, Grinnell, Hale, Hall, Benjamin G. Harris, Holman, Hotchkiss, Philip Johnson, Law, Mallory, McBride, McDowell, McKinney, Middleton, Amos Myers, Orth, Perry, Price, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Scott, Sloan, Stiles, Strouse, Sweet, Voorhees, Webster, Chilton A. White, Windom, and Benjamin Wood—40.

So the amendment was adopted.

#### Thirty-eighth amendment:

Add to the amendment just adopted, the following: That section one hundred and three be amended by adding the following after the word "vehicle":

*Provided*, That this section shall not apply to those teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufacture, or to the teams or vehicles used in the transportation of ores from the mines where the same are excavated to the place where they are reduced or worked.

The amendment was agreed to.

#### Forty-third amendment:

On page 27, commencing with line six hundred and fifty-three, strike out the following:

And there shall also be deducted the income derived from dividends on shares in the capital stock of any bank, trust company, savings institution, insurance, railroad, canal, turnpike, canal navigation, or slack-water company, and the interest on any bonds or other evidences of indebtedness of any such corporation or company, which shall have been assessed and the tax paid, as hereinafter provided.

The amendment was agreed to.

#### Forty-eighth amendment:

After the word "note" in the eight hundredth line, page 33, insert the words:

Except instruments for the conveyance of lands and tenements.

The amendment was rejected; there being, on a division—ayes 47, noes 49.

#### Forty-ninth amendment:

On page 33, commencing with line eight hundred and five, strike out the following:

That no deed, instrument, document, writing, or paper, required by law to be stamped, which was made, signed, or issued prior to the 1st day of August, 1864, without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded or admitted or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty, shall have been affixed thereto, and the date when the same is so used or affixed, with his initials, shall have been placed thereon by the person using the same; and the person desiring to use or record any such deed, instrument, document, writing, or paper, as evidence, his agent or attorney, is authorized, in the presence of the court, register, or recorder, respectively, to affix the stamp or stamps thereon required: *And provided further*, That no instrument, document, or paper, made, signed, or issued prior to said 1st day of August, 1864, without being duly stamped, or having thereon an adhesive stamp or stamps denoting the duty imposed thereon, shall, for that cause, if the stamp or stamps required shall be subsequently affixed, be deemed invalid and of no effect; and the holder thereof, or any person desiring to use the same, his agent or attorney, is authorized to affix thereon the stamp or stamps required.

And insert in lieu thereof the following:

That hereafter in all cases where the party has not affixed to any instrument required by the one hundred and fifty-first section of the act of June 30, 1864, or schedule marked "B" thereunto annexed, the stamp thereby required to be thereunto affixed at the time of making or issuing said instrument, and he, or they, or any party having an interest therein shall be subsequently desirous of affixing such stamp to said instrument, he or they shall appear before the collector of the revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law and a penalty of fifty dollars, and, when the whole amount of the duty denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest at the rate of six per cent. on said duty from the day on which such stamp ought to have been affixed, affix the proper stamp to such instrument, and note upon the margin of said instrument the date of his so doing and the fact that such penalty has been paid; and such instrument shall thereupon be deemed and held to be as valid to all intents and purposes as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise to his satisfaction, that any such instrument has not been duly stamped at the time of making or issuing the same by reason of accident, mistake,

inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp duty or to evade or delay the payment thereof, then and in such case, if such instrument shall within twelve calendar months after the making or issuing thereof be brought to the said collector of revenue to be stamped and the stamp duty chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped.

The amendment was agreed to; there being, on a division—ayes seventy-eight, noes not counted.

#### Fifty-fourth amendment:

In section three, line eight, strike out the words "payable in coin."

The amendment was agreed to; there being, on a division—ayes seventy-five, noes not counted.

**MR. THAYER.** Mr. Speaker, I ask the consent of the gentleman from Vermont and of the House to strike out the proviso on page 36, which is necessary in order to make the bill congruous with itself in view of the amendment we have just adopted.

**MR. MORRILL.** I am in the hope that the Senate will reject the amendment of the gentleman from Pennsylvania. If they think that the amendment of the gentleman is right, they can strike out this proviso.

**MR. THAYER.** I do not understand the gentleman from Vermont to object, and I ask unanimous consent to have the proviso stricken out.

#### MR. HOOPER. I object.

#### Fifty-fifth amendment:

Page 38, after section four, insert as a new section the following:

*And be it further enacted*, That all persons licensed under the provisions of this act, or the act to which this is an amendment, and who are engaged in sales of goods, wares, or merchandise, of articles produced or manufactured, whether foreign or domestic, shall within ten days after the 1st day of each and every month, make return under oath or affirmation of the amount of goods, wares, and merchandise, or articles sold during the month preceding, and shall pay thereon a tax of one half of one per cent.; and all such persons, in the assessment and collection of the tax imposed by this section, shall be subject to the provisions of law relating to the assessment and collection of taxes of manufactures mentioned in the eighty-second section of the act to which this is an amendment, as far as the same are applicable.

**MR. WILSON.** I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 75, not voting 45; as follows:

**YEAS**—Messrs. Ames, Ashley, John D. Baldwin, Beaman, Blow, Boutwell, Boyd, Brandegee, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Gooch, Higby, John H. Hubbard, Hulburd, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, McClurg, Samuel F. Miller, Moorehead, Daniel Morris, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Perham, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Edward B. Rollins, Schenck, Shannon, Smith, Smithers, Spalding, Starr, Tracy, Upson, Van Valkenburgh, William B. Washburne, Wheeler, Williams, Wilder, and Fernando Wood—62.

**NAYS**—Messrs. James C. Allen, Allison, Ancona, Arnold, Baily, Augustus C. Baldwin, Baxter, Blaine, Bliss, Brooks, Broomall, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Creswell, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Garfield, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Hooper, Asahel W. Hubbard, Ingersoll, William Johnson, Kalbfleisch, Kernan, King, Knapp, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, William H. Miller, Morrill, James R. Morris, Amos Myers, Noble, John O'Neill, Pendleton, Pruyn, William H. Randall, James S. Rollins, Ross, Scofield, John B. Steele, William G. Steele, Stevens, Stuart, Thayer, Wadsworth, Ward, Elihu B. Washburne, Whaley, Joseph W. White, Wilson, Winfield, and Woodbridge—75.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Blair, Henry Winter Davis, Dawes, Donnelly, Dumont, Frank, Grinnell, Hale, Hall, Benjamin G. Harris, Holman, Hotchkiss, Hutchins, Philip Johnson, Julian, Law, McBride, McDowell, McKinney, Middleton, Morrison, Orth, Perry, Price, Radford, Samuel J. Randall, Robinson, Rogers, Scott, Sloan, Stiles, Strouse, Sweet, Thomas, Townsend, Voorhees, Webster, Chilton A. White, Windom, Benjamin Wood, Worthington, and Yeaman—45.

So the amendment was non-concurred in.

#### Fifty-sixth amendment:

Add as a new section: *And be it further enacted*, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866.

**MR. PRUYN** demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 67, not voting 47; as follows:

**YEAS**—Messrs. Allison, Ames, Arnold, Ashley, Baxter,

Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Brooks, Broomall, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McClurg, Samuel F. Miller, Moorehead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Starr, Thayer, Tracy, Upson, Elihu B. Washburne, William B. Washburne, Williams, Wilder, Wilson, and Woodbridge—68.

**NAYS**—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Hulburd, William Johnson, Kalbfleisch, Kernan, King, Knapp, Lazear, Le Blond, Mallory, Marcy, McAllister, William H. Miller, Morrill, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Pruyn, Radford, Edward B. Rollins, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Townsend, Wadsworth, Ward, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—67.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, John D. Baldwin, Blair, Bliss, Ambrose W. Clark, Henry Winter Davis, Dawes, Donnelly, Dumont, Frank, Grinnell, Hale, Hall, Benjamin G. Harris, Holman, Hotchkiss, Hutchins, Philip Johnson, Law, Loan, Long, McBride, McDowell, McKinney, Middleton, Orth, Perry, Price, Samuel J. Randall, William H. Randall, Robinson, Rogers, Scott, Sloan, Stiles, Strouse, Thomas, Van Valkenburgh, Voorhees, Webster, Chilton A. White, Windom, Benjamin Wood, and Worthington—47.

So the amendment was adopted.

During the vote,

**MR. VAN VALKENBURGH** stated that he was paired with **MR. ALLEY**, who was detained at home by an accident, and that he would have voted in the negative while **MR. ALLEY** would have voted in the affirmative.

The vote was then announced as above recorded.

**MR. BROOKS.** I changed my vote merely for the purpose of enabling me to move to reconsider. I desire to change my name back again.

**THE SPEAKER.** That cannot be done, as the vote has been announced.

**MR. BROOKS.** Then I move to reconsider the vote last taken.

**MR. WASHBURNE**, of Illinois. I move to lay the motion to reconsider on the table.

**MR. GANSON.** Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were—yeas 71, nays 71, not voting 40; as follows:

**YEAS**—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Garfield, Gooch, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorehead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, William H. Randall, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Smith, Smithers, Spalding, Starr, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburne, Williams, Wilder, Wilson, and Woodbridge—71.

**NAYS**—Messrs. James C. Allen, Allison, Ancona, Baily, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Clay, Coffroth, Cox, Cravens, Dawson, Deming, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Hulburd, Hutchins, William Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McAllister, McKinney, William H. Miller, Morrill, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Pomeroy, Pruyn, Radford, James S. Rollins, Ross, John B. Steele, William G. Steele, Stevens, Stuart, Thayer, Townsend, Wadsworth, Ward, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—71.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Blair, Creswell, Henry Winter Davis, Dawes, Donnelly, Dumont, Frank, Grinnell, Hale, Hall, Benjamin G. Harris, Holman, Hotchkiss, Philip Johnson, King, McBride, McDowell, McKinney, Middleton, Orth, Perry, Price, Samuel J. Randall, Robinson, Rogers, Edward H. Rollins, Scott, Sloan, Stiles, Strouse, Van Valkenburgh, Voorhees, Webster, Chilton A. White, Windom, Benjamin Wood, and Worthington—40.

**THE SPEAKER.** The Chair votes in the affirmative, and the motion to reconsider is laid on the table.

#### Fifty-seventh amendment:

On page 41, after section seven, insert the following as a new section:

*And be it further enacted*, That wherever, under the proviso of section three, the addition to any fare shall amount to a sum involving a fraction of one cent, any person or company liable to the duty of two and a half of one per



cent., as the said section provides, shall be authorized to add to each fare one cent in lieu of such fraction.

The amendment was agreed to.

#### Fifty-ninth amendment:

On page 73, after section ten, insert the following as a new section:

*And be it further enacted*, That the capital of any State bank or banking association which has or shall cease to exist, or which has or shall be converted into a national bank, was intended to be, and shall be assumed to be, for all the purposes of the act to which this is an amendment, the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid.

The amendment was agreed to.

#### Sixtieth amendment:

On page 45, after section twelve, insert the following as a new section:

*And be it further enacted*, That the privilege of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, which now does or hereafter shall exist by provision of law, shall be extended, under such regulations as the Secretary of the Treasury may prescribe, to all articles of domestic production which are subject to tax by the provisions of this act.

The amendment was agreed to.

#### Sixty-first amendment:

On page 45, after section thirteen, insert the following as a new section:

*Sec. — And be it further enacted*, That whoever buys or sells gold bullion or coin for a price above the Mint value, whether to be paid for in legal-tender notes or in the notes of any bank or individual, or in any other commodity, shall be deemed a bullion broker: *Provided*, That this section shall not apply to miners of the precious metals, nor to persons purchasing gold or coin solely for the purpose of paying duties on imports, or for exportation, and who shall actually apply the same to one of those purposes without a resale.

*Sec. — And be it further enacted*, That every bullion broker shall take out a license, and pay \$1,000 therefor, whether he operates at the brokers' board or elsewhere. Whoever deals in gold or coin, as above stated, without first having obtained such license, shall be deemed guilty of a misdemeanor, and shall, besides, forfeit and pay the sum of \$2,000, to be recovered in a *qui tam* action, the one half to go to the prosecutor and the other half to the United States. Whoever shall buy or sell gold or coin, or bargain to buy or sell the same at or for any price above the Mint value, whether such purchase or bargain be executed or not, each of the said parties shall pay a duty or tax of ten per cent. on the full amount or value of said purchase, sale, or bargain; and if the said bargain, purchase, or sale, should be sold, assigned, or transferred to others, such assignor and assignees shall pay ten per cent. on the full amount of said transaction.

*Sec. — And be it further enacted*, That every such sale, or bargain to sell, shall be deemed to be above the Mint value if more than one dollar in legal-tender notes, or in the notes of any bank, company, or individual, shall be exacted, taken, paid, or received at less than one dollar in gold or coin.

*Sec. — And be it further enacted*, That every bullion broker shall make out and return to the assessor of his district a full and true statement of all his transactions in gold or coin within twenty-four hours after such transactions shall have taken place; in default whereof he shall be deemed guilty of a misdemeanor, and shall forfeit and pay the sum of \$500 for each offense, to be recovered as provided for in the second section of this act, unless he shall have been unavoidably prevented from making such return.

Mr. PRUYN. Upon that amendment I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 38, nays 94, not voting 50; as follows:

YEAS—Messrs. Anderson, Ashley, Baily, Baxter, Beaman, Blow, Boyd, Brandegee, Cobb, Briggs, Eckley, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, John H. Rice, Schenck, Shannon, Spalding, Stevens, Upson, Wilder, Wilson, and Woodbridge—38.

NAYS—Messrs. James C. Allen, Allison, Ames, Ancona, Arnold, John D. Baldwin, Blaine, Bliss, Boutwell, Brooks, Broomall, James S. Brown, William C. Brown, Ambrose W. Clark, Freeman Clarke, Coffroth, Cole, Cravens, Thomas T. Davis, Dawson, Deuing, Denison, Dixon, Eden, Edger-ton, Eldridge, Eliot, English, Farnsworth, Pinck, Ganson, Goodell, Griswold, Harding, Harrington, Charles M. Harris, Herlick, Hooper, Hubbard, Hutchins, Jencks, William Johnson, Julian, Kabbitsch, Kasson, Francis W. Kellogg, Kernan, King, Knapp, Law, Le Blond, Long, Mallory, Marcy, McAllister, McKinney, Samuel F. Miller, William H. Miller, Morrill, James R. Morris, Morrison, Nelson, Noble, Odell, Patterson, Pendleton, Perlman, Pike, Pomeroy, Prayn, Alexander H. Rice, James S. Rollins, Ross, Smith, Smithers, Starr, William G. Steele, Stuart, Sweat, Thayer, Townsend, Tracy, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Joseph W. White, Williams, Winfield, Fernando Wood, and Yeaman—94.

NOT VOTING—Messrs. William J. Allen, Alley, Augustus C. Baldwin, Blair, Chanler, Clay, Cox, Creswell, Henry Winter Davis, Dawes, Donnelly, Dumont, Frank, Garfield, Grider, Grinnell, Hale, Hall, Benjamin G. Harris, Holman, Hotchkiss, Philip Johnson, Lazear, McBride, McDowell, McIndoe, Middleton, John O'Neill, Orth, Perry, Price, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Edward H. Rollins, Scofield, Scott, Sloan, John B. Steele, Stiles, Strouse, Thomas, Voorhees,

Webster, Chilton A. White, Windom, Benjamin Wood, and Worthington—50.

So the amendment was not agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour now commences, and the regular order of business is the call of committees for reports of a private nature.

Mr. SCHENCK. I ask the unanimous consent of the House that the morning hour be dispensed with for to-day.

Mr. COFFROTH. I object.

Mr. SCHENCK. I desire to state that this day was set apart for the consideration of reports from the Committee on Military Affairs, a committee that has had no opportunity of making reports this session, and more than half the day has already been consumed.

Mr. COFFROTH. I withdraw the objection.

The SPEAKER. The objection being withdrawn the morning hour is dispensed with for to-day, and the regular order of business is the consideration of reports from the Committee on Military Affairs.

#### LEAVE OF ABSENCE.

Mr. SPALDING. I ask leave of absence for the remainder of to-day's session.

There being no objection, the leave was granted.

#### UNITED STATES ARSENAL AT ST. LOUIS.

Mr. SCHENCK, from the Committee on Military Affairs, reported back, with the recommendation that it do pass, bill of the Senate No. 402, to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and provide for the sale of the land on which the same is located."

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SECOND ASSISTANT SECRETARY OF WAR.

Mr. SCHENCK, from the same committee, reported back, with the recommendation that it do pass, bill of the Senate No. 385, authorizing the President to appoint a Second Assistant Secretary of War.

The bill authorizes the President to appoint, by and with the advice and consent of the Senate, for the term of one year after the passage of this act, an officer in the War Department to be called the Second Assistant Secretary of War, whose salary shall be \$3,000, and who shall perform all such duties in the office of the Secretary of War as shall be prescribed by the Secretary or may be required by law.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARMY REGISTER.

Mr. SCHENCK also, from the same committee, reported a joint resolution to provide for the publication of a full Army Register; which was read a first and second time.

The joint resolution authorizes and requires the Secretary of War, in connection with the Army Register for 1865, to cause to be printed and published a full roster or roll of all general, field, line, and staff officers of volunteers who have been in the Army of the United States since the beginning of the present rebellion, showing whether they are yet in the service or have been discharged therefrom, and giving casualties and other explanations proper for such Register; and that, to defray in whole or in part the expenses of publication, fifty thousand copies of such enlarged Register shall be published, and may be sold to officers, soldiers, and citizens at a price which shall not more than cover the actual cost of paper,

printing, and binding, and shall not in any case exceed one dollar a volume.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### OFFICERS' SERVANTS.

Mr. SCHENCK also, from the same committee, reported a joint resolution declaring and defining the law in relation to officers' servants; which was read a first and second time.

The joint resolution declares the meaning of all provisions of law relating to soldiers employed by officers as servants to be, that for every soldier thus employed by any officer there shall be deducted from the monthly pay of such officer the full monthly pay and allowances of the soldier so employed; that no officer shall be allowed any greater number of servants than now provided by law, nor be allowed for any servant not actually in his employment; that the measure of allowance for pay to officers' servants is the pay of a private soldier, and that no non-commissioned officer shall be detailed or employed to act as a servant; nor shall any private soldier be so detailed or employed except with his own consent.

Mr. SCHENCK moved the previous question on the engrossment and third reading of the joint resolution.

The previous question was seconded, and the main question ordered, and under its operation the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SERGEANT DANIEL COLLETT, JR.

Mr. SCHENCK also, from the same committee, reported a joint resolution in the matter of Sergeant Daniel Collett, jr., deceased; which was read a first and second time.

The joint resolution directs the Secretary of War to cause the name of Daniel Collett, jr., who died of wounds received in battle, to be entered on the rolls of the Army as a first lieutenant of the fortieth regiment Ohio Volunteer infantry, from the 9th of May, 1864, the date at which he was commissioned to that office by the Governor of the State of Ohio, the same as if he had been on that day mustered in as such first lieutenant.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WILLIAM J. HARDING.

Mr. SCHENCK also, from the same committee, reported adversely a bill (H. R. No. 634) for the relief of William J. Harding, of Virginia, and asked that the committee be discharged from its further consideration, and that the bill be laid on the table.

It was so ordered.

#### WAR AGAINST THE APACHES.

Mr. SCHENCK also, from the same committee, reported back the memorial of the Legislature of Arizona, asking an appropriation of \$250,000 in aid of the war against the Apaches, and asked that the committee be discharged from its further consideration, and that the memorial be referred to the Committee on Indian Affairs.

It was so ordered.

#### REGIMENTAL COURTS-MARTIAL.

Mr. SCHENCK also, from the same committee, reported a bill concerning regimental and garrison courts-martial; which was read a first and second time.

The bill amends the seventh section of the act approved February 28, 1795, calling forth the

militia, and the act amendatory thereof approved July 17, 1862, so as to provide that any offender in the Army charged with an offense punishable by regimental or garrison court-martial may, in case of emergency, be brought before a field officer of his regiment for trial and punishment according to the provisions of the section referred to; and provides that nothing in the section shall be construed to abolish altogether regimental and garrison courts-martial.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TRANSFERS OF OFFICERS.

Mr. SCHENCK also, from the same committee, reported a joint resolution to authorize the President to make transfers of officers in the Army of the United States; which was read a first and second time.

The joint resolution authorizes the President to transfer officers of the Army from the line to the general staff, and from the general staff to the line, and from one staff corps to another and different staff corps, or from one arm of the service to another, or from the volunteer service to the regular Army; but such officer shall only take the rank he held by commission in the staff or line before his transfer.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SUBSISTENCE DEPARTMENT.

Mr. SCHENCK also, from the same committee, reported back a bill (H. R. No. 600) for the better organization of the subsistence department, with sundry amendments to the first section, as follows:

The first amendment was to insert after the words "each separate army in the field consisting of more than one Army corps" the words "to each military department."

The amendment was agreed to.

The next amendment was to insert after the words "pay and emoluments of a lieutenant colonel of the subsistence department" the words "and to each Army corps an officer of the subsistence department to be chief commissary of the corps, with the like rank of lieutenant colonel."

The amendment was agreed to.

The next amendment was to strike out the words "rank, pay, and emoluments" before the words "shall cease," and insert the words "increased rank, pay, and emoluments allowed because of such assignment."

The amendment was agreed to.

The next amendment was to strike out the words "at least two thirds in the grade of" in the second proviso of the first section.

The amendment was agreed to.

The section as amended reads as follows:

That, during the continuance of the present rebellion, the Secretary of War may, when in his judgment it is necessary, assign to each geographical military division, to each separate army in the field consisting of more than one Army corps, to each military department, and to each principal subsistence depot, not exceeding ten in number, an officer of the subsistence department to act as chief commissary of such military division, army, military department, or depot, and also an officer of the subsistence department as assistant in the office of the Commissary General of Subsistence, each of whom, while so assigned and acting, shall have the rank, pay, and emoluments of a colonel of the subsistence department; and, in like manner, may assign, for purposes of inspection or other special duty in the subsistence department, commissaries of subsistence, not exceeding six in number, each of whom, while so assigned and acting, shall have the temporary rank, pay, and emoluments of a lieutenant colonel of the subsistence department; and to each Army corps an officer of the subsistence department, to be chief commissary of the corps with the like rank of lieutenant colonel; and, in like manner, may assign to each division of two or more brigades a commissary, who, while so assigned and acting, shall have the rank, pay, and emoluments of a major of the subsistence department: *Provided*, That when any one of said officers is relieved from such duty, his increased rank, pay, and emoluments allowed because of such assignment shall cease, and he shall return to his commissioned rank in the

subsistence department: *And provided further*, That the officers authorized to be assigned by this act shall be selected from the commissaries of subsistence who hold commissions or rank in the volunteer service only: *And provided further*, That when within the limits of any geographical department there shall be not more than one Army corps, in such case the chief commissary of the Army corps shall perform the duties of the department commissary.

The second section provides that the President may appoint, by and with the advice and consent of the Senate, as many commissaries of subsistence of volunteers, with the rank of captain, as the exigencies of the service may require.

The following additional section was reported from the committee:

SEC. 3. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

The section was adopted.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REFUGEES' AND FREEDMEN'S BUREAU.

Mr. SCHENCK also, from the same committee, reported back a bill (H. R. No. 698) to establish in the War Department a Bureau for the Relief of Freedmen and Refugees, with a recommendation that the bill do pass.

The bill was read at length.

The first section provides for the establishment of a bureau in the War Department, relating to refugees and freedmen from the rebel States, under rules and regulations to be prescribed by the Secretary of War and approved by the President; the bureau to have one chief, appointed by the President, by and with the advice and consent of the Senate, at a salary of \$3,000 per annum, and not exceeding two clerks of the fourth class, two of the third class, three of the second class, and five of the first class.

Section two authorizes the President to assign to the bureau, for the benefit of refugees and freedmen, the temporary use of such lands and tenements in insurrectionary States, not belonging to loyal owners, as may be necessary; and to direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of refugees and freedmen, and their wives and children, under such rules and regulations as he may direct.

Section three repeals all conflicting laws and parts of laws.

Mr. SCHENCK. I will explain this bill in a few words. It is the same bill upon which some comment was made, and in regard to which some explanation was given, on the part of the Committee on Military Affairs, when we had under consideration the other day the report of the committee of conference in relation to the Freedmen's Bureau. The committee of conference have reported, and that report has been adopted by this House. We have no notice that that report has been agreed to by the Senate; and there now hangs in the Senate, to be determined upon the question whether they shall or shall not agree to the report of the committee of conference, the Freedmen's Bureau bill, which has become somewhat familiar to this House—a bill providing for a distinct Department of the Government for the care of blacks who have been freed from slavery.

The bill presented by the Committee on Military Affairs and adverted to the other day in the course of the debate on the report of the committee of conference is one which looks, not to the establishment of a distinct Department of the Government, but to the organization of a bureau within the military Department of the Government; to provide not merely for freedmen—those who have been slaves, those who are of African descent—but to provide also for white refugees everywhere along the borders, including not only those found in the rebel States, but those in any of the States or districts which come within the lines of the operations of our Army, which come in fact within the lines of operations of armies either of the rebel States or of the United States. This bill, thus being broad and general in its character, making no distinction on account of color, is the bill which contains the general provisions prepared upon this subject by the Committee on Military

Affairs, and which, I am inclined to suspect, a majority of this House will prefer.

Rising, therefore, only for the purpose of calling the attention of the House to the particular bill which we now offer, which was to some extent—indeed I may say fully—discussed and explained the other day, I propose, if the House concur with the Committee on Military Affairs, that we pass this bill, and, sending it to the Senate, leave it to that body to decide between the two systems—either to create a distinct Department, neither in the Treasury nor the War Department; a bureau of neither one nor the other, but an independent Department of itself, to look only after freedmen, or to establish a bureau, as we propose, in the War Department, to look after all refugees of all colors and provide for them at the sound discretion of the Government, under the restrictions contained in the bill.

I move the previous question.

The previous question was seconded, and the main question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF ARMY OFFICERS.

Mr. YEAMAN reported from the Committee on Military Affairs a bill to increase the pay of certain officers of the Army, and for other purposes; which was read a first and second time.

The first section provides that from and after the passage of the act the pay and emoluments of all officers in the military service of the United States shall be exempt from all income and war tax.

The second section provides that from and after the 1st day of January, 1865, during the continuance of the existing rebellion, the pay proper of line and staff officers below the grade of brigadier general in the military service of the United States shall be per month as follows:

Colonels of infantry and artillery, \$140; lieutenant colonels, \$120; majors, \$105; captains, \$90; first lieutenants, \$77; second lieutenants, \$70; colonels of all other arms of the service, \$165; lieutenant colonels, \$140; majors, \$115; captains, \$102 50; lieutenants, \$80 33.

The third section provides for the repeal of the fifteenth section of "An act to raise an additional force, and for other purposes," approved January 13, 1813, and enacts that hereafter whenever any officer or soldier shall be discharged from the service, except by way of punishment for an offense, he shall be furnished transportation from the place of his discharge to his then actual place of residence; or in case transportation cannot be furnished by the Government, then he shall be paid the actual cost of traveling in money.

Mr. RICE, of Massachusetts. I move to amend by inserting after the word "military," in the first section, the words "and naval."

The amendment was agreed to.

Mr. YEAMAN. I have only to say in regard to this bill, which I have been directed to report by the committee, that the passage of such a measure is asked by almost all the officers of the service. The committee have had before them an immense bundle of petitions, a large part of which have been printed. Unless gentlemen desire to discuss this matter I will ask the previous question.

Mr. ROSS. I ask the gentleman to permit me to offer an amendment to increase the pay of the soldiers to twenty dollars per month.

Mr. YEAMAN. I yield to the gentleman to offer that amendment.

Mr. ROSS. I move to amend by adding to the second section "and that the pay of private soldiers shall be twenty dollars per month." On this amendment I ask the yeas and nays.

Mr. SCHENCK. I rise to a point of order upon the amendment that has been proposed. The bill refers to the pay of officers. It is confined entirely to the rations and pay of officers. The gentleman must introduce another bill in relation to the private soldiers. I make the point that the amendment is not germane to the bill.

The SPEAKER. The Chair overrules the point of order. The bill is to increase the pay of cer-

tain officers of the Army, and for other purposes; and in the second section it provides "whenever any officer or soldier shall," &c. It therefore relates to private soldiers as well as officers. The amendment is in order.

Mr. COX. I suggest to the gentleman from Kentucky to use another phrase than "special war tax." I do not think that that will accomplish his purpose.

Mr. YEAMAN. The language of the bill is, "income or special war tax." I have nothing further to offer; and I insist on the demand for the previous question.

Mr. ASHLEY moved that the bill be laid on the table.

Mr. KERNAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 19, nays 83, not voting 80; as follows:

YEAS—Messrs. Ames, Ashley, John D. Baldwin, Branderage, Ambrose W. Clark, Cole, Henry Winter Davis, Eliot, Ilgby, Asahel W. Hubbard, John H. Hubbard, Kelley, Marvin, Samuel F. Miller, Morrill, Pike, Pomeroy, Shannon, and Woodbridge—19.

NAYS—Messrs. Ancona, Anderson, Bailly, Augustus C. Baldwin, Baxter, Beaman, Blow, Boyd, Brooks, Broomall, William G. Brown, Chauler, Clay, Cobb, Coffroth, Cox, Thomas T. Davis, Dawson, Deming, Denison, Dixon, Eckley, Edon, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Garfield, Griswold, Harrington, Charles M. Harris, Herrick, Hubbard, Hutchins, Jenckes, Julian, Knibbsch, Orlando Kellogg, Kernan, King, Knox, Law, Le Blond, Loan, Long, Marcy, McAllister, McClurg, William H. Miller, Moorhead, Daniel Morris, Morrison, Leonard Myers, Nelson, Noble, Norton, Charles O'Neill, Patterson, Pendleton, Perham, William H. Randall, Alexander H. Rice, Ross, Schenck, Scofield, Smith, Smithers, William G. Steele, Stuart, Thayer, Thomas, Townsend, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Joseph W. White, Wilder, Wilson, Winfield, and Fernando Wood—83.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Allison, Arnold, Blaine, Blair, Bliss, Boutwell, James S. Brown, Freeman Clarke, Gravens, Creswell, Dawes, Donnelly, Driggs, Dumont, Frank, Gooch, Grider, Grinnell, Hale, Hall, Harding, Benjamin G. Harris, Holman, Hooper, Hitchcock, Ingalls, Philip Johnson, William Johnson, Kasson, Francis W. Kellogg, Knapp, Lazenby, Littlejohn, Longyear, Malory, McBride, McDowell, Melndoe, McKinney, Middleton, James R. Morris, Amos Myers, Odell, John O'Neill, Orth, Perry, Price, Pruyn, Radford, Samuel J. Rollins, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Scott, Sloan, Spaulding, Starr, John B. Steele, Stevens, Siles, Strouse, Sweat, Tracy, Upson, Voorhees, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Williams, Windom, Benjamin Wood, Worthington, and Yeaman—80.

So the bill was not laid on the table.

Mr. SCHENCK. I ask my colleague to withdraw the demand for the previous question for a moment.

Mr. YEAMAN. I withdraw it.

Mr. SCHENCK. Mr. Speaker, at the last session of Congress a bill was passed materially increasing the pay of the soldiers of the Army of the United States. They are the best paid and the best provided for of any soldiers of any country in the world at this time. This year the Committee on Military Affairs, feeling the same pressure of obligation to provide for officers of lower grade, below brigadier general, have reported this bill increasing, not in the same degree, not with the same percentage, the pay of those officers, besides giving them certain advantages. It is also to be considered that soldiers have bounties from the General Government, from the States, and from localities, which, taken together, make their pay equal an amount far exceeding in proportion what subaltern officers have.

Under these circumstances, sir, the committee did not feel, in view of the necessities of the Government, of the necessity to provide, on the one hand, for those who are fighting our battles, and the duty, on the other hand, to regard the means of the Government to pay; this being the case, I say, I had supposed that this bill would be permitted to go through as originally intended. It proposes to do justice to a meritorious class of those who are engaged in fighting our battles, the subaltern officers, not heretofore provided for—to increase their pay to what they are entitled to.

Under these circumstances I shall myself vote against incumbering this bill with any outside proposition to increase further the pay of the soldiers; and I hope that the bill will pass without any such incumbrance. If gentlemen think what was done at the last session of Congress was not sufficient in the way of increasing the pay of the soldiers, let the distinct proposition be made. Let

the gentleman from Illinois, [Mr. Ross,] or any one else feeling an interest in that matter, test the sense of the House on that direct question.

This question of increase of pay of subaltern officers is one of pressing necessity arising out of some facts which do not apply to the case of soldiers. The soldier not only has his bounty, but his monthly pay was increased at the last session of Congress. By provision of law he has his rations, his clothing, and his arms. He is provided with these things at the expense of the Government, making in the aggregate the actual receipts of privates in the Army more than that of the lowest class of officers. On the other hand the subaltern officer is compelled to provide himself with food, drawing a ration by no means equivalent to the cost of food, his own clothing, his own arms. Many officers are actually unable to subsist themselves in many cases in the field decently and respectably, irrespective of the necessity of providing for their families at home. He is not able to dress and provide himself as his position requires, upon the present pay, in consequence of the depreciation of the currency, and the inefficiency of that pay arising out of the depreciation which comes from an inflation of the currency.

Mr. SMITH. I would inquire of the gentleman from Ohio whether from the papers referred to the Military Committee in regard to this subject he does not know that in consequence of the insufficient pay of the officers of the Army, after taking out the income tax required by law, officers who have served three or four years have intimated that they would be compelled to resign unless some relief was given at this session of Congress.

Mr. SCHENCK. I was about to say that in consequence of their not being able decently to provide for themselves in the position assigned to them by the appointment of the Executive, many officers are not only compelled to seek to be permitted to resign, but so far as such resignation could consistently with the interests of the Government be accepted, have been, from the humanity that was appealed to in asking the permission, accepted by the Department. A large number of officers, unable to get the acceptance of their resignations, and a still larger number, unwilling, so long as they could keep body and soul together, to tender their resignation while the war was going on, are in the condition to which I have referred.

I hope therefore the House will vote down the amendment of the gentleman from Illinois, and if there are any gentlemen who think this matter should be acted on, leave it to come in as a separate proposition, and pass this bill for the relief of these subordinate officers.

Mr. YEAMAN resumed the floor.

Mr. FARNSWORTH. I desire to offer an amendment which I will explain briefly. It is in reference to acting assistant surgeons of the Army.

The SPEAKER. That is not germane to the pending amendment.

Mr. FARNSWORTH. It is an amendment to the bill.

The SPEAKER. It cannot be pending at the same time with the other, except by unanimous consent.

Mr. ROSS. I must object to any amendment being received until my amendment is acted on.

Mr. YEAMAN. I yielded very readily to the gentleman from Illinois [Mr. Ross] to offer an amendment, and I now yield for the same purpose to the other gentleman from Illinois, [Mr. Farnsworth.]

The SPEAKER. Does the gentleman from Illinois withdraw his objection?

Mr. ROSS. I do.

Mr. FARNSWORTH. I offer the following as an additional section:

And be it further enacted, That from and after the 1st day of January, 1865, the pay of acting assistant surgeons in the Army of the United States shall be \$125 per month.

At the present time these contract surgeons receive but \$100 a month, which is considerably less than that of the assistant surgeons of the Army, though they perform the same duties. The bill, without this amendment, does not include the acting assistant surgeons of the Army, a very worthy and meritorious class of persons. It is impossible to get the requisite surgical skill

into the Army for \$100 per month. Many surgeons are leaving the Army in consequence of inadequacy of pay.

Mr. GARFIELD. I ask the gentleman from Kentucky [Mr. YEAMAN] to yield to me to make a short statement.

Mr. ROSS. I must object to any further yielding.

The SPEAKER. The gentleman from Kentucky has the right to yield for personal explanation, or for an explanation of the pending measure.

Mr. YEAMAN. I think the matter is well understood, and I insist now upon the previous question.

The previous question was seconded, and the main question was ordered to be put.

The question being first on the amendment of Mr. Ross,

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 82, nays 33, not voting 67; as follows:

YEAS—Messrs. James C. Allen, Allison, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Blow, Boyd, Brooks, Chauler, Ambrose W. Clark, Clay, Cobb, Coffroth, Cox, Dawson, Deming, Denison, Eckley, Eldridge, English, Farnsworth, Finck, Ganson, Grider, Harding, Charles M. Harris, Herrick, Asahel W. Hubbard, John H. Hubbard, Ingalls, Julian, Knibbsch, Kasson, Kernan, King, Law, Le Blond, Loan, Long, Marcy, McAllister, McClurg, Samuel F. Miller, William H. Miller, Daniel Morris, Morrison, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, Patterson, Pendleton, Perham, Pike, Pruyn, William H. Randall, Edward H. Rollins, Ross, Scofield, Smith, William G. Steele, Stuart, Sweet, Thayer, Thomas, Townsend, Tracy, Van Valkenburgh, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Joseph W. White, Wilder, Wilson, Winfield, Fernando Wood, and Yeaman—82.

NAYS—Messrs. Ames, John D. Baldwin, Baxter, Beaman, Branderage, Freeman Clarke, Cole, Henry Winter Davis, Thomas T. Davis, Edgerton, Eliot, Garfield, Gooch, Griswold, Ilgby, Hooper, Hubbard, Kelley, Orlando Kellogg, Knox, Longyear, Marvin, Morrill, Pomeroy, Schenck, Shannon, Smithers, Upson, William B. Washburn, Williams, Woodbridge, and Worthington—33.

NOT VOTING—Messrs. William J. Allen, Alley, Bailly, Blaine, Blair, Bliss, Boutwell, Broomall, James S. Brown, William G. Brown, Gravens, Creswell, Dawes, Dixon, Donnelly, Driggs, Dumont, Frank, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Holman, Hitchcock, Hutchins, Jenckes, Philip Johnson, William Johnson, Francis W. Kellogg, Knapp, Lazenby, Littlejohn, Malory, McBride, McDowell, Melndoe, McKinney, Middleton, Moorhead, James R. Morris, Amos Myers, John O'Neill, Orth, Perry, Price, Radford, Samuel J. Rollins, Alexander H. Rice, John H. Rice, Robinson, Rogers, James S. Rollins, Scott, Sloan, Spaulding, Starr, John B. Steele, Stevens, Siles, Strouse, Voorhees, Ward, Webster, Chilton A. White, Windom, and Benjamin Wood—67.

So the amendment was agreed to.

Mr. ROSS moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. FARNSWORTH's amendment was then agreed to.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. DAVIS, of Maryland. I move to lay the bill on the table.

Mr. GARFIELD. I ask the gentleman to withdraw that motion to allow me to move that the bill and amendments be recommitted.

The SPEAKER. That motion cannot be made pending the previous question, which does not exhaust itself until the bill has been read the third time.

Mr. ANCONA. Is the motion to lay the bill on the table in order, having once been voted down?

The SPEAKER. The bill has been changed by amendment since the motion was last made.

Mr. SCHENCK. I move that the bill be recommitted to the Committee on Military Affairs with leave to report at any time.

The SPEAKER. That motion can only be entertained by unanimous consent, as the previous question does not exhaust itself until the third reading of the bill.

Mr. WILSON. Will it not be in order to move to recommit the bill on its third reading?

The SPEAKER. After the third reading that motion will be in order.

Mr. DAVIS, of Maryland. I withdraw the motion to lay the bill on the table at the suggestion of gentlemen around me.

The bill was ordered to be engrossed and read



a third time; and being engrossed, it was accordingly read the third time.

Mr. YEAMAN. I demand the previous question on the passage of the bill.

Mr. SCHENCK. I hope the House will not sustain the previous question. [Loud shouts of "Order!" I hope the bill will be recommitted. ["Order!" "Order!"]

The SPEAKER. Debate is not in order. The question was taken, and there were—ayes 44, noes 73.

So the House refused to second the previous question.

Mr. GARFIELD. I now move that the bill as amended be recommitted to the Committee on Military Affairs with leave to report at any time, and on that motion I ask the previous question.

Mr. COX. I object to the last part of the motion.

The SPEAKER. The last part of the motion requires unanimous consent.

Mr. GARFIELD. Then I will leave out that about leave to report at any time.

The previous question was seconded, and the main question ordered.

Mr. STEELE, of New York, demanded the yeas and nays on the motion to recommit.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 51, not voting 68; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Dixon, Eckley, Edgerton, Eliot, Farnsworth, Gooch, Griswold, Higby, Hooper, Asahel W. Hubbard, Hulburd, Jencks, Julian, Kasson, Kelley, Orlando Kellogg, Knox, Longyear, Marvin, McClurg, Samuel F. Miller, Morrill, Leonard Myers, Norton, Perham, Pike, Pomerooy, Alexander H. Rice, John H. Rice, Schenck, Shannon, Smithers, Starr, Upson, Van Valkenburgh, Elitha B. Washburne, William B. Washburne, Williams, Wilder, Wilson, Winfield, Woodbridge, and Yeaman—63.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Brooks, Coffroth, Cox, Dawson, Denison, Eden, Eldridge, English, Finck, Ganson, Grider, Harding, Charles M. Harris, Herrick, John H. Hubbard, Ingersoll, Kalbfleisch, Kernan, King, Knapp, Law, Le Blond, Long, Marcy, William H. Miller, Daniel Morris, Morrison, Noble, Charles O'Neill, Pendleton, Prunty, William H. Randall, Edward H. Rollins, Ross, Scofield, Smith, John B. Steele, William G. Steele, Stuart, Sweat, Thayer, Thomas, Townsend, Wadsworth, Whaley, Wheeler, Joseph W. White, and Fernando Wood—51.

NOT VOTING—Messrs. William J. Allen, Alley, Blaine, Blair, Bliss, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Cravens, Creswell, Dawes, Donnelly, Driggs, Dumont, Frank, Garfield, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Holman, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Francis W. Kellogg, Lazenby, Littlejohn, Loan, Mallory, McAllister, McBride, McDowell, Melroe, McKinney, Middleton, Moorhead, James B. Morris, Amos Myers, Nelson, Odell, John O'Neill, Orth, Patterson, Perry, Price, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Scott, Sloan, Spaulding, Stevens, Stiles, Strouse, Tracy, Voorhees, Ward, Webster, Chilton A. White, Windom, Benjamin Wood, and Worthington—68.

So the motion to recommit the bill was agreed to.

Mr. COX moved to reconsider the vote by which the bill was recommitted to the Committee on Military Affairs; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. Is it in order now to direct the Military Committee to report an amendment to increase the pay of the soldiers to twenty-five dollars a month, in lieu of the proposition of my colleague [Mr. Ross] to make it twenty dollars?

Mr. GANSON. Is it in order to annex the Michigan canal bill? [Laughter.]

#### LEAVE OF ABSENCE.

Mr. ELIOT asked and obtained leave of absence for the remainder of the day's session.

#### PAY OF OFFICERS.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to increase the pay of certain officers of the Army, and for other purposes; which was read a first and second time.

The bill is the same as that reported by Mr. YEAMAN, as amended in the House, except as regards the amendment offered by Mr. ROSS.

Mr. COX. I make the point of order that this bill has not been considered by the Committee on Military Affairs.

The SPEAKER. The Chair presumes it has been.

Mr. SCHENCK. The bill has been consid-

ered in the committee, and I am instructed to report it.

Mr. COX. I ask the gentleman whether this is the bill that the committee has considered since it was recommitted.

Mr. SCHENCK. The bill was considered, and I am authorized by the committee to report it.

The SPEAKER. The Chair overrules the point of order.

Mr. COX. I make another point of order, that the committee must report the bill with the amendment as referred to it.

The SPEAKER. The Chair overrules that point of order. The gentleman from Ohio [Mr. SCHENCK] has the right to report this or that bill. It is a matter between himself and the committee. That is a familiar ruling often made by presiding officers.

Mr. ROSS. I appeal to the gentleman from Ohio to allow an amendment to be offered increasing the pay of soldiers to twenty dollars a month.

Mr. WASHBURN, of Illinois. I hope my colleague will put it at twenty-five dollars.

Mr. ROSS. Yes, sir; I am always ready for that.

Mr. ELDRIDGE. I understood the gentleman from Ohio to say that the bill which he was reporting back was the one just now referred to it.

Mr. SCHENCK. I did not say anything about it. I say it is a bill which I am authorized to report.

Mr. PENDLETON. I want to know the number of the bill.

The SPEAKER. It has no number yet. It will probably be somewhere about eight hundred.

Mr. SCHENCK. Mr. Speaker, still keeping the floor, I will withdraw the demand for the previous question in order to say that I will not go for any demagogical amendments to be offered by any one. This House and the country understand perfectly well that those who vote against taxes, and who vote against sustaining the Government—[Calls to order.] I am in order. I am addressing the Chair, having the floor for that purpose.

Mr. COX. It is not in order for the gentleman to attack the gentleman from Illinois [Mr. WASHBURN] for wanting to increase the pay of soldiers to twenty-five dollars a month. [Laughter.]

Mr. WASHBURN, of Illinois. The gentleman from Illinois is able to take care of himself.

Mr. COX. I do not think he does. [Laughter.]

Mr. SCHENCK. I do not question the power and capacity of any gentleman from Illinois on either side to make any demagogical exhibition. The House and the country understand it, and I am willing to leave it to them. Their action is of the character of a Dutch auction, where the people bid downward. [Laughter.]

Mr. ROSS. You have to vote against it.

Mr. SCHENCK. I did vote against that amendment. I voted against it because I thought it was a mere piece of demagogism; I voted against it because I know that those who shed crocodile tears over the soldiers are about the last persons to provide means for paying them, either by the imposition of taxes or by making the necessary appropriations; I voted against it because while we were here engaged in endeavoring to do an act of justice to subordinate officers of the Army, as we had already done to the soldiers of the Army, God bless them all!

Mr. KALBFLEISCH. More demagogism. [Laughter.]

Mr. SCHENCK. It was not worth while to be turned from our purpose by any attempt on the part of gentlemen who have been against the war, against the soldiers, against supporting the Government, and against all the necessary provisions for carrying on this Government in this its time of trial and peril. That is the reason why I voted as I did. Moved by these considerations, and determined to have justice done both to the soldiers and to the officers; determined to have their needs provided for; determined to enable them to go on and fight the battles of the country, and to sustain the Government either against treason in the field or sympathy with treason elsewhere, [cries of "Oh!" and laughter on the Democratic side of the Hall.] I voted as I did. And I shall vote in the same way now when the bill which I have had the honor to report from the Committee on Military Affairs comes up for con-

sideration under the previous question, which I now demand.

The previous question was seconded, and the main question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to consider be laid on the table; which latter motion was agreed to.

#### OFFICERS REëntERING THE SERVICE.

Mr. GARFIELD, from the Committee on Military Affairs, reported back a bill (H. R. No. 653) to determine the rank of military officers reëntering the military service, with a substitute.

The substitute was read. It provides that any officer who has served in the Army of the United States during the present rebellion, and has been honorably discharged therefrom, and reënters the service, and is recommended with the same rank as before, shall take rank as many days prior to the date of his reëmission as he served with the same rank before he was honorably discharged.

Mr. GARFIELD. I demand the previous question on the adoption of the substitute.

The previous question was seconded, and the main question was ordered; and under the operation thereof the substitute was adopted.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed and read the third time, it was passed.

The title was amended so as to read, "A bill to determine the rank of officers reëntering the military service."

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### INCREASE OF ARMY RATIONS.

Mr. GARFIELD also, from the same committee, reported back a resolution in relation to the increase of Army rations, with the accompanying papers, and moved that the committee be discharged from the further consideration of the same, and that they be laid on the table.

The motion was agreed to.

#### ADVANCES TO STATES.

Mr. GARFIELD, from the same committee, also reported back a joint resolution (H. R. No. 391) in regard to the General Government passing a law to assume the debts of States incurred to aid in suppressing the rebellion, with a recommendation that the same do not pass.

The joint resolution was laid on the table.

#### DISCHARGE OF COMMISSIONED OFFICERS.

Mr. GARFIELD also, from the same committee, reported back House joint resolution to provide for the discharge of commissioned officers at the expiration of their original term of service, with a recommendation that it do not pass.

The joint resolution was laid on the table.

#### STUDIES IN MILITARY ACADEMY.

Mr. GARFIELD. The Committee on Military Affairs have also instructed me to submit a written report upon a petition that Doctor Comstock's system of elocution and phonetics and the French system of weights and measures may be taught at the Military Academy. I move that the committee be discharged from the further consideration of the subject, and that the report of the committee be printed.

The motion was agreed to.

#### VETERAN RESERVE CORPS.

Mr. GARFIELD. The Committee on Military Affairs, to whom was referred the petition of soldiers of the Veteran Reserve corps, praying that their term of service may be computed from the date of their enlistment, have directed me to report that no further legislation is necessary in the case, and move that the committee be discharged.

The motion was agreed to, and the petition was laid on the table.

#### BREVET SECOND LIEUTENANT.

Mr. GARFIELD. The Committee on Military Affairs, to whom was referred a petition of officers of colored troops, praying that there be

established the rank of brevet second lieutenant, have instructed me to report adversely to the prayer of the petitioners.

The petition was laid on the table.

#### RECRUITS IN OLD REGIMENTS.

Mr. GARFIELD. The Committee on Military Affairs have also directed me to report back some papers in regard to recruits to fill old regiments. The subject has been already acted upon, and I move that the committee be discharged.

The motion was agreed to, and the papers were laid on the table.

#### MISSOURI STATE MILITIA.

Mr. KNOX, from the Committee on Military Affairs, reported back the joint resolution (H. R. No. 650) to place the soldiers of the Missouri State militia on the same footing with other volunteer soldiers in the United States service in reference to bounty and back pay, with a recommendation that it pass.

The joint resolution was read.

It provides that the soldiers belonging to the United States Army, known and designated as the Missouri State militia, shall in all respects be placed on the same footing as other United States volunteer soldiers in respect to bounty and back pay, and that all claims for bounty and back pay shall be audited, allowed, and paid in the same manner and with like conditions and limitations as in other cases of volunteer soldiers in the United States service.

Mr. COX. Many gentlemen on this side of the House desire to know something about this bill. Does it call for an appropriation of money?

Mr. KING. No, sir; it does not. For the satisfaction of gentlemen who desire to know something about the bill, I will make an explanation.

It is a very unfortunate circumstance that the Governor of our State gave this body of soldiers the designation of the Missouri State militia. They are United States soldiers, who were recruited into the Army of the United States. The Governor had nothing whatever to do in raising those troops. The name of the Missouri State militia was given to them in order to contradicting them from the enrolled militia of the State. The enrolled militia compose the whole body of our militia. The Missouri State militia is composed of ten regiments of about a thousand men each—some ten thousand men in all—who were raised under an arrangement between the Governor of the State and the President of the United States; and the agreement was that they should serve only in the State of Missouri for its defense. But they were recruited as United States soldiers. Their widows are entitled now to pensions under the law giving pensions to United States soldiers. But some difficulty has arisen in some of the Departments as to whether they shall be recognized as entitled to back pay and bounty. Some of the Departments to which their claims go recognize their right in this respect, while others do not. With a view to remove all difficulty on the subject, I was requested to introduce this bill. Its passage will be an act of sheer justice, not to State militia, but to United States soldiers.

Mr. COX. The explanation just given by my friend from Missouri [Mr. KING] does not altogether satisfy my mind. I think that the House, before passing a bill involving the expenditure of so large an amount of money, ought to have some more explicit explanation.

Mr. KNOX. As I understand, Mr. Speaker, the Missouri State militia are unfortunate only in their name. The Governor misled the public by calling them the Missouri State militia, when in fact they were volunteers, mustered into the service of the United States for three years, like the volunteers from other States. These men have done service out of the State as well as in the State.

Mr. UPSON. I should like to ask the gentleman a question.

Mr. KNOX. I withdraw the previous question for that purpose.

Mr. UPSON. Does this bill place this militia upon the same ground, so far as back pay and bounty are concerned, as other volunteers who enlisted at that time in the United States service?

Mr. KNOX. So I understand. I call for the

reading of the bill for the information of the gentleman.

The bill was again read.

Mr. WILSON. Will this apply to the militia of Missouri who have been on service in that State during the time of their enlistment?

Mr. KNOX. These men have been out of the State during a considerable portion of the time. They have been under the orders of the Secretary of War.

Mr. WILSON. I have reason to believe that a considerable number of the militia of Missouri have been on duty at or near their homes, on duty in the same county in which they reside, and that in many cases they have been able to attend to their ordinary business almost as well as if they had not been in the service. If I have been misinformed I should be glad to be corrected.

Mr. KNOX. This bill only contemplates paying the men who have been under United States officers in the United States service.

Mr. KING. Mr. Speaker, the Missouri State militia are under the control of United States officers. They are under the control of the Secretary of War. They have never been under the control of the Governor of that State. They are not of that class known in Missouri as the enrolled militia. The enrolled militia are such as the Governor calls out temporarily. These were recruited for three years, and mustered regularly, upon muster-in rolls, into the service of the United States. They have been to all intents and purposes United States soldiers. They have always been subject to the order of the commander of the department of Missouri. They have never been in any manner subject to State control.

The only misfortune of these men is, that the Governor of Missouri when raising that class of men saw proper to give them, to contradicting them from the enrolled militia to which the gentleman just now alluded, the name of the Missouri State militia. The enrolled militia are a different class of soldiers. No one in Missouri pretended that the enrolled militia, who were raised for six and nine months, are entitled to any bounty or back pay.

Some of these men I will say have obtained their back pay already, as well as their bounty; but the opinion of some one in some of the bureaus in some one of the Departments has thrown some obstacle in the way which makes explanation necessary.

Mr. WILSON. I desire to ask one question. If these soldiers have been in the service of the United States under the same regulations and doing the same duty as other soldiers, why is it that this legislation is necessary?

Mr. KING. For the reason I have given, that some objection has been raised in the Department. They were paid for two years, and then their pay was stopped.

Mr. UPSON. On what ground?

Mr. KING. At one time they were confounded with the enrolled militia. The Pension Office refused to pay them pensions under the act of 1862; but when the Commissioner of Pensions had his attention called to the law under which they were raised and to the fact that they were recruited in the United States service and not in the service of the State of Missouri, he set aside the order by which they were prohibited from receiving pensions, and they are now, sir, drawing pensions under the act of 1862. Now if they are not entitled to pay, they certainly cannot be entitled to pensions.

Mr. KNOX. I renew the demand for the previous question.

Mr. COX. I would like to make an inquiry of the gentleman from Missouri.

Mr. KNOX. I withdraw the demand for that purpose.

Mr. COX. I would like to know whether this militia of the State of Missouri has ever been called to go out of the State for service.

Mr. KNOX. They have been repeatedly.

Mr. COX. I understand that they never have been.

Mr. KING. I will state that this militia have traversed all that part of the State of Arkansas over which our military have been marched in going down to the southwest part of Missouri.

Mr. COX. I would inquire of the gentleman

from Missouri how much money it will probably take to pay the extra bounty under this bill.

Mr. KING. I cannot tell. Very much of it has already been paid. I can make no estimate of how much it will take; but whatever it is, we think the soldiers are entitled to it.

Mr. COX. The answer of the gentleman is very satisfactory. [Laughter.] I would like, however, to have this bill referred back to the Committee on Military Affairs.

Mr. KNOX. I demand the previous question. Mr. COX. When will it be in order to make a motion to recommit?

The SPEAKER. Not at any time, if the previous question is sustained.

The SPEAKER ordered tellers on seconding the demand for the previous question; and appointed Messrs. Knox and Cox.

The House divided; and the tellers reported—ayes 47, noes 45.

So the previous question was seconded.

The main question was ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. KNOX. I demand the previous question upon the passage of the bill.

Mr. SMITHERS. Would it be in order to move to recommit?

The SPEAKER. It will be if the previous question is not seconded.

Mr. LOAN. Will it be in order to make any modification of the bill?

The SPEAKER. Only by unanimous consent.

Mr. LOAN. I propose that the bill be so modified as to make the appropriation apply at the same rate as is allowed to other officers enlisted at the same time.

Mr. CHANLER. I object.

Mr. UPSON. I move that the bill be laid on the table.

Mr. CRESWELL. Upon that motion I demand the yeas and nays.

Mr. COX. I would like to make a suggestion to the friends of this measure. I do not think we fully understand the question; certainly not the Military Committee.

Mr. WASHBURNE, of Illinois. I object to debate.

Mr. KING. I desire to make a suggestion; but not to debate it.

The SPEAKER. Suggestion is debate. There are two undebatable questions pending.

Mr. WASHBURNE, of Illinois. If by unanimous consent the bill can go back to the Military Committee, I shall not object.

Mr. KING. That was the suggestion I desired to make.

Mr. COX. That was what I wanted.

No objection being made, the bill was recommitted to the Committee on Military Affairs.

Mr. KING. With the privilege of reporting it back at any time?

Mr. WASHBURNE, of Illinois. I object to that.

#### RAILWAY COMMUNICATION WITH WASHINGTON.

Mr. FARNSWORTH, from the Committee on Military Affairs, reported a bill to facilitate railroad communications with the capital of the United States.

The Clerk proceeded to read the bill, but was interrupted by—

Mr. PENDLETON, who inquired if this was the first reading of the bill.

The SPEAKER. It is, for information.

Mr. PENDLETON. I object to the first reading of the bill.

The SPEAKER. The question then is, "Shall this bill be rejected?"

Mr. PENDLETON. Has the bill been printed?

Mr. FARNSWORTH. It has not.

The SPEAKER. The Clerk will read the rule under which the decision is made.

The Clerk read the 117th rule of the House, as follows:

"The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be, 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

Mr. FARNSWORTH. I understood the bill was read a first and second time without objection.

The SPEAKER. The Chair only follows the decision of his predecessors upon this point. The first and second readings of the bill are taken together simply to save the time of the House, and if any question is raised, the reading of the bill is always considered as the first reading.

Mr. FARNSWORTH. I suppose it has already been perceived by the members of the House that this bill contains not one cent of appropriation. It simply authorizes the Northern Central Railroad Company of Pennsylvania to build a lateral branch from its main line from the point of intersection between the city of Baltimore and York, to the city of Washington.

A gentleman asks if the bill has been printed. I suppose that enough has been said and enough has been printed upon the subject of railroad communication with the city of Washington to render it unnecessary that a bill of this kind should be printed. It is a plain, simple, ordinary railroad bill, authorizing this railroad company to extend their line to the city of Washington, and providing that they may obtain the right of way in Maryland in the same manner as they are authorized by their charter to obtain the right of way under a condemnation of property. It requires the company to build one track of the road within one year, and to complete the double track in two years. It fixes the fares for passenger traffic at not exceeding three cents per mile. It requires them to stock their road with first-class cars, equal to the best cars on the best railways in the United States, and to maintain a first-class rate of speed upon the road; and it requires that the road in all its equipments shall be a first-class road in every respect.

Mr. GANSON. Do I understand the gentleman to say that the State of Maryland has empowered this company to extend their road through the State?

Mr. FARNSWORTH. I do not think the gentleman understood me to say so, because I did not say it.

Mr. GANSON. Well, I ask the gentleman if he did.

Mr. FARNSWORTH. No, sir. The only reference I made to the State of Maryland was in relation to the condemnation of the right of way. This bill provides that this company may obtain the right of way from its main line through that portion of the State of Maryland through which it will pass in the same manner as the law of Maryland provides that the right of way shall be obtained.

Mr. GANSON. I would ask if this company has made any application to the State of Maryland for this right of way.

Mr. FARNSWORTH. I do not know that that is pertinent to the question now under consideration.

Mr. GANSON. If they have not, there is no use in Congress interfering.

Mr. FARNSWORTH. Whether they have or have not does not affect the question. There can be no doubt about the constitutional power of Congress to pass a bill of this kind. [Cries of "Oh!" "Oh!"]

Mr. WADSWORTH. There is a grave doubt. Mr. FARNSWORTH. Well, if gentlemen insist upon these doubts, then I must say that they must be judicially blind upon this question. [Cries of "Ah!" and "Oh!"] A question which has been over and over again settled by Congress and by the courts, it seems to me, ought to be satisfactorily settled to the members of this House.

I did not rise, however, for the purpose of discussing the constitutional question. I take it for granted that the members of the House who believe that we have the power to pass this bill, and believe in its necessity, will vote for it, and that those who still have doubts about the constitutional power will probably vote against it. I know there are some men here a good deal like a member of this House from Virginia whom I once read about, who, being dangerously ill, on his death-bed, in giving some directions for his funeral, whispered to one of his attendants, "Do not let them bury me at the expense of the Government, for I am damned if it is constitutional." [Laughter.] I have no doubt that there are members upon the floor of this House who still believe in the unconstitutionality of Congress doing anything which will benefit the country.

Now, Mr. Speaker, as the hour is getting very late, and as we desire to make some further reports from the Committee on Military Affairs, I call the previous question on the motion to reject the bill.

Mr. PENDLETON. When would the previous question exhaust itself?

The SPEAKER. Upon the pending motion, the motion to reject the bill. If the House should refuse to reject the bill, it would go to its second reading without question.

Mr. THOMAS. I ask the gentleman from Illinois to withdraw the demand for the previous question.

Mr. FARNSWORTH. No, sir; I cannot.

Mr. THOMAS. Do I understand that the gentleman from Illinois will not allow me to make an explanation in reply to the one which he has submitted?

Mr. FARNSWORTH. Not upon the motion to reject the bill.

Mr. THOMAS. I hope my friend will not persist in that.

Mr. FARNSWORTH. The gentleman will have an opportunity to make his explanation hereafter.

Mr. THOMAS. I desire to do it now. I merely want to respond in a very few words.

Mr. FARNSWORTH. The motion itself is an unusual motion—to reject a bill on its first reading.

Mr. THOMAS. Then I hope, as the gentleman refuses to yield, the House will reject the bill.

The question being on seconding the previous question,

The SPEAKER ordered tellers; and appointed Messrs. FARNSWORTH and THOMAS.

The House divided; and the tellers reported—ayes twenty-seven, noes not counted.

Mr. FARNSWORTH withdrew the demand for the previous question.

Mr. THOMAS. I was about to say, Mr. Speaker, to the gentleman from Illinois, that there were circumstances preliminary in this question, which I thought addressed themselves very forcibly to his sense of fairness, against the propriety of urging action at all on this bill now. I will recapitulate these circumstances in the full expectation that he will yield to their force. My colleague [Mr. WEBSTER] is absent. Before leaving here he took the precaution of seeking an interview and of entering into an arrangement with one of the members of the Committee on Military Affairs, who has charge of a bill having a much wider purpose than this, a much larger scope, much greater importance in every point of view—a railroad from Washington to the Hudson river opposite New York—but of which this bill was a part. My colleague left here under the full belief that he had made an arrangement under which this measure now up would not be introduced into the House during his absence. But it seems that, without his knowledge or mine, there were two projects before the Committee on Military Affairs—one on the large scale to which I referred, and the one now reported to the House. He has been, and I have been, taken entirely by surprise, because that part of the larger measure in which he takes an interest is now reported to the House, having been separated from the bill of which it was a part. Under these circumstances I did hope that when I made that explanation to the gentleman from Illinois he would postpone all action on the measure until my colleague returned.

That was the first proposition that I desired to submit. I find, however, that the gentleman from Illinois does not respond to that. Still I cannot but insist that there would be propriety in postponing all action on the bill until my colleague returns, because he has given much attention to this particular subject.

Mr. FARNSWORTH. There was no such understanding made with me.

Mr. THOMAS. No, sir; I speak of the gentleman from Ohio, [Mr. GARFIELD.] It seems there is a mistake in this matter. My colleague supposed, when he had the assurance that the bill for a military road from here to New York was not to be reported in his absence, that he had provided against the possibility of this measure coming up, which is especially interesting to Maryland. But, apart from that, the gentleman from Illinois does

not think proper to explain the question. Let us look at it.

Mr. GARFIELD. Will the gentleman from Maryland yield to me?

Mr. THOMAS. Yes, sir.

Mr. GARFIELD. By the kindness of the gentleman from Maryland I am permitted to explain. I introduced the bill to which the gentleman refers, for a railroad line between this city and the city of New York. That bill is liable to be called up as a privileged motion, and it was known to the gentleman from Maryland [Mr. WEBSTER] that I, having charge of that bill, would be likely to call it up. He therefore came to me and requested, as he was about to be absent in consequence of a death in his family, that I would not call it up until after his return. I told him that I would not do so. The measure now before the House is no part of my doings in any way; and I should be very sorry if anything should be done that would appear not to be fair toward the gentleman from Maryland, not now in the city.

Mr. THOMAS. That is precisely the statement that has been made by myself.

Mr. GARFIELD. This is not the same proposition at all.

Mr. THOMAS. I do not say that the gentleman from Ohio would violate, in any way, an agreement with my colleague; but I speak of the fact that my colleague is taken by surprise in the manner in which this proposition is brought before the House.

I would like to have this subject postponed on another ground. I know that the Maryland Legislature have taken action on this subject, and very emphatic and very decided action, and I hope this House will not consider what that Legislature may think in the premises as being unworthy of consideration.

And there are other elements in this question I do not propose to debate, whether it is constitutional or not, because the gentleman from Illinois [Mr. FARNSWORTH] is so very confident on that subject that it would require much boldness to differ with him. But I have been most strangely and erroneously educated if this is not in direct conflict with all the received opinions of the country, so far as I have had an opportunity to judge of them. I think it is in direct conflict with the decisions of the Supreme Court of the United States on analogous questions. It is certainly in direct conflict with the deliberate decision of the Administration of President Monroe, embracing as that Administration did some of the ablest men of the country. And we all know that these questions have been talked over and discussed in this country again and again. We all know that in the celebrated case to which I have referred Mr. Monroe, with the full advice of Mr. Jefferson and Mr. Madison, and of his entire Cabinet, came to the deliberate conclusion that although the Government of the United States had erected a road from Cumberland, Maryland, to the Ohio river, and had partially completed it beyond the Ohio river, there was no power in this Government to place even a toll-gate on that road for the purpose of collecting tolls for transportation and travel within the limits of the States, and that conclusion was concurred in by the Congress of the United States; for we all know that President Monroe vetoed a bill proposing the erection of these toll-gates, upon the distinct ground that within the limits of a State the Government had no right to impose tolls either directly or indirectly.

And long prior to that it had been the received opinion of the country that this Government possesses no power to create a corporation within the limits of a State. I know this bill is not called a charter in precise terms, but it is one in effect. And look at the strange provisions contained in it. I have never read them, for I never intended to take part in the discussion of this measure. This bill proposes not only to collect tolls, but to appoint commissioners by the Government of the United States to seize the property of citizens of Maryland, and condemn it for the purposes of this road; to take all materials required for the construction of this road and vest them in this corporation. All the powers of the State are swept away. If this be not interfering with the reserved rights of the States, then the States have no reserved rights, and this is a consolidated Government. Sir, whenever any experiment is made,



# THE CONGRESSIONAL GLOBE.

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in this age, at this day, and among this generation of men, to administer this Government upon any such principles, gentlemen will find that a standing army of five hundred thousand men will always be necessary at the call and bidding of the Government.

But there are considerations apart from that which touch this question very materially and vitally. This is a proposition designed almost exclusively for the benefit of the Northern Central railroad of Pennsylvania, and to injure roads now existing, under the plea of a necessity for more direct and certain communication between this city and New York. We all know that this is especially an attack upon a great and important work of internal improvement between this city and the city of Baltimore. We all know that in response to the just expectation of the country, and in order to enable it to furnish the means of transportation called for by this Government in the present extraordinary condition of affairs, the Baltimore and Ohio Railroad Company has constructed at an enormous expense a double track between Baltimore and Washington. Now, is it right that we should give to another corporation—for this is a corporation, let it be called by what name it may—the power and right to injure if not destroy the improvement which a Maryland company, at the instance of this Government, has made in her own work of internal improvement, in order that it may supply the demand for transportation made upon it by the Government?

What would be proper in another aspect of the case? I remember very well when the Northern Central Railroad Company was known upon the statute-book of Maryland as the Susquehanna Railroad Company. It was once my province, while occupying an official position in Maryland, to be cognizant of the facts of which I am about to speak. This Northern Central railroad was made principally by the means furnished by Baltimore and the State and people of Maryland. Maryland embarked \$1,500,000 in that corporation. Without that aid, that corporation could never have been successful in opening communication between the valley of the Susquehanna and the city of Baltimore. It is known, too, that the State of Maryland, after the road had been completed, finding that it was not a very profitable investment for the corporators, made a donation of that \$1,500,000, in order to rescue the corporation from the imminent peril of insolvency.

Now, if the State of Maryland is to be deprived of the value of her investment in the road between this place and the city of Baltimore, if Congress can extend the powers of this corporation so as to nullify all the past action of the State of Maryland on this subject, I demand, in the name of justice, that the Government of the United States shall reimburse to the State of Maryland the \$1,500,000, which she surrendered, on high grounds of public spirit and patriotism, for the benefit of the corporation that is now seeking to plunder her of her investment.

If the Government of the United States is to legislate in this manner for the State of Maryland, and if the people of Maryland are not to legislate for themselves on such a question, I demand that, as an act of pure justice, the Government of the United States shall take into consideration the entire subject in all its bearings, and reimburse to the treasury of Maryland the \$1,500,000 which were contributed to make the Susquehanna railroad, and which Maryland generously and magnanimously released to the very corporators who are now seeking to trample upon her reserved interests through the agency of the Government of the United States.

But there are other considerations in connection with this question. We all know—the gentleman from Illinois as well as myself—that this question of the power of the Government of the United States over such questions as this was largely debated from 1827 till 1836. We all know that the discussion resulted in a verdict by the American people—whether right or wrong I will

not say—that such an exercise of power by the Government of the United States was unwise, injudicious, inexpedient; that whether the constitutional power existed or not, it was best for all the interests involved that the power to make roads and canals within the jurisdiction of the States should be left to be exercised by the States in their governmental capacity, or by such corporators as they might think proper to endow with this power.

We all know the revolution that was wrought in this country by that great discussion, and we know what has ensued. Supposing that the policy of the country in this respect was settled, assuming that whether or not there was constitutional power in the Government of the United States to make these roads and canals within the jurisdiction of the States, the Government of the United States, as a mere question of expediency, had concluded to leave the exercise of that power to the States, every State in the Union has made giant strides in the work of internal improvement. Enormous amounts of money have been invested. What is the case of Maryland to-day may be the case of some other State to-morrow. She may be the first victim; but other States may speedily be made to feel this aggression upon their just jurisdiction. Pennsylvania investments may be made void; New York and Ohio and other States may be trespassed upon, one after another.

There are other elements in this question, apart from the matter of the constitutional competency of the Government of the United States. The States have gone too far, private individuals have gone too far, in making their investments under this received opinion of the country, the supposed determination of all authorities to abandon the exercise of this power by the Government of the United States, for Congress now to interpose and undertake to exercise this power, unless they will reimburse every dollar of investment that they render valueless.

This is not a mere question of power or right. It is a question of good faith on the part of the Government. Take that case now with regard to the State of Maryland. I state what I do now under correction, because I cannot state with entire accuracy, for five-and-twenty years have rolled away since I have looked at the books and papers relative to the subject to which I refer. Take the case of Maryland. If you are to destroy altogether one of the valuable investments made by Maryland, one road from here through Maryland, then take our entire internal improvement system off our hands, and do not take that which is most valuable, and leave us that which is of no value at all. One of the smallest States in the Union, Maryland has been the pioneer in the work of internal improvement. The State has been involved to an enormous amount of money in proportion to her extent and population. My colleague on the other side is well aware of that fact. And it required a system of onerous taxation; but now, thank God, Maryland has in her treasury dollar for dollar to pay all of her obligations. When you take this improvement, for, disguise it as you may, that is the effect of this bill, when you take the Baltimore and Washington railroad, take our other investments off our hands; take the Chesapeake and Ohio canal, in which Maryland has a capital invested of \$12,000,000.

A MEMBER. Fifteen million.

MR. THOMAS. I spoke of the amount when I was president of that corporation once, and I suppose that, principal and interest, it will amount now to \$15,000,000. That was an investment made by the State of Maryland to the enhancement of every piece of property that the Government has in the District of Columbia. Maryland has \$15,000,000 in that great work, this canal, and she has no prospect of a dividend. The prospect of a dividend is so remote that I cannot see when there will be one from that source.

MR. SPEAKER, I say apart from the constitutional potency of Congress to exercise this power, there are those questions lying back of it which we cannot lose sight of. We cannot trample

upon all the rights of the State and be dead to every sense of justice by interposing what I must call, with all respect, an attempted usurpation of power. Take all of them, if you take any; take off our hands all of these investments, in the Baltimore and Susquehanna, the Baltimore and Ohio, the Susquehanna canal, and the Chesapeake and Ohio canal; take all and reimburse us for all, and do not utterly annihilate the only branch of our improvements which has been profitable to the State.

MR. SPEAKER, I hope that the House will pardon my desultory manner in discussing these questions, for I did not intend to take part in the debate at all.

But let us look at this matter in sober seriousness. Is such a military road necessary? That is the question. Is there anything in the present or future condition of the country making it probable that we will want this thoroughfare between here and Baltimore? We are in an unnatural condition; and, thank God, we mean to close the present condition of things in such a way, with such emphasis, with such fixed and unchangeable determination, that there will be no danger in any succeeding age that any class of our citizens will create the precise condition of affairs under which we are now living. Let us see whether it is not an unnatural condition of affairs. We have a civil war upon our hands. We have been put to the necessity of transporting troops, munitions of war, and supplies for the Army to the seat of Government; but when the civil war is over, let us see whether there are not improvements of more importance than a railroad from the Susquehanna to the seat of Government, by which more money is to be put into the pockets of the corporators of the Susquehanna railroad in addition to the \$1,500,000 given generously by the State of Maryland. Let us see whether this condition of things is to last long. In a foreign war Baltimore, Philadelphia, New York, Boston, Portland, and the sea-board cities of the South will be in danger. They will be in front of the war, and not Washington city. Where, then, are we to get our munitions of war and supplies from? From the interior of the great States of Pennsylvania, New York, Maryland, West Virginia, and from the valley of the Mississippi. There is where they are all to come from; and seeing this there is more plausibility in a proposition to build railroads parallel with the Pennsylvania Central, the New York and Erie, and Boston and Albany railroads, than this cross-road from the Susquehanna to Washington. They are military roads which will be guarded in time of any exigency growing out of war. And if you want to provide for the seat of Government a proper defense, do not look to the interior of Pennsylvania or to Philadelphia, but look to the westward. Maryland, looking westward, has already provided for that; they have given you the corporation called the Metropolitan Railroad Company, contemplating a railroad from Washington to the Baltimore and Ohio road at the Point of Rocks; so that transportation from the West of either men or munitions of war might come directly to the seat of Government without taking the circuitous route by the way of the Relay House. In any point of view, therefore, as a military necessity, this road is not necessary, especially as it could not be completed before the civil war is closed.

I put it, therefore, to the members of this House with sober seriousness and earnestness, whether there is any exigency demanding this measure in the present state of affairs.

MR. SCHENCK. I would ask the gentleman from Maryland whether he would not be willing to forego all further discussion of this matter now and postpone the subject for a week.

MR. THOMAS. I was just about coming to that proposition.

MR. GANSON. I would suggest that a postponement of two weeks would be satisfactory.

MR. SCHENCK. I would say to the gentleman from Maryland that I desire to get before the House, before the hour of half past five

arrives, the bill amendatory of the enrollment law, so that it will come up as the unfinished business on Monday morning. Will the gentleman from Maryland give way for that purpose?

Mr. THOMAS. I most cheerfully yield to the suggestion of the gentleman from Ohio; and I move that the further consideration of this matter be postponed for ten days. I do not call the previous question upon that. I never called the previous question in a deliberative assembly.

Mr. PENDLETON. I demand the previous question.

Mr. FARNSWORTH. I hope it will not be postponed beyond one week.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the consideration of the motion to reject the bill was postponed for ten days.

Mr. PENDLETON moved that the vote last taken be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLMENT BILL.

Mr. SCHENCK. I now ask the House to take up the bill of the House No. 678, being the bill amendatory of the enrollment act.

The SPEAKER. If the Committee on Military Affairs have got through with their reports, the next business in order is the special order, being the bill (H. R. No. 678) entitled "An act to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft; and upon that the gentleman from Ohio [Mr. SCHENCK] is entitled to the floor.

#### DISCHARGE OF ENLISTED SOLDIERS.

Mr. L. MYERS, by unanimous consent, introduced the following resolution; which under the rules was referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the members of this House ten thousand copies of the report of the Committee on Military Affairs, and the resolution on the subject of discharging soldiers who have enlisted for the unexpired terms of regiments at the end of such term of service.

#### REPORT OF GENERAL MCLELLAN.

Mr. COX, by unanimous consent, introduced the following resolution:

*Resolved*, That the Secretary of War, if not incompatible with the public service, communicate to this House the supplementary report of Major General George B. McClellan as to the organization and operations of the Army of the Potomac, and having special reference to the organization and operations of the artillery service.

The SPEAKER. As this resolution calls for executive information, it requires unanimous consent to consider it at this time.

Objection being made, the resolution went over under the rule.

#### MARY F. B. LEVELY.

On motion of Mr. MILLER, of Pennsylvania, by unanimous consent, the petition and papers in the case of Mary F. B. Levely, widow of Henry Levely, were taken from the Speaker's table and recommitted to the Committee on Invalid Pensions.

#### REGISTERS TO BRITISH SCHOONERS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, by unanimous consent, reported a joint resolution directing the Secretary of the Treasury to issue American registers to the British schooners Minnie Williams and E. M. Baxter; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPORT DUTIES ON UNITED STATES GOODS.

Mr. PENDLETON, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to inform this House of the amount of import duties and charges remitted by his orders since the 1st day of January, 1864, upon goods furnished to the Army and Navy of

the United States, together with a description of the goods upon which such duties were so remitted.

And then, on motion of Mr. WASHBURN, of Illinois, (at five o'clock and twenty-five minutes, p. m.) the House adjourned.

#### IN SENATE.

MONDAY, February 20, 1865.

Prayer by Rev. JOHN LANAHAN, D. D.

The VICE PRESIDENT resumed the chair. On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of Saturday's proceedings was dispensed with.

#### RETURN OF A BILL FROM THE HOUSE.

Mr. FOSTER. I move that the Secretary of the Senate be directed to request the House of Representatives to return Senate bill No. 303, for the relief of Charles A. Hichborn, which has passed this body; there is a mistake in it which ought to be corrected.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. WILSON. I move to reconsider the vote by which the Senate passed the Army appropriation bill.

The VICE PRESIDENT. Does the Senator wish the motion considered now, or merely to have it entered?

Mr. WILSON. I will enter the motion now, and call it up after the morning business is through with.

The VICE PRESIDENT. The motion to reconsider will be entered, subject to be called up at any time.

#### THANKS TO GENERAL THOMAS.

Mr. BROWN. Mr. President, there is a joint resolution on the table which has been passed by the House of Representatives and favorably reported from the Military Committee of the Senate, tendering the thanks of Congress to Major General Thomas and the gallant officers and men under his command, for late brilliant operations in Tennessee. I propose to call up this resolution with a view to its passage at as early a moment as practicable, as a tribute most deservedly due to those who have evinced such skill and courage in the defense of our country, crowned as that skill and courage was with so much success. But in doing so, I desire that equal justice shall be done to others who have participated in the same operations, and contributed largely by their valor and endurance and promptness to the utter rout and demoralization of the rebel army under General Hood. I allude to the Navy co-operating with General Thomas, under command of Acting Rear Admiral S. P. Lee. I have had in my drawer for some time an amendment tendering the thanks of Congress also to Acting Rear Admiral Lee and the officers, petty officers, seamen, and marines under his command, and ask leave to present the same and have it printed, that it may come up with the original resolution of the House of Representatives.

The VICE PRESIDENT. The amendment will be received informally, and the Chair will put the question on the motion to print it.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate a letter of the Governor of the State of Maryland transmitting resolutions unanimously adopted by the Legislature of that State, protesting against the authorization by Congress of any railroad within that State connecting with the Northern Central railroad and extending to the limits of the District of Columbia; which was ordered to lie on the table, and be printed.

Mr. HOWARD presented a petition of Benjamin Leroy, praying for a pension; which was referred to the Committee on Pensions.

He also presented resolutions of the Legislature of Michigan in favor of a grant of lands for the construction of a wagon road from Escanaba to the straits of Michilimackinac, near Fort Mackinaw, and thence to Fort Brady, near the Sault Ste. Marie ship-canal, in the straits of Ste. Marie; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of Michigan in favor of an appropriation for

the construction of light-houses with fog-bells on the island of Mackinaw, and at or near old Fort Mackinaw in the straits of Michilimackinac; which were referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Michigan in favor of an appropriation for the improvement of the harbor at the mouth of the Saginaw river; which were referred to the Committee on Commerce.

Mr. DOOLITTLE presented a memorial of citizens of Milwaukee, Wisconsin, praying that the act of May 6, 1864, providing for the admeasurement of vessels, may be limited in its effect to ocean vessels, and that the act of March 2, 1799, may be revived and restored to its original force and validity upon the northern lakes; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin in favor of the selection of some point embraced within the harbor of Milwaukee as a site for a naval depot; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a memorial of Norman Wiard, praying for the adoption of measures whereby the invention and fabrication of ordnance may be opened to public competition; which was referred to the Committee on Naval Affairs.

He also presented resolutions of the Chamber of Commerce of Milwaukee, Wisconsin, in favor of a modification of the act of May 6, 1864, providing for the admeasurement of vessels, limiting its effect to ocean vessels, and that the act of March 2, 1799, may be revived and restored to its original force and validity upon the northern lakes; which were referred to the Committee on Commerce.

Mr. LANE, of Indiana, presented resolutions of the Legislature of Indiana in favor of granting pensions to persons wounded and the representatives of persons killed in the defense of that State from invasion by those engaged in rebellion; which were referred to the Committee on Pensions, and ordered to be printed.

Mr. POMEROY presented additional papers in relation to the claim of M. B. Duffield against the United States; which were referred to the Committee on the Judiciary.

Mr. JOHNSON presented a memorial of Horatio Stone, praying for an appropriation to enable him to complete the statue of Hamilton; which was referred to the Committee on the Library.

Mr. ANTHONY presented additional papers in support of the claim of Jane Clark; which were referred to the Committee on Claims.

Mr. SUMNER presented a memorial of acting assistant surgeons United States Army, praying for an increase of compensation, and that they may be exempted from liability to the draft, and that they be reimbursed for all expenses incurred in the line of their duty; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Kansas, presented the petition of citizens of the Territory of Colorado, praying the passage of an enabling act giving the people of that Territory the privilege of adopting a State government; which was referred to the Committee on Territories.

Mr. CHANDLER presented a petition of citizens of Michigan, praying that John Mix Stanley may be remunerated for the loss of his collection of Indian portraits, occasioned by the burning of the Smithsonian Institution; which was referred to the Committee on the Library.

He also presented a petition of citizens of Chicago, Illinois, praying for an appropriation for the improvement of the channel of the Muskegon harbor; which was referred to the Committee on Commerce.

#### ORDER OF BUSINESS.

Mr. CONNESS. I move to postpone all prior orders and take up Senate bill No. 380. I wish to say to the Senate that it is a bill reported on favorably by the Committee on Public Lands, and that when explained briefly by the member who reported it it will in my opinion excite no discussion; and yet it is of great consequence to us that it be acted on promptly here and sent to the other House. It is an amendment to an act of last year which provided for the sale of town lots on the lands of the United States. It is of great consequence to us, and I do not think it

will consume much time. If, however, it shall do so I shall not press it on the Senate now.

Mr. CHANDLER. Let us go through with the regular order.

Mr. FOSTER. I am certainly very far from wishing to interpose any objection to the consideration of the bill, but there is another bill which has been commenced and which is the unfinished business of the morning, that is as pressing as this bill can be, for a reason that the Senator well knows. I allude to the bill to establish a circuit and district court in the State of Nevada. I hope that bill will not be postponed. The honorable Senator from Nevada [Mr. STEWART] is entitled to the floor on it, having been cut short in his speech by the expiration of the morning hour.

Mr. CONNESS. I would remind the Senator from Connecticut that this bill was partly acted upon on Saturday morning, more recently than the bill to which he alludes, and although I know that the bill mentioned by him is one of great consequence, I am satisfied that this will not consume much time, if the Senate will let it be taken up.

The VICE PRESIDENT. The question is on the motion of the Senator from California.

The motion was not agreed to—ayes nine, noes not counted.

#### REPORTS OF COMMITTEES.

Mr. COLLAMER, from the Committee on the Library, to whom were referred two petitions of citizens of Michigan and a petition of members of the Legislature of Michigan, praying that John M. Stanley may be remunerated for the loss of his collection of Indian portraits destroyed by fire at the Smithsonian Institution, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol, reported it without amendment.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print additional copies of the Annual Report of the National Academy of Sciences for 1864, reported it with an amendment substituting "one thousand" for "five hundred," and the amendment was adopted, and the motion agreed to as amended.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a petition of provost marshals in the State of Michigan, praying for an increase in the rank and pay of provost marshals, reported adversely thereon.

Mr. MORRILL, from the Committee on Commerce, to whom was referred a bill (S. No. 400) to regulate the management of captured and abandoned property in the rebel States, and for other purposes, reported adversely thereon.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (S. No. 398) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, reported it without amendment.

Mr. SHERMAN, from the Committee on Public Buildings and Grounds, to whom was referred the petition of William Hughes, praying payment for improvement of the grounds surrounding Armory Square Hospital, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia.

Mr. BUCKALEW, from the joint committee on the ventilation of the Halls of the two Houses of Congress, submitted a report, which was ordered to be printed; and a motion by him to print three hundred extra copies was referred to the Committee on Printing.

#### BILLS INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 457) to change the name of the propeller F. W. Backus to that of Metacomet; which was read twice by its title, and referred to the Committee on Commerce.

Mr. WILSON asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 458) to regulate and equalize the expenses of assessors of internal revenue for clerks and stationery; which was read twice by its title.

Mr. WILSON. I move that the bill be printed, and I desire that it lie on the table until to-morrow. I intend to move its reference to the Committee on Finance; but before doing so, I desire to make a brief statement of the facts pertaining to it.

The VICE PRESIDENT. That order will be made, if there be no objection.

Mr. WADE. I ask leave to introduce a concurrent resolution, and I desire its present consideration, if there be no objection.

The VICE PRESIDENT. It is not now in order. A concurrent resolution does not provide for legislation, but is simply in the nature of a resolution of the Senate. The introduction of bills and joint resolutions is still in order.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 461) to amend the judicial system of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 462) for the relief of the levy court of the county of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes,'" which was read twice by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864;

A bill (H. R. No. 767) to increase the pay of certain officers of the Army, and for other purposes;

A bill (H. R. No. 765) concerning regimental and garrison courts-martial;

A bill (H. R. No. 698) to establish in the War Department a Bureau for the Relief of Freedmen and Refugees;

A bill (H. R. No. 600) for the better organization of the subsistence department;

A bill (H. R. No. 653) to determine the rank of officers reëntering the military service;

A joint resolution (H. R. No. 169) to provide for the publication of a full Army Register;

A joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants;

A joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased;

A joint resolution (H. R. No. 172) to authorize the President to make transfers of officers in the Army of the United States; and

A joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to the British schooners Minnie Williams and E. M. Baxter.

#### INTERNAL REVENUE.

Mr. SHERMAN. I desire to submit a motion with reference to the tax bill in order to expedite it as much as possible. I move that it be taken up, and read a first and second time, and referred to the Committee on Finance.

The motion was agreed to; and the bill (H. R. No. 744) to amend an act entitled "An act to pro-

vide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, was read twice by its title, and referred to the Committee on Finance.

Mr. SHERMAN. I move that it be printed; and I wish that the printing be expedited as far as possible.

The motion was agreed to.

MRS. LUCY A. RICE.

Mr. HOWARD. I ask the Senate to take up Senate joint resolution No. 116, relating to Mrs. Lucy A. Rice, late of Richmond, Virginia. It was partially acted on by the Senate the other day, but we did not pass finally upon it. I do not suppose it will take up any time in debate.

Mr. SUMNER. I desire to introduce a bill.

Mr. HOWARD. Let me pass this first.

Mr. WADE. I wish the Senator would let me take up my resolution for consideration. If it takes any time I will drop it.

Mr. HOWARD. If mine takes any time I will drop it.

Mr. WADE. I got mine in first.

Mr. HOWARD. No; mine was brought in the other day.

The VICE PRESIDENT. The question is on the motion of the Senator from Michigan to postpone all prior orders and take up the joint resolution indicated by him.

The motion was not agreed to.

#### WASHINGTON AND GEORGETOWN RAILROAD.

Mr. SUMNER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 460) to repeal an "Act to incorporate the Washington and Georgetown Railroad Company," which was read twice by its title.

Mr. SUMNER. On the question of reference I desire to make a statement. I have in my hands the charter of the Washington and Georgetown Railroad Company. The sixth section provides as follows:

"That this act may at any time be altered, amended, or repealed by the Congress of the United States."

The power of Congress, therefore, over that charter is complete. The next question is, whether the occasion has come for the exercise of the power. I submit that it has. The present proprietors of that charter, acting under it, resist daily upon outraging the law of the land, as that law has been declared in this Chamber by eminent Senators again and again, by the Senator from Maryland [Mr. JOHNSON] and by the Senator from West Virginia who is not now in his seat, [Mr. WILLET], to the effect that no corporation is justified in any exclusion from a public conveyance on account of color. That, sir, is the law of the land; but in the face of that positive principle, this successful, rich, and pampered corporation insists upon outraging it daily. I have in my hand an extract from a recent newspaper, which I shall read, as follows:

"EJECTED FROM A STREET CAR.—As car No. 1 was passing along the avenue yesterday morning, at about nine o'clock, a young woman of about eighteen summers called the conductor and asked him if he allowed colored people to ride in his car. He replied he did not, and said he did not know of any colored person being in the car. The young woman told him that the person sitting next to her was a colored woman; whereupon the conductor compelled her to leave the car, she, at the same time, being whiter and fairer than the person complaining of her presence in the car."

There is an outrage of which we have a public record in the journals. But this is not all. I have in my hand a letter from a gentleman in the Paymaster General's office, who writes me under date of February 17, 1865, as follows:

"A few days ago I saw an American soldier in the uniform of his country ejected from one of the street cars of the Washington and Georgetown railroad in which I was a passenger. He was a neat, orderly, intelligent-looking man, whose soldierly bearing testified to his pride in the uniform he wore."

"I know not how many rebels were in that car, for only one expressed herself, and she was loud in denunciations of the 'Yankee Government' and 'the nigger'—an avowed traitor."

"This was a strange spectacle to a loyal man who has served a full term in the field. I have heretofore omitted to call attention to similar wrongs, hoping that Congress would soon put an end to them."

"I will further add that, beside his uniform, I saw nothing in the soldier that should have subjected him to the outrage, except, perhaps, his color."

There is evidence of the outrage. I have said that the law has been often declared in this Cham-



ber; but it has been declared also from the courts. I have in my hand the opinion of a judge in California, and if I could have the attention of my friend from California [Mr. CONNESS] I should like to call his particular attention to the able and emphatic statement of the law by this learned judge in San Francisco. It is an opinion given as late as this very last month of January, 1865, on an action for damages brought against a railroad corporation for ejecting a colored person from the cars. On that occasion the learned judge, who I name to honor, Judge O. C. Pratt, in a very able opinion, expressed himself as follows:

"The law, however, regulating the rights of the parties, it is the duty of the court to lay before you, and it is incumbent on you to act upon and be guided by it in your deliberations. Should any error be committed in declaring what the law in the premises is the responsibility will be mine and not yours."

He then goes on to say as follows:

"That the plaintiff is one in whose veins flows blood of the African race, or whose skin has a darker color than the majority of other human beings with whom we are daily surrounded in life, in no respect impairs her rights, nor do such blood and color, in any manner, place her outside of the protection of courts and juries when invoked to redress her alleged injuries."

Then after admonishing the jury to approach the question without passion on the one side or the other, the learned judge proceeds as follows:

"Keeping these suggestions of duty fully in view, we charge you, as the law of the premises, that if you believe from the testimony the plaintiff at a reasonable time and proper place applied to defendant to be carried as a passenger in its railroad cars, and tendered the fare which was by law required, and there was manifest to defendant no personal objections to her carriage, other and different from those arising out of her race or color, and her application was refused for that sole reason, and that she was compelled, by sufficient force to effect it, by defendant's servant, against her will, and with defendant's assent, to leave the car of defendant where such application was made, then and in such case such refusal was a breach of duty by defendant, and such ejection of plaintiff was wrongful and unlawful, and entitles plaintiff to damages. In estimating damages in such case you may not only ascertain from the proofs such direct pecuniary losses, if any, directly resulting therefrom, but in addition we charge you, where a duty imposed by law is refused to be performed by one on whom it is enjoined, and such refusal is accompanied with wilful personal injury and insult, calculated to produce bodily or mental suffering, or to cause shame and a depression of spirits as a direct and immediate result of such wilful infringement of rights, the law permits jurors to take such injuries into consideration in computing the damages to which the suffering party is entitled. To authorize this, however, it must satisfactorily appear by the proofs that such infringement of rights has been maliciously committed, or such duty enjoined by law wilfully and maliciously refused to be performed. The rule laid down in the elementary books on this subject is substantially that the sense of wrong or insult in the sufferer's breast resulting from an act dictated by a spirit of wilful injustice, or by a wilful intention to vex, degrade, or insult, may be taken into consideration in making up the quantity of damages in connection with the pecuniary loss."

Sir, that is the common law laid down by a learned judge in California. I thank that State on the Pacific for teaching us here in Washington the law of the land. The jury after listening to this charge returned a verdict of \$500 damages for the ejection from the car.

Mr. CONNESS. And that means in gold.

Mr. SUMNER. And the Senator reminds me that that means in gold. Now, sir, I should like to see the corporation that here in Washington defies the law of the land mulcted in \$500 damages in gold for every breach of the law; but as the corporation refuses to perform its duties, it seems to me that Congress ought to step in and take from it its charter.

Mr. SAULSBURY. Mr. President, the very authority cited by the honorable Senator from Massachusetts to show why this bill should be referred to a committee, is conclusive to my mind that no such reference should be made. He says it is the established law of the land that this corporation shall not exclude any person from its cars on account of color. He cites a judicial decision to show that if such exclusion be made, the corporation is liable in damages. If such be the fact, if the law of the land be as thus stated, if that law has been so solemnly declared, why not leave the person ejected to his action at law? Why, upon the mere report in a newspaper, unsupported by any other testimony, invoke the action of Congress to revoke the charter?

Suppose that to-morrow there is some white passenger on board of any car in any State, according to the report of a newspaper, ejected from a car, would the Legislature of any State deem it a matter of so much importance and worthy of so much consideration at their hands as to revoke

the charter of the corporation on that account; or would they not leave the ejected passenger to his remedy (which, according to the Senator is ample) at law? Suppose that to-day or to-morrow a white passenger is ejected from the cars of this railroad company, would any Senator here rise in his place and ask that the charter of the company be revoked; or would he not remit the ejected passenger to his remedy at law? Has it come to this, that when a corporation violates, or is alleged to have violated, its contract with an individual, the powerful agency of Congress is to be invoked, when it is confessed that there is full and adequate remedy at law?

Suppose that any member of this Senate causes to be placed on board of any car a package; suppose he wishes to transmit by any corporation over which we have jurisdiction freight, and suppose the corporation violates its contract with that individual, would you deem it of sufficient importance and worthy of so great consideration that the authority of the highest legislative tribunal in the land must be invoked to redress the wrong and enforce the remedy; or would you leave the person so aggrieved to that remedy which the law already provides?

I do not intend to detain the Senate, but I do think, that considering the amount of the legislation of Congress which is devoted to this negro race, it is time it should stop and that the poor degraded white should have some consideration. Oh, sir, how unfortunate is it that we were born with white skins!

Sir, when subjects of this character are introduced, I think it would well become the Senate of the United States to adjourn and go to some town hall to consider the question and then come back to the Senate Chamber and resume their legislative duties.

Mr. HENDRICKS. I desire to ask what is the question before the Senate.

The VICE PRESIDENT. The motion is to refer the bill to the Committee on the District of Columbia.

Mr. SHERMAN. The Senator from Massachusetts [Mr. Wilson] has submitted a motion to reconsider the vote on the passage of the Army appropriation bill; I deem it important to have that matter disposed of.

Mr. SUMNER. Let this be first disposed of.

Mr. BROWN. I want to say a word before this question passes away from the Senate.

Mr. SHERMAN. If I have the floor, and I believe I have, I call up the motion to reconsider, which has been submitted in regard to the Army appropriation bill. It is important that that bill should be sent to the House of Representatives.

Mr. BROWN. I do not intend to occupy more than a moment's time.

Mr. SHERMAN. I do not think that the motion to reconsider will occupy much time; but I will yield if the Senator desires to speak.

Mr. BROWN. I shall have something to say on this bill when it is reported back from the committee. I desire now simply to thank the Senator from Massachusetts for the persistence which he has shown in bringing this matter before the attention of Congress. When the Congress of the United States have deliberately expressed their opinion on this subject five several times, by five different votes, taken in both branches, declaring that this outrage shall no longer be tolerated, I think it is high time that we should call attention to a corporation which holds its rights under our laws and which persists in violating them. It seems to me that it is a case in which we shall be recreant to our own dignity if we do not take it in hand. I therefore trust that we shall have an early report from the committee on this subject. There is no question, I believe, but what the common law is as stated, nor is there any question that Congress has reiterated again and again its sense that that law should be enforced.

Mr. HENDRICKS. I believe that upon a motion to refer it is not in order to discuss the merits of the measure. If I am right, I ask for the enforcement of that rule. I do not think this bill should have special preference, just after the Senate has refused to consider the bill which the Senator from California [Mr. CONNESS] desired to call up, and which was a bill for the relief and benefit of very many of the occupants of the public lands. The Senate, on a vote, refused to hear

that bill, not ten minutes ago, and I am not content that the merits of this bill shall now be discussed or at any time until that other bill is considered.

The motion to refer was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. SHERMAN. I now call up the motion to reconsider the vote by which the Army appropriation bill was passed.

Mr. TRUMBULL. Is the bill here?

The VICE PRESIDENT. The bill is here.

Mr. SHERMAN. I do not know the reason for the motion to reconsider, which the Senator from Massachusetts has submitted; but I wish it disposed of so that the bill may go to the House of Representatives.

Mr. TRUMBULL. The Senator from Massachusetts, I suppose, desires to reconsider it for some particular object. If he will state what it is, we shall be better prepared to know how to vote.

Mr. GRIMES. We always allow a reconsideration.

Mr. TRUMBULL. Always as a matter of course? If there is no object in reconsidering it I suppose it will not be reconsidered. I should like to know why it is to be reconsidered.

Mr. WILSON. I have moved to reconsider the vote by which the bill was passed for the purpose of making a further motion to reconsider the vote by which an amendment was adopted at the instance of the Senator from Illinois. I believe that amendment, if it be retained, will disarrange the existing affairs of the Army. I think it will do great injustice. By a decision of the Treasury Department I think the amendment, if it be adopted, will immediately affect all the officers of the Army in regard to the longevity ration, and there is no reason on earth why it should be done. That ration was founded in reason and justice and ought not to be disturbed. I have a letter from an Army officer—

Mr. TRUMBULL. I have no objection to its being reconsidered if you wish to get at that matter again.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The Chair supposes the next question will be on reconsidering the vote by which the amendments were ordered to be engrossed and the bill to be read a third time.

The motion to reconsider was agreed to.

The VICE PRESIDENT. Now the bill is in a position which affords the Senator from Massachusetts an opportunity to make his motion to reconsider the vote by which the amendment he refers to was adopted, if he voted with the majority on that question.

Mr. CLARK. I voted with the majority for that amendment, and I will submit the motion to reconsider, not committing myself in regard to it either way, but simply in order to hear what may be said upon the point.

The VICE PRESIDENT. The question before the Senate is the motion to reconsider the vote by which the following amendment was agreed to, as an additional section:

SEC. —. And be it further enacted, That all laws and parts of laws or regulations of the War Department which give additional pay or rank to officers of the regular Army over officers in the volunteer service of the same rank are hereby repealed.

Mr. TRUMBULL. I am willing to have the vote reconsidered in order to reach the question.

The motion to reconsider was agreed to; and the question recurred on agreeing to the amendment.

Mr. WILSON. I will read an extract from a letter which I have received from one of the most intelligent officers in the Army in regard to the effect of this amendment:

"Will you for one moment look at the effect which Mr. TRUMBULL's amendment has on the rank of Sherman, Thomas, Sheridan, and Meade? They were all major generals of volunteers, thus: W. T. Sherman, 1st May, 1862; G. H. Thomas, 25th April, 1863; P. H. Sheridan, 31st December, 1862; G. G. Meade, 29th November, 1862. They distinguished themselves, and upon the presumption that a commission of major general of regulars takes precedence over that of major general of volunteers, by way of reward, they are commissioned major generals of regulars, thus: W. T. Sherman, 12th August, 1864; P. H. Sheridan, 8th November, 1864; G. G. Meade, 18th August, 1864; G. H. Thomas, 15th December, 1864. Now Mr. TRUMBULL's amendment destroys the presumption and eliminates the precedence. What follows? Sherman loses two years two months and twelve days rank as major general, and has

placed above him forty-eight major generals who were his juniors when you made him a major general of regulars. Sheridan, Meade, and Thomas lose in similar proportion. It is difficult to see the full extent of the mischief of this amendment."

Mr. BROADHEAD, of the Treasury Department, has decided that volunteers are not entitled to the service ration. Army officers are entitled to it now, and it is believed that the amendment of the Senator from Illinois will at once affect the rights of Army officers. It is no time to enter upon doubtful experiments, and I hope we shall let well enough alone.

Mr. HALE. It is a very strange proceeding if there has been a decision of the Comptroller upon an amendment to a bill that has not yet passed.

Mr. WILSON. Not a decision on this amendment, but a decision on a principle under which it is supposed the adoption of this amendment is to affect the Army.

Mr. HALE. I should like to know how the Comptroller could decide on the principle involved in the amendment of the honorable Senator from Illinois, which was only adopted by the Senate on Saturday night and has not yet gone out of the possession of the Senate. I do not know who wrote the letter which the Senator from Massachusetts read, and I do not care; but I think if the truth was known it would turn out to be a man who feels a good deal more interest for somebody else than he does for Sherman, or Thomas, or any of the other generals named in the letter.

Mr. CONNESS. I suppose he has a right to speak for himself.

Mr. HALE. Of course.

Mr. WILSON. I will say that the officer does speak for himself, and in the very letter says that the amendment changes his own relative rank more than five hundred. He is a colonel in the service, and it puts five hundred colonels above him.

Mr. HALE. It must be a wonderful amendment that can produce such an effect! I do not believe a word of it.

Mr. BROWN. And yet he outranks five hundred men who are probably his superiors, because of the regulation of the Department.

Mr. HALE. I do not believe anything of what is alleged here in regard to the terrible effect of this amendment. The amendment is a simple one, and when it was proposed the Senator from Massachusetts at the head of the Military Committee, who of course understands these matters better than most of us, said it had not the least effect in the world; that we had very lately passed a law remedying the very evil to which this amendment seemed to look, and he was astonished that there should be any suggestion that there was any difficulty on the subject.

It is said that the amendment will affect the longevity ration. It will not affect that in the slightest respect. All it does is to put the regular officers and the volunteer officers on the same level, and so it does not affect the longevity ration at all, as I understand. It is a fair and equal thing. If the officers of the regular Army have been in the service longer than the volunteer officers they will have the advantage of it; this amendment does not take it away from them; and I should like to hear some possible explanation of how it is that it is to work such mischief. In my humble judgment it is a wise measure, one that is called for by the interest of the men who are fighting your battles and winning your victories; and the fact which I have elicited and which the Senator from Massachusetts with his usual candor has disclosed, is that the letter is written by somebody for himself, and he brings in General Sherman, and General Thomas, and some of those men who have done so much, to enlist a little sympathy on their account that he may help himself thereby. I think the measure is a wise one and a salutary one, and this fluttering among these gentlemen shows its necessity and its wisdom.

Mr. RICHARDSON. I desire to call the attention of the chairman of the Committee on Military Affairs to what has already been said by the Senator from New Hampshire in reference to the longevity ration. The amendment proposed by my colleague, and adopted by the Senate on the last day of our session, only abolishes the distinction that is now kept up between the regular and volunteer officers in the Army. It does not

affect that ration. The volunteer officer is not entitled to it, because he has not served five years, which length of service is required in order to get it.

The regular officer who has served for years gets an additional ration for each five years' service, and that is what is called the longevity ration. I cannot see how this amendment can affect it. If that is the only objection to the amendment which has been adopted by the Senate, it is the best reason that can be given to show that there is no other argument against it.

Mr. TRUMBULL. I think I can explain exactly what the trouble is about this longevity or service ration, and how it was that this decision was made in advance. I seems that by a regulation of the War Department, made, I presume, in pursuance of law, there is allowed what is known as a service ration to officers in the Army; that is, after having served a certain length of time they get an additional ration, one for every five years' service, I believe. The Treasury Department has construed that law as applicable alone to officers of the regular Army, and as not embracing volunteers. Now my colleague says volunteer officers have not served five years. It is true they have not in the volunteer service, but the practice in making up this period of time in the War Department is to add together all the service that has been rendered by the particular person. Take for instance an officer like General Burnside, who once served in the regular Army, subsequently went out of the service, and since this war began entered the volunteer service. I believe he is not now in the regular Army, but if he is, there are many others in his position who are not. The War Department adds together the service rendered by such officers formerly in the regular Army and that since rendered in the volunteer forces, and where it amounts to more than five years proposes to allow the ration; but the Comptroller decides that that does not entitle a volunteer officer to this longevity or service ration; but if the same man was in the regular Army he would be entitled to it. That decision may have been correct; I will not say how that is, because I have not examined the law; but the object in offering this amendment was not to take away the longevity ration from the officers in the regular Army. I think many of them are poorly paid, and I should not be disposed to take away that ration from them. I am entirely willing to add an amendment declaring that this section shall not abolish the longevity ration of the regular Army, but that the volunteer officer shall be entitled to precisely the same thing.

What I am after is to give to the volunteer officer the same rank and the same pay that the regular officer has under the same circumstances. Is there any objection to that? It seems to me there ought not to be. I have drawn up an amendment, which I shall offer to the amendment presently, that I think will accomplish the object and obviate the difficulty suggested by the Senator from Massachusetts in this respect. I will put it as a proviso in this form:

*Provided*, That this section shall not be construed to abolish the service ration now allowed officers in the regular service; but officers in the volunteer service shall be entitled to the same rations in this respect as if they were in the regular service.

The object of my amendment was not to take away the pay of these officers; and I was not aware, at the time I offered it, that it would have that effect. Nor was it my object to deprive anybody of his rank. The object was merely to bring about a similarity between officers of the same grade and rank and who have served the same period of time. I think that the volunteer officer, a lieutenant, for example, who has served in the field three or four years during this war, ought to rank just as high and is just as valuable to the service as if he had been serving at West Point the same four years. I think the school of the field, marching with his company, camping with them, fighting battles with them, going with them through all the campaigns, is calculated to educate the volunteer lieutenant just as well as he would be educated during the same period of time at the School at West Point; and I would give no preference to a person because he was in the regular service over one in the volunteer service. I think it is prejudicial to the public service to keep up this distinction; and if I knew how, without interfering with existing organizations, to frame a

bill that would bring about an entire equality, that would abolish all distinctions between officers and soldiers in what is known as the regular Army and in the volunteer service, I would introduce it and urge its passage. I think there should be no distinction after this length of time.

Now, sir, a word as to the other suggestion made by the Senator from Massachusetts, that General Sherman and others in his position are to be affected by this amendment. We have already passed a law authorizing the President to designate any officer of a particular grade to command an army, and it matters not what the date of his commission is. General Sherman is in command of an army, and every major general in that army, though his commission may be of an older date than General Sherman's, is subordinate to him. This will not interfere with that. There is no trouble about that. Junior major generals are commanding their seniors by designation of the President already. It would make no sort of difference how old was the date of any major general's commission who was placed in the army commanded by Meade, or Sherman, or Thomas; the person assigned to the command of an army commands all the major generals in that army, of whatever date their commissions may be, so that there is no trouble in that respect; and in regard to the service or longevity ration, as it is called, I shall offer the proviso I have already indicated to obviate any difficulty on that point.

Mr. WILSON. I have no quarrel with the Senator's intentions; but certainly if his amendment meant anything it meant to bring the regular officers down and not the volunteer officers up. The amendment speaks for itself.

That all laws and parts of laws or regulations of the War Department which give additional pay or rank to officers of the regular Army over officers in the volunteer service of the same rank, are hereby repealed.

This provision will certainly repeal the service ration of the regular officers. The Treasury Department has decided that the longevity or service ration does not by law belong to volunteer officers. And now a provision is proposed to repeal all laws and regulations that give additional pay or rank to officers of the regular Army over officers of the volunteer service, and that necessarily repeals the service ration. The service ration is founded in reason and in justice, and it ought not, in my judgment, to be interfered with. If this amendment shall be modified so as not to interfere with it the object of moving the reconsideration will have been accomplished. All that I want is to do justice in this matter, to do it to the regular Army, to do it to the volunteers.

I have now a single word to say to the Senator from Missouri in reference to the letter I read. That letter was from an Army officer who has served the country more than twenty years, an officer who has been engaged on the Pacific coast and in the interior of the country, an officer who has been actively engaged for about a quarter of a century in the military service. He has the rank of a colonel, and by virtue of the present law would outrank in the field a colonel commissioned by the Governor of a State. But by this proposed change he is to be outranked by more than five hundred colonels, he having served a quarter of a century and they having served perhaps on the average two years. It appears to me that training and service in the field ought to count something. Senators admit this, and they are very anxious to have training and service counted for the volunteers, but they are not quite so anxious that training and service shall count for officers of the regular Army. I would have service count as much as possible for both. I beg Senators to do no injustice to officers who have served the country for many years with fidelity. It is not necessary to pull down officers of the Army to elevate officers of the volunteers.

Mr. TRUMBULL. I move to amend the amendment by adding this proviso:

*Provided*, That this section shall not be construed to abolish the service ration now allowed officers in the regular Army, but officers in the volunteer service shall be entitled to the same rations in this respect as if they were in the regular service.

Mr. SHERMAN. I voted for the amendment of the Senator from Illinois on Saturday. I believed the principle of it was right enough, and I voted for it upon the declaration of the chairman of the Military Committee that it made no difference; that the rank of volunteer officers now

was the same as the rank of regular officers of the same grade; that a preference was only made by assignment of the President. But the amendment now offered by the Senator from Illinois is very radical in its character, and I would much prefer to vote against the whole measure than to have that ingrafted as a part of it. The service ration is totally indefensible in the present condition of affairs, and I am surprised to hear Senators justify it. When it was passed it was intended to supply an additional compensation to officers of the regular Army who had been a long time in the Army without promotion. It was said that officers whose families were growing, and whose expenses, therefore, were increasing, had been retained in the same rank for ten or twenty years; for instance, in the rank of captain, and that the pay of that rank was not commensurate with the increased wants of their families. It was for that reason that an additional ration was given for each five years' service. The intention of that law, in my judgment, was that where an officer was serving in the same rank for five years he should have an increase of pay by an additional ration. That, I say, was the intention of the law; but a forced construction has been given to it which it is not now possible to change except by legislation. It has been held that where an officer of the Army was in the service, say for twenty years, and then resigned and went into private life for ten years, and recently has come back into the volunteer service, his old service in the regular Army shall be added to his recent service in the volunteer army, so as to give him four additional rations. In that way, although he may in the volunteer army draw pay as a major general, he draws service rations for his old service in the regular Army, which he may have left with the rank of captain, although his pay has been vastly increased by his additional rank in the volunteer forces.

Mr. WILSON. Will the Senator explain how that can happen? The service ration does not apply to general officers. Officers of the regular Army who have been promoted and made general officers get no service ration.

Mr. SHERMAN. What grades get the service ration?

Mr. WILSON. Colonels and all under that rank.

Mr. SHERMAN. Then here is the difficulty: nearly every high officer in the regular Army now holds a very high rank in the volunteers, retaining at the same time his old rank in the regular service. Nearly all your general officers of volunteers hold a rank in the regular Army. Sheridan and some others are now brigadier and major generals in the regular Army, it is true; but many of your best general officers of volunteers still rank as colonels, lieutenant colonels, and majors in the regular Army.

Mr. WILSON. They are paid as general officers of volunteers, and not paid as regular officers. A general does not get the service ration.

Mr. SHERMAN. I think you will find that, retaining their rank in the regular Army, they get it. At any rate, the only reason for granting the additional ration was that the officers were compelled in the old Army to serve for a very long time in the same rank without any increased pay. I certainly do not desire to see this extended to the volunteers. Indeed, it cannot be until they have served five years. The only reason of the additional ration, as I have said, was to supply the deficiency in the old law by which promotion was so slow.

On the whole, I think it was unwise in the Senate to add this provision to the appropriation bill. We legislated hurriedly on the subject, without full reflection or consideration; and I am therefore disposed to vote against the amendment, leaving the subject to be legislated upon in some proper military bill, at the proper time.

Mr. HALE. I am glad that this subject has come up, and I will suggest to the Senate a remedy, which I have suggested nearly every session for the sixteen years I have been in the Senate, and that is, to abolish the very vicious way that we have of paying our Army officers. I have endeavored on several occasions, and have sometimes got reports on it, to insert a provision to pay each man so much money just as you pay the President, the Cabinet, the Members of Congress, the Chief Justice, and all the judicial offi-

cers. I would pay the officers of the Army in the same way; but we do not do that. We have a system of paying by which we introduce a sort of circumlocution, so that the people cannot know, and we ourselves do not know what salaries they get. I think there is hardly a day here that some bill is not introduced by which a particular officer is to have the pay, rank, and emoluments of a colonel of cavalry, or a brigadier general in the regular Army, or something of that sort; and to such an extent was that carried that at the last session we created a judicial officer in the War Department, and a serious attempt was actually made to give him his pay in that way, by giving him the pay, rank, and emoluments of a brigadier general, but the good sense of the Senate prevailed.

Mr. JOHNSON. It did not prevail.

Several Senators. He got the pay and rank of a brigadier.

Mr. HALE. I am speaking of the Senate when they acted on their own convictions, [laughter,] and not of what they were smuggled into doing on the report of a committee of conference. I say that when the Senate acted upon their convictions they voted down that proposition. It is one of the absurdities, it is one of the ridiculous inheritances we got from Great Britain, and we have kept it. We have got rid of a great many others, but this seems to cling to us. We vote to a man the pay, rank, and emoluments of some officer, and we do not know what the amount is, and when the chairman of the Committee on Military Affairs has been called upon here to state what the salary was he could not tell us, and nobody can tell us. Sometimes it is one thing and sometimes it is another. I think that until we remedy that we shall never vote understandingly on these propositions.

What is this service ration? I will tell you exactly what it is. It is a provision of law by which the older a man gets, and the less able to render service to the country, the more money he receives. In other words, it is a premium on senility and imbecility; and the more senile a man gets, and the more incompetent to render any service, the more we pay him. That is the philosophy and the reason and the beginning and the ending of this longevity ration. But I suppose a great many men think we cannot get along without it, that we should die if we were to throw off this old remnant of the English aristocracy that has come down to us, by which we have been enabled to deceive ourselves and deceive our constituents.

I am opposed to the amendment of the Senator from Illinois in regard to the service ration because it is not wanted, it is not necessary. I want to pass the simple proposition that officers of the regular Army and of volunteers shall be paid exactly alike; a major general of the regular Army the same as a major general of volunteers, and so on.

The original amendment of the Senator from Illinois was passed on Saturday night after dark, I believe, and here we are on Monday morning, and already it has been submitted to the Comptroller, and he has decided, not this measure, for it has not been before him yet, but he has decided a principle that exactly hits the case. I should like to see that decision. I should like to know how long it has been the fashion for these executive officers to decide on principles that are to apply to amendments that have not yet become laws. I do not believe a word of it. This is a plain, wholesome provision, and people can understand it; and that is the objection to it. That is what has brought these letters from colonels of the Army and from the War Department, and decisions on principles from the officers of the Treasury. The difficulty is that here is a law that if passed everybody can understand what it means, and that is obnoxious to the censure of the War Department and of the accounting officers. Here is a plain, simple proposition, putting the officers of volunteers and of the regular Army on precisely the same footing, and they tell you it is going to introduce some confusion; it is going to put one man up above five hundred others that are his seniors, and put another down, and create infinite confusion. Not so, Mr. President. It will introduce order—no, not order, for we never can get order until we get rid of this old legislation, but it is an approximation to it, and I hope

the Senate will adhere to it, and that we shall not be choused out of it, if that is a proper expression, by the report of any committee of conference.

Mr. BROWN. Mr. President, I was one of those who voted for this amendment on Saturday evening; and I did not vote for it in any haste or in ignorance of its operation, but because I conscientiously believed it would be an improvement upon our present Army discipline. There are two questions involved, or two questions upon which a reconsideration is predicated: one the service ration, the other the rank. If I remember correctly, the chairman of the Military Committee stated on Saturday evening that there was no distinction at the present time between the rank of volunteer officers and officers of the regular Army. It was, therefore, very properly contended that there could be no objection urged to this amendment on that ground. But it turns out, as was then believed, and as I believed myself, that there is a distinction, a distinction that is found in the Articles of War, which declare that wherever the two forces are serving together officers of the regular Army shall take precedence in rank, no matter what the dates of their commissions. On that subject I desire to say that I do not believe there is any merit in prescribing, by a sweeping regulation of that kind, a rank of this sort in the regular Army. Take the case which has been illustrated by the Senator from Massachusetts, a case in which the officer has seen twenty years' service, as he alleges, and is still a colonel, and the passage of this amendment will, it is said, put five hundred others above him. Does it not demonstrate that, by virtue of this Article of War, that man now outranks five hundred men who are probably his superiors in many respects? I say superiors for this reason: if he had been qualified, if he had been competent, would his name not have been included in the multitudinous lists which have been sent up here of brigadier generals and brevets? Has not the Department of War had every opportunity to advance that officer which could possibly be desired, by the conferring of brigadier generalships and by the conferring of brevet rank? Why, then, has he not been set forward? Why has he not been promoted if he stands in that attitude where this long service would entitle him to command all the volunteer officers of the different States? I say that the illustration which the Senator makes, on its face shows the inequality and the injustice of this mode of regulating the service.

I do not think it is desirable that these distinctions between the two armies should be kept up. I have never heard anybody defend them on the ground of reason; I have never heard anybody contend for them except upon the ground of regulation; and it is very clear that the circumstances which applied to a former state when the regular Army was almost our sole dependence, when volunteer troops were only called out for a temporary service of a few days, and which there gave rank, do not apply to the condition of a long war where men have been in the volunteer service long enough to fully and amply qualify themselves for the commands which they hold.

Now, sir, in regard to the other point, the service ration, I desire to call attention to the fact that it applies only to officers who are of the rank of colonel and under. It is not liable to the objection which has been presented by the Senator from Ohio. The regulation reads, "that every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per day for every five years he may have served or shall serve in the Army of the United States."

I see no reason why, if that is to be applied to officers of the regular Army, it should not be applied equally to officers of the volunteer service. If there are officers of the volunteer service coming within the terms of this regulation, why should they not be entitled to it equally as officers of the regular Army? If they have served out their five years, why should they not have the ration just as well as any other officer who has served out his five years? In other words, what is the reason for predicated any such distinction against officers of the volunteer forces of the United States?

I think, therefore, that this amendment of the Senator from Illinois is a very good one. It relieves the original amendment of the only objection to it, except the objection as to rank; and



when we bear in mind the fact that was distinctly and explicitly declared here on Saturday evening, that there was no such ruling obtaining with the Department, but that they were on the same footing, that the regular Army officers did not outrank the volunteers, I do not see that gentlemen can now rise and object to it on that ground. I trust the amendment will prevail.

Mr. WILSON. The Senator from New Hampshire has this morning made the same complaints against the Army that we are accustomed to hear him make against the Navy. He gets up here and arraigns the laws regulating the pay of Army officers, and says that they are unjust and not founded in reason. He says the officers ought all to be paid an equal amount of money. You might as well pay the traveling expenses of members of the Senate equally with just as must justice.

Mr. HALE. I have never said any such thing. Mr. WILSON. Never said what? Mr. HALE. Never said they ought all to be paid equally.

Mr. WILSON. The Senator said they ought to be paid a sum of money.

Mr. HALE. Yes, a gross sum of money. Mr. WILSON. For what? For pay? Suppose we carry that out, and pay every captain and every lieutenant and every Army officer a gross sum, what would be the result? One officer is ordered to Baltimore, or Philadelphia, or New York, or some other place within a few miles of his residence, to perform duty, and another officer is ordered to Oregon or California; will it be just to pay them the same? The present law provides that officers shall be paid a certain amount for their traveling expenses. It is right, it is just, and every single one of these provisions is founded in equity and in justice. If we passed a law paying the officers all alike, it would be in the power of the Administration to order one officer to one place where he could live well on his salary, and lay up a little money, and to order another to another place where he would not get enough from the Government to pay his expenses, and thus force him out of the Army. In a large country like this with varied services, the present laws are an absolute necessity, and were not borrowed from England, but were passed by the Congress of the United States, and adapted to the varying changes of the Army service of this country.

Now, sir, it is proposed by this amendment to bring the volunteer officers up to, and not bring the regular officers down. There is more justice in that, but I do not see the necessity of any action in regard to the subject. Why is it necessary? These volunteer officers who have come into the Army will in a short time go out of it and return to civil life. The regular officers are in the Army as their profession for life.

The service ration was founded in reason. The Senator from Ohio tells us that there has been rapid promotion in the regular Army. I think if that Senator will examine the facts he will find that there has been no such rapid promotion as he supposes. He will find that many men who were captains ten years ago are now captains. He will find that there has been no such rapid promotion; but we have taken out of the regular Army and made general officers of volunteers quite a number of officers, but they get no service rations. The service ration is only allowed to colonels and officers under that rank.

I believe the whole effect of this measure will be to work an injury to the service. It can do no good whatever. I hope it will not be put upon this bill, at any rate. If the Senator means to press it, let him try to put it on some other military bill; but I suggest that this appropriation bill should be passed without it, and there will be some other bill before us in the course of this week to which it can be moved.

The amendment to the amendment was rejected, and the question recurring on the original amendment offered by Mr. TRUMBULL.

Mr. BROWN called for the yeas and nays, and they were ordered.

Mr. GRIMES. Is the question now on the amendment proposed by the Senator from Illinois this morning?

The VICE PRESIDENT. That amendment has been voted down, and the question now is on

the amendment of the Senator from Illinois which was before agreed to by the Senate, but has been reconsidered.

Mr. GRIMES. I had hoped that we could have a distinct question on the amendment offered this morning by the Senator from Illinois, and I move to reconsider the vote by which it was rejected. The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment to the amendment.

Mr. GRIMES. As I understand this amendment proposed by the Senator from Illinois, it does not change the law in any regard except that it provides that every volunteer officer who entered the service four years ago shall have a longevity ration when he has served long enough to entitle him to it; that is, an extra ration next year, after he shall have been in the service five years. I apprehend it does not change the rank of any officers in the regular Army or in the volunteer service; it does not take away any of the rations of the officers of the regular Army, but it simply gives to every volunteer officer after he has served five years an additional ration. I think he ought to have it, and therefore I want to vote in favor of this amendment to the amendment.

Mr. NESMITH. On this question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 37, nays 7; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Howard, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Powell, Ramsey, Richardson, Riddle, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Wright—37.

NAYS—Messrs. Buckalew, Carlile, Chandler, Henderson, Nye, Sherman, and Wilkinson—7.

ABSENT—Messrs. Conness, Cowan, Harding, Howe, McDougall, and Saulsbury—6.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The question now recurs on agreeing to the amendment as amended.

Mr. ANTHONY. I understand that this amendment is now limited merely to the question of rank; and I understand if it is adopted—and if I am wrong the chairman of the Committee on Military Affairs will correct me—that General Sherman (to take one illustration) will be placed behind forty-eight men who are now below him, and that General Thomas will be placed behind all the major generals below him who were commissioned between the date of his commission as major general of volunteers and the date of his commission as major general in the regular Army. I do not want, and I do not believe any Senator here wants, the first news General Sherman, who has shed such luster upon the American arms, shall hear when he has opened his communications with the North to be that we have put forty-eight over his head.

Mr. GRIMES. I do not know where the idea comes from that the adoption of this amendment will put forty-eight men over the head of General Sherman.

Mr. ANTHONY. I can explain how it does it as I understand it. He was appointed a major general of volunteers. He ranks all those who were appointed major generals of volunteers after him. He is now appointed a major general in the regular Army. He has surrendered his commission as major general of volunteers. He takes the commission of major general in the regular Army, and is ranked by all the major generals whose commissions date older than his own, whether volunteers or regulars.

Mr. GRIMES. Now there is a very important inquiry to be answered by the Senator from Rhode Island: where is the law that gives to a junior regular officer of the Army control or jurisdiction or command over a senior officer in the volunteer service? If there is not any such law, this does not affect it; and I apprehend the chairman of the Committee on Military Affairs will inform the Senate that there is not any such law. I judge that the amendment which stands connected with the amendment that has just been adopted by the Senate amounts to just nothing at all. When we shall have adopted the amendment as amended, we shall have accomplished

just one purpose, and that is, to give volunteer officers in the service a longevity ration; that is, one additional ration for every five years' service. The original amendment reads as follows:

And be it further enacted, That all laws and parts of laws, or regulations of the War Department, which give additional pay or rank to the officers of the regular Army over officers of the volunteer service of the same rank are hereby repealed.

The person who drafted this amendment went upon the assumption that there was some law which gave to a junior general officer in the regular Army command over a senior volunteer officer. There is not any such law.

Mr. TRUMBULL. There is such a regulation. Mr. BROWN. Let me call the attention of the Senator from Iowa to the act providing rules and regulations for the government of the Army; article ninety-eight:

"All officers serving by commission from the authority of any particular State shall on all detachments, court-martials, or other duty wherein they may be employed in conjunction with the regular forces of the United States, take rank next after all officers of like grade in said regular forces."

Mr. COLLAMER. General officers are not appointed by the States.

Mr. GRIMES. As my friend from Vermont says, that does not apply to any general officer, and does not apply to this case at all. Then, again, we passed a law a year or two ago, which authorizes the President to select any major general or any brigadier general, no matter what might be the date of his commission, and put him in command over those whose commissions were dated anterior to his own; so that it does not interfere with the public service. The only effect of the amendment, if adopted as it now stands, will be to give the longevity ration to volunteer officers in the service, and I think they are entitled to it.

Mr. CLARK. I find myself in this difficulty: I have not sufficient knowledge upon the subject before the Senate to act understandingly in regard to it, and I am not ashamed to stand here and confess it, because where the doctors seem to disagree the disciples should be free. If I vote for this amendment I may do mischief. I am told by the chairman of the Committee on Military Affairs that I shall; that I shall vote for an amendment which will put some forty men over General Sherman's head, and I would as soon cut off my right hand as do that. The Senator from Illinois says it does not do it; the Senator from Massachusetts says it does do it; and I say I do not know. [Laughter.] I am not going to take a step in the dark, because I may go heels over head; if I stand still I can stand pretty safely; and therefore I am not going to vote for this amendment. I did vote for it on Saturday, and perhaps if I had information that it would not do any harm I should vote for it again; but I am not disposed to cast a vote by which I may do a great deal of harm, and perhaps do no good; and I, certainly, when these men have been fighting so gallantly for the country, will not diminish one iota of the rank and honor that belongs to them, be they regulars or be they volunteers. Praise and glory to them all, sir.

Mr. JOHNSON. I take it for granted that the chairman of the Military Committee can tell us what the effect of the amendment will be in the particular referred to by the Senator from New Hampshire. Certainly it must be very plainly one way or the other.

Mr. WILSON. I do not know that I can judge of what this provision means any better than any other member of the Senate. It repeals all laws that make any distinction between officers of the regular Army and officers of the volunteers. Take General Sherman's case. General Sherman is a major general in the regular Army of the United States; but it is stated that by this provision he will be outranked by forty-eight generals of volunteers. I do not know that I am any better judge of what the effect of the amendment will be than anybody else.

Mr. JOHNSON. If that is so, the chairman is certainly correct in the opinion he has given us as to the effect of this amendment. The amendment, if I recollect it aright, repeals all laws and all regulations making a distinction in rank between volunteer officers and officers of the regular Army.

Mr. GRIMES. What laws are they?

Mr. JOHNSON. I do not know. If there be any such laws, as I suppose there are, or the honorable member from Illinois would not have proposed to repeal them, it is very clear the result of this amendment will be that which is stated by the chairman of the Military Committee; and I take it for granted that, high as we may esteem volunteer officers, and great as have been their services to the country, we would not be willing that they should rank such an officer as Sherman. His progress recently has shed renown upon the country, and has now culminated in the capture of Charleston, information of which has just reached the President of the United States. It would place over him in command Major General Butler, and I do not mean to disparage him by stating it, and some twenty or thirty others whose commissions as major generals date at a period long antecedent to the date of Sherman's commission as a major general.

Then, in relation to the effect upon another grade of officers: the regulations of the War Department do not apply to general officers, as I understand; they apply to the subordinates—the majors, the captains, and lieutenants. Now, I suppose it will be generally accepted as true that the officers, in general, who have most distinguished themselves are those who have had a military education at West Point or at some other institution of that character. It is true in relation to our Army, it is true in relation to the army with which we have been fighting, that not one of them, or hardly any one of them, who has achieved a reputation of which a military man would be proud and for which his nation would be grateful, has not been educated at West Point; and, although I have as high an opinion of the volunteer officers as any member of this Senate, yet, all other things being equal, I am inclined to believe that a military education is calculated to make a man the better officer. But however that may be, I submit that as we stand now it would be exceedingly ill-advised legislation, legislation that the country would not approve, legislation which we ourselves, if the effect should be such as the honorable member from Massachusetts says it will be, would not approve. I submit, therefore, that however right it may be to give the service ration and to pay these volunteer officers just as much as the regular officers receive, it is just and proper and politic and due to their distinguished services in the field that the regular military officers should rank without reference to the date of commission.

Mr. ANTHONY. If this amendment is voted down, as I hope it will be, and the Senator from Illinois will then propose, as a distinct amendment, the amendment to the amendment which has just been adopted, giving the service ration to the volunteer officers, the Senate will undoubtedly accept it. As to the dispute about the effect which this amendment will produce on the relative rank of regular and volunteer officers, it is evident the question is not understood by the Senate. As the Senator from New Hampshire says, the doctors disagree. The War Department has no doubt on the subject. They believe that it will degrade General Sherman below forty-eight men who are now below him; and I am sure the Senate does not want to do that. It will have the same effect on General Thomas and a great many other officers. An amendment of this consequence should not be adopted without being referred to the Committee on Military Affairs and carefully considered by them. They can report to us precisely what the effect of it will be; and then if the effect will be as the Senator from Iowa says, we shall all vote for it; if the effect will be as the chairman of the Committee on Military Affairs says, we shall all vote against it.

Mr. TRUMBULL. Mr. President, it is very difficult, as the Senator from Maryland, who is a very astute lawyer, knows, to prove a negative; that a thing is not in the law; but if there is any law by which General Sherman is not outranked to-day by General Butler I would like the Senator from Maryland or the Senator from Massachusetts to show it. I would like to know where that law or regulation of the Department is, by which an officer in the regular service having a junior commission outranks one in the volunteer service having an older commission. Shall I be

required to bring in the statutes here, and read them from beginning to end, and read the regulations of the War Department from beginning to end, to show that there is no such law, that there is no such regulation?

It appears by the ninth regulation of the War Department, which applies only to officers of the rank of colonel, and not to a general, and does not touch General Sherman, that where officers holding commissions of the same date, one from a State and one from the United States, the regular officer outranks the officer appointed by the State. I want to repeal that. I do not want the officer appointed by the President of the United States to command a colored regiment, if you please, to outrank the colonel appointed by the Governor of the State of New York, or the Governor of my State, simply because he gets his commission from the President of the United States, and the colonel in the other instance gets his commission from the Governor of New York or the Governor of Illinois. I know of no reason for this distinction in favor of the regular Army officer. If there is any law by which General Sherman is to be cut down forty-eight degrees, let us see it.

Sir, the name of General Sherman is brought in and used here, in consequence of the great distinction he has recently attained, for the purpose of keeping up this invidious distinction in the Army. Suppose we take the case of General Grant. He was a general in the volunteer service. He won his honors and his distinction in the volunteer service. He who led your armies to victory, (the first successful general who did lead your armies to victory,) and who is to-day at the head of all your armies, won the stars that adorn his shoulders in the volunteer service.

Mr. CARLILE. He was educated at West Point, though.

Mr. TRUMBULL. I know he was educated at West Point; but this amendment does not relate to education at West Point. It merely puts the man in the volunteer service on an equality with the man in the regular service. It puts, or would have put, Lieutenant General Grant, when he was a general of volunteers, upon an equality with a general of the regular service having a commission of the same date. That is all it proposes to do, and he ought to occupy that position. I think the colonels in the volunteer service should rank according to the date of commission, and the fact that a man has a commission in the regular service, or from the President, should not put him above the colonel in the volunteer service who has a commission from a State.

Mr. MORRILL. Will the Senator allow me to ask him one question?

Mr. TRUMBULL. Certainly.

Mr. MORRILL. I understood the Senator from Illinois to argue that there is no law authorizing a distinction in rank between the volunteer and regular officers. I will ask him whether there is not a regulation which confers such rank.

Mr. TRUMBULL. Only up to colonel practically.

Mr. MORRILL. Not beyond that?

Mr. TRUMBULL. The regulation is:

"Officers serving by commission from any State of the Union take rank next after officers of the like grade by commission from the United States."

There are no officers serving by commission from any State of the Union, above the rank of colonel, as I understand.

Mr. MORRILL. Then, will the Senator allow me to ask him precisely what his amendment is aimed at?

Mr. TRUMBULL. The amendment is aimed at that very thing. That is one of them.

Mr. MORRILL. Is that all?

Mr. TRUMBULL. Well, if there are any other distinctions made in the War Department in this complicated machinery of which the Senator from New Hampshire has spoken, I want to abolish them. I do not know but there are. It will do no harm to pass the amendment if there is no such distinction; but if there is any distinction made there by which superiority is given to a man in the regular service over one in the volunteer service of the same rank and date of commission I want it abolished, and I think it is time it was abolished.

I trust, therefore, that we are not to be driven

from our propriety, and a just and proper amendment is not to be voted down in consequence of the eulogium of the Senator from Maryland upon the distinguished services of Major General Sherman. There is a law known to the Senator from Maryland and the Senator from Massachusetts which authorizes the President of the United States to designate any major general to command an army, and places in subordination to him every other major general, whether of the regular or volunteer service, serving in that army, no matter what is the date of his commission. It is in virtue of that law that General Sherman leads the armies to-day that are accomplishing so much, and not in virtue of seniority of commission. It is because he has been designated, in consequence of his gallant deeds as commander of that army, and not because he holds an older commission than any other major general in it; so that, after all, General Sherman is not to be put down forty-eight degrees, nor are forty-eight major generals to be placed over him in consequence of this amendment. His name is used to frighten us from doing a just and proper act, from doing justice to the volunteer soldiery of the country who have won our battles.

Why, sir, what has become of your regular Army? I would like the Senator from Massachusetts to tell me. Has it got five thousand men in it? I doubt it.

Mr. WADE. Not one thousand.

Mr. TRUMBULL. Not one thousand, the Senator from Ohio says. Then it is an army of officers, and that is all there is of it—merely to outrank the officers of the men who perform the service, and who are to put down this wicked rebellion; and officers having no men to command, who are to come in and command the volunteers, and command other officers of the same rank. Sir, can it be wrong to provide that these men who have no soldiers, and no regular Army left, when they come in among the volunteers, and are to command them, should take rank with the volunteer officers holding commissions of the same date?

Mr. RICHARDSON. A great deal has been said about placing officers of the volunteers over officers of the regular Army. That is not the effect of the amendment. The ninth article of the regulations is as follows:

"Officers serving by commission from any State of the Union take rank next after officers of like grade by commission from the United States."

Under this regulation a colonel appointed by the United States yesterday takes rank before a colonel of volunteers appointed by a State, who has been serving in the field for three years. The officers of the so-called regular Army now serving below the grade of colonel, with a few exceptions, are all appointed from civil life. We think it is wrong for an officer appointed by the President of the United States to command, if you please, a colored regiment, last week, to outrank an officer who has raised a regiment, carried it into the field, and performed service for three years. The law which makes him thus outrank that officer ought to be amended or repealed. If the proposition has any other effect about giving rank, all that is met by the law which we have passed authorizing the President of the United States to designate the officers with the grade of general who are to command. Under that law, the President of the United States can take a brigadier general and place him in command of his seniors in rank. I apprehend the only effect of this proposition is to do justice to the men serving with commissions from the States. Let them take their proper position upon courts-martial, and in command when they come in contact with those who have been appointed more recently by the President of the United States.

Mr. LANE, of Kansas. I shall vote for this amendment with great good will. It is a step in the right direction, a step in the direction of abolishing all distinctions between the volunteer and regular forces. Justice demands it, good policy demands it. In my opinion, Congress can do no act better calculated to benefit the public service than the passage of this amendment.

The question being taken by yeas and nays resulted—yeas 18, nays 24; as follows:

YEAS—Messrs. Brown, Carlile, Chandler, Collamer, Davis, Farwell, Foot, Grimes, Hendricks, Howe, Lane of

Kansas, Morrill, Pomeroy, Ramsey, Richardson, Trumbull, Wade, and Wilkinson—18.

**YAYS.**—Messrs. Anthony, Buckalew, Clark, Conness, Dixon, Doollittle, Foster, Harris, Henderson, Howard, Johnson, Morgan, Nesmith, Nye, Powell, Riddle, Sprague, Stewart, Sumner, Ten Eyck, Van Winkle, Willey, Wilson, and Wright—24.

**ABSENT.**—Messrs. Cowan, Hale, Harding, Harlan, Lane of Indiana, McDougall, Saulsbury, and Sherman—8.

So the amendment was rejected.

**Mr. POWELL.** I offer the following amendment as an additional section:

*And be it further enacted, That from and after the 1st day of May, 1865, the officers, non-commissioned officers, musicians, and privates in the regular Army and volunteers and drafted forces in the service of the United States, shall receive twenty per cent. in addition to their pay now allowed by law.*

I feel very well satisfied that the soldiers of the Army do not receive a sufficient compensation. The privates in the Army now get less than seven dollars per month, good money; and they have to support themselves and their families. That is entirely too small, and I think it ought to be increased. Heretofore, when we did increase their pay a little, I made an effort to have a proposition adopted that they should be paid in gold or its equivalent. If that proposition had been adopted, it would have given to the soldiers about the proper pay. It was voted down, however, by the Senate. As the Senate has refused to pay the soldiers in coin, or its equivalent if we could not get it, I desire now to raise their pay twenty per cent. Such is the depreciation of this paper money, and the great enhancement of the values of everything the families of these soldiers have to use, that the pay received by them is grossly inadequate. It is not my purpose to discuss the proposition. From the sympathy I have heard here about these poor soldiers whenever we attempt to add to the salary of anybody, I trust and believe it will pass by the unanimous vote of the Senate. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

**Mr. DOOLITTLE.** The Senator from Kentucky bases his proposition upon the idea that the currency of the country is now so depreciated that in effect the wages of the officers and soldiers of the Army have been very much reduced. I must admit that the depreciation of paper has, as a matter of course, increased the prices of living, not only of soldiers and officers of the Army, but of everybody else; but, sir, that depreciation, instead of becoming greater, is, in my judgment, becoming less. I can state a fact in this connection. I had occasion during the month of August last to travel in Canada, to go to Montreal and Quebec, and for the purpose of paying expenses was compelled to purchase coin. The coin which I purchased as I left the United States to go into Canada cost me at the rate of \$2 55 for \$1. Since that time there has been a very great reduction in the price of gold, and the depreciation of the currency is becoming greatly less. A few days ago gold was being sold at 204. If the news which we received this morning be correct, and I have no reason to doubt it, that the enemy have evacuated Charleston—I understand the report to have come to the Department or the President, coming, it is true, from rebel newspapers—

**Mr. JOHNSON.** It was telegraphed to a Richmond paper, and was telegraphed by General Grant to the War Department.

**Mr. DOOLITTLE.** As the Senator says, a telegram has been received at the War Department announcing that it is stated in a Richmond newspaper that Charleston is evacuated, as well as the capital of South Carolina. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. Foor.) Order! Order!

**Mr. DOOLITTLE.** My opinion, Mr. President, is that this will reduce still more the price of gold, and should the time come to which I look forward with hope, that through the combination of our forces, the forces under Generals Sherman, and Schofield, and Foster, and Gillmore, and the forces under General Grant, we shall compel the evacuation of Richmond, the stronghold of the rebellion, gold will go down in its value, or rather our paper currency will go up in value in comparison with gold; and when it appears that we have captured the rebel capital, as I think we shall in the course of a few

months, my belief is that the credit of the bonds of this Government will be such that we can command the gold and silver of the civilized world, and that gold will flow in upon us in exchange for our bonds and securities, and that the day of our resumption of specie payments may not be so distant as gentlemen suppose. I think it unwise in this state of affairs, with these victories on our hands, with these prospects just before us, for us to undertake by legislation to change the salaries of officers and soldiers in the Army, or of civil officers throughout the whole administration of the Government; for if you touch one class of these salaries you will be for the same reason compelled to change them all. Therefore I think it wiser for us to hold on and resist all these attempts, trusting to the good fortune which is smiling upon our cause in the reestablishment of the Union, and with it the credit of this Government upon a foundation that no power can shake either at home or abroad.

**Mr. WILSON.** Duty to the country compels me to oppose this ill-timed proposition. We owe to the armies more than one hundred and thirty million dollars. Hundreds of thousands of men have received no pay since the 31st of last August. Why is it that our armies are not paid? Why is it that their families at home are in thousands of cases suffering for the want of the money we cannot or have not paid? Our only excuse for this failure to pay our soldiers is our inability to procure the means to pay what we have already promised. The poverty of the Treasury is our only apology for this delay in paying our soldiers. Is it not better, far better, to pay the \$130,000,000 now due our soldiers than to promise to pay more, and by so doing impair our credit and lessen our ability to pay what is already due? Let us, sir, let the Treasury Department provide the means to redeem the pledges already made to our soldiers before we make promises we cannot keep. The Government is, I am glad to know, making great efforts to pay our soldiers. Paymasters are now hastening to the armies to pay our soldiers. Let us not at this time by party action diminish our ability to complete this work of paying our long-suffering but patient soldiers. Nothing would give me more pleasure than to increase the pay of our soldiers. In 1861 I introduced the bill increasing their pay two dollars per month. At the last session I made the proposition to fix their pay at sixteen dollars per month. I would now increase their pay if I did not know that we would not redeem our pledges if we made them. This nation must put forth every effort to pay the amount already promised. Let the nation pay the soldiers promptly, and pay all its obligations at maturity, and thus increase the value of its currency, make the sixteen dollars now promised worth more than the twenty dollars proposed.

Most of our soldiers received large bounties on entering the service, in some cases they received nearly one thousand dollars in bounties. No armies in the world are so well paid as our armies. Let the Government pay promptly the amounts now pledged, and then it may be for the interests of the soldiers to increase their compensation.

**Mr. SAULSBURY.** I shall vote to increase the pay of the soldiers. It is well known that I was no friend of this in its inception; I have been no friend of it in its progress; but being in it, and the Government calling for the services of men, and they volunteering or being conscripted, I will vote to pay those men, who believe they are doing right, a reasonable compensation. I do not know that personally I am under any obligations to the soldiers so far as my State is concerned, because they have been taught to believe that my views are antagonistic to the cause in which they have been engaged to serve their country; but whatever deception may be practiced upon them, I intend in my capacity here as a legislator to vote that those men who believe they are serving their country faithfully shall receive a proper reward.

Sir, what is the compensation of a soldier? I understand it is the sum of sixteen dollars a month. Sixteen dollars a month to go upon the deadly battle-field! Sixteen dollars a month to leave wife, and children, and home, with all its endearments! Sir, it is no compensation at all; and although I believe that the war was a great mistake and that peace can never come to this country through the bloody track of war, I will vote to pay the men

who think differently from me, guided by patriotic motives, a just and reasonable compensation.

Sir, I am glad to hear my honorable friend from Wisconsin say that very soon these troubles are to end, and that from the rapid progress which our armies are making victory is soon to perch, not only temporarily, but permanently and triumphantly upon our banners. I recollect that that honorable Senator some two years ago, in advance, invited us to dine in Richmond on the 4th of July. We were invited by him to dine there on the 4th of July, 1862. If the dinner was prepared it must have got cold before the guests arrived. Let me say to my honorable friend that if the policy which is now being pursued is to be continued, though Savannah falls, though Columbia falls, though Charleston falls, though Richmond falls, we dine not around the table of fraternal love and peace in his day or mine. The great mistake is being made at the present time of supposing that because points which are considered strong and important to the southern confederacy fall, that therefore this war is to close.

Why, sir, let me refresh the memories of Senators, because we live a thousand years in a day now, and the old expression of Scripture is fulfilled, "One day is as a thousand years, and a thousand years as one day." Take the results of the recent mission of the President of the United States and his Secretary of State, the peace conference as it was called, heralded in its advent with the announcement in the State organ that he went down in his "sovereign capacity to give terms to rebels." That was the first time in my life I ever heard such an expression applied to the Chief Magistrate of this country, that he was going down in his "sovereign capacity." He went. What did he say, according to the message which he himself delivered to the House of Representatives, but which he did not deliver to this body, although requested to do so? When you made a request of him for the proceedings in that conference, he referred you to the message which he had sent to the House of Representatives. Was such a thing ever heard of before in the Senate of the United States, that when a body which is considered to be the highest legislative council of the nation makes a particular request of the Executive that he shall make a certain communication, he refers them to something he had said to another important branch of the Government. But enough of that.

But, sir, what were the terms he offered? "We will hold no conference with you as a confederate power; we will not entertain your propositions."

**Mr. SHERMAN.** I rise to a question of order. It is with a great deal of pain that I do so; but I insist that the Senator is not discussing the question before the Senate. It is painful to me to interpose this objection; but I have charge of this bill, and desire to pass it, and I respectfully submit the question to the Chair, and I hope that the honorable Senator, if the Chair shall agree with me, will conform to the rules of order. I am very anxious to progress with the public business, and therefore make this point of order, the first of the kind that I have ever made in the Senate.

**Mr. SAULSBURY.** If I am out of order no one will be more glad than myself to be informed of it, and to obey the rules. I know that the point of order is not made from any spirit of unkindness. I was reminding the Senate of the progress of the times, and I hope it has not come to this, that a Senator cannot discuss that question without points of order being raised. Sir, I have never violated the rules of your body, and I never expect to do so.

The PRESIDING OFFICER. The point of order, under different circumstances, would be well taken; but after the debate has been proceeded in so long, and varied from the question before the Senate as it has from the beginning of the discussion for the most part of the time, the Chair would feel it ungracious to shut down a member on a motion of the kind before the Senate.

**Mr. SAULSBURY.** I assure the honorable member from Ohio, for whom, as he knows, I entertain the most profound respect, that I was not indulging in this strain of remark for the purpose of delay, or for the purpose of preventing him from consummating the business before the body. I was replying to the remark made by my



friend from Wisconsin in reference to the early dawn of peace. I think that this delusion has gone far enough; that the sixty days' and the ninety days' ending of this war has had enough bad effect; and that Senators ought not to delude the people of this country with the idea that peace is dawning upon us. Sir, we have got years of bloody war to travel through before peace comes.

At the particular moment when I was interrupted by the honorable Senator I was stating why I thought that peace could not so soon return as my honorable friend suggested, and it was because the terms offered, as I learned them from an executive message communicated to the other House, but not to us, could not be expected to be complied with. Sir, I recollect reading in early life, and my memory has been somewhat refreshed from the reading of later years, that when the colonies protested against the exactions of the British Government that Government said: "You are rebels; we will not treat with you; lay down your arms, and we will treat with you." I recollect that in about two years after the commencement of that war George III, who was the "sovereign" of England and of the colonies, proposed to give to the colonies representation in Parliament and to relieve them of the onerous burden of taxation without representation if they would agree to it. That was all the colonies asked in the beginning. What was the answer? "The conflict has taken place; our fathers, and sons, and brothers have shed their blood; it is too late now to accept the terms that we would have accepted in the beginning." The British Government at first would not treat with rebels; but afterward another commission came to the colonies and offered to guaranty to them every right except that of separation. What was the reply? "The contest has progressed too far; there has been too much ill-feeling engendered, there has been too much blood spilt in this conflict to accept those terms; independence, and independence alone, are the only terms upon which we will agree to treat with you." Sir, without assuming to be a philosophical student of history I have watched the progress of this contest from the beginning, and history is now but repeating itself. The mad folly of the British Government lost to them the colonies; and if the mad policy that is now pursued is still continued it will, I fear, lose to the American Government a portion of the States that once belonged to it.

But the honorable chairman of the Committee on Finance is impatient. The idea suggested opens up a vast field for debate, and the mind could range for hours in a comparison of the example of the revolutionary struggle and that afforded by this present contest. One word more and I have done, because I yield to what is the reasonable impatience of the chairman of the Committee on Finance. He wishes to get through the measures to support the Government, and I shall throw no obstacles in the way.

The reason that I sometimes utter these sentiments is this: I get into a friendly debate with some member of the opposition, and he is too polite to question my personal loyalty, but he tells me that the party to which I belong is not exactly loyal. Sir, I recollect that when hardly warm in my seat, when secession was broached in this Chamber, how it was, in a humble way and as an inexperienced youth (I had liked to have said) I raised my warning voice against it, and in private and in public protested against it; and to-day I find the great party that is now controlling the country taking to their embrace the very men who counseled it and giving to them the chief places in their political synagogues, while I and those who struggled against it are considered by them disloyal. Sir, I make no defense of my loyalty here or elsewhere; but this is my reason on all proper occasions for raising my voice on this subject.

Mr. HENDRICKS. At the last session I felt it my duty to offer as an amendment to the Army appropriation bill a proposition that the soldiers in the field should receive, in addition to the pay then allowed them, fifty per cent., which would give them about \$19 50 per month. I thought, in view of the depreciation of the currency and of the expense of maintaining a family at home, that it was a very reasonable proposition. As the amendment of the Senator from Kentucky if adopted will achieve about that result, I shall very

cordially give it my support. I think that we as a people are able to pay that, and I think as a matter of justice it ought to be given to them.

The question being taken by yeas and nays, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Davis, Dixon, Harlan, Hendricks, Lane of Indiana, Lane of Kansas, Nesmith, Pomeroy, Powell, Ramsey, Kiddle, Sautsbury, Wade, and Wright—14.

NAYS—Messrs. Anthony, Buckalew, Cardie, Clark, Collamer, Conness, Doolittle, Farwell, Foot, Foster, Hale, Harris, Henderson, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Nye, Sherman, Sprague, Stewart, Sumner, and Wilson—25.

ABSENT—Messrs. Brown, Chandler, Cowan, Grimes, Harding, Richardson, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Wiley—11.

So the amendment was rejected.

Mr. ANTHONY. I now offer the amendment that was adopted a short time ago as an amendment to the amendment of the Senator from Illinois, to insert as a new section the following:

And be it further enacted, That officers in the volunteer service shall be entitled to the same rations as if they were in the regular service.

Mr. CONNESS. This is now simply proposed to increase the compensation of volunteer officers in such a manner as has been described as totally indefensible by the chairman of the Committee on Finance, by giving them what is called the service ration. The question of the increase of compensation of officers of the Army has been pretty seriously and patiently considered, and it is not necessary to say here that such increase has been given as the country can afford. I do not wish to discuss the Senator's amendment, but simply to say I cannot vote for it, for I regard it as an ill-judged increase at this time.

Mr. ANTHONY. This is the same amendment which the Senate just adopted almost unanimously to the amendment of the Senator from Illinois, and then they rejected the amendment as amended, not on account of this proposition, but because they were opposed to the original proposition.

Mr. SHERMAN. I will say to my friend from Rhode Island that the amendment is totally nugatory; that no volunteer officer will receive the benefit of it until after five years' service. It is therefore idle to put the amendment on this bill. It was offered as an amendment to the amendment of the Senator from Illinois, and was voted for by nearly every one who wanted to vote down the other amendment.

Mr. CONNESS. That is precisely what I was about to say. The very opposite of what the Senator from Rhode Island said is the fact.

The amendment was not agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### PRINTING OF A BILL.

Mr. HOWARD. I desire to have an order made for the printing of Senate bill No. 449, making a grant of public lands to the State of Michigan, to aid in the construction of a railroad along the mineral range in said State. It has not been printed, although I think the order was made a few days ago when I presented the bill.

The motion was agreed to.

#### RECESS.

Mr. WILSON. I desire to move that the Senate hold an executive session at half past seven o'clock this evening, for the purpose of acting solely on nominations.

Mr. COLLAMER. I suggest to the Senator to move to take a recess until half past seven o'clock, with a view to have an executive session. Several Senators. From what hour?

Mr. DOOLITTLE. Say five o'clock.

Mr. WILSON. I will say from five o'clock till seven.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate take a recess from five o'clock until seven o'clock this evening, for the purpose of having an executive session at that time.

Mr. JOHNSON. Say half past four o'clock.

Mr. WILSON. Very well.

Mr. SUMNER. Let me ask my colleague, why confine the session this evening to executive business? It may be that it will be important then to go on with the business under consideration at the time the recess takes place.

Mr. CONNESS. Let it be as the Senate may then determine.

Mr. SUMNER. I would rather that the order be general, that a recess be taken from half past four till seven o'clock.

Mr. WILSON. I will say in reply to my colleague that the Committee on Military Affairs authorized me this morning to make this motion, with a view of acting upon several hundred Army nominations that we now have before us, and which we are exceedingly anxious to dispose of.

Mr. McDOUGALL. Why not make it general?

Mr. HOWARD. Oh, no; let us have it in the special form submitted by the chairman of the Military Committee. There is a great deal of executive business to transact.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate take a recess from half past four o'clock till seven o'clock this evening, and that the Senate then proceed to the consideration of executive business.

Mr. DOOLITTLE. I do not desire to discuss that motion, but I wish the Senator would say five o'clock. I have several Indian bills to be acted upon; and I do not want to trouble the Senate again with them, and I am afraid that will not give me time enough to finish them.

The motion of Mr. Wilson was agreed to.

#### REFUGEE INDIANS.

Mr. DOOLITTLE. I move to take up Senate joint resolution No. 85, relating to the refugee Indians.

Mr. CHANDLER. I move to postpone all prior orders for the purpose of taking up House bill No. 307. It was understood, I believe, that the Senator from Nevada [Mr. Nye] would have the floor to-day to make a speech on that bill, and I hope the Senate will afford him an opportunity to do so.

The PRESIDING OFFICER. The first question is on the motion of the Senator from Wisconsin to postpone all prior orders and proceed to the consideration of the joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to issue certain bonds to the Secretary of the Interior for feeding the refugee Indians.

Mr. CLARK. Upon that motion I may as well say to the Senate what I designed to say when I rose and endeavored to get the floor a moment ago. I do not desire to interfere with the Senator's motion, but I wish to state to the Senate that there are on the Calendar perhaps twelve or fifteen private bills which it is necessary to act upon at some time and soon. I desire to avoid the struggle and the delay which often occur about the order of business, and I will ask the Senate to-morrow or the next day to let me have an hour of the Senate's consideration, if it can be done consistently with the public business, for the consideration of those bills.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to issue certain bonds to the Secretary of the Interior for feeding the refugee Indians. It directs the Secretary of the Treasury to issue and deliver the bonds for the sum of \$250,000, appropriated for the use of the Choctaw Indians by an act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1862, approved March 2, 1861, to the Secretary of the Interior, to be by him disposed of, and the proceeds thereof applied to the relief and support of individual members of Cherokee, Creek, Choctaw, Chickasaw, Seminole, Wichita, and other affiliated tribes of Indians, who have been driven from their homes and reduced to want on account of their friendship to the Government, as contemplated by the provisions of an act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863, approved July 5, 1862.

The Committee on Indian Affairs reported the resolution with amendments. The first amendment was in line four to strike out the words "to issue and deliver," and to insert the words "in lieu of."

The amendment was agreed to.

The next amendment was in line twelve, after the word "one" to insert the words "to pay," and after the word "Interior" to insert "\$250,000;" so that the resolution will read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed, in lieu of the bonds for the sum of \$250,000, appropriated for the use of the Choctaw Indians by an act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1863," approved March 2, 1861, to pay to the Secretary of the Interior \$250,000, &c.

The amendment was agreed to.

The committee also proposed to amend the resolution by inserting the following preamble:

Whereas the Choctaw tribe, a nation of Indians, have become allies of the rebels against the United States, and have been at war against them for more than three years, during which time the most cruel and barbarous acts were perpetrated upon the friendly Indians hereinafter mentioned.

The amendment was agreed to.

Mr. DOOLITTLE. I wish to say to the Senate, that they may understand precisely the nature of this resolution, that by the act of 1861 \$500,000 was appropriated for the benefit of the Choctaw nation, \$250,000 of which was paid down in cash and was received by them just about the time they went into this rebellion. Two hundred and fifty thousand dollars was to be appropriated in bonds, to be issued by the Secretary of the Treasury. In the subsequent legislation, in consequence of the rebellion of the Choctaw nation, we passed a bill by which we confiscated the annuities of the Choctaw nation for the benefit of the refugee Indians. It was claimed that under that law this \$250,000 in bonds ought to have been passed over from the Secretary of the Treasury to the Secretary of the Interior, to enable him to feed these refugee Indians, but the Secretary of the Treasury declined to issue the bonds to the Secretary of the Interior. One reason why he declined to issue them was that it would put the Secretary of the Interior in a position to be selling bonds in competition with the Secretary of the Treasury. It was concluded by the committee, in recommending the amendment which they submitted to the resolution, that we should authorize the Secretary of the Treasury, in lieu of these bonds which by the law ought to be issued for the benefit of the Choctaw nation, to pay over the money to the Secretary of the Interior.

This appropriation is necessary; and I will state also to the Senate that on the appropriation bill, or some other bill, a further appropriation may be asked for in relation to these refugee Indians. It is understood, I suppose, by the Senate that about twenty thousand of them were driven out by the rebel Indians, with the assistance of some rebels who joined them. The Choctaws and Chickasaws drove out the Creeks and Cherokees, and they came, in the midst of suffering untold and indescribable, into the State of Kansas, where they were fed and kept for a while, and then by a law of Congress they were ordered to be sent back. They have been sent back, and it is absolutely necessary that these funds should be used for their support.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

On motion of Mr. DOOLITTLE, the title was amended so as to read: A joint resolution authorizing the Secretary of the Treasury to pay to the Secretary of the Interior \$250,000, in lieu of certain bonds, for feeding certain refugee Indians.

#### INDIAN AFFAIRS IN CALIFORNIA.

On motion of Mr. DOOLITTLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California."

Mr. DOOLITTLE. I do not think it is necessary to read the original bill.

The PRESIDING OFFICER. An amendment is proposed by the Committee on Indian Affairs in the form of a substitute for the entire bill, and unless some member shall call for the reading of the original bill the substitute only will be read.

The Secretary read the amendment, which was to strike out all after the enacting clause of the

original bill, and to insert in lieu thereof the following:

That the sum of \$60,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of enabling the Secretary of the Interior to pay the settlers in Hoopa valley, California, for their improvements on the Indian reservation therein: *Provided*, That before the same or any part of the money hereby appropriated shall be paid, the said improvements shall be appraised by the superintendent of Indian affairs, the Indian agent at said reservation, and the surveyor general of California; and if, in the opinion of the Secretary of the Interior, their appraisement shall be reasonable, and shall not in the aggregate exceed the sum herein appropriated, the said Secretary is hereby authorized to apply the same, or so much thereof as may be necessary, in payment for the said improvements, taking proper releases therefor: *And provided further*, That the moneys hereby appropriated be reimbursed from the proceeds of the sales of Indian reservations in said State, under the provisions of the act to provide for the better organizations of Indian affairs in California, approved April 8, 1864.

The amendment was agreed to.

Mr. DOOLITTLE. I ought, perhaps, to explain to the Senate the nature of this amendment. In the act "to provide for the better organization of Indian affairs in California" there was a provision which authorized the Secretary of the Interior to take steps toward the appraisement of the value of the improvements and settlements made by certain persons upon certain reservations for the Indians. There was a general provision in it, however, that no contract made by him should be valid, "nor any money paid thereon until upon a report of said contract and of said valuation" should be made "to Congress," and the same approved, "and the money appropriated by law for that purpose." The proposition is here to so far modify the effect of this provision as to one of the reservations, to wit, the Hoopa valley reservation, to make it an exception, and to authorize to a certain extent, to the amount of \$60,000, the money to be appropriated if it be necessary by the Secretary of the Interior upon the appraisement of the surveyor general, the superintendent of Indian affairs, and the Indian agent. All three of these gentlemen are, I believe, men of high character and standing in California. At all events, such is my information from the Senator from California, [Mr. CONNESS.] Perhaps I should state to the Senate that in the neighborhood of this Hoopa valley an Indian war has been going on for several years; almost a regiment of our troops has been kept there fighting these Indians; and at last they have come to terms and are willing to keep the peace provided they can go at once into this valley. For this reason there becomes a necessity for action, and the Committee have thought proper to recommend the appropriation.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had non-concurred in the report of the committee of conference upon the disagreeing votes of the two Houses on the bill (H. R. No. 583) to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," insisted on its non-concurrence in the amendments of the Senate to the bill, asked a further conference thereon, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. T. E. WOODBRIDGE of Vermont, and Mr. J. GANSON of New York, managers at the conference on its part.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice President:

A bill (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War; and

A bill (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis and to provide for the sale of the lands on which the same is located."

#### INDIAN RESERVATIONS IN WASHINGTON.

On motion of Mr. DOOLITTLE, the bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of pri-

vate citizens appropriated by the United States for Indian reservations in the Territory of Washington was considered as in Committee of the Whole. It proposes to appropriate \$18,611 62, or so much thereof as may be necessary, for the purpose of paying for the lands and improvements of private citizens taken and appropriated by order of the Department of the Interior for Indian reservations and uses in the Territory of Washington; and the claims thus provided for are to be allowed and paid in such manner and upon such proofs of the value of the property as shall be prescribed by the Secretary of the Interior.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### POTTAWATOMIE INDIANS OF MICHIGAN.

On motion of Mr. DOOLITTLE, the joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan the sum of \$192,850, was considered as in Committee of the Whole.

The joint resolution as passed by the House of Representatives proposed to direct the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan, the sum of \$192,850, being the amount of annuities and moneys erroneously paid to the main tribes of Chippewa, Ottawa, and Pottawatomie Indians, of Pottawatomie nation of Indians, which belonged to the portions of those tribes residing in the State of Michigan; the payment to be made out of any moneys or stocks now in the possession or under the control of the United States Government belonging to the Chippewa, Ottawa, and Pottawatomie Indians, or Pottawatomie nation of Indians.

The joint resolution had been reported by the Committee on Indian Affairs with amendments, the first of which was to strike out "\$192,850," and insert "\$50,927 50," in five equal annual payments of \$10,185 50 each, to be paid to them *pro rata*, severally, in the State of Michigan, by the Indian agent appointed for that State.

Mr. DOOLITTLE. Upon this amendment perhaps I can just as well explain as at any other stage what this joint resolution is, and what is its effect. It does not affect the United States or the Treasury of the United States, but it is a settlement of claims between different portions of the same original tribe of Indians. This tribe of Indians in 1833 made a treaty at Chicago in which they sold all their lands west of Lake Michigan and south of Lake Michigan, and in consideration of the sale took five million acres west of the Mississippi, and also some annuities which were provided for in that treaty, and there were with this Indian tribe several other treaties existing before that time.

When the treaty of 1833 came to be signed so as to be binding on the tribe, there was a portion of the bands residing in Michigan who were unwilling to sign the treaty because they were unwilling to remove from Michigan and go with the Indians west of the Mississippi, and they put their objection on the ground of their religious creed. They were Catholics, and they desired not to go with the other members of the tribe, but to remain in Michigan; and there was an additional stipulation made the next day after the signing of the treaty by which it was agreed that they might remove to the northern part of the State of Michigan to a place called l'Arbre Croché or Crooked Tree, where it was expected that they would mingle with a small band of Catholic Indians, and there, if they removed to that place, they might be permitted to receive their share of the annuities paid under all former treaties, and under the treaty for the sale of their own reservations in Michigan. These Indians went to l'Arbre Croché, but for some reason did not remain there. Either they did not like the country, or for some other reason, they came back, and with some money that had been paid to Pokagon, one of the chiefs, they purchased some land near a lake in Michigan called Pokagon lake, and they settled there on lands which were purchased from the United States, and have remained there ever since.

After some years had elapsed, application was made to Mr. Crawford, Commissioner of Indian Affairs, through the superintendent at Detroit, Mr. Stuart, to make some allowance to these

Indians, and he made an allowance in which he assumed to give them a share of the money annuities, and nothing else; but when he figured up the amount of those annuities he made the mistake of omitting several of the treaties which were then in existence, and under which the Indians that remained in Michigan had just as much right to receive their share as they had under the treaties under which he did give them a share of the annuities.

The committee of the House of Representatives in looking to this matter thought proper to allow to these Indians in Michigan not only their share of the money annuities, but their share of the proceeds of the five million acres west of the Mississippi, and also a share in the school fund, and in the mill fund, which was set apart for the benefit of the tribe in its new home west of the Mississippi. The committee of the Senate thought this was unjust to the Indians west of the Mississippi. These Indians in Michigan have remained there unaffected; they have had the benefit of the commercial advantages of Michigan, the mills of Michigan, the agriculture of Michigan, the schools of Michigan, and many of them are citizens of Michigan, and are very respectable farmers, as I am told, in the State of Michigan. The committee of the Senate, therefore, propose to reduce the appropriation from \$192,000 to fifty thousand and odd dollars, confining the Indians in Michigan to their share of the money annuities, insisting on our part that they, by choosing to remain in Michigan, so far detached themselves from the fortunes and the destiny of the main tribe that they had no right to share in the lands, or the school fund, or the mill fund which were to establish the tribe in their new home west of the Mississippi. That was substantially the ground on which we made our report.

We propose to make the payment in five annual installments, because we cannot pay it all in one year out of the funds of the Indians' west; or if we should do so the effect would be to leave them without anything to support themselves. So we propose to deduct from their annuities one fifth each year of this amount for the purpose of paying the Indians in Michigan. I think the committee are right.

Mr. LANE, of Kansas. Since this joint resolution was reported from the Committee on Indian Affairs there has been an argument submitted to the Senate in behalf of the Kansas Indians, showing conclusively, in my opinion, that there is but a very small amount of money, two or three thousand dollars, due from the Kansas Indians to the Michigan Indians. That this argument and the facts in support of this position may be investigated by the Committee on Indian Affairs, and that a delegation that is now here from the Kansas Indians may have an opportunity of being heard, I move that the joint resolution be recommitted to the Committee on Indian Affairs.

Mr. HOWARD. I hope this reference will not be made. I hope the Senate will proceed with the final consideration of this resolution for the relief of the Michigan Indians. It has been pending before the appropriate committee of this body for nearly a year, and I am quite satisfied from the attention I have been able to give the subject that that committee, certainly with every desire to do justice to the Indians in my State, have in their report which is now before us fallen a good deal short of that justice which would be rendered to the Michigan Indians if they could prosecute the claim in a court of equity. Still I am not disposed to have any controversy with the committee in regard to the amount which they have reported, and I shall support the amendment which has come from the committee.

I did not understand the honorable Senator from Kansas when he made a remark that some recent evidence had been discovered. There was some confusion in the Hall at that moment. I should like to understand from him what that newly-discovered evidence is to show that the amount proposed to be allowed is so vastly exorbitant. I would thank him to restate his proposition.

Mr. LANE, of Kansas. The Kansas Indians have been unrepresented during the present session while this question has been pending before the Committee on Indian Affairs.

Mr. HOWARD. It was the new evidence that I was anxious to hear about.

Mr. LANE, of Kansas. I am about to state that—

Mr. HOWARD. I did not ask for a new speech.

Mr. LANE, of Kansas. I am not in the habit of inflicting on the Senate new speeches or very long ones. I was about to state that since this report was submitted to the Senate by the Committee on Indian Affairs, an attorney acting for the Kansas Indians has presented and laid upon the desks of Senators an argument and facts that conclusively show to my mind that the amount reported from the Committee on Indian Affairs is a great deal larger than is due from the Kansas to the Michigan Indians. It shows that there are but some three or four thousand dollars due from the Kansas Indians to the Michigan Indians instead of fifty or fifty-one thousand, as reported by the Committee on Indian Affairs.

Mr. HOWARD. I take it for granted that the Indian Bureau, who have given this subject their minute and careful attention, have discovered all the payments that have been made to the Michigan Indians, and that they understand as well as any person can understand what is justly due to them. The joint resolution, as it came from the House of Representatives, appropriating \$192,000, was, I believe, founded upon a report or statement emanating from the Indian Bureau. The Committee on Indian Affairs of the Senate have seen fit to cut that amount down to \$50,000, for reasons satisfactory doubtless to their own minds. I do not find any fault with that, but I must presume also that the Committee on Indian Affairs of the Senate have had as ample opportunities to ascertain all the facts of the case as my honorable friend from Kansas has. If he has had any new revelations on the subject recently, or within the last week or ten days, why has he not made a motion to recommit this resolution to the same committee for the very purpose of having a reinvestigation? And still I believe he has not made any such motion. Of course I do not intend to controvert his statement that he has discovered evidence which is satisfactory to his mind—

Mr. DOOLITTLE. Will the honorable Senator from Michigan allow me to say a word?

Mr. HOWARD. Certainly.

Mr. DOOLITTLE. This resolution was passed by the House of Representatives in March last, almost a year ago, and the Committee on Indian Affairs have had both written and printed arguments on both sides of the question by men assuming to act as agents or attorneys for both the Michigan Indians and the Kansas Indians.

Mr. HOWARD. So I supposed.

Mr. DOOLITTLE. Mr. Clark has presented his argument in favor of the Michigan claim, and Mr. Brackinridge has presented his argument both in written and printed form against the claim, in behalf of the Kansas Indians. It is a question that the Committee on Indian Affairs have carefully considered. I have sometimes thought that the questions sent to that committee are the most troublesome of all the questions that come before the Senate. Each case always stands by itself, and we have to do the best we can. Here the Michigan Indians, on the one hand, claimed \$192,000, and the Kansas Indians, on the other hand, alleged that there was nothing due. We have looked the matter over and arrived at the best possible result we could; and we think the resolution as it stands, with the amendments we propose, had better be passed by the Senate now, and not be recommitted.

Mr. LANE, of Kansas. I desire to ask the Senator from Wisconsin whether the statement I made that an argument on behalf of the Kansas Indians has been printed and laid on the desk of Senators since this report was made by the committee, is not true.

Mr. DOOLITTLE. I believe it is true, and I suppose Senators have probably read that argument.

Mr. HOWARD. I can only say for myself that I have given to this subject my best attention; I have ransacked all the treaties which are involved in the question, and have read as carefully as I was able to do all the reports of a date anterior to the present time, and I am entirely satisfied that the Michigan Indians are really entitled to a very large allowance out of the annuities which

have been paid heretofore to the Kansas Indians. As I said before, I think the amount embraced in the report of the Committee on Indian Affairs is not quite sufficient, but I shall not find fault with that. That there is a large amount due to the Michigan Indians is as certain to my mind as any fact can be. I hope, therefore, the subject will not be recommitted.

Mr. HARLAN. I suggest to the Senator from Kansas whether it would not be well for him to withdraw this motion, and allow the vote to be taken on the amendment proposed by the Committee on Indian Affairs, and that being disposed of I shall be enabled to offer an amendment which I hope will meet his approbation. If the Senate shall not adopt the amendment that I intend to propose, I will then vote with him for a recommitment. I may state too, while I am on the floor, that I do not agree with the majority of the Committee on Indian Affairs in their report, nor with the statement made by the Senator from Michigan. I do not think there is a dollar due these Indians of Michigan under the treaty.

Mr. LANE, of Kansas. The Senator from Michigan is largely in error when he says that the joint resolution as it came from the House of Representatives was predicated upon the report of the Commissioner of Indian Affairs. The fact is that the Commissioner of Indian Affairs reported a basis of settlement making the amount due less than \$100,000, about \$90,000 I think, while the House resolution proposed to take from the Kansas Indians \$192,000.

I withdraw the motion to recommit for the present, on the suggestion of the Senator from Iowa, so as to let the vote be taken on the amendment of the committee, with the understanding that the Senator from Iowa shall propose his amendment as an amendment to the amendment of the committee. Is that what he intends?

Mr. HARLAN. I propose, after the amendments of the committee shall have been acted on, to offer an amendment striking out all that will have been inserted, and inserting what I shall then send to the Chair.

Mr. LANE, of Kansas. Why not offer the amendment as a substitute for the pending amendment?

Mr. HARLAN. That would not be in order.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The motion to recommit is withdrawn, and the question recurs on agreeing to the first amendment of the Committee on Indian Affairs, which has been read.

The amendment was agreed to.

The next amendment was to insert the word "equitably" before "belonged" in line fourteen. The amendment was agreed to.

The next amendment was to strike out the words "such payment to be made" in line sixteen. The amendment was agreed to.

The amendment was agreed to.

The next amendment was to strike out in lines sixteen, seventeen, and eighteen the words "stocks now in the possession or under the control of the United States Government belonging," and to insert in lieu of them "annually payable."

The amendment was agreed to.

The joint resolution as amended reads as follows:

*Resolved, &c., That the Secretary of the Interior be, and he is hereby, directed and required to pay to the Chippewa, Ottawa, and Pottawatomie Indians, residing in Michigan, the sum of \$50,927 50, in five equal annual payments of \$10,185 50 each, to be paid to them pro rata, severally, in the State of Michigan, by the Indian agent appointed for that State, being the amount of annuities and moneys erroneously paid to the main tribes of said Chippewa, Ottawa, and Pottawatomie Indians, (or Pottawatomie nation of Indians,) which equitably belonged to the portions of said tribes residing in the State of Michigan, out of any moneys or annuities annually payable to the said Chippewa, Ottawa, and Pottawatomie Indians, or Pottawatomie nation of Indians.*

Mr. HARLAN. I now propose to amend the joint resolution by striking out all after the word "required" in the fourth line to the end and inserting the following:

*To place the names of the Chippewa, the Ottawa, and the Pottawatomie Indians residing in the State of Michigan, on the pay rolls of the Pottawatomie nation of Indians, and from and after the passage of this resolution to pay annually to each of said Indians residing in the State of Michigan his or her full and equitable proportion of all annuities payable in money to said Pottawatomie nation of Indians under any law of the United States, or by virtue of any treaty made between the United States and the said Chippewa, Ottawa, and Pottawatomie Indians, or any of them.*



Mr. DOOLITTLE. The effect of that amendment, as I understand it, would be not to pay the Michigan Indians for the annuities which they ought to have received under the construction we give to the treaty, but to authorize them from this time forward to take their share of those annuities and also their share of the proceeds of the lands west.

Mr. HARLAN. So far as they are payable in money to the members of the tribe.

Mr. DOOLITTLE. I think that the provision reported by the committee is the best, all things considered. I differ from my friend from Iowa. He stated a short time since that he did not think there was anything due to these Indians, and I understand the ground on which he rests that opinion to be that technically these Indians in Michigan did not comply with that provision of the treaty which required them to remove to l'Arbre Croche, in the northern part of the peninsula. The facts upon that subject are such that you may say that technically they did not comply with that provision of the treaty; but the majority of the committee were of opinion that inasmuch as these Indians were permitted to remain in Michigan, to purchase and take the title of lands from the United States, and to reside there in Michigan all this time without any objection on the part of the United States, or any attempt to compel their removal, there was a substantial waiver of this requirement of their removing to the northern part of the peninsula of Michigan; and the Commissioner of Indian Affairs in a letter which he wrote to Mr. Stuart takes that ground substantially. In his letter is contained the precise language of that treaty provision:

"And as since the signing of the treaty a part of the band residing on the reservations in the Territory of Michigan have requested, on account of their religious creed, permission to remove to the northern part of the peninsula of Michigan, it is agreed that, in case of such removal, the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid them at l'Arbre Croche."

After quoting this article, the Commissioner goes on to say:

"By the tenor of this article it would seem that their claim is well founded, and that they are entitled to their numerical proportion of those annuities payable to the tribe under the treaty of 1829, and also under the supplementary article of the treaty of 1833, amounting together to \$18,000."

The language of the provision is their "just proportion of all annuities payable to them under former treaties." He by mistake in looking into these treaties only saw one, the treaty of 1829, when in fact there were various treaties existing. There was the treaty of 1800; the treaty of 1795, giving them \$1,000 forever annually; the treaty of 1809, giving them \$500; the treaty of 1818, giving them \$2,500; that of 1828, \$2,000; that of 1829, \$1,600; and there were also treaties with limited annuities, some having five, eight, twelve, sixteen, and eighteen years to run; there were the treaties of 1821, 1826, 1828, three in 1832, and one in 1833, besides the one which he included. Although the Commissioner admitted the justness of the principle upon which they claimed their share to the proportion of the annuities, he did not raise the question with these Indians and say to them, "You did not remove out of Michigan." He did not say "You have not complied with the treaties on your part." The Indians did in fact, or a considerable portion of them, go up to l'Arbre Croche, but came back, and, as I stated some time since, purchased lands from the United States—Pokagon did purchase lands of the United States and take a title in fee simple by patent like other purchasers—and have ever since lived on these lands, remaining in Michigan.

The difference between my friend from Iowa and myself on that subject is that he thinks they have not complied with the treaty by removing to the northern part of Michigan, and therefore technically they have no claim to any part of this money; but I think there has been a substantial waiver on the part of the Government of the strict fulfillment of the letter of the treaty which required them to go to l'Arbre Croche, and that, therefore, in justice we ought to allow them their share of money annuities, but not give them a share of the proceeds of the five million acres, or of the agricultural fund, or the mill fund west.

Mr. HARLAN. Mr. President, I have no doubt that my friend, the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] intended to state

my views correctly. I prefer, however, to state them myself. In the first place, these Indians, if they were to remove at this time west, and unite with their tribe, as was originally intended, would at once be reinstated to all their rights as members of the tribe. That they are not now receiving the full amount of money which would be due to any equal number of Indians of that tribe is their own fault. If they were to remove west, and unite with their brethren, they would at once be reinstated, and enjoy all the rights as members of the tribe.

To understand this subject it is necessary to consider a number of treaties, some of them made with separate bands or smaller tribes of what is now called the Pottawatomie nation of Indians, perhaps ten or a dozen in all, extending over a long period of time. The last treaty on this subject was ratified in 1836. By virtue of these treaties it was made obligatory on the Indians to remove to their new homes west of the Missouri river. In a supplemental article, however, it was stipulated that a band of Indians supposed to include some of these claimants might receive their proportion of the annuities in the north of Michigan. If, therefore, they had moved west of the Missouri river they would have received their proportion of the annuities and also of lands at their new homes; and if they declined to move west, and removed to the north of Michigan, they would have received their proportion of annuities, but no lands. These Indians did neither. It is not claimed that they went west. But it is alleged that they did go north. The testimony, however, does not satisfy me that they did thus remove. It is true that some of them went up to the upper end of the peninsula about the period when a payment was to be made, and immediately after the payment returned to their former homes. They never made a substantial compliance with the provision of the treaty, never attempted to settle and live at the new place indicated in the supplemental article of the treaty allowing them to share in the annuities payable to members of this tribe if they did not move west of the Missouri river. Then, as I think, they have no right to claim anything under the treaty.

In the next place I inquire, is it politic to disregard this condition of the treaty? What was the object of the Federal Government in making a treaty with these Indians? There were doubtless two objects: one was to procure lands for white settlers; another was to improve the condition of the Indians, to place them in such situation that they might avail themselves of the advantages of instruction in the arts of civilized society. These Indians, in refusing to go west, came in direct conflict with the policy of the Government; and if we depart from this condition in this case the effect will be, so far as Indians are supposed to take notice of the policy of the Government, and to be influenced by it, to encourage all other Indians that may make treaties with the United States to refuse to comply with this essential and vital part of their contract; it will encourage them to adhere to their old homes, to refuse to give up the land ceded to the Federal Government, and to refuse to go to the new reservations indicated in their treaties, thus overturning the settled policy of the Government, rendering it powerless in the future to execute Indian treaties.

But in the next place, it is proper that the Senate should observe before voting on this proposition that these are not the only Indians that rightfully belong to this tribe who have refused to comply with this feature of their treaty obligations. There are several hundreds of them living in the State of Wisconsin receiving no annuities. There are hundreds more of them that are vagrants scattered about in the Territories, some of whom have united with other bands of Indians, and ignored their rights as members of this particular tribe, and are for the time being receiving pay, clothing, and food as members of other tribes, some of them perhaps an amount equal to what they would receive as members of this tribe, and others of them much less. If we pass this bill diverting a portion of the annuities from the main tribe, and paying them to the Indians in Michigan, next year we may and probably will be called upon to make a similar diversion in favor of the Indians in Wisconsin. Neither of these bands of Indians has complied with the provisions

of the treaty. If you waive this condition in favor of the Michigan Indians, can you decline it when demanded by their brethren in Wisconsin or elsewhere? This claim and all such originate with claim agents who are hanging about the capital, and embracing every available opportunity to prey on the Treasury or on claimants who are so unfortunate as to fall into their hands. They learn of some pretext for a claim, then contract with the Indians for fifteen or twenty or fifty per cent. of all that may be recovered, and then bring to bear all the arts and appliances known to this profession. Success in one case stimulates efforts in others. Grant the demand in this case, and you will be overwhelmed with similar demands. It will open a vast field for enterprising claim agents. Hundreds of vagrant bands of Indians have equal claims for consideration. This is the initiatory case.

The Federal Government has never heretofore waived a condition of a treaty requiring the Indians to remove in a solitary instance. In this case these Indians were permitted the option of going west or north under the treaty and supplemental treaty; they might go west with the main tribe, settle with them, and enjoy all the privileges of members of the tribe, or they might go north, and settle with Indians who were then living in that part of Michigan, and if they went north they were to receive their just proportion of all annuities, but no lands. These Indians did neither; they neither went west, nor did they move north, and unite with the Indian tribes living in that vicinity.

Then having complied with neither of these provisions, having forfeited their rights under the treaties, they come in here by an attorney and demand that the Federal Government shall go back to the year 1836, twenty-nine years, and ascertain the aggregate of all annual payments to which they would have been entitled if they had complied with the provisions of the treaty. In nearly all civilized communities there are statutes of limitation that bar debts overdue for a specified period; but here are a poor, defenseless tribe of Indians for whom this Government is guardian, who have complied with all their treaty stipulations, and have received from the Government from year to year the annuities due them from the Government. They have received this money from year to year for a period of nearly thirty years, when a fragmentary band of their brethren who never did comply with their treaty obligations demand that the law-abiding portion shall disgorge in their favor. Nothing could be more unjust, and nothing could be more clearly in conflict with the settled policy of the Government as well as in conflict with the usages of civilized communities in relation to the payment of old debts. Six or eight years would bar such a supposed debt between members of civilized society; but here the claim being made by civilized Indians, aided by astute attorneys, against savages, you are asked to ignore this principle in a case nearly thirty years old.

It is said by the chairman of the committee that the Commissioner of Indian Affairs, in the year 1843, did direct that a portion of these annuities should be paid to these Michigan Indians. That is true, but there is no evidence justifying the conclusion that this was the result of careful investigation. It was recommended by the superintendent of Indian affairs in the Northwest, then living at Detroit, I believe, that some provision should be made for these Indians in Michigan. I doubt not that an appeal was made to the humanity of that superintendent. They were probably destitute of food and raiment, and it became necessary to make some provision for them, and he recommended to the Commissioner of Indian Affairs at Washington city that something should be allowed them; and under that state of facts, on that suggestion of the superintendent, without any investigation, as far as the committee knows, the Commissioner of Indian Affairs did order that a certain sum should be paid annually, of about fifteen hundred dollars, I think, and that has been regularly paid from that time to the present. This, it may be claimed, was a waiver on the part of the Federal Government; but it only can be maintained to be a waiver to the extent that it was waived, and that was to the amount of \$1,500 a year, and to commence in 1843. This bill, however, proposes to overturn

this decision and to go back seven years to 1836, and to enlarge the amount from the whole period intermediate between 1836 to the present, and thence to the end of time.

The amendment that I propose will not unsettle what the Commissioner of Indian Affairs has done, but will increase the amount from the date of the passage of this bill, by putting these Indians, now residing in Michigan, on an equal footing with their brethren residing in Kansas so far as annual payments in money are concerned; and this is all which in my judgment they have a right to expect. They have not a right to claim that we shall now make a waiver of the conditions of their treaties, which will reach back thirty years and give them what they would have been entitled to if they had complied with their part of the contract.

I confess that there is another consideration that weighs on my mind somewhat, and that is that I do not doubt that a large part of this money will not inure to the benefit of these Indians. The claim has been fished up by attorneys and claim agents, who, it is said, and as I believe, have contracts with these Indians for fees that will absorb a very large part of the amount proposed to be paid. I do not propose by any vote of mine to encourage any such profession. From the facts that come to my knowledge, I think the agents for the Indians in Kansas and the agents for the Indians in Michigan have combined their interests, and are all now in favor of this measure. I think they have entered into a contract to divide the spoils between themselves; and hence, if the resolution should be recommitted I do not think there will be any just representation of the Kansas Indians.

I propose to treat these Indians as we have been treating all the Indian tribes under the control of the Federal Government from the beginning, to require them to comply with the conditions of their treaties; but if we make a waiver, to let that waiver affect them from the date at which it is made and to the extent to which it is made. These Indians are civilized to some extent, and perhaps will be as well off or better off remaining in Michigan than they would be in Kansas. I am willing to allow them from this time forward to draw their full proportion of all payments now being made in money to this tribe, but I cannot go further than this.

I ought, I think, to suggest that perhaps this measure is of doubtful policy. These are civilized Indians, and on that account their presence with the tribe would be advantageous to the wilder members of the tribe, and hence the Federal Government has an interest in requiring these civilized Indians to go and live with their brethren.

Mr. RAMSEY. Perhaps they will turn savages if you send them put there.

Mr. HARLAN. Some men think so, but I do not. I believe the influences of civilized communities are stronger than those of savage communities; I believe that Christianity is stronger in its influences than paganism; and that civilized Indians living with other Indians would at least have a strong tendency to correct their evil passions and habits, and tend to qualify them for the enjoyments of civilized society. We have, in fact, a direct interest in requiring these civilized and Christian Indians to go and live with their brethren; but if it is thought best not to insist on this condition now I am willing to place them now in the same attitude that they would have occupied if they had gone west, as to the division of annuities hereafter to be paid. I cannot go further than this.

Mr. HOWARD. I confess, sir, after hearing the Senator from Iowa denounce in such bitter language this claim and the agents connected with it, that I entertain some fears that in venturing to speak a word in behalf of the Indians of Michigan I too may attract his criticism and his personal reflections; but, sir, I must endeavor to do my duty in this regard at whatever hazard, whatever consequences.

The question, Mr. President, before the Senate is not how many agents are connected with this claim, or what may be their character; not whether the Michigan Indians have sent here A, B, or C to prosecute their claim before Congress, or what the character of those agents may be. The question we are to pass upon is the justice or injustice of the claim itself; whether it be sup-

ported by principles of law and by treaties with the Indian tribes and with these Michigan Indians, or whether there be no law and no treaty for the claim to stand upon.

Now, sir, let me say to the honorable Senator from Iowa, for whom I entertain a great respect, that in reading the two treaties of September 26 and 27, 1833, made at Chicago, he seems entirely to have misapprehended their force and effect. He speaks of the removal of these Indians as being one of the conditions of the treaty. Sir, that is entirely a misapprehension, as I will show in a moment. What was the state of facts in regard to these several tribes of Indians known commonly as the United nation? In 1833 the Pottawatomies, Chippewas, and other tribes, now and then consolidated under the title of the United nation, owned a very considerable tract of land in Michigan in the shape of reservations; they owned a very large tract of land in the State of Illinois; and on the 26th of September of that year a treaty was entered into between these Indian tribes and the United States by which the Indians ceded to the United States some five million acres of land lying in the State of Illinois. In this cession of land not only those Indians who are now called Kansas Indians, who have gone off and now reside in Kansas, but also the Michigan Indians, were interested as owners and occupants. For this cession of land in Illinois by these several tribes of Indians the Government stipulated to pay Indian tribes as a united nation certain annuities to a very considerable amount; and in addition thereto set apart and assigned to them a tract of land of about five million acres, if I remember rightly, west of the Mississippi river, lying in the State of Missouri. Such was the bargain, such the *quid pro quo*. The Indians sold their lands in Illinois and their reservations in Michigan for these annuities and for the land lying west of the Mississippi river. The Michigan Indians were parties to this contract, because they were part and parcel of the United nation; they were part of the Indian owners of the soil; they sold the interest they held in the lands in common with the other Indian occupants; and none of them entered into any agreement by which they were to remove west of the Mississippi or elsewhere. The idea that their grant was made on the condition that they should remove out of Illinois is wholly a misapprehension. The language of the treaty is this—I refer to the treaty of 26th of September, 1833:

"And as it is the wish of the Government of the United States that the said nation of Indians should remove to the country thus assigned to them as soon as conveniently can be done, and it is deemed advisable on the part of their chiefs and head men that a deputation should visit the said country west of the Mississippi and thus be assured that full justice has been done, it is hereby stipulated that the United States will defray the expenses of such deputation."

It was left optional with the Indians themselves whether they would go west and occupy that land or whether they would go somewhere else. They entered into no stipulation, no covenant to remove to the west. They were as free to go to the east as to the west. They do not say they agree to go, but the treaty says "it is the wish of the Government of the United States" that they shall remove, not that they shall remove absolutely. It so happened that a large portion of the Indians residing in Michigan were Christian Indians; the most of them belonged to societies or churches that had been established in the remote wilderness of Canada and the Northwest for a hundred years. They were the disciples of the Jesuit missionaries, the first Christian missionaries who visited those remote regions; they were attached to their Catholic teachers; to the Catholic church; and they felt a natural reluctance to emigrate and leave their old homes, the graves of their fathers and the altars at which they and their ancestors had worshipped for so many generations, and seek their fortunes in the wild woods west of the Mississippi; and in order to relieve them the Commissioner and the Indians on the very next day, the 27th of September, entered into a supplemental treaty in which a specific provision is made for the Indians of Michigan in the following words:

"And as since the signing of the treaty"—

That is, the treaty of the 26th of September, the day previous—

"And as since the signing of the treaty a part of the band

residing on the reservations in the Territory of Michigan have requested, on account of their religious creed, permission to remove to the northern part of the peninsula of Michigan, it is agreed that, in case of such removal, the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid them at l'Arbre Croche."

Such is one of the clauses in the supplemental treaty, provisional in its nature, but in no sense imperative upon the Indians. It simply gave to that portion of the tribes who resided in Michigan the privilege of removing if they saw fit to the northern part of the peninsula, to a place called l'Arbre Croche, and residing there if they saw fit, on account of their religious creed.

Now, sir, to ask a lawyer to pronounce the clause I have just read a "condition" of the treaty, or to give it such a construction as would make it imperative on these Indians to remove to l'Arbre Croche, seems to me to be a very great absurdity—I speak it with the utmost respect to my friend from Iowa. It simply extended to them a privilege; they might go and reside there if they saw fit; and if they did go there, then their just proportion, for this is the language of the treaty, "their just proportion of the annuities" should be paid to them at l'Arbre Croche. It was simply changing the place of the payment of the amount which was justly due to them from the place where it otherwise would have been made to l'Arbre Croche. Such manifestly is the sole effect of this clause in the treaty.

I dislike, Mr. President, at this late hour of the day, to spend more time in consideration of this subject, and I will close by saying that the money which these Indians now ask for is their share of the purchase price of the land of which they were the owners in common with the rest of their tribe, and of the price of the reservations they sold in Michigan; that is the price of their interest in their reservations, in the five million acres of land they sold lying within the limits of Illinois, for which they have never received one dollar; and how gentlemen can rise here and say these men, who were once the owners of the land, and who claim nothing but their share of the purchase price of the land, are entitled to nothing, is more than I can understand.

Sir, in order to make this claim odious, and all persons connected with it odious, the honorable Senator from Iowa, utterly ignorant of the character of the Michigan Indians, assumes to call them vagrants and vagabonds of the earth. Let me ask that honorable Senator, if it shall ever happen to fall in his way, to enter one of the humble dwellings of these Michigan Indians, and he will find there a household as orderly, as industrious, as submissive to the laws, and as anxious to build up and uphold all the interests of society as most white men. They live by their own industry and the sweat of their brow; their own hands procure for them the livelihood they enjoy; they are almost all of them voters under the constitution of my State; and it seems to me a little hard that after depriving them of the price of their lands and the money which has been honestly due to them for so long a time, they should be denounced here as vagrants and vagabonds. Sir, they have waited patiently for the justice which they now ask; they are not clamorous even now; they are poor, and many of them ignorant; but they have not yet forgotten that they are subject to a country famous for its justice as well as its power. It is not the Michigan Indians, let me say to you, that have reddened the fields and the threshold of the pioneer and settler with the blood of the inmates. They have been guilty of no crime against either the Government or individuals. They are Christianized, civilized; and it is entirely unjust to charge them with being vagrants and vagabonds.

To conclude, then, Mr. President, for I will not detain the Senate, here is a claim which, although ancient, has been prosecuted diligently and kept alive by the claimants. It is nothing more than for the proper proportion of the purchase money due to the Michigan Indians for the lands they have sold to the United States, a proportion plainly recognized as being due to them by an express article in the treaty of September 27, 1833, and it seems to me little less than pettifoggery and quibbling to pretend that because, after removing to l'Arbre Croche, and finding it impossible to subsist there on account of the sterility of the

soil and the severity of the climate, they returned to their old homes, they have forfeited their just claim to their share of that purchase money for their land. Sir, would my honorable friend from Iowa go into a court of equity and set up such a defense as he here interposes, in reply to a claim for the purchase money of land which his client should have sold? Would he insist that because the party did not happen to be at the particular place where it was to be paid he had therefore forfeited it? Sir, if you sue a party upon a note payable at a particular place, he cannot set up by way of defense of the claim that it was not presented at the place where it fell due. The honorable Senator from Iowa knows quite well that such is not the law. The place of payment may be a matter of convenience to the maker of the note, but it is no answer to a suit upon the note upon the merits that it was not presented at the place where it fell due. It may affect the question of costs, but it is no answer to the claim upon the merits; and this is precisely the case in the matter now before us.

Mr. POMEROY. I understand the direct question before the Senate to be on the amendment moved by the Senator from Iowa. I cannot support that amendment, and I think it strange that it should be offered by him. He has told the Senate that these Michigan Indians have no claim whatever, and yet his amendment goes on to put them upon an equal footing with the Indians in my State for all time to come. I am willing, and I think the Indians in my State would be willing, to settle with the Michigan Indians and pay them what has been due to them in the past. I think the report of the committee as it has been amended will be satisfactory. The joint resolution as it came from the House proposed to give these Michigan Indians \$192,000. Our Indians were alarmed at that proposition; they thought it was entirely too large. That would give the Michigan Indians an equal participation in everything. The benefits that have accrued to this tribe in consequence of the removal, evidently the Michigan Indians should not enjoy; nor should they have a share in the increased value of the Indian lands in my State, for they have not been there. The proposition of the committee of the Senate to give the Michigan Indians \$50,000 for their proportion of what was due under some former treaties is not so objectionable as the proposition of the Senator from Iowa, which is to give them an equal benefit in the sale of the lands in the future, and in all the money annuities; and he proposes to put upon that equal footing with our Indians those who, he says, have not a shadow of a claim.

Mr. HARLAN. I know the Senator from Kansas does not intend to misrepresent the position I have taken.

Mr. POMEROY. I speak of it as I understand it; perhaps I do not understand it.

Mr. HARLAN. The Senator does substantially somewhat, but not entirely, understand it. If the amendment I propose shall not be adopted, and the joint resolution shall pass as amended by the Indian Committee, these Indians will in that case receive a much larger annuity than they are now receiving; they will receive their proportion of all annuities. The amendment I propose will give them something more than this from year to year hereafter.

Mr. POMEROY. That is what I object to.

Mr. HARLAN. My amendment will give them their proportion of the amount paid in money, but nothing of the land or what goes for the support of the millers, &c.

Mr. POMEROY. It is known that the Indians in my State have a very large and valuable tract of land, and the amendment of the Senator from Iowa allows the Michigan Indians to participate equally with our Indians in the benefits of that land.

Mr. HARLAN. Not at all. My amendment merely allows them to share in the proceeds of land heretofore sold and now drawing interest from year to year.

Mr. POMEROY. But placing the Michigan Indians on the same footing with our Indians makes them part and parcel of every payment that is made, not only to-day but in the future. There is no escape from it. I will not detain the Senate, as I see that everybody is anxious to vote on this question, and it is merely a question between two fragments of a tribe of Indians how

a settlement between them shall be effected. I should have resisted the resolution as it came from the House of Representatives, paying the Michigan Indians \$192,000, but as it has been before the committee a year, and they have made a kind of amicable adjustment, and settled upon \$50,000, I would rather pass the resolution as it now stands; and it is better for the Indians in my State than to pass a measure which will make the Michigan Indians equal with ours for all time to come, and I prefer to sustain the report of the committee rather than this new amendment proposed by the Senator from Iowa. I think the adjustment of the matter made in this report by the committee is nearer equity at least. Exact justice we shall never get, but this approximates toward it, and I think we ought to stand by it.

Mr. LANE, of Kansas. My colleague differs with me entirely as to the desire of the Kansas Indians. I have seen them, or their agent, recently, and they claim that they do not owe a dollar, and that it is an outrage to permit one dollar to be taken from their funds and paid to the Michigan Indians.

Mr. POMEROY. I do not know what their agents here may say, but I was in the tribe last fall and stopped at the St. Mary's Mission, and conversed with Bourassa and those old men who knew all about this matter, and they were willing to compromise the matter and pay something. I do not know what these agents may say; I have not seen one of them.

Mr. LANE, of Kansas. I speak of the Indians themselves, and I say they have an abhorrence to having a dollar taken from them and paid to the Michigan Indians. They claim, as the history of the case shows, that there was a full settlement made with the Michigan Indians by the Indian Bureau, and the sum of \$1,500 a year was allowed to them, and has been paid to them and received by them in full settlement of all claim they had against the Kansas Indians. That was a full adjustment of the whole matter. This is a case fished up running through a series of thirty years, although the facts are that the claim was fully adjusted, and the Michigan Indians years ago accepted the amount paid by the Government as a settlement.

But, sir, I desire to make a suggestion to the Senate. If this resolution passes it impoverishes the wards of the Government in Kansas. The Senator from Iowa, for whose judgment in Indian matters I have great respect, now proposes a new basis of settlement. The Kansas Indians have an agent here. Now, I ask the Senate on behalf of these wards of the Government that they pass by this resolution informally till I can confer with that agent on the new basis tendered by the Senator from Iowa. I believe it has been the custom of the Senate when such a request is made by a Senator to accord to it. I think it especially addresses itself to the Senate, as these wards of the Government are interested in the question, and there is no Senator prepared to speak for them here as to the new basis proposed by the Senator from Iowa.

Mr. POMEROY. I have no objection to the resolution going over. I agree with my colleague in that suggestion.

Mr. RAMSEY. I will simply state that at this time there are upward of three hundred Winnebago Indians in the State of Wisconsin, the best paid tribe in the country, and they have not for twenty years participated in the annuities of the tribe because they did not remove with them. The object of the treaty undoubtedly was to induce these Indians to remove; they have not done so, and according to all the practice of the Government they have forfeited their interest in the annuities.

Mr. HARLAN. I feel pretty sure now that I am right. Both the Senators from Kansas, where a part of this tribe of Indians live, are opposed to my amendment; and both the Senators from Michigan, where the other part of them live, are opposed to it, the Michigan Senators insisting that it does not give those in Michigan enough.

Mr. LANE, of Kansas. The Senator from Iowa should not make that statement so far as I am concerned. I desire to consult with the agent of the Indians as to the amendment. I express no opinion about it.

Mr. HARLAN. I accept the modification so

far as the Senator is concerned. His colleague, however, says this amendment of mine will give the Michigan Indians too much. I think it will be right, but I shall not insist upon it against the sense of the Senate. If it is not adopted, however, I shall be compelled to go against the resolution as reported by the committee.

I wish to state, in relation to the argument of the Senator from Michigan, that he has not, I think, made himself familiar with the language of Indian treaties or he would not insist on the construction that he does. There certainly was an implied, if not an express, agreement on the part of these Indians to remove to their new reservation, and the language was put in which the Government had found to be the only available means of enforcing a removal, and that was to make the payment at the new reservation. While it may be true that in some treaties they are not required expressly in words to remove, yet it is provided that the payment shall be made at the new reservation, and the experience of the Government has been that there has been no other available mode of compelling a removal of the Indians but to withhold the payments until they do remove.

The Senator also took exception to my use of the word vagrant. I did not intend to use it in an offensive sense, nor as applicable to these Michigan Indians particularly, but to the different fragments of this nation of Indians scattered in different places among other Indian tribes in the State of Wisconsin as well as in Michigan.

Mr. DOOLITTLE. If the honorable Senator from Iowa will give way I will suggest that this resolution pass over until to-morrow morning, he having the floor, as there is one other Indian bill that I want to dispose of before half past four o'clock, a bill in regard to Utah, which I think will lead to no discussion.

Mr. HARLAN. I yield to the suggestion of the chairman of the committee.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The joint resolution will be passed over informally.

Mr. DOOLITTLE. I now move to take up House bill No. 222.

The PRESIDING OFFICER. Before putting the question on that motion the Chair will present some bills from the House of Representatives, for the purpose of reference.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred to the Committee on Military Affairs and the Militia:

A joint resolution (H. R. No. 169) to provide for the publication of a full Army Register;

A joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants;

A joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased;

A joint resolution (H. R. No. 172) to authorize the President to make transfers of officers in the Army of the United States;

A bill (H. R. No. 600) for the better organization of the subsistence department;

A bill (H. R. No. 653) to determine the rank of officers reëntering the military service;

A bill (H. R. No. 765) concerning regimental and garrison courts-martial; and

A bill (H. R. No. 767) to increase the pay of certain officers of the Army, and for other purposes.

The bill (H. R. No. 698) to establish in the War Department a Bureau for the Relief of Freedmen and Refugees was read twice by its title, and referred to the select committee on slavery and freedmen.

The joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to the British schooners Minnie Williams and E. M. Baxter was read twice by its title, and referred to the Committee on Commerce.

#### MINT IN NEVADA.

Mr. NYE. I rise to ask the Senate to take up and concur in a House joint resolution upon which I am certain there can be no debate. It is a resolution that was passed by the House of Representatives last year and was referred to the



Committee on the Judiciary here, and they have reported it back without amendment. It is simply to confirm the title to lands in Carson, Nevada, upon which the mint is to be established.

Mr. DOOLITTLE. I hope the Senator will allow me to go on with the Indian bills.

Mr. NYE. This will not take longer than to read the resolution, and then I will stand by the Senator from Wisconsin and his Indian bills. I insist on my motion.

The motion was agreed to; and the joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title of certain property in Carson City and Territory of Nevada, for the purposes of a branch mint located in said place, was considered as in Committee of the Whole. It recites that the Secretary of the Treasury of the United States, in order to carry into effect an act entitled "An act to establish a branch mint of the United States in the Territory of Nevada," approved March 3, 1863, has purchased of Moses Job and Margaret, his wife, and James L. Riddle, the preëmptors and occupants thereof, certain city or town lots in Carson City, together with all the valuable improvements thereon; and that it is highly important for the interest of the Government to obtain, at an early day, the use and possession of the property to establish and open the branch mint; and it therefore proposes to authorize the Secretary of the Treasury to receive and accept from Moses Job and Margaret, his wife, and James L. Riddle, such relinquishments and conveyances of their right and claim to the lots and property as the Secretary shall deem sufficient for the relinquishment of any claim, right, or title which they may or can have thereto; and the lots and property are thereafter to be reserved from public sale, preëmption, or homestead settlement, and to remain the property of the United States.

The joint resolution was reported to the Senate without amendment.

Mr. ANTHONY. Nevada is now a State, and I move to amend the resolution by striking out "Territory" and inserting "State."

The amendment was agreed to.

The amendment was ordered to be engrossed, and the resolution to be read a third time. The resolution was read the third time, and passed; and its title was amended by striking out "Territory" and inserting "State."

#### INDIAN LANDS IN UTAH.

On motion of Mr. DOOLITTLE, the bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes was considered as in Committee of the Whole. It proposes to authorize the President of the United States, by and with the advice and consent of the Senate, to enter into treaties with the various tribes of Indians of Utah Territory, upon such terms as may be deemed just to the Indians and beneficial to the Government of the United States, for the absolute surrender to the United States, by those Indians, of their possessory right to all the agricultural and mineral lands in Utah Territory, except such agricultural lands as by said treaties may be set apart for reservations for the Indians; and these reservations are to be selected at points as remote as may be practicable from the present settlements in Utah Territory. In agreeing with the Indians upon the amounts to be paid to them under the provisions of the treaties to be negotiated, care is to be taken to obtain from the Indians, to the greatest possible extent, their consent to receive for such payments agricultural implements, stock, and other useful articles rather than money. The bill proposes to appropriate \$25,000 for the purpose of negotiating the treaties and carrying out the provisions of the act, making presents to the Indians, and defraying the necessary expenses incident to the negotiation.

The bill was reported to the Senate.

Mr. McDUGALL. I have but one observation to make in this connection, not by way of opposition to this measure, but by way of commentary, after the fashion of the commentaries in Scott's Bible. The Indians are not being protected by this provision, and they are not considered here, whereas a darker colored race are being considered all the time.

The bill was ordered to a third reading, and was read the third time, and passed.

#### LUCY A. RICE.

Mr. HOWARD. I move to take up the joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia.

Mr. DOOLITTLE. I do not wish to have the joint resolution, on which the Senator from Iowa was upon the floor when it was laid aside informally, displaced.

Mr. HOWARD. Of course not; but this will only take a minute.

The motion was agreed to; and the consideration of the joint resolution was resumed by the Senate.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### W. H. AND C. S. DUNCAN.

Mr. LANE, of Kansas. I move to take up Senate bill No. 311.

Mr. DOOLITTLE. I object. The joint resolution on which the Senator from Iowa had the floor is now regularly before the Senate.

Mr. LANE, of Kansas. This bill only appropriates \$200 80. I insist on my motion.

The motion was agreed to; and the bill (S. No. 311) for the relief of W. H. & C. S. Duncan was considered as in Committee of the Whole. It proposes to appropriate \$200 80 to be paid to W. H. & C. S. Duncan, of the city of Lawrence, Kansas, for compensation in full for goods and provisions furnished Captain Walker's company, Kansas militia, by order of Governor Geary, in 1856.

The bill having been read,

The VICE PRESIDENT announced that half past four o'clock having arrived, the Senate would take a recess until seven o'clock.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock p. m.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting an estimate by the Commissioner of Indian Affairs of appropriations required for fulfilling treaty stipulations with the Chippewas of Mississippi, and the Pillager and Lake Winnepigoshish bands of Chippewas in Minnesota, under the treaty of May 7, 1864, for the current fiscal year, and also for the fiscal year ending 30th June, 1866; which was referred to the Committee on Finance.

#### NATIONAL PROTECTION INSURANCE COMPANY.

On motion of Mr. DIXON, the bill (S. No. 386) to incorporate the National Protection Insurance Company of the District of Columbia, was considered as in Committee of the Whole. The proposed incorporators are Richard Wallach, John H. Semmes, J. F. Callan, James T. Close, George S. Gidcon, John Farrell, Thomas J. Fisher, Thomas P. Morgan, Job Angus, O. A. Daily, Charles Wilson, George Lowry, and S. A. Peugh, and their present and future associates.

Mr. DIXON. I move to amend the bill by striking out, in lines nineteen and twenty of section four, the words "to be used in purchasing or discounting bonds, bills, notes, or other papers" after "security;" so as to leave the clause read, "the funds of this company may be invested in or loaned on a stock or real security."

The amendment was agreed to.

Mr. DIXON. I move further to amend the same section by striking out, in lines twenty, twenty-one, twenty-two, and twenty-three, the words:

*Provided*, That no greater rate of discount shall be taken than one half of one per cent. for thirty days, except as regards the bonds or certificates of debt of the United States or of corporations.

I think that is too great an amount of interest to be allowed; and I move to strike out the words entirely.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

#### NORTHERN PACIFIC RAILROAD CONNECTIONS.

Mr. HOWARD. I move to take up the bill (S. No. 414) to authorize the construction of the

Northern Pacific railroad eastward to Ontonagon, in the State of Michigan, and provide for its connection with the Ohio, Indiana, Michigan, and Canadian systems of railroads at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton.

The PRESIDING OFFICER, (Mr. CLARK.) This evening having been set apart for executive business, no other business can be entertained except by unanimous consent. Is there objection to the consideration of the bill indicated by the Senator from Michigan?

Mr. GRIMES. I object.

#### COMMITTEE ON THE CONDUCT OF THE WAR.

Mr. WADE. I offered this morning a concurrent resolution to authorize the continuance of the committee on the conduct of the war for thirty days after the termination of the present session.

The motion was agreed to by unanimous consent, and the Senate proceeded to consider the resolution.

Mr. WADE. I will state the reason for—Several SENATORS. Oh, no! we don't want any reason; it's all right.

Mr. WADE. Very well.

The resolution was agreed to.

#### POTTAWATOMIE INDIANS IN MICHIGAN.

Mr. POWELL. I move that the Senate proceed to the consideration of executive business.

Mr. DOOLITTLE. I ask the Senator from Kentucky to withdraw his motion to allow me to have the joint resolution on which the Senator from Iowa [Mr. HARLAN] is entitled to the floor, taken up so as to be left as unfinished business.

Mr. POWELL. I withdraw the motion.

Mr. DOOLITTLE. I move to take up the joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan the sum of \$192,850.

The motion was agreed to.

Mr. DOOLITTLE. I now renew the motion that we go into executive session.

The PRESIDING OFFICER. This evening having been assigned for executive business, the Chair will direct the galleries to be cleared and the doors to be closed.

After some time spent in executive session, the doors were reopened; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 20, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THURSH.

The Journal of yesterday was read and approved.

The SPEAKER proceeded, as the first order of business, to the call of committees for reports, to go upon the Calendar, and not to be brought back by motion to reconsider.

#### JOHN A. HADDOCK.

Mr. BROWN, of West Virginia, from the Committee of Claims, reported a bill for the relief of John A. Haddock; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and, with the accompanying report, ordered to be printed.

The SPEAKER. The call of committees having been concluded, the next business in order during the remainder of the morning hour is the call of States for resolutions, commencing with the State of Pennsylvania.

#### SUBSTITUTE BROKERAGE IN THE DISTRICT.

Mr. ANCONA introduced the following resolution:

Whereas it is alleged that a system of substitute brokerage has been practiced at the United States jail in this city by the officers in charge thereof, namely, Messrs. Robert Break, warden, B. Muburn, deputy warden, Fayman and Robins, son, guards, and others not officers, enlisting and putting into the United States military service as substitutes persons under arrest and in confinement upon charges of criminal offenses, thereby defeating the ends of justice and doing great injury to the Army and community: Therefore, Resolved, That the Committee on Military Affairs be instructed to inquire into the facts of said allegations and report the same to the House.

Mr. DAVIS, of New York. I wish simply to remark that a resolution of this kind was introduced a few days since and referred to the Committee for the District of Columbia. That committee is taking measures for the purpose of procuring the information desired by the resolu-

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2d Session.

WEDNESDAY, FEBRUARY 22, 1865.

NEW SERIES...No. 59.

tion. I should be very glad to have this resolution referred to the same committee.

Mr. ANCONA. I have no objection to the change. I was not aware that a resolution had been introduced upon this subject. I will modify my resolution so as to substitute the Committee for the District of Columbia for the Committee on Military Affairs.

The resolution, as modified, was agreed to.

Mr. ANCONA. I ask that the committee have leave to report at any time.

There being no objection, it was so ordered.

Mr. DAVIS, of New York. I move that the Committee for the District of Columbia have power to send for persons and papers.

There being no objection, the motion was agreed to.

## INCREASED PAY OF CONGRESSMEN AND OTHERS.

Mr. ANCONA. In behalf of my colleague, [Mr. JOHNSON,] who is absent, I ask leave to offer the following resolution:

*Resolved*, That the Committee of Ways and Means be, and they are hereby, instructed to bring in a bill increasing the pay and allowances of members of Congress, and of clerks, messengers, and watchmen in the Government employment in this city twenty per cent., corresponding with the increased cost of living here over that in the other principal cities of the country.

Mr. KASSON. I understand that resolution to be absolute, and I object.

Mr. ANCONA. I am not at liberty to change the phraseology of the resolution. I offered it in behalf of my colleague, [Mr. JOHNSON.]

Mr. KASSON. I object to the resolution.

## PAY OF A CONTESTANT.

Mr. ANCONA. I ask leave to offer the following resolution:

*Resolved*, That there be paid out of the contingent fund of the House of Representatives to Hugh M. Martin the usual mileage and pay up to the day when he withdrew his contest before the Committee of Elections as a contestant for a seat in the Thirty-Eighth Congress as a Representative from the fourth district of the State of Iowa.

Mr. ALLISON. I object.

Mr. ANCONA. I only propose to have it referred to the Committee of Elections.

Mr. ALLISON. I object.

Mr. COFFROTH. I offer the following resolution, upon which I demand the previous question:

*Resolved*, That there be paid out of the contingent fund of the House of Representatives to Hugh M. Martin the usual mileage and pay up to the day when he withdrew his contest before the Committee of Elections as a contestant for a seat in the Thirty-Eighth Congress as a Representative from the fourth district of the State of Iowa.

The House divided on seconding the demand for the previous question; and there were—ayes 26, noes 43; no quorum voting.

Tellers were ordered; and Messrs. ALLISON and COFFROTH were appointed.

Mr. NOBLE. I ask leave to say a word upon this question.

Mr. BALDWIN, of Massachusetts. I object.

The House divided; and the tellers reported—ayes 36, noes 58.

So the House refused to second the demand for the previous question.

Mr. WILSON. I rise to debate the resolution.

Mr. NOBLE. I demand the yeas and nays on the motion to refer the resolution.

The SPEAKER. If the resolution shall be reached that motion will be in order; but the gentleman from Ohio is familiar with the rule that if the previous question is not seconded, and any gentleman rises to debate the resolution, it goes over under the rule.

## EXPORTATION OF COTTON.

Mr. FERNANDO WOOD. I offer the resolution which I send to the Chair, to which I think there will be no objection. In case any gentleman should desire to discuss it, I move the previous question.

The resolution was read, as follows:

*Resolved*, That the Secretary of the Treasury be requested to consider the expediency of exporting to foreign markets for sale all cotton now in Government hands, so as to obtain for the Treasury the advantage of the higher price paid

in Europe for that article, and thus, by placing abroad its proceeds to the credit of the Government, be enabled to import coin to that extent, or sell exchange, thereby enhancing the value of the currency, strengthening the credit of the Government, reducing the premium on gold, and producing other obvious advantages.

Mr. MORRILL. I object to the resolution.

Mr. FERNANDO WOOD. There can be no good reason for objecting to the resolution. It simply requests the Secretary of the Treasury to consider the propriety of doing this. I hope the gentleman will withdraw his objection.

Mr. MORRILL. I insist on the objection.

Mr. FERNANDO WOOD. Then I insist on the demand for the previous question.

Upon seconding the demand for the previous question the House divided; and there were—ayes 25, noes 54; no quorum voting.

Mr. FERNANDO WOOD called for tellers.

Tellers were ordered; and Messrs. FERNANDO WOOD and FARNSWORTH were appointed.

The House again divided; and the tellers reported—ayes twenty, noes not counted.

So the previous question was not seconded.

Mr. MORRILL rising to debate the resolution, it was laid over under the rule.

## ASSIGNMENT OF QUOTAS.

Mr. CHANDLER submitted the following:

*Resolved*, That the Secretary of War be hereby directed to communicate to this House at an early day the basis upon which the quotas of the different districts of each State have been established and adjusted under calls for troops by the President of the United States, together with a detailed statement of the number of troops and seamen furnished by each State and district, congressional or otherwise, since the outbreak of the rebellion, with their respective terms of service.

The SPEAKER. This being a call for executive information, it requires unanimous consent on this day.

Mr. KELLOGG, of Michigan, objected.

## JOHN ERICSSON.

Mr. TOWNSEND introduced a bill for the relief of John Ericsson; which was read a first and second time, and referred to the Committee of Claims.

## ACCOUNTS OF POSTMASTER.

Mr. ELIOT submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing by law that the Postmaster General shall have authority, in his discretion, to give credit to postmasters, in settlement of their accounts, for losses of postage stamps by burglary or theft, and without their fault or negligence, and to report by bill or otherwise.

Mr. ELIOT moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

The SPEAKER. The call of States and Territories for resolutions having been completed, the next business in order, under the rule, is the taking up of resolutions calling for executive information which laid over one day under the rule.

## GOLD SALES BY THE TREASURY.

The first resolution was read, as follows:

*Resolved*, That the Secretary of the Treasury be directed to communicate to this House what, if any, amount of gold in the Treasury of the United States not necessary for the payment of interest on the public debt has been disposed of under the joint resolution approved March 17, 1864; what amounts, and the various times when the same were disposed of; at what rates, and what agents were employed in the transaction.

Mr. COX demanded the previous question.

Mr. KELLOGG, of Michigan, moved to lay the resolution on the table.

Mr. COX. I ask that the resolution be read again for the information of the gentleman from Michigan, [Mr. KELLOGG,] for he evidently misunderstands it.

The resolution was again read.

Mr. COX. I would like to modify the resolution, which I think will make it acceptable, by inserting after the words "public debt" the words "and for the purposes of the sinking fund."

Mr. KELLOGG, of Michigan. I insist upon my motion to lay on the table.

Upon that motion the House divided; and there were—ayes 51, noes 41.

Before the result of the vote was announced;

Mr. COX called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—ayes 60, nays 58, not voting 64; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brundage, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Driggs, Dumont, Eckley, Elliot, Garfield, Grinnell, Griswold, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Perham, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Samuels, Spaulding, Starr, Upson, Van Valkenburgh, William B. Washburn, Wilder, and Worthington—60.

NAYS—Messrs. Aucona, Baily, Augustus O. Baldwin, Blair, Bliss, Broomall, Channier, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Farnsworth, Finck, Ganson, Harrington, Charles M. Harris, Higby, Holman, Hutchins, Ingersoll, Kabisfleisch, Kernan, King, Knapp, Le Blond, Long, Mallory, Marcy, McKimney, William H. Miller, James L. Morris, Nelson, Norton, Odell, Pendleton, Pruyn, Radford, Rogers, Ross, John B. Steele, William G. Steele, Thayer, Townsend, Tracy, Wadsworth, Wialley, Wheeler, Williams, Wilson, Winfield, Fernando Wood, and Yeaman—58.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Blow, Brooks, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Henry Winter Davis, Dawes, Donnelly, English, Frank, Gooch, Grider, Hale, Hall, Harding, Benjamin G. Harris, Herrick, Horchikiss, Jencks, Philip Johnson, William Johnson, Law, Lazear, McAllister, McClurg, McDowell, McIntosh, Middleton, Morrison, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Orth, Patterson, Perry, Pike, Pomerooy, Price, Samuel J. Randall, Robinson, James S. Rollins, Scofield, Scott, Smith, Stevens, Sules, Strouse, Stuart, Sweet, Thomas Voorhees, Ward, Elihu B. Washburne, Webster, Chilton A. White, Joseph W. White, Windom, Benjamin Wood, and Woodbridge—64.

So the motion to lay the resolution on the table was agreed to.

## CALIFORNIA TROOPS.

The next resolution was read, as follows:

*Resolved*, That the Secretary of War, if not incompatible with the public service, be directed to communicate to this House what is the number of troops furnished by the State of California to the General Government under the various calls, and whether the draft has been enforced in that State as in other States, and if not, the reason for its non-enforcement.

Mr. McKINNEY. On the adoption of this resolution I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

## REFUNDING OF COMMUTATION MONEY.

The next resolution was read, as follows:

Whereas it is alleged that under the call made by the President for three hundred thousand troops on the 1st day of May, 1864, in order to fill their quotas some of the districts made a supplemental draft subsequent to the passage of the act regulating the subject, of July 4, 1864, which supplemental drafts were declared illegal, and the persons thus drafted were ordered to be discharged therefrom, and when commutation had been paid it was also ordered that the same should be refunded, which has not been done; and whereas it is also alleged that in many instances the persons who had thus paid commutation were, within a very short period thereafter, again drafted under the subsequent call and compelled to enter the service of the United States, and whose families are now suffering for the want of the return of said commutation: Therefore,

*Resolved*, That the Secretary of War be directed to inform this House why the said commutations have not been refunded without so much delay.

Mr. SCHENCK. I move that this resolution be referred to the Committee on Military Affairs.

The motion was agreed to.

## PRISONERS FOR POLITICAL OFFENSES, ETC.

The next resolution was read, as follows:

*Resolved*, That the President of the United States be respectfully requested, and that the Secretary of State and the Secretary of War be directed, to report and furnish to this House the names of all persons, if any there are, who have been arrested and are now held in imprisonment or confinement in any prison, fort, or other place whatsoever, for political offenses or any other alleged offense against the Government or authority of the United States, by the order, command, consent, or knowledge of them, or either of them respectively, and who have not been charged, tried, or convicted before any civil or criminal, not military, court of the land, together with the charge against such person,

or cause for such arrest and imprisonment, except only such persons who may at the time of their arrest have been in the military or naval service of the United States, together with the name of the prison, fort, or place where they are severally kept or confined; also whether any person or persons, for any alleged like offense, have been banished or sent from the United States, or from the States not in rebellion to the rebellious States; and the names, times, alleged offenses or cause thereof, and whether with or without trial; and if tried, before what court.

Mr. KERNAN. I move the previous question.

Mr. SCHENCK. Would it be in order to move the reference of this resolution to the Committee on Military Affairs, who already have this subject under consideration?

The SPEAKER. That motion would not be in order, while the demand for the previous question is pending.

Mr. KELLOGG, of Michigan. I move that the resolution be laid on the table.

Mr. HOLMAN. On that question I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 58, not voting 70, as follows:

YEAS—Messrs. Ames, Ashley, Baxter, Beaman, Blair, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Dumont, Eckley, Eliot, Farnsworth, Grinnell, Higby, Hooper, John H. Hubbard, Hulburd, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Norton, Patterson, Perlman, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Shannon, Sloan, Smith, Smithers, Starr, Tracy, Upson, William B. Washburn, and Worthington—54.

NAYS—Messrs. James C. Allen, Allison, Ancona, Bailly, Augustus C. Baldwin, John D. Baldwin, Bliss, Brandegee, James S. Brown, William G. Brown, Chanler, Clay, Coffroth, Cox, Dawson, Denison, Donnelly, Driggs, Eden, Edgerton, Eldridge, Finck, Ganson, Griswold, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Ingersoll, Kalbfleisch, Orlando Kellogg, Kernan, Knapp, Le Blond, Long, Mallory, Marcy, McKinney, William H. Miller, James R. Morris, Nelson, Noble, Odell, Pendleton, Pruyn, Radford, Ross, John B. Steele, William G. Steele, Thayer, Townsend, Wadsworth, Whaley, Wheeler, Wilson, Winfield, and Fernando Wood—58.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blaine, Blow, Boyd, Brooks, Cravens, Creswell, Henry Winter Davis, Dawes, English, Frank, Garfield, Goeh, Grider, Hale, Hall, Harding, Benjamin G. Harris, Hotchkiss, Asahel W. Hubbard, Jenckes, Philip Johnson, William Johnson, King, Law, Lazear, McAllister, McDowell, McIndoe, Middleton, Moorhead, Morrison, Leonard Myers, Charles O'Neill, John O'Neill, Orth, Perry, Pike, Price, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Schenck, Scofield, Scott, Spaulding, Stevens, Sules, Strouse, Stuart, Sweet, Thomas, Van Valkenburgh, Voorhees, Ward, Elihu B. Washburne, Webster, Chilton A. White, Joseph V. White, Williams, Wilder, Windom, Benjamin Wood, Woodbridge, and Yeaman—70.

So the House refused to lay the resolution on the table.

During the roll-call,

Mr. THAYER stated that his colleague, Mr. O'NEILL, was absent on account of sickness.

The result was announced as above stated.

Mr. MORRILL. If the previous question be not seconded, will it be in order to move to refer the resolution to the Committee on Military Affairs?

The SPEAKER. It will. The morning hour has expired.

Mr. ELDRIDGE. I move to reconsider the vote by which the House refused to lay the resolution on the table.

The SPEAKER. The motion will be entered.

LEAVE TO VOTE.

Mr. HOLMAN. I ask, by unanimous consent, for leave to have my vote recorded in the passage of the Wisconsin and Michigan land-grant railroad bill.

There was no objection.

Mr. HOLMAN. I vote in the negative.

CONFERENCE REPORT.

Mr. WILSON. I submit the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to House bill No. 333, an act to amend the twenty-first section of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, have met, and after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the House concur in the first amendment of the Senate, with the following amendment: in line eleven strike out the word "volunteers" and in lieu thereof insert the words "volunteer or other forces."

That the House concur in the second amendment of the

Senate with the following: strike out of the seventh line of said amendment the word "descend" and in lieu thereof insert the words "be paid;" and after the word "heirs" in the same line insert the words "or legal representatives."

That the conferees recommend that the Senate recede from its third amendment to said bill.

That the House concur in the Senate amendment to the title.

HENRY WILSON,

JAMES M. GRIMES,

H. S. LANE,

Managers on the part of the Senate.

JAMES F. WILSON,

E. R. ECKLEY,

W. H. WADSWORTH,

Managers on the part of the House.

Mr. Speaker, the amendment which the Senate attached to the House bill provided that the conferring of brevet rank upon officers of the Army should not carry with it an increase of pay. Under the present system increase of pay is granted to officers of brevet rank in the regular Army. The amendment which the committee of conference have made is to include them with officers of other forces, to put regular, mariepe, and other officers upon the same footing.

The other amendment is merely formal.

The third amendment of the Senate was one whereby it was provided that no alien who had been in the United States for five years prior to April, 1861, and who, if naturalized would have been subject to military duty, shall not hereafter be naturalized, any law to the contrary notwithstanding. The Senate recede from that amendment, as it will be readily perceived it might interfere with the naturalization of a great many persons who are meritorious, the cases of those who were minors prior to April, 1861; and also of those persons who had declared their intentions to become citizens of the United States, and whose declaration had not been made two years prior to that date. In order to avoid the difficulties to arise from that amendment the Senate agreed to recede.

Mr. FARNSWORTH. I do not understand the gentleman in regard to brevet rank.

Mr. WILSON. It puts the regular and volunteer officers upon the same footing.

Mr. FARNSWORTH. I should be much better pleased if the committee had made an amendment to give those who are in command of a brigade the pay of a brigadier general, whether they are brigadier generals or colonels. An officer should not only have the pay commensurate with his rank, but commensurate with the duty which he performs. The old law, as I understand, which authorizes the President to confer brevet rank upon officers of the Army, authorizes them to receive pay when they are assigned to duty commensurate with the brevet rank. I think that this bill ought to be amended to confer the same upon the volunteer officers. Certainly there should be no distinction between officers of the regular and the volunteer force. We should give them all the pay when they are upon the duty commensurate with the brevet rank.

We have, sir, in the service of the United States colonels who have been commanding brigades for two years, and who are simply drawing the pay of colonels. Many of them have been brevetted brigadier generals and are commanding divisions. They should in justice have the pay.

Mr. WILSON. I think there is a great deal of force in some of the suggestions of the gentleman from Illinois; but there is no reason why a person holding the rank and having the position of brigadier general should have more pay than a colonel who performs the same service. We all know that a large number of brigades in the service are commanded by colonels. An officer in the regular Army as a brevet brigadier general can draw pay and an officer in the volunteer cannot. We propose to put them upon the same footing.

I renew the demand for the previous question.

Mr. KERNAN. I ask the gentleman to withdraw that call for a moment.

Mr. WILSON. Certainly.

Mr. KERNAN. I desire to inquire how this report, if adopted, will affect the laws with reference to naturalization?

Mr. WILSON. It makes no change whatever.

Mr. KERNAN. It leaves them as they are?

Mr. WILSON. Yes, sir.

Mr. SCHENCK. I propose to detain the House but a few moments. I know I will be pardoned for speaking upon this subject, in consid-

eration that this is a purely military bill, and the Committee on Military Affairs were not at all represented in the committee of conference. There are features of this report of the committee of conference which induce me to disagree from that report, and to hope that it will not be agreed to by the House.

And first, as to this matter of brevet rank; I entirely agree with the principle adopted by the committee of conference, including both branches of it, that no distinction should be made as to compensation or any advantage conferred by brevet rank between the officers of the regular Army and other officers of the Army belonging to the volunteer forces. I think they should all be put upon the same footing. And I am more inclined to this because in this, as in many other cases, by putting them upon this equal footing we rebut that presumption that has grown up that officers of the volunteer corps are not to be regarded as in the Army at all.

It is a favorite idea at the War Department, and certainly among officers of the regular Army, that there is some magic in the word "Army" that does not include volunteers who are fighting in behalf of their country. And in courts-martial when organized and upon all other occasions a distinction is sought to be drawn between the Army of the United States and the volunteers in the service of the United States, as if the volunteers were but militia. I deny that; and I hold that it is the duty of Congress to defend upon all occasions the volunteers in the service of the United States against the presumption that they are not as much—being mustered into that service—employed by the United States as a portion of its Army, as any other forces in the field. Why, the distinction, I understand, between the militia and volunteers is a problem. Your militia organization, there being no general national militia law, is an organization which is instituted under the legislation of the several States; and when the militia of the States therefore, there being no militia of the United States properly so-called, is called into the service of the United States it goes into the service in its organization given it under the State laws. Whole divisions, brigades, and regiments, with officers of divisions, brigades, and regiments are bodily taken up as it were and transferred for the time being to the service of the United States.

It is not so at all with volunteers. Volunteers are raised under the laws of the United States. Volunteers—officers and men—come into the service of the United States, and are regularly mustered into the service; and it is the only original service in which they are engaged; and the laws of the United States, acting as a national law, operate directly upon the individual, and bring the individual under the control and into the service of the United States as a Government without going through any transition state, or without being embodied into the militia of the States.

It may be said that they are to be regarded only as the militia of the country, because all of their officers under the grade of general officers are commissioned by the Governors of States. We employ the Governors of the several States to commission field and line officers only as the agents of the General Government. The General Government calls the volunteers into the service of the United States, not as having been a part of the militia of the States, but as raised in the several States under national legislation, and the Governors of the States acting as agents of the General Government in giving the commissions. But the moment the commission is granted and the officers are mustered into the service of the United States the State control ceases and it has no further power over them. The Governors are then *functus officio* as regards their agency for the United States, and all further control ceases over officers mustered into the service of the United States.

I make these general remarks because officers of volunteers, being equal to those of the regular Army, and being part of the Army of the United States and of the great national forces of the country, there ought not to be any distinction made in this way between them; and these distinctions in regard to brevet rank are properly repudiated by the conferees upon both sides. But I disagree to the conclusion. I disagree that, while they are put upon the same level and upon the same footing, they ought to be denied altogether,



either in the regular Army or in the volunteer forces, any advantage in the way of compensation by reason of brevet rank for the duties really performed by them. I hold that, on the contrary, instead of both being put upon the same level, and that level being to be deprived of all compensation on account of this brevet rank and the duties discharged under the brevet commissions, they ought to be put upon the same level, but that that level ought to be pay to both of them. I hold that where brevet rank is assigned, whether it be to a regular Army officer or to an Army officer of the volunteer forces, in either case, if the officer be assigned to duty according to that brevet rank, if, for instance, as a colonel he commands a brigade and undertakes all the responsibilities and performs all the functions of a brigadier general and is compelled to maintain the position of a brigadier general, and not only to incur that responsibility but to meet any additional expenses involved in this elevation of position, he ought to be paid for such services.

I hope, therefore, that the report of the committee of conference will be rejected, and that if the amendment of the Senate is to be modified it will be modified in another way, and the Senate will be called upon to agree to put, as the Committee on Military Affairs proposes to do, these officers upon the same footing, but that that footing shall be the receiving of compensation for brevet rank when assigned to service corresponding to that rank.

Mr. GANSON. I would ask the gentleman whether when brevet rank is conferred on a regular Army officer to the command of volunteers he draws the same pay that he would do if not assigned to the command of volunteers.

Mr. SCHENCK. No, sir.

Mr. GANSON. Why should he not?

Mr. SCHENCK. What I mean is this: if a regular Army officer is brevetted and specially assigned to duty corresponding with his brevet rank, while doing the duty of that brevet rank he should receive the pay of his brevet rank; that is to say, when a colonel or captain of the regular Army is brevetted a brigadier general and is assigned to the duty of his brevet rank he should receive pay as a brigadier general.

Mr. GANSON. Suppose he is assigned by brevet as a brigadier general of volunteers?

Mr. SCHENCK. Then I presume he counts as a volunteer officer.

Mr. GANSON. Why should there be any distinction? When an officer of the regular Army is brevetted as a brigadier general of volunteers, why should he not have the pay of a brigadier general?

Mr. SCHENCK. I say there ought not to be any distinction. I say that every brevet rank ought to carry along with it the pay of that brevet rank when the duties are actually performed.

Mr. GANSON. Why should they not all be placed upon an equality by giving to volunteer officers the same pay that regular Army officers now draw?

Mr. SCHENCK. That is just what I am contending for.

Mr. GANSON. I am happy to find that I agree with the gentleman from Ohio.

Mr. SCHENCK. The committee of conference have agreed to the idea that they shall be put upon the same footing. That, I contend, is right. But what is that footing? Why, that neither of them shall receive pay.

Mr. GANSON. That is all wrong.

Mr. SCHENCK. Now I say that they should receive pay for the rank to which they are assigned.

Mr. WILSON. I must now claim the floor. I think I have given away enough of my time.

Mr. SCHENCK. Well, considering that the Committee on Military Affairs, this being purely a military bill, were not represented at all on the committee of conference, I think I have not imposed on the patience of the House or of the chairman of the Judiciary Committee.

Mr. WILSON. I do not regard it as any imposition.

The SPEAKER. The Chair will state to the gentleman from Ohio that this bill emanated from the Judiciary Committee of the House and was acted on by the Judiciary Committee in the Senate. The Committee on Military Affairs took no cognizance of it when it came back from the Senate with amendments.

Mr. SCHENCK. I beg leave to explain. I mean to say that the matters in dispute between the two Houses are purely of a military character.

The SPEAKER. That may be, but the gentleman from Ohio did not claim any cognizance of the bill when it came back from the Senate and the chairman of the Judiciary Committee did.

Mr. SCHENCK. I never heard of it. Without complaining of the fact that there was no representation of the Military Committee upon the committee of conference, I think we at least should be heard, as we have decided opinions upon this subject.

Mr. WILSON. I think the gentleman has been heard. I acknowledge the extensive jurisdiction of the Committee on Military Affairs; I know it extends to almost everything; but I am not prepared to yield the principle that a bill that originates in the Judiciary Committee, or in any other appropriate committee of this House, must pass under the exclusive jurisdiction of the Military Committee, merely because the Senate see proper to put a military amendment upon that bill.

This bill originated with the Judiciary Committee of this House. When it went to the Senate it related solely to the subject of naturalization; extending to persons in the Navy the same privileges in regard to naturalization that were extended by the act of 1862 to persons in the Army. That was all there was in the bill. The Senate amended it so as to prevent an increase of pay following the conferring of brevet rank. It is true that had nothing to do with naturalization; but because of that it does not transfer the bill to the jurisdiction of the Military Committee. I think the gentleman from Ohio [Mr. SCHENCK] has not very well considered the subject of brevet rank and brevet pay, notwithstanding he is the chairman of the Military Committee. I do not understand that it was ever contemplated to establish the policy of conferring brevet rank and carrying increased pay with it.

Mr. SCHENCK. I will ask the gentleman whether prior to this war it has ever been otherwise, when the assignment was made by the President?

Mr. WILSON. I am speaking of the legislation of Congress upon this subject since the commencement of this rebellion. The reason for brevet rank embodied in the act itself is, that in order that meritorious officers may be recognized in some way for the distinguished services that they may have performed, they may have this recognition by being promoted to a brevet rank. But it never was contemplated that that promotion should carry with it increased pay.

The gentleman from Ohio [Mr. SCHENCK] says that they should all be placed upon an equal footing. That I admit, and that is just what this amendment proposes to do. It does not, as the gentleman contends that it should, increase the pay of brevet officers; but it provides that none who are promoted to brevet rank shall have an increase of pay. I would like to have the gentleman, although he be the chairman of the Committee on Military Affairs, tell me why a colonel commanding a brigade is not as much entitled to an increase of pay as a colonel who has been brevetted a brigadier, where he is discharging the duties of a brigadier.

Mr. SCHENCK. Will the gentleman allow me to answer?

Mr. WILSON. Certainly.

Mr. SCHENCK. I am very glad of it, for I was cut off in the midst of my remarks before. I hold that that should be one of the objects of this legislation. The Senate has refused to pass a bill to drop unemployed generals. There are colonels almost by the hundred commanding brigades. They can be brevetted, because there is no limitation upon that power, and being brevetted, if they actually perform the duties corresponding to the brevet rank, that is, if being brevetted brigadier generals they act as brigadier generals, then I contend that whether they belong to the regular Army or are volunteer officers, they ought to be paid as brigadier generals, only, however, for the time they are assigned to this particular duty. When they fall back to their position in the line, and, although they are enjoying the brevet rank, are not performing the duties that pertain to that brevet rank, then I would have them paid according to their position in the line. That is what I mean. It is to meet that class of cases, where

enormous injustice is done to colonels and other officers who are fighting your battles, that I would give them this brevet rank and pay when they are performing the duties pertaining to that brevet rank. I would go further; I would set aside a large number of general officers who are not performing the duties pertaining to their rank, and make absolute promotions of these colonels. That has been tried by this House, but has failed on account of the lack of concurrence on the part of the other branch of Congress.

Mr. WILSON. I shall not differ from the gentleman in regard to that; for I voted with him on the passage of the bill to which he refers.

But, sir, the gentleman certainly has not considered the financial phase of this question. What will be the increased expense to the Government of the United States if all the brevet officers are to have the full pay of the rank to which they have been brevetted?

Mr. SCHENCK. I have never claimed anything of that kind. There are very few officers in command now who will receive, under my proposition, the full pay of the rank to which they have been brevetted. There are men brevetted to captaincies who will still receive the pay of lieutenants. It is only where a man is brevetted, and by special assignment of the President is given the command which pertains to the brevet, that I would have him receive the pay of that rank.

Mr. WILSON. I understand the position of the gentleman exactly. But I have not yet discovered any reason why a lieutenant commanding a company, but upon whom the brevet rank has not been conferred, is not entitled to as much pay as if he held the brevet rank. Yet, sir, if we are to establish the principle or policy of paying to all lieutenants who may command companies, to all colonels who may command brigades, to all brigadier generals who may command divisions, the pay of captains, or brigadier generals, or major generals, as the case may be, I think it is not difficult to see that we shall place upon the Treasury a very onerous burden.

Therefore I think it best that we should pursue the policy which Congress intended to establish when the act in relation to conferring brevet rank was passed; that is, that the rank should be a recognition upon the part of the Government of the distinguished services performed by the officer, and that it should not be coupled with an increase of pay.

I now demand the previous question.

Mr. GARFIELD. Will the gentleman withdraw that call and allow me to say one word?

Mr. WILSON. Yes, sir.

Mr. GARFIELD. The gentleman asked why we should not declare that every person who performs the duties of a command should have the pay of that command, whether he has the brevet rank or not. I answer that there are two considerations which should entitle a man to increased pay: first, that he is doing the duty of the place to which he has been assigned; and second, that his services are of so distinguished a character as to entitle him to the rank. Where those two qualifications center in one man it seems to me perfectly proper that he should receive the pay of the rank to which he is brevetted. A man may accidentally, by the mere fortunes of war, command his brigade for a few days. I would not say that such a man should receive advanced pay. But when a man has performed such distinguished service that the President of the United States deems him fit to be adorned with a brevet, and when he has been thus adorned, and is also by special assignment doing the duty of the rank to which he is brevetted, I think it nothing but justice that he should receive the pay of that rank.

Mr. WILSON. The chairman of the Committee on Military Affairs proposes that this pay shall be allowed because of the service performed by the officer in the command, the duties of which he may exercise.

Mr. SCHENCK. Only in connection with the brevet. The gentleman continually misstates every proposition submitted by me.

Mr. WILSON. I am not misstating.

I will suggest to the gentleman from Ohio [Mr. GARFIELD] that Congress has already established the policy of limiting the number of general officers; it provided that there should not be more than a certain number (I do not now recall the number) of brigadier generals and major generals.

als. That was intended, in part, as a measure for the protection of the Treasury of the country. But if we are to declare that a brevet rank shall carry with it the full pay of that rank we in effect repeal that act of Congress.

Mr. GANSON. I would suggest to the gentleman that if he wants to protect the Treasury he should procure the discharge of many of the brigadier generals and major generals who are not in service. The President has the power to do it.

Mr. WILSON. The gentleman voted against the bill which had that object in view.

Mr. GANSON. The President has the power now, and if he wants to protect the Treasury he can exercise it.

Mr. WILSON. Mr. Speaker, on Saturday this House passed a bill to increase the pay of officers beneath the rank of brigadier generals twenty-five per cent. It does seem to me that so far as the mere question of pay is concerned that is sufficient. But if we are to follow the policy now advocated by the Committee on Military Affairs we shall in effect destroy this system of conferring brevet rank.

Mr. FARNSWORTH. The gentleman from Iowa and the House will remember that the House has twice passed a bill to provide for retiring from the Army unemployed general officers, for the purpose of lessening the number of that rank drawing pay out of the Treasury of the United States, but the Senate have studiously and persistently defeated the action of the House in that direction. While they propose to limit the number of brigadier and major generals in the Army, they refuse to agree with the House in providing a method for getting rid of these superabundant major and brigadier generals in the Army who are not performing the duty which lower officers are performing. While they are doing that, while the responsibility is now upon the Senate for the drones about the country who are performing no duty but drawing their pay from the Treasury, they refuse to allow a man who has earned his brevet and who is performing the duty commensurate with that brevet to draw the pay. The responsibility is upon the Senate. When the Senate will pass our bill and get rid of these unnecessary officers then the men who have been justly said to be adorned with brevet rank will get full pay. But until that time, while these men are performing this meritorious duty by assignment as brevet major generals and brigadier generals, I say that it is gross injustice to refuse to pay them according to their brevet rank.

Mr. WILSON. The policy which the gentleman wishes to carry out will prevent this rank by brevet from adorning any more officers of the Army; for if it is found, as I have already said, that it will carry increase of pay not only to those who have been already brevetted but to those who will be brevetted in the future, as a matter of course the President must stop brevetting, because we cannot stand the additional expense.

I demand the previous question.

Mr. SCHENCK. I hope that the demand for the previous question will be voted down, for the gentleman's last remark shows that he does not understand the question.

Mr. WILSON. I understand it quite as well as the gentleman.

The House divided; and there were—ayes 30, noes 62.

Mr. WILSON demanded tellers.

Tellers were not ordered.

So the previous question was not seconded.

Mr. SCHENCK. Mr. Speaker, as I was not permitted to complete the remarks which I was submitting before, because the gentleman would not spare time, I am glad of time for additional discussion and consideration. And before I make any further remarks let me say again that I am not to be understood as complaining that no member of the Military Committee was put upon this committee of conference, but I mean to be understood in this wise: that a bill relating to some matter pertaining to the Judiciary Committee passed this House and went to the Senate, and the Senate put upon that bill an amendment pertaining purely and exclusively to the Committee on Military Affairs, principally in regard to the matter of brevet rank; and therefore, as the gentleman represents, the Judiciary Committee had charge in the committee of conference, at-

tention not being called to it. And we are told that the difference between the two Houses is not the main matter of the bill, but a military matter which had been ingrafted upon the bill. It was not asking too much, when that subject had been considered by the Military Committee, that we should be heard on the subject. I know that the Military Committee of the Senate entertained views that nobody having brevet rank, whether regular or volunteer, should have the pay, while discharging the duty, of that brevet rank, while I was decidedly of the opinion that when they were assigned to duty they should have the pay corresponding to the brevet rank. While I agree, therefore, in the general idea on the part of the conference committee on the part of the House and Senate, that they should be all put upon the same footing, I disagree to the report in regard to what that footing is to be.

The gentleman has unnecessarily thrown his flings upon the Military Committee. I repeat what I have said before. I only came into this debate because it is in reference to a matter purely and exclusively relating to that class of subjects intrusted to the committee of which I am chairman. Whether I know much or little, or whether the Military Committee is competent or incompetent to consider these matters, it is possible that they know as much about them as the chairman of the Committee on the Judiciary. We claim no exclusive knowledge on this or any other subject. The flings were unnecessary and uncalled for.

Mr. WILSON. They only came because called for by the statement of the gentleman now upon the floor.

Mr. SCHENCK. That may be a matter of opinion. They were unsubstantiated by any proposition made either by myself or either of my colleagues on that committee during the little opportunity we had of being heard by interpolating remarks during the time the gentleman from Iowa claimed for himself before he sought to call the previous question.

The proposition I made is so continually misunderstood, if not misrepresented, by the chairman of the Committee on the Judiciary, [Mr. Wilson,] that I repeat it. I have not said that brevet rank ought to carry along with it a compensation corresponding with the rank thus conferred. I have said that where for meritorious services an officer has been honored by that rank by the President of the United States he ought to have, in consequence of that rank, the pay pertaining to it when he is called upon by special assignment of the President to perform the duty pertaining to a command appropriate to the rank.

Now, when we make brevet officers by the hundreds and thousands, and a great many have been made, they carry along with them the recognition of the military services of the officers upon whom that rank has been conferred, but they do not carry with them, nor has any one of the members of the Military Committee nor anybody else in this Hall, that I know of, ever claimed, as represented by the chairman of the Committee on the Judiciary, that this brevet rank should carry along with it the compensation.

Mr. WILSON. If I misunderstood the gentleman, of course I wish to be corrected; but I put this question to the gentleman: why should not a colonel, commanding a brigade, have increased pay corresponding with his command, if that increase of pay is given to a colonel who has been brevetted a brigadier?

Mr. SCHENCK. I will answer the gentleman, and in answering I will have to repeat what my colleague said. A lieutenant sometimes commands a company, and does the duty of a captain; a captain may command a regiment; or a major or colonel may command a brigade. That is an accident of the service. It is one of the chances of the service; but it is not proposed when by the chances of the service a man may temporarily be in such a position, no matter how long it may continue, he shall therefore have the pay of the command in which he is employed. But if a man who thus commands has been honored by an increased rank for meritorious services, and has been specially assigned by the President to that command as one pertinent to his ability and position, all these things concurring make up a case which entitles him to pay.

We do not claim, nor has any one pretended, that any chance command of a company by a lieutenant, or a chance command of a brigade by a colonel, shall carry along with it pay; but we say that where a man has been selected for his distinguished character and services and the increased rank has been given him by brevet, and that is followed up by a special assignment to a command corresponding to the brevet rank, then he should have the pay of that rank. That is all we contend for. And I say that was the law before this war. In 1818 a law was passed which, in regulating the pay of brevet officers, provided that brevet officers shall be entitled to receive the pay and emoluments of brevet rank when the duty and command were according to their brevet rank, and at no other time; and that no brevet commission should thereafter be conferred except by the consent and advice of the Senate.

Some two years or more ago an act was passed by Congress empowering the President to confer this distinguished honor of brevet rank upon volunteers as well as upon officers of the regular Army. That law stood upon the statute-book a year and a half before any brevet rank was conferred upon any volunteer officer; but the pressure soon became so great that the President began to confer the rank, and now many volunteer officers hold a brevet rank. But Congress provided in that law that such brevet rank should not carry along with it pay, even when specially assigned to a command corresponding with the brevet rank. And the disbursing officers in the pay department have construed that not to be a limitation upon those brevetted in the regular Army, but that they should have their pay. Thus an invidious distinction was made between officers of the regular Army and officers of the volunteer corps. The Senate come forward and now say they will not elevate the volunteer officers to the condition of the officers of the regular Army, and give them, when specially assigned to duty, pay according to the rank, but will drag down the Army officers to the level of the volunteer officers. I say it is all wrong. I am radical in my opinions upon this subject. I say that the idea ought to be just reversed, and that volunteer officers should be elevated to a condition to enjoy the same advantages which were given to the officers of the regular Army, and I would make no distinction between them.

But to repeat the proposition, I would give to the officer, not when he is brevetted, but when, as will only happen perhaps once in a hundred cases, he is not only brevetted but by special assignment of the President is directed to take command corresponding to the rank given to him by brevet, the pay also which corresponds to that rank.

I hope now that I am understood, although the chairman of the Judiciary Committee seemed to have some difficulty in comprehending the proposition that I made.

Mr. WILSON. I would suggest to the gentleman that there are some cases in which the remedy proposed by him would act very unjustly. I have in my mind several colonels who have for the last year been commanding brigades and divisions. I am reminded by the gentleman from Ohio [Mr. ECKLEY] of one case where a colonel has been commanding a brigade for two years or more. I know that many of these officers were recommended by their superior officers, and among them General Sherman, for promotion long ago. They were not promoted, but they were assigned to these commands, some of them because of their merit as officers and not merely by the accidents of service; and yet they have been discharging those duties belonging to a higher grade without advanced pay. Now, it does seem to me that if they are discharging the same grade and class of duties that brevet officers would be called on to discharge if we give additional pay to brevet rank, it ought also to be given to colonels who have performed the same duties without brevet; and yet I do not understand that the gentleman's proposition includes those cases.

Mr. SCHENCK. I do not yield to the gentleman in the sympathy that I have—and I think the House has had some reason to believe that I have such sympathy—with these colonels commanding brigades. I have been trying in various forms to come to their relief for two years, but the Senate will not agree to it.

Mr. WILSON. I do not put it on the ground of sympathy.

Mr. SCHENCK. Well, then, justice.

Mr. WILSON. I think we should not increase the pay unless we increase the rank.

Mr. SCHENCK. I understand that. The gentleman's position is that nobody should have the pay of advanced rank unless he is absolutely promoted to that advanced rank, and that is just what I object to. We cannot get them advanced rank absolutely. This House has tried to make way for some of these colonels, that they may be promoted actually, but they cannot do it. Now, let us do the next best thing that we can; inasmuch as the President may brevet them without vacancies, let the President brevet them, for instance colonels discharging the duties of brigadier generals, in just such cases as those named by the gentleman from Iowa, and then, being brevetted, let them be brought within the old law that related to the regular Army by special assignment to their commands, and give them the benefit of the advanced pay. That is what I contend for, instead of turning round and saying that they may have brevet rank, but that so far as compensation and meeting their expenses are concerned, it shall be an empty honor, and no more.

Instead of what I advocate it is proposed to pull down the officers of the regular Army from where they have been since 1818, and put them on a level with volunteer officers in regard to a denial of this compensation. I admit that under ordinary circumstances command ought to carry corresponding pay; but we cannot cover all cases, and therefore what I propose to do is that where the command is by special assignment and the officer who has the command has been meritorious enough to get a brevet to that rank of which he is performing the duties, that all these things concurring, he shall have the pay of that rank also. That is the whole of what I propose, nothing more and nothing less.

Now, as to the matter of economy; I am not terrified, even considering the depressed condition of the currency, and the difficulties under which we labor in regard to all the relations of the Government during this most exhausting war in consequence of our finances, by the objection made by the chairman of the Judiciary Committee. The truth is that comparatively very few officers would derive the benefit of this law, if you make it as I propose. I repeat, it is not, as the gentleman keeps claiming, every one who is brevetted who would enjoy the compensation of the increased rank. But when you come to special assignments, as since the passage of the law of 1818 has been the case in the regular Army, where the President of the United States has assigned an officer to a special command corresponding with his brevet rank, then compensation should follow. If they are numerous enough to embrace the fifty or the hundred colonels who are now commanding brigades and divisions, some of them, as I well know, having been exercising those commands for two years or more, then let that compensation be given to them, although it may amount to a considerable amount of money. I do not know how we can more worthily bestow our money as compensation for services actually rendered, than to give it to those meritorious officers who have performed the duty while others have been enjoying the emoluments.

I admit that our correction does not cure the whole evil. I admit that vacancies should be made in those places now held by officers who perform no duties, and those officers promoted to those places. But as we cannot do all we want done, in consequence of the want of action on the part of the Senate and also on the part of the President, let us go as far as we can, and at least provide for all that class of officers who are presumed to be among the most meritorious, selected for brevet, and who do the duty corresponding to their brevet rank. Let us at least do that, if we cannot do all we would.

I have an objection to another feature of that report of the committee of conference in relation to the naturalization law. I think if the gentleman had concurred in what the Senate had done, putting in a limitation in regard to persons who have come of age, and other restrictions of that kind, there is a portion of good in that amendment which it would have been well for us to adopt. I should have preferred that the commit-

tee of conference had reported differently on that subject.

I hope we will not concur in this report, but that, rejecting it, we may have another committee of conference, so that the attempt may be made to bring the Senate to take the same view that I have been trying to express in regard to this matter. For, while the Senate and the House agree that all these officers ought to be put upon the same level, it should be a leveling up, and not a leveling down. I now demand the previous question.

Mr. WILSON. Will the gentleman withdraw that motion for a moment?

Mr. SCHENCK. Certainly, and I will give way to him unlimitedly, and not for a few moments merely.

Mr. WILSON. The gentleman admits that the action of the committee of conference is proper enough in relation to the amendment which the Senate sends to the House concerning the naturalization law. He admits that that is not a good amendment; we thought so, too.

One word more, and then I propose to demand the previous question on this report. The gentleman from Ohio [Mr. SCHENCK] insists that a brevet officer, who shall be assigned by the President to a particular command corresponding to his brevet rank, shall have the pay of the full rank. Now, sir, I understand, and I think the history of the Army will bear me out, that it has not always been the most meritorious officer who has been assigned to a particular command by the President of the United States. General Sherman, leading his triumphant army through the rebellious States, having under his eye every officer, knows better than the President of the United States who should be assigned to a particular command in that army. And yet under the policy which the gentleman advocates, the assignment made by General Sherman would be overridden by the assignment of the President of the United States, which might be brought about solely by influences here at the capital, without regard to the services which the officer was performing in the field. I understand, sir, that they are conferred. I understand, too, that many of General Sherman's recommendations for promotion have lain in the pigeon-holes of the War Department for two years without action.

Mr. FARNSWORTH. There was no room for the promotions to be made.

Mr. WILSON. The gentleman tells me that there was no room. Was there not room in the brevet grade? I say that the President might have conferred this brevet rank. I say that General Sherman could determine who of those under him were most meritorious. But it is not proposed to permit General Grant and General Sherman, who have tested and tried the officers under them, who know better than any others the value of their services and the meritorious character of those services, to designate those who shall receive additional pay; but the President, influenced by members of Congress, members of the Senate, friends of these officers who are about the Capitol, is to confer the rank and pay upon these men who are discharging duty in the field.

Now, sir, I hope that the House will adopt this report. Then let this whole subject be reported upon by the Committee on Military Affairs, and then we can determine whether the President, in thus advancing officers, shall follow the assignment of the officer who has most knowledge concerning the meritorious conduct of the officer promoted.

I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report of the committee of conference was not agreed to; there being, on a division—ayes 25, noes 60.

Mr. SCHENCK. I move that the House still further insist on its disagreement, and ask the appointment of a new committee of conference.

The motion was agreed to.

#### TREATY STIPULATIONS WITH INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting estimates of appropriations required for fulfilling treaty stipulations with the Chippewas of the Mississippi, and Pillager and Lake Winnebagoish bands of

Chippewas of Minnesota, under the treaty of the 7th May, 1864; which was referred to the Committee of Ways and Means and ordered to be printed.

#### AGRICULTURAL REPORT FOR 1864.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Agriculture, transmitting his annual report for 1864, with accompanying documents; which was laid on the table, and ordered to be printed.

Mr. HULBURD, by unanimous consent, submitted the following resolution:

*Resolved*, That there be printed one hundred and fifty thousand copies of the report of the Commissioner of Agriculture for 1864, for the use of this House, and thirty thousand copies for the use of the Commissioner of Agriculture.

The SPEAKER. The resolution will be referred to the Committee on Printing, under the law.

#### BRIGADIER GENERAL G. W. MORGAN.

The SPEAKER also, by unanimous consent, laid before the House the following communication from the Secretary of War:

WAR DEPARTMENT,  
WASHINGTON CITY, February 17, 1865.

SIR: In reply to the resolution of the House of Representatives, dated February 26, 1864, calling for a copy of the communication from Brigadier General G. W. Morgan, dated Mount Vernon, Ohio, June 6, 1863, with the exhibits thereto attached, marked from A to Q, being in reply to a portion of the official report of Major General Halleck, dated December 2, 1863, in relation to the evacuation of Cumberland Gap, I have the honor to state that the communication of General Morgan was a stricture upon an official paper from Major General Halleck, which was made by General Morgan after he left the service, which he was not called upon by the Department to make, and which does not properly belong to its files. It is not a paper that can with propriety be officially furnished from this Department.

I am, sir, very respectfully, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. COX. I should like to have that referred to some committee, to the Committee on Military Affairs, and I make that motion. I was promised by the Secretary of War that this communication should come here. This resolution was passed at the last session of Congress, and it was not complied with. It was proposed to expurgate the report in reference to certain matters, and that then it should be sent here. This communication therefore astonishes me. I move that it be printed and referred to the Committee on Military Affairs, in order that there may be some action on the subject.

The motion was agreed to.

Mr. COX. I now ask to have entered a motion to reconsider the vote by which the communication was referred to the Committee on Military Affairs, proposing to call it up at some other time.

#### RESOLUTIONS OF INDIANA.

The SPEAKER laid before the House joint resolutions of the Legislature of the State of Indiana, as follows, which were ordered to be printed, and referred as indicated below:

A joint resolution of the Legislature of Indiana asking that those of the militia and independent companies of that State who have been wounded or injured in battle with the enemy, and the families of those who have been killed, shall be placed upon the pension list—Committee on Invalid Pensions.

A joint resolution of the Legislature of Indiana asking an extension of time for the construction of the Grand Rapids and Indiana railroad—Committee on Public Lands.

A joint resolution of the Legislature of Indiana in favor of the improvement of the harbor of Michigan City, Indiana—Committee on Commerce.

#### PROTEST OF MARYLAND LEGISLATURE.

The SPEAKER also laid before the House resolutions unanimously adopted by the Legislature of Maryland, protesting against Congress authorizing any railroad within the limits of that State to connect with the Northern Central railroad, and requesting that no railroad may be authorized in that State without giving the Legislature opportunity to present their views thereon before the committee of Congress; which was



ordered to be printed, and referred to the Committee on Military Affairs.

#### SISTERS OF MERCY.

Mr. PATTERSON, by unanimous consent, moved to take from the Speaker's table Senate bill No. 363, to incorporate the Sisters of Mercy in the District of Columbia.

The motion was agreed to.

The bill was taken up, read a first and second time, and referred to the Committee for the District of Columbia.

#### NAVY APPROPRIATION BILL.

Mr. PRUYN, by unanimous consent, moved to take from the Speaker's table the amendments of the Senate to the Navy appropriation bill, and to refer them to the Committee of Ways and Means.

The motion was agreed to.

#### NORTHEASTERN DEFENSES.

Mr. RICE, of Maine. I ask unanimous consent to report, from the select committee on the subject, a bill to provide for the defense of the northeastern frontier, in order that it may be made a special order for some future day.

Mr. RICE, of Massachusetts. I object.

#### JONAS A. HUGHSTON.

Mr. POMEROY, by unanimous consent, from the Committee on Foreign Affairs, reported a bill for the relief of the personal representatives of Jonas A. Hughston; which was read a first and second time.

It directs the Secretary of the Treasury to pay to the personal representatives of Jonas A. Hughston \$700 in full of all fees and emoluments to which he was or might have been entitled at the time of his death, by virtue of his office as marshal at Shanghai, China.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

The SPEAKER stated the question in order to be the special order, being the reconstruction bill, on which the gentleman from Massachusetts [Mr. DAWES] was entitled to the floor.

Mr. DAWES. Mr. Speaker, at the commencement of the first session of this Congress, on the reference of the President's first annual message to the appropriate committee, so much as related to the condition and prospects of the rebellious States was referred with great propriety to a select committee of marked zeal and distinguished ability. We are now, in the last days of the last session of this Congress, discussing the result of their labors. The nature of a great part of the duties devolved upon the committee of which I am a member, in the last and present Congress, have led me to take an interest in the subject-matter of this reference; and the peculiar circumstances under which a bill for which I had myself voted, containing the main features of the one now under consideration, failed to become a law, notwithstanding it had passed both Houses of Congress, have led me to examine more fully the provisions of that bill and the one now before the House. And, sir, if that examination has failed to make clear to me the exact path of duty in this matter, it has not failed to reveal to me the great difficulties which this committee have been compelled to encounter. Sir, we are now considering, from a committee appointed in the manner I have indicated, a committee of known and distinguished zeal, ability, and industry in this matter, the fourth regular draft of a bill to accomplish the purpose for which they were appointed. And, sir, I understand that the committee have all ready, and there has been printed by the House, a fifth draft of this bill. I allude to this only as an illustration of the difficulties which I am conscious, from the slight examination I have been able to make of this matter, this committee have necessarily encountered in coming to a conclusion satisfactory to themselves in the accomplishment of the object they propose.

This is a bill not founded upon what is commonly called the war powers of this Government. It is no bill calculated to reinvigorate the Army,

the Navy, or the Executive in a war which is being waged against the rebellion. The very first clause of the bill defines distinctly its limits. It provides for the appointment of a provisional governor who shall be charged with the "civil administration" of such State until a State government shall be recognized as thereafter provided. It therefore follows the Army. Its application is to the condition of the State in which the Army shall have left it. It is an attempt to gather up the "disjecta membra" of those States, the broken and torn fragments of those communities, and out of the chaos, as well as the ruins and debris that are left in the march of those armies, to create a State capable of discharging the functions, exercising the authority, and invoking the recognition of this Government, and of the people under which it lives. It is applicable, Mr. Speaker, to an extent of territory four times as large as the whole kingdom of Great Britain, which once dictated the law upon land as well as upon the sea, to the nations of the earth; to an extent of territory three times as large as all the territory of Great Britain and her hereditary foe, France, whose eagles have contended with her for supremacy in long wars for centuries that have gone by. It is applicable to what was once a people of eight millions, or thereabouts, of various habits and pursuits of life, living in all varieties of climate, and upon a land fertile in all that makes and constitutes it capable of making a great State and a great empire of itself. But a people not now, as once, in the pride and pomp and opulence which long years of peace had secured—but humbled, broken, and wasted, weak and distracted, without substance, without homes, without resources, bleeding with wounds their own mad hands have inflicted, and as yet but feebly comprehending in the dim light of returning reason either duty or the way to its discharge.

Sir, the questions involved in this bill are therefore of such vital importance, and so transcend in magnitude all minor considerations, that it would be criminal on my part to discuss its provisions in any other spirit than that of the utmost candor and sincerity. And, sir, if I am unable to give this bill my support, I shall not fail to recognize the ability, the zeal, and the patriotism in a common cause with me, which has prompted the several bills issuing from that committee, and their efforts to bring out of this chaos order and a substantial government in these States. The bill is divided into two distinct parts: first, that which endeavors to provide a present, temporary municipal government; and, second, that which seeks to prescribe the rule and method to which all efforts at any future period for the adoption of a constitution must conform. And, first, let us look at its provisions for a local government. What are the principles upon which this part of the bill is based? Not on the old theory of a colonial government, treating and subjecting them, according to that old policy of the colonies, to the will, the ownership, and the proprietorship, as well of the soil as the franchise; nor indeed on that later and more modern policy of treating each State in the condition of a Territory having power to form and frame their own government, with a supervisory power still residing here and retained by this Government; but, sir, the bill proceeds upon the supposition not only that there are States still existing, but that their old constitutions and laws are still in full force and operation; for, sir, the first duty imposed upon the provisional governor in these several administrations of government is this: "That until the United States shall have recognized a republican form of State government the provisional government of said States shall see that this act, and the laws of the United States, and the laws of the State in force when the State government was overthrown by the rebellion, are faithfully executed," saving and excepting the single provision touching the enforcement of the laws against slavery and the mode of trial and punishment of colored people. In all other matters and things this bill takes up the condition of those States, and declares it to be this: that they still exist within the Union, with their old boundaries and constitutions and laws still in force, but without officers to enforce them. And the proposition of the bill is to fill those offices by executive appointment here. This, sir, is the first attempt of the bill. It is for the Executive in Washington to supply that deficiency, namely, to fill

the State offices in every one of those States, by the advice and with the consent, it may be, of the Senate of the United States. I read in this same section of the bill that which, the committee will permit me to say in all kindness, seems to be the most remarkable feature in the whole bill:

The President shall appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, all which officers shall be entitled to receive the fees and emoluments provided by the State laws for such officers.

Sir, two remarkable features are disclosed in this provision: first, that the officers of the State, no matter what provisions of law may exist for their election or appointment, are to be, nevertheless, appointed by the President of the United States, and just as many and just as few of them as he pleases. It may be the judge of the highest court of judicature in the State; or it may be the humblest road-master; it may be any one or all of the countless corps between them. Although the provisions of the State constitution and of the laws recognized by this bill to be in full force may provide for another method of appointment or election for these officials, from the highest judicial officer to the lowest constable in a parish, town, or county, the President may appoint just as many of them as he pleases, and from what part of the country he pleases. There is no provision in this bill that they shall even be residents of the State over which they are, by this bill, to administer its provisions and to execute the laws of the State. An army of officers, in one paragraph of four lines, is here created, subject to the sole authority and control of the President of the United States.

I see in a report to the confederate congress on the subject of offices and officers in the rebel States that there are thirteen thousand of them in one single State. What is the effect to be on the people over whom, from every quarter of this Union, broken-down politicians, men without place, foot-loose, are to be placed? Sir, it is a reproach to our Government at this hour that there are, about this capital and in the northern States, men who have been appointed to the judgeships of district and other courts of the rebel States and Territories, drawing quarterly the salaries of those offices, although they have never been able, from the hour they received their commissions to the present moment, to set foot in the States over whose courts they have been appointed. They could not go one rod into the State, positions in whose highest courts they have held for more than a year, without being hung on the first tree. It is a reproach to the Government that it should be so. I know nothing of the exigencies that could justify or defend this. But my friend [Mr. ASHLEY] has reported a bill here which authorizes an army of thousands of these office-holders to go into those States, with commissions from this capital in their pockets, to lord it over the poor, miserable inhabitants left behind the Army there. These rebel States may be thus converted into asylums for broken-down politicians. It is not for us to say that we have confidence in the proper exercise of this authority by the Chief Magistrate. I am looking at the provisions of this law just as if I had no confidence in him, although there is no member on this floor who has more confidence in him than I have. But the pressure upon him behind, with the door open to him before, has been already found too strong for resistance. If you pass this bill and make these provisions, an army of office-holders like the locusts of Egypt will press down upon those unoffending and unprotected inhabitants of the miserable, poverty-stricken, and rebellion-wrecked States.

And yet, sir, that is not quite so striking, after all, as the next provision of this bill; I read in the very next section the following:

And be it further enacted, That until the recognition of a State government, as aforesaid, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected for the year 1865, and every year thereafter, the taxes provided by the laws of such State to be levied during the fiscal year preceding the overthrow of the State government thereof, in the manner prescribed by the laws of the State, as nearly as may be; and the officers appointed, as aforesaid, are vested with all powers of levying and collecting such taxes, by distress or sale, &c.

Sir, this bill authorizes and requires the provisional governor to levy the whole body of the taxes, in sum total assessed and provided by law, in the year next preceding the rebellion, on these

people. And, sir, upon what sort of people? Upon a people, to begin with, that are beggars and seekers of alms at this day, dependent upon the charity, the noble and boundless charity of the North, to keep them from starvation. Their houses have been burned, their lands have been laid desolate, the sources of their industry have been destroyed or dried up. They are wanderers in their own land, homeless and houseless. And upon such a people, with all the new circumstances that rebellion and its effects, and the march of armies, fire, and plunder, have visited upon it, it is proposed to levy—yes, sir, *levy*—in this year of our Lord 1865, and every succeeding year thereafter, the precise sum which constituted the whole body of the taxes assessed upon them for all purposes whatever the last year before they went into rebellion. Sir, the condition of these people, upon whom this gross sum is to be assessed, for wretchedness and for inability to sustain even their lives, much less pay taxes, passes all description. I know nothing that more nearly comes up to a just description of that condition than Burke's glowing and inimitable description of the awful devastation which followed when Hyder Ali marched his conquering army over the Carnatic. Upon this people, as unlike in everything that constitutes a people capable of paying taxes, that people which they were when the taxes were originally imposed upon them as a beggar is unlike a prince, it is proposed nevertheless to impose and levy these taxes and call upon this innumerable army of imported office-holders to collect and wrench them as the last drop of life-blood from shriveled bodies. Sir, there is not an army, great as our Army is, that has power enough to accomplish that one single feat provided for in this bill, for the very plain reason that there is not money enough left in any one of these States outside the Government with which to pay that round sum for one single year. And yet, without stopping to inquire what these taxes were originally intended for, without stopping to inquire to what purposes they were devoted when raised, it is proposed, in four short lines, to levy them *en masse* upon these people; and this, sir, in aid of reconstruction. This wise, efficacious policy is resorted to in this bill to hasten on, I suppose, that other day mentioned in it, when a majority of these people, molded by this process, won by its benignity "shall voluntarily take the oath of allegiance."

Now, sir, have my friends ever looked into the statutes of any of these States to see what those taxes were for, and on whom assessed; or have they looked into the code of any one of those States to ascertain what is the nature of those State laws which they impose it upon the provisional governor faithfully to execute? There is not a larger heart in this House or in the country than that of the distinguished gentleman from Ohio [Mr. ASHLEY] who reported this bill, or than those of the whole committee. I accord to them a desire to accomplish the same final end that I hope I am striving for myself in this matter, but I tell them that they are calling upon us by this bill to sanction all the black codes of those States, save only that part which holds men in bondage, and that they let enforce itself.

Let me read you a single provision of law which my friends impose it upon their provisional governors to see faithfully executed:

"If any free person of color or slave shall keep any school or other place of instruction for teaching any slave or free person of color to read or write, such free person of color or slave shall be liable to the same fine, imprisonment, and corporal punishment as are by this act imposed and inflicted on free persons of color and slaves for teaching slaves to read and write."

That extends to all men made free either by that great and glorious proclamation of the President, or that which transcends it and all other provisions, the amendment to the Constitution. In all the coming time that shall exist between the passage of this bill and the time when these poor creatures shall emerge from their wretched and helpless condition under it, he who shall teach one of these poor freedmen the first rudiments of knowledge and direct the first ray of divine light so that it shall shine in upon his soul, shall be flogged and imprisoned in the discretion of the judge who presides over the court.

Sir, I read from another that free colored men, not natives, residing in the State shall pay annually a tax of fifty dollars for the privilege of re-

maining and living in the State. This is one of the taxes specially and specifically revived and put in force to be collected from this poor and miserable race.

Sir, there was a provision, there is now upon the statute-books of one of those States a provision, under which that State was in the habit of taking citizens of Massachusetts and of other States, as they came within the lines of that State, though guaranteed by the Constitution "all privileges of citizens in the several States," and incarcerating them in jail. That statute is still to be enforced under the provisions of this bill. There was sent down there not many years ago by the Governor of Massachusetts a venerable statesman to go into the district court of the United States, over which there had presided in that very State a man who has pronounced their own law in this regard unconstitutional, and peaceably and quietly, in the discharge of professional duty in a cause there pending, to enter an appeal to the Supreme Court of the United States. It is well known to the country that that venerable man was driven from the State and compelled to seek safety and life in flight. That State thereafter passed a law, which still stands upon the statute-book of that State, and which this committee propose by this bill to make it the duty of the provisional governor of that State "faithfully to execute," which provides that if any man repeats this offense and comes into the State to enter an appeal in her courts in behalf of one of these oppressed people, citizens though they may be of his own State, he shall, upon conviction, be imprisoned, in the discretion of the judge who presides over the court, for life or for any number of years, provided it does not fall below five years.

In the solicitude of this committee to provide for the enforcement of these laws, the omissions of this bill are after all quite as remarkable as its inhibitions and directions. The bill contemplates an indefinite duration of the government and state of things established by it. And such are its conditions that it must be long years, it may be a generation, before some of the States can possibly relieve themselves from its operations, yet there is no provision for the new state of things now existing there. There is no attempt at any adaptation of these laws to the new state of things consequent upon the rebellion, and consequent upon our constitutional action here. Not only is there no provision for the new wants and necessities of this wasted and wretched people who have been involved in the rebellion, but for that other people who have now passed into freedom by our legislation, and by the military consequences of this rebellion, who are now without food, without subsistence, without knowledge, and without opportunity to support and maintain themselves; yes, sir, without homes, literally without where to lay their heads. Although this professes to be a constitutional application of the power of the Government to these people, and by its own provision to be continued in force indefinitely, yet I fail to find in it a recognition of the fact that there are three million of these people who come under this bill; their existence even is ignored in the bill. There is no provision for schools; no provision for a poor-house, even; no provision for their protection; no provision for attempting to teach them the arts of civilization, for kindling in them hope, holding up before them incentives to industry or securing them its reward. Under the operations of this bill they are to be the objects of free plunder; they are to go forth to be hunted, despoiled, and persecuted outcasts in the land.

I have thus far considered one of the two branches into which this bill is divided—that which proposes to establish over them a present system of government. How long does this bill propose to continue that system over them? In the first place, just so long as the provisional governor shall see fit to have it maintained. It is left by this bill itself discretionary with the provisional governor himself to determine when he will institute the first initiatory steps of measures calculated to bring out of this state of things a new form of government. The bill says that when the people of any State "shall have sufficiently returned to their obedience" this provisional governor shall institute steps for a State government, making no provision except his own opinion for determining this point. Before he will institute the first step, it is in his discretion to say whether

the people "shall have sufficiently returned to their obedience." With his place and the places of the whole army of office-holders under him at stake, it will not be soon, I think, were there no other obstacle in the way; it will be at no immediate period that this governor will come to the conclusion that the people have been sufficiently subdued for him to take the initiatory steps to form a State government.

But there is another limitation upon the proceeding. Even if the provisional governor should come to be willing, in the course of events, to take these initiatory steps, this bill goes on to say that those proceedings shall depend upon another question, that is, whether a majority of the people in the State have of their own choice signified their loyalty by taking the oath of allegiance. Under this bill, it does not depend upon the wish of the loyal people to have a government of their own; it depends upon the wish of the disloyal people. So long as the disloyal people can keep a majority on their side, they can dictate what sort of a government they shall have. In the early part of this rebellion there was no uncertainty upon this side of the House. It was held that upon the loyal people, and upon the loyal people alone, were to be reposed the functions of government; that they were to hold the elective franchise; they to determine the character of the government; and that rebels were only to be "counted" that we might know what force may be necessary for their subjection. But, sir, under the administration of these men—this army of foreign officers, from him who sits in the high court of judicature, passing upon the rights of the people, down to the most insignificant official—how long, under such instruction as that, I submit to my distinguished friend, will it be before that majority are won back to signify their desire to exchange this form of government which he imposes for one of their own making?

Mr. ASHLEY. I ask the gentleman from Massachusetts whether the people of Louisiana have not, under the rule of General Banks, (whom the gentleman designates as a foreigner,) organized a State government which he has reported in favor of recognizing?

Mr. DAWES. I will answer the gentleman before I get through. That question falls within the line of remark which I propose to pursue.

The bill proposes, first, to introduce these foreign elements to constitute temporarily—not permanently, I know—the government, in which this majority shall have no voice; and this foreign administration are to administer laws which were made for another state of things—old, effete, superseded by the march of armies and events—without the slightest provision in this bill for their amendment, amelioration, or adaptation to the new state of things. I submit, sir, that such a government, instead of winning back the loyalty of the people there, will create alienation and heart-burnings, from the hour of its institution till the hour when it shall pass away. It ignores entirely that great element of American character which has had its play, and has never been suppressed from the day when one little colony, struggling for the right of self-government, entered James river, and another instituted a government under Calvert in Maryland, free from the outset, and when still another colony made a written compact of government upon the deck of the Mayflower. From that day onward this principle has been exercised by every community and every class in this land till it appears in the fastnesses of the Rocky mountains among the miners. Wherever a band of men have come together in this country the first and foremost thing is for them to make, themselves, and adopt, the regulations by which they are to be governed. You can no more suppress it than you can wipe out the instinct of liberty. The American people will have the right to shape and alter for themselves the rules by which they are governed.

This bill ignores that principle. It does not provide for any process by which there shall be any modification or repeal of a single law in any one of those States as it stood in 1861 when the rebellion broke out. Horace Maynard, a man coming up from among these people, knowing them better than we can know them, suffering with them and sacrificing for them, told me, with the first draft of this bill in his hand, that if the provision requiring the loyal men to be subject

to the disloyal majority should be enacted, the child was not born in Tennessee who would see a loyal government instituted there. The only wise policy, it seems to me, is to establish a government among the loyal. Weak it may be at first, inefficient it may be at first; not working with entire smoothness and without friction, it may be, at first, but the work of their own hands, to be modified and molded and perfected as they become more stable and more firm under the benign influence of that principle by which men are drawn, not driven.

I speak now of one of two classes into which I always divide the people engaged in this rebellion—that class who desire reconciliation, and that class who deserve to be hanged. With the latter I have nothing now to do. This bill does not propose to deal with them. Our hope rests upon that which I trust and believe is the larger, certainly a more healthy and more hopeful class—those who desire to be reconciled. "It is by the establishment of such a government," said Mr. Maynard to me, "among my people that those wanderers driven out from the protection of their government, can witness again its benign influence, and feel that on this side of the line there is peace and security and justice, and on that side of the line war and destruction." Under this system there will gradually grow up a loyal State government—weak, as I have said, it may be at first, but having the true elements of a State—among a people capable of self-government, and in a land capable of making a noble and an influential State.

I therefore, sir, am quite as much opposed to that other provision of the bill which gives over every loyal man to the mercy of the aggregate majority of disloyal men.

Sir, there is also a provision in this bill to prescribe a particular method, a fixed iron rule, by conformity to which alone out of this chaos and anarchy may be made a loyal government; and to the provisions in this bill for that purpose I desire for one moment to call the attention of the House.

I have assumed all along that there is ample authority in the Constitution for these provisions; or rather, sir, I have omitted to discuss the question whether there is authority; and I would desire to get along, if it were possible, without discussing that question at all, for there are objections, assuming the authority of the Constitution for these provisions is ample enough—though I must say, in passing, that I do not know where they are found—there are objections which to my mind seem to be insurmountable against laying down any rule and saying in this way, or in any other way alone, shall these people rise from the ashes of their old State government into the full condition of a new and living State government. It goes upon the assumption that there is no power in these people except what we give them by the legislation of the Federal Government here to establish a State government there. Sir, I deny that. I am not able to admit that it is in the power of the Federal Government to give them that authority; but this is certain, that they do not need it. And my learned friends in this bill have conceded that question to me, for in the last section of the bill they have themselves recognized the State government formed in Louisiana and the one in Arkansas, neither of them upon the principle or in pursuance of the requirements of this bill or any power derived from Congress, and neither of them upon the plan of the other.

Why, sir, it is in the people, and in the people alone, that this authority exists to form its organic law, subject solely to another provision which the people, in coming under the Constitution of the United States surrendered to us here, "provided that it be republican in form." If republican in form, the character of their organic law, the method by which they are to institute and make it their organic law rests with them, and them alone. The thing has been illustrated in Congress. Territories have been made into States and admitted into the Union without enabling acts, although we have the power to make an enabling act. They came with constitutions which, in the opinion of Congress, were republican in form, and which received the approbation of Congress. The State of Rhode Island, out of that very rebellion against her charter granted by King Charles to Rhode Island and Providence Plantations, brought over from England bodily

two hundred years ago, without any provision for its annulment, or without any prescription by which a new constitution was to be framed; the State of Rhode Island, in voluntary convention—that is, voluntary so far as any authority from the organic law was concerned—met and drafted a new constitution of government, and it was adopted and recognized. The people of Massachusetts, although having in their constitution prescribed the method for its amendment, in the exercise of their inherent and inalienable power, subject only to this provision here at the central Government that it should be republican in form, met in convention, and in dereliction of the very provision of her constitution, made a new one. The pretense that it was unconstitutional lived but a little while in Massachusetts. The winds blew it away. No man has been able to stand up there and say that the people of Massachusetts could not alter their organic act when and how they pleased, subject to this restriction.

And, sir, so these people in these several States, whenever they shall come to understand, when the scales shall fall from their eyes and they shall see, can form a new framework of government, republican in form, and which loyal, not loyal and disloyal people, shall acquiesce in and adopt.

My friend [Mr. ASHLEY] inquires of me if I have not recognized a constitution adopted in Louisiana, under the guidance of General Banks, a foreigner to the people there. I answer yes, because the loyal people of that State made it, adopted it, acquiesced in it, are building up a State under it, winning back to loyalty and allegiance and cooperation the people of the State under it. Now, I ask him if, while he attempts in this bill to lay down an iron rule for all the other States in rebellion, he does not in this very bill make an exception in favor of Louisiana, and himself recognize this very government so formed under General Banks?

He thinks it is sufficiently republican in form if it has in it this one further element, that a majority of the disloyal men are willing to have it. That is all he asks. And then he proceeds in a subsequent part of the same section and takes up a constitution adopted in Arkansas upon an entirely different principle from that—a constitution originating in county organizations, which form one grand aggregate of convictions and result in that constitution. Sir, he says that such a constitution is sufficiently legal in form, sufficiently republican in essence, and he is willing to adopt it. And therefore he agrees with me that no form of law is necessary—no form either prescribed before or followed by them as their law. He says that as the people upon the Mayflower, as the people under Calvert in Maryland, as the colonies on the James river, as the miners in the fastnesses of the Sierra Nevada, got together and made laws that shall govern them and be binding upon them, so long as they are not in conflict with the higher allegiance to which they all subscribed, so may these people, and that that is sufficient, and all that is required.

My friend wanted to know if the Louisiana convention and constitution were not the result of the interference of those very foreigners whose presence there I have deprecated. I admit, sir, that they were set on foot by a man who had no citizenship or residence in Louisiana. But that constitution did not and does not now derive its authority from any exercise of power upon his part; and my friend, in his bill, does not place its recognition upon any such ground. It has just the same authority and would have had the same had Mr. Thomas J. Durant instituted these proceedings and the people had acquiesced in them, and out of them the loyal people of that State, in the absence of any State government, had formed one of their own.

But, sir, this bill proposes, further provides, that until a majority of the people of these two States, Louisiana and Arkansas, shall be found by an enumeration and census, not to be loyal, but simply to have taken the oath, truly this act and all its provisions shall be in full force and effect there.

The language of the bill is, "and till that time those States shall be subject to this law." That is, sir, a "provisional governor," appointed by the President, is to be sent down to displace Governor Hahn, who was elected by the loyal voters of Louisiana, and Governor Murphy, who has

in like manner been elected by the loyal voters of Arkansas, and who have each been in the full exercise of the functions of Governor with the acquiescence of all good citizens for a year; displace all the State officers so elected in each of those States, and set up in their places presidential appointees, strangers, exercising the duties of their office over a strange people; displacing judges now in Arkansas, in every county but one holding the regular terms of courts; and in both those States—a State government achieving a success truly wonderful, surrounded as they are with difficulties, beset as they, like us here, are with vain and impracticable theories—order is being restored, loyalty is being developed, life and property secured, political rights protected. I am not willing, for one, to drive back, by the passage of this bill, these people from this attained standpoint and vantage-ground into the personal bickerings, heart-burnings, discontent, and anarchy surely consequent upon the attempt to enforce this act upon the people of those States. The gentlemen all along in their bill, as I have said, recognize the principle, and build their bill upon it—a mistaken view, as I think—that there shall be no government there until all the people, or a majority of them, have of their own accord come back into the Union. I say the bill goes upon what seems to me to be a mistaken policy—that there must not be any government there until a majority of all the people have of their own accord, and without any foreign influence of government or institutions, or any winning process whatever, come back and signified their desire for such a government.

My idea is that the moment you can establish a government there, that the moment the people of those States have got so far back in their allegiance that if let alone they can maintain themselves, if the enemy from without can be kept off, if they are strong enough, united enough, harmonious enough among themselves to establish a government, it seems to me the best policy is to let them do it. I tell you they must do it sooner or later. It must be their own work, begun in weakness, molded by time, protected by parental care of the central Government, benign, patient, hopeful in its exercise.

And this leads me to that provision of the bill which, under specious terms of guarantying to those States a republican form of government, dictates to them what those essential elements shall be. They are all well enough in themselves, some of them fundamental to a republican government. But, sir, it dictates, does not "guaranty;" and if we can dictate one provision we can dictate another, and to dictate a republican form of government is a contradiction in terms. Let us not be deceived into a fatal doctrine by the specious character in which it comes to us.

Mr. KELLEY. Before the gentleman proceeds further, I desire to ask him whether, within his knowledge, the delegates who framed that constitution represented a majority of the territory and people of that State. I will further, with the permission of the gentleman, ask him whether the colored creole population in Louisiana, the descendants of those whose citizenship was specially guarantied by the provisions of the treaty of 1803, are not by this constitution excluded from citizenship, involving the bad faith of the country to its treaty stipulations.

Mr. DAWES. Mr. Speaker, with reference to the first question of the gentleman from Pennsylvania, he shall have whatever testimony I can give him on that subject. He desires to know whether the constitution that has been adopted in Louisiana was the result of the action of a majority of the people of the State, or represents the greater part of the territory of Louisiana. By the census of 1860, the parish of Orleans contains within a fraction of a majority of all the white people of the State of Louisiana. The territory which participated in the adoption of this constitution embraces not only that parish, but some dozen other parishes along the Mississippi river and included between the Amite on the right and the Teche on the left, embracing nearly all the fertile river bottoms of the State excepting the Red river country; but what portion of the white population of that State are actually embraced within those limits we have no means of telling, for the reason that although the census shows that a large majority of the white people of the State



were within those lines in 1869, and a much larger majority of the blacks, yet their condition now and in 1860 is so widely different that no reliance can be placed on any such basis as that.

Mr. SMITH. I desire to ask a question which, perhaps, will be answered by the gentleman from Pennsylvania, [Mr. KELLEY,] if the gentleman from Massachusetts [Mr. DAWES] will permit him.

Mr. DAWES. I have no objection.

Mr. SMITH. It is right on this point—

Mr. KELLEY. The gentleman from Kentucky will allow me to put one other question—

Mr. DAWES. Let me go on. My own opinion, and all the evidence I can get, is that quite a large majority of the white and of the black population of the State of Louisiana is embraced within the limits of our lines; and that all that portion of the territory lying outside of our lines is the sparsely settled portion, the desert portion, the swamp portion. I have no doubt myself, and I think the evidence that comes to us shows, that a large majority of the white population of the State are within our lines. That does not, however, quite answer the gentleman's question, which is, whether these people acquiesced in the formation of this State government.

Mr. KELLEY. I referred to that portion of the people whose civil and political rights were guaranteed by the treaty of 1803.

Mr. DAWES. I suppose the gentleman means the colored creoles.

Mr. KELLEY. I do.

Mr. DAWES. I do not understand that there is anything in the new constitution of the State to deprive the creole of his rights. It leaves the question as to whether he shall be entitled to the right of suffrage to the Legislature to dispose of. But I do not consider that as depriving him of his rights. If that were so, I suppose that every female in the State of Louisiana is deprived of her political rights by the fact that no right of voting is guaranteed to her. I know of nothing else that would lead to the gentleman's inquiry, and I presume his inquiry covers that ground. There is no feature of the law of the State of Massachusetts which I admire more than that which provides that no distinction shall be made on any other foundation than that of character and intelligence. I wish it were so everywhere. I hope to see the time when it shall be so in Louisiana. If it were so there to-day I should greatly rejoice in it. Whether it shall be so depends upon the wisdom of our legislation on this very bill, in a great measure; for, if we leave this people to manipulate and form their own State government, by that means sooner than by any other will they come out of their troubles and constitute a form of government in harmony with those ideas of equality which are the glory as well as the fundamental basis of the Republic.

Mr. KELLEY. Will the gentleman yield to me one moment further?

Mr. DAWES. Yes, sir.

Mr. KELLEY. I have not understood the gentleman to deny that a majority of the people of Louisiana are outside of the parishes represented in the convention that framed this constitution, though he asserts that a majority of the rich bottom-lands are within the lines. The best information I have been able to obtain is that only about two fifths of the white population of the State were within these lines and three fifths outside of them, and that a very large majority of the colored population were within them. I would now inquire of the gentleman whether the territory outside of these lines is not to-day in the armed occupation of a belligerent power?

Mr. DAWES. The gentleman is mistaken as to the facts. I wish, however, before closing, to say a word to the gentleman from Pennsylvania touching the point which he has raised in relation to the right of suffrage of the freedmen of color in Louisiana. I have stated my own opinions and my own views. I cannot, however, fail to recognize a republican government in Louisiana that does not quite come up to my standard any more than I can fail to recognize a republican form of government in your own State of Indiana, Mr. Speaker, where colored people are not permitted to vote at all; or in Pennsylvania, which the gentleman so much honors in his representation here upon this floor, but which denies to the colored man the right to vote. I would just as soon in-

stitute measures here to declare that the constitution of the State of Pennsylvania is not republican in form, inasmuch as it does not permit all persons of color to vote, as I would put a bar upon the people of Louisiana in the formation of their constitution because they do not make the right of suffrage as universal as they do in my own State of Massachusetts, which I am happy to know my friend has taken as his example in this regard.

Mr. KELLEY. I think the gentleman fails to perceive the point which I made, which is whether they have not made a constitution which violates the express stipulations of the treaty of 1803, by which that territory was ceded to us, and excluded the descendants of a large portion of the then population, whose political rights were expressly guaranteed by the terms of that treaty.

Mr. DAWES. With all due deference to the gentleman from Pennsylvania, I do not propose to involve the discussion of this question, in which is wrapped up the destiny of these great States, and upon which I believe the fate of the nation in a great measure depends, in any new construction of the treaty of 1803, which the people of Louisiana and the people of the whole United States have failed to perceive the necessity of till this hour. And when I say that, I admit to the gentleman the full force and power of all his reasoning upon the right of every man capable of self-government to exercise the privileges of citizenship.

Mr. MALLORY. I would like to ask the gentleman from Massachusetts a question about a matter which I have not heard him touch upon in his discussion to-day. It is this, whether the constitution of Louisiana, which it is claimed by the gentleman now exists, and under the provisions of which Representatives have been elected to this Congress, was made in pursuance of the provisions of the previous constitution.

Mr. DAWES. Mr. Speaker, I had devoted some little time to a feeble attempt to show that the people of a State had the capacity to make a new constitution, even if the method that they pursued in making that constitution did not conform to any previous existing law of the State, and I instanced the State of Rhode Island, I instanced the State of Massachusetts, I instanced repeated cases in the Territories of the United States of the people voluntarily coming together, and in convention, or by whatever term you have a mind to call it, making an organic form of government, and bringing it here to receive the recognition and sanction of the Government; and therefore I did not stop to inquire whether this constitution conformed to a previous provision existing in the old constitution of Louisiana, for although the bill itself recognizes that constitution to be in full force, and all laws made in pursuance of it excepting laws holding men in bondage, I must say for myself that if out of the chaos of this rebellion, and out of the upturning and upheaving of the very elements of society, there can be found any considerable number of loyal men so united and harmonious in their action as to be able to form a framework of organic government, republican in form, and that shall receive the acquiescence of the loyal men of that people over which it is to be enforced, and they have also strength and power enough within themselves to suppress domestic violence if left to themselves, just such a State we should open our arms to and welcome back with rejoicing and clapping of hands.

Mr. MALLORY. Would not the gentleman designate the movements to which he has called our attention revolutionary movements in those States?

Mr. DAWES. I call them the great and grand and glorious results of a revolution; not the revolution itself, which was begun in injustice and in treason, but which, under the guidance of a Power which holds the issues of nations as well as individuals in its hands, is working out a glorious deliverance of the land into a more perfect and glorious republican form of government.

I have trespassed upon the indulgence of the House too much. My only purpose is to impress upon this House the very conclusion which finds sanction in the last section of this bill, namely, that no form can be prescribed, no law laid down here, no unbending iron rule fixed by the central Government, for the governing of that people, or prescribing the method in which they shall make

their organic law. Each of them shall work out that problem for itself and in its own way. That form and system which is best adapted to Louisiana and Arkansas is quite different from that which is ultimately to be adopted in South Carolina and Georgia. These are a people unlike in their habits and pursuits, in their notions, in their loyalty or disloyalty, whichever it may be. In each one of these States the condition of things and feelings is unique, and finds no counterpart in any other. In the States more particularly under consideration the people are struggling to rise from chaos into the form of republican organic law. The others to which I have alluded are still wandering in the wilderness of treason and rebellion, and rolling as a sweet morsel under their tongue the sin which has brought all this calamity upon us.

What extreme medicine shall bring them back to their right minds—what sort of constitutional measures or further military treatment shall be found necessary to bring them back from treason, and to bring out from among them a true and loyal people, it is as unnecessary as it would be difficult or impossible to tell in this discussion. Time must furnish the great solution of all these embarrassing questions. Time has already proved the best solvent of questions which have seemed to us incapable of solution. No rule which we may here attempt to adopt, no rule we have ever adopted, has been or will be found adapted to the exigencies of particular cases. As they have arisen they have found their own solution; and whenever any one of these States comes up here, presenting a constitution republican in form, the workmanship of the loyal men of the State, and which is generally acquiesced in by them, and they have power enough within themselves to maintain it against all domestic violence, then I submit that in whatever form, by joint resolution, or by the admission of members into either branch of Congress, may seem best to this House or to the other, or to both Houses together, I care not; the result is one and the same. To me it is sufficient to present this evidence, and I am ready to welcome them back into the sisterhood and full communion of the States.

Therefore I hope that this bill, which attempts to prescribe an iron, unbending rule for all these States, will fail to become a law.

#### EVACUATION OF CHARLESTON.

Mr. SCHENCK. I ask that the following dispatch, just received from the War Department, be read for the information of the House.

The Clerk read, as follows:

WAR DEPARTMENT,  
February 20, 1865—2.45 p. m.

SIR: The inclosed telegram from General Grant, announcing the evacuation of Charleston, has been received by this Department.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. R. C. SCHENCK, Chairman Military Committee.

[From City Point, February 20, 12.30 p. m.]

Hon. E. M. STANTON, Secretary of War:

The following dispatch just received.

U. S. GRANT,  
Lieutenant General.

The Richmond Examiner of to-day, just received, says Charleston was evacuated on Tuesday last.

G. WEITZEL,  
Major General.

#### RECONSTRUCTION.

Mr. FERNANDO WOOD. Mr. Speaker, I have listened with much satisfaction to the speech of the gentleman [from Massachusetts, [Mr. DAWES,] and I congratulate this House and the country that at last we hear the language of conciliation in that quarter. When we consider the party to which he belongs, the Administration which he sustains, and the section of country that he represents, it is with no little surprise that I hear that gentleman refer to our southern enemies as "a great people," and use the language of kindness, respect, and conciliation toward them.

Sir, from that side of the House thus far we have heard little but of subjugation, devastation, and of annihilation when speaking of the enemy. Judging from the tenor and temper of the majority, the inference was that that people had no rights, and were entitled to no mercy, no quarter, not even to the respect due to humanity.

Hence I say that I have listened with pleasure to the gentleman; and I congratulate this House

and the country that at last there appears to be a disposition toward a more conciliatory sentiment in this House. This gives me more hope for my country, considering the class of men that gentleman represents, than anything that has transpired recently.

Sir, if I could be surprised at anything in this Congress, or at any report from any committee of this House, it would be at the introduction of a measure like this; and were I disposed to depart from my rule to treat every question with respect and courtesy, I should pronounce this an infamous measure, unconstitutional and unpatriotic, the emanation of the worst species of fanaticism. It is a bill, according to its title, "to guaranty to certain States whose governments have been usurped or overthrown a republican form of government." It was reported originally by the gentleman from Ohio, [Mr. ASHLEY], who, as if himself ashamed of the child he had produced, has subsequently submitted two modifications of the original proposition, while other members of the special committee of which he is chairman have presented three more, making in all five distinct measures now before the House, all proposing "to guaranty to certain States whose governments have been usurped or overthrown a republican form of government." Upon the assumption that the States in rebellion have not republican forms of government, this bill proposes to make for those States a government which it calls republican. And, sir, it is claimed that the power to do this is found in the fourth section of the fourth article of the Constitution, which provides that—

"The United States shall guaranty to every State in this Union a republican form of government."

Now, sir, in the discussion of this proposition it is necessary to consider first what is a republican form of government. I presume there will be no difference on this question. A republican form of government is that form which is distinguished from the imperial or monarchical or more absolute; it is in short the mode selected and adopted by the framers of the General Government, and its essence lies in self-government, through the representative principle. It is the right of the people to govern themselves. Our form combines the democratic feature with sufficient centralization to give vigor of execution. Republicanism does not lie altogether in forms, nor can it be imparted. It is a government made, regulated, controlled, and to be modified only by the people themselves. No other power can confer it. Republicanism in this country, as I understand it, means the right of the people themselves to construct their own Government; and when a central power, or any other power than the people themselves, attempts to make a government for a community, it is a usurpation, however free in theory. The States and the people thereof are entitled, under our system, to make their own forms of government.

Now, sir, what is the character of the State governments of those States now in rebellion for which this bill proposes to provide governments? Is there any difference in the form of the governments of those States from what they were five or six years ago? Do not the people of those States elect representatives to a State Legislature? Does not that Legislature make the local laws of the State? Have they not State Executives elected by the people? So far as the form of government is concerned, there is not, in my judgment, the least change to justify us in dictating a government for them. If they are not now republican they were not so at the adoption of the constitution or at any time before the rebellion.

But it is alleged that by passing ordinances of secession and armed resistance to the Government these States have lost this right. How can this be? The offense of the southern people is treason. The Constitution declares treason a crime, and makes it a punishable offense. It is not provided that treason shall be punished by a forfeiture of the rights which the people of a State have to regulate their own domestic affairs. It is the offense of an individual, not of a State. While you may deprive the former of civil rights after trial and conviction you cannot certainly by legislation of this kind take from a sovereign State its inherent prerogatives of independence over any question or subject not delegated to the Federal authority.

Again, the duty imposed upon the General Government to "guaranty" a republican form of government to a State cannot be construed to mean that it conveys the power to create a government, or to do that which this bill provided by superintending or directing the manner of doing it.

The Constitution provides that we shall guaranty or see that their governments are republican in form, and shall protect each of them against invasion. The Government of the United States shall protect these States from invasion and shall protect the right of these States to make their own government. It is under this provision of the Constitution that it is sought to defend this measure and to perpetrate an outrage on the constitutional rights of the people and States which, though now in rebellion, will not be so when this bill, if it becomes a law, shall be operative.

If completed, it will be the grossest and most wicked usurpation that any central power has ever attempted to exercise over any body of people claiming to be free.

But, sir, admitting that we have the right contended for, do we by this bill make a republican form of government? Is it republican for the President of the United States to appoint a provisional governor over a State, with the power that it is proposed to confer? Is it republican, as this bill provides, that nearly the whole population of the rebellious States, though assenting to the Constitution, laws, and authority of the United States, shall be disfranchised in the making of their own local form of State government, for Congress to declare for them who shall vote and who shall not, and under what circumstances the resident populations of those States shall have any civil rights whatever? What are the powers proposed to be conferred on the President? He appoints for each State in rebellion a governor, who makes all the regulations for the calling of a State convention; designates the voters; fixes at pleasure the plan for holding conventions; superintends all the preliminary arrangements for the election of delegates; virtually declares who shall vote; is to be the custodian of the enrollment of voters, and thus is empowered to make the basis upon which rests the least semblance of popular rights. That basis is composed of the Army and the followers of the Army. Every person in the Army, every person in a military capacity connected with the Army, is authorized to vote at the election.

It is also provided that a certain class who shall take an oath ostensibly to support the Constitution, but really to subvert the Constitution, shall vote. It is provided that those two classes shall constitute the voting population of that State. The governor holds the enrollment himself. He then orders the election of delegates to the State convention, and he orders that convention to assemble whenever and wherever he pleases. He has the power to change the place of its sitting at pleasure. He receives the names of persons to compose this convention; and it is no stretch of power for him to declare in advance who shall be members of the convention, and who shall not be. And when the convention has assembled he is himself to preside over it. He calls it to order and he then administers an oath to each delegate, an oath prescribed by the bill itself. The delegate is made to swear that he has not done certain things, and that he will not do certain things. Assuming that he gets together some kind of representative body representing the people of that State, the constitution which they make falls under the provisions of this act. It is provided, for instance, that they shall vote for the amendment to the Constitution of the United States which Congress recommended to the States the other day. They are obliged to swear that they will pass that amendment to the Constitution of the United States. And if any proceedings of the convention displease this provisional governor, the tool and instrument of the President, he can dissolve the convention at pleasure and send them home.

This, sir, is the republican government which it is proposed to give to the people of these States. This is the substitute which you propose to give to the States in rebellion for that form of government which they, acting under the Constitution of the United States, have seen proper to adopt.

Mr. SMITH. I would ask the gentleman

from New York whether he considers that, when a State now in rebellion went into rebellion, called a State convention by which its original constitution was changed and made to conform to the constitution of the so-called confederate states, there is any fundamental law binding those people to the Government of the United States? I ask whether it does not require some action on the part of the people to change that law which has been introduced by the rebellion so as to make it conform to the laws of the United States.

Mr. FERNANDO WOOD. I will answer the gentleman with pleasure. I hold that it is the sovereign right of the people of every State to meet together in convention and make any change or modification of their constitution, or even of their form of government, provided it is republican; and that so long as the republican form shall be preserved, and so long as it recognizes, as in my judgment it is its duty to recognize, the Constitution of the United States and the laws made in pursuance and not in contravention thereof, just so long the sovereignty resides there and nowhere else. I do not justify the so-called acts of secession or ordinances of secession passed by the southern States. In my judgment they have placed themselves criminally in the wrong. "Grievously have they erred, and grievously have they answered for it." But because they have done wrong, because they have committed an error, because they have perpetrated an outrage, shall we do the same? Shall we follow their example? Shall we subvert the Constitution because they have disregarded it?

The Constitution itself answers the gentleman from Kentucky. If they have been guilty of treason the Constitution provides the manner and mode of punishing treason. And now, sir, if at this time, notwithstanding their having passed an ordinance of secession, notwithstanding their rebellion, if you please, against the Federal Government, if these people, the very same people of either of these sovereign States, see proper to meet and amend their constitution and elect Senators and Representatives to this or the next Congress, there is no power here to prevent their coming back again. I hold that the Congress of the United States have no power to make conditions upon which a State shall resume its proper position in this Government; and were any of these States today to lay down their arms and recognize the Federal laws and Constitution and elect Representatives to Congress, I would like to see the power that would constitutionally and legally prevent them from coming into the Union.

Mr. SMITH. The gentleman's "if" comes in rather apropos. If the rebellious portion of either of these States should lay down their arms and ask forgiveness on the part of the United States, I have no doubt that forgiveness would be granted, save, perhaps, the punishment of some of the leaders in these great transactions. It has been admitted, and it is true, that notwithstanding the rebellious portions of these States have gone into this rebellion, and formed new constitutions, and enacted new laws, not in conformity with the Constitution of the United States, yet there has been left to each one of those States a loyal population who love the country and Constitution, and who obey the laws. Now, the proper custodian of the rights and interests of those people is the Chief Executive of the United States. The question I wish the gentleman to answer is, how we are to get at a reorganization of those States except through the instrumentality of the Executive, who shall prescribe means through the laws of Congress for that thing of establishing a provisional government until these loyal people can do it themselves.

Mr. FERNANDO WOOD. I deny the premises of the gentleman. I deny that the President of the United States is the custodian of the interests, of the opinions, of the rights of any portion of the States.

Mr. SMITH. Does not the Constitution require that the Chief Executive shall see that the laws of the United States are executed in all parts of the country?

Mr. FERNANDO WOOD. Yes, sir; and the Chief Executive of the United States is to-day seeing that those laws are executed by force of arms; and that is the exercise of the executive power. But when, in derogation of his constitutional power he interferes with civil rights, the rights of elec-

tion, the rights of the people, acting in their peaceful and sovereign capacity, to make their own constitution and laws, subject to the Constitution of the United States, he is guilty of usurpation. The Constitution imposes upon the President certain executive duties, and he is prosecuting this war to-day simply as an executive authority, and he does it to put down an armed rebellion. In our Government there can be nothing like a civil rebellion, and when this rebellion ceases, either as the result of force of arms or by submission on the other side, the executive power over that people ceases, and his armies must be withdrawn. The only pretext for these armies and for the exercise of this military power, is the military resistance on the other side, and the moment that resistance is withdrawn the people resume their civil capacity, and all their civil rights are returned to them. Of course the penalty for treason remains punishable by law. All that we demand of them is that they shall become again members of our Government; that they shall respect our Constitution; that they shall recognize our laws and the authority of our Government.

Sir, as I said before, these States are in the Union necessarily, and there is no power here, no power under any act you can pass, to say upon what conditions they can come in, because if they come in at all they must come in on an equal footing with any other State of the Union, or else this is not a republican form of government. Therefore it is I contend that any attempt to impose conditions is absurd. In the first place, the power to do so does not exist; and in the second place, the necessity for doing so cannot exist if these States in rebellion submit to the Constitution and the Government and laws of the United States. If they have committed a crime, what crime? The crime of treason, and the Constitution itself declares what constitutes treason, and the mode and manner of its punishment.

Mr. SMITH. Upon the reorganization of the State of Mississippi, according to the idea of the gentleman from New York, it may come back when it pleases and as it pleases; and nothing here can be done to designate the terms upon which it may come back. Now, if these people by laying down their arms can elect Jefferson Davis as a member to the United States Senate, does the gentleman from New York believe it would be proper to allow him to take his seat in the Senate and participate in the legislation of this country?

Mr. FERNANDO WOOD. The Constitution of the United States leaves the Senate, as well as the House, to determine the qualifications of its own members. And I would like to ask the gentleman from Kentucky whether he would allow it, or disallow it, if he were a member of the Senate?

Mr. SMITH. I answer very emphatically that I would not allow it, but that I would hang him without an "if" or an "and."

Mr. FERNANDO WOOD. Sir, we cannot disqualify in advance any man from becoming a member of Congress. Except by the act of the House itself judging of the case and of the qualifications can a constituency be disfranchised. If the Legislature of Mississippi elected Jefferson Davis a Senator of the United States, it would be for the Senate itself to determine whether he was a qualified member of that body.

If he has been guilty of a crime, that is an act punishable by law, and it would be a proper question doubtless for the Senate itself to take into consideration whether they would give him his seat or whether they would not.

But, Mr. Speaker, I assume that the author of this bill and every member of this House is earnest in the desire of securing a reunion of our Government. I am not prepared to charge any man here with an intention and design of disunion. Therefore it is that looking to restoration, looking to union, looking to that great result that we all so much desire, that these States shall again be within the Union, recognizing our Constitution, I submit, in view of the military results of which we are continually hearing, and in view of the successes of our armies, whether it is wise, whether it is politic, whether it is magnanimous, for this great people to add insult upon insult, oppression upon oppression, and to do that which will itself render it impossible for that people to live in any kind of fraternal concord with us, and,

as now attempted, in a condition of servitude and dependence?

I was gratified, therefore, to-day to hear the gentleman from Massachusetts [Mr. DAWES] say kindly of these people that it is our duty to do that which will restore them again to us, to bring them back with all their rights within the Union, which are just as sacred to them as ours are sacred to us.

Sir, a month ago when this subject was under discussion the aspect of public affairs was very different from what it is now. A month ago there had been no conference looking to reunion. Since that period there has been a conference, and although that conference has failed, yet, in my judgment, there was in it sufficient to give every lover of his country hope that without much further bloodshed these people may see the necessity and propriety of coming back to their allegiance to the Government. Do not cut off the last hope of reunion. Heap no coals of fire upon their heads when they are thus borne down and weakened. Do not do that which will render it impossible for so noble a race, consistently with manhood and ordinary self-respect, to do else than perish rather than submit. I would exhaust every means of conciliation that we might have reconciliation, and that this war might be stopped upon the basis of union, of fraternity, and of concord.

Let us hope that the language of the gentleman from Massachusetts to-day may be but the beginning of the end, and that the fell spirit of destruction may cease. In the midst of power, of success, and of victories, let us be generous and just. If it be true, as alleged, that our foe has fallen and lies prostrate at our feet, then with the greater reason can we be magnanimous. Let us forgive and forget the past and allow them once more to resume their position in the Government, sit here in full communion with us, and participate with us in carrying on this great experiment of free Government on the American continent. But if this cannot be, then, as we value our own liberties, let us avoid doing that which is itself a libel on republicanism. Under the pretext of furnishing a republican government to States in rebellion, we are attempting to impose on them a despotism of the most wicked and tyrannical character. The people of Ireland, of Hungary, and of Poland were free as air compared with the condition of degradation to which you seek to reduce the noble men who, though in an unfortunate moment of excitement and error they attempted to pull down the fabric of our Government, are yet blood of our blood, and a race of whom we may well be proud as fellow-citizens of the United States of America.

Mr. LE BLOND. Mr. Speaker, the bill under consideration asserts some very strange doctrines and implies others no less marvelous. It implies that all the States in rebellion are out of the Union. It implies not only that they are out of the Union, but that they had the constitutional right to go out.

I am aware that the right of States to secede has been a favorite doctrine with gentlemen North as well as South, but never did it attain to any great degree of notoriety till a very recent date. It is a doctrine fraught with the most serious consequences to the American nation. It may subvert the purposes of gentlemen for the time, to accomplish certain political results, but when the doctrine is once approved and acted upon by the American people it then becomes a precedent, a law for future action.

In the view I entertain upon this subject I by no means harmonize with a certain few of my own political faith; men, too, to whom I would humbly yield my views upon all questions of mere policy. But upon a question in my judgment involving the future unity of the States, I cannot allow myself for a moment to believe that the founders of this Government meant less than they expressed in the preamble to the Constitution:

"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution."

It is unreasonable to believe that they intended that any State might at pleasure, through its Legislature or a convention of its people, and even by a mere majority of one, break the bond of

union, and thereby, if not directly destroy, at least hazard the "blessings of liberty" to themselves and posterity. The paramount object they had in view was to secure the "blessings of liberty," and not only make them secure for the time, but to make them perpetual. Any object less than this would have been unwise, if not wicked. Less than this would not have justified the Revolution. Less than this would be mockery of statesmanship. Less than this would not justify an effort to harmonize the present discordant elements. They intended the blessings secured to be lasting; the Union made perpetual. In short, a State once in the Union is always in, except that Union is broken by successful revolution—a result not to be prevented by legal or constitutional enactments. The power granted to the Federal Government "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," clearly implies that it was never intended that the people of any State should put themselves beyond the control of Federal authority by even armed resistance, much less by the more harmless means of legislative resolves. Hence the Federal Government is clothed with military power to enforce its laws in every State of the Union.

Each one of the original thirteen States in its sovereign capacity agreed to abide by the principles of the Constitution and all laws passed in pursuance thereof. In order to make the compliance of the States certain, the Union permanent, and to avoid any conflict among the States, a judicial branch of the Federal Government was provided, whose power and duty are to decide all questions arising under that instrument when presented, and thereby prevent any conflict that might arise between States or the Federal Government and a State. But, sir, despite all these checks and safeguards, so wisely incorporated into the Constitution, whereby every wrong may be redressed and every infraction corrected, we find ourselves involved in two wars—the one the most stupendous and bloody the world has ever seen; the other as yet bloodless, but no less destructive to the spirit and genius of our institutions, if successful.

I shall not indulge in any argument tending to show what has brought upon the country the former, if it were even proper so to do in this debate. Suffice it to say that when the impartial historian shall record the causes of this rebellion he cannot fail to give those who have with so much pertinacity thrust upon the country their higher-law dogmas a prominent position in its pages. Of the latter I speak, for it is more befitting the time and the occasion.

Sir, since my appearance within this Hall as a member of Congress many bills have been presented that were in my judgment unauthorized by the Constitution and revolutionary in their character. Some have passed this body, while others are still pending with at least fair indications of their passing this branch of Congress. Among the most prominent of these was the bill known as the confiscation act, which was characterized for its inhumanity and subversion of the plain intent and meaning of the Constitution, and the bill which has so recently passed Congress amending the Constitution, and the bill under consideration.

Without any violation of parliamentary usage I may be permitted to speak in reference to each of the two last-mentioned measures, though but one is now pending in Congress, for the reason that both measures seek to accomplish the same purpose in part, and the argument applicable to the one is alike applicable to the other.

My colleague, [Mr. ASHLEY,] in his argument in favor of the bill amending the Constitution, held that the votes of the States in rebellion were not necessary, for the reason that they were not in the Union; and the evidence that they were not in the Union was that they were not represented upon this floor; and no State was known to be in the Union except when acting in harmony with the Constitution.

That I may fully present his views, I quote his own language:

"If the theory that a State once a State is always a State is to obtain in the national administration there is no safety or security for the Government. I do not know, sir, how you would have decided such a question if it had been raised under circumstances such as I have suggested; but I have faith to believe that you would have decided as I



would have decided, that this House cannot know of the existence of a State in this Union which has not a civil government organized in subordination to and working in harmony with the national Constitution. Any other decision would have been fatal to our national existence. Let us not set a bad precedent now by declaring that it will require the ratification of twenty seven States to secure the adoption of this constitutional amendment."

At the last session of Congress the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] and I use the term in no ordinary sense, by the support which he and others upon that side of the House gave the confiscation act, tacitly, at least, recognized them as in the Union and subject to our laws. My able and esteemed colleague, [Mr. BLISS,] in his recent speech, has presented the true status of the States. He says:

"Are the States whose people, in part, are in rebellion against the General Government out of the Union in theory and in fact? Are they foreign Powers, and their inhabitants foreign people, not subject to the Constitution and laws of the United States? If so, why do we raise and send mighty hosts to enforce, by the sword, the bayonet, and the cannon, obedience and subjugation to that Constitution and to those laws? If the people of the so-called seceded States are citizens in the Union, why are our courts engaged, under an act of Congress, in confiscating their estates for acts of treason against their Government? Treason implies citizenship; it cannot be committed by an alien or an enemy. If those States are not out of the Union in theory of law, and if their people owe the allegiance to the Government of the United States which is claimed of them, then clearly those States are among the number of States three fourths of whom must unite their voices upon any proposition to amend their Constitution."

If, sir, they are out of the Union, and their votes not requisite in the ratification of this proposed amendment; if they are alien enemies, as claimed by gentlemen on that side of the House, they are then a foreign government *de facto*; if a foreign government, why make war upon them? Why seek to enforce our laws over them? Why attempt to amend a Constitution they have thrown off and are not bound by? Why complain if foreign Powers recognize them as you recognize them?

Sir, despite the subtlety of your reasoning they are States, and States within the Union, and must so remain till by their prowess they have maintained their separation.

Their votes are therefore necessary to its ratification, and my colleague [Mr. ASHLEY] in his last substitute to the bill under consideration enjoins upon the States in rebellion their approval of the constitutional amendment as a condition precedent to their return to loyalty—thereby virtually acknowledging the necessity of their action. You cannot for one purpose treat them as in the Union and subject to our laws, and for another as out of the Union. If they were in the Union once, and subject to our laws, nothing having changed their relation since, they are still in, and it follows as corollary that they are to be counted in determining whether the proposition has been approved by three fourths of the States.

Gentlemen claim that if three fourths of the States approve, and one fourth disapprove, it becomes a part of the Constitution and binding upon all. With all deference to the opinions of able gentlemen on both sides of the House, I must differ from them. Nothing could have been further from the object of the framers of that instrument than to leave it in such a questionable shape that in a great national convulsion the fundamental principles of republicanism that underlie our system might be upheaved and broken to pieces, and upon its ruins a monarchy established. Yet my colleague, [Mr. COX,] with gentlemen on the other side of the Chamber, assert that the power to amend is so broad and so ample that we may establish a monarchy or an autocracy; that we may supplant the President and put in his stead the King of Dahomey. I deny it. It is not in the power of the people to make such a change *under the Constitution*, even by the concurrence of all the States. It would not be an amendment, but the incorporation of new and original matter entirely foreign to the text. It would be subversive and revolutionary. To amend implies something to amend by, and the amendment must be germane to the subject-matter under consideration. We can submit to the States amendments enlarging or diminishing the powers granted, but we cannot substitute new and different ones. Why, Mr. Speaker, would you rule out of order an amendment offered to a general appropriation bill establishing a court in my State? Because it would not be germane to

the subject-matter under consideration. The theory is that there is nothing under consideration akin to it. It is new, original, and foreign, and out of order, and so you would rule. Where, then, can gentlemen find the power to amend so as to change the form of our Government from a republic to an autocracy? Where is the power to transport the King of Dahomey to rule over us? Surely gentlemen will not claim that an autocracy is akin to a republic. You might as well assert that the autocrat is the people, or the people the autocrat, as to assert that a republic may be amended by substituting an autocracy.

If, then, you cannot change the domestic relations in a State by the alteration proposed, how is it possible to do so by bombastic proclamations or congressional enactments like the one under consideration?

Sir, our security as individuals and the security of our system rests in a strict adherence to the principles of the Constitution clearly expressed, and not in making innovations or exercising uncertain powers. If I had seen no constitutional objection to the passage of that bill, policy alone would have prevented my voting for it if I had been present. Not, sir, that I have any sympathy with slavery, for I have not and never had, but to avoid taking the first step in a downward tendency to national ruin. I would not shape the wedge that others in after days might use in great public excitement to national injury. The infant that takes its first step is encouraged thereby to make the effort for the second, and it will take it; and you make the first amendment, and designing politicians with a view to acquire position and power will find a reason for the second; and thus, step by step, will the power of the people be taken from them and given to the few; and power once lost to the people is never regained except by revolution. "It is no time to swap horses while crossing a stream" is more appropriate in this connection than the one in which the author used it. If, sir, you cannot change the Constitution in this regard without infraction, how are you to accomplish the object by mere legislative enactment as contemplated in the bill under consideration?

Mr. Speaker, it would seem as if gentlemen had closed their eyes to every principle of the Constitution, rights of States, and dictates of humanity, and are willing to hazard them all in the wheel of fortune, to confirm a political idea that this Government cannot exist "one half free and the other half slave." There has been no bill introduced into this House that so clearly demonstrates this feeling as the one under consideration. Many of its provisions find no sanction in our legislative guide, the Constitution. Where does my colleague [Mr. ASHLEY] find authority for Congress to determine who shall and who shall not vote at the primary elections in the rebellious States? I am aware that the fourth section and first article of the Constitution gives power to determine the time, place, and manner of electing Senators and Representatives to Congress, but not the qualification of electors, much less to control the elections purely local. Yet that power is assumed in this bill. Where is the power given to determine what, if any, number less than a majority of all the electors of a State shall control? And where is the authority to be found enabling Congress to authorize negroes to vote at the State elections? All this is provided for in this bill, and without authority.

My colleague [Mr. ASHLEY] may claim that the bill does not confer the elective franchise upon the negroes of those States in rebellion. Let us see. By reference to the original bill and the seventh section of the second substitute thereto, the provisional governor was required to enroll all white male citizens of the United States resident in the State; but in the third section of the substitute now presented the word *white* is omitted. For what purpose, if not to let the negro vote? I am aware that the decision in the Dred Scott case has determined that a negro is not a citizen of the United States; but who among the higher-law party give it the least vitality? When, sir, in time of profound peace these men denounced and disregarded it, it is not at all likely they intend to be governed by it under present circumstances. It is intended by this bill to permit them to vote at the elections to be held in those States; and it is but another evidence of New

England domination; another evidence of that revolutionary spirit that has characterized the legislation of the country for three years past; another evidence in favor of the doctrine of the equality of the races, socially and politically.

The eighth section of the bill provides—

That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the constitution of the State, that is to say:

First. No person who has held or exercised any office, civil or military, except civil offices merely ministerial and military offices below the grade of colonel, State or confederate, under the usurping power, shall vote for or be a member of the Legislature or Governor.

Second. Involuntary servitude is forever prohibited, and freedom and equality of civil rights before the law are guaranteed to all persons in said State.

Third. No debt, State or confederate, created by or under the sanction of the usurping power, or in any manner in aid thereof, shall be recognized or paid by the State; and all acts, judicial or legislative, for the confiscation or forfeiture of any debt, property, or franchise, of any loyal citizen of the United States, are hereby declared null and void.

Mr. Speaker, at the last session of Congress the Secretary of the Treasury demanded the passage of an act prohibiting the traffic in gold, better known in financial circles as Chase's folly. It was done. The Secretary of War insisted upon a repeal of the commutation clause in the enrollment act, and it was granted. And the President has without law or authority issued his emancipation proclamation, and subsequently his edict that no State in rebellion should return to her allegiance till she had first emancipated her slaves, and at once two bills were thrust into this House for that purpose. Sir, in former days these demands would have been treated as an indignity offered to the legislative branch of the Government. I impute no subserviency to any gentleman, but it is strange these demands have so often been made and as often granted. No matter how absurd the demand or unjust the requirement, a reason is found for the one and a constitutional injunction for the other.

My colleague [Mr. ASHLEY] assumes that the fourth section of article three of the Constitution confers the power on Congress to prescribe changes in the organic law of the original States of the Confederacy:

"The United States shall guaranty to every State in this Union a republican form of government."

Many of the States now in rebellion were the original States forming this Union, and ratified the Constitution. It was not thought then, or for over seventy years thereafter, but that their local governments were republican. It was reserved for the transcendent wisdom of this age, this Congress, to determine the fact and to publish to the world the imbecility of Washington, Jefferson, Madison, and all the worthies we were wont to dote upon for recognizing them as such. Despite our assumed wisdom, by the tests of the national Chart they are what they were considered to be by the founders of this Republic.

This provision presupposes the States which would ratify the Constitution had republican forms of government, and pledges the combined powers of them all to preserve, secure, and defend each and all of them in the enjoyment of that or any other form they might thereafter adopt in harmony with the spirit of the Constitution. It not only applies to the original States of the Union, but all others that might be admitted. The word "guaranty" does not imply the power to create, prescribe, or dictate, but to secure and defend what is already in existence. The sense in which it is used in that section is to secure and defend republicanism as defined in the Constitution. But the sense in which it is used in this bill is to prescribe, dictate, originate. They "shall adopt the following provisions hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State."

Who, sir, ever heard that it was anti-republican for any man to hold a civil office to which he had been elected by the sovereign people of his State? Who ever heard that it was anti-republican for the people of a State to pay any debt, no matter what its origin? Sir, it is anti-republican to dictate it, usurpation of power on the part of the Federal Government to exercise it, and revolutionary in its character. If you have the power

to prescribe for Georgia a change in her organic law from what it has hitherto been, you have the right to say to my State what debts, if any, we shall pay, and what school of politicians shall hold office. Such power does not exist in the Federal Government, and it is well for the liberties of the people and the sovereignty of the States that it does not.

There is no mistaking the tendency of legislation under the present rule, it is centralization. Gentlemen upon this floor do not hesitate discrediting the popular ideas of Thomas Jefferson and applauding those of Alexander Hamilton. The theory of the one was the power of the people for self-government and the retention of that power in their hands, while that of the other was the incapacity of the people to govern themselves and the centralization of that power in the hands of the few; in short, to create such a government as my colleague [Mr. GARFIELD] rejoices we are approximating. He says:

"I am surprised that both the gentleman from Vermont [Mr. MORRILL] and the gentleman from Ohio [Mr. COX] declare that this measure would aggrandize the executive authority. I must say that, to me, it is one objection to this plan that it may have exactly the opposite effect. I believe, Mr. Speaker, that the fame of Jefferson is waning, and the fame of Hamilton waxing, in the estimation of the American people, and that we are gravitating toward a stronger Government."

Sir, while my colleague rejoices that such is the tendency of the times, the people regret that such is the downward course of freedom. It is a warning to the people to be more chary of their liberties in time of a great national convulsion than at any other. It is a warning to them to thunder at the prison doors till they fly from their fastenings and free the innocent captives; to demand the reestablishment of that ancient writ of liberty, and to upturn your courts-martial for the trial of private citizens.

Mr. Speaker, in the better days of the Republic such men as Clay, Calhoun, Benton, Webster, Cass, and Douglas, would debate months upon the power of Congress to even prohibit slavery in Territories of the United States; but now gentlemen find not the least objection to prescribe a form of government for the people of a State. If gentlemen wish to preserve the Union, the right of States and citizens, you must shut your eyes to slavery and make this war a war for the Union of the States and the supremacy of the laws. You must close this bloody carnival. You must treat in perfect good faith for peace upon the basis of the Constitution and the Union. You must carry out the ideas of General Sherman, making the prerequisite to peace the laying down of their arms and the acquiescence in our laws. To him the thanks of the people are due, not only for his military genius, but for the humane and statesmanlike view he has taken of the duty of a rebellious people. There is but one way of disposing of this question so as not to do violence to our political system. Cease this vicious and partisan legislation; treat the States in rebellion as in the Union, and not out; the citizens in arms as rebels, not alien enemies, and when you have done this you have swept away the cobwebs of seeming complication, and the way is comparatively clear to a bright future.

I hope, sir, this bill may not pass.

Mr. ARNOLD asked and obtained permission to print a speech. [It will be published in the Appendix.]

Mr. BLOW and Mr. EDGERTON then addressed the House. [Their speeches will be published in the Appendix.]

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War; and

An act (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis and provide for the sale of the land on which the same is located."

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate had passed bills of the following titles:

An act (H. R. No. 624) to provide for the pay-

ment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington, without amendment;

An act (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1866, with amendments; to which he was directed to ask the concurrence of the House; and

An act (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California;" in which he was directed to ask the concurrence of the House.

#### CHARLES A. HICHBORN.

The SPEAKER laid before the House a message from the Senate requesting the return of the bill (S. No. 303) for the relief of Charles A. Hichborn. In compliance therewith the bill was ordered to be returned to the Senate.

The hour of half past five o'clock, p. m., having arrived, the Speaker, in compliance with the order of the House, declared the House adjourned until to-morrow at eleven o'clock, a. m.

#### IN SENATE.

TUESDAY, February 21, 1865.

Prayer by the Chaplain, Rev. Dr. BOWMAN.

On motion of Mr. DOOLITTLE, and by unanimous consent, the reading of the Journal was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, submitting estimates of appropriations to supply a deficiency for the Chippewas of Red Lake and Pembina Indians, under the fourth and fifth articles of the treaty of 2d October, 1863; which was referred to the Committee on Finance.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 14th instant, information in relation to the list of names of State or political prisoners required to be furnished to the judges of the circuit and district courts of the United States and of the District of Columbia, by the second section of the act of March 3, 1863, entitled "An act relating to habeas corpus, and regulating judicial proceedings in certain cases," approved March 3, 1863; which was ordered to lie on the table, and be printed.

#### PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented a petition of soldiers now in the ninth Army corps, praying for a bounty of \$300 to all who enlisted in the Army for the period of three years between the 1st day of April, 1864, and the 4th day of July, 1864; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Wisconsin, praying for an appropriation for the improvement of the harbor at the mouth of the Manitowoc river; which was referred to the Committee on Commerce.

Mr. POMEROY presented the memorial of L. H. Bunnell, praying that the Winnebago Indians on the Missouri river may be settled upon the Omaha reservation, and that provision may be made for the education of such of the tribe as reside in the State of Wisconsin; which was referred to the Committee on Indian Affairs.

He also presented the memorial of M. R. Patrick, provost marshal general of the army operating against Richmond, remonstrating against the issuing of whisky by the subsistence department of the Army; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana. I present the petition of E. M. Dennison, crier of the supreme court of the District of Columbia, making a very earnest cry for an increase of his compensation. I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SPRAGUE presented a communication of David Gowdey, addressed to him, alleging certain inaccuracies in the census report of 1860 in regard to the number and location of reed-makers in the United States; which was referred to the Committee on the Judiciary.

Mr. HARRIS presented a petition of the principal chief and delegates of the Cherokee nation,

praying that the interest due on the investment of the Cherokee national funds may be appropriated and paid over to the authorities of the nation in conformity with the provisions of their treaty; which was referred to the Committee on Indian Affairs.

Mr. SUMNER presented a petition of officers and survivors of the United States monitor *Tecumseh* and the United States steamer *Philippi*, praying compensation for losses sustained by them in the loss of those vessels; which was referred to the Committee on Naval Affairs.

Mr. HALE presented a memorial of the president of the West Cheshire railroad of New Hampshire remonstrating against the extension of the Goodyear patent for the manufacture of vulcanized India rubber; which was referred to the Committee on Patents and the Patent Office.

Mr. FOOT presented two communications from the Postmaster General to the House of Representatives, and printed by order of the House as Executive Document No. 27 of the present session, on the subject of a patent canceling and marking stamp used by that Department; which were referred to the Committee on Post Offices and Post Roads.

Mr. ANTHONY presented a petition of Benjamin Tilley, praying compensation for the use of certain lots in the city of Washington, by the quartermaster's department, from February 1, 1863, to February 1, 1865; which was referred to the Committee on Claims.

Mr. JOHNSON. I beg leave to present joint resolutions of the Legislature of Maryland passed a few days since, remonstrating against Congress granting a charter to make a railroad in that State.

There is a preamble accompanying the joint resolution, which I beg leave to state for the information of the Senate. It sets forth that a charter was granted by Maryland to build a railroad from the city of Baltimore to the borough of York, Pennsylvania, a point on the dividing-line between the two States of Maryland and Pennsylvania; that the State and the citizens of the State of Maryland contributed nearly all the means for the construction of that road; and that the State, with a view to encourage the road, upon which it had an incumbrance of over a million and a half of dollars, surrendered that incumbrance for the benefit of the company. The Legislature states also that there is now between Washington and Baltimore a double track amply sufficient to answer all the purposes which the Government or the citizens of the country may require either to transport merchandise or passengers between the two termini, Washington and Baltimore. It also states that the Legislature of Maryland have been in session for some time, and of course were in session when these resolutions were passed, and no application has been made to that Legislature to construct another road between Baltimore and the District of Columbia; that they were always willing to do so, provided they should be satisfied that the necessities of the country or the convenience of the country required a different road. They then represent that they understand that a bill is about to be submitted to Congress to authorize the Northern Central railroad, built, as far as it runs in Maryland, with Maryland credit and Maryland funds, and encouraged, as I have stated, by a surrender of \$1,500,000 to the company by the State, to construct a road from Washington to some point on the line of their railroad; and the Legislature protests in very respectful terms against the passage of any such act, and asks that if it should come either before the Senate or the House of Representatives the Legislature may by its agents be permitted to be heard. I move that the resolutions lie on the table, as there is nothing before the Senate at this time on the subject.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 452) to incorporate "the Capitol Hotel Company," in Washington city, District of Columbia, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of Andrew J. Wilcox, praying for sundry amendments to the Constitution of the United States with a view to the settlement of our

national troubles, asked to be discharged from its further consideration; which was agreed to.

Mr. MORGAN, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 455) to amend an act entitled "An act to amend an act entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property,'" approved March 3, 1863, reported it without amendment.

Mr. CLARK, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 85) repealing an act entitled "An act for the relief of E. F. and Samuel A. Wood," reported adversely thereon.

He also, from the same committee, to whom was referred a bill (H. R. No. 571) for the relief of Jethro Bonney, reported adversely thereon.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred a bill (S. No. 447) to provide for the sale of rejected private land claims, reported it with amendments.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print extra copies of the report of the select committee on the subject of the ventilation of the Halls of Congress, reported in favor of printing one thousand extra copies; which was agreed to.

Mr. STEWART, from the Committee on Public Lands, to whom was referred a bill (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes,'" reported it without amendment.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending 30th June, 1866, reported it with amendments.

He also, from the same committee, reported a bill (S. No. 464) in relation to money left by deserters; which was read, and passed to a second reading.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred resolutions of the Legislature of Rhode Island, a memorial of the American Geographical and Statistical Society, a memorial of the American Ethnological Society, a memorial of the American Oriental Society, and a memorial of the American Institute of New York, in favor of an appropriation to aid in the proposed exploration of eastern Asia, by Dr. D. J. Macgowan, asked to be discharged from their further consideration; which was agreed to.

Mr. FOOT, from the Committee on Public Buildings and Grounds, who were jointly with the Committee on Public Buildings and Grounds of the House of Representatives instructed by a resolution of the two Houses to inquire into the origin of the recent fire at the Smithsonian Institution, the loss to the Government and to private persons, the proper measures for preserving the building and its contents from further injury, and such other facts as may be of public interest, submitted a report, which was ordered to be printed. A motion by Mr. Foot to print one thousand additional copies of the report, five hundred of which to be for the use of the Smithsonian Institution, was referred to the Committee on Printing.

#### DISTRICT BANKS.

Mr. DIXON. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (S. R. No. 113) authorizing certain banks in the District of Columbia to accept the provisions of an act therein named, to report it back with an amendment, and ask that it may be acted on at the present time.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It provides that any of the banks of the District of Columbia that have availed themselves of the benefits of an act of Congress of June 17, 1844, "to extend the charters of the District banks," shall be authorized, by their trustees and directors, to accept in like manner with the banks of the several States the provisions of the forty-fourth section of the act approved June 3, 1864, entitled "An act to provide a national currency secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof."

The amendment was to add to the resolution these words:

And may, by their presidents, make and execute all necessary transfers for this purpose.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### COMMITTEE ON FINANCE.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Finance have leave to sit during the sittings of the Senate.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 465) to create the office of Solicitor and Naval Judge Advocate General; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. GRIMES also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 466) to amend an act entitled "An act to promote the efficiency of the Navy," approved January 16, 1857, and an act amendatory thereof approved March 3, 1859; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 467) for the improvement of the navigation of the Colorado river and the construction of wagon roads in Arizona and Utah Territories, which was read twice by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the bill (S. No. 424) to facilitate the collection of certain debts due the United States; and had passed with amendments, in which the concurrence of the Senate was requested, the bill (S. No. 389) relating to clerkships in the Post Office Department; and the bill (S. No. 390) relating to the postal laws.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof approved July 2, 1864; and

An act (H. R. No. 771) for the relief of the personal representatives of Jonas A. Hughston, deceased.

#### CHARLES A. HICHBORN.

The message also returned to the Senate, agreeably to its request, the bill (S. No. 303) for the relief of Charles A. Hichborn, and on motion of Mr. FOSTER the bill was recommitted to the Committee on Pensions.

#### SURRENDER OF CHARLESTON.

The VICE PRESIDENT laid before the Senate the following telegram, received to-day by the War Department:

CHARLESTON, SOUTH CAROLINA, February 18, 1865.  
Via New York February 21.

GENERAL: The city of Charleston and all its defenses came into our possession this morning, with about two hundred pieces of good artillery and a supply of fine ammunition. The enemy commenced evacuating all the works last night, and Mayor Macbeth surrendered the city to the troops of General Schemmelfinnig at nine o'clock this morning, at which time it was occupied by our forces.

Our advance on the Edisto and from Ball's bay hastened the retreat.

The cotton warehouses, arsenals, quartermaster's stores, railroad bridges, and two iron-clads were burnt by the enemy. Some vessels in the ship-yard were also burnt. Nearly all the inhabitants remaining behind belong to the poorer classes.

Very respectfully,

Q. A. GILLMORE,

Major General Commanding.

Major General HALLECK, Chief of Staff.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, an-

nounced that he had approved and signed on the 20th instant the following bills:

A bill (S. No. 212) for the relief of Henry A. Brigham;

A bill (S. No. 385) authorizing the President to appoint a Second Assistant Secretary of War;

A bill (S. No. 402) to repeal an act entitled "An act to remove the United States arsenal from the city of St. Louis, and to provide for the sale of the lands on which the same is located;" and

A bill (S. No. 410) to enlarge the port of entry and delivery for the district of Philadelphia.

#### INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. SPRAGUE submitted an amendment intended to be proposed by him to the bill (S. No. 398) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864; and it was ordered to be printed.

#### COURTS IN NEVADA.

Mr. FOSTER. I move that the Senate postpone all prior orders and proceed to the consideration of the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, which has been reported from the Committee on the Judiciary. This is a bill which stands as the unfinished business of the morning hour, and there are special reasons why it should be considered. As I have already stated in the hearing of many Senators, there are five causes now pending in the Supreme Court of the United States dependent upon action upon this bill, and they are postponed until the 27th of this month, when they will drop unless action is had; and one of those causes alone involves property to the amount of between two and three hundred thousand dollars. I trust, therefore, the Senate will take up the bill and act upon it.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, the pending question being on the amendment reported by the Committee on the Judiciary to strike out the fifth, sixth, seventh, eighth, and ninth sections of the original bill and to insert in lieu thereof the following:

SEC. 5. *And be it further enacted*, That the salary of the district judge for the district of Nevada shall be \$3,500 per annum, payable in four equal installments on the 1st days of January, April, July, and October of each year; and the marshal and district attorney of the United States for said district shall severally be entitled to charge and receive, for the services they may perform, the fees and compensation now allowed by law, to wit, by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 23, 1853, for similar services. The clerks of the said district and circuit courts shall be appointed in the manner now prescribed by law for the appointment of such officers. They shall be subject to the same rules and regulations, shall perform the same duties, and be entitled to charge and receive the same fees and compensation as officers of like character in the other districts and circuits of the United States for like services.

SEC. 6. *And be it further enacted*, That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of the Territory of Nevada, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Nevada, or to the supreme court of the State of Nevada, as the nature of said appeal or writ of error may require, and each of these courts shall be the successor of the supreme court of Nevada Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nevada, prior to its admission into the Union as a State, the parties to said judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they would have had under the laws of the United States if this act had been passed simultaneously with the act admitting said State into the Union.

Mr. STEWART. When I was cut off by the order of business which intervened the other day I was addressing myself to that portion of the amendment which relates to the compensation to be paid to the clerks, and marshals, &c., of these courts in Nevada. I was endeavoring to show that there was no good reason why a different compensation should not be allowed in Nevada



from that allowed throughout the United States; in fact that every reason of justice was in favor of allowing such compensation as would enable the officers to perform the duties imposed upon them by the bill. It is hardly worth while to organize courts there unless we can have officers sufficiently paid to discharge the duties. We have been particularly annoyed in Nevada Territory by the insufficient compensation paid to officers. They were sent among us with not sufficient compensation to pay their board bills, and they have been subjected to all manner of temptations. In examining the organization of different courts I find there has been no regard paid to uniformity so far as compensation is concerned. Different district judges in different localities receive different compensation, regulated by the expense of living, the amount of business, and other considerations.

The fees allowed in this proposed amendment are entirely inadequate; for instance, ten cents a mile to the marshal for traveling expenses to serve process. In the State of Nevada, if process is to be served in a distant portion of the State, for instance at Rees River, one hundred and eighty miles or more, the compensation would be eighteen dollars. The stage fare each way would be forty dollars, and it would take the marshal eight or ten days, at an expense, counting only the mere expense of his living, of twenty or twenty-five dollars more; and thus he would be the loser of nearly one hundred dollars in attempting to serve process at a distant point. That simply illustrates the whole project of the Committee on the Judiciary; it is entirely inadequate. The original House bill, as a matter of economy, is better than the substitute proposed by the committee, for the reason that it provides but one clerk for both the district and circuit courts, which is entirely ample, and it only requires one clerk's office, which will be a saving of at least \$100 a month to the Government, and that will more than compensate for all that the Government will have to pay for the additional fees.

But I will say no more upon that point. It seems to me it is too plain for argument that those things should be regulated in accordance with the condition of the country. When Senators reflect that in many parts of the State of Nevada the cost of freight, whereby we get our provisions, is from eighteen to twenty-five cents a pound, they will see that there should be a different compensation allowed to us. There has been a different compensation allowed in California and Oregon, showing that there has been no adherence to this supposed rule.

But the most objectionable and the most important feature of this whole measure is the sixth section proposed to be inserted, and this is a matter of very grave importance to the people that I represent:

Sec. 6. *And be it further enacted*, That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nevada, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Nevada, or to the supreme court of the State of Nevada, as the nature of said appeal or writ of error may require, and each of these courts shall be the successor of the supreme court of Nevada Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nevada, prior to its admission into the Union as a State, the parties to said judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they would have had under the laws of the United States if this act had been passed simultaneously with the act admitting said State into the Union.

My first objection to this provision is that it is unprecedented. I have not been able to find legislation of this character in any of the statutes of the United States. My second objection to it is that it is unconstitutional; and my third objection is that it is highly prejudicial to the interests of our new State. It is not asked for by the delegation from the Pacific, and not asked for by the people that we represent. The bill as it came from the House of Representatives is agreed to by the whole Pacific delegation. The only act that is at all analogous to this is the one for Minnesota which was passed simultaneously with the act admitting Minnesota into the Union, and which, if constitutional, must be regarded as constitutional upon the hypothesis that the Govern-

ment can impose conditions upon the admission of a new State. I am not aware, however, that this provision in the act admitting Minnesota has been upheld by the courts. One case was determined by the Supreme Court of the United States, from Minnesota, after its admission; but this question of jurisdiction was not raised in that case.

The proposition here is by an act of Congress to give the Supreme Court of the United States jurisdiction of cases that are of State cognizance. By what authority it is proposed; when it is once lost, to confer this jurisdiction upon the Supreme Court of the United States, after we have become a State, I am not able to see. The only jurisdiction that your courts can exercise in the State of Nevada now is Federal jurisdiction under the Federal Constitution. The cases now appealed to your Supreme Court from the territorial courts may or may not be of Federal jurisdiction. They probably are not; but at all events they did not originate in the Federal courts, do not come from the Federal courts, and, so far as my knowledge is concerned, none of them are of Federal jurisdiction. It was stated here that there were two of the cases to which reference has been made in which the Government of the United States was a party. I have examined the matter, and, as I supposed, it is a mistake. There are two tax cases in which the Territory of Nevada was a party. Those cases were decided in favor of the Territory; and if this bill should pass, as proposed to be amended, it will reopen those cases against the interests of the Territory. There are two or three other cases, one or two of money demands, and one or two mining cases, before the court.

Now, to show that this amendment, if passed, would be unconstitutional, I beg leave to refer the Senate to a few decisions bearing upon this subject. The Territory of Florida, previous to its admission as a State, was organized as the other Territories are, with territorial courts, under the general power of Congress to organize and control the Territories, and not under the judiciary act. Florida was unconditionally admitted as Nevada has been.

The constitution of Florida provided for the continuance of territorial courts until the State organization should go into operation. After the admission of that State the Legislature thereof passed an act transferring causes of State jurisdiction to the State courts. Subsequent to this, Congress passed an act transferring Federal causes to the United States district court of Florida. The case before me of *Benner vs. Porter* was one of Federal jurisdiction, commenced in the territorial court after the admission of the State, and transferred under the act of Congress to the district court of the United States for the district of Florida, and by appeal from that court to the Supreme Court of the United States. Although the identical question now under consideration was not before the court yet the general principles laid down in that cause shed some light upon the points in review.

The Supreme Court of the United States held that the State having been unconditionally admitted, although the territorial courts were continued in existence by the constitution of Florida, although they had a nominal existence still with their old jurisdiction, the Congress of the United States had no concern in the matter; and the court in considering that case—

Mr. JOHNSON. What book does the Senator cite?

Mr. STEWART. Ninth Howard.

Mr. JOHNSON. What page?

Mr. STEWART. The case commences on page 235. The court in considering the case uniformly place stress upon the idea that the State was unconditionally admitted, that it was a sovereign State, and that there was no power in Congress to regulate the jurisdiction of the courts in that State except the Federal jurisdiction that they derived from the Federal Constitution; that the territorial courts were not creatures of the Constitution under its judicial power. Judge Nelson, in delivering the opinion of the court, said:

"No conditions were annexed, except that she should not interfere with the disposal of the public lands, nor levy any tax on the same while they remained the property of the United States."

And further:

"After the unconditional admission of the Territory into

the Union as a State, on the 3d of March, 1845, with her constitution and complete organization of the government under it, by which the authority of the State was established throughout her limits, it is difficult to see upon what ground it can be maintained that any portion of the territorial government or jurisdiction remained still in force.

"The distinction between the Federal and State jurisdictions under the Constitution of the United States has no foundation in these territorial governments; and consequently no such distinction exists, either in respect to the jurisdiction of their courts or the subjects submitted to their cognizance. They are legislative governments, and their courts legislative courts, Congress, in the exercise of its powers in the organization and government of the Territories, combining the powers of both the Federal and State authorities. There is but one system of government or of laws operating within their limits, as neither is subject to the constitutional provisions in respect to State and Federal jurisdiction.

"They are not organized under the Constitution, nor subject to its complete distribution of the powers of Government, as the organic law; but are the creations, exclusively, of the legislative department, and subject to its supervision and control. Whether or not there are provisions in that instrument which extend to and act upon these territorial governments, it is not now material to examine. We are speaking here of those provisions that refer particularly to the distinction between Federal and State jurisdiction.

"We think it clear, therefore, that on the unconditional admission of Florida into the Union as a State, on the 3d of March, 1845, the territorial government was displaced, abrogated, every part of it; and that no power of jurisdiction existed within her limits, except that derived from the State authority, and that by force and operation of the Federal Constitution and laws of Congress, and especially no jurisdiction in Federal cases until Congress interfered and extended the judicial tribunals of the Union over it."

Then he goes on to discuss further, and says:

"The admission of the State into the Union brought the Territory under the full and complete operation of the Federal Constitution, and the judicial power of the Union could be exercised only in conformity to the provisions of that instrument. By article three, section one, 'the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.'"

Then he goes on to speak of the various acts at length, and says:

"From the examination we have given to the legislation upon the admission of several of the new States into the Union, we have found but few instances of any provision having been made in respect to the cases pending in the old government, and those are limited to the transfer of the Federal cases to the district court organized in the new State. In some of the constitutions of the States provision had been made for the pending business of appropriate State jurisdiction, but not in all of them. A very slight attention to the subject by Congress, at the time, would remove all the difficulties that have occurred in several of the States recently admitted.

"Upon the whole, we are satisfied that the territorial government of Florida became superseded on the unconditional admission of the Territory into the Union as a State, on the 3d of March, 1845, and consequently that the court below, whose authority depended upon that government, had no jurisdiction to render the decree in the case, and that the decree must be reversed."

This only bears incidentally upon the question; but I think it involves the same principle. There is a suggestion in it that legislation should occur at the same time that the State was admitted. Perhaps from that decision the idea was conceived of ingrafting the provision to which I have referred in the Minnesota constitution, for it was prior to the admission of Minnesota as a State. But in 10 Howard the court, in referring to the same case, and treating of this question of jurisdiction, plainly declare that the State courts cannot be made the successors of the territorial courts so as to enable the Supreme Court of the United States to send its mandates to them in cases of State jurisdiction; and the doctrine that simultaneous legislation, which might be regarded as a condition of admission into the Union, can confer jurisdiction in a case like the present upon the Supreme Court of the United States, is very questionable.

I will now read somewhat from the opinion in *McNulty vs. Batty et al.*, 10 Howard, 72. This was a case that came up from Wisconsin, the writ of error having been issued on the 20th of November, 1847, and the State admitted May 29, 1848. Here was a case situated precisely as the cases now pending in the Supreme Court of the United States from the Territory of Nevada; it was in the Supreme Court of the United States prior to the admission of the State of Wisconsin into the Union; but what did the Supreme Court say?

"The writ of error having been issued on the 20th of November, 1847, was, therefore, regularly issued during the existence of the territorial government, and the case was pending in this court at the time when that government ceased, and with it the jurisdiction and power of the territorial courts."

After citing the provisions of the act for the admission of Wisconsin, which I need not read, the court said:

"By the admission of the State of Wisconsin into the Union, on the 29th of May, 1848, the territorial government ceased to exist, and all the authority under it, including the laws organizing its courts of justice and providing for a review of error. This appellate power does not depend upon the judiciary act of 1789, but upon laws regulating the judicial proceedings of the Territory. And these necessarily ceased with the termination of the territorial government."

"In the case of the United States vs. Boisdore's heirs, (8 Howard, 121,) it is said that as this court can exercise no appellate power over cases unless conferred upon it by act of Congress, if the act conferring the jurisdiction has expired the jurisdiction ceases, although the appeal or writ of error be actually pending in the court at the time of the expiration of the act."

"The cases on this point are referred to in the brief in that case, and afford full authority for the principle, if any were needed."—*Hill*, 328; *9 Barn. & Cres.*, 750; *3 Burr*, 1456; *4 Moore & Payne*, 341.

In the present case, it will be seen that by the act admitting the State of Nevada the Supreme Court of the United States lost all jurisdiction over the cases that were then pending. They were, so to speak, as if they had not been appealed to that court; it lost all power and all jurisdiction over them. The question, then, resolves itself into this, whether, the Supreme Court of the United States now having no jurisdiction under any previous law, being entirely destitute of jurisdiction over these cases, they being really of State jurisdiction and not of Federal jurisdiction, Congress now has the power to confer jurisdiction of them upon the Supreme Court of the United States. It is jurisdiction that legitimately belongs to State authority; it has not been reserved to the Supreme Court of the United States by any act contemporaneous with the admission; it has not been reserved by anything that passed before. This, then, is simply a question whether Congress can confer upon the Supreme Court of the United States authority to hear and determine cases not of Federal but of State jurisdiction. Whether this power could have been saved by a reservation in the act admitting the State it is not material here to consider, but I shall hereafter show that this jurisdiction was not saved.

But the opinion in the case from which I have just read, in 10 Howard, goes further, and strongly intimates that the jurisdiction could not have been saved by any act of Congress, and I think it intimates plainly that an act like that passed in the case of Minnesota would have been unconstitutional. The court say, immediately after the passage I last cited:

"The writ of error, therefore, fell with the abrogation of the statute upon which it was founded."

"Besides, since the termination of the territorial government, there is no court in existence to which the mandate of this court could be sent to carry into effect our judgment."

It would be a thing never heard of for the Supreme Court of the United States to send a mandate to the supreme court of a State, commanding it to carry into effect the judgment of the Supreme Court of the United States, in a case of State and not of Federal jurisdiction.

"Our power, therefore, would be incomplete and ineffectual, were we to consent to a review of the case. (Parks vs. Hunt, 4 Howard, 569.) And, had the records been transferred to the district court, as in the Federal cases, we do not see but that the result must have been the same; for the case being one not of Federal jurisdiction, should the judgment be affirmed or reversed, and sent down to that court, it would possess no power to carry the mandate into execution, having no power over the case under the Constitution or laws of Congress conferring jurisdiction upon the Federal courts."—*Constitution of the United States*, art. 3, sec. 2; *Judiciary Act of 1789*, sec. 11.

After stating some other matters which I will not take up the time of the Senate by reading, the judge plainly intimates, as I have suggested, that if it had been a part of the act admitting the State into the Union that would not have saved it, for he says:

"In placing the want of jurisdiction, however, upon this ground, we must not be understood as intimating that if the provisions of the Florida act of the 22d of February, 1847, applied to the case, the jurisdiction could be upheld."

An act, passed subsequent to the admission of Florida, provided that cases pending in the territorial courts should be transferred to the United States district court, and heard and determined there, and go from there up to the Supreme Court of the United States, but did not provide that a territorial case pending in the Supreme Court of the United States might be determined there. It was a general act providing for sending territorial

causes, pending in the territorial courts, to the district court of the newly-organized State, and then appealing them to the Supreme Court of the United States, but did not provide for a case like this, where an appeal is now pending in the Supreme Court of the United States from the Territory of Nevada.

The learned judge says that if that act covered the case, (and his previous discussion had shown that it did not provide for a case already pending in the Supreme Court of the United States,) if it had been passed as a general law applying to all future admitted States, he does not see how it could be upheld.

"In placing the want of jurisdiction, however, upon this ground, we must not be understood as admitting that if the provisions of the Florida act of the 22d of February, 1847, applied to the case, the jurisdiction could be upheld. For, if we are right in the conclusion, that even assuming the record in the case had been transferred from the territorial to the district court of the State, our jurisdiction would still be incomplete and ineffectual, inasmuch as that court possessed no power to carry the mandate into execution, the case not being one of Federal jurisdiction, the result would be the same as that at which we have arrived."

Then we say that this opinion of Judge Nelson, being the opinion of the Supreme Court in that case, clearly intimates that it is impossible upon the admission of a State to provide for retaining jurisdiction of causes, which are properly of State cognizance, in any of the Federal courts, not excepting the Supreme Court of the United States; and certainly after that jurisdiction has been lost, after the State of Nevada has been admitted on an equal footing with all the other States, when there has been no attempt on the part of Congress to reserve to the courts of the United States any part of the jurisdiction, this power surely does not exist. It cannot be claimed that this was a condition of our admission as a State. It cannot be claimed that this case is different than it would be if Congress were to attempt to pass an act that some case of State jurisdiction before a court in the great State of New York should, notwithstanding the Constitution of the United States, notwithstanding the law as it now stands, be heard and determined by the Supreme Court of the United States, and that a State court in New York should be the successor of some other court, and should be subject to the mandate of the Supreme Court of the United States in a matter of State jurisdiction. I cannot see that this case stands in any different position from that.

Again, we claim that the legislation here proposed interferes with vested rights at this time. In these cases judgments have been rendered in the territorial courts. These judgments are now absolute, and it is no matter how they became absolute so far as the question of power is concerned. We have the right to regard them as absolute. Under these judgments rights have been secured; under these judgments large improvements have been made upon mining claims that have been determined; under these judgments process has been issued and parties have been put in possession. I regret that I have not a copy of our State constitution before me; I did not bring a copy with me, and I have been unable to procure one here; but I will state for the information of the Senate that our State constitution provides for the transfer of all pending cases and of all judgments from the territorial courts to the State courts, and they have been transferred there and executed there.

It seems to me that the question now presented should be governed by the well-known rule that the Legislature will not interfere with vested rights by way of granting an appeal where one does not exist. That question has been considered and decided, and I need not refer to the authorities upon it. I admit that it is a very nice and delicate point to draw the exact line between vested rights and those that may be regulated by legislation. The decisions are extremely conflicting; but there is one general principle that governs them all: that no legislative act should be passed by any legislative body looking to the past until it clearly appears that there is urgent demand for it. Some such acts have been upheld by the courts, it would seem more because there was an urgent demand for them in the name of justice than because they were strictly constitutional, and that appears to be the reason why there is so much difficulty in drawing the line between what are and what are not vested rights.

It is, however, laid down as a general principle that vested rights should not be disturbed. It is a question which has been discussed in almost all the States of the Union, and the impropriety of interfering with vested rights under their constitutions and on general principles has been maintained. In Mr. E. F. Smith's Commentaries on Statute and Constitutional Law and Construction, section 360, he says:

"In Maine, Vermont, and New Hampshire it has been repeatedly held that the Legislature could not constitutionally pass an act granting an appeal or a review or a new trial in any case between private persons. (Lewis vs. Webb, 3 Greenl. R. 326; Dunham vs. Lewiston, 4 Greenl. R. 140; Bates vs. Kimball, 2 Chip. R. 77; Stamford vs. Barry, 1 Aik. R. 314.) In the State of Maine the Legislature, in 1824, passed an act granting an appeal from a decree theretofore made by the judge of probate, and directing the judge of probate to allow, and the supreme court to sustain, proceed, and decree in the same in the like manner as if the appeal had been claimed and granted pursuant to an existing law on the day of making the decree. The constitutionality of this act came in question in the case of Lewis et al. vs. Webb, above cited. One point made was that it was a judicial act, and therefore transcended the powers of the Legislature, to which this authority was expressly interdicted by article three, sections one and two, of the constitution of Maine. In the decision of this question, Mellen, C. J., said: 'What is the nature of the power exercised by the Legislature in passing said resolve; is it of a legislative or judicial character?' In answering this inquiry, he held: the terms used in the first section, as to three departments of government, were general, and the phraseology of the second section, prohibiting the interference of the departments, was also general. Hence, as in the instance then before the court, a question arose: what exercise of power by those belonging to one department is to be considered as an invasion of the province of either of the other departments? In reply to this, it might be said at once, that if the Legislature undertake to exercise judicial power, they invade the province of the judiciary, because the constitution and the laws had placed all the judicial power in other hands."

But the question returns, did the Legislature exercise a judicial power in granting to the appellants the right of appeal? In form they did not; but if it was such in substance and effect it would clearly be a violation of the spirit, if not of the very language of the Constitution. Whatever might be considered the nature and character of the decree, since the appeal was claimed, it was very clear that at the time the Legislature passed the resolve it was in full force and virtue, and had been for almost five years. The rights of heirs or creditors in the subject-matter of that decree vested when it was passed, and so remained undisturbed until the resolve professed to grant the appellants leave to disturb them. The ordinary and legal consequence of an appeal was to vacate at once the judgment or decree appealed from; had that effect been produced in the present instance? Or was the decree of the judge of probate in full force then, and the administrator liable to have a second decree passed against him by the court on the same account? Such a decree passed by the court would not operate to relieve the administrator from the effect of the existing decree, unless the resolve and the appeal claimed in virtue of it had completely vacated that decree; and if it was not vacated thereby, why was it not a bar to all proceedings in court when relied upon as such? In fact, this appeal could not be sustained on any other principles than that of its having produced the usual effect of an ordinary appeal; that was, having vacated the decree below. Could the Legislature, by a mere resolve, set aside a judgment or a decree of a judicial court, and render it null and void? This was an exercise of power common in courts of law, a power not questioned, but it was one purely judicial in its nature and its consequences. It was one of the striking and peculiar features of judicial power, that it was displayed in the decision of controversies between contending parties, the settlement of their rights, and the redress of their wrongs. But it was urged that the resolve was not liable to objection on constitutional ground; that the resolve went no further than to authorize a re-examination of the cause, to empower one judicial court to review the proceedings of another judicial court, by way of appeal, and thus do complete and final justice to all concerned. It was true the resolve did not in terms purport to transfer property directly from one man to another by mere legislative authority; but it professed to grant to one party in a cause which had been according to existing laws finally decided especial authority to compel the other party, contrary to the general law of the land, to submit his cause to another court for trial, the consequence of which might be the total loss of all those rights and all that property which the judgment complained of had entitled him to hold and enjoy; that is to say, it professed to accomplish, in an indirect and circuitous manner, that which existing laws forbade, and which, by a direct and legal course, could not be obtained; and to perform an act respecting a cause between party and party; an act, therefore, of a judicial character in the simple form of legislation. Such a law could not be reasonable within the meaning of that term, as used in the Constitution in the grant of legislative power."

This writer goes on to discuss the question, and says it makes no difference how it is gotten at, whether by circumlocution or by a direct act.

Having said thus much upon the constitutionality of the proposed provision, and thus much upon its being unprecedented, I come now to present some important questions of policy, and I hope that the Senate will listen and weigh well the considerations which I am to present on this point. It seems to me that they ought to be conclusive.

# THE CONGRESSIONAL GLOBE.

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WEDNESDAY, FEBRUARY 22, 1865.

NEW SERIES....No. 69.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair now to call up the unfinished business of yesterday.

Mr. FOSTER. I hope that will be laid aside informally until we dispose of this bill.

Mr. DOOLITTLE. I have no objection to allowing the unfinished business to lie over informally in order that the Senator from Nevada may finish his speech; but I do not desire that the unfinished business of last evening shall lose its place.

The VICE PRESIDENT. The unfinished business will be regarded as passed over informally, subject to the right of the Senator from Wisconsin to call it up at any moment.

Mr. STEWART. I now propose to present some reasons of public policy, I think of a high character, so far as we are concerned, why this bill should not pass with the amendments proposed by the committee. In regard to the cases now pending before the Supreme Court, I am somewhat embarrassingly situated. I was engaged in the court below on different sides in those cases; in some I was for the plaintiff, in others for the defendant. My connection, however, ceased in the court below, and I did not expect to have it continue here. I am now only to regard the question of continuing them before the court as to its effect upon the community, upon the new State of Nevada, and upon the Pacific coast generally.

In the case of *Lowndale vs. Parrish*, reported in 21 Howard, which went up from the Territory of Oregon before the passage of any law making a disposition of the public lands in that Territory, the Supreme Court of the United States held that neither party having any interest in the land, the appeal should be dismissed; in other words, that until Congress makes some disposition of the public lands, all parties occupying those lands are simply naked trespassers, and must be so treated. It is like a case which I may suppose. Suppose the Senator from Oregon and myself should be wanton enough to go into the parlor of the Senator from Connecticut, break up his furniture, and get into a litigation before a court of which he was the judge, of course he would be so situated that he must protect the property in this parlor; and he would say to the Senator from Oregon who was claiming damages from me, "Why are you claiming damages for something done to my property; it belongs to me; you are both trespassers, and I will treat you so." That is the rule that has been established by the Supreme Court of the United States. The court has said further that upon the public lands of the United States, where neither party could show title derived from the Government or from some source which the Government had recognized, no question of prior possession could be heard; and consequently if you bring an action of ejectment, and have no principle to rely upon but prior possession, it must go out of court. Now, what will be the situation of all our litigation? We come before the court with a mining case; and one of two decisions must be made: the Supreme Court will either reverse the case for want of jurisdiction in the court below and send it down and order it to be there dismissed; or will simply dismiss it here because the Supreme Court has no jurisdiction. The great inconvenience of placing the Supreme Court in a position where it will be bound to make these decisions can hardly be appreciated.

In Nevada we have had in the last five years much litigation, and important litigation, in settling the property of that country; much of the property of the country has gone through the courts. We have had probably as much litigation as any State of New England, if not all of New England, in the last five years. We have judgments of our courts under which millions of property are now held. Improvements have been made on a grand and magnificent scale, the rights of the parties being based upon the decisions of our courts. Those decisions recognize the mining

rules of the country as the common law. They allow us to recover upon prior possession, under the rules and regulations established and enforced by the miners. We have been allowed to go on in this manner for the last sixteen years upon the Pacific coast. No legislation has been had on the part of Congress to give us any title which the Supreme Court of the United States will recognize. We have settled our titles among ourselves by the tacit consent of the Government of the United States. Large and prosperous communities have grown up under that system. The common law as administered among us is well understood. There is nothing, however, upon which the Supreme Court can act. If a case comes before it where a party has been ruthlessly ejected from his mine by a "jumper," as we term him, an intruder, and the rightful possessor sues to recover possession, and the case goes into the Supreme Court of the United States, that court will say to the plaintiff, "It is the property of the Government of the United States, and you have nothing upon which to recover." In other words, for Congress to allow these cases to be adjudicated by the Supreme Court of the United States is to declare that he who came last, he who came and by force ejected the rightful possessor, who had spent his whole life, perhaps, in discovering the mine, he who was strong enough by force to obtain and hold possession, shall remain in possession; and you seek to bring all this litigation before the Supreme Court of the United States for them to declare this rule.

Now I say that in all justice and fairness before, for any private purpose, to satisfy any particular litigant, you require the Supreme Court of the United States to pass upon these titles, you should provide some law whereby the settlers of that country can be protected in their titles. Will you pass a law that in the courts of the United States the local rules and regulations of the miners established and in force shall govern the decision of actions as they do with us, so that you will give the property to the oldest possessor, so that you will give the mine to the discoverer? Will you establish that rule? Are you ready to say that in this litigation which has been had, if these people bring it up to the Supreme Court of the United States, they shall have the laws administered which they have established and by which that community has grown up? The Supreme Court of the United States has no authority to administer them until you pass an act to that effect. It has declared that it will not recognize these conventionalities.

Look at the effect of it. I have no doubt that Congress will pass some act whereby our titles will be secured to us. I have no doubt that when the subject is investigated it will be seen to be for the interest of the General Government to encourage mining and to pass such laws as will enable us to develop and open that vast country, a country that is almost unknown, and would now be entirely unknown but for the enterprise of these same miners whose rights are here to be ignored. But for them it would still be marked upon our maps as the unexplored region of America. Before you undertake to interfere with their prosperity in this way, you should pass some rules by which the Supreme Court can be governed.

But it may be said that if the Supreme Court shall dismiss the cases here because it has no jurisdiction, and shall not order the court below to dismiss them, it will merely leave the parties as they are. That, however, would not do the appellants any good; it would effect no good to anybody; but it would do this: it would be a public advertisement of one of the departments of the Government that the miners on the Pacific coast have no title, and it would tend to cast a shade over the enterprise of that whole country. You cannot imagine the vast harm a decision of that kind would do in stopping the progress of development in that country. The people there have invested their all and spent their lives, believing that Congress will, when it has the matter under consideration, do justice to their labors and do justice to their rights in discovering and

opening and developing the mines; but if Congress will pass the subject over to the Supreme Court without any consideration on its part, without providing for protecting them, and will call upon the Supreme Court to apply an arbitrary rule, we shall have in effect all departments of the Government concurring in treating us as outlaws and trespassers. It will be done, of course unintentionally, by an indirect action placing the matter before the Supreme Court to declare a principle of law before Congress has acted to prescribe the law by which they shall be governed.

Now, I say that before a retrospective act, an act that is unprecedented, an act that interferes with vested rights as this undoubtedly will do, is passed by Congress to relieve certain parties, it should be clearly demonstrated that there is a demand for the act; it should be demanded by the citizens of that country. I may here state that this very question of having the Supreme Court of the United States pass upon our mining titles, before the passage of any law of Congress for the settlement of those titles, came before our people when the proposition to become a State and incur the burdens of a State was under discussion; and it was regarded by those who were most deeply interested in that country as highly important that this question of miners' titles should first be acted upon by Congress before it should go to the Supreme Court. We wanted to have State courts, so that we could have our local rules and regulations recognized by them as they have been for the last seventeen years. That was one strong argument for our becoming a State. But now, if you provide for dragging a few cases before the Supreme Court of the United States, and getting these injurious principles declared, and getting it advertised that there is no title in our country, that there are no rights there which are to be regarded, we shall have a panic in mining operations; we shall be placed back for a year or two; and, as we cannot expect to get any action of Congress this year, we shall have to go through a whole year with this cloud and this embarrassment, when every year is important to the development of the country if the present age is to realize anything from the vast mineral resources of the public lands.

Mr. JOHNSON. Mr. President, I shall not detain the Senate more than a few minutes in attempting to reply to the honorable member from Nevada. The principal question which the discussion involves is, to my mind, entirely free from doubt; and I say it after a careful examination of the authorities upon which the honorable member relies for the opposite opinion.

As to that portion of the amended bill to which he objects, which lessens the compensation that the clerk of the court shall receive under the bill as it came from the House of Representatives, I have nothing to say. If the compensation proposed by the committee is not an adequate compensation, the Senate can either alter it in that particular or it can be altered in some subsequent law.

I do not know that the Senate are now exactly advised of what the case is which demands, as I think, the interposition of Congress. In the act authorizing the Territory of Nevada, which was passed in 1861, a provision was made which is to be found in all territorial organizations, and one which Congress is obliged to make if it wishes to preserve quiet in the Territory; and to secure justice as between the individual suitors and justice as between the individual inhabitants of the United States, organizing courts, and authorizing those courts not to assume final jurisdiction in certain cases, but providing that their judgments, whatever they may be, in cases in which the amount is such as if they had occurred in the circuit courts of the United States, could have been carried by appeal or writ of error to the Supreme Court of the United States, shall be so brought up for review. The language of the ninth section of the act says:

"Writs of error and appeals from the final decisions of said supreme court [of the Territory] shall be allowed, and



may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party or other competent witness, shall exceed \$1,000.<sup>27</sup>

Many of the cases involve amounts much beyond a thousand dollars, involve, as I understand, (for I have no knowledge of what the cases are, and have of course no interest in them as counsel, or I would not be found speaking of the cases here,) an amount of millions, and are now in the Supreme Court upon appeals or writs of error prosecuted under the authority of the section to which I have just adverted. While they are pending in the Supreme Court Congress has admitted Nevada as a State, but by the act admitting her as a State into the Union, clothed with all the powers that the States of the Union have under the Constitution of the United States, omitted to provide that cases in the Supreme Court of the United States upon writ of error or appeal from the territorial court should, notwithstanding the admission of the State, be heard. The counsel for the appellants—and I believe my friend who has just taken his seat appeared in that capacity in these cases—has moved the court—

Mr. STEWART. Allow me. I would state that I was counsel in all these cases, I believe, except one, in the court below. I was for the appellee here in one case, and in three cases I believe for the appellants. As I stated, I was situated in that way; but I am not counsel in this court, and have no further connection with any of that business.

Mr. JOHNSON. I knew the honorable member had been counsel below and I supposed he had followed the cases up here. The parties would hardly employ other counsel when they could have been so well represented by the honorable member himself; but by those who are associated as counsel in the cases a motion has been made to dismiss the appeals or writs of error, and upon this ground, that there could be no territorial courts after the Territory became a State in the Union; and they ceasing, in the absence of legislation providing for the case, the mandate which the Supreme Court would have sent to the territorial court, and to which as the law stood at the time the State was admitted the mandates could only go, could not be sent to any court, and that rendered it illegal in the Supreme Court to assume jurisdiction.

The question for us is whether, when we have authorized the territorial courts to exercise jurisdiction in the very cases which are now pending upon appeal to the Supreme Court of the United States, and when we have authorized these very cases to be brought by appeal to the Supreme Court of the United States, we will permit justice to be impeded or obstructed by our own omission to provide, at the period we received Nevada as a State into the Union, that these cases should, notwithstanding, be heard by the Supreme Court. But the honorable member tells us first, that an act of that description would be unconstitutional, and he refers to decisions in 9 and 10 Howard which he supposes establish that proposition. If the honorable member will pardon me for saying so, his view of them is an utter misapprehension of these decisions. The case in 9 Howard was not a case of appeal pending in the Supreme Court of the United States, and brought there properly by a law the validity of which nobody disputed, and where Congress provided that, notwithstanding the termination of the territorial court, the Supreme Court might continue to exercise jurisdiction which they had once obtained by a proper appeal, and in the exercise of that jurisdiction sent their mandates to such court as the legislation of Congress might prescribe, but an entirely different case. The State of Florida, after Florida ceased to be a Territory, undertook to give jurisdiction to the territorial courts of the United States, and the Supreme Court decided that there were no territorial courts of the United States; that necessarily the moment the State was admitted into the Union without reserving for any purpose the continuance of the territorial courts, as was done in that case, those courts went out of existence, and there was no authority in the State of Florida by any legislation of our own to create territorial courts; and that is all. There is not a syllable in the opinion of Mr. Justice Nelson, in that case, or in the subsequent one, to be found

in 10 Howard, which intimates that Congress would not have the right in cases now pending in the Supreme Court, under the circumstances in which they are pending, to authorize the Supreme Court to go on and decide them, and it would be monstrous if it were otherwise.

The honorable member seems to assume that the decisions of the territorial courts were all right. How do we know that? How does the honorable member know it? What is the absolute confidence that he has in that opinion? The appeal taken shows that the parties prosecuting the appeal and acting under the advice of their own counsel thought that those decisions were erroneous, and the honorable member's endeavor to defeat the provision that the cases shall be heard rather implies a doubt that if they shall be heard the decisions of the court below will be reversed. What does the amendment propose? It does not place before the Supreme Court of the United States any opinion upon the part of the Senate that the judgments or decrees rendered in the court below are erroneous. It simply provides that they shall go on to hear and decide these cases, which are about now to drop because of our omission, to make provision for that fact in the law admitting Nevada into the Union. Is not that right? Was it right to authorize an appeal to the Supreme Court? Congress thought so, has ever thought so; and if it was right to authorize an appeal, is it not right to make that appeal effective? And what harm will the honorable member, or those whom he represents, his constituents, suffer if this provision should be adopted by the Senate? They will only have this injury inflicted upon them, if that can be considered an injury, that is to say, of losing the benefit of the judgments below if the Supreme Court shall be of opinion that the judgments below were erroneous. Ought the Senate of the United States, who are placed here for the very purpose of seeing that justice is administered, stop for a moment in deliberating whether they will not give to the citizens of Nevada, against whom these decrees or judgments have been pronounced, the opportunity of having their cases heard in the Supreme Court of the United States, which is given to the citizens of all the other States in the Union? To my mind—and I speak it with all possible respect to the honorable member from Nevada—it is a monstrous proposition.

As to the power to do it, I never before heard it doubted. Maryland has done it over and over again in cases precisely analogous. In Maryland and in some other of the States there are limited periods within which appeals must be prosecuted, and after the expiration of those periods cases have arisen where the Legislature of Maryland has thought it proper to make an exception, and to authorize the appellate court of Maryland to hear and decide them, and the authority to do so by the highest court in Maryland was held to be so clearly settled that they would not hear an argument upon the subject. That is all I propose to say upon the constitutional question.

It is said by the honorable member that rights are vested. Vested how? Vested, according to the assumption, because of the rendition by the court below of erroneous judgment; rights acquired because the court below, by mistake, has taken away rights that existed before; for, I repeat, if the rights maintained by the judgment of the court below are found by the Supreme Court to be rights, there is no inconvenience, there can be no divesting, because the judgment of the court below will stand affirmed; but if, on the contrary, the Supreme Court shall be of opinion that the judgments rendered in the court below were erroneous, then the Supreme Court will have decided only that this state of facts exists, that by the judgments of the court below property had been taken erroneously from one man to whom it belonged and given to another to whom it did not belong; and is it possible that the Senate of the United States can hesitate a moment in saying that if they have the power they will guard against such a palpable injustice?

Now, sir, a word as to the policy. The honorable member tells us that there are certain matters of policy that ought to regulate the deliberations of the Senate on this question. What are they? He says they have certain mining laws and usages; that these are known there and known nowhere else. That is a great mistake. If they are mining laws and usages that the parties had

any authority to establish, the Supreme Court know them just as well as the territorial courts know them; and the bar of the Supreme Court (for that bar has members from the courts of the Pacific) understand them just as well as the members of the profession who advocated the cases in the court below and succeeded in obtaining these hypothetically erroneous judgments. Policy! If there be any policy, Mr. President, which the Congress of the United States should hold more especially dear than any other, it is to see that justice under the laws is administered, not under usages that are not laws, but under what the Constitution of the United States proclaims are the laws of the United States and the laws of the States in cases where the laws of the States are properly before the Supreme Court of the United States for adjudication. The very object of the organization of the tribunal is to produce uniformity of decision, so as to make the man in Maryland stand precisely upon the same footing as the man in Nevada, entitled to the same protection which the authority and the wisdom of that court it was supposed would always secure.

The honorable member tells us that he does not know that there have been any precedents of this kind. Why? Because the case for which we are providing was provided for in advance, or because there were no cases brought by appeal or writ of error to the Supreme Court of the United States pending at the time when the State, formerly a Territory, was admitted into the Union.

I submit, then, without further detaining the Senate that, whether upon the ground of constitutional law or of high and enlightened policy, it is incumbent on the Senate to provide against the great injustice of having these cases disposed of without passing through the review of the Supreme Court of the United States.

Mr. STEWART. Mr. President, I will say but a few words in reply to the Senator from Maryland. He assumes some very extraordinary positions. One is the presumption that the territorial courts have done wrong, and the presumption that the Congress of the United States in the act of admitting the State of Nevada into the Union also did wrong. Why, sir, who is asking for affirmative relief here? Who is asking for the Supreme Court of the United States to take into consideration and adjudicate these causes? The presumption is that the law as it now stands is right, until the contrary be shown; and I say that before a relief bill is passed—this is a relief bill, and its operation is simply to give the mine to the squatter, to the man who came last—before you pass a bill which shall produce such effects, it should be shown affirmatively that there is demand for it. It appears that Congress at the last session did not see any necessity for such legislation.

The Senator from Maryland says that the reason why there are no precedents for this measure is because there have heretofore been no cases of this kind. The case in the book right before him from Wisconsin was a case of the same kind, pending in the same manner in the Supreme Court here at the time the State was organized, and the Supreme Court held that it had no jurisdiction. Was not that a case like this? Did the parties there attempt to come before Congress and ask for relief? Never but once was such a thing provided for at the time of the admission of a State, that I am able to find, and that was in the case of Minnesota. There have been numerous other instances of the admissions of States where the provision has not been made and the Supreme Court did not presume to act, and one of those cases was right before the Senator at the time he made his statement that there were no cases of this kind in other instances to be acted upon.

The Senator says what they want is the administration of the law; that they want the Supreme Court to declare the law as it is; and that there are no questions of policy when right is involved. If you want the law as it is, take it as it is in these cases, and do not ask to change it. When you ask to change the law, you ask to change it for some question of policy or of right. The Senator says he asks for the law as it is. I say, let the Supreme Court administer the law as it is. I say there are injurious consequences to arise from having it administered in a different form from what it is. I say that passing this bill with the

amendment of the committee will bring before the Supreme Court rules and regulations that they will not recognize. I say that bringing these cases before the Supreme Court in this manner is a declaration on the part of the Senate that they wish to have these rules and regulations ignored, because the Supreme Court must ignore them. These mines are situated on the public lands, and you say to the Supreme Court, by passing a special relief bill to bring these cases before it, "we will not provide for those who have settled upon the public lands any means by which they can get title; we will not recognize the right of prior possession or of discovery in the mines; we will ignore that, and call upon you to administer the rule which you have established in real estate cases where the parties have derived title from the Government; we will call upon you to give the land to the last possessor." These are the questions that come up.

The change proposed is wrong. It is asking for a wrong. It is asking to disturb a settled condition of things. There is nothing that appears here to show that any wrong has now been done, but I say there is a presumption in favor of the local courts. I differ from the Senator in this respect. There is a presumption in favor of all judicial tribunals that they have acted right; there is a presumption that these cases are already decided correctly; and there is a certainty that, without any rules being prescribed by Congress to govern them, the Supreme Court are not going to take the advance and do something that you will not do—declare that the rules and regulations of the miners shall prevail. Pass such a law—say that these cases, when they go before the Supreme Court, shall be governed by the local rules and regulations, and we have no objection. Say that hereafter the Federal courts, in adjudicating the rights of miners, shall be governed by the local rules; do not upturn the condition of things, and you may pass your bill without any objection from the Pacific coast. Provide that the discoverers shall be protected; provide that prior possession shall be a sufficient title, and we shall have no objection. But if you pass the provision as it is, in view of the decisions of the Supreme Court, the effect will be that they will treat these settlers and these miners as alien enemies, and drive them out, and give the property to him who has the strong hand. It is great injustice; and I say the change proposed, without providing at the same time rules by which the Supreme Court can be governed, will cause great trouble and confusion and embarrassment in carrying on the mining operations of that country. It will open up what it has cost five years to settle; it will open what it has cost millions to settle. You will destroy the vested rights in that country if you drag these cases before the Supreme Court, and let them again declare that the miner shall not recover in ejectment upon prior possession under the local rules, which they will declare now, unless in your law you establish equitable rules by which they shall be governed in adjusting cases as to mining titles.

Why can we not say what the Supreme Court will say in regard to the litigation in reference to mines on the public lands, neither party owning the title? Why need we be so anxious that the cases shall be heard? Why need the Senate be so anxious to place these cases now, where there is a rule that the last comer, who has got possession by force, shall hold it? I cannot see. The law as it was passed last winter was correct; that law met the desires and met the approval of the people of the State. There has been no complaint of it.

But it is asked here why the people there cannot have their rights. Sir, let me ask, who represent the people of Nevada? Who know best about the effect of a decision of this kind? Who is asking to have the settled condition of things upturned? Is it the people of Nevada? Are they asking you to destroy all the rules of decision by which they are governed? Put the question to the people of Nevada, and how would they decide it? They looked upon the privilege of governing their own local affairs in their own way as a great boon, and they supposed their settled rules on this question would be maintained until Congress established others. You have by your tacit action, by your tacit encouragement, allowed them to open and to enter up that country, to build up new States, to

build up the Pacific coast, from which there has been a stream of gold and silver that has enriched the East. You have given them no rules of legislation whereby to be governed. They have made rules for themselves; and now will you have it said that the prior occupants shall not hold these mining claims according to the local law? If you send it to the Supreme Court to-day, that will be the decision. That is the effect of this provision. That is what we complain of. You say you do not want the local rules disregarded. Then pass a law that they shall not be disregarded, and there will be no objection to your bill. But, sir, I know how it will desolate the country that we represent to reopen the whole of these disputes, to declare that the local rules are not in force, to have them relitigated in the State courts, to declare that the last comer shall hold, to declare that we will send them to the courts to determine this matter without recognizing their local rules.

This question involves a great many considerations; and I do hope that the Senate will not pass this amendment at this time. Let it come up separately. Let it not be attached as a rider to a judicial bill. Let us have it referred to a committee. Let us take proof as to the necessity of it. Let it be examined. Let somebody ask for it who knows its effects. Do not, I say, pass the bill in this shape, and injure the country, when the people of Nevada do not ask for it. I have clients deeply interested in having this bill passed; more clients interested in having it passed than I have on the other side; but they admit to me that it will create ruin and disturbance, and disorganize our whole country, and they say to me, "You are acting right." Although two or three of them are urging the passage of this bill, they admit it is against the public good. Sir, I am here to represent, not a particular class, but the people of Nevada; and I know that if this bill passes, and we get a decision of the Supreme Court to the effect that we have no title there, that the local rules and regulations shall not govern, it will injure the State of Nevada materially.

Mr. FOSTER. Mr. President, I have no clients interested in this bill, and I have not the honor to represent the State of Nevada. The wants of that people are unquestionably much better known to the honorable Senators who represent that State so ably on this floor than they can be to me. This bill, however, came from the House of Representatives, and was referred to the Committee on the Judiciary, of which I chance to be a member. The bill, in the committee, was committed to my charge; it was reported to the Senate; and that explains my connection with it.

The honorable Senator suggests that we pass the bill organizing the courts in Nevada, but leave out anything in relation to causes now pending, or to those which have already been decided in the territorial courts, until a separate bill has been brought in upon that subject, referred to a committee, and examined by the committee. I can assure the honorable Senator that these questions were examined by the Committee on the Judiciary, and very fully examined. The honorable Senator from New Hampshire [Mr. HALE] will bear me witness, especially in regard to this feature of the bill authorizing appeals and writs of error to be taken from the territorial courts, which, since the State has been admitted into the Union, have judicially expired. The committee thought that it was not just to parties who had been litigating causes in those territorial courts that they should not have the same rights of hearing on appeal and writ of error as they would have had if these courts had been created when the Territory of Nevada was admitted into the Union as a State. The fact that Congress did not at that time create those courts was an omission, an inadvantage on the part of Congress; it was a wrong to the people of that Territory. They were entitled under the Constitution and laws of the United States to the protection of that Constitution and those laws just as the people of every other Territory when admitted into the Union as a State are entitled. To deny it to them seemed to the Committee on the Judiciary to be a wrong; and therefore it was deemed not only just, but necessary, that we should provide not only for the causes that were now pending in the Supreme Court, but also for those causes which had been decided in the territorial courts from which ap-

peals and writs of error had not yet been taken. I do not propose to add to the argument of the honorable Senator from Maryland [Mr. JOHNSON] in regard to the power of Congress over the subject, or the expediency or the justice of exercising it. Nothing said by the honorable Senator from Nevada, either in his opening remarks or in his reply to the Senator from Maryland, has made it necessary, in my opinion, for me to add, if I could add, anything to what the Senator from Maryland had previously said.

If, however, we were to examine the question of constitutionality, how should we stand if we followed the advice of the honorable Senator from Nevada? Why, sir, we should reject this bill; we should, therefore, cut off the parties now in the Supreme Court from all opportunity to be heard; and we should effectually prevent those whose causes have been decided in the territorial courts from ever having their causes reexamined, however manifest may be the errors committed or the injustice done in the court below.

Mr. STEWART. If the Senator from Connecticut will excuse me, I omitted to refer to the report read by me. I think the Senator from Maryland was very much mistaken in his remark that there was nothing in these reports bearing upon the point. On the contrary, they are directly in point. They decide this proposition clearly; that it is not in the power of Congress to give to the Supreme Court of the United States any of the State jurisdiction. They decide further that it is not in the power of Congress to make a State court the successor of the Supreme Court of the United States for a case not of Federal jurisdiction; and Mr. Justice Nelson gives an intimation that a proposition like this would be unconstitutional. I would like to reply to that position. At the time Wisconsin was admitted into the Union, the case of McNulty against Batty was pending in the Supreme Court. It was claimed that an act that was passed after the admission of Florida retained the jurisdiction and provided for those cases already commenced to come to the Supreme Court of the United States. It was claimed that that law was in point; that it was equivalent to saying that the United States courts should finally dispose of all causes that were then pending. They contended that the proper construction of the law was the same as the law that is sought to be passed here. The Supreme Court first held that the law did not cover the case, because the case of McNulty against Batty was pending in the Supreme Court at the time of the admission of the State, and consequently the law did not apply; but if it did apply, if it had said in so many words that the Supreme Court should go on and determine the causes pending in that court at the admission of the State, Mr. Justice Nelson says they do not wish to be understood that such an act would be constitutional. He says:

"In placing the want of jurisdiction, however, upon this ground, we must not be understood as admitting that if the provisions of the Florida act of the 22d of February, 1847, applied to the case, the jurisdiction could be upheld."

That is to say, if it was an act analogous to the one now under consideration—

"for, if we are right in the conclusion that, even assuming the record had in the case been transferred from the territorial to the district court of the State, our jurisdiction would still be incomplete and ineffectual, inasmuch as that court possessed no power to carry the mandate into execution, the case not being one of Federal jurisdiction, the result would be the same as that at which we have arrived."

It is the same as saying if you pass an act here making a State court the successor of the Supreme Court in a case of State jurisdiction it is ineffectual, because the Supreme Court of the United States has no means of carrying the mandate into execution. It cannot send it to a State court and ask it to execute matters of its own jurisdiction. It must execute matters of its own jurisdiction on its own motion.

Mr. FOSTER. I believe the honorable Senator read from that case previously what he has now read, and gave his views to the Senate in respect to the meaning of the Supreme Court and the principles enunciated by them in that opinion. The honorable Senator from Maryland replied and gave his views; and it seems those two honorable Senators differ very widely in their construction of that case. I put it to the Senate—suppose as between these two distinguished lawyers the Senate are to decide; is it not much safer that we decide as the Senator from Maryland suggests rather than as the Senator from Nevada suggests?

and for this reason: if the Senator from Nevada should happen to be wrong, and we at his instance refuse to pass this bill, these parties suffer wrong, without the possibility of redress; we put an end to any hope that their causes can ever be heard by any tribunal. On the other hand, suppose the honorable Senator from Maryland chances to be wrong, if we pass the bill are these parties injured? No; because these causes all arise in the Supreme Court, where the parties can properly be heard on this very question, and as the honorable Senator says he has a decision of the Supreme Court to sustain him in the position he assumes the Supreme Court would at once dismiss the causes for want of jurisdiction. There would be no danger then that the parties to these suits would suffer any wrong whatever; they would have their day in court; and the Supreme Court are exceedingly disposed to stand by their own precedents and their own decisions. Let the parties go there, therefore; let them be heard, and heard there, where, as the honorable Senator says, there is a decision against them staring them in the face; there is no danger that the court will establish any new principle or do any injustice. On the other hand, if we refuse to let the cases be heard at all, the honorable Senator suggests if it should turn out that he is wrong, and he will pardon me for supposing it is possible that he may be, the wrong done is irremediable. Upon that distinct proposition, therefore, it seems to me there is a clear path for the Senate to follow, if they would do justice upon this question; and that is, let the parties be heard; do not say they shall not be heard; let them be heard, and let us believe that justice will be done.

Then, Mr. President, upon the other more important question, that is, the fees of the district clerk and the district attorney of Nevada, the honorable Senator says that the expenses of living, the cost of transportation, &c., are much greater in Nevada than in other States, and the fees and salaries should be proportionately higher. We give to the district judge of the State \$3,500, the amount in the bill as it came from the House; and I will say to the honorable Senator that the judge, in my own district, with a salary but little more than half of that, performs more labor, sits more days in a year in court, as I believe, performing judicial duties, than every district judge on the Pacific slope all taken together. He is also a judge who could command at the bar, and would receive if at the bar a very large professional income, five times as great at the very least as his salary as judge. These offices of district attorney and district clerk and marshal, it is true, are somewhat important with reference to the administration of justice; but it is not very difficult, ordinarily, to procure persons to fill those offices. I do not believe there will be any difficulty in filling them in Nevada, and I do not believe it, among other things, for this reason: that the honorable Senator presses upon the Senate the importance of our legislating so that there shall be but one clerk for both courts. If the compensation is so small that it is impossible to get anybody that is competent to take the office, is there any danger lest there should be two men appointed? The danger is that nobody can be found to take the office; and yet the honorable Senator asks us to depart from the law universally existing elsewhere in the country giving to the district judge the power to appoint the clerk of his court, and the circuit judge to appoint the clerk of his court, and so by law require the clerk of the one court to be the clerk of the other. If it is impossible to get men to fill these several offices in consequence of the compensation there will be no necessity for that legislation, for the two judges will have to agree on one man and appoint him, if indeed they can find any one man who will consent to take the office and perform the duty. The fact that such legislation is deemed necessary by the honorable Senator is, as it seems to me, a good reason why there is no need now of doubling the compensation. If there is need to legislate so as to prevent two men from being clerks, it is apparent there are men enough there who are willing to accept the place and perform the duties.

Why, sir, the members of the profession, as the honorable Senator well knows, are patriotic and self-sacrificing everywhere. I am persuaded that any one of the younger members of the bar in Nevada, rather than that the court should be

embarrassed in the performance of its duties, would volunteer to perform the duties of clerk even without compensation; such is the patriotism of the profession. We who are members of it know this to be the fact. The other members of the Senate who have had the fortune to belong to other professions, or to be connected with other walks of life, may not feel the force of this argument, but all members of the profession know it to be true. There is no danger, therefore, that these duties will not be performed, and well performed. There is no necessity, then, to clog this bill with any extra compensation to the clerk, or to the district attorney, or to the marshal. I hope the Senate will pass this bill with the amendments as they came from the committee; and I surely will not stand longer in the way of a vote upon the question.

Mr. McDOUGALL. It is a somewhat remarkable fact, or at least a fact worthy of being remarked, that we all know a great deal more about what is east of us toward sunrise than we know what is west of us. A man who never crossed the Alleghenies does not know the valley of the Mississippi. We remember that when Mr. Calhoun went to Memphis for the first time he found the Mississippi to be a great inland sea. The gentleman from Connecticut speaks of a judge in his State. Why, sir, in the port of San Francisco in the admiralty court and circuit court for that State there is more business done than there is in Massachusetts and Connecticut put together. There is a larger commerce there, involving more extended, more particular, and more difficult interests than belong to any of the old-settled communities on this side of the mountains.

I make that remark *en passant*, for it is true that our interests on the other side of the Sierra Nevada and beyond the Rocky mountains are almost as much excluded as if Mr. Benton had his invocation realized when he said he would place upon the topmost summit of the Rocky mountains a monument to the god Terminus, and say, "Thus far shall we go, and no further;" we are almost as much excluded in consideration here. It is assumed by persons who have never been beyond the Alleghenies that they understand the interests of the plains and mountains and the coast of the Pacific.

The bill as it came from the House of Representatives in my judgment was a proper bill. The sixth section of the amendment is just legislation. I agree with the Senator from Connecticut in that respect. It, however, should not at this time have disturbed legislation. I do not agree with my friend from Nevada that we have not the power to carry causes from the courts of the recent Territory of Nevada. I think that the rights of those citizens at the time of the enactment of the law making it a State were rights entitled to a hearing by appeal in the Supreme Court of the United States. By, I think, faulty legislation those rights rest in abeyance and may at any time be extended to them. It is their right to demand them and they should be extended to them by legislation. I do not think, however, that this is a proper way to do it, and am clearly of opinion that the bill as it came from the House should be passed substantially as it is. I would like to amend it by adding this sixth section, as it is a just one; but I would not move the amendment because it may interfere with the passage of the bill. I do not propose to make a speech on this subject. I only wish to express my opinion. That what is put in here by way of amendment as the sixth section is a proper piece of legislation, I do not doubt; but I do not think it should be attached to this measure at the present time. But I desire to express my opinion with regard to this matter of compensation. In the State which the gentleman from Connecticut represents, a man can live, and live well, for one fourth of what a man can live in the same way for in Nevada. The cost of transportation of subsistence itself would be four times the cost of the production in the State of Connecticut. In all mining countries this is to a greater or less extent true; but it is particularly so in that State. They have no agricultural lands; they have but little pasturage. A great deal of the stock that they consume has to be driven on foot for four hundred or five hundred miles. Many of their vegetables are transported from one hundred and seventy-five to two hundred miles, and across a mountain

range that reaches an altitude of seven thousand feet. All these things go into the necessary expense of living; and to live comfortably there will cost at least quadruple the cost of living in any one of the New England States.

I think the bill as it came from the House of Representatives is correct. I regretted to see the amendments put on by the Committee on the Judiciary. The sixth section reported by the committee I regard as a just provision; but if it incumbers the bill and endangers its passage I hope it will be rejected. If it shall then be brought in as a separate bill, it will receive my hearty support.

The PRESIDING OFFICER, (Mr. POWELL in the chair.) The question will be on the amendment proposed by the Committee on the Judiciary to strike out the fifth, sixth, seventh, eighth, and ninth sections of the bill and to insert two other sections in lieu thereof.

Mr. STEWART called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. DAVIS (when his name was called) said: I am in favor of the first section reported by the Committee on the Judiciary and am opposed to the other section, and consequently, as the vote is to be taken on both together, I cannot vote at all.

The result was then announced—yeas 22, nays 11; as follows:

YEAS—Messrs. Anthony, Clark, Collamer, Cowan, Doolittle, Farwell, Foot, Foster, Harlan, Harris, Howard, Johnson, Lane of Indiana, Morgan, Morrill, Powell, Riddle, Sprague, Ten Eyck, Trumbull, Willey, and Wright—22.

NAYS—Messrs. Chandler, Conness, Dixon, McDougall, Nesmith, Nye, Richardson, Stewart, Sumner, Wade, and Wilson—11.

ABSENT—Messrs. Brown, Buckalew, Carlile, Davis, Grimes, Hale, Harding, Henderson, Hendricks, Howe, Lane of Kansas, Pomeroy, Ramsey, Saulsbury, Sherman, Van Winkle, and Wilkinson—17.

So the amendment was agreed to.

Mr. STEWART. I will inquire if the sections which have just been adopted are still open to amendment.

The PRESIDING OFFICER. They will be in the Senate. The bill is still in Committee of the Whole.

Mr. STEWART. I wish to offer an additional section to the bill.

The PRESIDING OFFICER. It would be in order to offer an additional section to the bill. It would not be in order to amend the sections just adopted until we get into the Senate. If the bill be reported to the Senate, the Senator will have an opportunity to move his amendment in the Senate, as well as now.

The bill was reported to the Senate as amended. Mr. McDOUGALL. As we are now in the Senate, I desire to move that the section marked as the sixth section be made the ninth section, and the ninth section be made the tenth section.

Mr. FOOT. It is not yet in order. The question now is on concurring in the amendments made in Committee of the Whole. Then it will be in order for any Senator to move an additional section.

Mr. DAVIS. I want to say a solitary word in explanation of my vote. As regards the compensation provided by the amendment of the committee to the different officers that are designated in their amendment, although I am not entirely satisfied that it is just and politic in relation to the officers in this new State, still I would not be disposed to dissent from the proposition of the committee; but upon the point of permitting the Supreme Court to keep its jurisdiction of the cases that have come up from Nevada while it was a Territory, I entertain a serious objection. As stated by the Senator from Nevada, when the Supreme Court decides that class of cases it does it upon this general principle, that it recognizes no property in the lands which may be the subject-matter of those suits in either of the parties. I think that would be unjust to the State of Nevada, to the interests of the State and of the people who have proceeded to that country and settled it and developed their mining interests. In relation to all the older States this principle prevails: that the laws of the States and the adjudications of the supreme courts of the United States are recognized and conformed to by the Supreme Court of the United States. In the State of Nevada there was not and could not necessarily be any legitimate and obligatory code of laws in



regard to the whole of the mining interest, and yet a mining country could not be settled, and the operations of mining carried on with anything like order or security for the length of time that such has been the case in that and other mining countries on the Pacific coast, without some system of laws regulating the mines, the proprietorship, and the title to the mines, and the rights of the various persons who take possession of them. These matters have become the subject of usage, of comity, and of a code of laws that have been adopted without any sufficient authority, but still with the perfect concurrence of the people of the mining countries; and under this system of laws, thus established, the interests and the rights of the persons in possession of the mines have been recognized and adjudicated upon by their territorial courts.

Now, if those cases are brought up to the Supreme Court, that court repudiates entirely this system of laws arising from comity, from usage, from necessity, established by the common sanction and consent of the whole mining population, and the rights of parties to the suits are decided irrespective of this code of laws that has thus been built up, and upon which the rights of the miners have been regulated, have been passed from vendor to purchaser, and have been adjudged by the territorial courts. It seems to me this would introduce a great deal of confusion and a great deal of injustice and wrong among the miners of Nevada. It seems to me, if Congress has the option in refusing to adopt this amendment to sustain this system of laws that have thus been built up in Nevada, and of recognizing the principles adjudicated by its courts upon this system of laws and upon which the rights of miners have been settled and adjudicated there and have passed in the course of will, by descent and by purchase, that Congress so far as it may recognize, ought to recognize the existence of that code of laws and of the rights that have grown up under it. Being of that opinion, being of the opinion that it is a question of expediency, of policy, as the Senator from Nevada said, that all the claims of order, of justice, of abstract right, are in favor of acquiescing in the system of laws established by those miners and in the judgments which the courts of that Territory have passed upon them, and in all the rights that have grown up under them, I think it would be most conformable to justice and to wise legislation that this bill should not pass in a form authorizing the Supreme Court to continue a jurisdiction that would result in the repudiation of that system of laws, and in all the rights that have grown up under it. Therefore, sir, although I should be in favor of the fifth section of the amendment of the committee I am entirely opposed to the policy and justice of the sixth section.

**THE PRESIDING OFFICER.** The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

**MR. HALE.** I observe that the Senator from Nevada and the Senator from Kentucky both assume, as a matter settled beyond controversy, that if these cases come up before the Supreme Court they will entirely disregard these local laws. I want to ask where is the authority for that assertion? I ask for information. I do not cavil at it.

**MR. STEWART.** The authority for it is found in a case from Oregon, in which the court declared that until Congress made some provision for the disposition of the public lands, or until some law of Congress was passed under which title could be obtained to them, they would disregard any possession upon the public lands or any right upon them in either party. I wish now, Mr. President, to offer the following amendment, as an additional section to the bill:

*And be it further enacted, That in actions respecting mining claims the rules, customs, and regulations of miners shall be regarded as law and enforced by the courts of the United States: Provided, This shall not be so construed as to affect in any wise the right or ownership of the United States to the same.*

I would like to perfect the language of this proposition a little more. I have hardly had time to draw it up. I will ask that the bill be laid over, so that I may offer a provision to remedy a difficulty that will be apparent to all Senators, of having these cases adjudicated without bringing into requisition those local rules and regula-

tions; because this bill provides for bringing up a large number of cases, all the litigation for the last five years, for the limitation on them does not lapse for five years, and there is a great mass of litigation there. If they are to be determined in the Supreme Court without applying these rules and regulations, the man who has force enough to hold possession, the last comer, the man in possession, will remain there under these decisions of the Supreme Court.

**MR. COLLAMER.** Let me ask the gentleman a question. Does he mean to be understood that it has been decided by the Supreme Court of the United States that in an action of ejectment prior occupancy is not a sufficient right?

**MR. STEWART.** Yes, sir, I do.

**MR. COLLAMER.** Did they ever decide so?

**MR. STEWART.** Yes, sir, in repeated decisions; and that is the trouble.

**MR. COLLAMER.** I must confess I do not understand it. I suppose that in the cases where such decisions were made the parties were all wrong; they were all without right.

**MR. STEWART.** It may be all wrong, but it is the law, and we have got to be governed by it. It is the thing I want to avoid. Allow me to read the syllabus in the case of *Lownsdale vs. Parrish*, 21 Howard, page 290:

"Congress passed no law in any wise affecting title to lands in the Territory of Oregon until September, 1850; and therefore where a controversy arose, in July, 1850, relating to titles to land, neither party could be said to have a legal title."

"Consequently, the amount in controversy could not be ascertained so as to bring the case within the jurisdiction of this court; and there is no question arising under the Constitution or laws of the United States so as to give jurisdiction."

And they go on in the opinion and reason it all out. This was an action for damages for injury to the possession.

**MR. COLLAMER.** I am talking about an action of ejectment.

**MR. STEWART.** I will state for the information of the Senate that most of the actions for mining claims are brought for trespass.

**MR. COLLAMER.** Is there a case in any court in the world in which they disturbed a man in possession on the claim of another man who had no right? Was there ever such a decision made?

**MR. STEWART.** They have refused a remedy, which is equivalent to it.

**MR. DAVIS.** I will ask the honorable Senator from Vermont this question: Suppose a miner has been in possession five years, and a wrong-doer or a number of wrong-doers go and turn him out with the strong hand, and are in possession themselves, what remedy has that miner?

**MR. COLLAMER.** He can bring his action of ejectment to the court.

**MR. DAVIS.** Why, he is a trespasser.

**MR. COLLAMER.** That is immaterial. I apprehend that prior occupancy is always sufficient against a trespasser.

**MR. DAVIS.** But both were trespassers.

**MR. COWAN.** An outstanding title from the United States would be a good defense.

**MR. STEWART.** It would be a good defense in the Supreme Court of the United States, but we have not allowed it to be set up. We rely on the prior possession always. We give the title to the prior occupant. I will read a passage from the decision of the Supreme Court in the case of *Burgess vs. Gray*, 16 Howard, page 65:

"And the mere possession of public land, without title, will not enable the party to maintain a suit against any one who enters on it; and more especially he cannot maintain it against persons holding possession under title derived from proper officers of the Government. He must first show a right in himself before he can call into question the validity of theirs."

I do not believe a case can be found where a party has been allowed to recover on prior possession alone in the Supreme Court of the United States. The rule in ejectment is that the plaintiff must recover on the strength of his own title.

**MR. COLLAMER.** The particular form of action may come up, but I undertake to say that in the whole history of this world there cannot be found a decision of a court that would not sustain a man in his title by prior occupancy against a wrong-doer without title.

**MR. DAVIS.** I will ask the honorable Senator a question. In the case I put—

**MR. COLLAMER.** I have answered that case. He would have an action—

**MR. DAVIS.** Let me put my question, and

then the Senator can answer it. In the case I put, suppose the prior occupant of the mine brings an action against the man who enters upon him, and the defendant in the action of ejectment shows an outstanding title in the United States, would not that defeat the recovery of the plaintiff in the case?

**MR. COLLAMER.** Not at all.

**MR. DAVIS.** That is the law of my State.

**MR. COLLAMER.** If I am in peaceable and quiet possession of land another person has no right to eject me or turn me out of possession, and when I bring my action against him turn around and say, "John Styles owns the land." That is none of his business.

**MR. DAVIS.** Why, Mr. President, there is not a case decided in the State of Kentucky, in which the question ever came up, that the judgment of the court was not that where the defendant in possession, who has been sued, shows an older outstanding title and the right to enter in a third person, that it did not defeat the action of ejectment; and *Runnington*, and *Adams*, and other English authorities upon the action of ejectment establish the same principle.

**MR. COLLAMER.** According to that idea, if I understand the gentleman, if I find my brother Davis in possession of a piece of land and I ascertain that John Styles owns that land, and I go and turn my brother Davis out, and he brings an action of ejectment against me, I may turn around and say to him "It was John Styles's land." He would then ask me: "Did he give you the right to enter?" "No; I never had any under John Styles." What business have I to turn you out because John Styles owns the land, unless I get John Styles's right? Certainly there is no law in that.

**MR. DAVIS.** It is upon this principle; that no two trespassers have a right legally to litigate the title of land between themselves.

**MR. COLLAMER.** Prior occupancy is always a right against strangers.

**MR. STEWART.** I will ask that this matter lie over. I should like to perfect a section of this kind which shall secure the rights of the miners.

**THE PRESIDING OFFICER.** Does the Senator move to postpone the further consideration of the bill until to-morrow?

**MR. STEWART.** Yes, sir; I will not occupy any time now in debate upon it.

**MR. FOSTER.** I really hope the bill will not be postponed. At this stage of the session postponement is equivalent to defeat. It is designed on the part of the Senator to defeat the bill I submit he had better avow it. If it is not, if he wishes to amend it, certainly there can be no objection to any amendment that shall require the Supreme Court to decide according to law and right in every case. I am not so afraid that the Supreme Court will outrage law, justice, and propriety, as the gentlemen seems to be; but if there is danger of it, I am by no means opposed to any amendment that shall require the court to observe all proper rules. The Senator has certainly not thought of this subject to-day for the first time. Ever since the honorable Senators from Nevada took their seats here, this bill has been pending. We are now getting toward the close of the session; and I repeat again that the Supreme Court has decided that these causes shall not be postponed beyond the 27th instant, as their session terminates on the 3d of March for the hearing of arguments. If this bill, therefore, can be kept along so that by going to the other House action upon it may be deferred until after the 27th, every gentleman that desires—

**MR. STEWART.** With the permission of the Senator I will withdraw my motion and will ask to have my amendment considered as it is now presented. I think it is in form.

**MR. CONNESS.** Let the amendment be read as it now stands.

The Secretary read, as follows:

*And be it further enacted, That in actions respecting mining claims the rules, customs, and regulations of miners, shall be regarded as law and enforced by the courts of the United States: Provided, This shall not be so construed as to affect in any wise the right or ownership of the mines by the United States.*

**MR. CONNESS.** This is an important question.

**MR. COLLAMER.** If the gentleman will indulge me a moment, I desire to suggest an amendment to the last clause of the amendment by adding the words "or those claiming under them."

Mr. STEWART. I accept that modification. Mr. FOSTER. I certainly have no disposition to interfere with what may be—

Mr. CONNESS. I believe I have the floor.

Mr. President, this is a very important subject, particularly the point now under discussion, and it is too important to be decided hastily. The question involved in the whole bill before the Senate, that of continuing the jurisdiction of the courts of the United States in cases involving mining property, is one of the deepest interest to the people occupying the mining Territories and States; it involves an immense amount of property. The Senate has decided, by the adoption of the amendment reported by the Committee on the Judiciary of this body, that they will continue the jurisdiction of the Supreme Court of the United States. Then, in the further consideration of this bill, that decision of the Senate is to be considered as having been fully accomplished. The question now involved arises from the objection made by those who opposed the passage of the amendment of the Judiciary Committee in this: that it was obnoxious because, upon questions of appeal to the Supreme Court of the United States, where a fee simple title was not in either party, plaintiff or defendant, the Supreme Court of the United States would not take jurisdiction, but would dismiss a cause of that character, and thereby leave this great mining interest exposed to the effect of a declaration by the highest tribunal in our land that there was no title but in the United States—a fact, it is true; but a fact which, if declared in that form, must have the most serious effect upon the value of mining property now owned over the length and breadth of the land.

What is aimed at now by the honorable Senator from Nevada is this: that since the jurisdiction of the Federal courts is to be continued by an act of Congress there shall be such a provision adopted as shall put that question at rest and give jurisdiction by this act to the Supreme Court of the United States, which jurisdiction shall be exercised notwithstanding there is no fee simple title in either party to the cause, but in accordance with the rights of priority of possession which may exist in either party, plaintiff or defendant. I submit that unless you do this you strike the severest blow at the mining interest of this country. It will be remembered by the Senate that our people, precipitated on these wild lands, have no opportunity under the laws of the United States to obtain title from the Government. They therefore, by permission of the Government, take possession. The local sentiment and opinion of the American people who seek thus to establish industry, community, and society, respects in all cases priority of possession. If you, sir, take up a mining claim, you being the first party to take it up, and prosecute your labor upon it, the community recognizes your first right as against any subsequent claimant. The local courts have taken up that opinion and they have declared it law; and upon just that basis and on that local recognition the entire mining property in the Pacific States and Territories rests. This, it will be remembered, is a very insecure foundation for the investment of millions upon millions of dollars.

Now, then, we ask in addition, that if you pass this bill as the Senate have now amended it, you shall incorporate in it a provision which, continuing the jurisdiction of the Supreme Court of the United States, shall require that court to keep and retain the jurisdiction and decide according to that priority of possession. I do not altogether like the amendment proposed by the honorable Senator from Nevada. I think we are hardly prepared at this time to declare by a statute of the United States that all local mining rules and regulations shall be law, because—and the honorable Senator will bear me out in that—the local rules and regulations are as multifarious, as numerous, as different, and as many as there are localities and communities; and it would be a pretty broad declaration to incorporate into a statute of the United States that all this mass shall be law. You would have a contrariety of law which even a Philadelphia lawyer, as the expression is, would fail to comprehend or understand. There would be complications, I apprehend, impossible to reconcile or to be made understood.

The simple point needed, as I have before said, is to require the Supreme Court of the United States, when taking jurisdiction, to recognize the

rule of priority of possession upon which all investments in those countries rest. Therefore I think this is a matter of too much importance to be hurried through, as asked for by the honorable Senator from Connecticut, and time should be given to prepare a section to cover this important point. I have hurriedly written at my desk—I will read it for the information of Senators—what it appears to me would cover the case; and yet not belonging to the legal profession I have no pretensions that I can sufficiently do this thing. I will read this, however, which I suggest as an additional section, so that at least what I mean shall be understood:

*And be it further enacted, That in all cases which shall, by the provisions of this act, come within the jurisdiction of the Supreme Court, such jurisdiction shall not be lost by reason of the parties, plaintiff and defendant, not having title in fee simple, but such jurisdiction shall be exercised in conformity to priority of possession.*

If the legal gentlemen in the Senate will say that that will cover the point, or will prepare another section that will sufficiently contain the same provision, it will be acceptable to me. But, sir, to confer this jurisdiction, and to reopen causes settled and determined, to disturb rights of property which are recognized, and subject causes involving them to be dismissed from the Supreme Court, because there is a want of title in neither party to the suit, I submit would be as destructive to us as though a tornado should pass over every inch of the surface of our country. I will send this amendment up to the desk and let gentlemen examine it.

Mr. JOHNSON. I think with the honorable members from the Pacific States that it is very desirable there should be some legislation by Congress for the protection of those rights; but as far as I am advised they have been sufficiently protected. The Supreme Court of the United States may have, perhaps, decided erroneously in some cases in relation to those rights, and the effect of those rights in the cases that have been before them, but as far as the Government of the United States is concerned I do not know that they have ever interfered with any mining title.

Mr. CONNESS. Will the Senator permit me to say one word right here, which will enable him at least to understand me?

Mr. JOHNSON. Certainly.

Mr. CONNESS. No case involving mining questions of the character here contemplated and now discussed that I am aware of has come to the Supreme Court of the United States, because California began as a State and Oregon was a State before mines were discovered in it, and our mines outside of those two States exist in land which is organized into Territories of the United States. Therefore you are now for the first time providing for continuing the jurisdiction involving mining cases from a Territory just organized and made into a State to the Supreme Court of the United States, and the question involved comes up for the first time.

Mr. JOHNSON. I was aware of that, Mr. President. What I said was that as far as the decisions of the Supreme Court are concerned there has been no interference with those mining rights; and the honorable member is correct in saying that, except remotely, the nature and validity of those rights have not come in question in any case before that tribunal. But as I have stated, I concur with the members from the Pacific and from the States and Territories in which those mines are to be found that it is desirable there should be some legislation by Congress; but to legislate now upon a subject of that description, and particularly to legislate as the honorable member from Nevada proposes, by the adoption of the amendment which he has sent to the Chair, seems to me to be in the highest degree impolitic and erroneous. Those mining usages are almost as various as are the men engaged in the mining. They are one thing in one section, another thing in another section. They are changing from day to day, or from week to week. There is nothing stable in them.

Mr. CONNESS. Let me suggest to the Senator at this point that in many instances there is no record of those local laws; they are merely traditional. In other instances there are records.

Mr. JOHNSON. I was aware of that, and I was about to state it. There is not only in point of fact a great diversity of rule and regulation and usage, but there is, as the honorable member from

California informs me, no record evidence of what those rules and usages are. Now what does the honorable member from Nevada propose? That the usages and customs of mining throughout the States in which mines are to be found are to govern the courts of the United States in passing judgment. What do you mean to say? Govern when? Are they to govern the controversy, such of them as exist at the time the controversy commences? Is the title claimed in the suit to be maintained or defeated by usages existing at the time the title was acquired? Or is the Supreme Court of the United States, if the case should come before the Supreme Court of the United States, to affirm or reverse it upon usages or customs adopted, not only after the title in the controversy may have been acquired, but after the decision of the court below may have been rendered? It certainly must appear to the Senate wholly improper, unexampled, and unjust in practical operation to adopt an amendment of that description.

Mr. CONNESS. I do not understand the Senator as holding that the amendment I offered and the views I presented are obnoxious to those objections.

Mr. JOHNSON. I was not replying to the proposition of the honorable member in that particular, but it was to the amendment of the member from Nevada, [Mr. STEWART], and that is the only amendment before the Senate. The subject is quite an interesting one, not only to the States in which this property is to be found, but to the United States. It presents very complicated questions. It requires a great deal of practical knowledge and a great deal of theoretical scientific knowledge. What the usages should be, or whether it is possible to adapt usages to act uniformly throughout these mining interests, is a matter that requires a good deal of meditation. The idea of legislating now upon this subject, at this period of the session, in a bill of this kind, the purpose of which, as far as the particular section is concerned, is merely to say that the Supreme Court of the United States is to decide the cases before it as if the State of Nevada had not been introduced into the Union, seems to me highly improper, obviously improper.

I suggest to the honorable member from Nevada that he had better withdraw his amendment, and that he and the Representatives from those States, if no others will engage in it, should, in the interval between now and the next meeting of Congress, determine upon some system which is to have the force of law throughout these mining regions. It would be, I admit, exceedingly hard, when these mining possessions have been taken by the explorers, or, as they are termed in that country, the prospectors, and after they have given time and money and labor to the development of the mining interests, that the property should be taken from them by the United States or by any party claiming by the United States; but it is equally improper, if not more grossly improper, if I may be permitted to use such an expression, to say that persons who have rights, and that the law assumes, are not to have those rights passed upon by the law in force, whatever that may be, by the Supreme Court of the United States.

The honorable member from California thinks it would be wrong to have these cases decided by the courts of the United States upon rules known only to the common law. That does not arise under this bill. This bill, so far as the particular provision is concerned, applies only to cases in the Supreme Court of the United States. There are no territorial courts now in the State of Nevada; they have expired by operation of law; that is to say, by the bringing of the Territory as a State into the Union. That, upon the authority of the decision cited by the honorable member from Nevada, terminates in the territorial tribunals.

Mr. RICHARDSON. I do not know whether I fully comprehend and understand the purpose aimed at by the Senators who represent the mining region; but I desire to state as briefly as I can what I think, with due deference to them and to the Senate, will be the necessary legislation to secure the rights of discoverers in these mines. We have had this question presented in the western States and the decisions that Senators have referred to, and on the same points to which they have referred. It was decided that where a man went on and made

improvements upon the public lands, and left his home for the time being, and somebody else entered upon it, he could not recover possession of it for the reason that he had no title to it, just as the miners who leave for the time being their mines may be dispossessed. We passed through the Legislature of Illinois an act granting a possessory right, to enable the first settler to recover the land. That act enabled the first settlers to do another thing, which is a very important question involved or hereafter to be involved in this mining region: it enabled them where they sold their claims, as they were then termed, upon the public lands to recover the consideration, the money agreed to be paid, or the value of the property. In my judgment, the first legislation required from Congress in reference to this subject is to confer a possessory right upon the first discoverer. Confer that right upon him and he can take care of himself, and you will give protection to the adventurers who go out and discover your gold mines.

As regards the proposition now before the Senate, I have only to say that, in my judgment, it would not be wise to adopt the provisions made by each settlement in that country as the law of the land. You want uniformity in your laws. If you adopt that you have got this other question to decide: where they come in conflict, how far the jurisdiction of one mining company extends, over what territory, and, when you have decided that they have jurisdiction, which one first adopted the laws in reference to this matter. It seems to me you avoid all this difficulty by conferring a possessory right upon the individual who makes the discovery. I have not had my attention directed to this matter for a long number of years; but if I remember aright, we protected, in the State of Illinois, so far as we could protect, the first settler, and I imagine in all the western States, by the Legislature passing acts giving the first settler the possessory right. There is a necessity, however, in this instance of passing it by Congress, because the States do not own the land; they have not the fee simple, they have not the title; it is in the General Government, and the law ought to be uniform. It seems to me a simple proposition by which you confer this right would secure all that the Senators from the Pacific coast seek to accomplish.

Mr. HENDRICKS. I find myself embarrassed in deciding how I ought to vote upon this question. The proposition of the committee, that appeals shall be allowed from the judgment of the territorial court to the Supreme Court upon its face seems very right and proper, and I dislike to vote against a proposition having such apparent fairness and propriety; but, on the other hand, there is some difficulty about it. It is very certain that the Government of the United States has refused, by the policy which it has pursued for a number of years, to give to the miner a title to the property which he is improving. At first, this was not of very much importance, for the miner sought the streams, and picked up what gold he could; but that sort of mining has almost passed away; and now to develop the mineral resources of that great region requires the investment of large capital. The quartz mining must be prosecuted by the use of very expensive machinery. It is certainly the policy of the Government now that these mines shall not only be developed as rapidly as they have in the past, but that we shall encourage their development. The States of Nevada and California, as I understand, as States recognize the usages of the miners as the law governing the particular case that may come before the courts.

Mr. CONNESS. Will the Senator permit me for a single instant to say a word on that point?

Mr. HENDRICKS. Certainly.

Mr. CONNESS. There has been no local legislation in those States on the subject; but the courts from the beginning have adopted, and finally it has become settled as the rule of decision that the priority of possession in every case shall determine the case, and those who acquire a right from the prior possessor are in every such case, by the courts, determined to be the owners of the property. There is no decision there based upon statute law, but a rule of decision, universal now in its character, and recognized, and upon which all these rights of property rest, has grown up based upon the right of original discovery and possession; and in the class of cases now pend-

ing and proposed to be continued in the Supreme Court, from Nevada, the Supreme Court would only deal with the record sent up to them, the court below having determined the causes by those rules of priority of possession. Therefore it is by the common law and the use of it by the courts that those decisions have been arrived at, and it is upon that basis that all our rights of property rest. There has been no local legislation on the subject.

Mr. HENDRICKS. I did not intend the Senate to understand me as saying that there had been local legislation; but I intended to say that those States through their courts recognize the usages of the miners.

Mr. CONNESS. They do.

Mr. HENDRICKS. I said a few minutes ago that in the first instance it was not a very important question, for the occupancy of the miner was not very permanent. A number of men found themselves in a particular neighborhood; they could acquire no title to any portion of the mineral lands; and so as a necessity of their condition they adopted certain usages. They agreed among themselves how much of the mineral lands should be occupied by each other; what should be the evidence of that occupancy; if a man were absent for a day or week from the particular spot of earth in which he was digging for gold, what evidence he should leave behind him that he was the occupant of that particular spot; and the courts, to some extent of necessity, recognizing these usages of the miners. Are Senators prepared to say in the absence of legislation by Congress that these usages agreed upon among the miners were not proper to be adopted, and that there was not some show of reason, to say the least of it, on the part of the courts in recognizing those usages as governing the men themselves?

Now, sir, when the mining operations have come to the point where to develop the mines requires the use of large capital this becomes a very grave question, and as I have said, before the courts of the States these usages are recognized, and as between the men engaged in mining the possession of the miner is his right. Has not the Government of the United States to some extent recognized this? Certainly we have all desired the development of the mines, but we have refused to make a title to the miners. I am not prepared to say that any plan of conferring title which has been proposed has been satisfactory to me. It is a very difficult question. The land that shall be given to any one man for purposes of mining ought to be very limited. How much will you give him, and upon what terms, and upon what payments? We are not prepared to decide this question; but the miner, under the policy of the United States, which allows him to go upon the public land, and has never treated him as a trespasser, adopts for himself the laws which the necessities of his condition require, and the State courts recognize them; and I understand the territorial courts have recognized them, and from that decision an appeal is now sought to the Supreme Court of the United States. What will be the decision of the Supreme Court? I apprehend there is no question about it; the Supreme Court will say that to maintain an action of ejectment a man must rely upon the strength of his own title, and not upon the weakness of his opponent's. What will be the effect of that? The effect will be not to decide according to the usages of the miners, and give the right to a mine to the man who developed it, and who has been driven from it; but their decision will be that neither party has a title, that the United States own the land, that so far as the United States are concerned both parties are trespassers, and neither can maintain an action of ejectment. Ought we to say to these miners that they are trespassers? In view of the policy of the United States they are not trespassers. A man who goes on the agricultural lands of the United States is treated by the Government as a trespasser if he goes in any other character than as a preceptor. If he goes upon the public lands of the United States to cut down the timber upon the pine lands, it is the policy of the Government to arrest him and to punish him for the offense; but it is not the policy of the Government to punish as a trespasser a man who goes upon the mineral lands with a view to their development. We encourage it, we say he is not a trespasser by the policy we

have adopted; and although I am very reluctant to vote against the proposition of the committee, I think there are such high considerations of policy touching the development of the mines as will justify me in voting not to give an appeal. The law left them there. The parties in right may not demand an appeal. Whether a man may take a case from one court to another depends entirely upon the law; there is no natural right about it. We do not allow an appeal to the Supreme Court in all cases; it depends upon the amount in controversy in many instances; so that it is not a matter of right that a man shall go to the Supreme Court. It is a matter merely of law. He has not the right, then, under the law; and as a question of policy, ought we to give an appeal to the Supreme Court when that will break up a system that the miners found it necessary to adopt under the policy of the Government?

Mr. JOHNSON. Mr. President, I do not know in what way my friend from Indiana has found out that these cases in the Supreme Court affect mining privileges and should be decided alone by the usages of mining. For all that I know these cases involve the title to lands, and if so it is but just and right that there should be an appeal. But I rose principally for the purpose of saying that these cases, as I understand it, that are pending in the Supreme Court, are now before that court upon a motion to dismiss them merely, on the ground that the Territory has been made a State since the appeals were taken. If that motion be rejected the cases will not come up for hearing until the latter part of the next term. They are beyond No. 300, and the court is now at No. 125, so that it is impossible that they can be heard until Congress shall have been in session at least two or three months of the next term.

Mr. FOSTER. The Senator will allow me to say that there is but one mining case in the list.

Mr. JOHNSON. I did not know there was any.

Mr. CONNESS. One is sufficient, because the rule of decision adopted in one will apply to all.

Mr. JOHNSON. Unless we legislate.

Mr. FOSTER. I referred to it only to show that none of the cases would be reached for more than a year.

Mr. STEWART. I will correct the gentleman. The amendment of the committee also provides for bringing up all the cases disposed of in the last five years.

Mr. FOSTER. But they cannot be reached for three years to come. I mention it to show that there will be ample time for legislation.

Mr. JOHNSON. What I meant to say was that if it be advisable to legislate upon the subject of mining titles, and I think it is, we shall have ample time to do it. There is no necessity, therefore, now to do injustice in all the cases in the Supreme Court of the United States, for I understand there is now but one that involves a mining title. The cases entered in that court are numbered 300, 325 and 327, and, as I said just now, they cannot be argued before March of next year, and in the mean time we can devise a system which will protect the mining titles, and place them upon the footing on which, as I think, they ought to stand.

Mr. CONNESS. The suggestion of the Senator from Maryland in this case I think is not a wise one, if he will permit me to say so. He says that because the cases now in court will not be reached, and consequently will not be determined for a long time, it is unnecessary now to legislate upon the subject, for the reason that in the interim we may adopt and may be compelled to adopt some wise law, the wisest we can devise, which shall regulate the possession and ownership of the mines. This is his suggestion as I understand it. Now, let me call the attention of the honorable Senator and of the Senate to this point. Suppose that at the next session of Congress, which will be a long one, we begin to devise a system according to which citizens of the United States may obtain title to mining lands of the United States, I apprehend that any system we shall devise must necessarily transfer the title in fee from the Government to the citizen. It is true we may adopt a system of leasehold, but I hardly think we shall enter upon that. Then suppose we shall devise a wise law by which citizens of the United States may go upon the mining lands



and enter them in small quantities, say amounts of one acre each, the system or plan will provide that the United States shall transfer its title with or without a consideration to the citizen. How shall it be with regard to the particular mine involved in the appeal that is now pending in the Supreme Court of the United States? Who shall buy the land upon which that mine is located? Will you provide that the plaintiff or defendant in that case shall buy that particular mine? They cannot both buy it, for they cannot agree as to their ownership. It would be unjust to allow either of them to buy it while a question is pending and unsettled in regard to it.

Let me say to the Senate now that when they shall adopt a system for the disposition of the mines, it must necessarily involve in it a concession to the present possessors of the mines, and the United States must recognize existing possession, and title by possession, by granting the mines possessed free to the parties who possess them, or by exacting from the possessors a consideration of value for them. You can never adopt a system by which you shall take away from our citizens what they have possessed for fifteen years last past, and you have allowed them to enter upon and to invest their capital in, and transfer it to others. You must determine upon what terms they may buy from you or may legally possess from you. Any system that may be adopted must contain such provisions. Now, I ask again, what will you do in regard to the cases pending?

Mr. President, you cannot legislate in regard to cases pending. Whatever plan you adopt must contain a provision that shall say that the right of possession, according to the rules of priority of possession, shall give the party in possession a right to buy from the United States, or the right to possess legally, and in cases of contest, where the right of possession is yet open and not determined, those cases shall be allowed to be considered by the courts until one party or the other is determined to be the party having the best right to possession, and he shall be allowed then to obtain the title of the United States.

If you do not adopt, in connection with this bill, in continuing this jurisdiction from the courts of the Territory to the United States Supreme Court, a provision which shall give the jurisdiction to the Supreme Court of the United States notwithstanding the title in fee simple is in either party, plaintiff or defendant, you expose us on the one hand to be driven out of court, and you expose the entire mining stocks held all over your country to the dreadful consequences of such a decision, which I apprehend is something that we are not justified in doing. Why not adopt a provision in this act, when you continue this jurisdiction, which shall not only continue the jurisdiction, but shall require the recognition of the only title, so well described by the honorable Senator from Indiana, the title in the citizen by his right of possession under the United States, his prior right of possession. We say the Government of the United States own all these lands. We go out and enter upon them. I take, in accordance with the rules of local recognition, a certain possession. You recognize it, every man in the community recognizes it; but finally a disorderly man comes along and says, "Sir, you have got too much there," or "You have got what you do not own," and he undertakes to eject me by force; or when I am absent from the possession—as has absolutely occurred to me personally, for I have labored in the mines—before I rise in the morning, before the break of day, a party comes and violently seizes that which was mine by quiet, peaceable possession. If I do not see fit to exercise force in ejecting him, what is my remedy? I bring an action in one of the local courts. How is the case determined? Witnesses are summoned, called in, and sworn; the testimony goes to the first possession. The case is decided according to the testimony, and according to the priority of possession. The party who loses feels aggrieved and he appeals. The record is sent up, and the case is still maintained in the upper court upon the rule of priority of possession and the equity of it; and it is, as I said before, upon this equity and upon this rule that all our rights of property in the mine now rest. Will you disturb them? Will you not adopt a provision, when you are continuing

this jurisdiction, to prevent the causes from being sent out of court for want of jurisdiction, because the property is in another, namely, the United States, and not in either party, plaintiff or defendant? I am sure there can be no objection to that.

The gentlemen who ask for the passage of this act, as I understand the honorable Senator from Maryland does, desire the Supreme Court to pass upon it. Am I not right in that? The honorable Senator from Maryland responds that I am. Then let us guard ourselves against being rejected from that court, and above all against the terrible consequences to all mining property of such a rejection. I ask Senators to pause, and I ask Senators who have charge of this bill and who have reported it here, to pay attention to the great interests that are involved in the decision they are about to make. I agree with Senators who have spoken, and especially with the honorable Senator from Indiana, that at an early day it is our duty to enter upon the question of the disposition of these lands.

It is almost a crime, Mr. President, in the United States Government to permit communities to grow up, Territories to be organized, States to come into being, now three mining States in this Union, within the next quarter of a century to be perhaps twenty States, built upon what? Upon the basis of the right of possession to their property. To my mind the picture of twenty States in this Republic, whose people shall not be bound to the Government by the ownership of the soil they live upon, is perfectly frightful. It is a premium upon vagabondage; it is a reward to itineracy; it is against all social, moral, and political advancement.

I admit, sir, that in the remarks I have made I have gone away from the exact point before the Senate, but I have been tempted to do it that I might call the attention of Senators seriously to all that is involved in this question of the disposition of the mineral lands, to the question of where the title shall remain. I hope again, in closing, that no Senator will object to continuing specifically the jurisdiction of the Supreme Court, since we are about to adopt a bill to that end, so as to make it certain that in the court of last resort we shall not be ejected because there is title in neither party to the suit.

Mr. JOHNSON. At the proper time, or now, if it is in order, I will propose an amendment as an additional section.

The PRESIDING OFFICER. (Mr. POWELL in the chair.) The amendment of the Senator from Nevada is now pending, and an amendment to that amendment is in order.

Mr. JOHNSON. I move to amend the amendment by substituting for it the following:

*And be it further enacted, That no possessory action in any of the courts of the United States for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines are is in the United States.*

Mr. STEWART. The more I think of this question, the more thoroughly satisfied I am that we have not met it fully by that amendment, and the more thoroughly satisfied I am that when we are legislating upon a question which must bring up and produce important results upon the mining titles, we should meet the whole question in some form so that those titles may be protected. I think that if the bill be laid over we can agree upon something that will protect the parties. On examination it will be seen that this section not only provides for cases that are now pending in the Supreme Court on appeal, but it provides for bringing up all the litigation from Nevada Territory from its first organization until now, and I assure the Senate that all the important claims in Nevada have been through the courts; and to bring them up here without some legislation as to the mode of procedure when they get here, some recognition of our local customs, would be destructive to our rights, and would certainly injure us a great deal during the coming year. I renew the motion—I regret to do it—that the further consideration of the bill be postponed until some amendments may be perfected to it. I presume we can soon agree to the amendments if we have time to perfect them.

Mr. SUMNER. I will make a motion which will be a substitute for the motion of the Senator, that the Senate now proceed with the consideration of the report of the committee of conference on the freedmen's bill. ["Oh, no."]

Mr. DOOLITTLE. This whole debate has gone on by the courtesy of the Committee on Indian Affairs. A bill of that committee is pending before the Senate, and I have been waiting, expecting that the Nevada bill would come to a vote, for about two hours. The bill of the Indian Committee to which I refer was discussed yesterday and was regularly in order before the Senate at one o'clock to-day, and I wish to have it disposed of before we take a recess at half past four o'clock.

Mr. SUMNER. I wish also that the report of the committee of conference be acted on. That ought to take precedence.

Mr. DOOLITTLE. That is out of order, because the other is in order. I suggest to my friend from Connecticut as there are several amendments to his bill, one by the Senator from Maryland and one by the Senator from Nevada, that he let it now go over and be the regular order of business for tomorrow in the morning hour, so that I may call up the Indian bill to which I have referred and have it disposed of.

Mr. JOHNSON. I offer the amendment which I have read, as I understand I can do, as a substitute for the amendment offered by the Senator from Nevada. I say to that Senator and to the Senate that in my opinion it will cover the case for which he desires to provide. I understand that his difficulty is that the possession in mining privileges is not protected by suit because the courts here hold that the paramount title is in the United States, and no title except a title acquired under the United States by patent can be protected. This amendment says that in no such case shall the fact that the paramount title to the land in which the mines are is in the United States have any influence.

Mr. FOSTER. To the amendment offered by the Senator from Maryland to the amendment of the Senator from Nevada I have no objection. I am not authorized to speak for the committee, because it has not been before them, but I doubt if the committee would object to it. It seems to me that it will protect the claim of the Senator from Nevada as fully as his own amendment; and if it be adopted and the bill be passed with that amendment, we may get rid of what appears to me is likely to be a very protracted discussion. The Senator from Massachusetts wants to get up another bill; the Senator from Wisconsin wishes to proceed with his bill; and there are various other bills that are equally pressing. If we drop this bill now, it is dropped until it will be too late to act upon it. There is not another bill before the Senate which if passed at any time before the session closes will not have all the effect that it will have if passed to-day; but unless this bill is passed and passed through both Houses before the 27th, this being the 21st of the month, it might as well not be passed. I may suggest, therefore, to Senators that it seems to me they are attacking a bill which is certainly of great importance and which is more pressing in its necessities than any bill before the Senate. I hope there will be no disposition to put it off, and that Senators will not be disposed to discuss it more than is necessary; I by no means suggest that they do, but I trust our words may not only be chosen but few.

Mr. STEWART. I call for the reading of the amendment of the Senator from Maryland again. The Secretary read, as follows:

*And be it further enacted, That no possessory action in any of the courts of the United States for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land on which such mines are is in the United States.*

Mr. CONNESS. I think that will meet the case.

Mr. FOSTER. I have no objection to that. The amendment to the amendment was adopted, and the amendment as amended was agreed to.

Mr. STEWART. I am not fully satisfied that the provision covers the case. If under it the principle of prior possession would be recognized without any controversy by the courts, if it would prevent the pleading of outstanding title in the United States—

Mr. JOHNSON. It does that.

Mr. STEWART. But I do not think it quite meets the case of allowing prior possession to be set up.

Mr. JOHNSON. Certainly it does. It meets that very case.

Mr. DAVIS. I suggest to the Senator from Maryland that he add these words, or something equivalent to them, "but each case shall be adjudged upon the law of possession."

Mr. JOHNSON. I have no objection to that. I understand that to be the effect now.

Mr. STEWART. With the words proposed to be added by the Senator from Kentucky, I have no objection.

Mr. JOHNSON. Let those words be added.

The PRESIDING OFFICER. That modification will be made, if there be no objection. The Chair hears none.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### COMMITTEE SERVICE.

On motion of Mr. HOWE, the Vice President was authorized to appoint a member upon the Committee on Enrolled Bills, to fill the vacancy occasioned by the death of Mr. Hicks, and Mr. NYE was appointed.

#### HOUSE BILLS REFERRED.

Mr. SUMNER. If I may be permitted, I move now that the Senate take a recess at half past four o'clock until seven o'clock, for the purpose of considering public business.

Mr. GRIMES. I hope not. I shall have to ask for the yeas and nays on the motion.

Mr. DOOLITTLE. I call for the regular order of business.

Mr. SUMNER. I move to proceed with the consideration of the committee of conference on the Freedmen's Bureau bill.

The PRESIDING OFFICER. (Mr. POWELL.) The regular order of business is the joint resolution (H. R. No. 38) relative to a certain payment to the Pottawatomie Indians of Michigan; but before putting any question the Chair will ask the indulgence of the Senate to present some bills on the table.

The bill (H. R. No. 771) for the relief of the personal representatives of Jonas A. Hughston, deceased, was read twice by its title, and referred to the Committee on Foreign Relations.

The bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864, was read twice by its title.

Mr. CONNESS. I desire to say to the Senate that the chairman of the Committee on the Pacific Railroad is familiar with the bill, and he has suggested that it is useless to refer it to the committee. It relates merely to the companies organized in California.

The PRESIDING OFFICER. The bill will lie on the table for the present.

The amendments of the House of Representatives to the bill (S. No. 389) relating to clerks in the Post Office Department, and to the bill (S. No. 390) in relation to the postal laws, were referred to the Committee on Post Offices and Post Roads.

#### RECESS.

Mr. FOOT. I move that the Senate take a recess from half past four to seven o'clock this evening.

The question being taken, there were, on a division—yeas 17, nays 8; no quorum voting.

Mr. FOOT called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 10; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Clark, Conness, Cowan, Dixon, Farwell, Foot, Foster, Harlan, Howard, Lane of Kansas, Morgan, Nye, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Trumbull, Wade, Wiley, and Wilson—24.

NAYS—Messrs. Davis, Doolittle, Grimes, Hale, Harris, Hendricks, Johnson, Lane of Indiana, Powell, and Ten Eyck—10.

ABSENT—Messrs. Anthony, Carlile, Collamer, Harding, Henderson, Howe, McDougall, Morrill, Nesmith, Richardson, Riddle, Sainsbury, Sherman, Van Winkle, Wilkinson, and Wright—16.

So the motion was agreed to.

#### POTTAWATOMIE INDIANS OF MICHIGAN.

Mr. HOWARD. I move to take up Senate bill No. 414, relating to a railroad in my State.

The PRESIDING OFFICER. The unfinished business of yesterday is now before the

Senate as the order of the day, being House joint resolution No. 38.

Mr. HOWARD. I move to postpone all other business for the purpose of taking up that bill.

Mr. DOOLITTLE. I cannot consent to that. I have refused to consent to a similar request of my honorable friend from Massachusetts. My good nature in consenting to allow the Nevada bill to occupy almost the whole of the day, when the Indian bill was really the order of the day, was rather severely taxed. I do not object now, because the thing is disposed of, but I think I must not allow myself to be carried away by these appeals any further.

Mr. HOWARD. Very well.

Mr. DOOLITTLE. My poor Indians have occupied very little of the attention of the Senate at this session.

Mr. HOWARD. I withdraw my motion.

Mr. SUMNER. I am not going to press my motion now against my friend, the chairman of the Committee on Indian Affairs, who has in charge a bill which is already under consideration and the Senate is midway in its discussion; but it is my duty to remind the Senate that there is another measure which is likewise under discussion, in which the Senate is already midway, and on which, indeed, the honorable Senator from Kentucky [Mr. Davis] is in the very middle of a speech; and that is the report of the conference committee on the Freedmen's Bureau bill. I must insist that the Senate shall proceed to the consideration of that measure as soon as they have finished the bill of the Senator from Wisconsin. Sir, the measure is one that ought to be acted upon.

Mr. LANE, of Kansas. I want to say to the chairman of the Committee on Indian Affairs that I desire him not to call up his bill.

Mr. SUMNER. I was going to say that I had telegraphic dispatches from different parts of the country relating to the report of the conference committee, one, for instance, from an eminent citizen of Chicago, who says to me, "Entreat the Senate to pass the Freedmen's Bureau bill." Now, sir, if I had any power of entreaty, I would use it on this occasion with my honorable friend from Wisconsin and with every Senator present. I do think that the Senate ought to proceed with its consideration. It is my duty to urge it upon the Senate. Let the Senate vote upon it, and so far as I am concerned my duty will then be done.

Mr. DAVIS. I will say a single word in reply, with reference to the personal allusion which the honorable Senator has made to me in connection with this matter. The session of Congress is drawing rapidly to a close; there are but few days of the session remaining, and there is a great deal of important business, some of indispensable importance, to be transacted. The Senator reminds us that on his favorite bill I am in the midst of a speech. Well, sir, the Senate ought to act upon this motion of the honorable Senator from Massachusetts, with a full understanding that the subject of that speech is inexhaustible, and that whenever it comes up again before the Senate I shall be entitled to the floor; and if these considerations are not sufficient to induce the Senate not to take up that bill at all, I am altogether incapable of comprehending the case. [Laughter.]

Mr. SUMNER. Therefore, Mr. President, I think the Senate should take up that bill this afternoon, and give the Senator the whole evening in which to make his protracted speech. Let him speak till midnight, till the cock crows, if he will, but then let us vote.

Mr. DAVIS. I think the best disposition to make of the case would be to postpone indefinitely the Senator's bill, and all the speeches that the Senator may make on that or any other bill.

The PRESIDING OFFICER. The unfinished business of yesterday is before the Senate as in Committee of the Whole, being the joint resolution (H. R. No. 38) to pay to the Chippewa, Ottawa, and Pottawatomie Indians, residing in Michigan, the sum of \$192,850.

Mr. DOOLITTLE. Upon that subject the honorable Senator from Iowa [Mr. HARLAN] was upon the floor.

Mr. HARLAN. I had said about all I wanted to say when I gave way yesterday. If anything was not then said, I have forgotten entirely what it was, [laughter,] and so I shall forego the privilege of addressing the Senate now.

Mr. DOOLITTLE. The honorable Senator from Iowa and myself are associated upon the Committee on Indian Affairs; we generally agree in our views; and whenever there is any disagreement of opinion between him and myself, I confess that it tends somewhat to destroy my confidence in my own opinion; but in this instance I think the honorable Senator's proposition does not meet the case as properly and as justly as that which is proposed by the majority of the committee; and now, if I can have the attention of the Senate for about five minutes, I think I can state to them all that I desire to say in answer to the views expressed by him yesterday.

He suggests as one reason why he looks upon this appropriation with distrust, that there have been agents employed in the prosecution of the claim, and that if this amount of \$50,000 is paid over, a considerable portion of it will go to those agents. The Senate, if they will look into the joint resolution, will find that by its provisions the money is to be paid over by the agent of the United States for the Indians in Michigan, who is Hon. Mr. Leach, with whom most of the Senators are acquainted personally, and it is to be paid over by him to the Indians themselves personally in Michigan. These Indians, or most of them, are said to be farmers in Michigan of considerable intelligence and advancement in civilization, many of them very good farmers. Under these circumstances, I think that there is no danger that this appropriation will not reach the Indians for whose benefit it is designed.

Mr. HARLAN. If the Senator will allow me, I will state that I have been informed from a source that I think reliable, that very soon after the report of the Committee on Indian Affairs of the Senate in favor of paying \$50,000 to these Indians, one of the agents here in Washington telegraphed to a friend in Michigan residing in the neighborhood of these Indians, and that he went to work immediately and bought them out before they had any knowledge of what the Senate committee had done, for a very trivial consideration, that he now holds those contracts, and if the money shall be paid under this proposition of the committee, it will probably go to those agents, or the most of it.

Mr. DOOLITTLE. This is a rumor of which I have never heard anything, and, of course, have no knowledge.

Mr. HOWARD. I should like to know who that person was. I never heard of such a fact before.

Mr. DOOLITTLE. There has been another rumor whispered about in relation to the claim in regard to the Pottawatomies that reside in Kansas. After the joint resolution was passed by the House of Representatives proposing to allow \$192,000 to the Michigan Indians it has been rumored that certain agents who opposed that claim agreed that they should be entitled to one half of all the reduction from \$192,000 which shall be made on the final passage of the resolution; but as to all these rumors I know nothing, and will not undertake to vouch for the truth of any of them. In the discussion of the question, and in the examination of the claim, my purpose has been simply, so far as we can arrive at it, to do justice between these two sections of the same Indian tribe. It is not a matter which concerns the Treasury of the United States. What we pay to these Michigan Indians we pay out of annuities which go the Indians in Kansas.

Mr. President, I come now to the discussion of what I regard the material point in the case, whether there is anything due to these Indians under the treaties. It is alleged on the one hand that nothing is due to them because they did not remove from the reservations in Michigan and go to the northern part of the peninsula of Michigan—that is the language of the treaty—to l'Arbre Croche. I admit that the Indians did not go there to reside. They went there, but for some reason they returned. Upon that subject there is some evidence as to what the reason was why the Indians did not remain. The superintendent of Indian affairs, in his letter of March 25, 1843, to the Department, says:

"A delegation of the Pottawatomies, who resided on the reservation in Michigan prior to the treaty held at Chicago in 1833, and who have always refused to emigrate, called upon me a few weeks since to represent their grievances also. They stated that the chief, Pokagon, (father of one of them,) as also several of his band, were Catholics at the time of signing the treaty, and refused to emigrate west, as it would cause them to recede again into barbarism; that

permission was granted them by said treaty to settle in northern Michigan, where they would enjoy the instruction of priests, and receive their proportion of the annuities; that they in due time applied to the Ottawa as of l'Arbre Croche, near Mackinac, for permission to amalgamate with them, which, owing to the interference of some evil-disposed whites, was refused; that they then purchased lands of the United States, which a portion of them still occupy, (except forty acres appropriated to their mission.)"

Now, Mr. President and Senators, as between the two branches of the Indian tribe it is of no earthly consequence to the Indians of Kansas whether the Michigan Indians were permitted to live at l'Arbre Croche or at Lake Pokagon. What difference did it make to the Indians in Kansas? The question whether they lived at Lake Pokagon or at l'Arbre Croche, or lived in Michigan at all, was a question as between the Michigan Indians and the United States. We have waived our rights, if we had any, to compel them to live at l'Arbre Croche, and it does not affect the equities between the Indians of Michigan and the Indians of Kansas whether the Michigan Indians went up to the northern part of the peninsula of Michigan or removed to some other point in the State of Michigan. We by allowing them to remain there, we by conferring a title upon them to land and allowing them to settle upon it in Michigan, have waived any technical right we had to insist that they should go and live with the Ottawas at l'Arbre Croche; and therefore I think that the equities of this case as between the two branches of the Indian tribe do not require us to say that these Indians by remaining in Michigan have forfeited their rights. That is the view which pressed upon my mind, and I think it is just. Although you may say technically they did not live at l'Arbre Croche as the treaty required, there was yet an excuse for it, and we at all events have waived that condition and allowed them to remain in Michigan. My friend from Minnesota in speaking on this subject said there were some Pottawatomies now wandering in Wisconsin.

Mr. RAMSEY. Winnebagoes.

Mr. DOOLITTLE. And there are some Pottawatomies also in Wisconsin as well as some Winnebagoes that have never removed west; but there was no provision in the treaty for the benefit of those residing in Wisconsin, while there was an express clause in the treaty in relation to the Catholic band of Indians in Michigan, and the purpose of this appropriation is to carry into effect the clause of that treaty.

The Senate understand, as I stated the other day, that the House of Representatives proposed to take \$192,000 for this purpose and give to these Indians in Michigan; not only their right to a share of the money annuities, the \$50,000 which we propose to give, but also to give them a right to a share of the lands which have been sold west of the Mississippi river, and a right to their portion of the school fund which was to establish schools in their new homes, and the mill fund which was to establish mills there also. The committee of the Senate rejected these propositions and reduced the amount to \$50,000, and, as I have said, we propose to divide it into five equal annual instalments; and lest there should be any danger of the money getting into the hands of agents here in Washington or anywhere else, we require the money to be paid over into the hands of the Indians in Michigan by the Government agent there, who is Hon. Mr. Leach, with whom most of us are personally acquainted.

Mr. HOWARD. I will endeavor to state as briefly and clearly as I am able the ground of this claim. The bands of Indians called in this joint resolution and these documents the Michigan Indians constituted a part of what is known as the United nation of Pottawatomies, Chippewas, and Ottawas. At the date of the treaty of Chicago of September 27, 1833, these Michigan Indians owned and possessed within the limits of Michigan, then a Territory, one hundred and sixty-four sections of land. On the 26th of September, 1833, the United nation made a treaty with the United States by which they ceded to the United States about five million acres of land lying within the limits of the State of Illinois. The Michigan Indians did not intend, it seems, to remove west of the Mississippi river in pursuance of the policy of the Government which then existed—it was under General Jackson's administration—and in order to quiet them there was formed on the 27th of September, the day after the main treaty of Chicago was formed, a supple-

mental treaty, and in the supplemental treaty the contracting parties agreed as follows:

"And as since the signing of the treaty"—

That is, the treaty of September 26—

"And as since the signing of the treaty a part of the band residing on the reservations in the Territory of Michigan have requested, on account of their religious creed, permission to remove to the northern part of the peninsula of Michigan, it is agreed that, in case of such removal, the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservation on which they now reside, shall be paid them at l'Arbre Croche."

What was their share in the annuities existing under prior treaties? Nothing but their proportional share as members of the United nation. What was their interest in the reservations in Michigan? They were the possessors and occupants of one hundred and sixty-four sections of land lying in Michigan which had been reserved to them under prior treaties. By this supplemental treaty they sold their one hundred and sixty-four sections of land to the United States for the sum of \$100,000, \$60,000 of which were paid down to them in cash and in goods, and there remained to be paid to them the sum of \$40,000, which was stipulated by the treaty to be paid in annuities of \$2,000 a year.

Now, sir, it is perfectly easy to see, is it not, that this \$40,000 was part of the purchase price of the reservations which they sold by the supplemental treaty of the 27th of September. That sum has never been paid to these Indians, nor have they been paid any sum whatever as their proportional share of the purchase price of the lands belonging to the United nation and which were sold to the United States by the treaty of the 26th of September. That balance due to the Michigan Indians remains still to be paid, and this is the basis to their claim. They stand, and stand solely, upon this stipulation in the supplemental treaty of the 27th of September, permitting them, if they saw fit, to remove to the little settlement called l'Arbre Croche, in the northern part of the lower peninsula of Michigan.

I am not able to agree with what seems to be the opinion of my friend from Wisconsin, the chairman of the Committee on Indian Affairs, when he intimates, or seems to intimate, that it was a requirement of the supplemental treaty that these Indians should go to l'Arbre Croche. I do not so read the treaty. It certainly is not so expressed in the terms of it; the terms of the treaty being that "in case of such removal they shall receive the just proportion of all annuities payable to them under former treaties and that arising from the sale of the reservation on which they now reside," at that place. Is it not as plain as the sun at noonday that this clause was incorporated in the supplemental treaty merely for the benefit and advantage of these Michigan Indians, and for no other purpose? Certainly it is to my mind a very strained, unnatural, and absurd construction to say that in case they refused to go to and remain at l'Arbre Croche they forfeited all their right and title to the purchase-money which belonged to them upon the cession of their lands to the United States. Without intending any disrespect to the gentlemen opposing this claim, I must say that it is certainly a very ingenious mode of cheating the Indians by a mere interpretation of a treaty written in a language foreign to them and which most of them were totally ignorant of. In a dispute between two white men, the one having sold his land to the other, and agreed, if you please, to take payment at a particular place, what would be said if a defense to such a claim as that were that because payment was not demanded at the place where it was due, it was therefore absolutely and totally forfeited? Such a defense would not be listened to a moment in a court of justice. I dislike to occupy the time of the Senate on a point which is to my mind so perfectly obvious, so incapable of argument.

I remarked yesterday that I supposed the resolution from the House of Representatives, appropriating \$192,000 to the Michigan Indians, was founded upon a report of the committee of the House of Representatives and upon an estimate which had been furnished from the Indian Bureau. I was contradicted in a very grave manner—certainly in a very sincere and courteous manner—by the Senator from Kansas, [Mr. LANE,] who informed the Senate that I was "very largely in error" in that statement, and that the resolution

really was founded upon no such report. I beg to refer the Senate to the report of the Committee on Indian Affairs of the House of Representatives, dated February 19, 1864, in which the committee use the following language on this subject, and it contains a brief statement of the whole case. Speaking of the Michigan Indians, they say:

"They continued their efforts and carried the matter to Congress, and on the 2d day of March, 1861, a law was passed ordering an examination, and report to Congress, which was completed and made by the Secretary of the Interior on the 19th day of December, 1862. The records of the Committee on Indian Affairs show that the claimants were not then ready for action, and the matter has laid over to the present time."

And again:

"Six hundred and forty-three thousand dollars of this money is now in the hands of the Government at five per cent. The report of the Secretary of the Interior shows the amount due the claimants to be \$192,845, which sum has been paid to the main nation erroneously, and should be reclaimed and paid to the claimants."

I hope the Senator from Kansas, before he contradicts me again in a statement of fact will condescend at least to examine the documents connected with the case.

Mr. LANE, of Kansas, rose.

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Kansas?

Mr. HOWARD. In a moment I shall be through. This document is not only a report of a committee of the House of Representatives, but it embodies in itself the result of an investigation and a report made in the Indian Office and furnished to Congress, so that in both respects my statement was accurate and true and was not "largely in error," as the Senator imputes. This report shows that these Indians in Michigan are entitled in justice and equity not only to the sum of \$50,000, which is the amount of the present amendment, but to \$192,000 as the just amount of indebtedness to them on the part of the Government of the United States.

I hope, sir, that the joint resolution will pass, and that partial justice at least will be done to these Christian Indians who have waited so long and so patiently for that which is honestly and legally due to them, but which has been withheld from them for some reason or other. I am asked whether the Indians have made claim before. On that point let me read from the very report which I hold in my hand:

"The whole was properly ratified by all parties. The removal of the main nation west did not commence until three years after, namely, 1836. The records of the Department show that up to this period Pokagon and his band shared equally in all of the annuities mentioned heretofore. From that date the whole of the moneys were paid out to the main nation west until 1843. In that year Robert Stuart, then superintendent at Detroit, Michigan, addressed a letter to the Commissioner of Indian Affairs, stating that sons of Pokagon and some of his people had applied to him for their annuities guaranteed to them under the treaty of 1833; that they had been to the northern part of Michigan; that Pokagon was dead; that they had received no moneys, and that they numbered about two hundred and fifty persons. A portion of the \$16,000 perpetual annuity under the treaty of July 29, 1829, was then allowed them, amounting to \$1,387 50, and has been paid to them annually ever since. Thus the matter rested until somewhere about 1856, when these Indians, being satisfied that they were not having their just rights, again importuned the Department for action in the matter, which was denied, except to admit there was something due them from 1836 to 1843."

And from that time, 1843, up to the present time, these Indians, poor, ignorant, dependent wards of the Government as they are, have by their agents, at their own expense, and at a very heavy expense, been prosecuting themselves their just claim against the Government of the United States. I remarked yesterday that the character of the agents in this case has nothing whatever to do with the merits of the claim. I presume it is, like hundreds of other claims, in the hands of agents appointed by the claimants. I have a knowledge of some of the agents who are connected with the prosecution of this claim, and, so far as I know, and so far as I believe, they are gentlemen of honor and of veracity and of integrity. One of them, who has been residing here during the whole session, is a member of the Indian band itself, himself an educated Indian, as honest a man and as sincere a man as lives. It is very likely that a portion of this money that may be recovered will be given over to attorneys and to agents who have assisted the Indians in the recovery of it. It is not to be withheld on that account. If the Indians have employed agents and attorneys, they expect, like honest men, to pay them, and they



are waiting for this appropriation to enable them to do so.

I can say no more, Mr. President, in behalf of this claim. I believe it to be a just and a righteous claim, one which long ago ought to have been paid; and I now appeal to the justice of the Senate in behalf of the dependent Indians whose land we have taken and used and sold, the proceeds of which we have put into our Treasury, to do at least partial justice to the poor and needy, even at this late period.

Mr. HARLAN. Mr. President, this appeal would be very well if it were made in favor of the poor, uneducated Indians against cultivated people; but it is an appeal made by the cultivated, educated Indians of Michigan against the wild Indians of Kansas. The Indians in Kansas have never been heard. This proposition is to put your hands into their money bags and take out money due to them, under the uniform decision of this Government for nearly thirty years, and pay it over to highly educated Indians, as the Senator says, now residing in Michigan, and to take it from the Kansas Indians without a hearing. The Michigan Indians have been heard by their attorneys here, able men. And I have nothing to say against their reputation as men. I suppose they are lawyers of ability and integrity, and deem that they have a right to claim and collect all the fees they can get under fair contracts. But these Kansas Indians have not been heard. It is said that a gentleman, representing himself as their agent, has been here, and has printed a pamphlet and laid it on the desks of Senators; and this same gentleman did appear before the Indian Committee. He came without any authority whatever, as far as I know, and, it is said, had previously been employed by the Michigan Indians in the same case. Be this as it may, it will be observed that, in the conclusion of his printed argument, he urges that the Government should pay something to the Michigan Indians; and I have no doubt he is in complicity with the agents who are prosecuting this claim for the Michigan Indians, and will share in whatever amount they recover.

Another of the remonstrators against this Michigan claim, who made an appeal to me personally in favor of the Kansas Indians, originally, a month or two since, came to me quite recently and urged me to go for the claim. I have no doubt that he, too, will share in the bounty if it shall be secured.

Now, what assurance have we that the Indians in Kansas will acquiesce in this arrangement? Congress is asked to pass a law taking from the Kansas Indians \$50,000, and paying it over to Indians in Michigan who have been adjudged solemnly by this Government not to be entitled to it. The Senator from Michigan says that it sounds to him very much like quibbling to say that these Indians in Michigan never complied with their contract under the treaty, and seems to impute to the members of the Indian Committee, who take the view of the subject which I do, that we are not entitled to much respect for coming to the conclusion at which we have arrived, and for saying that these Indians were not entitled to money because they had not complied with their contract to remove. This is a reflection on the Government more than on those members of the committee who oppose the claim. They have not been paid this money by the Government from 1836 to the present hour, because, in the opinion of the Government, they had not complied with their contract under the treaty. I might, I think, in the face of these facts, appeal to the Senator from Michigan to say whether he himself is not the quibbler, if such a term is appropriate in this presence.

Mr. HOWARD. The Senator will allow me to say that I believe I have not used any such term as that. I am not conscious of it, if I have.

Mr. HARLAN. I so understood the Senator, but I cheerfully accept his correction.

The PRESIDING OFFICER. It being now half past four o'clock, the Senate will take a recess until seven o'clock.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock p. m.

W. H. AND C. S. DUNCAN.

Mr. LANE, of Kansas. I move to take up the bill (S. No. 311) for the relief of W. H. &

C. S. Duncan. It was taken up yesterday and half finished. I want it disposed of. It is merely to pay \$200 for supplies furnished to Kansas militia in 1856.

The PRESIDING OFFICER, (Mr. POWELL.) The Chair can only entertain such a motion by unanimous consent, the business pending at the time the recess was taken being the business regularly before the Senate.

The motion was agreed to; and the consideration of the bill (S. No. 311) for the relief of W. H. & C. S. Duncan was resumed as in Committee of the Whole.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

SAMUEL L. GEROULD.

Mr. CLARK. I move to take up the bill (S. No. 450) for the relief of Samuel L. Gerould.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to Samuel L. Gerould, late sergeant company G, fourteenth New Hampshire volunteers, the sum of \$179 20, for his services as clerk to a general court-martial from September 21, 1863, to December 24, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM PIERCE.

Mr. CLARK. I move to take up the bill (S. No. 442) for the relief of William Pierce.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to issue, execute, and deliver to William Pierce, duplicates of the following-described bonds of the United States of America, Treasury Department, for the Oregon war debt, issued by the United States under an act of Congress approved March 2, 1861, payable at any time after the 1st of July, 1881, at the Treasury of the United States, with interest at the rate of six per cent. per annum, namely, No. 679, No. 682, No. 681, and No. 270, with coupons attached; the first three bonds being for the sum of one hundred dollars each, and the last named being for fifty dollars, each bond being signed L. E. Chittenden, Register of the Treasury, and each of the coupons attached being signed G. Luff; but before the issue of the new duplicate bonds, Pierce is to execute, or cause to be executed and deposited with the Secretary of the Treasury of the United States, to the full acceptance and satisfaction of the Treasurer, such bond of indemnity as is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stock.

The bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

#### DEPARTMENTAL COUNSEL FEES.

Mr. TRUMBULL. Some time since a resolution was adopted by the Senate, at my instance, calling on the heads of the several Departments of the Government to inform the Senate how much money had been paid for counsel fees by their respective Departments. The resolution has been responded to by all those officers except the Attorney General; he has not answered the resolution. I move that all the replies which have been received be printed.

The motion was agreed to.

Mr. TRUMBULL. Now I move that the Attorney General be again directed to respond to the resolution of the Senate.

The motion was agreed to.

GEORGE J. STUBBLEFIELD.

On motion of Mr. CLARK, the joint resolution (S. R. No. 109) authorizing the adjustment of the claim of George J. Stubblefield for chewing tobacco furnished to the United States, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Commissary General of Subsistence to adjust the claim of George J. Stubblefield for chewing tobacco furnished to the Army of the United States under Major General W. T. Sherman, at Atlanta, Georgia, upon the same principle and evi-

dence as govern the adjustment of claims for authorized supplies received by the subsistence department of the United States under the act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States, approved July 4, 1864; and the sum ascertained to be due, not exceeding \$14,746 50, is to be paid out of any money in the Treasury not otherwise appropriated.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### THANKS TO GENERAL THOMAS.

Mr. WILSON. I move to take up the resolution of thanks to General Thomas.

The motion was agreed to; and the joint resolution (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command was considered as in Committee of the Whole.

Mr. BROWN. I move to amend the resolution by inserting as additional sections:

Sec. 2. And he it further resolved, That the thanks of Congress are also hereby tendered to Captain S. Phillips Lee, and to the officers, petty officers, seamen, and marines under his command, for the skill, gallantry, and good conduct exhibited by them in cooperation with the land forces under command of Major General Thomas in the late great and decisive victories in Tennessee.

Sec. 3. And he it further resolved, That the President be requested to communicate these resolutions to the officers named, and through them to those serving under them, embraced in the foregoing vote of thanks.

I move this amendment in justice to those connected with the Navy in cooperating in the movements in Tennessee; and in doing so I think it will be only necessary to read from a dispatch of Major General Thomas, addressed to Acting Rear Admiral Lee, the following sentences:

"Your efficient cooperation on the Tennessee has contributed largely to the demoralization of Hood's army. Major General A. J. Smith, commanding a detachment of the army of the Tennessee, will probably reach Clifton by Sunday next, January 1, 1865, where transports are expected to meet him to take his command to Eastport. Please afford him every assistance in your power in effecting a secure lodgment at Eastport, and as I consider the Cumberland now entirely safe I will be obliged to you if you will have a strong force kept in the Tennessee to keep open navigation on that river.

"In concluding this telegram, it gives me great pleasure to tender to you, your officers and men, my hearty thanks for your cordial cooperation during operations of the past thirty days.

GEORGE H. THOMAS,

Major General.

"To Acting Rear Admiral S. P. Lee, Commanding Mississippi Squadron, Flag-ship *Fairy*, Chickasaw, Alabama."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

It was ordered that the amendment be engrossed, and the joint resolution read a third time. The resolution was read the third time, and passed. Its title was amended to read: A resolution of thanks to Major General George H. Thomas and the army under his command, and to Captain S. Phillips Lee and to the officers, petty officers, seamen, and marines under his command.

#### POTTAWATOMIE INDIANS OF MICHIGAN.

Mr. DOOLITTLE. I desire to call up the unfinished business and press it to a vote.

The PRESIDING OFFICER, (Mr. POWELL.) The unfinished business is the joint resolution (H. R. No. 38) directing the Secretary of the Interior to pay to the Chippewa, Ottawa, and Pottawatomie Indians residing in Michigan, the sum of \$192,850, which is now before the Senate as in Committee of the Whole, on which the Senator from Iowa [Mr. HARLAN] is entitled to the floor.

Mr. HARLAN. I have said about all I wish to say. I am willing to take the vote now on the amendment that I proposed.

Mr. LANE, of Kansas. I want to settle a question of veracity between myself and the Senator from Michigan. I tried to have an opportunity when the Senator was indulging in denunciation, but with his native courtesy he refused me the opportunity.

Mr. HOWARD. Mr. President, I am not aware that I ever denied any request of the Senator from Kansas to say anything he chose to say on this question; and I am at a loss to understand this singular language.

Mr. LANE, of Kansas. I rose to my feet and asked the Senator from Michigan to allow me

to explain, which he refused to do. It was on a question of veracity.

Mr. HOWARD. I have no recollection of ever hearing the Senator make such a request. As to the question of veracity, I am ready to hear him on that subject. If he desires to make any explanation, that is his privilege, as a matter of course.

Mr. LANE, of Kansas. In the first speech made by the Senator from Michigan on this subject he stated that the House committee had reported in favor of \$168,000 for the Michigan Indians, to be taken from the funds of the Kansas Indians, and that that amount was predicated upon an estimate—

Mr. HOWARD rose.

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Michigan?

Mr. LANE, of Kansas. Certainly.

Mr. HOWARD. I beg to assure the Senator and the Senate that I made no such statement as that.

Mr. LANE, of Kansas. Well, Mr. President, all I can say is that I looked for the printed report of the speech to-day, and it is not yet in the Globe. I state now how I understood his remark, and the remark which I corrected.

Mr. HOWARD. I have no objection to that.

Mr. LANE, of Kansas. It was that the House committee had reported the sum of \$168,000 in favor of the Michigan Indians to be taken from the Kansas Indians.

Mr. DOOLITTLE. One hundred and ninety-two thousand dollars.

Mr. LANE, of Kansas. I should have said \$192,000. The statement of the Senator from Michigan was that the House committee had reported that sum to be due, which was predicated on an estimate of the Indian Bureau. After the Senator made that statement, I rose to my feet and said that in that statement he was largely in error; that the Indian Bureau had estimated a much smaller sum; I said I thought about ninety thousand dollars. The Senator to-day, as I understood him, reiterated the statement he made yesterday, and took me to task for having corrected him incorrectly. I have the estimate of the Indian Bureau before me, and I propose to read it to him and to the Senate. This is signed by Mr. Dole, and dated November 15, 1862:

"But wishing to present all the evidence at my command that will aid you to make up your decision, I have prepared a statement for your consideration which, if in your opinion is a more just and equitable distribution of the annuities than the former, you can adopt it."

That estimate is \$73,112 50, being \$17,000 less even than the amount stated in my correction of the Senator. I desire to say to him now that when I correct a Senator in a statement of fact, I do it in kindness and courteously, and I hope that I may be treated kindly and courteously in response to it.

Mr. HOWARD. What I said yesterday, in the opening speech to which the Senator from Kansas alluded, was that the joint resolution now under consideration, which came from the House of Representatives, was founded upon a report of a committee of that House, in which it was stated that the amount of \$192,350 was estimated to be due to the Michigan Indians, and that report of the committee of the House of Representatives was derived from a report or from information furnished by the Indian Bureau. That is what I stated. It had been some time since I had actually seen the report to which I had reference, and I had it not by me at the moment, and could not therefore read from the page itself. After I had made this statement, the Senator from Kansas, I thought with an air of assurance, at least of great confidence, remarked to the Senate, by way of interrupting me, that I was "largely in error." Sir, I was taught, when I was young, when making a statement of fact to do so with accuracy, so far as I could, not to overstate and not to understate; and I confess that the charge of being "largely in error" on such a statement of fact was not very agreeable to me. Hence when I produced the document here this afternoon and read from it, showing that my statement was substantially accurate in both particulars, I did refer to the remark made by the Senator from Kansas in such terms as to call his particular attention to the mistake which he had made in charging me

with inaccuracy. I did not intend of course any disrespect to the Senator from Kansas. If this be the question of veracity which he seeks to settle between himself and me, I have no more to say about it; I leave it to the Senate and the country.

Mr. LANE, of Kansas. Do I understand the Senator from Michigan to say that the amount of \$192,850, as found by the House committee, was predicated upon an estimate of the Indian Bureau?

Mr. HOWARD. I did not use the word "estimate." I know not whether it was an estimate or something else; it was a report made from the Indian Bureau, as the very report of the committee of the House of Representatives says.

Mr. LANE, of Kansas. But I have just read from the report of the Indian Bureau making an estimate of \$73,000, instead of \$192,000.

Mr. HOWARD. I know not what document the Senator from Kansas has before him; but I know what I have before me quite well. In the document which I have before me, and which is the report of the committee of the House of Representatives, the following language is used, in speaking of the report from the proper Department:

"The report of the Secretary of the Interior shows the amount due the claimants to be \$192,845, which sum has been paid to the main nation erroneously, and should be reclaimed and paid to the claimants."

Mr. LANE, of Kansas. I have shown the report of the Indian Bureau. The present Secretary of the Interior has reported to the Committee on Indian Affairs that there is nothing due from the Kansas Indians to the Michigan Indians.

Mr. HOWARD. The committee of the House of Representatives in their report, speaking of the claimants, say:

"They continued their efforts and carried the matter to Congress, and on the 2d day of March, 1851, a law was passed ordering an examination, and report to Congress, which was completed and made by the Secretary of the Interior on the 19th day of December, 1852. The records of the Committee on Indian Affairs show that the claimants were not then ready for action, and the matter was laid over to the present time."

Afterward it says "the report of the Secretary of the Interior shows the amount due the claimants to be \$192,845."

Mr. DOOLITTLE. If my honorable friend from Michigan and my honorable friend from Kansas will allow me a moment, I can explain how this discrepancy arises, and how in fact both Senators are right in one view of the case, and both are wrong in another.

Mr. HOWARD. I should like the honorable Senator from Wisconsin to show in what respect I am wrong in this matter.

Mr. DOOLITTLE. In relation to this claim there were two statements by the Commissioner of Indian Affairs, two calculations based upon two distinct sets of principles. In the one calculation he found that there was \$73,112 50 due to the Michigan Indians; but if he made his calculation upon the other basis he found that \$192,845 was due, and in the latter basis he includes a share of the lands west which have been sold, for which the tribe have a principal sum of \$643,000 drawing interest, and he includes also interest upon the money which had not been paid to them. Including their share of the \$643,000 which was realized from the sales of lands west of the Mississippi, which alone amounted to \$71,000, and the interest upon the payments which ought to have been made, amounting to \$33,000, he made up the whole sum of \$192,845. Now, the committee of the Senate reject the principle that the Michigan Indians shall have any share in the lands west or shall have any interest upon their claim or any share in the school fund or the agricultural fund which belongs to the establishment west of the Mississippi, but confine the Indians in Michigan to their share of the money annuities which, as we reckon them, amount to \$50,000. The Commissioner of Indian Affairs, in his computation making out \$73,000, allows the Indians of Michigan the whole of the \$2,000 annuity which is provided in the supplementary treaty, and does not divide that annuity with the tribe west of the Mississippi, but keeps it all for the Indians in Michigan. In that way he makes the difference more than is made by the committee of the Senate in their estimate.

This is really a difference in the basis of computation. It is true, as the Senator from Kansas says, that the present Secretary of the Interior, on looking at this case in the first instance, did write a letter in which he stated that he did not think anything was due to the Indians in Michigan, putting his opinion upon the very same ground on which my friend from Iowa has placed his opinion, and that was that they did not comply with the treaty in removing to the north part of Michigan. Mr. Caleb B. Smith, however, the former Secretary of the Interior, recommended the payment of the sum of \$73,000.

These are the facts, in short, which show the discrepancy. The House committee, as stated by my friend from Michigan, recommended the payment of \$192,000.

Mr. HOWARD. Certainly; and that was all I stated, that the House committee recommended the payment of that amount of money; that that was reported as being due to the claimants in their report, and that that report was founded upon a report from the Secretary of the Interior. Certainly my honorable friend from Wisconsin will not pretend that in all this I am in the wrong at all. I simply recite the contents of the documents which are before me. The documents may be wrong or may be right; I am not responsible for them. Although I may not be able to satisfy the honorable Senator from Kansas that my "native courtesy" is at all comparable with his own, still I trust that he will be satisfied with this explanation. Certainly I am.

Mr. DOOLITTLE. And now, if the Senate is prepared, I should like to take the vote on this question and dispose of the case.

Mr. LANE, of Kansas. I am perfectly willing that the Senate shall act on this joint resolution when I have made a statement to them of two points, which will take about two minutes. The Pottawatomie Indians, from whom it is proposed to filch this money, are our western tribe, lying contiguous to the warlike Indians. It is proposed without their consent, and without their being represented, to take one fourth of their annuities from them, upon which they depend for food and clothing, without our having heard from them, without their having been before the committee or having had notice that there was any such thing likely to take place; and I submit and give notice to the Senate that there is danger of creating such a feeling in that tribe as to have the scenes of Minnesota repeated upon the people of Kansas. About one half of this tribe are what are called Prairie Blanket Indians. They are uneasy now, and have been since this war commenced, and the taking from them of this money, upon which they depend for food and raiment, I am satisfied will create a hostile feeling among them.

Again, I submit to the Senate this question: we treat these Indian tribes as independent nations; we have been paying to this tribe or independent nation of Pottawatomies for thirty years this money; now it is proposed, without consulting them, to take it from them and pay it to a colony, as if you were to take money due to the Government of Great Britain and pay it to Canada, her colony, without consulting the British Government. I have believed, and I again state to the Senate that the true policy is to recommit this subject to the committee; let the Pottawatomie Indians have notice of the purpose to take from them their national money, let them send their agent here, be heard before that committee, and then, if you conclude to force the money from them, they will not have as much reason to complain as they have now.

Mr. DOOLITTLE. In relation to the statement of the Senator from Kansas that the Pottawatomies have not had notice and have not had an agent here, I wish to state the facts as I understand them. The joint resolution was passed by the House of Representatives in March last year. Mr. Brackenridge, claiming to be their agent, and who has filed with the Commissioner of Indian Affairs a power of attorney showing that he is their agent, has, in writing, in print, and in person appeared before the Indian Committee on two or three occasions to oppose this claim, and his printed statement has been before the committee, and I believe is with the papers.

Mr. LANE, of Kansas. Now, I desire to ask the chairman of the committee a question. Does not the agent of the Michigan Indians in his argu-

ment make the point upon Mr. Brackenridge that he is not the agent of the Pottawatomie Indians?

Mr. DOOLITTLE. Mr. Brackenridge, however, has filed his power of attorney with the Commissioner of Indian Affairs.

Mr. LANE, of Kansas. But has not been recognized.

Mr. DOOLITTLE. He has been heard, and his written statement has been filed; and this case has been fully heard, I think, by the committee on both sides. As to my friend's apprehension of an Indian war in Kansas, to grow out of the fact that we take from Indians who have been overpaid this money, without charging any interest, and pay it over to those rightfully entitled to it in five annual payments, are altogether unfounded. We simply say that the Indians in Kansas shall refund to the Michigan Indians what belongs to them. Those apprehensions, it seems to me, must be without any foundation.

Mr. HARLAN. I will state to my friend from Wisconsin that their being over paid is the very question in issue.

Mr. DOOLITTLE. Of course, as between my friend and myself that is a question. He claims that nothing is due to them.

Mr. HARLAN. Mr. President, is nothing in this Government ever to be settled? Are we not to accredit the official acts of our public functionaries? They have decided and executed the treaties, and paid the money due under the treaties for thirty years past, and they have done it in this case in pursuance of the principle and policy that has been maintained in relation to every other Indian tribe since the foundation of the Government. Now, with what propriety can a Senator come here and say that this money has been wrongfully paid to the main body of these Indians? It has been paid in strict pursuance of treaty stipulations and in strict pursuance of the policy of the Government in relation to this particular tribe and in relation to every other Indian tribe with which we are now in treaty relations from the beginning; and the passage of this bill is to overturn the policy of the Government, is to set up a new policy at war with the principles that have heretofore controlled the executive branch of the Government. Under this view of the case I think it may well be suggested by the Senator from Kansas that the Indians themselves will not be satisfied with this, they not having been consulted. You make a treaty with them, and agree to pay them certain sums of money from year to year. This money has been paid annually for thirty years last past; and now, without consulting them, without entering into any treaty regulations or bargain with them by which you obtain consent to this diversion of one fifth of their funds, you propose to pay it over to other people that they say are not entitled to it, and which you yourselves, through the Secretary of the Interior and the Commissioner of Indian Affairs for thirty years last past, say they are not entitled to.

The interpretation that I place on this treaty is in accordance with the ruling of the Government. This question has been decided over and over again every year from the ratification of this treaty down to the present moment, and this bill proposes now to unsettle this policy, to overturn these decisions, to go back thirty years and take money from these Indians, or stop future payments in the Commissioner's hands for the purpose of paying it over to parties that are not entitled to it according to your own ruling, according to the uniform action and policy of your own Government and your own executive officers. I cannot see where this will end if we are to unsettle the policy of this Government in this way. You have the Commissioner of Indian Affairs and the Secretary of the Interior from year to year now paying out millions of money to the Indians. If that is to settle nothing, if it is all subject to be overturned by a committee of the House of Representatives, or of the Senate, on the suggestion of some claim agent, when are these questions to be ended, when are they to be terminated? Among civilized communities an honest debt is supposed to be barred in the course of six or eight or ten years. Ought not such a principle to operate in favor of savages with whom we are in treaty relations?

It seems to me this question is too plain for an argument, and I hope that the motion of the Senator from Kansas may prevail. If anything is to

be done I prefer that the amendment I proposed should be adopted. I think this is the nearest fair of anything that has been suggested, but I shall not be tenacious on this point.

Mr. HOWARD. Mr. President, the Senator from Iowa speaks of this bill as being a departure from the policy of the Government; he has not shown in what respect it is a departure from that policy, and I must still presume that what he says on this subject is assumption without proof, for certainly I have seen no direct proof of it.

Mr. HARLAN. I have referred to the provisions of the treaties themselves, and I have listened just now to the reading of the report of the Secretary of the Interior, as recited by the chairman of the committee. The present Secretary of the Interior says that these Indians are not entitled to anything under the treaties; and there can be no question on that point in the minds of those who are familiar with the provisions of the Indian treaties. I know a technical argument may be set up, such as we have listened to to-day and yesterday from the Senator from Michigan, as to the literal or technical meaning of certain phrases in a treaty; but then no one will call in question that these treaties have been executed as they were originally intended to be executed, in accordance with their spirit and meaning, as understood at the time and understood ever since for a period of thirty years by the Government itself.

Mr. HOWARD. Mr. President, the policy of the Government, if there be any such thing worthy of the name, is to do justice and to keep the contracts which the Government has made not only with the Indian tribes but with foreign nations. That is the true policy of the Government. Now, sir, I know of no policy of the Government of the United States which can set aside the plain, imperative language of a treaty into which the Government has entered. In the present case the Government has entered into a treaty which in direct and positive terms engages to pay to these Michigan Indians their just proportion of the purchase price of the lands sold by the United States in Illinois, and the price of the reservations lying in Michigan. That clause declares:

"It is agreed"—

Agreed not only by the Indians, but by the United States—

"That in case of such removal"—

That is, the removal of the Indians to l'Arbre Croche—

"the just proportion of all annuities payable to them under former treaties, and that arising from the sale of the reservations on which they now reside, shall be paid them at l'Arbre Croche."

Mr. LANE, of Kansas. Will the Senator permit me to inquire the date of that treaty?

Mr. HOWARD. The date of that treaty is September 27, 1833, entered into at Chicago. Now, sir, I stand, not on the policy or practice of the Government merely; I stand not on the construction which an officer of the Government may have seen fit to give to this treaty—

Mr. LANE, of Kansas. I ask the Senator—  
The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Kansas?

Mr. HOWARD. Certainly, with my "native courtesy." [Laughter.]

Mr. LANE, of Kansas. For which, with native courtesy, I thank the Senator. [Laughter.]

The Senator has read from the treaty of 1833. I read from the communication of the Department of the Interior, office of Indian Affairs, November 15, 1862—

Mr. HOWARD. I supposed the Senator's object was to put an inquiry; I certainly did not intend to yield the floor for him to read long documents.

Mr. LANE, of Kansas. I desire merely to read a few lines to show that that treaty has been settled.

Mr. HOWARD. Very well.

Mr. LANE, of Kansas. I read:

"The attention of this office was called to this case while Mr. Greenwood was Commissioner, and he reported"—

Mr. HOWARD. What does the Senator read from?

Mr. LANE, of Kansas. The report of the Commissioner of Indian Affairs, dated "Department of the Interior, Office of Indian Affairs,

November 15, 1862," and signed "William P. Dole, Commissioner," in which he says:

"The attention of this office was called to this case while Mr. Greenwood was Commissioner, and he reported to Secretary Thompson, January 8, 1861, and decided that they were entitled to a proportion of the annuities under the treaties of July, 1829, a supplementary to that of September, 1833, amounting to \$18,000, and per annum of \$1,587 50, which sum was duly remitted and paid to them for 1843, being the first payment made to them thereunder since the year 1836, and from which period they have since been regularly paid from year to year."

Mr. HOWARD. That document emanates from the Commissioner of Indian Affairs, and is dated in November, 1862, if I heard correctly. The Secretary of the Interior, the chief of that Commissioner, on the 19th of December, 1862, certifies in a report made by him that there is due to these claimants the sum of \$192,845, and the report is dated one month subsequently to the document from which the Senator from Kansas read.

Mr. HARLAN. I think I ought to state in relation to the Windom report, as it is called, to which the Senator from Michigan refers, that Mr. Windom told me in person that he did not draft the report; he never wrote it; his name was attached to the report as a mere matter of form, and he requested me to ask our committee to look into the subject more narrowly on that account.

Mr. HOWARD. I rely upon the official documents which are laid before the two Houses of Congress relating to this claim. If there be any error in that report of Mr. Windom, especially if there be one so glaring as is now intimated by the honorable Senator from Iowa, I beg to know why he has not searched out the original materials for the purpose of showing and making apparent this error. It certainly was worthy of his utmost industry and labor, and still he rises in his place in the Senate and assumes to contradict a solemn official report, and to discredit it utterly upon his own assertion that hearsay evidence has been brought to his ears contradicting it. I cannot accept any such evidence as that to set aside a solemn report made to one of the Houses of Congress.

Mr. HARLAN. I think the Senator does me injustice in intimating that I have not examined this subject. I have certainly examined it from the top to the bottom with what little capacity I possess, and the conclusion that I come to is that nothing is due to these Indians.

Mr. HOWARD. I have no doubt about that. The Senator need not have repeated that assertion. That was entirely obvious at the commencement of the discussion on this subject.

Mr. SUMNER. I appeal to my learned friend from Michigan now to allow a vote to be taken and let us proceed to something else.

Mr. HOWARD. One word more only, in conclusion. Mr. President, standing on the solemn stipulations of the treaty made between the United States and these claimants, by which the United States agreed to pay them so much money at such and such times, an act which the United States have not performed, it is in vain to tell me and to tell the Senate of the United States that the solemn stipulations of a treaty are to be set aside and annulled by the mere practice of the Government in refusing payment, or by any other means except an act as solemn as the treaty itself which shall annul it. Sir, these claimants have been knocking at the doors of Congress for more than twenty years; since 1843 they have made this claim and kept it alive before Congress and done all that was in their power to do to obtain justice at the hands of the nation that ought to be their protectors and friends instead of their enemies. It comes, it seems to me, with a very ill grace from members of Congress or from those who affect to represent the Government here to set up a sort of statute of limitations against these Indians who have been kept out of their honest dues, not by any laches or neglect of their own, but by the omnipotent power of Congress, which has refused to do them justice. Sir, go into a court of equity and try this question, and it would not be long before you would get an answer directing the payment of this money to be made to the Indians. I have no doubt about the justice of the case.

Mr. DOOLITTLE. I desire for one moment to call attention to the language of the treaty. My friend from Iowa insists that nothing is due to



these Indians by virtue of this stipulation, that they are not entitled to anything. We have paid them all the while their share of two annuities, of the annuity under the treaty of 1829 and of the annuity under the supplementary article of the treaty of 1833. By the treaty of 1829 we were to pay to this tribe \$16,000 annually forever, and by the supplementary article of the treaty of 1833 we were to pay them their proportion of all annuities.

Mr. HARLAN. I will inform the Senator of the distinction. The annuity due under the treaty of 1829 was payable to these Indians whether they removed from Michigan or not. It was no part of the treaty of 1829 that they should remove either to l'Arbre Croche or west of the Mississippi river, and hence Commissioner Greenwood, in adjudicating the case, decided that they were entitled to the annuities that were previously due under treaties the provisions of which did not require them to remove, but it was the supplement to the treaty of 1833 which required them to go to the one place or the other.

Mr. DOOLITTLE. But why was not that included in the payment? So there was a treaty of 1809 for the payment of \$5,000 annually. There was no provision about removal in that; that was not included. So there was a treaty of 1818, by which we agreed to pay \$2,500 annually forever to this tribe of Indians. That was not included. So also there was the treaty of 1823, by which we agreed to pay them \$2,000 annually, and that was not included. The truth is that Commissioner Crawford, when he admitted the right of these Indians to their share of the annuities, by mistake did not look into the treaties to see how many treaties there were under which they had a right to receive annuities; he just took one and omitted all the rest. That has caused the whole difficulty.

Mr. HARLAN. That is an assumption against the Government that is not justifiable. The Indian department now withholds moneys from Indians for any misdeeds on their part, for any violations of the peace of the neighborhood in which they live, for any robberies that they commit, and how now can a Senator stand up here, after a lapse of more than fifty years, and say that these annuities were not withheld on that account? It is a presumption against the fairness of the Government that is not justifiable on the part of any Senator here. The presumption is that the Government did deal with them fairly and in accordance with the treaties and the usages of the Government as established in their intercourse with these Indians. Why, sir, to maintain that the Government has not the right to withhold the payment of annuities to an Indian tribe when they are at war, or when they are engaged in robberies and thefts, is to unsettle the relations of the Government with the Indians and render it impossible for the Government to maintain the peace of the borders. I suppose there is no man now living who can tell why these annuities may have been withheld unless it may be General Cass, who was familiar with the relations of the Government with these tribes for half a century past; but for an individual whose connection with the Government does not reach back to exceed from four to ten years to assume here that the Government has not dealt fairly with those Indians, because he is not able to know the reason that controlled the action of the Government, is, as it seems to me, unjustifiable.

I have but one other word to suggest in relation to this matter. When our political friends were in power, and claims such as these, as they appeared to me, unjust and dirty claims, were raked up and paid, we denounced the Administration for its sanction of any of them. I cannot do now, when my own political friends are in power, that which I should denounce if done by my political opponents. These claims have all been rejected by our political opponents when they were in power as unjustifiable under the treaties then existing, and the policy of the Government as it had been maintained with these Indian tribes. Shall we now, the moment our opponents whom we have denounced for their corruption go out of power and our own friends come in, do that which was too rotten for them to sanction? Others will do as they choose; I shall not sanction it with my voice or vote.

Mr. LANE, of Kansas. I move to recommit

this joint resolution to the Committee on Indian Affairs, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LANE, of Kansas. I desire to say that I make this motion for the purpose of giving the Kansas Indians an opportunity to be heard before the committee.

The yeas and nays being taken, resulted—yeas 19, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Foot, Foster, Grimes, Harlan, Hendricks, Lane of Indiana, Lane of Kansas, Morgan, Powell, Ramsey, Riddle, Sprague, Sumner, Ten Eyck, Transell, Wiley, and Wilson—19.

NAYS—Messrs. Buckalov, Chandler, Conness, Doolittle, Farwell, Howard, Morrill, Nye, Pomeroy, Stewart, and Wadsworth—11.

ABSENT—Messrs. Carlile, Clark, Collamer, Cowan, Davis, Dixon, Hale, Harding, Harris, Henderson, Howe, Johnson, McDougall, Nesmith, Richardson, Santbury, Sherman, Van Winkle, Wilkinson, and Wright—20.

So the motion to recommit was agreed to.

#### FREEDMEN'S BUREAU.

Mr. SUMNER. I now move that the Senate proceed to the consideration of the report of the conference committee on the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

The motion was agreed to.

Mr. SUMNER. The question is simply on concurrence with the committee. I have nothing to say. I believe every Senator has made up his mind. All I ask is for a vote.

Mr. HENDRICKS. Mr. President, I did not intend to discuss for a moment the merits or demerits of this bill—I think they are quite well understood by the Senate—except to call attention to the fact, first, that one of the sections of this bill proposes to do what the President of the United States in a very carefully prepared document two or three years ago declared to be unconstitutional, and to be so clearly so as that he could not approve a bill containing the proposition. I do not suppose, inasmuch as the Constitution has not yet been changed in that respect, that the President can approve a bill which he has said is unconstitutional.

But, sir, I wish to call attention to the mode of legislation that is now proposed. As I understand the facts to be, at the last session the House passed a bill to establish a Bureau of Freedmen's Affairs. It came to this body. The chairman of the committee of this body having it in charge reported a substitute. That substitute was adopted. It went to the House. The House did not agree to the substitute. Then the whole matter was referred to a committee of conference; and that committee bring in neither bill, but, as I understand, a new bill. The committee of conference bring a new bill before this body, which cannot be amended, which must be adopted or rejected in whole, and ask a vote upon it. Sir, I think that is a mode of legislation that this body ought not now to indorse. It may suit the pleasure of some Senators to adopt it in this instance.

Mr. SUMNER. May I interrupt the Senator there? I know the Senator's desire, of course, is to state the case precisely as it is. I do not know that what I am about to state, with his permission, would alter the case in his opinion; but still, in my own opinion, the Senator has not stated the case precisely. The substitute brought in by the committee is, in point of form, to a certain extent, new, but it is not in substance. The bill reported by the committee, in substance, is the identical bill on which the Senate has already voted, with one exception: that instead of placing the bureau in the Treasury Department, as the Senate did in their original bill, or in the War Department, as the House did in their original bill, it is placed in a bureau or Department by itself. That is the single difference of substance between the bill originally passed by the Senate and the bill now reported by the conference committee.

Mr. HENDRICKS. I do not think that the statement of the Senator shows my understanding of the facts to be incorrect. I did not state, nor was it possible for me to suppose, that the bill reported by the committee of conference is in every respect a new bill, in the sense that it is different in every respect from either the bill of the House or of the Senate; but, sir, it is not the bill of either House. It is the bill of the committee of conference. And now the Senator calls atten-

tion to a very material point in which the committee of conference has not represented either the House or the Senate. The bill as it came from the House placed this proposed bureau under the charge of one Department of the Government. The bill as adopted by the Senate placed it under the charge of another Department. The committee makes it a bureau of no Department, but a Department of itself.

Now, I ask the Senate if it is to be allowed that a committee of conference can assume to make a new bill, not representing either body, not a compromise between the bodies, and force us to a vote for or against that amendment. I should desire to propose as an amendment that this bureau, if it must be created, shall be placed under the charge of the Interior Department, a Department to which it seems to me to properly belong, having reference to lands and to persons. If we take charge of the colored people who become free during the prosecution of the war, then it should be placed under the charge of the Interior Department, as the Indians are under the charge of that Department. If we take charge of the lands that become the property of the United States during the prosecution of the war, then the lands ought to be under the charge of the Interior Department, the domestic Department of the Government, as the public lands are under the charge of that Department. I should like to propose an amendment of that sort; but under this system of legislation, that I think for the first time is now to be adopted, I am denied and every Senator is denied the possibility of proposing an amendment. My purpose was to call the attention of Senators to this important feature of this proceeding, and that it should not become a precedent without a protest.

Mr. GRIMES. Mr. President, as I shall feel constrained to vote against a concurrence in the report of the committee of conference, I desire to state why I shall sever from many friends with whom I usually act on this occasion. Let me say in the outset that I do not think any person here entertains any more sympathy with the colored refugees or with the white refugees than I do, and I think no one is more anxious than I am to make all adequate provision for their protection and support; but I confess that I am afraid of this bill should it be enacted into a law.

The first objection that I have to it is that it creates an independent Department, which was not contemplated by either branch of Congress that passed the original bills that were sent to the committee of conference from whom this report comes. My conviction is that it is necessary, in order that these people should be properly protected and cared for, that they should have military protection. I entertain to day the same opinion that I entertained last year when this subject was under consideration, that these persons should be, temporarily, under the charge of military officers; and it seems to me that the committee of conference entertained that opinion in a measure, for they have provided in the tenth section of the bill that they have reported:

That the President of the United States is charged with furnishing the military and other support needful to carry this act into effect, and any military officer may be appointed under this act without increase of salary.

Now, why not put it at once under the Secretary of War? If we are to have this bureau, why not allow it to be connected with the War Department and make the officers immediately responsible to the military authorities? In what an anomalous position will these officers be whom it is authorized to select from the Army who are to be commissioners and supervising agents under this bill. Are they to be civil officers from the time they are thus appointed, or are they to be military? Is there any greater degree of responsibility that is to attach to them than would attach if they were selected from civil life?

Another objection that I have to this bill is that it only applies to the rebel States. Is it not known that there are at least twelve thousand colored refugees in this city at this moment who are in the utmost distress? Is it not just as desirable that this Government should take care of and protect those refugees as it is of those that are within the rebel lines, or in the States in hostility to us? I want the Secretary of War authorized to do by some act what I know he is doing at this moment, furnishing the proper provisions and clothing and

fuel for the protection of these people; and I want them to be placed upon the same footing as they would be if they were across the river in the State of Virginia.

The fifth section of this bill gives to the commissioners who are to be appointed under the act the right to bestow all the lands within the rebel States upon these colored refugees or freedmen. Now, I suppose it is known to all the members of this body that we have in some of those southern States, as Mississippi, Alabama, Louisiana, and Arkansas, immense tracts of public land. Under the provisions of this fifth section all of these public lands will fall to the colored men, and there is no provision for that very destitute class of Union white men of whom we have heard so much, and of whom I am happy to believe there are many in each of those southern States, who are left, by this war, in just as unfortunate and helpless a condition as that in which the colored men are left. I am not prepared to say by the passage of this bill that all the lands and all the abandoned plantations in that country are to be given, under an act of Congress, simply to the colored people, and that the white refugees and the white Union people residing there, who are in exactly as destitute a condition as these colored men, shall not have any advantages.

But, Mr. President, the principal objection I have to this bill is embraced in the ninth section, which provides—

That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall, as far as practicable, make provision for them with humane and suitable persons at a just compensation for their services.

When the amendment out of which this section has sprung was before the Senate, which was proposed by the Senator from West Virginia, [Mr. WILLEY,] I voted for it. It then provided that these commissioners might provide homes for these freedmen, and authorized the commissioners to open negotiations or correspondence with the Governors and municipal authorities of the other States in order to accomplish that purpose; but that last clause which authorized them to open correspondence with other States has been stricken out; the word "homes" has been stricken out, and the word "provision" has been inserted. What is meant by the word "provision?" The Commissioner is to make provision for these colored persons, as far as practicable, "with humane and suitable persons." Who are to determine whether these men are humane and suitable persons? The Commissioner, nobody else. There is no appeal from the Commissioner. He shall make provision, for what? Evidently, for the labor of these freedmen; because the next clause says, "at a just compensation for their services." Now, I should like to know what there is to prevent one of these commissioners making provision for one of these freedmen by hiring him out for one year. I suppose the Senator from Massachusetts, who has charge of this bill, would admit he could hire him out for one year. If he could hire him out for one year—

Mr. SUMNER. With the consent of the party, just as the Senator himself might be hired out for one year with his consent.

Mr. GRIMES. There is no such provision in the section, unfortunately, for that would remove many of the objections to it.

Mr. SUMNER. I beg the Senator's pardon. If the Senator will allow me I will read the provision:

And every such freedman shall be treated in all respects as a free man, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

Mr. GRIMES. That is a very excellent clause, and a very noble and grand stump speech which the Senator has injected into one of the sections of this bill; but it is not in this section, and is not in the section that relates to the hiring out of these men.

Mr. SUMNER. It is in the law.

Mr. GRIMES. It is in the law, but relating to another subject entirely. It is not in this section, and has no connection with the hiring out of these men. I will ask the Senator what section that clause is in.

Mr. SUMNER. The fourth section, which lays down the general principles that govern the whole subject and the treatment of the freedmen.

Every section of the bill is to be interpreted with reference to that. That is the pole star of the bill.

Mr. GRIMES. The section from which the Senator has extracted that sentence reads as follows:

Sec. 4. *And be it further enacted*, That the Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations from time to time, and cause the same to be enforced, for their needful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty. And every such freedman shall be treated in all respects as a free man, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him, except in conformity with law.

"Except in conformity with law;" and now the Senator in the ninth section provides a law which authorizes the Commissioner to hire out these men, and puts no limit upon the time for which they shall be hired, puts no limit as to the character of labor they shall perform, does not say that they shall be attached to the soil, and thereby become serfs or not. I say, Mr. President, that the argument of the Senator wholly fails him. The section provides that the freedman shall be treated exactly "as a free man, and no power or control shall be exercised with regard to him except in conformity with law;" and yet the law provides that the Commissioner may hire him out. It fixes no limit to the period for which he may be hired out. It fixes no limit as to the amount of compensation that he shall receive. It does not define the character of labor that he shall perform.

Now, I admit very frankly that if this law was to be executed by the Senator from Massachusetts it would be humanely executed; I have no doubt that if it was to be executed by the men into whose hands it will at this moment fall, it may be humanely executed; but how do I know who is going to execute this law in the future? As a friend of the emancipated slave, I am unwilling by my vote to place such unlimited power over him in the hands of anybody.

Mr. President, as I said before, that section is the principal objection that I have to the bill. There are other and minor objections. I do not for my own part see how the twelfth section is going to be enforced, which provides:

That all assistant quartermasters, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by court-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents.

I do not see myself how a commanding officer in the department of Tennessee can with any judgment, or propriety, or discretion, order a court-martial upon one of the officers created by this bureau, a civil officer entirely. There may be some connection between them, in the apprehension of the Senator from Massachusetts, which I do not comprehend; but I confess that it seems to me it would be extremely anomalous to authorize General Thomas, or General Washburne, or General Hurlbut, or any man who may happen to be in command of a department or a district to direct a court-martial or a military commission upon a man who is not responsible to him at all, over whom he has no control whatever, who is not required to report to him, of whose transactions he does not necessarily, nor by law, know anything whatever.

Mr. SUMNER. Will the Senator allow me to remind him here that the clause that he now criticises was introduced on the motion of the Senator from Wisconsin, [Mr. DOOLITTLE,] and had nearly the unanimous vote of the Senate? There were but a very few dissenting votes. I do not remember whether the Senator from Iowa was present on the occasion, but that is the way it comes into the bill; and the conference committee having the subject in charge did not feel themselves at liberty to drop a section which had been thus authoritatively introduced into the bill.

Mr. GRIMES. It seems somewhat remarkable that the conference committee should have been unwilling to drop so awkward and anomalous a section as that, and yet were willing to assume the responsibility of creating an entirely independent Department that was not provided for or contemplated by either of the two Houses

of Congress that appointed the committee. If it was drawn by the Senator from Wisconsin I can only say, if he will permit me to say it, that he drew a very awkward section, and such as cannot by any possibility, as I understand the military organization, be carried out.

Now, Mr. President, I find lying upon my table here a very short bill, which purports to have been introduced into the House of Representatives by the distinguished gentleman, who is the chairman of the Committee on Military Affairs of that House, that very nearly carries out my views as to what is necessary to be done, and which I trust will be adopted by both Houses of Congress this winter. I believe it will accomplish precisely what we ought to accomplish. It will provide not only for these freedmen within the rebel jurisdiction, but it provides for the twelve thousand men who are starving here right under our eyes. I will read it:

An Act to establish, in the War Department, a Bureau for the Relief of Freedmen and Refugees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a bureau be established in the War Department, to continue during the present rebellion, to which shall be committed the supervision, management, and control of all subjects relating to refugees and freedmen from rebel States—

This includes the white as well as the black—or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the Department and approved by the President. The said bureau shall have one chief, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be deemed necessary by the chief of the bureau, and approved by the Secretary of War, not exceeding two of the fourth class, two of the third class, three of the second class, and five of the first class.

Sec. 2. *And be it further enacted*, That the President may assign to such bureau, for the benefit of said refugees and freedmen, the temporary use of such abandoned lands and tenements in insurrectionary States, not belonging to loyal owners, as may be necessary, and may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

Sec. 3. *And be it further enacted*, That all laws and parts of laws conflicting herewith are hereby repealed.

Now, sir, if it were possible, I would move that bill which I find upon my table as a substitute for the report of the committee of conference. We know what this means. The language that is used in this bill has received legal construction. We know at its passage precisely what it will do. We know exactly what the expense of it will be. Has the Senator from Massachusetts ever calculated what will be the expense of the Freedmen's Bureau, and the officers that will be created under it by this bill of the committee of conference? I have not any time to do it, and I do not know that I am capable of doing it, but I imagine it will be enormous. The bill which I have just read is one that we can all understand. It is one that will accomplish what I desire to accomplish in connection with freedmen and refugees.

But, Mr. President, I only rose to state in a few words as I could why I cannot consent to concur with the committee, and with probably the majority of the Senate, in voting for this bill. I am content to-night to record my vote even against a bill in behalf of freedmen. I am unwilling to say that colored men who are emancipated under our laws, under our military control, and by the President's proclamation, shall be placed in such an attitude as I think they are capable of being placed in by the ninth section of this bill.

Mr. POMEROY. I propose to vote for this measure, although I confess there is something about it which is not exactly as I would have it; and I only desire to make this remark because the time may come in a year or two when I shall perhaps be glad to pursue the measure that I would pursue now if the bill was susceptible of an amendment. What I object to is that this measure has a look of permanency about it as if we were about to organize a Department of the Government to continue for all time to come. For twenty-five years I have maintained in this country everywhere that the negroes could take care of themselves. I have lived upon the border and seen them emancipated. I have seen thousands of colored and white refugees coming into my State, and I say here distinctly that the colored people are able to take care of themselves

and find their places and adapt themselves to their new condition easier and quicker than the poor white refugees who are driven out of the border States. Any race of men that can adapt themselves to slavery can very soon adapt themselves to freedom. What I object to is that this bill looks as if we were to enter upon an established system of administration upon this question as a Department of the Government for all time to come. I want the men who take office under this bill, if it becomes a law, to understand that it is only a temporary measure. I do not propose to listen to their communications a year from now, in which they will undertake to convince the Senate and the country that everything depends on their continuing in office, and that these freedmen are never to be thrown upon their own resources, but are always to be held up and sustained by a Department of this Government. I am willing that this report shall be adopted; I am anxious indeed that it shall be adopted as a temporary measure, to take them by the hand for one year, perhaps, while they are marching out of their prison-house into the light of freedom. I am willing to sustain them by means of this character for six months or a year, temporarily. My objection, as I have said, is that this measure seems to look as if we were to enter upon a system by which we were to conduct this Department of the Government, as we have other Departments of the Government, for long years to come. I am looking for a speedy return of the colored population of this country to freedom and to taking care of themselves and adapting themselves to that condition; and all I think the exigencies of the case demand is some temporary expedient for a year or two.

Mr. SUMNER. I content myself with asking the vote.

Mr. SPRAGUE. I am opposed to this measure if I can procure for the colored man the elective franchise. When a man can vote, he needs no special legislation in his behalf. The Freedmen's Department, as proposed by the bill under discussion, uncoupled with the rights and privileges of free men for the colored men, in my opinion will illustrate history in the style that the Indian Bureau illustrates the beginning and end of the Indian. Sir, I am for perpetuating all races of men.

"What a piece of work is a man! How noble in reason! How infinite in faculties! In form, and moving, how express and admirable! In action how like an angel! In apprehension, how like a god!"

Sir, I am for all races of men. I do not believe that it is necessary to secure the prosperity of one race that another should be destroyed. I fear that the bill under discussion will destroy the negro race in this country. I know that its advocates have no such desire. Gentlemen desire to do the best that can be done for this unfortunate race. But, Mr. President, compromises of principle here, as everywhere, are dangerous. There is no necessity to compromise this question at this time. Those who advocate this bill upon humane principles should insist upon giving to this race the rights of freemen, and should never—no, never—accept anything less. Those who advocate the bill upon political theories should never consent that the only representatives of true loyalty in the South, the colored men, should be placed inside of a bureau to be cheated by the mercenary, or driven from the soil by their old masters, their most deadly enemies in all conditions except that of slavery.

If, sir, I cannot obtain for freedmen the privileges of such, I will give my vote for the proposition, but I must give it under protest. I give it, believing that the death I inflict is one that is prolonged instead of instantaneous—slow torture—by voting for the proposition, ending in death, instead of instantaneous death without this bill—results that will always occur by refusing to be just. I desire that those who advocate this bill will stop here and spend their time and talent in demanding for the negro race all the rights and privileges of freedom. Do this, and no Freedmen's Bureau is at all necessary.

To be technical, I object to the bill because it creates a Department. I desire that that feature shall be changed; and I hope that my suggestions will influence those who have charge of this bill. The Constitution of the United States permits the President of the United States to obtain, upon all

questions that he may desire, opinions from the heads of Departments. You here constitute a Department of this Government, and make the head of that Department a Cabinet officer. You have one Department of Agriculture; and Senators have undoubtedly been impressed with the idea from the head of that Department of the importance of his becoming a part of the Government, of his becoming one of the Cabinet. It will not be long before the head of the Freedmen's Bureau will demand admittance under the Constitution as being one of the chief advisers of the President. I object, therefore, to the increase of Departments, upon the ground that we have Cabinet ministers sufficient to carry on the work and business of this Government.

Having made my point here in the beginning of this bill, I desire to go a step further than I am warranted. I desire to make two points: first, that the results of the present war, to be made valuable, require that those who have aided in our success should reap all the rewards of that success. No State must again be admitted into the Union that does not agree to protect those who have defended the flag and have been loyal to the Union; because, under the amnesty proclamation, as soon as peace is declared, the rebels will resume their original power, and crush out the Union loyal men, white and black, who have been opposed to them. The only safety to the Government is that all men who have been loyal shall have all the protection of the Union Government and all the rights of free men. The governments of the States in rebellion have been destroyed. There is only the record left—a record beginning in constitutional fealty and ending in treason to the Government and solemn obligations. The amnesty proclamation requires conditions for the individual to become a citizen. All I desire is that, in admitting these States into the Electoral College, conditions shall be required, and those conditions are that the State governments shall have existence only through the admitted right of the negro to a part in those governments, as being the most loyal element therein. The soldier must be protected, whether he be white or black; and because he is not able to protect himself, because all the money and privileges and influences of the world are against him, I desire his advancement and his protection.

I object to this bill because I feel that the interest both of the colored and white men will be prejudiced by its influence. Let us refuse admittance to every rebel State unless the privilege of the elective franchise is granted to the colored man. I believe the future permanency of this Government depends upon this, and I believe those who have fought this war have no safety and security without it. I am therefore opposed to this bill, because I fear the object desired by the honorable Senator from Massachusetts will not be obtained by the bill; and I hope it will be postponed.

Mr. SUMNER. Let us have the question on the report.

Mr. HENDRICKS. I move that the report be indefinitely postponed.

Mr. WILSON. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I will make an inquiry of the Chair. If it were possible in any way to consider the bill in a legislative way, I would move to postpone it to a day certain during this session, but I believe it is beyond the control of the Senate to make any amendments to it.

The PRESIDING OFFICER. (Mr. POWELL in the chair.) In the opinion of the Chair, the report must be considered in its entirety, and no amendment can be made to it. The question is on the indefinite postponement of the report.

Mr. HENDRICKS. I will ask if the report can be recommitted.

Mr. SUMNER. It cannot.

Mr. HENDRICKS. I do not see why. I ask the Chair. It is a report from a committee on the part of the Senate.

Mr. TRUMBULL. If the Senator from Indiana will allow me, we can reject it and then call for a new committee of conference. If we reject the report it comes to the same thing as recommending it, for then we could ask for another committee of conference.

The PRESIDING OFFICER. The only way

to reach the object of the Senator from Indiana, in the opinion of the Chair, would be to disagree to the report and ask for another committee of conference. That can be done.

Mr. HENDRICKS. Then I move to reject the report, and withdraw the motion to postpone it indefinitely.

Mr. SUMNER. That is the original question, on concurrence with the report of the committee. If the Senate non-concurs with the report of the committee then the question will be open of communicating with the other House and asking for another committee of conference. I think, therefore, the question had better be taken, as is customary on the reports of committees of conference, will the Senate concur with the report of the committee? If the Senate do not concur, then the proposition of the Senator from Indiana can be made.

Mr. CONNESS. It must be apparent of course to the Senator from Indiana that if there is a clear majority of the Senate in favor of accepting the report, they will vote against the indefinite postponement.

Mr. HENDRICKS. I have withdrawn that motion.

Mr. CONNESS. Then let us come to a vote.

Mr. WILSON. On the question of concurrence I ask for the yeas and nays, and let us have a test question.

Mr. DOOLITTLE. The Senate is not full; this is an important measure; it is desirable to have a full Senate when the vote is taken; I suppose the discussion is ended; and as this will be the unfinished business for to-morrow, I move that the Senate adjourn.

Mr. SUMNER. Oh, no; let us have a vote.

The PRESIDING OFFICER. The question is on the motion to adjourn, which is not debatable.

Mr. SUMNER. I hope we shall not adjourn. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. DOOLITTLE. I will withdraw the motion for the purpose of allowing the Senator from Iowa to submit another motion.

Mr. GRIMES. I move that this bill be postponed until to-morrow, until there is a full Senate. I do not recognize the propriety of this Senate being forced to take this particular measure in place of any other measure that may be proposed upon so important a question as this. I believe that when there is a full Senate here a vast majority of the body will indicate their opinion in favor of some provision for the government and protection of freedmen and refugees; but I believe that the sentiment of this body is against this measure as it stands. I want, therefore, a fair vote in a full Senate to-morrow on this subject, and let us have a new committee of conference if the sentiment of the Senate be as I think it is, and then we can have such a bill as will meet our approbation and meet the approbation of our constituents.

Mr. TRUMBULL. I see there is a determination not to come to a vote on this bill to-night, and there are several bills which have come from the Committee on the Judiciary that I am sure the Senator from Massachusetts will not object to; I therefore move to postpone the pending and all prior orders and take up House bill No. 692, in reference to prosecutions for libel in the District of Columbia.

The question being put on the motion of Mr. TRUMBULL, there were, on a division—yeas 11, noes 12; no quorum voting.

Mr. WRIGHT. I move that the Senate do now adjourn.

Mr. WILSON and Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 9, nays 17; as follows:

YEAS—Messrs. Dixon, Grimes, Harlan, Hendricks, Lane of Indiana, Powell, Ramsey, Sprague, and Trumbull—9.

NAYS—Messrs. Brown, Buckalew, Chandler, Clark, Conness, Farwell, Howard, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Sherman, Stewart, Sumner, Wade, and Wilson—17.

ABSENT—Messrs. Anthony, Carlile, Collamer, Cowan, Davis, Doolittle, Foot, Foster, Hale, Harding, Harris, Hendon, Howe, Johnson, McDougall, Nesmith, Richardson, Riddle, Saulsbury, Ten Eyck, Van Winkle, Wilkinson, Willey, and Wright—24.

So the Senate refused to adjourn.

Mr. GRIMES. I renew my motion to postpone the further consideration of this subject until to-morrow.



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Mr. SUMNER. I hope not.

The PRESIDING OFFICER. The Chair was mistaken in considering the motion of the Senator from Illinois. The motion of the Senator from Iowa was first made.

Mr. GRIMES. I renew the motion to postpone the further consideration of this subject until to-morrow.

Mr. WILSON. At what time?

Mr. GRIMES. I do not care what time so that there shall be a full Senate, and that we understand what we are about. My purpose is to get a Freedmen's Bureau bill that I can vote for. I think we can accomplish it to-morrow. I therefore move to postpone the further consideration of this report until to-morrow at one o'clock.

Mr. SUMNER. I hope there will be no postponement. A motion to postpone at the present time is a motion to kill, and such is the unquestionable object of the Senator from Iowa, [Mr. GRIMES]. He is against this bill now just as he was at the beginning, and is acting according to his sense of duty when he tries in every way to defeat it. But are Senators who have thus far by their votes shown a determination to do something for the freedmen ready to follow his example?

The Senator says he wishes time. Perhaps. But he wishes something more. He wishes to arrest this legislation now at its latest stage. He says that he wishes an opportunity for debate. But, sir, has he not had this opportunity to excess and in largest measure? The Senate cannot forget how carefully and conscientiously this question has been considered—first, in a committee of this body, who gave their best attention to it for weeks during the last session of Congress; then for seven days in the Senate, during which the Senator signalized his opposition to the bill; and then again in a conference committee during the present session, where the whole subject was most thoroughly studied in every possible light; and then again in the debate, running over several days, which has already occupied the Senate since the report of that committee. Surely, if the Senator is not satisfied with the labors of the committees of this body, he cannot complain that opportunity of debate has been wanting. Sir, he has had the opportunity, and has exercised it.

I am pained by this opposition. It is out of season. I am pained by it especially from the Senator from Iowa. I do not judge him. But he will pardon me if I say that from the beginning he has shown a strange insensibility to this cause. He is for liberty, but he will not help us assure it to those who have for generations been de spoiled of it. Sir, I am in earnest. Seriously, religiously, I accept emancipation as proclaimed by the President, and now, by the votes of both Houses of Congress, placed under the sanctions of constitutional law. But even emancipation is not enough. You must see to it that it is not evaded or nullified, and you must see to it especially that the new-made freedmen are protected in those rights which are now assured to them, and that they are saved from the prevailing caste, which menaces slavery under some new *alias*; and this is the object of the present measure.

Would you know the perils of freedmen ever since emancipation? Listen, then, to the words of that true patriot, General Wadsworth, who, after his visit to the valley of the Mississippi, and personal observation of the freedmen there, wrote thus:

"There is one thing that must be taken into account, and that is, that there will exist a very strong disposition among the masters to control these people and keep them as a subordinate and subjected class. Undoubtedly they intend to do that. I think the tendency to establish a system of serfdom is the great danger to be guarded against. I talked with a planter in the La Fourche district, near Tibadoville; he said he was not in favor of secession; he avowed his hope and expectation that slavery would be restored there in some form. I said, 'If we went away and left these people now do you suppose you could reduce them again to slavery?' He laughed to scorn the idea that they could not. 'What?' said I, 'these men who have had arms in their hands?' 'Yes,' he said; 'we should take the arms away from them, of course.'"

But this emphatic testimony is simply in har-

mony with accumulated testimony from other quarters. The freedmen, now rejoicing in recovered rights, must for awhile be saved from the traditional harshness and cruelty to which, for generations, they have been exposed. Call it protection; call it what you will. The power of the Government must be to them a shield. And yet you hesitate.

The Senator from Iowa renews now the objections which he made at an earlier stage of this legislation. It will not be forgotten that he most earnestly protested against the bill as giving to persons a control of the freedman. It was then shown, I think, to demonstration, that he was mistaken. But out of deference to his sensibilities, and that nothing might seem to be wanting to the protection of the freedman, other safeguards were introduced, as amendments on his motion, or in pursuance of his suggestions. But all this is not enough to secure his favor. He objects again.

Very well. So far as I understand his objection then and now, it is twofold: first, that the freedman is placed under constraint, and that he is not a freeman; and, secondly, that he is treated too much as an infant or a pupil. Now, I undertake to say that the objection in both these forms is absolutely inapplicable.

The freedman is treated in every respect as a freeman. Again and again in the bill his rights are secured to him. Thus, for instance, in the fourth section it is expressly provided that "every such freedman shall be treated in all respects as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law." Language cannot go further. In face of these positive words so completely in harmony with the whole bill, it is vain to say that the freedman is not a freeman. Sir, he is a freeman just as much as the Senator himself, with a title derived from the Almighty which no person can assail. When the Senator finds danger to the freedmen in this measure, he consults his imagination, inflamed by these hostile sentiments which he has allowed himself to nurse.

But the Senator complains that the freedman is treated too much as an infant or a pupil. How? Where? Let him point out the objectionable words. Analyze the bill. The freedmen, it is admitted, are under the general superintendence of the Commissioner. But are we not all under the general superintendence of the police, to which we may appeal for protection in case of need? And just such protection the freedmen may expect from the Commissioner, according to his power. The Senator himself is under the superintendence of the Presiding Officer of the Senate, whose duty it is to see that he is protected in his rights on this floor. But the Presiding Officer can do nothing except according to law, and the Commissioner is bound by the same inevitable limitations.

But there are regulations applicable to the contracts of the freedman. Very well. Why not? To protect him from the imposition and tyranny of the dominant race it is provided that "no freedman shall be employed on any estate above mentioned otherwise than according to *voluntary contract*, reduced to writing and certified by the assistant commissioner or local superintendent." Mark the language, "voluntary contract." What more can be desired? But this is to be reduced to writing. Certainly, as a safeguard to the freedman and for his benefit. Then, again, the commissioners are to act as "advising guardians," in which capacity they are to "aid the freedmen in their adjustment of their wages." But do not forget that the freedman is a freeman, and if he does not need such aid or advice he may reject it—just as much as the Senator himself. Look at other clauses, and they will all be found equally innocent.

But there is the section originally introduced on the motion of the Senator from West Virginia, [Mr. WILLEY], providing that "whenever the Commissioner cannot otherwise employ any freedmen who may come under his care he shall, so far as prac-

ticable, make provision for them with humane and suitable persons at a just compensation for their service." Here again is tyranny and outrage carried to the highest point. But how? The Commissioner is to act as an *intelligence office*. That is all; and everything that he does is to be "in conformity with law." This clause, even if it were in any respect ambiguous, must be ruled by those earlier words which declare that "every such freedman shall be treated in all respects as a freeman." What more can be desired? With this rule as a touchstone no freedman can suffer in his rights.

But the strange complaint is made that this measure is too favorable to the freedmen, and, indeed we have been told that something is needed for the whites. Very well; let it be done. I trust that an enlightened Government will not fail to recognize its duties to all alike. Meanwhile, it is proposed that abandoned lands shall be leased to freedmen, and if they are not able and disposed to take the lands for a twelvemonth, then they are to be leased to other persons. And why not? The freedmen for weary generations have fertilized these lands with their sweat. The time has come when they should enjoy the results of their labor at least for a few months. This war has grown out of injustice to them. Plainly to them we owe the first fruits of justice. Besides, this provision is essential as a safeguard against white speculators from a distance, who will seek to monopolize these lands, with little or no regard to the freedmen. Ay, sir, it is too evident that it is essential as a safeguard against grasping neighbors who still pant and throb with all the bad passions of slavery.

Mr. President, the objections to the measure are vain. It is not hurtful to the freedman. It is not hostile to liberty. Its declared object is the good of the freedman. Its inspiration is liberty. Look at it as a whole, or in detail, and you will find the same object and the same inspiration. It only remains that the Senate should adopt it, and give a new assurance of justice to an oppressed race. In the name of justice I ask your votes.

Mr. GRIMES. It was hardly necessary, I apprehend, for the Senator from Massachusetts, in order to round out his polished periods, to be inaccurate in his statements. He was hardly correct in saying that for seven days this bill received my opposition. If the Senator had refreshed his memory he would have discovered that I voted for the bill that was sent to the committee of conference, and supported it during the last days that it was under consideration in the Senate.

The Senator says, also, that this bill has substantially passed this body. I think the Senator is greatly mistaken. Did this Senate ever agree to create an independent Department of this Government to take charge of freedmen? Is not that a substantial change? Is this the same bill that was sent to that committee? Did not the bill provide in the ninth section, when it went to that committee, that these commissioners should provide, not for letting out these men, not for hiring them out for a compensation to be fixed by the commissioners, but should provide homes for them? And the amendment, when it was under consideration in the Senate, and when it was first adopted in the Senate, provided that they should open a correspondence with the Governors and municipal authorities of the northern States in order to find places and homes for them; but the Senator has changed that ninth section—

Mr. SUMNER. No, sir.

Mr. GRIMES. Sir, I have refreshed my memory on that subject. I have referred to the Congressional Globe. I have discovered that the amendment proposed by the Senator from West Virginia [Mr. WILLEY] declared that these commissioners might provide homes for the freedmen, and then there was an addition to it which directed that they might open correspondence with the Governors of States. That last part of it, in another stage in the Senate, was stricken off; but the bill as it went from the Senate directed that these freedmen should be provided with homes.

Mr. SUMNER. "Homes and employment,"

and the committee of conference having it under consideration deliberately adopted the phrase "make provision for" as upon the whole a better expression.

Mr. GRIMES. I know the committee of conference deliberately adopted it; but am I to adopt their suggestion when I am satisfied that it is wrong, and that the construction that may be given to it by those who may come after us in the administration of this Government would enable them to reenslave these very freedmen and attach them as serfs to the soil? The Senator says that I have misconstrued the effect of this section. He says there is another section that is to be taken in connection with it, and he refers to the fourth section, which declares:

And every such freedman shall be treated in all respects as a free man, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

And then he goes on and in the ninth section makes a law by which the officers created under this bill may provide for letting him out for such a period of time as the Commissioner chooses, to whoever he chooses, wherever he chooses, and at such compensation as he chooses. That will be the construction of the section.

Mr. SUMNER. I wish my friend would allow me to ask him a question.

Mr. GRIMES. Certainly.

Mr. SUMNER. I really wish to ask my friend whether he imagines that there is any rule of law or of interpretation which would authorize a court or lawyer or anybody else to interpret the ninth section without reference to the rest of the bill? Must it not be taken together, as a whole? Must not one part be seen in the light of the other? And can the person who approaches the ninth section, and especially passing from that section to the fourth section, find anything but liberty and good for the freedmen?

Mr. GRIMES. Mr. President, I will make a candid answer to the Senator, and say that any court and any lawyer, as I apprehend, who might be called upon to construe this law, would find in that clause in this ninth section or the latter part of it, as they would find in a majority of the other sections of the bill, nothing but rhetorical flourishes.

Mr. SUMNER. Very well; those would not hurt.

Mr. GRIMES. No, sir, they would not hurt, and they would not do any good. The Senator claims that they will be beneficial; that they will restrain and influence the construction to be given to the ninth section. I think they will not. I say that the declaration, speaking of them in another capacity at another time, that they shall be treated as freedmen with all proper remedies in courts of justice, and that no power or control shall be exercised with regard to them except in conformity to law, will have no practical effect, for what is this exception? It is "except in conformity with law." What law? The law that is embraced in the ninth section of the same bill, which gives to the Commissioner power to make provision for these men at such compensation as he pleases, with whomsoever he pleases, to labor wherever he pleases, and in whatever capacity he pleases.

Now, Mr. President, it will not do for the Senator to raise an issue with me upon that question on the ground that I am not in favor of the rights of the freedmen, or to insinuate that I am not as much in favor of liberty and freedom as he is. Mr. President, if this is such a purely humane bill, why is there no provision to reach the freedmen in this District? Are they not suffering? Do they not need our assistance? Are there not from ten to twelve thousand of them starving right under our eyes to-day? I want a bill such as that introduced by the distinguished chairman of the committee on Military Affairs of the House of Representatives, that will authorize the Secretary of War to reach these persons.

No man has a right to suppose that because I am opposed to the adoption of this conference report I am opposed to any freedman's bill. I want an opportunity to change it. I think that if this question is postponed until to-morrow we can get that opportunity. I want to refer it to another committee of conference. I want to incorporate into it the very provision that is in this House bill, which will authorize the Secretary of

War to provide for this colored people in this District. Does the Senator claim that the work of his committee on conference is immaculate? Can it not be rectified? Is it not possible to be bettered? Is all judgment and wisdom in this world, as well as all anti-slavery sentiment and the spirit of freedom, confined to this committee of conference?

Mr. President, I am just as much in earnest as the Senator from Massachusetts is; I am just as much in favor of protecting these freedmen as he is; I will go just as far and spend just as much of my own money or of the money of my constituents as he will spend; but I want to be satisfied that when I am doing it it is going to reach the objects of my bounty, and I want to be satisfied that all their rights will be protected under the law which I am going to adopt and vote for.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to postpone the report under consideration until one o'clock to-morrow.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 16; as follows:

YEAS—Messrs. Buckalew, Dixon, Doolittle, Grimes, Harlan, Henderson, Hendricks, Lane of Indiana, Powell, Ramsey, Sprague, Trumbull, and Wright—13.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Farwell, Foster, Howard, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Stewart, Sumner, Wade, and Wilson—16.

ABSENT—Messrs. Anthony, Carlile, Collamer, Cowan, Davis, Foot, Hale, Harding, Harris, Howe, Johnson, McDougall, Nesmith, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Van Winkle, Wilkinson, and Wiley—21.

So the motion to postpone was not agreed to.

The PRESIDING OFFICER. The question now is on concurring with the report.

Mr. BUCKALEW. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. Mr. President, I desire to state before the vote is taken that in my judgment the bill if adopted will, instead of benefiting the freedmen of the South, be attended with consequences sufficient in time to reenslave them. If I understand this proposition, it is to establish an independent Department of the Government to take into consideration the condition of the freedmen, to take charge of them in every sense of the word, to look to their comfort, to act as guardians for them in every respect, to have a vast number of officers appointed for the purpose of overlooking their condition, providing for them labor, and in every way possible superintending their welfare, and I think opening the door for the perfect reenslavement of the negroes of the South. I am very well aware that the Senator from Massachusetts does not think so. I am very well aware that he would not do anything whatever which in his opinion would bring about such a result.

Mr. President, the comment that was made upon this bill by the Senator from Iowa, I think is just, and is amply sufficient to defeat it. What is the ninth section of the bill? In substance it is that whenever these commissioners cannot otherwise employ any of the freedmen, they shall make provision for them with humane and suitable persons, and at a just and suitable compensation for their services. Does the Senator from Massachusetts take into consideration the vast number of freedmen to be found in the southern States—from three to three and a half millions? It is intended that the eighty-eight superintendents who are provided for in the bill shall go on to look into the condition of these negroes, and wherever they cannot make otherwise suitable provisions on the lands they may seize upon in the southern States it will be their duty to look out homes for them, and put them with those parties that they see fit to place them under, for such compensation and for such a time as they may desire. What will be the result of this? Will there be enough abandoned lands in the southern States upon which to place the negroes? If that be the case, let us see what is to be done. Look at my own State to-day.

I do not wish now to draw any comparison showing the distinctions that are made here between freedmen and the white refugees from the southern States. There are to-day in my State thousands of individuals from the State of Arkansas, and from the southwest part of Missouri, who are refugees from their homes in consequence

of the fact that they were Union men. They are just as poor as the freedmen. One of the sections of this bill, if I remember it aright—I have not had time to devote much attention to it—provides that the assistant commissioners shall take possession of all abandoned property, real and personal, belonging to disloyal persons, and all real estate belonging to the United States, or of which the United States has possession, and shall rent or lease such real estate to freedmen, or permit the same to be cultivated by them, on such terms as they may prescribe; and if the lands or other property shall not be required for the freedmen they may rent or lease the same to other persons. Why not permit these commissioners to look somewhat to the condition of those white men who, in consequence of their Unionism, have been made refugees from home? The bill declares that as long as freedmen may be found to place upon the lands that are abandoned, so long freedmen shall be placed upon them in preference to white persons. Why make this distinction? I would not make any distinction in favor of the whites as against the blacks. Why is a distinction made here in favor of the blacks as against the whites? I should like to know of the Senator what reason there is for it. It is not all the people of the southern States that are secessionists, not all the people of the southern States that have ever been engaged in this rebellion in any way whatever. Many have fled from the oppressions which were imposed upon them in the southern States, and are refugees from home, and are just as poor as the freedmen themselves, as I have before said; and why does the committee say that a preference shall be made in favor of the freedmen over the whites? I can see no reason in the world for it. There is no reason for it.

How is it in my own State? We have very properly freed the negroes in the State. They are upon our hands. In addition, we have thousands and thousands of white persons on our hands to be taken care of; we are compelled to do it; humanity requires that we shall do it; and yet this report makes no provision whatever for them, but leaves them upon the people of a State that has been impoverished by the war, and invasions made upon it for four years, and no provision whatever is made for them, provided there are blacks enough to take up the lands that have been abandoned.

Now, Mr. President, I desire to refer to another provision of this bill, and I wish to appeal to the Senator from Massachusetts and to ask him why it is inserted. These commissioners and superintendents are to act as guardians, and they are to aid the freedmen in the adjustment of their wages and in the application of their labor. I do not profess to have been an anti-slavery man a great while, but the Senator from Massachusetts is certainly too old an anti-slavery man to have been the author of a proposition of this character. What was the old argument in favor of the institution of slavery? Does not the Senator know; has he not heard it upon the floor of this Chamber often enough to know what it was? It was that the African race is not competent to self-government, that the negro is not able to take care of himself, that he needs a guardian. It always was the argument in favor of the institution of slavery, and is the argument to-day, that he is not qualified to take care of himself, that he needs a guardian, that he wants a next friend in all his conduct in life. Though I am not a very old anti-slavery man, I can say to Senators here that I never believed a word of that argument. I believe to-day that if you turn loose the negroes of the southern States and tell them to take care of themselves they will do it. There is no doubt about it. They will make a better contract for themselves than any white man who is their next friend will make for them. They will make their contracts and collect their wages. They have sense enough to do it. They are intelligent enough to do it; and, Mr. President, I tell you that so far as my experience goes they are as industrious as the white man. They take care of their wages as well as the white man does, and they are just as capable of making contracts.

Mr. SUMNER. Allow me to say to the Senator, then, that this bill will have no application to such persons. No person need be aided in making a contract unless he stands in need of it. Every person under the bill will be as free as the

Senator himself, just as free to make a contract to the right or the left as the Senator from Missouri. It is only if he stands in need of it that he may claim that aid.

Mr. HENDERSON. Let me call the Senator's attention to the fact that this is made a duty. If my proposition be true that these negroes can take care of themselves, why the necessity of this aid? I want to disabuse any prejudice in the Senator's mind on that subject; he has heard so long from slave-masters that negroes cannot take care of themselves that it has really fastened itself on his brain. I say they can do so. I always told the Senator they could take care of themselves. I have never been of a different opinion. Turn loose the negroes in this country and let them take care of themselves. Take the letter "d" out of that word "freedmen," leave them to be "freemen" and not "freedmen"—I do not like the term; let the "d" be dropped from it. I am opposed to keeping up the idea that these negroes when they have been turned free are to have guardians, supervisors, superintendents, and commissioners to take charge of them.

Mr. LANE, of Indiana. Overseers.

Mr. HENDERSON. Yes, "overseers," for they are nothing else. I would say that the terms here used are but another name for overseer.

Now, let us look at another provision of this bill. It is not made the duty of the negroes to take charge of the abandoned farms in the South. The Senator says that if these negroes can take care of themselves they will be just as free as I am. The Senator is mistaken. Why does he make it the duty of these officers to take charge of all the lands in the southern States? Why not let the negroes go and take charge of them themselves? I ask the Senator now, and I ask for an answer, is it possible for a single negro to get possession of a home after the appointment of these superintendents, unless it be their free will to put him upon the land? The superintendents that you send there are to seize on all the abandoned lands.

Let us look at this vast machine. A Department is to be established, with a Commissioner at its head at a salary of \$4,000. There is to be a chief clerk at a salary of \$2,000, and then two clerks of each class, costing \$12,000. We are to create two districts in each State, at the head of which is to be an assistant commissioner, making twenty-two assistant commissioners at \$2,500 each, or \$55,000. Each assistant commissioner is to appoint four superintendents for his district, making eighty-eight superintendents at \$1,500 each, making \$132,000; and all this expense is provided for to begin with.

These superintendents are to take charge of all the abandoned lands in the southern States, and not a negro can go and make a home upon them without their consent. Now, I venture to predict that after the machinery of this Department is put into full operation in the southern States, and this vast number of clerks and superintendents shall have been appointed, there will be a system of fraud and swindling that will astound the Senator from Massachusetts. He does not dream that he is building up the machinery of a vast system of fraud and oppression throughout the southern States, but I feel very well satisfied that such will be the case.

The bill says that these superintendents shall take possession of the land and have charge of it. No negro can go and take possession of lands and cultivate them himself. Let me tell the Senator that the negro would be much better off without these superintendents. The negro knows how to cultivate the cotton lands of the South much better than the gentlemen who will be sent down there as superintendents. The negro understands the mode of cultivation infinitely better than the men who will be sent there to superintend his labor. Why then will you have them to direct the negro in the "application" of his labor? He knows how to apply his labor just as well as the superintendents who will be sent there, and who never saw a cotton plant in their lives.

But what else is there? If the lands and other property shall not be required for the freedmen, the officers may rent or lease them to other persons. It is also provided that all contracts of the freedmen are to be in writing. The Senator from Massachusetts knows very well that when a contract is once reduced to writing the writing

itself is the evidence of the contract and no oral testimony can be taken against it. Does he not know that nine tenths of the negroes of the southern States cannot read and write? And if these superintendents are permitted to superintend every contract and to make contracts for the negroes, as they will do, does he not know that it will be utterly impossible for the negro in any court of justice anywhere to introduce testimony outside of the contract? These contracts will be made by dishonest superintendents again and again in order to benefit themselves and to rob the negro of the earnings of his labor. Such will be the fact; and the Senator from Massachusetts in less than two years from to-day will discover that what I say is true:

Mr. President, I am not going to take up the time of the Senate. I have said enough to show that this bill ought not to be adopted. That nothing should be adopted, I am not prepared to say; but my opinion is that no bill of this character ought to be adopted. The President of the United States has issued a proclamation freeing the slaves. We regard that proclamation as binding, and consider that the slaves in all the seceded States are free; but if that be not the fact, the constitutional amendment that will soon become a part of the Constitution does make them free; and I undertake to say that it will be the settled policy of this country in the future to regard the negroes as free; and not only will they be regarded as free by the men of the loyal States, but I tell you they are now being regarded as free even by the bitterest of the secessionists of the South. Sir, it cannot be avoided; they will be free; and I say the better policy is to regard them as free, have it understood that we ourselves regard them as freemen, and that they are to be treated as such upon every occasion, and that they need no guardians, no superintendents, no overseers. Sir, if we adopt this policy freedom will become a fixed fact in the country, and I urge upon the Senator from Massachusetts not to insist upon the passage of this bill.

Mr. SUMNER. I ask for a vote at once.

Mr. HENDRICKS. I have no objection to the Senator from Massachusetts having a vote when the Senate is full, but this is a very important measure not only in its effect upon the colored race but upon the tax payers of the North. I think, sir, for the last three years quite enough has been done by Congress in the way of creating offices for men who seek office that they may make a living off the public. Now, sir, when we come to establish a Department of this Government, and the vote of the Senate is insisted upon on it, the Senate ought to be full, and I do not think the chairman of the committee, be he ever so earnest in favor of his measure, has a right to demand a vote at this late hour of a day's session of the Senate. The Senator sees that there are very many Senators who are not here. If his bill is right he need not be afraid to submit it to the judgment of a full Senate. If his bill is wrong, it ought not to be supported, it ought to be defeated.

Mr. President, I believe the construction of the Senator from Iowa is right; but suppose it be not right, it is the judgment of a very distinguished Senator, and that judgment is sustained by the judgment of other Senators, that this bill, instead of making the colored people of the South freedmen makes them slaves, places them not under the control of masters whose interest it is to provide for them, but under the control of officers whose interest it may be to make money out of their labor. The Senator who has charge of this bill was not able to meet the argument of the Senator from Iowa, as I thought. Not that he lacks the ability to do so; we all concede his ability; but that the position of the Senator from Iowa was so strong that it could not be shaken.

In one clause of the bill the Senator from Massachusetts provides that these people shall be considered as freemen, and shall be treated according to law, and then provides that an army of officers shall have the control and custody of them. What does the ninth section mean if it does not mean what the Senator from Iowa has said it means? What is the purpose of the bill? What is the object of all this? Nothing, or something. If it means something, it means what the Senator says it means. If it means nothing, we ought not to have a Department established; we ought not to

fill the land with officers to be supported by a burdened people. The Senator from Iowa insists that it means that these persons are to be placed under the control and guardianship of an army of office-holders. The language is plain, as I conceive, that "whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care he shall, so far as practicable, make provision for them with humane and suitable persons, at a just compensation for their services." The Senator from Massachusetts says that means if the colored people are willing to do it. If it all depends on their pleasure, why pass the bill? If the judgment of the negro overrides the judgment of the officer, we do not need the bill. If the colored persons are to be entirely free to work for whom they please, and at such wages as they please, why appoint a man to hire them out? If this man cannot hire them out, if this law does not give him the power to do it except with the consent of the negro—in other words, if the negro down South is to make his own bargain, what is the purpose of a Government officer to make a bargain for him? If the officer is to consult the colored person in advance and get his consent to the bargain, then let the colored man make his own contract. If he is free, he makes his own contracts. If he is a slave, I prefer that he should be a slave under the control of a person who is interested to look after him.

Mr. President, I ask Senators to look into what a state of facts may occur under this bill. You appoint a Commissioner; the Senator says he will be an honest man. He may be an honest man, but all officers are not honest. Suppose you appoint a man to take charge of these colored people in the South who is not honest, who seeks to make gain, not for himself it may be, but for his relatives, his friends, men whom he wishes to make rich, and they go down with him and this officer hires out these colored people to the men whom he wishes to provide for and to accommodate; and in that way the most odious system of slavery that is possible may spring up.

But, Mr. President, I do not intend to discuss this bill further. I think we ought to have a vote when the Senate is full. I do not believe this bill is the judgment of the Senate. It has not come here, as I esteem it, according to the usages of legislation. It is a bill brought in here by a committee of conference, and we are compelled to vote for it or against it without the power of amendment. It is a system of legislation that we ought not to encourage. It may hit us sometime when we do not want this kind of legislation. Sometime a committee of conference may be appointed by this body and by the other branch of Congress and bring in a report that is entirely opposed to the sentiment of the body in many of its details; and yet we have to vote upon it as an entirety, for or against it, without the power of amendment. We ought to stand strictly by the usage which allows a committee of conference only to report upon questions of disagreement.

The Senator from Connecticut [Mr. FOSTER] has just suggested that if I give way he will move an adjournment. I do not intend to discuss the bill any further.

Mr. SUMNER. I hope, then, we may have a vote to-night.

Mr. HENDRICKS. I would go any extent to accommodate the Senator from Massachusetts; I would be willing to stay here all night myself; but I am not willing that so important a measure as this, a measure establishing a new Department of Government, giving a power that I do not think, under the Constitution, we have a right to give, shall be voted upon by so thin a Senate; but if the Senator wishes to make a motion to adjourn, I will yield for that purpose.

Mr. WILSON. We have not got a quorum.

Mr. SPRAGUE. I move that the Senate adjourn.

Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 11; as follows:

YEAS—Messrs. Buckalew, Conness, Doolittle, Foster, Grimes, Jordan, Henderson, Hendricks, Howe, Lane of Indiana, Powell, Sprague, and Wright—13.

NAYS—Messrs. Brown, Chandler, Clark, Farwell, Howard, Lane of Kansas, Nye, Stewart, Sumner, Wade, and Wilson—11.

ABSENT—Messrs. Anthony, Carlile, Collamer, Cowan, Davis, Dixon, Foot, Hale, Harding, Harris, Johnson,



McDougall, Morgan, Morrill, Nesmith, Pomroy, Ramsey, Richardson, Riddle, Sausbury, Sherman, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Wiley—26.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, February 21, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THURSH, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

### RECONSTRUCTION.

Mr. WILSON. I ask leave to have printed a substitute for a bill (H. R. No. 740) to establish the supremacy of the Constitution in the insurrectionary States, which will be reported from the Committee on the Judiciary to-morrow.

The motion was agreed to.

### PUBLIC PRINTING.

Mr. KASSON. I ask leave to report from the Committee of Ways and Means an amendment to the resolution establishing a Public Printing Office.

The joint resolution was read at length. It authorizes the Superintendent of Public Printing to purchase paper, either by contract or in the open market, at prices not exceeding current rates, as may be most advantageous to the United States, subject to the same rules and regulations as now apply to contracts.

Mr. BALDWIN, of Massachusetts. I would ask the gentleman from Iowa why that resolution should not be referred to the Committee on Printing.

Mr. KASSON. I would say to the gentleman from Massachusetts [Mr. BALDWIN] that this matter came before the Committee of Ways and Means in connection with the appropriation for that office, and it was found necessary to amend the law in this way to complete the legislation in relation to that office. The Superintendent of Public Printing is now required to contract for paper for the entire year, without any statement of the quantity. The quantity required, however, is so large that the greater number of the paper manufacturers of this country cannot enter into the competition, their capacity not being equal to the entire amount required. The result has been to diminish competition, and seriously enlarge the expenditures of the office in that respect.

Mr. BALDWIN, of Massachusetts. I have no question but some modification of the existing law in regard to these contracts should be made. But this is a matter of much importance, and as the whole matter of printing is one to which the Committee on Printing naturally gives more attention, probably, than any other committee of the House, I should prefer to have this joint resolution go to the Committee on Printing.

Mr. KASSON. The time is very short for the consideration of this matter. It has received the approval of the Superintendent of Public Printing.

Mr. BALDWIN, of Massachusetts. I think it should receive the approval of the Committee on Printing. I must object to this joint resolution, unless it goes to the Committee on Printing.

Mr. KASSON. I have no wish to take away the examination of any proper subject from the Committee on Printing. I think it is important that this should be passed this session. If the gentleman insists upon it, I will ask to have it referred to the Committee on Printing.

The joint resolution was read a first and second time, and referred to the Committee on Printing.

### LOAN BILL.

Mr. STEVENS. I ask leave to report from the Committee of Ways and Means a loan bill, being a bill to provide ways and means for the support of the Government.

The bill was read at length. It provides for the issuing of five-forty bonds, to an amount not exceeding \$600,000,000, with interest in gold at six per cent., or in lawful currency at seven and three tenths per cent. per annum.

Mr. STEVENS. I also ask leave to report a substitute from the minority of the Committee of Ways and Means for the bill just read.

The substitute was read at length. It provides for the issuing of ten-forty bonds to an amount not exceeding \$600,000,000, with interest in lawful currency at eight per cent. per annum.

Mr. STEVENS. I ask that the bill and substitute be printed, and made the special order for consideration in the House on Thursday next, and from day to day until completed.

Mr. HOLMAN. I shall have no objection if it is considered in the House subject to the same rules in regard to debate, &c., as are applicable to the Committee of the Whole.

The motion of Mr. STEVENS was agreed to.

### CHIEF OF STAFF FOR GENERAL GRANT.

Mr. FARNSWORTH, by unanimous consent, introduced a bill to provide for a chief of staff to the Lieutenant General commanding the armies of the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

### CHEROKEE INDIANS.

Mr. BOYD presented the memorial of the principal chief and others of the Cherokee nation, asking for the payment of interest, &c.; which was ordered to be printed, and referred to the Committee on Indian Affairs.

### PACIFIC RAILROAD.

Mr. COLE, of California. I desire to call up the motion to reconsider the vote by which the House recommitted to the select committee on the Pacific railroad a bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864.

Mr. HOLMAN called for the reading of the bill; and the bill was read at length.

The first section provides that section ten of the act of July 2, 1864, be so modified and amended as to allow the Central Pacific Railroad Company and the Western Pacific Railroad Company of California to issue their six per cent. thirty-years bonds, interest payable in any lawful money of the United States, upon their separate roads. And the companies are authorized to issue, respectively, their bonds to the extent of one hundred miles in advance of a continuous completed line from Sacramento.

Section two provides that the assignment made by the Central Pacific Railroad Company of California to the Western Pacific Railroad Company of that State, of the right to construct all that portion of the railroad and telegraph from the city of San José to the city of Sacramento, is hereby ratified and confirmed to the Western Pacific Railroad Company, with all the privileges and benefits of the several acts of Congress relating thereto, and subject to all the conditions thereof; provided, the time within which the Western Pacific Railroad Company shall be required to construct the first twenty miles of their road shall be one year from the 1st of July, 1865, and that the entire road shall be completed from San José to Sacramento, connecting at the latter point with the Central Pacific railroad, within four years thereafter.

Mr. COLE, of California. This bill is local in its application; it relates only to the California end of the Pacific railroad. It asks nothing of the Government, its object being to remove certain restrictions upon the companies that are building the road, and it will hasten its completion. No one can have any valid objection to its passage; and unless some one desires it I will not take the time of the House in further explanation of it. I call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurring on the motion to recommit the bill to the select committee on the Pacific railroad, the motion was not agreed to.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. COLE, of California, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### EULOGIES ON SENATOR HICKS.

Mr. WEBSTER, by unanimous consent, offered the following resolution:

*Resolved, That three thousand copies of the eulogies on*

Senator Hicks be printed for the use of the House of Representatives.

The SPEAKER. The resolution will be referred, under the law, to the Committee on Printing.

### DEBTS DUE THE UNITED STATES.

Mr. ALLEY. I demand the regular order.

The SPEAKER. The regular order is the consideration of Senate bill No. 424, entitled "An act to facilitate the collection of certain debts due the United States." This bill was reported last Thursday by the Committee on the Post Office and Post Roads, and was pending when the morning hour expired.

The bill was read.

The first section provides that in all cases where debts are due from postmasters, mail contractors, or other officers, agents, or employees of the Post Office Department, who are in default or delinquency, a warrant of attachment may issue against all property, possessions, and rights legal, equitable, and contingent, belonging to such officer, and his sureties, or either of them, in the following cases: First. When any such officer, agent, or employee and his sureties or either of them, has, within the meaning of the act of July 17, 1862, chapter one hundred and ninety-five, and the proclamation of the President in pursuance thereof, dated the 25th day of July, 1862, participated in, aided, abetted, or countenanced any rebellion against the United States. Second. When such officer, agent, or employee and his sureties, or either of them, is a non-resident of the district where such officer was appointed, or has departed from such district for the purpose of residing permanently out of such district, or of defrauding the United States, or of avoiding the service of civil process. Third. When such officer or his sureties, or either of them, has conveyed away or is about to convey away his property, or any part thereof, or has removed or is about to remove his property, or any part thereof, from the district wherein the same is situated, with the intent to defraud the United States. And where such removal has taken place certified copies of the warrant may be sent to the marshal of any other district into which such property may have been removed, under which certified copies it shall be lawful for such marshal to seize such property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. Alias warrants may issue upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

The second section provides that application for such warrant may be made by any district attorney or assistant district attorney, or any other person authorized by the Postmaster General, before any judge, or, in his absence, before any clerk of any court of the United States having original jurisdiction of the cause of action. Such application shall be made upon an affidavit of the applicant, or some other credible person, stating the existence of either of the grounds of attachment enumerated in the first section of this act, and upon production of legal evidence of the debt. Upon such application, and upon due order of any judge of the court, or, in the absence of any judge, without such order, the clerk shall issue a warrant for the attachment of all the property of any kind belonging to the party or parties specified in the affidavit, which warrant shall be executed with all possible dispatch by the marshal, who shall take the property attached into his custody, and hold the same subject to all interlocutory or final orders of the court.

The third section provides that the party or parties whose property is attached may, at any time within twenty days before the return day of the warrant, on giving to the district attorney notice of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached in the defendants, or either of them, in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea. But the parties may by consent, waive a trial by jury, in which case the court shall decide the issues raised by the affidavit and plea. Any party claiming ownership of the property attached and a specific return of the same shall be confined to the remedy afforded by this act, but his right to an action of

trespass or other action for damages shall not be impaired hereby.

The fourth section enacts that when the property attached shall be sold on any interlocutory order of the court, or when it shall be producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the order of the court.

The fifth section provides that immediately upon the execution of the warrant of attachment the marshal shall cause due publication of such attachment to be made, in the case of absconding debtors or adherents of the rebellion, for two months, and in case of non-residents for four months. Such publication shall be made in some newspaper or newspapers within the district where the property attached is situated, and the details of such publication shall be regulated in each case by the order under which the warrant is issued.

The sixth section provides that after the first publication of such notice of attachment in all the newspapers required by this or any subsequent act, every person indebted to the defendants, or either of them, and having knowledge of such notice, whose property is liable to attachment, and every person having possession of any property belonging to such defendants, or either of them, and having knowledge as aforesaid, shall account and answer for the amount of such debt and for the value of such property, and any disposal or attempt to dispose of any such property to the injury of the United States shall be illegal and void. When the person or persons so indebted to or having possession of the property of such defendants, or either of them, shall be known to the district attorney or the marshal, it shall be the duty of such officer to see that personal notice of such attachment is served upon such persons, as in cases of garnishees; but the want of such notice shall not invalidate the attachment.

The seventh section enacts that upon application of the party whose property has been attached the court or any judge thereof may discharge the warrant of attachment as to the property of the applicant; provided, that such applicant shall enter into and execute to the United States a good and sufficient penal bond in double the amount of the value of the property attached, conditioned for the return of said property, or to answer any judgment which may be rendered by the court in the premises, which bond shall be approved by the court or any judge thereof.

The eighth section provides that the fees, costs, and expenses of issuing and serving the warrants of attachment authorized by this act shall be regulated as far as possible by the existing laws of the United States and the rules of court made in pursuance thereof. In the case of preliminary trials as to the validity of the attachment or the right of property, clerks' and marshals' fees shall be the same as in ordinary cases, and the docket fee of the district attorney shall be ten dollars.

The ninth section enacts that this act shall not be construed so as to limit or abridge in any manner such rights of the United States as have accrued or been allowed in any district under the former practice of the United States courts or the adoption of State laws by said courts.

The bill was ordered to a third reading, was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POSTAL LAWS.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back, with amendments, Senate bill No. 390, entitled "An act relating to the postal laws."

The bill was read.

The first section provides that all domestic letters (except letters lawfully franked, and duly certified letters of soldiers, sailors, and marines in the service of the United States) which are deposited for mailing in any post office of the United States, either wholly unpaid or short paid to the extent of more than a single rate of postage, shall be returned without delay to the writers by the postmaster at the office where deposited, with

the stamps uncanceled, and notice of the amount of deficient postage due thereon; such letters to be returned by the postmasters unopened, when the writers are known; and opened only in cases where the writers are not known. But insufficiently prepaid letters deposited in any post office, which are short paid a single rate of postage only, shall be forwarded to destination charged with the unpaid single rate, to be collected on delivery.

The second section enacts that from and after the 1st day of January, 1866, the rates of postage chargeable upon newspapers and periodical publications of all kinds, issued from a known office of publication at stated periods and sent to regular subscribers, shall be prepaid at the time of mailing, under such rules and regulations as the Postmaster General shall prescribe; and thereafter no printed matter of any kind, whether transient or sent to regular subscribers, (except printed matter received in the mails from foreign countries, or such as is specially exempted from postage charges by acts of Congress,) shall be admitted into the mails of the United States, unless the full postage chargeable thereon is prepaid.

The third section provides that the provisions of the act entitled "An act for the relief of postmasters who have been robbed by confederate forces or rebel guerrillas," approved April 29, 1864, shall be extended to cases of loyal postmasters where, by reason of the presence of armed forces, a post office is destroyed and the postmaster loses the fixtures and furniture or postage stamps and stamped envelopes; and also to cases where such losses are occasioned by armed forces other than those of the so-called confederate States.

The fourth section enacts that, in addition to the items of rent, fuel, light, and clerks enumerated in the fifth section of the act approved July 1, 1864, the Postmaster General be authorized to allow, at his discretion, out of the revenues of the office at New York, and of offices of the first, second, and third classes, a just and reasonable sum for the necessary cost, in whole or in part, as well of the foregoing items, as of furniture, stationery, printing, and other items of expenditure required at offices of those classes, to be adjusted upon a satisfactory exhibit of the facts; and that he be authorized to pay, out of the proceeds of the money-order business, the cost of stationery and such other incidental expenses as are necessary to the transaction of that business.

The fifth section provides for amending the seventh section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, so as to authorize the Postmaster General to allow for the publication, in newspapers, of the list of non-delivered letters at any post office, compensation at a rate not to exceed two cents for each letter so advertised.

The sixth section proposes to amend the seventeenth section of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July 1, 1864, so as to restore, from the date of its passage, to the special agent of the Post Office Department in the Pacific States and Territories, his regular salary of \$2,500 per annum, under act of March 2, 1861, with an allowance, in addition thereto, of a sum not exceeding five dollars per diem, to provide for his actual traveling and incidental expenses while actively employed in the service. It also proposes to authorize the Postmaster General to appoint an additional special agent for the Pacific States and Territories, and two additional special agents to superintend postal matters connected with the railway mail service of the United States, who shall receive the same salary and per diem allowance for traveling and incidental expenses, to be paid out of the appropriation for mail transportation.

The seventh section enacts that hereafter special agents of the Post Office Department, other than those appointed for the Pacific States and Territories, or those appointed under the authority of the seventh section of this act to superintend postal matters connected with the railway service of the United States, shall be allowed for their necessary traveling and incidental expenses, while actually employed in the service, a sum not exceeding four dollars per diem.

The eighth section authorizes the Postmaster General to pay, out of the appropriation for mis-

cellaneous expenses, the sum of \$10,000, or so much thereof as may be required, for defraying the necessary expense of preparing and publishing a set of post route maps, arranged by States and groups of States, and showing all the permanent mail routes, distances, and post offices thereon in the United States, with other statistical information.

The ninth section provides that for the purpose of assorting and distributing letters and other mail matter in railway post offices, the Postmaster General may, from time to time, appoint clerks, who shall be paid out of the appropriation for mail transportation; provided, that the salary of each head clerk so appointed and employed shall not exceed \$1,400 per annum, and that the salary of other clerks shall not exceed \$1,200 each per annum.

The tenth section proposes to modify the provisions of the fourth section of the act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1861," approved June 15, 1860, so as to authorize the Postmaster General to cause the mails to be transported between the United States and any foreign port or ports, or between ports of the United States, touching at a foreign port, by steamship, allowing and paying therefor, if by an American vessel, any sum not exceeding the sea and United States inland postage, and if by a foreign vessel, any sum not exceeding the sea postage on the mails so conveyed.

The eleventh section enacts that no steamship or other vessel departing from a United States for a foreign port or ports, shall be permitted to receive on board, or convey, any letters or letter packets originating in the United States, which have not been regularly posted at, and received from, the post office at the port of departure; and it is made the duty of the collector or other officer of the port empowered to grant clearances of vessels, to require, as a condition of clearance, from the master or commander of such steamship or vessel, an oath of affirmation that he has not received on board his ship or vessel, and has not under his care or within his control, and will not receive and convey, any letters or letter packets addressed to a foreign country, except as hereinafter accepted, which have not been delivered to him from the post office at the port of departure. It is also provided that this section shall not apply to any letters or letter packets which relate to the cargo and are addressed to the owner or consignee of such steamship or other vessel, or to any letters or packets which are inclosed in a United States stamped envelope of a denomination sufficient in amount to cover the United States postage legally chargeable thereon if such letters or packets had been posted and transmitted by the regular mail.

The twelfth section provides that nothing contained in the act to establish a postal money-order system, approved May 17, 1864, or in any other act, shall be so construed as to prevent deputy postmasters at money-order or other offices from depositing in the national banks designated by the Secretary of the Treasury as public depositories, to their own credit as deputy postmasters, money-order or other funds in their charge, under the direction of the Postmaster General, nor to prevent their negotiating drafts, orders, or other evidences of debt through these banks, as they may be instructed and required by the Postmaster General.

The thirteenth section enacts that the balance which may remain unexpended of the appropriation of \$100,000 to meet any deficiencies in the proceeds of the money-order system during the present fiscal year, under the thirteenth section of the act approved May 17, 1864, may be used, as far as may be necessary, to supply deficiencies in the proceeds of the aforesaid system during the fiscal year commencing July 1, 1865.

The fourteenth section provides that, if any person or persons shall willfully and maliciously injure, tear down, or destroy any letter-box, pillar-box, or other receiving boxes established by authority of the Postmaster General of the United States for the safe deposit of matter for the mails and for delivery; or shall willfully aid and assist in injuring, tearing down, or destroying any such box or boxes, every such offender, being thereof duly convicted, shall, for every such offense, be

fined not less than \$100, nor more than \$1,000, or be imprisoned not less than one year, nor more than three years, or both, according to the circumstances and aggravations of the offense. And if any clerk or other person employed in any of the departments of the Post Office establishment shall willfully and unlawfully remove from any letter posted at or received in any post office or branch post office, established by authority of the Postmaster General of the United States, any postage stamp or stamps affixed thereto in payment of postage; every such offender, being thereof duly convicted, shall, for every such offense, be fined not more than \$100, or imprisoned not more than six months, according to the circumstances and aggravations of the offense.

The fifteenth section provides that the yearly advertisement for proposals to carry the mails of the United States shall be published hereafter for a period of six weeks in one or more, but not to exceed five, newspapers, printed in the State or Territory where the mail service is to be performed, one of which shall be printed at the seat of government of such State or Territory.

The sixteenth section provides that nothing contained in the act to amend the laws relating to the Post Office Department, approved March 3, 1863, shall be so construed as to repeal or modify the second section of the act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th June, 1861," for the delivery of letters and other mail matter, from post offices where the system of free delivery by carriers has not been established; provided, that the system of free delivery shall be established in every place containing a population of fifty thousand within the delivery of the office thereof, and at such other places as the Postmaster General in his judgment shall direct; and also that the prepayment postage on drop letters in all places where free delivery is not established shall be one cent only.

The seventeenth section enacts that no obscene book, pamphlet, picture, print, or other publication of a vulgar and indecent character, shall be admitted into the mails of the United States; but all such obscene publications deposited in or received at any post office, or discovered in the mails, shall be seized and destroyed or otherwise disposed of, as the Postmaster General shall direct. And any person or persons who shall deposit or cause to be deposited in any post office or branch post office of the United States, for mailing or for delivery, an obscene book, pamphlet, picture, print, or other publication, knowing the same to be of a vulgar and indecent character, shall be deemed guilty of a misdemeanor, and, being duly convicted thereof, shall for every such offense be fined not more than \$500, or imprisoned not more than one year, or both, according to the circumstances and aggravations of the offense.

Mr. ALLEY. Mr. Speaker, this bill is of considerable length, and contains many important provisions. It has passed the Senate almost unanimously; and it is agreed to by the House committee by a unanimous vote with the modifications which the amendments now proposed furnish. I will not, therefore, detain the House by any extended remarks; and if no further explanation is desired, I will ask for its immediate passage.

The first amendment reported by the Committee on the Post Office and Post Roads was to strike out in the first section all after the enacting clause.

The amendment was agreed to.

The second amendment reported by the committee, was to strike out in the eighth line of the third section the word "and," and insert after the word "third" the words "and fourth."

The amendment was agreed to.

The third amendment reported by the committee was to strike out in the thirteenth line of the fifth section the word "five," and insert in lieu thereof the word "three."

The amendment was agreed to.

The fourth amendment reported by the committee was to strike out in the tenth line of the sixth section the word "five," and insert the word "three."

The amendment was agreed to.

The last amendment reported by the committee was to strike out the words "and risk" after

the word "credit" in the ninth line of the eleventh section.

The amendment was agreed to.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST OFFICE DEPARTMENT CLERKSHIPS.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported back, with amendments, a bill (S. No. 389) relating to clerkships in the Post Office Department.

The bill was read. It proposes to amend the third section of an act of Congress making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854, approved March 3, 1853, so as to authorize the appointment of a chief clerk in the offices of each of the three Assistant Postmasters General, at a salary of \$2,000 per annum each.

The second section proposes to authorize the Postmaster General, in lieu of the temporary clerks now employed in the Post Office Department and paid out of the appropriation for postage stamps and stamped envelopes and the proceeds of sales of waste paper, to appoint two clerks of class three, two clerks of class two, and five clerks of class one.

The third section appropriates the sum of \$18,000 to pay the clerks provided for in the two preceding sections.

The fourth section appropriates the sum of \$6,000 for the payment of such temporary clerks as the Postmaster General may, from time to time, deem necessary.

The fifth section provides that unclaimed money in dead letters for which no owner can be found, and also all money derived from sales of waste paper or other public property in post offices or the Post Office Department, shall be deposited in the Treasury of the United States, under the direction of the Postmaster General, for the service of the Post Office Department; and any postmaster or clerk in a post office, or any other clerk, officer, or agent of the Post Office Department, having temporary custody of such money, and failing to deposit it as herein provided, is to be deemed to be guilty of a felony, and be subject to a fine not exceeding double the sum so retained by such clerk or other agents, or imprisonment not exceeding three years, or both, at the discretion of the court.

The first amendment reported by the Committee on the Post Office and Post Roads was to strike out the third and fourth sections, and insert in lieu thereof the following:

That the said clerks shall be paid out of any moneys heretofore appropriated or that may hereafter be appropriated for the service of the Post Office Department.

The amendment was agreed to.

The second amendment reported by the committee was to strike out in the tenth line of the fifth section the word "failing," and insert in lieu thereof the words "willfully neglecting."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST ROADS.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported a bill entitled "An act to establish certain post roads;" which was read a first and second time, and considered.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MINOR HEIRS OF B. A. BAILEY.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported adversely upon the bill (H. R. No. 658) entitled "An act for the benefit of the minor heirs of B. A. Bailey, deceased," which was laid on the table.

#### BENONI STAATS.

Mr. ALLEY also, from the Committee on the Post Office and Post Roads, reported adversely upon the petition of Benoni Staats, praying that the pay of his mail contract may be increased. The petition was laid on the table.

#### WILLIAM H. SCOTT.

Mr. ALLEY also, from the Committee on the Post Office and Post Roads, reported adversely upon the petition of William H. Scott for indemnity for loss sustained by the failure and refusal of the Postmaster General to give him a mail contract according to agreement. The petition was laid on the table.

#### NORTON'S STAMP CANCELER.

Mr. ALLEY, by unanimous consent, moved that leave be granted to Shavor & Corse to withdraw their papers from the files of the House relating to Norton's postmarking and canceling stamp.

The motion was agreed to.

#### NATIONAL MISSISSIPPI BRIDGE COMPANY.

Mr. NORTON, from the Committee on the Post Office and Post Roads, reported back House bill No. 634, to incorporate the National Mississippi Bridge Company, and demanded the previous question on its adoption.

The bill was read.

Mr. PENDLETON. Has that bill ever been printed?

Mr. NORTON. The bill has not been printed. Mr. HOLMAN. I hope that the gentleman will not press the passage of the bill at this time.

Mr. NORTON. The bridge is to be built seventy feet above the highest water mark.

Mr. PENDLETON. At what point does the bridge cross the Mississippi river?

Mr. NORTON. From Illinois to St. Louis.

Mr. PENDLETON. Has authority been given by these States of Illinois and Missouri to build this bridge?

Mr. NORTON. Yes, sir; by both States.

Mr. PENDLETON. I understand authority is given to this company to condemn property.

Mr. NORTON. Under the laws of Missouri on one side and under the laws of Illinois on the other side.

Mr. PENDLETON. Is this bridge company authorized to condemn property lying in those States for the purpose of building this bridge?

Mr. NORTON. Charters have been granted by both States and companies have been incorporated for the purpose of building this bridge.

The bill provides that lands may be taken for the purpose of building the bridge in accordance with the laws of Missouri on one side and the laws of Illinois on the other side. No authority is given other than that.

Mr. PENDLETON. I speak with no positiveness in regard to the provisions of this bill except as I heard them read at the Clerk's desk; but I heard no such limitation as that the gentleman indicates put upon the power to condemn property.

Mr. NORTON. It is there, for I examined the bill very carefully myself. It was introduced and referred to the Committee on the Post Office and Post Roads by the gentleman from the St. Louis district, [Mr. Knox,] and it was considered deliberately by that committee, and I was instructed unanimously to report it back to the House with the recommendation that it do pass.

Mr. PENDLETON. Let me express the hope that with the permission of the gentleman from Illinois this bill will not now be put on its passage. It may be perfectly right, but I do not know that it is. The gentleman says that it has received the attention of the Committee on the Post Office and Post Roads, and their approval would commend it to the House; but as it was read at the Clerk's desk I thought there were provisions in it extraordinary in their character, such as we have not been in the habit of putting into laws of this kind, and such as I do not think this House can properly consider without having the bill before it. I am not able at this moment to particularize these provisions. One is that this company shall have power to acquire title to land necessary for the construction of the bridge and for the approaches to it from public highways, and the same power to take materials from



lands in the neighborhood for the construction thereof; and the proceedings thereon shall be conducted in the same manner as is provided in cases to authorize the formation of railroad associations and to regulate the same by the State laws of Illinois and Missouri respectively. There a substantive power is given by this Congress to this association to go into the States and condemn property lying within the limits of the States. The only thing necessary for them to do is to pursue the course of proceedings indicated by the State laws. It seems to me that that is a provision not contained ordinarily in bills of this character. I beg the gentleman, without meaning to take up time or interfering with his right to call the previous question, to have the bill printed so that we may consider it.

Mr. NORTON. I have no objection to that if it is made the special order for a day certain. It seems to me that the gentleman's objection to the bill is answered by the very language he quoted from it. Whatever property is taken for the building of this bridge is to be taken in accordance with the State laws of Missouri on one side and the laws of Illinois on the other. The bill was framed with a great deal of care; and while I feel willing to accommodate the gentleman, under the circumstances I must demand the previous question.

Mr. J. C. ALLEN. I desire to appeal to my colleague to let this bill be printed. I am satisfied it will be defeated if he does not.

Mr. NORTON. Gentlemen all around me say I cannot get this bill made a special order at this stage of the session, and it seems to me the only chance is to put it upon its passage now.

Mr. J. C. ALLEN. I shall then be compelled to vote against the bill, not having had an opportunity to know what it is. Unless it is printed I certainly shall do what I can to defeat it.

Mr. NORTON. I do not know that my colleague wants to vote for the bill anyhow.

Mr. J. C. ALLEN. I do, if upon examination I think it ought to pass.

Mr. GRISWOLD. I hope the gentleman will allow it to be printed.

Mr. NORTON. I would have no objection to having it printed if it could be done without losing the bill. I should indeed prefer to have it done. But the immense accumulation of business, and the statement of gentlemen around me that objection will be made to having this bill made a special order; forbid it, because the passing of it over for the purpose of having it printed is tantamount to having it defeated. I will consent, however, to have the bill recommitted to the Committee on the Post Office and Post Roads, and ordered to be printed, provided that the committee may have leave to report at any time.

Mr. J. C. ALLEN. I have no objection to that.

Mr. SCHENCK. I object. I have been trying to get up the enrollment bill, which has been a special order for some time.

The SPEAKER. The Chair would state, for the general information of the House, that there are now, beside the special assignment for to-day, six special orders and six motions to reconsider pending. How soon they will be exhausted the Chair cannot state.

Mr. NORTON. Very well; those who are most interested in the bill are satisfied that I ought not to give time at present. I cannot get the bill made a special order, and I cannot get leave for the committee to report at any time; and I am consequently compelled to insist upon my demand for the previous question.

Mr. GRISWOLD. We want to know what the bill is.

Mr. HOLMAN. Has not the Committee on the Post Office and Post Roads the right to report again to-morrow?

The SPEAKER. Their time to report expires to-day.

Mr. HOLMAN. I shall call for the reading of the enrolled bill, if it is put on its passage.

Mr. NORTON. I insist on my demand for the previous question.

Mr. PENDLETON. I move to lay the bill on the table.

Mr. FINCK. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the

negative—yeas 46, nays 78, not voting 58; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bliss, Clay, Coffroth, Cox, Cravens, Thomas T. Davis, Dawson, Denison, Edens, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hall, Harrington, Charles M. Harris, Herrick, Holman, Hutchins, Kaibfeisch, Kernan, Knapp, LeBlond, Long, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Pendleton, Samuel J. Randall, Rogers, Stevens, Sules, Strouse, Thomas, Townsend, Vadsworth, Joseph W. White, Winfield, and Fernando Wood—46.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnold, Ashley, Bailey, Augustus C. Baldwin, Baxter, Beaman, Baine, Blair, Blow, Boatwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Dawes, Dixon, Driggs, Eckley, Elliot, Farnsworth, Garfield, Gooch, Grinnell, Higby, Hooper, John H. Hubbard, Hulburg, Ingersoll, Jenckes, Julian, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Law, Littlejohn, Marvin, McAllister, McClurg, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orin, Perham, Pike, Price, Edward H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Seofield, Sloan, Smith, Smithers, Starr, Stuart, Thayer, Upson, Van Valkenburgh, Webster, Wheeler, Williams, Wilder, Wilson, Woodbridge, Worthington, and Yeaman—78.

NOT VOTING—Messrs. William J. Allen, John D. Baldwin, Brooks, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Creswell, Henry Winter Davis, Deming, Donnelly, Dumont, Frank, Hale, Harding, Benjamin G. Harris, Hotchkiss, Asahel W. Hubbard, Philip Johnson, William Johnson, Kasson, Lazarus, Loan, Longyear, Mallory, Marcy, McBride, F. Miller, Morrill, Leonard Myers, Odell, John O'Neill, Patterson, Perry, Pomeroy, Pruyt, Radford, Robinson, James S. Rollins, Scott, Shannon, Spaulding, John B. Ward, William G. Steele, Sweet, Tracy, Voorhees, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Chilton A. White, Windom, and Benjamin Wood—58.

So the bill was not laid on the table.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow.

Mr. NORTON. I ask that the bill may be printed.

No objection being made, the bill was ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Hickey, their Chief Clerk, announced to the House that the Senate had passed, without amendment, a bill of the following title:

An act (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes.

Also, that the Senate had passed, with amendments, in which the concurrence of the House was requested, a joint resolution of the following title:

A joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and Territory of Nevada, for the purposes of a branch mint located in said place.

The message also announced that the Senate had passed joint resolutions and a bill of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. R. No. 85) authorizing the Secretary of the Treasury to pay to the Secretary of the Interior \$250,000, in lieu of certain bonds, for feeding certain refugee Indians;

Joint resolution (S. R. No. 111) to encourage the employment of disabled and discharged soldiers;

Joint resolution (S. R. No. 112) for the relief of James B. Royce;

Joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia; and

An act (S. No. 386) to incorporate the National Protection Insurance Company of the District of Columbia.

The message also announced that the Senate had passed a concurrent resolution to continue the joint committee on the conduct of the war.

#### RECONSTRUCTION BILL.

The SPEAKER. The next bill in order is House bill No. 602, known as the reconstruction bill, upon which the gentleman from Indiana [Mr. Edgerton] is entitled to the floor for twelve minutes.

Mr. HOLMAN. I hope there will be no objection to extending the time of the gentleman half an hour.

Mr. ASHLEY. I object.

Mr. HOLMAN. Say twenty minutes. I hope the gentleman will not object to that.

Mr. ASHLEY. I object to any extension.

Mr. EDGERTON. I do not desire to occupy the floor unless I can have twenty minutes additional time.

Mr. ASHLEY. There are half a dozen gentlemen upon this side of the House who desire to speak, and I cannot yield an additional moment.

Mr. COX. I hope the gentleman will withdraw that objection. We granted the gentleman from Massachusetts [Mr. Dawes] more additional time than that yesterday.

Mr. ASHLEY. I have utterly refused to yield to any gentleman upon this side of the House.

Mr. GANSON. I move that gentlemen who desire to speak upon the subject have leave to print their remarks.

There being no objection, the motion was agreed to.

Mr. PENDLETON. Does that cut off debate? The SPEAKER. It does not.

Mr. PENDLETON. I suggest to the gentleman from New York that he include in his motion that there shall be no debate.

The SPEAKER. That will hardly be in order. Mr. COX. How long does that permission to print speeches last?

The SPEAKER. Until the 4th of March at noon.

Mr. ASHLEY. I withdraw the motion which I made to recommit the bill to the committee on rebellious States; and I withdraw, by authority of the committee, the bill which was the original text, and introduce the following bill, in lieu thereof:

Strike out all after the enacting clause, and insert:

That in the States declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, whose pay and emoluments shall not exceed that of a brigadier general of volunteers, who shall be charged with the civil administration of such State, until a State government therein shall be recognized as hereinafter provided.

Sec. 2. And be it further enacted, That until the United States shall have recognized a republican form of State government, the provisional governor in each of said States shall see that this act, and the laws of the United States, and the laws of the State for the protection of persons and property in force when the State government was overthrown by the rebellion, are faithfully executed within the State; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such State; and the laws for the government, trial, and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. The President shall appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, all which officers shall be entitled to receive the fees and emoluments provided by the State laws for such officers.

Sec. 3. And be it further enacted, That all persons held to involuntary servitude or labor in the States or parts of States in which such persons have been declared free by any proclamation of the President, are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretense of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

Sec. 4. And be it further enacted, That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than \$1,500, and be imprisoned not less than five nor more than twenty years.

Sec. 5. And be it further enacted, That so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall, together with the citizens of the United States from such State in the military or naval service of the United States, amount to a majority of the persons enrolled in the State, he shall, by proclamation, invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States.

Sec. 6. And be it further enacted, That the convention shall consist of as many members as both Houses of the last constitutional State Legislature, apportioned by the provisional governor among the counties, parishes, or districts of the State, in proportion to the population enrolled by the marshal, in compliance with the provisions of this act, or in the military or naval service of the United States as

aforsaid. The provisional governor shall, by proclamation, declare the number of delegates, to be elected by each county, parish, or election district; name a day of election, not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming, as nearly as may be convenient, to the places used in the State elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

**Sec. 7. And be it further enacted,** That all citizens of the United States of the age of twenty-one years, residents of the State, who are in the military or naval service of the United States, and all who have been honorably discharged therefrom, together with all loyal citizens enrolled as aforesaid, who shall take and subscribe the oath of allegiance to the United States, prescribed in the act of July 2, 1862, shall be electors, and may vote for delegates to the convention hereinbefore authorized, in the county, parish, or district in which they reside, and all such citizens of the United States who are in the military or naval service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, State or Confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote or be eligible to be elected as delegate at such election.

**Sec. 8. And be it further enacted,** That the said commissioners, or either of them, shall hold the election in conformity with this act, and, so far as may be consistent therewith, shall proceed in the manner used in the State prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by or proved to the commissioners to have held or exercised any office, civil or military, State or Confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote, he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

**Sec. 9. And be it further enacted,** That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the State, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form hereinbefore prescribed.

**Sec. 10. And be it further enacted,** That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the constitution of the State, that is to say: First. No person who has held or exercised any office, civil or military, except civil offices merely ministerial and military offices below the grade of colonel, State or Confederate, under the usurping power, shall vote for or be a member of the Legislature or Governor. Second. Involuntary servitude is forever prohibited, and freedom and equality of civil rights before the law are guarantied to all persons in said State. Third. No debt, State or Confederate, created by or under the sanction of the usurping power, or in any manner in aid thereof, shall be recognized or paid by the State.

**Sec. 11. And be it further enacted,** That when the convention shall have adopted those provisions, it shall proceed to reestablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the State entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates, but at a time and place named by the convention, at which election the said electors, and none other, shall vote directly for or against such constitution and form of State government. And the returns of said election shall be made to the provisional governor, who shall canvass the same in the presence of the electors, and if a majority of the votes cast be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of Congress, by act or joint resolution, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the State; and from the date of such recognition, and not before, Senators and Representatives and electors for President and Vice President may be elected in such State, according to the laws of the State and of the United States.

**Sec. 12. And be it further enacted,** That if the convention shall refuse to reestablish the State government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than a majority of those enrolled as aforesaid, are willing to reestablish a State government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention or to certify the State government reestablished by it to the President.

**Sec. 13. And be it further enacted,** That if the persons exercising the functions of Governor and Legislature under

the rebel usurpation in any State heretofore declared to be in rebellion shall, before armed resistance to the national Government is suppressed in such State, submit to the authority of the United States, and take the oath to support the Constitution of the United States, and accept by law the third provision prescribed in the eighth section of this act, and ratify the amendment to the Constitution of the United States proposed by Congress to the Legislatures of the several States on the 31st day of January, A. D. 1865, it shall be lawful for the President of the United States to recognize the said Governor and Legislature as the lawful State government of such State, and to certify the fact to Congress for its recognition: *Provided,* That nothing herein contained shall operate to disturb the boundary lines of any State heretofore recognized by and now represented in the Congress of the United States.

**Mr. WILSON.** I would inquire what effect that substitution will have upon the pending amendments?

**Mr. ASHLEY.** They all fall with it.

**Mr. WILSON.** I desire that the substitute I offered shall hold its original place.

**The SPEAKER.** The Chair would state that the right of a committee to withdraw a bill they have reported and substitute another in its place is a new question. The gentleman had consent some days since to substitute the bill which has been pending for the original bill, and which has stood as the original text. The gentleman now claims a right, by the authority of the committee, to withdraw that bill and substitute another in its place. A gentleman upon the floor would have a right, having a bill pending before the House, to modify it at any time previous to a vote. The only question in the mind of the Chair is whether the chairman of a committee, or a gentleman representing a committee, would have the same right by the authority of the committee. The Chair is of opinion that he would; that he would have the right, when speaking by the direct authority of the committee, to have his bill stand upon the same footing as a member would have if he had a bill before the House. But the Chair does not think that it should cut off pending amendments, and he therefore rules that the gentleman, having been so directed by his committee, has the right to substitute this bill, so that the committee can have the action of the House upon the bill as they desire it; and that the amendments still apply to the bill, so that those who moved them can have the sense of the House upon them. Otherwise gentlemen could always get rid of amendments, after debating a bill to which amendments were proposed, by withdrawing it, substituting another, demanding the previous question, and cutting off all power to amend. The Chair rules, therefore, that the amendments are pending.

**Mr. WILSON.** I desire to modify my substitute.

**Mr. KELLEY.** I move to modify my amendment so that it shall provide for striking out the word "white" in line eight, section five, of the bill.

#### FALL OF CHARLESTON.

The SPEAKER laid before the House a dispatch from the Secretary of War, which was read, as follows:

[Received 8.35 a.m., February 21, 1865.]

CHARLESTON, S. C., February 18, 1865.  
Via NEW YORK, February 21.

**GENERAL:** The city of Charleston and all its defenses came into our possession this morning, with about two hundred pieces of good artillery and a supply of fine ammunition. The enemy commenced evacuating all the works last night, and Mayor Macbeth surrendered the city to the troops of General Schimmelfennig at nine o'clock this morning, at which time it was occupied by our forces.

Our advance on the Edisto and from Bull's bay hastened the retreat.

The cotton warehouses, arsenals, quartermaster's stores, railroad bridges, and two iron-clads were burnt by the enemy. Some vessels in the ship-yard were also burnt. Nearly all the inhabitants remaining behind belong to the poorer classes.

Very respectfully,

Q. A. GILLMORE,  
Major General Commanding.

Major General H. W. HALLECK, Chief of Staff.

[Applause on the floor and in the galleries.]

#### RECONSTRUCTION—AGAIN.

**Mr. WILSON.** I modify my amendment so that it will read as follows:

Strike out all after the enacting clause and insert:

That Senators and Representatives shall not be received from any State heretofore declared in rebellion against the United States until Congress, by concurrent action of both Houses, shall have first declared a just local government, republican in form, to have been organized therein, and such State to be entitled to representation in the respective Houses of Congress.

**Mr. ELIOT.** I desire to modify my amendment so that it will read as follows:

Strike out all after the enacting clause and insert:

That the States declared to be in rebellion against the United States, and within which the authority of the Constitution and laws of the United States has been overthrown, shall not be permitted to resume their political relations with the Government of the United States, until, by action of the loyal citizens within such States respectively, a State constitution shall be ordained and established, republican in form, forever prohibiting involuntary servitude within said State, and guarantying to all persons freedom and equal rights before the law.

**Mr. HOLMAN.** I move to strike out the enacting clause of the bill.

**Mr. ASHLEY.** I call the previous question on the pending bill and amendments.

**Mr. FARNSWORTH.** Will it be in order to move to postpone this bill till the 5th of March next, and leave to General Sherman to reconstruct as he is now doing in South Carolina?

**Mr. HOLMAN.** I suppose this whole subject is debatable under my motion.

**The SPEAKER.** The Chair will direct the Clerk to read the rule on that point.

The Clerk read, as follows:

"A motion to strike out the enacting words of a bill shall have precedence of all motions to amend."

The previous question was then seconded, and the main question was ordered.

The first question was upon the motion of Mr. HOLMAN, to strike out the enacting clause of the bill.

**Mr. HOLMAN** called for the yeas and nays.

The yeas and nays were ordered.

**Mr. ASHLEY.** Mr. Speaker, it is well known to the House and the country that from the outbreak of the rebellion I have given this subject of reconstruction special attention. At the last session of Congress, the committee of which I am a member reported a bill which received the sanction of this body and of the Senate, but failed to receive the approval of the President. Since that time, and during this session, it has been my earnest desire to conciliate all gentlemen on this side of the House who had scruples in regard to the bill as it originally passed, and, if possible, to secure a united vote in its favor. For that purpose I consented to what might properly be termed a compromise, in providing for the readmission or recognition of the new governments of Louisiana, Arkansas, and Tennessee. The conditions were not such as I would prescribe if those States stood separately and alone. But in order to secure what I thought of paramount importance—universal suffrage to the liberated black men of the South—I consented to ingraft in the bill which I had the honor of proposing the other day a conditional recognition of the existing governments of the States of Louisiana and Arkansas, and the government now being organized in Tennessee.

Disappointed in my efforts to secure the co-operation of gentlemen who profess to entertain, and who I am willing to concede do entertain, practically the same opinions which I do in favor of securing universal suffrage to the colored man, and in favor of the early recognition of every rebel State which has a population sufficient to sustain and maintain a government; failing in that, I now decline to offer my substitute, and at the request and with the concurrence of the committee we have offered the bill of the last session, with the modifications which members will notice when the bill is read. Those modifications are to strike out all the bill contains to which gentlemen have raised objection, in that it seemingly authorized the execution of the State laws as they existed at the time of the rebellion. In order to make perfectly clear what the committee meant, they have inserted a provision that the provisional governor shall execute only such laws as relate to the protection of persons and property; and that all laws inconsistent with this bill, and all laws recognizing the relation of master and slave, shall not be enforced.

The committee have also in this bill omitted the section which authorized the collection of taxes in the State, thus leaving the original bill of last session to stand with those modifications, and with the addition of the thirteenth section of the amendment which I offered yesterday.

I prefer to stand there. I prefer not to offer my substitute, and thus commit myself to a recognition of the governments of Louisiana and

Arkansas, unless I can secure that which I think of paramount importance in the reorganization of the other States, and which I felt confident would follow in these States if they were recognized even with their present form of government. For these reasons, I have declined to offer the substitute which I had printed on Saturday, and which was yesterday distributed to the House in pamphlet form.

It is very clear to my mind that no bill providing for the reorganization of loyal State governments in the rebel States can pass this Congress. I am pretty sure that this bill and all the amendments and substitutes offered will fail to command a majority of this House.

We have learned, Mr. Speaker, in the course of the debate on this question, how easy it is for gentlemen to follow in the beaten track in which they have been educated. The individuality of the great majority on our side of the House is so strong that no concession, no compromise, can be made which will bring us together on this great question. Many gentlemen on this side of the House are capital leaders in the minority, are good at pulling down, but not so good at leading majorities, and building up.

On this great question, a question of more magnitude and importance to the people of this country than any other, the majority of this House, I regret to acknowledge, are utterly unable to agree.

While I accord to other gentlemen all the earnestness and all the honesty of purpose which I claim for myself, I do not desire to put myself on the record in favor of admitting these States which have no loyal populations at their back—which have no established governments that I care to recognize; and I only consented conditionally to recognize them because I knew we could hold them up with the military power until the rebellion should be crushed.

I did not expect, Mr. Speaker, to participate in the debate this morning. I did not intend to participate in it at all. Until this debate was opened yesterday I thought that we were all so nearly united at the last session that when the concessions which I have made in this substitute should be presented to gentlemen, there would be no need of argument, no need to consume the valuable time of the House at this late hour of the session, as we did yesterday, and have thus far today. I am not, therefore, prepared to go on with any lengthy remarks. I want to say, however, one word in defense of the last section of the present bill, which is the thirteenth section of my substitute.

Some gentlemen think it strange that such a section should emanate from me. Now, Mr. Speaker, while I have always been earnest and anxious for the restoration of these governments in the South, I have desired, first of all, to secure such governments as would be stable, such governments as would be a source of strength instead of weakness to the national Government. Hence I desire their organization upon the ideas which I have presented in my substitute of Saturday. I have not been opposed, as some gentlemen have seemed to think, to the recognition of any of these States. This thirteenth section is introduced into this bill for the purpose of sustaining the proclamation of the President, which is outstanding today, embodying these very ideas, and to have it go forth from this body in an authoritative form, saying to the legislative and executive authorities in the rebel States that if, before the rebellion be suppressed by force of arms they will take an oath to support the Constitution of the United States, and command the citizens of their States now in the rebel army to lay down their arms, the President may lawfully and rightfully treat with them and recognize them as the existing government, provided they adopt the provision prescribed in the eighth section of this bill and ratify the proposed amendment to the Constitution abolishing slavery.

This much, Mr. Speaker, I think we have the right to exact of the rebel States, after what this nation has suffered from their acts. We cannot obtain indemnity for the past, but it is the duty of statesmen, the duty of men charged with the reconstruction of governments in these rebel States, to demand security for the future, and to that extent I propose to go in this thirteenth section of the bill now before the House. If I were a Union man in the State of Georgia or in the State

of North Carolina to-day, I would welcome a declaration, such as is contained in the thirteenth section of this bill, by the American Congress. I would welcome it, and I would use it, as I know, if this bill could be passed, it will be used there among the honest Union men of the South, the men who desire to return to the support of the national Government and to be once more recognized as part of the governing power of the country. For these reasons the committee have added that section to the bill. It is substantially the bill of the last session with these modifications and additions, and it is the bill on which I now desire to bring the House to a vote. I want a record made on all the propositions now before us. Without consuming further time of the House I will yield the remainder of my time to the gentleman from Maryland, [Mr. Davis.]

Mr. DAVIS, of Maryland. How much time have I?

The SPEAKER. Forty-five minutes.

Mr. DAVIS, of Maryland. Mr. Speaker, I merely rise to state the case for the House. If I can find voice enough to do that I shall have accomplished as much as I expect.

The bill which is now the test, to which amendments are pending, is the same bill which received the assent of both Houses of Congress at the last session, with the following modifications to suit the tender susceptibilities of gentlemen from Massachusetts: first, the sixth section, declaring rebel officers not citizens of the United States, has been stricken out; second, the taxation clause has been stricken out; third, the word "government" has been inserted before "trial and punishment," to meet the refined criticisms of the two gentlemen from Massachusetts who suppose that penal laws would be in force and operative when the penalties were forbidden to be enforced; that discriminating laws could survive the declaration that there should be no discrimination between different persons in trial or punishment. There has been one section added to meet the present aspect of public affairs; that section authorizes the President, instead of pursuing the method prescribed in the bill in reference to the States where military resistance shall have been suppressed, in the event of the legislative authority under the rebellion in any rebel State taking the oath to support the Constitution of the United States, annulling their confiscation laws and ratifying the amendment proposed by this Congress to the Constitution of the United States, before military resistance shall be suppressed in such State, to recognize them as constituting the legal authority of the State, and directing him to report those facts to Congress for its assent and ratification. With these modifications, the bill which is now the test for amendment is the bill which was adopted by this House at the last session.

I shall not reflect upon the gentlemen of this House so far as to go into any argument to prove its authority to do what this bill proposes to do; its vote of the last session for this bill, word for word, is the sufficient proof of the right of the House to adopt it. It is only the House itself that can reverse that judgment and impeach its assertion of its own powers. Nor need I trouble myself to answer the arguments of the gentlemen who at the last session voted for this bill, and who, in the quiet and repose of the intervening period, have criticised in detail the language; and, not stopping there, have found in its substance that it essentially violates the principles of republican government and sanctions the enormities of the laws with which the existence of slavery has covered and defiled the statutes of every rebel State.

That these discoveries should have been made since the vote of last session is quite as remarkable as that they should have been overlooked before that vote. But they were neither overlooked before nor discovered since. The vote was before a pending election. It is the will of the President which has been discovered since.

It is not at all surprising, Mr. Speaker, that the President having failed to sign the bill passed by the whole body of his supporters by both Houses at the last session of Congress, and having assigned, under the pressure of events, but without the authority of law, reasons, good or bad, first for refusing to allow the bill to become a law, and therefore usurping power to execute parts of it

as law, while he discarded other parts which interfered with possible electoral votes, those arguments should be found satisfactory to some minds prone to act upon the winking of authority.

The weight of that species of argument I am not able to estimate. It bids defiance to every species of reply. It is that subtle, pervading epidemic of the time that penetrates the closest argument as spirit penetrates matter that diffuses itself with the atmosphere of authority, relaxing the energy of the strong, bending down the upright, diverting just men from the path of rectitude, and substituting the will and favor of power for the will and interest of the people as the rule of legislative action.

It is an evil which can be remedied only by the people of the United States in the selection of their Representatives, and when they send Representatives here of stuff impenetrable to that subtle essence, then reason and not the executive wishes will illuminate them on the merits and necessity of legislative measures. Till then I despair of reaching the source of their conduct.

All I desire now to do is to state the case and predict results from one course or the other. The course of military events seems to indicate that possibly by the 4th of next July, probably by next December, organized, armed rebellion will cease to lift its brazen front in the land. Disasters may intervene; errors or weaknesses may prolong the conflict; the proverbial chances of war may interpose their caprices to defer the national triumph; but events now point to the near approach of the end. But whether sooner or later, whenever it comes, there is one thing that will assuredly accompany it. If this bill do not become a law, when Congress again meets, at our doors, clamorous and dictatorial, will be sixty-five Representatives from the States now in rebellion, and twenty-two Senators, claiming admission, and, upon the theory of the honorable gentleman, entitled to admission beyond the power of argument to resist it; for peace will have been restored, there will be no armed power but that of the United States; there will be quiet, and votes will be polled under the existing laws of the State, in the gentleman's view. Are you ready to accept that consequence? For if they come to the door of the House they will cross the threshold of the House, and any gentleman who does not know that, or who is so weak or so wild as to suppose that any declaratory resolution adopted by both Houses as a condition precedent can stop that flood, had better put his puny hands across the flood of the flowing Mississippi and say that it shall not enter the Gulf of Mexico.

There are things, gentlemen, that are possible at one time and not possible at another. You can now prevent the rise of the flood, but when it is up you cannot stop it. If gentlemen are in favor of meeting that state of things, then do as has been already so distinctly intimated in the course of this debate, vote against this bill in all its aspects; leave the door wide open; let "our brethren of the South," whose bayonets are now pointed at our brothers' hearts, drop their arms, put on the seemingly garb of peace, go through the forms of an election, and assert the triumph of their beaten faction under the forms of political authority after the sword has decided against them. I am no prophet, but that is the history of next December if this bill be defeated; and I expect it not to become a law.

But suppose the other course to be pursued; suppose the President sees fit to do what there is not the least reason to suppose that he desires to do; suppose that after he has destroyed the armies in the field he should go further, and do, as I think he ought to do, what the judgment of this country dictates, treat those who hold power in the South as rebels and not as governors or legislators; disperse them from the halls of legislation, expel them from executive mansions, strip them of the emblems of authority, and set to work to hunt out the plant and supple "Union men," so called, who have cringed before the storm, but who will be willing to govern their fellow-citizens under the protection of United States bayonets; suppose that the fruitful example of Louisiana shall spread like a mist over all the rest of the southern country, and that Representatives like what Louisiana has sent here, with such a backing of votes as she has given, shall appear here at the doors of this Hall; whose representatives are they? I



do not mean to speak of the gentlemen now here from Louisiana in their individual character, but in their political relations to their constituency. Whose representatives are they? In Louisiana they are the representatives of the bayonets of General Banks and the will of the President, as expressed in his secret letter to General Banks. If you admit such representatives, you must admit, on the same basis and under the same influences, Representatives from every State from Texas to Virginia; the common council at Alexandria—which has just sent two Senators to the other House and has ratified the amendment to the Constitution abolishing slavery in all the rest of Virginia, where none of them dare put his portly person—would be entitled to send ten Representatives here and two Senators to speak for the indomitable "Old Dominion." If the rebel Representatives are not here in December next you will have here servile tools of the Executive who will embarrass your legislation, humble your Congress, degrade the name of republican government for two years, and then the natural majority of the South, rising indignantly against that humiliating insult, will swamp you here with rebel Representatives and be your masters. These are their alternatives, and there is no middle ground.

To meet that state of the case, the honorable gentleman, who so ably heads the Judiciary Committee [Mr. WILSON] has proposed a *declaratory resolution, and that is all*—a declaratory resolution, with no provisions of law to execute it, with no power to arrest the flood at our door, a very bubble born amid the hubbub of the waters and floating with the flood—that Senators and Representatives shall not be received from any State heretofore declared in rebellion until a joint act or resolution of Congress shall have declared that they have organized a new government.

Mr. WILSON. I desire to ask the gentleman from Maryland what there is in the bill which he is now advocating to prevent the House of Representatives or the Senate from admitting members or Senators from those States.

Mr. DAVIS, of Maryland. Nothing; nothing. This House is the ultimate judge of who is elected, and can always determine for itself, and therefore the resolution of the honorable gentleman is waste paper.

Mr. WILSON. Let me ask the gentleman another question. Suppose that notwithstanding the provisions of this bill, the people, loyal or disloyal, as the case may be, or both combined, should, within the limits of any insurrectionary State, organize what they would call a local State government, and in pursuance of the constitution and laws adopted by them send Representatives and Senators to Congress; what is there in this bill, or what power would the President have, to prevent this House and the Senate from admitting the persons so elected?

Mr. DAVIS, of Maryland. If they have elected their Representatives, there is no power anywhere to prevent this House from admitting them, if they see fit to do it.

I hope I answer the gentleman intelligibly. But if such an election is held anywhere in any such State it is an assertion of sovereign power without authority of law—it is rebellion itself; and this bill directs the President to disperse the electors and prevent the election being held. If this law should be passed, and the President should sanction such an election, it would be an impeachable offense; and if he did not sanction it the question would never be here to trouble us. I trust I have answered the gentleman intelligibly.

Now, a word upon the criticisms upon this bill and I have done. Provisional governors are to be appointed. That is a point of objection to the gentleman from Massachusetts, [Mr. ELIOT], who first spoke. Why, such governors are appointed *now without law*, and all we propose is that they shall be *under the responsibility of law and subject to the control and confirmation of the Senate*. Provisional governors illegally appointed, and judges of provisional courts unknown to the law, and whose appointments have never been submitted to the Senate, are now usurping authority in Louisiana. The very landmarks of the law are swept from the land. My effort is to restore them, and to that the gentleman objects.

Why, sir, suppose this bill be not passed; suppose this machinery be as objectionable as the

gentleman supposes; what is the alternative? The President remains in power with no law to guide him. I am attempting to lay down a law for his guidance. The gentlemen prefer arbitrary will to a written law, and they cannot avoid that statement of the issue.

Sir, when I came into Congress ten years ago, this was a Government of law. I have lived to see it a Government of personal will. Congress has dwindled from a power to dictate law and the policy of the Government to a commission to audit accounts and to appropriate moneys to enable the Executive to execute his will and not ours. I would stop at the boundaries of law. When I look around for them I seem to be in a waste; they are as clean gone as the division fences of Virginia estates from here to the Rapidan.

But the gentleman from Massachusetts [Mr. DAWES] said yesterday that by this bill we are reviving the hateful black laws of the South. I drew the section that refers to that subject, and I am content to take upon my shoulders all the responsibility connected with the revival of all the laws that are revived by the bill which I had the honor at the last session to report, which both Houses of Congress approved by their votes, and which to-day I am here to maintain. I took some credit to myself for putting in a brief space the shortest possible declaration that all men should be equal before the law, when I drew the clause declaring that no law which recognizes the right to hold men in involuntary servitude shall be recognized, and that the laws for the trial and punishment of *white* persons shall apply to the trial and punishment of *all persons whatever*.

I had ignorantly supposed that if the negro had to be tried by the same court, under the same law, upon the same evidence, for the same crime, for no other crime, upon no other evidence, and by no other tribunal, I had come, in those words, as near annihilating the black laws of the South as gentlemen could have done if they had spent tomes in writing out the provision for that purpose.

But in order to meet the refined criticism of the gentleman from Massachusetts [Mr. DAWES] upon this bill, my friend from Ohio [Mr. ASHLEY] and myself put our heads together, and after great contortions of the brain we thought we might possibly make the effectiveness of the law visible to gentlemen whose eyes had failed to discover the difficulties of the law of the last session, by inserting before the words "trial and punishment" the word "government." And as "government" means the provisions and execution of the law which defines the rights of persons and property, and the responsibility of men to the law, I take it that the gentleman will withdraw that objection now, and vote for the bill, because it does effectually, even to his satisfaction, annul the laws to which he has objected.

But says the gentleman [Mr. DAWES] who spoke yesterday, and the one who spoke several days ago, [Mr. ELIOT], "There is no time fixed within which the provisional governor must call upon the people to elect whether they will organize a State government or not." Certainly not. Nor can there be any. It is necessarily left to the judgment of those whom we charge with the execution of the law. If the President shall appoint provisional governors who will not execute his bidding nor take his word for it that the rebellion is suppressed, and that the people have sufficiently returned to their allegiance, then there is no remedy except to change the President, and that remedy I fear is impracticable. I take the men I find in power; the men who must execute all the laws we pass, if they be executed at all. But the real grievance is not expressed. I prescribe a *rule*; and it is my imposing any rule that is the offense, and not the execution of it, nor any doubt about its meaning, still less the uncertainty of its beginning. There is no uncertainty. The bill says that there shall be no government organized until armed resistance is suppressed and the people have sufficiently returned to their allegiance, the test of which is to be that a majority of the people have taken the simple oath to support the Constitution of the United States. But there are those who would have one tenth of the people govern all the people. There are those who would organize into oligarchies, like the common council of Alexandria, to suck the blood of great States, degrade the character and exasperate

the temper of the people of proud Commonwealths, and send their tools here to legislate for my constituents.

Sir, my successor may vote as he pleases. But when I leave this Hall there shall be no vote from the third congressional district of Maryland that recognizes anything but the body and mass of the people of any State as entitled to govern them, and to govern the people that I represent. And they who may wish to substitute one tenth, or any other fractional minority, for that great power of the people to govern, may take, and shall take, the odium. Ay! I shall brand it upon them that in the middle of the nineteenth century, in the only free Republic that the world knows, where alone the principles of popular government are the rules of authority, they have gone to the dark ages for their models, reviving the wretched examples of the most odious Governments the world has ever seen, and propose to stain the national triumph by creating a wretched, low, vulgar, corrupt, and cowardly oligarchy to govern the freemen of the United States—the national arms to guaranty and enforce their oppressions. Not by my vote, sir; not by my vote!

If the majority of the people will not recognize the authority of the Constitution of the United States, what does the gentleman say who proposes these declaratory resolutions? That they shall come here without it? No, sir; but I would govern them for a thousand years first by the supreme authority of the Constitution which they have defied and will not acknowledge. And govern them how? Not by the uncontrolled will of this or any other President that ever lived, George Washington included. I would govern them by the laws that in the hours of their sanity they enacted, unaltered excepting so far as the progress of events require that they should be altered; to the extent that we have proposed to alter them in our bill, and no further. I leave their own rules for their government, make the President appoint, under his official and public responsibility, the officers who are to execute them; and if they do not like to be governed in that way, let us trust that the prodigal will come one day to his senses, and humbly kneeling before the Constitution that he has vainly defied, swear before Almighty God that he will again be true to it.

That is my remedy for the grievance. That is what we propose. It is for this House to say whether it prefers arbitrary discretion or legal rule; whether it prefers that anarchy shall reign or that law shall be supreme; whether it prefers that we shall be overrun by men who do not recognize the Government and who yet insist on taking part in our legislation, or whether it will erect a barrier now, at this time, to prevent the question being forced on our successors, who, wiser it may be, firmer, better republicans than we, will, from the mere fact of the pressure of the times and the clamor of the day, be absolutely incompetent to deal with these things which we now, before the event, can calmly and deliberately adjudicate. Sir, I have done.

The question was first on Mr. HOLMAN's motion to strike out the enacting clause of the bill, on which the yeas and nays had been ordered:

Mr. MALLORY. I move to lay the bill and amendments on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 64, not voting 27; as follows:

YEAS—Messrs. James C. Allen, Alconra, Anderson, Bailly, Augustus C. Baldwin, Blair, Bliss, Boyd, William G. Brown, Clay, Cobb, Coffroth, Cox, Cravens, Thomas T. Davis, Dawes, Dawson, Deulson, Eckley, Eden, Edgerton, Eldridge, English, Finck, Gauson, Gooch, Gader, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hubbard, Hutchins, Julian, Kalbfleisch, Kennan, King, Knapp, Law, Lazear, Le Blond, Littlejohn, Long, Mallory, Macy, Marvin, McAllister, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, Pendleton, Pike, Pomerooy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Swend, Thomas, Townsend, Tracy, Van Valkenburgh, Wadsworth, William B. Washburn, Webster, Whately, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—91.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Brundage, Broomall, Ambrose W. Clark, Cole, Henry Winter Davis, Denning, Dixon, Donnelly, Briggs, Dunmont, Eliot, Farnsworth, Garfield, Grinnell, Higby, Hooper,

Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Thayer, Upson, Williams, Wilson, Woodbridge, and Worthington—64.

**NOT VOTING.**—Messrs. William J. Allen, Alley, Brooks, James S. Brown, Chanler, Freeman Clarke, Creswell, Frank, Hotchkiss, Philip Johnson, William Johnson, Kasson, McDowell, McIndoe, Middleton, John O'Neill, Perry, Robinson, Scott, Spalding, Voorhees, Ward, Elihu B. Washburne, Chilton A. White, Wilder, Windom, and Benjamin Wood—27.

So the bill and amendments were laid on the table.

Mr. CRAVENS moved to reconsider the vote by which the bill and amendments were laid on the table; and also moved to lay the motion to reconsider on the table.

Mr. UPSON called for the yeas and nays on the latter motion.

Mr. DAVIS, of Maryland, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. DAVIS, of Maryland, and DAWSON, were appointed.

The House divided; and the tellers reported—ayes thirty-three, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 57, not voting 33; as follows:

**YEAS.**—Messrs. James C. Allen, Ancona, Anderson, Bailly, Augustus C. Baldwin, Bliss, Boyd, James S. Brown, William G. Brown, Clay, Cobb, Cox, Cravens, Coffroth, Thomas T. Davis, Dawes, Dawson, Denison, Eckley, Eden, Edgerton, Eldridge, English, Farnsworth, Finck, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin J. Harris, Charles M. Harris, Herick, Holman, Hulburd, Hutchins, Ingersoll, Julian, Kaibfleisch, Kernan, King, Knapp, Law, Lazar, Le Blond, Littlejohn, Long, Mallory, Marcy, Marvin, McAllister, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Norton, Odell, Pendleton, Pike, Pomeroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Smith, John B. Steele, William G. Steele, Stevens, Siles, Strouse, Stuart, Thomas, Townsend, Tracy, Van Valkenburgh, Wadsworth, William B. Washburne, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—92.

**NAYS.**—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cole, Henry Winter Davis, Denning, Dixon, Donnelly, Briggs, Dumont, Elliot, Garfield, Grinnell, Higby, Hooper, John H. Hubbard, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Orth, Perham, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Thayer, Upson, Williams, Wilson, and Worthington—57.

**NOT VOTING.**—Messrs. William J. Allen, Alley, Blair, Brooks, Chanler, Freeman Clarke, Creswell, Frank, Hotchkiss, Asahel W. Hubbard, Jenckes, Philip Johnson, William Johnson, Kasson, McDowell, McIndoe, Middleton, John O'Neill, Patterson, Perry, Robinson, Ross, Scott, Spalding, Sweet, Voorhees, Ward, Elihu B. Washburne, Chilton A. White, Wilder, Windom, Benjamin Wood, and Woodbridge—33.

So the motion to reconsider was laid on the table.

#### ELECTION CASES.

The SPEAKER. Reports from the Committee of Elections are in order, under the order of the House, during the remainder of this day.

Mr. DAWES. I am laboring under hoarseness to-day, and I do not propose to call up the election cases at this time.

#### ASSAULT ON HON. W. D. KELLEY.

Mr. BEAMAN. I rise to a privileged question. I desire to call up the report of the select committee to investigate the assault upon Hon. W. D. KELLEY. As the report is very brief, and as many members have not had an opportunity to examine it, I ask that it be read, together with the resolutions appended.

The Clerk read, as follows:

The select committee raised by resolution of the House of the 23d ultimo, in which it is alleged that "it is understood that on the evening of Friday, the 20th instant, A. P. Field, a citizen of Louisiana, did attempt, by language of intimidation and bullying, to deter WILLIAM D. KELLEY, a Representative in this House from the fourth district of the State of Pennsylvania, from the free and fearless exercise of his rights and duties as a member of Congress and voting and deciding upon a pending subject of legislation, and did follow up the said attempt at intimidation and bullying by an assault upon the person of the said Representative KELLEY, thus committing a breach of the privilege of this House," and by which it is directed that an inquiry be made "into the said alleged breach of privilege," and "that the said committee have power to send for persons and papers and to examine witnesses, and that the committee report as

soon as possible all the facts and circumstances of the affair, and what order, if any, it is proper for this House to take for the vindication of its privilege and right and duty of free legislation and judgment," report:

That your committee proceeded to take the testimony of several witnesses touching the subject-matter of said resolution in the presence of the said A. P. Field, many of whom were produced by said Field, and all of whom were subject to his examination or cross-examination. The committee also received the voluntary statement of said Field, which said testimony and statement accompany this report.

From the facts and circumstances thus elicited it appears that on the evening of Friday, the 20th ultimo, about the time of eleven o'clock, Mr. WILLIAM D. KELLEY, a Representative of this House from the fourth district of the State of Pennsylvania, with several of his friends, was at tea at Willard's hotel, in this city; that Mr. Field sat at the same table with them, and that other gentlemen and many ladies were also present; that while Mr. KELLEY was engaged in conversation with his friends, Mr. Field, some what abruptly and in a loud and offensive tone of voice, interrupted him by saying, "Judge, why do you keep us in the cold? Why don't you admit us?" That Mr. KELLEY, after a little hesitation, responded by saying, "Judge, I have nothing to do with your case; it is in the hands of the committee, and has not yet come before the House. I cannot have anything to do with it until it comes before the House;" and then resumed conversation with his friends. Mr. Field then addressed Mr. KELLEY as follows: "Why don't you march up to the line and toe the mark? Why don't you show your hand?" Mr. KELLEY continued, without any reply, to converse with his friends, until after a little time Mr. Field repeated the interrogatories last mentioned; whereupon Mr. KELLEY said, "Judge, if you will inquire of gentlemen who know me, you will find that it is my habit to march right up to the line and to toe the mark, regardless of consequences," and then turned to listen to the conversation of his friends. Mr. Field then broke out with more violent and profane language, and said to Judge KELLEY that "he did not dare face his constituents;" that "he did not dare go home like an honest man;" that "he quailed before them after having acted as he had done or was doing." To this Mr. KELLEY replied, in a low and subdued tone of voice, "Judge Field, my constituents will not rebuke me for excluding from Congress a man who behaves as you do—a man like you—one who behaves in the presence of ladies as you are now doing." Mr. Field then rose from his seat, "seemed" to approach Mr. KELLEY, swearing that he (KELLEY) "must take that back;" exclaimed, "G—d—n you, sir, a man like me—a man like me! Come to the hall!" and then passed out into the hall, uttering, as he moved along, "You will feel me when you do come to the hall."

It further appears that after the lapse of about twenty minutes from the time at which Mr. Field went out, Mr. KELLEY, with his friends, rose from the table and proceeded to the hall; that as soon as he reached the hall Mr. Field advanced with rapid steps toward him, having his right hand in his pocket or "close to his body," and seizing Mr. KELLEY with the left hand by the collar of his overcoat, whirling him around, and exclaiming at the same time, "G—d—n you, you must give me satisfaction," struck him on the left hand with a pocket-knife, producing a serious wound. In the mean time Mr. KELLEY, having seized his antagonist by the collar of his coat, held him, saying, "You are too old a man for me to strike—go away, go away peaceably." Mr. Field attempted again to strike, and continued to struggle and make threats until the bystanders took hold of the parties, and they were separated. That after their separation Mr. Field, with words of profanity exclaimed, "I will shoot him before I go to bed." He declared "that he was armed;" and again he said "he was armed, and would punish Judge KELLEY before he went away."

It further appears from the testimony that for some days before the collision between the parties, and during which time Mr. Field was entirely free from artificial excitement, he seemed to have the impression that Mr. KELLEY was an obstacle in the way of his admission to a seat in the House. He said "that the only man in his way was Judge KELLEY." "He indulged in some severe remarks about Judge KELLEY's position." "He spoke of Judge KELLEY rather contemptuously." "He said he had no doubt he should succeed if it were not for Judge KELLEY." "He manifested a great deal of bitterness." It is proper here to state that Mr. Field does not deny the substantial facts in the case as hereinbefore stated. On the contrary, he says, "I have no doubt that all of Judge KELLEY's statements are correct, as he recollects the facts," but he claims he "was at the time laboring under much excitement," and says "I do protest before you to-day, with an assurance that comes from the sincerity of my heart, that I was the farthest from my intention to have attempted to exercise, by any threats of intimidations or bullying, any undue influence over the honorable gentleman from Pennsylvania;" and the evidence taken by your committee seems to show that, during some days previous to the assault upon Mr. KELLEY, Mr. Field was suffering from depression of spirits, and some excitement of the nervous system, and it is believed, in view of the evidence, that at the time of the assault he was to some degree under the influence of ardent spirits. Testimony was also produced to show the peaceable disposition of Mr. Field when free from intoxication, and that he was "a gentleman of correct deportment, kind and amiable in his intercourse with others, unexceptionable in his demeanor, except on occasions of indulgence in conviviality, which utterly unfit him for association with the world." A witness says, "When he does drink, he is what I regard as an insane man."

The foregoing statement contains, substantially, the "facts and circumstances of the affair," as found by your committee. The conduct of Mr. KELLEY throughout the entire transaction was unblamable, and the difficulty on his part was wholly unprovoked. They are satisfied by the evidence that at the time of the assault Mr. Field was to some degree intoxicated by drink; but however this fact, which is in itself an offense, may be regarded as a circum-

stance of explanation, they cannot deem it an excuse for the commission of misdemeanor and a violation of the privilege of the House. The fact is not to be overlooked that for some time previous to the commission of the offense, and when the mind of the respondent was unclouded by artificial stimulants, he looked upon Mr. KELLEY with some asperity, as an obstacle in the way of obtaining his seat. His language of intimidation and threats just preceding the assault had direct and unmistakable reference to "a pending subject of legislation;" and though intoxication might have had some and even the principal agency in giving form and direction to his intent, nevertheless, in the opinion of your committee, that intention, by whatever cause induced, existed, provoked the language employed, and led to the subsequent assault.

Your committee find that the said A. P. Field is amenable to the charge alleged in said resolution, and that he has committed a breach of the privilege of the House.

They recommend the adoption of the following resolutions, and ask to be discharged from a further consideration of the subject:

**Resolved,** That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever to be found, the body of A. P. Field, convicted of a breach of the privilege of the House in the attempt, by language of intimidation and bullying, to deter WILLIAM D. KELLEY, a Representative in this House from the fourth district of the State of Pennsylvania, from the free and fearless exercise of his rights and duties as a member of Congress, and voting and deciding upon a pending subject of legislation; and in following up the said attempt at intimidation and bullying, by an assault upon the person of the said Representative KELLEY, and forthwith bring him to the bar of the House, and that thereupon said A. P. Field be reprimanded by the Speaker.

**Resolved,** That so much of the resolution of this House of the 5th day of December last granting the privilege of the Hall to the claimants for seats from the State of Louisiana as applies to the said A. P. Field be rescinded.

F. C. BEAMAN,  
E. H. ROLLINS,  
JOHN D. BALDWIN.

Mr. BEAMAN. I now call the previous question. If this call should be sustained, I will then yield a portion of the time to which I will be entitled to the gentleman from New York, [Mr. TOWNSEND,] my colleague on the committee, who, I understand, desires to make some suggestions on this subject.

Mr. COX. Is it in order to call for the reading of a portion of the report?

The SPEAKER. The report has just been read by the Clerk.

Mr. COX. I mean a portion that has not been read.

The SPEAKER. It would not.

Mr. COX. Does the Speaker rule that I have not the right to call for the reading of a letter of Judge Field contained in this report?

The SPEAKER. If the gentleman were entitled to the floor he could have the whole report read during his hour; but not being entitled to the floor he has no right to call for the reading of any part of it.

Mr. COX. Was the report read awhile ago as a part of the remarks of the gentleman from Michigan, [Mr. BEAMAN?]

The SPEAKER. It was.

The previous question was seconded, and the main question ordered.

Mr. BEAMS. I now yield a portion of my time to the gentleman from New York, [Mr. TOWNSEND,]

Mr. TOWNSEND. Mr. Speaker, my colleague on the committee, the honorable gentleman from Illinois, [Mr. ROBINSON,] expected to address the House on this subject, but he was unavoidably called away. Coinciding, as I do, in his views, the duty devolves upon me; and as I am hardly prepared for the occasion I must ask the indulgence of the House in my attempt to state the views which influence my colleague and myself.

I do not know that there was any difference in the committee in reference to the facts connected with the assault upon the honorable gentleman from Pennsylvania; but there was a difference, and my colleague and myself held it to be a vital one, in determining the question now before the House. The first resolution reported by the committee recites that A. P. Field has been "convicted of a breach of the privilege of the House in the attempt, by language of intimidation and bullying, to deter WILLIAM D. KELLEY, a Representative in this House from the fourth district of the State of Pennsylvania, from the free and fearless exercise of his rights and duties as a member of Congress, and voting and deciding upon a pending subject of legislation."

Upon this portion of the report my colleague and myself found occasion to differ with the other

members of the committee. It is hardly to be presumed, Mr. Speaker, that a gentleman of the age and experience of Mr. Field would have selected such a time and used such means to accomplish his purpose; certainly not at a table surrounded by ladies; certainly not in the presence of two members of the House, to whom his conduct was apparent, and whose votes would necessarily be recorded against him; certainly not by any attempt to inflict serious personal injury on the Representative from Pennsylvania. I think, therefore, it must be evident to the House that if Mr. Field had been in possession of his right mind, and if his purpose had been such as is charged in the resolution, he would not have taken such an occasion or used such means.

In order to confirm this impression, I will read the testimony of Colonel Clark, on the staff of General Banks, a gentleman who had known Mr. Field in Louisiana, who had been in his company on repeated occasions, and had opportunities to judge of his character and habits. He testified as follows:

"On Thursday I thought he was not in a condition to be left alone a moment. I advised his friends, and it was understood that he was not to be left alone. The judge promised me himself that he would not leave his room. On Friday he made the same promise, and I was with him from the early part of the evening until half past eleven o'clock. He was much excited; his mind was much disturbed, and at times I considered him to be delirious and crazy man. At some moments he seemed to be conscious of his condition, and begged me not to leave him alone. I told him that I would not leave him alone. I was that evening with Mr. Wells. The judge said he was sick, and that he did not know what he would do, or was doing. He sent a message to his particular friend, saying that he was not to leave his room, and for him to come and see him, telling him that he was sick. I ascertained during the evening that he had not left his room during the day. He said that he had not left his room. At half past eleven I made an arrangement with Mr. Wells to stay with him, as I was going to bed, not feeling very well. I went to bed, and next morning found that this difficulty had occurred some twenty minutes after I had left him. He spoke of Judge KELLEY several times during the evening, showing no malice, no feeling, making no threats, but only saying that he would answer his arguments on the floor. During the conversation he declared that he had never carried arms during his life, but that some people thought he was armed."

I allude to this evidence, Mr. Speaker, to prove from the opinions of a highly intelligent and competent witness that he left Judge Field in bed too unwell to be left alone, in a highly excited condition, made arrangement with a friend to remain with him, as he supposed, this being eleven o'clock at night; it was after this time that the unfortunate occurrence took place.

I hold, therefore, Mr. Speaker, that in view of the fact that Judge Field was not in a condition to be held responsible for his acts at that time, that the case is partially removed from the jurisdiction of the House; for it will not be supposed that we are to take cognizance, as members, of what transpires outside of this House unless it can be proved that the action of a person is with the purpose and determination to interfere or embarrass a member in the fearless exercise of his rights. As I hold political opinions at variance with the gentleman claiming a seat, I feel less reluctance in expressing myself as I do; and I am actuated solely by a desire to perform what I consider my duty to the gentleman and to my own views of the case. I hope, therefore, Mr. Speaker, that in this imperfect attempt I have convinced the House that this is one of those unfortunate occurrences which may happen at any time, and that as the gentleman has made every reparation in his power, the House will adopt the following resolutions as a substitute for that of the committee:

*Resolved*, That the Speaker issue his warrant directed to the Sergeant-at-Arms attending this House, commanding him to take into custody, wherever to be found, the body of A. P. Field, and forthwith bring him to the bar of the House; and that thereupon the said A. P. Field be reprimanded by the Speaker.

*Resolved*, That the suspension of the privileges of the floor, as regards the said A. P. Field, be continued until further action of the House.

THE SPEAKER. That is not in order, the main question having been ordered.

MR. TOWNSEND. I ask the Clerk to read the letter of Mr. Field to Mr. KELLEY.

The Clerk read, as follows:

WASHINGTON CITY, January 25, 1865.

Hon. W. D. KELLEY:

The occurrences between us at Willard's on the evening of the 20th instant I am sure are more deeply regretted by me than they can be by you or any other person.

I was at the time laboring under much excitement, and have but very little recollection of what transpired. I only know that I had the impression that you intended to insult me, and this was no doubt a misapprehension on my part. I am very conscious that I entertained no feelings of unkindness toward you, and no thought of attempting in any way to interfere with your official duties or to hold you to answer to me for the manner in which you discharged them, and deeply regret that I was betrayed into any rudeness or incivility of conduct toward you.

Satisfied that I am blamable in the affair, I feel it due to myself, as well as to you, to offer this explanation, which is the best reparation in my power to make.

With high respect, your obedient servant,  
A. P. FIELD.

MR. O'NEILL, of Pennsylvania. I wish to say that that letter was not sent to my colleague until the following Thursday, five days afterward.

MR. TOWNSEND. That appears in the evidence; but it was not until some days afterward that Mr. Field was able to be out, and in fact this was written at Mr. Field's dictation by a friend, Mr. Field being too unwell to write himself.

MR. O'NEILL, of Pennsylvania. It was not received until after this committee was raised.

MR. NELSON. I ask the gentleman to yield to me for ten minutes.

MR. BEAMAN. I yield to the gentleman from New York.

MR. NELSON. Mr. Speaker, I have read the evidence which the committee has reported in this case; and while I have no desire to justify the conduct of the gentleman now arraigned before this House, I cannot assent to the conclusion at which the committee has arrived. I say to the members of the House that if they will read the testimony they will find that this man who is now arraigned or to be arraigned, has, for a long series of years, won for himself by honorable conduct the reputation of a high-minded gentleman.

At the time of this unfortunate occurrence, and unfortunate occurrences arise in every man's life, he was surrounded by circumstances over which, for the time being, he had no control. In the evidence before you, gentlemen, who are to pass upon this man's rights, and the punishment to be administered to him, it is fixed, and conclusively established, that by the use of intoxicating liquors, which is only occasional in his experience, reason was entirely overpowered and overthrown. And there is but one question in my mind that this House should pass upon and determine. We are not called upon as a jury to pass upon the guilt or innocence of the accused. We are not to say whether he has violated a provision of the criminal law; but we are to say, as the Representatives of the people, whether he has interfered with the privileges of a member of this House.

A brief statement of this occurrence is as follows: this man, with reason tottering and destroyed, as the evidence shows, met the honorable gentleman from Pennsylvania at a public table. This man, the evidence in the case establishes beyond a question, when guided and controlled by that reason with which nature endowed him is a high-toned and honorable gentleman. Reason tottering, as it was, he was guilty, admittedly, of a violation of the criminal law. We are not to administer punishment for such a violation. We have but one duty to perform. If he has interfered with the privilege of a member of this House, then we are to punish, but not otherwise. But let me ask, without the least feeling one way or the other, because every feeling I have is one of kindness and liberality, let me ask the gentlemen of this House to read the answer which was given by the honorable gentleman from Pennsylvania to a question submitted by Mr. Field, of Louisiana. It will be found on page 2 of the report:

"To this Mr. KELLEY replied, in a low and subdued tone of voice, 'Judge Field, my constituents will not rebuke me for excluding from Congress a man who behaves as you do—a man like you—one who behaves in the presence of ladies as you are now doing.'"

MR. KELLEY. If the gentleman from New York will refer to the evidence, he will find that there is a slight mistake in the report.

MR. NELSON. I would not under any circumstances do the gentleman injustice. But I find the substance of the evidence here collected by the gentlemen of the committee, and I must presume that they have reported it correctly.

But I desire to say one thing more; and that is, did the subsequent conduct of the gentleman from Pennsylvania justify the remark which the committee says he made? As a public officer and as

a Representative in this House, he had no right, under any circumstances, in any way or for any reason to pass upon the rights of the gentleman from Louisiana to a seat in this House, for reason of conduct before election, or by reason of conduct subsequent to the time of election. In the letter which the gentleman from Louisiana submitted, he tells us that feeling injured and wounded by the statement made by the honorable gentleman from Pennsylvania, he went further than the law or those rules which guide and govern organized society would justify.

Now, sir, I suggest that in this case there is nothing to be found that shows that the gentleman from Louisiana had the least idea of encroaching upon the rights or privileges of the honorable gentleman from Pennsylvania. I suggest a careful reading of this evidence. Clearly and beyond question there was a violation of the criminal law, and to the criminal law the gentleman from Louisiana must answer. This is an extraordinary proceeding. The rules of this House in the protection of its members go to an extent somewhat doubtful, some say; and some say well defined. But in the remark the gentleman from Pennsylvania made, that his constituents would justify him in excluding this Representative, not because he was not elected in due form of law, not because he was not entitled to a seat, but simply for his recent conduct at a public table subsequent to the election, in my humble judgment, is a violation of the privileges of the gentleman from Pennsylvania.

The attack of Mr. Field upon the honorable gentleman from Pennsylvania is entirely unjustifiable in the law, and the law officers, in the administration of the criminal law, will deal out even-handed justice, with blinded eyes, between the people on one side and the gentleman from Louisiana on the other. I, for one, am disposed to be extremely careful in our action, in extending a doubtful power which we here possess under the form of a question of privilege. Here, then, was a violation of law. It is one to be punished by the criminal courts. In the evidence taken by the committee there appears nothing that indicates a desire on the part of Mr. Field to interfere with the vote of the honorable gentleman from Pennsylvania upon the question that he is to determine hereafter.

One thing further. It is suggested in this report that Mr. Field thought that Mr. KELLEY was a block in his way to a seat in this House, and the committee consider that important in determining the intent Mr. Field had at the time he committed this breach of law. Now, Mr. Speaker, is there anything in that that determines the question that is important here, and the only one that is important? Did Mr. Field attempt to overawe the honorable gentleman from Pennsylvania in the action he should take in this House? If he did he should be convicted by the House. If he did not, and has merely been guilty of a breach of the criminal laws, he should not be convicted here, but in the criminal courts of the country.

MR. BEAMAN. I do not propose on this occasion to put myself into the position of a public prosecutor. I should have been better pleased had the House seen fit to confine the duty of the committee simply to an investigation and report of the facts and circumstances of the case. But the House saw fit to do otherwise. The committee were instructed not only to report the facts and circumstances, but they were also required to report what order should be taken, if any, for the vindication of the privilege of the House. Having discharged that duty, I desire now to say no more than may be necessary to vindicate the action of the committee.

Now, sir, the evidence taken in the case is full and minute, and its examination will show that an offense has been committed. This is not denied; indeed it is conceded by the respondent himself; and I understand that my colleague, who did not agree precisely in all particulars with the majority of the committee, admits that an offense has been committed. If I understand the gentleman from New York [Mr. TOWNSEND] correctly, he agrees that the facts set forth in the report are substantially true, though he differs somewhat in regard to the propriety of the resolutions.

What, then, is the case as it stands before the House? There has been an assault committed upon the gentleman from Pennsylvania, [Mr. KELLEY,] such an assault as might have produced



death but for the intervention of third parties. This assault was preceded by violent and offensive language, or, as the resolution expresses it, by language of bullying and intimidation. Such manifestly is the case before the House. The question then arises, what is the duty of the House under the circumstances?

We are told by the gentleman from New York that although the facts are as stated; although an assault has been committed; although the language of "bullying" has been used; although threats and intimidation have been employed; we are told, nevertheless, by my colleague on the committee—the gentleman from New York—that after all there was no intention on the part of the respondent to commit any offense upon the gentleman from Pennsylvania, or any offense against the privilege of this House.

Mr. TOWNSEND. I think the gentleman from Michigan is mistaken when he says that it is conceded that there was an attempt at intimidation and bullying. I took particular pains to deny that fact.

Mr. BEAMAN. Very well. The language such as I have indicated was used beyond a doubt. Now let us see if there was any such attempt. The respondent goes to a table where Mr. KELLEY was sitting with his friends. He addresses him abruptly and in an offensive manner. He says, "Why do you keep us out in the cold?" He adds violent, insolent, and profane language. Such is the language of bullying. He told Mr. KELLEY that "he did not dare face his constituents;" that "he did not dare go home like an honest man;" that "he quailed before them after having acted as he had done or was doing." That was the language of intimidation, obviously intended, if it had any meaning, to affect the action of Mr. KELLEY on a pending subject of legislation, and to impress him with the conviction that he must change his course or receive the condemnation of his constituents. It was in the nature of a threat of evil to fall upon him unless he should change his course of action.

Mr. Speaker, I submit to all lawyers of this House, to all men of common understanding, whether such language does not sustain the charge of "bullying" and intimidation? He tells Mr. KELLEY that he dares not face his constituents after what he has done; that he will quail before them. Is not that an attempt to change the course of Mr. KELLEY, to warn him of what was in store for him at the hands of his constituents if he continued to oppose the admission of Mr. Field? If that was not his motive what purpose had he to accomplish?

Mr. GANSON. I wish to put one question to the gentleman from Michigan.

Mr. BEAMAN. Not now, sir. The next question that arises is, was there any motive in fact for the conduct of Mr. Field? My colleague [Mr. TOWNSEND] says that he was in such a condition as not to know what he was doing; that therefore there could be no inducement for his violent language and action, and that for the time being he was irresponsible for his acts.

The question of motive sometimes becomes material in considering this class of cases. In criminal investigations, and especially when there is doubt as to the fact, the motive often becomes a material question for inquiry. Was there, could there be any motive here?

Let us look at the testimony of Colonel White. He testifies that he conversed with Mr. Field on the day before the difficulty occurred, and he says at that time:

"He was perfectly sober and correct. I commenced conversation with him about matters in his own State, and that led to a conversation from which I learned for the first time that he had been sent here as a member of Congress. I asked him what his prospects were, and he said he thought his admission was very doubtful. He then went on to say that the only man in his way was Judge KELLEY, of my State. He indulged in some severe remark about Judge KELLEY's position, regretting it exceedingly, but at the same time paying Judge KELLEY a very high compliment in regard to his ability and talent. I do not really remember anything Colonel Field said, or anything he said against Judge KELLEY.

"133. Do you say that at that time he appeared perfectly sober?"

"Perfectly, and I thought him very gentlemanly in his manners."

In another place he says:

"He spoke of Judge KELLEY rather contemptuously; he said he had no doubt he should succeed if it were not for Judge KELLEY, or some remark of that sort."

In another place he is asked, "Did he manifest a good deal of bitterness?" and he answers, "I think he did."

The House will observe that at the time of this conversation the respondent was entirely sober; and it is apparent that at that time, he had a strong feeling against the member from Pennsylvania. It is clear that he regarded him as being in his way, as an obstacle in the way of his admission to a seat in this House. We can see, therefore, that at least there might have been a motive for commencing the attack.

But we are told that the respondent was intoxicated at the time of the difficulty. Grant that he was; is intoxication an excuse for the commission of offenses? May a man get drunk in order to shield himself from the crime of killing his wife? If a man wants to get rid of one of his neighbors, may he by getting drunk put himself in such a position as not to be responsible for his unlawful acts? But is it true that the respondent did not know what he was doing? He knew the member from Pennsylvania. He knew that he was making an application for a seat in this House. He knew, or assumed to know, that Mr. KELLEY was opposing him. He not only knew the gentleman from Pennsylvania when he saw him, but he knew enough, after he left the table, to go and lie in wait for him. He knew enough, and had recollection enough, when Mr. KELLEY came into the hall, to attack him. He knew enough to take a knife out of his pocket when he was approaching Mr. KELLEY, in order to strike him. He seemed to lack neither knowledge nor recollection nor purpose.

But it is said by the gentleman from New York, [Mr. TOWNSEND,] that the respondent has heretofore sustained a very high character, a good reputation. I submit, Mr. Speaker, that the question of reputation can have no bearing in a case of this kind. That question may sometimes be material in the investigation of alleged offenses. If for instance the gentleman from Pennsylvania had been wounded in the dark; if it were doubtful who committed the offense; if Mr. Field had been charged with it, and the evidence against him were not clear, testimony of previous good character might be of some importance for the purpose of raising a presumption that a man whose character had always been peaceable would not commit an offense of the nature alleged. But when there is no dispute about the principal facts, when the transaction is admitted on all hands, when it is conceded by the defendant himself that he was the man who committed the act, then from that moment his former reputation ceases to be of any earthly importance.

Now, sir, I do not desire to comment upon the testimony touching his former reputation, because it has no bearing upon the charge we are now considering. It is not a question here to-day whether Mr. Field is a loyal or disloyal man. It is not a question now before the House whether he has heretofore been a peaceable man or a riotous man. The simple question is, has he committed the alleged offense? If the House finds such to be the fact, then the only question that remains to be determined is, what shall it do in order to maintain its dignity?

The evidence is before the House, and there is no pretense on any hand that Mr. Field has not used the language, that he has not committed the violence, as stated in the report.

I have said all that I desire to offer in this case. I shall be entirely satisfied with whatever course the House may take in reference to the resolutions that the committee have reported. It seemed to the committee, however, that if there had been a breach of the privilege of the House, if the offense had been committed by the respondent as alleged, the order suggested in the resolutions was the least possible punishment that could be recommended.

Mr. COX. I ask that the vote be taken on each resolution separately; and I also move to lay the second resolution on the table. And I ask the gentleman from Michigan [Mr. BEAMAN] to yield to me for a few moments while I give the reasons for that motion.

Mr. BEAMAN. I have no objection.

Mr. COX. I rather think that this matter has been monstrous. I have no objection to the resolution reprimanding the honorable but refractory quasi member from Louisiana. I have no doubt

the Speaker will properly reprimand him. I have no doubt it will be done with great severity, and will teach members of Congress hereafter that they ought not to get drunk.

But there is something more important involved in this question than the mere punishment of this gentleman. It involves the interests of the constituents of that gentleman, of the people of Louisiana. If Mr. Field has any constituents at all, he ought to be put in a proper position before this House to represent their interests here, or at least to represent his right to represent them. I think there is an undue severity on the part of the committee in reporting this last resolution, cutting him off from the privileges of the floor. We have already done that preliminarily. Why should we pass the resolution again, when we are about to pass upon the right of Mr. Field to a seat here?

Mr. BEAMAN. I desire to say, in answer to my friend from Ohio, [Mr. Cox,] that I think he misconstrues this last resolution. The resolution is not intended to operate as a permanent exclusion of Mr. Field from this floor. It goes only to the extent of rescinding so much of the resolution as originally gave him the privileges of the floor; the intention being to allow him, if the House shall see fit, the privileges of the floor at any time when his case shall come up here.

Mr. COX. I have not misapprehended the resolution at all. It is simply rescinding the resolution allowing him to state his case here. We have already abridged him of that privilege up to this time. I propose not to continue that abridgment of his privileges, inasmuch as the Committee of Elections have reported that he is entitled to the privileges of a member here. It would be doing injustice to his constituents. From all that appears here, I think the gentleman has acted very wrongly. In the first place, it is a bad thing to get drunk.

Mr. ELDRIDGE. Have you ever tried it?

Mr. COX. No, sir; I have never tried it, as the gentleman on my right [Mr. ELDRIDGE] seems to think I may have. [Laughter.]

But my remarks are directed especially to the last resolution, so that the right of the people of Louisiana shall not be impaired by this personal matter.

Mr. BEAMAN. The gentleman still seems to misapprehend the resolution. It does not go to the length of preventing any member of this House, after this resolution has been adopted, from moving to give Mr. Field the privileges of this House, especially when his case comes up.

Mr. DAWES. I trust that the gentleman from Michigan [Mr. BEAMAN] will consent that this last resolution shall be laid on the table.

Mr. BEAMAN. I have no instruction from the committee to allow anything of that kind; it is for the House to decide, and not for me.

Mr. COX. I hope the gentleman from Michigan [Mr. BEAMAN] will withdraw the second resolution, as we are about to take a vote on the question of admitting this gentleman to all the rights and privileges of a member of this House. Let him come in here and have all the privileges of the floor before his case comes up. There is nothing so horrible in this transaction as to require or justify this continued punishment.

Mr. TOWNSEND. I do not know that I have been able to make myself sufficiently understood as to my reasons for dissenting from the report of the majority of the committee. The idea that struck my colleague and myself was that, by the course proposed by the majority, we first convict this gentleman of a very serious offense, and then inflict a mild punishment. It therefore seemed to us that the proper plan to pursue would be for the Speaker to reprimand the gentleman, and then let the subsequent action of the House determine the matter.

Mr. THAYER. I desire to ask the gentleman how he could find it consistent with his sense of right to convict the gentleman of the offense if the plea of insanity was sustained by the evidence, as he argued it was. [Laughter.]

Mr. TOWNSEND. I am not familiar with the practice of criminal courts, and therefore I am scarcely able to give the gentleman a pertinent answer.

Mr. GANSON. I understand that Mr. Field took the insanity voluntarily. [Laughter.]

Mr. COX. It is a question with a good many members whether or not the gentleman from Penn-

sylvania [Mr. KELLEY] was really intimidated. The gentleman from Pennsylvania has not himself stated that he was intimidated.

Mr. L. MYERS. I thought that I explained very fully to the gentleman from Ohio on a previous occasion this matter which he has now again put to the House; and I had hoped that he would not repeat his question. He understood from me very fully at that time, as he can understand from the evidence, if he will read it, the facts of the case. Judge KELLEY was not intimidated; the offense is the attempt to intimidate; and I trust this subject will not be treated with levity.

Mr. COX. My friend from Pennsylvania has thrown an immense weight of responsibility upon me in replying to his remarks.

Mr. L. MYERS. I am very glad to hear it. I hope the gentleman will feel the responsibility.

Mr. COX. I wish to treat this matter with proper gravity. I had not intended to make any remarks whatever. I only desired that the letter of Mr. Field should be read that this House might know that when he came to himself, when he saw what had been done, he wrote a proper letter to the honorable gentleman from Pennsylvania. That was a letter of apology and humiliation; a letter which it was no doubt a cross to Mr. Field to write. He has been sufficiently humiliated already; in his family, among his constituents, in his State, and before the country. I propose at least to give some dignity to this proceeding by allowing him to come here, whatever he may be, and speak for the people who sent him here. Therefore I propose that the second resolution shall be laid on the table, while I have no objection to a proper reprimand of Mr. Field by the Speaker under the first resolution.

I now call the previous question.

Mr. PRUYN. Mr. Speaker—

The SPEAKER. Debate is not in order.

Mr. PRUYN. I do not rise to debate the subject, but only to make a suggestion.

Mr. BEAMAN. I object.

The SPEAKER. A suggestion is in the nature of debate. The gentleman from Michigan [Mr. BEAMAN] objects to debate.

Mr. PRUYN. I only desire to say that, inasmuch as the Committee of Elections have reported that Mr. Field is entitled to a seat in this House, the parliamentary term "admonish" should be used in the resolution instead of the word "reprimand." Mr. Field is not now in custody.

The SPEAKER. That amendment can only be entertained by unanimous consent.

Mr. PRUYN. I desired to make the suggestion in order that the change in the language might be made by general consent.

Mr. SCHENCK. I would inquire whether the call for the previous question has not been sustained.

The SPEAKER. It has been.

The question being on agreeing to the first resolution,

Mr. BEAMAN called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 48, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Julian, Kasson, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Sloan, Smithers, Stevens, Thayer, Tracy, Upson, Williams, Wilder, Wilson, Winfield, and Worthington—82.

NAYS—Messrs. James C. Allen, Ancona, Bliss, James S. Brown, William G. Brown, Chandler, Clay, Cox, Cravens, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herriek, Holman, Hutchins, Kalbfleisch, King, Knapp, Law, LeBlond, Long, Mallory, Marcy, McKinney, James R. Morris, Nelson, Noble, Pendleton, Samuel J. Randall, Rogers, James S. Rollins, Ross, Smith, Stiles, Strouse, Townsend, Joseph W. White, Winfield, and Fernando Wood—48.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Augustus C. Baldwin, Blair, Brooks, Freeman Clarke, Coffroth, Creswell, Dawson, English, Frank,

Garfield, Hotchkiss, Philip Johnson, William Johnson, Kelley, Francis W. Kellogg, Kernan, Lazear, McAllister, McDowell, McIndoe, Middleton, William H. Miller, Morrison, Norton, John O'Neill, Perry, Pruyn, Radford, William H. Randall, Robinson, Scott, Shannon, Spaulding, John B. Steele, William G. Steele, Stuart, Sweat, Thomas, Voorhees, Wadsworth, Ward, Elihu B. Washburne, Webster, Chilton A. White, Windom, Benjamin Wood, Woodbridge, and Yeaman—52.

So the resolution was adopted.

Mr. BEAMAN moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Clerk read the second resolution, as follows:

Resolved, That so much of the resolution of this House of the 5th day of December last granting the privilege of the Hall to the claimants for seats from the State of Louisiana as applies to the said A. P. Field be rescinded.

Mr. COX moved that the resolution be laid on the table.

The House divided; and there were—yeas 53, nays 53.

The SPEAKER voted in the affirmative, and Mr. ELDRIDGE demanded the yeas and nays about the same time.

Mr. ELDRIDGE. I withdraw the demand for the yeas and nays.

Mr. THAYER. I renew it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 64, not voting 47; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Baily, Augustus C. Baldwin, Bliss, Blow, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawes, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Gooch, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herriek, Holman, Hutchins, Ingersoll, Kalbfleisch, Kasson, Kernan, King, Knapp, Law, LeBlond, Littlejohn, Long, Mallory, Marcy, McKinney, William H. Miller, James R. Morris, Nelson, Noble, Odell, Pendleton, Pruyn, Samuel J. Randall, Rogers, James S. Rollins, Ross, Shannon, Smith, William G. Steele, Stiles, Strouse, Stuart, Sweat, Townsend, Wadsworth, William B. Washburn, Whaley, Wheeler, Joseph W. White, Wilson, Winfield, and Fernando Wood—71.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Garfield, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Julian, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Schenck, Sloan, Smithers, Stevens, Thayer, Tracy, Upson, Williams, Wilder, and Worthington—64.

NOT VOTING—Messrs. William J. Allen, Alley, Arnold, Blair, Boutwell, Brooks, James S. Brown, Freeman Clarke, Creswell, Dawson, Dumont, Frank, Griswold, Hotchkiss, Philip Johnson, William Johnson, Kelley, Francis W. Kellogg, Lazear, McAllister, McDowell, McIndoe, Middleton, Morrison, John O'Neill, Patterson, Perry, Radford, William H. Randall, Alexander H. Rice, Robinson, Scofield, Scott, Spaulding, Starr, John B. Steele, Thomas, Van Valkenburgh, Voorhees, Ward, Elihu B. Washburne, Webster, Chilton A. White, Windom, Benjamin Wood, Woodbridge, and Yeaman—47.

So the resolution was laid on the table.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 424, to facilitate the collection of certain debts due the United States; when the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. A. MYERS asked leave of absence for next Tuesday evening, if the House shall have a night session.

There was no objection; and it was ordered accordingly.

#### ENROLLMENT BILL.

The SPEAKER stated the next business in order to be the House bill No. 678, to amend the act entitled "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft.

Mr. SCHENCK. The time for the consideration of this bill is now necessarily limited by the approach of the close of the session; and yet so great is the desire of the committee which I represent, and my own desire, that this bill shall have a proper consideration, with the opportu-

nity to amend and modify it in the various features it presents to the House, that I will make a proposition to the House which will perhaps tend to accomplish that object, and satisfy gentlemen all around. If I cannot be gratified in this I shall be compelled to attempt to carry the bill through, under the stringent rules of the House, by the use of the previous question, which I by no means desire to resort to.

I propose to ask the unanimous consent of the House that this bill shall be considered by the House as in Committee of the Whole on the state of the Union, with the privilege of ten minutes debate upon the various clauses of the bill; that the bill be taken up and read as an entire bill—and it is not long—with the amendments now incorporated in it as reported from the Committee on Military Affairs, and discuss it clause by clause.

Mr. CHANLER. I must object to any such arrangement.

Mr. HOLMAN. I hope there will be no objection.

Mr. CHANLER. By request of my friends I withdraw my objection.

There being no further objection, the proposition of Mr. SCHENCK was agreed to.

Mr. HOLMAN. I would inquire whether this is the Senate or the House bill?

The SPEAKER. It is the House bill, with the amendments reported by the Committee on Military Affairs.

Mr. HOLMAN. Has the Senate bill been reported back?

Mr. SCHENCK. It has not. The Senate bill was referred to the Committee on Military Affairs of the House after this bill was reported. This bill having been reported, the committee subsequently considered the Senate bill, and reported, as amendments to this bill, some four sections of the Senate bill which they thought ought to be included in the provisions of this bill. Those sections are eight, nine, ten, and eleven, as now numbered.

The SPEAKER. The Chair would suggest that it would facilitate very much the consideration of this bill, if the printed bill, amendments and all, should be considered as the pending bill.

Mr. SCHENCK. I see no objection to that.

There being no objection, it was so agreed.

The Clerk then proceeded to read the bill by clauses.

Mr. BROOMALL. I move to amend the first section by striking out the words "shall be subject to a fine of \$100, to be collected by presentment or indictment before any court of the United States having competent jurisdiction," and inserting in lieu thereof the words "on conviction thereof by any court of the United States of competent jurisdiction, shall be sentenced to pay a fine of \$100;" so that the clause will read:

And shall willfully and knowingly neglect or refuse to report himself for enrollment, shall be guilty of a misdemeanor, and on conviction thereof by any court of the United States of competent jurisdiction, shall be sentenced to pay a fine of \$100.

Mr. SCHENCK. That is an improvement of the phraseology.

The amendment was agreed to.

Mr. NELSON. I move to amend by striking out the first section after the enacting clause, as follows:

That it shall hereafter be the duty of every person who is or shall become liable to be enrolled under the provisions of the several acts to which this is an amendment, to report himself in person or by letter to the enrolling board of the district in which he resides; and any person who for ten days has been so liable to be enrolled, and shall willfully and knowingly neglect or refuse to report himself for enrollment, shall be deemed guilty of a misdemeanor, and on conviction by any court of the United States of competent jurisdiction shall be sentenced to pay a fine of \$100, and in default of payment of such fine he shall be punished by imprisonment for thirty days. It shall be the duty of the provost marshal of the district to report such cases of delinquency to the United States district attorney of the judicial district within which the delinquent is liable to enrollment.

In my opinion, if this bill is adopted with this section in it, it will be impossible to put it into force. In any enrollment district how many men, liable to enrollment, are working upon your railroads, in factories, on farms, who never in their whole lives read an act of Congress, and who will be liable to an indictment for a misdemeanor and to pay a fine of \$100 if they are not enrolled according to the provisions of this section. It will

tend not to increase the enrollment, but rather to create discontent and ill feeling more than any other provision which could be embodied in the act.

The object of the people has been declared over and over again, and their feelings in the contest in which the nation is engaged. They are determined that the rebellion shall be put down; but I wish to suggest that this large class of men liable to enrollment, and who work necessarily every day, pay no heed to the enactments of Congress, except as they are brought to their notice by the newspapers. Will this add strength to the Army, will it add to the good feeling which prevails in all the States, to provide that every man who shall willfully and knowingly neglect to enroll himself shall be liable to pay a fine? How will he prove the fact? He pleads not guilty; and you prove the fact that he has lived a certain time in the district, that he has voted, that he was previously enrolled under former acts; and as every man is presumed to know the law, there is no means by which he can escape conviction, because he cannot prove a negative, and prove that he had not read the act of Congress. Will it not, I suggest, create trouble and excitement and injustice, rather than result in any benefit?

It is suggested to me that negroes are all liable to enrollment, and they cannot read or write. That comes in as another illustration. The result will be injustice and dissatisfaction to parties who are entirely willing to bear their part in sustaining the law and making others sustain it; but for a mere neglect they ought not to be held to be guilty of crime.

Mr. SCHENCK. There would be force in the remarks made by the gentleman from New York if it were not that he overlooks, as it seems to me, although to some extent he commented upon those words, the provision in the bill that the neglect or refusal of the parties to return themselves for enrollment must be a willful and knowing neglect or refusal. It seems to me to be absolutely essential that we should go further than we have yet gone to secure a full, complete, and actual enrollment of those subject to draft. While it may be a hardship to the man subject to enrollment that he is not permitted to escape, it really is none, for every one owes personal service to the Government. In favoring one, you may be doing injustice to all the rest of the community in which he lives. While it may be the interest of the party not to perform his share of personal service, it is on the other hand the interest of every other inhabitant of the community in which he lives that every one liable shall go upon the list. I hold, therefore, that it is a matter of justice that as complete and perfect an enrollment as is possible should be obtained in every district and sub-district. Conceding that proposition, then the question arises whether we need any further legislation to enable the officers to accomplish a more perfect enrollment. I think we do, and the Committee on Military Affairs thought we did in introducing this proposition.

Mr. NELSON. I agree with the gentleman, of course, as to the object which we have in view, but could it not be reached by a provision requiring every person who knows of a person subject to enrollment who is not enrolled to give notice of that fact? Does it not strike the gentleman that there are thousands in the cities who will innocently neglect to report their names, and how will they escape conviction?

Mr. SCHENCK. The committee thought this an efficient way of compelling enrollment. It operates directly upon each individual who knows himself to be liable to the performance of this duty. It requires him, under penalties, to report himself. The gentleman says that persons may be liable to punishment for not doing so when they are perfectly innocent. I do not think he allows sufficient force to the words "knowingly and willfully," when he makes that assertion. Of course the burden of proof would be on the Government undertaking to convict a man of having failed to enroll himself when he should have done so, to show that he knew he was liable to be enrolled. It would be for the Government to show that he had a willful purpose of saving himself from enrollment before he could be subjected to the penalties provided for. That is the reason why the words "knowingly and willfully" were inserted, in order to prevent the punishment of innocent persons.

The gentleman [Mr. NELSON] has proposed a substitute for this section by a motion suggesting a different mode of proceeding. He asks why it would not do to require every person who knows of one liable to draft to report him. I think it would be very invidious to require all the community to turn informers, while we refuse to act upon the man himself whose duty it is to have himself known as liable to draft. I think it is much better to compel the man who is liable to duty to give the proper information, rather than to compel, by law, all the rest of the community to turn informers. The gentleman may move a direct provision of that kind to this section, and perhaps it may meet the sense of the House. But I very much doubt that it would answer as well the purpose, or whether it would be as just in principle as that proposed in the section.

Mr. GANSON. I move to amend the section by striking out the word "ten" and inserting the word "thirty;" so that it will read:

And any person who for thirty days has been so liable to be enrolled, and shall willfully and knowingly neglect or refuse to report himself for enrollment, shall be deemed guilty of a misdemeanor, and shall be subject to a fine of \$100.

Mr. WILSON. Mr. Speaker, I rise for the purpose of opposing the amendment of the gentleman from New York [Mr. GANSON] so as to suggest my view in reference to the original motion submitted by the other gentleman from New York, [Mr. NELSON.] I fear that this section, if incorporated in the bill, will make the enrollment system very offensive. It is true that no person could be convicted under the section unless the Government could show that his failure to enroll himself was willful and knowing. But every person who fails so to enroll himself will be, under the provisions of this section, liable to indictment. We must have, and doubtless will have, scores of men in every district in the country who will not be informed of what the law requires them to do; and every man who, because of that want of knowledge may fail to enroll himself will be liable to indictment, so that we will have indictments pending in the courts of the United States against persons in every neighborhood throughout the whole country. The tendency of it will be to dissatisfy the people with the system which we have adopted for filling up the Army. I think that our first care should be, inasmuch as the system itself is a hardship, to put it in such form as will render it as little burdensome to the people as possible, as palatable as possible. It is a very bitter pill to a great part of the people, and should have a sugar coat on it. I hope, therefore, that the amendment of the gentleman from New York [Mr. NELSON] will prevail, and that the section will be struck out.

Mr. GANSON. I withdraw the amendment to the section.

Mr. KERNAN. I renew it. I fear that the effect of this section will not be to add to the strength of the Army or to the perfection of the enrollment. Indeed I think we will get more men in the dock and the jail than we will get in the Army. I do not believe that the performance of such a duty can be enforced by indictment and penalty. I therefore hope that the motion to strike out the section will prevail. I wish to suggest, what must have suggested itself to any gentleman who has attended our United States courts since the great number of penalties imposed by the internal revenue law, that a great number of cases will be brought before the courts with a view to make fees for the deputy marshals rather than with a view to punish offenders. I think that under this section every deputy marshal would be able to get up prosecutions and greatly increase the expense of the administration of the law. But I do not see that you will get any considerable number added to the enrollment list by this section. There will be great dissatisfaction; a great many innocent men will omit to report themselves, and I do not believe that it will remedy whatever difficulties now exist. Indeed, if the enrolling officers in the enrollment districts, which are small ones, are required to perform their duties, there will be no difficulty in getting an accurate enrollment, particularly as it is the interest of every man whose name is on the list to give information of those whose names are not down in order to lessen the chances against him.

Mr. GARFIELD. I desire to say but few words upon this point. Of course, unless it will increase the Army without increasing the trouble of executing the law, then this is a bad section. But what are the difficulties now? I would call to the attention of the gentleman from Iowa, [Mr. WILSON,] who made the point, that it would be difficult and troublesome to execute this law; that probably the most unpopular provision in the whole enrollment bill of the last summer, that which caused the most complaint, the most heart-burning among the people, was this; that when a draft was ordered in any community, and the men ran out of the way or dodged the enrollment and did not appear, so that the Government could not get hold of them, the provost marshal immediately ordered another draft. Instead of seeking out and arresting the deserter, or bringing up the drafted man who did not come when drafted, a new man was taken in his place, and the result was that honest, willing, and loyal men who remained at home and took the chances of the draft had to bear additional burdens in consequence of rascals who escaped. That made more discontent and complaint against the Government than anything else in the last draft.

The gentleman who has just taken his seat says the sub-districts are small. I remind him that the sub-divisions are of congressional districts; many of them in some parts of the country cover fifteen, sixteen, and eighteen counties, and cover a very wide range of country; and unless the law makes it obligatory for a man to report himself for enrollment it will be impossible to get an accurate enrollment. I think the section is carefully guarded, and no man need be punished unless he purposely avoids the duties imposed upon him by the law.

Mr. MORRIS, of New York. I would like to ask the gentleman one question. I believe it is a well-settled principle of law that no man can plead ignorance of the law. I understand the argument of the gentleman to be that he can be excused if he pleads ignorance of this law, or that he does not understand it.

Mr. GARFIELD. I did not say so. I think if anything is universally understood in this country it is that there is such a thing as a draft, and that men within certain ages are liable to the draft. No ignorance can be pleaded upon that point.

In regard to this section I would say that we might very readily have put this matter into the hands of the military authorities, and let the man not reporting himself as here required be tried by a military court. But we thought there was already too much jealousy of military courts, and we, therefore, proposed to leave the matter to be tried by the civil authorities. For my own part, I do not think there will be a dozen trials to be had in the United States under the draft if this section is adopted, and I do not believe that a very large number of the persons who now seek to escape the enrollment would report themselves, or at least not seek to keep themselves out of the way of the enrolling officer. If this is a hardship, as gentlemen say, then let us seek to make it as little of a hardship as possible.

Mr. KERNAN. I withdraw my amendment.

Mr. SLOAN. While I am inclined to believe, with the gentleman from Ohio, [Mr. GARFIELD,] although he seems to urge it, that it would be a severe measure to require a man to come forward voluntarily and report himself for enrollment and draft; yet I think it would be but right to punish any willful and knowing avoidance of the enrollment and draft. I therefore move to amend this first section by striking out the words "neglect or refuse to report himself for," and insert the word "avoid." So that the section will then read, "and any person who for ten days has been so liable to be enrolled, and shall willfully and knowingly avoid enrollment, shall be deemed guilty of a misdemeanor," &c. It seems to me that it is sufficient to ask of persons who are subject to draft that they shall stand still and allow the officers of the Government to look them up and enroll them, and punish them if they are guilty of any means or devices to avoid the performance of that duty on the part of the officers appointed for that purpose.

The gentleman from Ohio seemed to argue that this section would impose a penalty upon those only who willfully and knowingly seek to avoid enrollment; but that is not the reading of the sec-



tion as it now stands. It seems to me that it is a severe and oppressive section, and one which there will be great difficulty in enforcing. It will in all probability lead to much litigation and to complication in the discharge of the duties of the provost marshals.

If we simply impose a penalty upon those who shall resort to any means to avoid enrollment or draft, it will be fair, and its justice will be recognized; and I submit to the gentleman from Ohio that my amendment ought to be accepted by the committee.

**THE SPEAKER.** The gentleman from Ohio cannot accept the amendment. The amendments reported by the Committee on Military Affairs must be acted upon as they are reported.

Does the gentleman from Illinois [Mr. FARNSWORTH] withdraw the motion to close debate?

**MR. SCHENCK.** If it be not withdrawn I hope it will be voted down, so that we may discuss the question whether we are to have an efficient enrollment law.

**MR. FARNSWORTH.** As more extended discussion appears to be desired by many members, I withdraw the motion to close debate.

**MR. STEVENS.** Mr. Speaker, I rise to oppose the amendment of the gentleman from Wisconsin, [Mr. SLOAN.] I do so because I am opposed to amending the section at all. I believe that it will, if adopted, operate very injuriously. I think that any further and more stringent legislation with respect to enrollment is unnecessary, and will render the law very unpopular. I have never heard of any difficulty in regard to enrollments. The difficulty, as I have understood, is that after men are enrolled they escape. It is not that they are not enrolled.

In my view no change of the law on this subject is necessary. The law which we now have is sufficiently stringent. If the people are allowed to go on as they are doing they will fill up the Army as fast as required. If this section be enacted it will, I believe, be very odious. A subsequent section, the third or the fourth, is, in my judgment, still worse. The whole bill is more tyrannical than any military system ever adopted by Austria; and I trust, therefore, that it will be rejected.

**MR. CHANLER.** Mr. Speaker, I move to amend the amendment by inserting before the word "avoid," the word "willfully."

I agree with the gentlemen from Pennsylvania [Mr. STEVENS] in regard to the character of this bill. It was my intention to urge upon the House the very point which he has suggested, and for that purpose I had prepared what I deemed a suitable argument on the subject. But when, on the motion of the chairman of the Committee on Military Affairs, debate was restricted to ten minutes, that of course precluded the possibility of my arguing the question as I desired. I do not believe that, under this limitation of debate, the real character of this bill can be adequately exposed. It is a bill whose provisions touch most nearly the social and military relations of every citizen in the United States. This very amendment brings that fact to the attention of the House. You cannot consider the subject of willful avoidance of the provisions of such a bill as this without entering into all the questions which arise under the power given to the Government officials to execute such a law. It is utterly impossible that the rights and liberties of the citizen can be secured to him so long as he is held amenable, by laws such as this, to an authority outside of the civil courts, so long as he is subjected to the arbitrary power of tribunals established for the purpose of carrying out a system utterly hostile to the institutions of this country—military tribunals before which the rights of no man are safe.

I believe that the pending section should be stricken out. I believe that the whole bill is radically and irreparably wrong. I believe it to be the duty of the Committee on Military Affairs to report a bill free from provisions of this despotic character, and embracing two or three simple provisions for securing a correct enrollment and preventing desertion. They are now undertaking, by this bill, to establish a system which cannot but end in the destruction of all order in the Army, and eventually bring about popular outbreaks and insurrections. I believe that it will weaken the national arms and tend to deplete the national Treasury; that it will be in-

effectual with regard to the object proposed, as well as highly expensive to the local governments. I believe it to be a bill utterly hostile to every principle of a free representative Government. I believe that it can be proven to be so. I believe that the results thus far prove it. I believe it to be a bill that the records of every provost marshal will show has filled our quotas on paper and has not sent fit men to the Army. The lunatic asylum and the jail have been robbed to fill those quotas.

It is a well-known fact that from this system have arisen the very evil that this bill attempts to remedy, substitute brokerage, bounty swindling, and bounty jumping. A new guild has been created by the system of enrollment and fastened perpetually upon the people of this country.

Sir, this bill and the nature of this bill have become ingrafted upon the military system of the United States. And in order to meet this measure as it deserves, the whole question should include an examination—and the whole matter requires that examination and scrutiny—into its effect upon the military organization of the United States. I am convinced that it will be found to have been injurious in every military department. I believe that it will be found on examination to have done more to cut off the sympathy between the Government and the people of the United States than any other measure which has passed this Congress since the rebellion.

With regard to this special amendment I have to say that it will add another feature to the already innumerable contortions of justice which have been fastened upon the tribunals of the country by the enrollment acts already passed. For the purpose of correcting a special evil acknowledged in the body of the bill, even the right of trial by jury is done away with, and the people are forced to submit to a military tribunal for the adjustment of private rights. You cannot by any system, by any fair opinion of the law of the country, insist on this law. Do as you may, the sympathies of the people are against it. The spirit of your institutions is against it.

[Here the hammer fell.]

**MR. SCHENCK.** Mr. Speaker, the amendment proposed by the gentleman from New York [Mr. CHANLER] is argued, as I supposed it would be, not on the merit of the particular amendment, but on the ground of hostility to the whole section. He is opposed not only to the first section, but to the whole bill; and not only to the whole bill, but to any system which provides for bringing soldiers into the field. I am not, like my colleague on the committee from Illinois, [Mr. FARNSWORTH], disposed to stop debate at the very outset, for I think this debate, in some respects, is wholesome. I think at the threshold of discussion on the subject this House should indicate its purpose to sustain or not the Military Committee in an attempt to make a law to procure men by increasing the stringency of the power of enrollment.

I was prepared to expect opposition to this section of the bill, and to the whole bill, and to the whole system, and I was prepared to expect it from the gentleman from Pennsylvania [Mr. STEVENS] who last addressed the House, and from the gentleman from New York, [Mr. CHANLER.] I heard each of the speeches made by these gentlemen last session when this measure was before the House. The tyrannical course pursued in the draft was then argued at full length by the gentleman from New York, and the bill was then characterized as worse than anything ever done in Austria. I remember the figure. I recollect more than that. I recollect that the gentleman from Pennsylvania [Mr. STEVENS] predicted that if we passed a law repealing the commutation clause, and providing, as we did ultimately, for enforcing the draft with a little more stringency to procure men to fill the depleted ranks of our Army, it would result in resistance and bloodshed. I was then as now assured that the gentleman was not likely to prove a true prophet, and what was not a true prophecy then has not become history since. I said then that I had no fear of the people, and I repeat it. I said then, so far from producing riot, confusion, and disorder, that when the people came to understand what their Representatives had done in the endeavor to fill up the thinned ranks of the Army they would sustain them. And I ask every gentleman to bear me out in the assertion that

never did a draft go on more quietly, and never were the ranks of the Army, to the extent that the draft could do it, so filled up as they were, saving the campaign of last year, under that very bill so denounced by the gentleman from New York, [Mr. CHANLER,] and the gentleman from Pennsylvania, [Mr. STEVENS.] I say now, at the very threshold of this consideration of this subject, that my thorough conviction is, so far as my own personal observation is concerned in regard to this matter, that the people are ahead of Congress, and the soldiers far ahead of either. Your soldiers call upon you to make your laws stringent; they call upon you from the field to fill up the ranks; they say there must be no skulking; they say that all persons liable to be enrolled must be enrolled; that persons liable to be drafted should be drafted; and that it is unfair that they alone should bear the burdens and be placed in the front of battle while others are shirking from taking their fair share. And the people are not far behind the soldiers in this matter. I have yet to learn that any man upon either floor of Congress is unlikely to be sustained by an intelligent constituency anywhere throughout the land for an attempt to pass efficient laws in order to fill up the ranks of the Army, to enable us to put down this accursed and damnable rebellion.

Now, sir, this section opens fairly that discussion, and I expected gentlemen to take position upon the one side or the other. This section is not that oppressive and tyrannical section which it is supposed to be. If the gentleman from New York [Mr. CHANLER] thinks that in any of its features it is too harsh let him offer amendments; but so far, his opposition is to the whole section; and I insist upon it that that opposition only means, as he and the gentleman from Pennsylvania [Mr. STEVENS] frankly avow, opposition to the whole bill and the whole system. It is for the House to determine whether these gentlemen shall be allowed, in their hostility to the whole scheme of filling up our armies by a system of drafting at all, to accomplish that by defeating this section of the bill.

I have no objection, so far as the penalty is concerned, that gentlemen should modify the language, so that they leave some substantial means provided in the law for enforcing its provisions. I have no objection to having this number of days of imprisonment reduced, say from thirty to twenty, and perhaps ten; but twenty days would perhaps be the proper medium. But some penalty, some provision, something to compel a more perfect and complete and full enrollment of the citizens liable to draft, and to hold them to their duty to report themselves, and not skulk away, I believe essentially necessary as one of the features of a bill which is to be an improvement on the present enrollment law.

**MR. CHANLER.** I withdraw my amendment to the amendment, and move another amendment by inserting the word "intentionally." My views upon this subject are certainly well known. They have been boldly expressed both here and elsewhere; and the difference between the gentleman from Ohio, the chairman of the Committee on Military Affairs, and myself, is exactly this—

**MR. FARNSWORTH.** As the opinions of the gentleman from New York are so well known both here and elsewhere, I suggest there is no necessity for repeating them.

**MR. CHANLER.** And the courtesy of the gentleman from Illinois is so well known this impertinency is entirely unnecessary.

In regard to the position of the chairman of the Committee on Military Affairs and of myself, the issue between us is exactly defined: I am in favor of increasing the Army; so is he. We only differ as to the method. I oppose this bill because I think it is not an effectual means of raising troops; he advocates it because he thinks it is. We agree upon the fact that the enrollment of the citizens may be necessary; but we differ as to the means of forcing men into the ranks; and we will differ very widely as to the character of substitutes which we will permit into the American armies. It is because of bills brought forward by that gentleman upon this floor that the American Army has been made the asylum of drunkards and lunatics. It is because it has failed as a means of enrolling and calling out the national forces in a time like this that I oppose this bill. The sys-

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tem has become simply a process of bounty jumping and bounty swindling throughout the country. It demands more than the ingenuity even of the chairman of the Committee on Military Affairs to prevent these creatures from battenning upon their fellow-citizens. And yet the gentleman proposes to place this matter in the hands of the men whom I wish to oppose here, because they have exercised the powers conceded to them tyrannically. I believe that the class of men who have been appointed as provost marshals throughout this country, with many exceptions, perhaps, but as a general rule, have been the subservient tools of the Secretary of War.

I believe that the system of centralized military power organized under this bill would sap the foundations of our Government. I believe that every effort to remedy it would but perpetuate the evil and the error inherent in this bill and the system it establishes. I make no factious opposition here. I court nothing but an open debate and consideration of this subject; and it seems to me that the chairman of the Military Committee, knowing and anticipating the position of the able chairman of the Committee of Ways and Means, has rather dodged a full debate. I recognize, sir, the apology which he made for limiting debate to ten minutes; but it was done with a perfect knowledge on his part of the advantage of his position under such an arrangement.

Sir, a bill of this character, involving as it does the depth and breadth of American liberty and individual rights of every American citizen, cannot be discussed section by section without the extraordinary acumen possessed by the chairman of the Committee on Military Affairs who framed the bill, and whose knowledge of tactics has been heretofore manifested in his management of troops in the field. There is a class of distinguished soldiers who have left the field of glory for the cupola of safety, and who now make it a matter of boast that they are no longer soldiers. [Cries of "Name!" "Name!"] Sir, we might have hoped that men of this class, who have carried the rank and file of our Army into points of danger, would have better appreciated their position before the country when victory is crowning those who followed after them, and when the cannon is baying forth the victory of the soldiers they once led.

Sir, the crying evil of this whole system is based upon the very fact which has been alluded to in this debate; it is owing to the system inaugurated by the partisan leaders of this Administration, which commissions as brigadiers men who are utterly ignorant of military science and even unschooled in the knowledge of militia training, and who lead their fellow-citizens to speedy death, to the dishonor of their country.

The proper and available means of filling the ranks have been neglected and unfit and incapable officers have been allowed to act in responsible positions. The confidence of the soldier in his superior and of the citizen in his Government have been lost by the reckless practices and partisan policy of the republican leaders. We have but to take the record of the promotions to high commands from the beginning of the war to the present. It is not my object to assail individuals. The system is at fault. Let the system bear witness against those who abuse it, if it be good, or let the system be improved if the fault lie at its door. Do not perpetuate error and evil in face of the terrible array of consequences known to every one who reads.

A clear and good example of the evils of the policy of the Administration exists in the bad results produced by catering to the ambition and kindred virtues peculiar to the political swashbucklers, Bobadils, Falstaffs, Bardolphs, Nymms, and ancient Pistols; who trafficked in the military favor and prejudices of the people to secure for themselves the rank of brigadier, armed and equipped as the law directs, ignorant of tactics, swelled with the affluence that rises in the rear "of the pomp and circumstance of glorious war." The brigadier volunteers in embryo, raised zealously and well, no doubt, regiment upon regiment, which they

offered to the Administration in exchange for a commission for themselves. Some, but not all of these, were generals and colonels in buckram, and never led their men into battle; others did lead their commands to distinction and extinction; or wasted the military resources of the country in a vain but crazy attempt to become heroes. Many of those have happily relinquished the sword for the gown, the pen, the plowshare, and politics. They have left the Army for the Army's good, to the true soldiers who learned their duty in the field or rose from the ranks. The influence of such men has been injurious to the service, not only among the officers, but among the men, and has been one of the prime causes of a lack of zeal among the people to enter the Army under the different calls for troops.

Let the regular establishment be filled up to its standard before this cruel system of draft is again and again resorted to. The people look with horror at its injustice. It paralyzes the energies of our mechanical, agricultural, and commercial industry, and almost depopulates certain districts of their male inhabitants.

[Here the hammer fell.]

Mr. ROGERS. Mr. Speaker, I rise to oppose the amendment. I agree with the gentleman from Pennsylvania, [Mr. STEVENS], and am opposed to this whole bill upon the ground that there is sufficient legislation already to enroll and call out all the necessary force to put down this rebellion. Why should we now, in this time of prosperity, when the armies of the Government are successful, when the principal cities of the South are being taken into our possession, add to the despotism and tyranny of this whole enrollment or conscription act by seizing upon citizens who otherwise would not have been liable to any penalty if they did not report to the provost marshal?

Mr. SCHENCK. I make the question of order that the chairman of the committee which reported this bill should be permitted, as the chairman of the Committee of Ways and Means is always permitted on appropriation bills in Committee of the Whole on the state of the Union, to respond to propositions to amend, and to oppose amendments offered.

The SPEAKER. The Chair has given the floor three times to the gentleman from Ohio [Mr. SCHENCK] on this section, while the gentleman from New Jersey [Mr. ROGERS] had not yet spoken. The Chair knows no rule by which the chairman of the Committee of Ways and Means is to have the floor to reply to every amendment to an appropriation bill in Committee of the Whole on the state of the Union.

Mr. SCHENCK. Then I have been mistaken as to the right of a chairman of a committee to defend the bill reported by that committee.

The SPEAKER. The gentleman has a right to defend his bill, but not to reply to every amendment. Otherwise the chairman of the Committee of Ways and Means would have half the debate on an appropriation bill.

Mr. SCHENCK. I yield to the Speaker, but I now raise the point of order that the gentleman from New Jersey [Mr. ROGERS] is not opposing the amendment.

The SPEAKER. The Chair sustains that point of order. The gentleman from New Jersey must oppose the amendment.

Mr. ROGERS. I am opposed to the amendment—not only opposed to the amendment but to the whole bill. I am opposed to the amendment on the ground that there is no necessity for this bill at all; that we have already sufficient legislation on the subject; that there is no difficulty in filling up the Army; that the people have responded to the calls on them; and that such armies as we have have never been produced by any other nation in the civilized world. We can raise men enough by volunteering. There is enough of patriotism and of fidelity to the laws and Constitution of the country existing in the hearts of the people to respond freely and unequivocally to every call made on them for the purpose of putting down the rebellion.

I am opposed to the bill on the ground that it is despotic, that it is tyrannical, that it takes away the citizen without due process of law; that the law, as it stands, lets the President of the United States hold in his hand the lives and liberties of twenty million people. He has a right to send his provost marshals into every district in the United States and to take every citizen between the ages of twenty and forty-five, place him in the ranks, and march him by the side of the seething Ethiopian to the banks of the Mississippi, to fight the battles of the country. It is because it is degrading to the white race of America, because it saps the very foundations of liberty, because it strikes away the safeguards of life and liberty, that I protest against any further legislation of this character. The people have been ready to respond, and always have responded on every call. It has been demonstrated clearly to the mind of every reasonable man that it is unnecessary to have these absurd, tyrannical enactments further agitated by amendments or extra bills for the purpose of enforcing a power which is already sufficient in the hands of the President. There is no necessity for it at this time.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Hickey, its Chief Clerk, announced that the Senate had passed a joint resolution authorizing certain banks in the District of Columbia to accept the provisions of an act therein named.

## ENROLLMENT BILL—AGAIN.

The SPEAKER. The Chair will state to the gentleman from New Jersey that he must confine himself to the amendment. The point having been made by the gentleman from Ohio, [Mr. SCHENCK], he must oppose, in good faith, the amendment of the gentleman from New York, to insert the word "intentional."

Mr. ROGERS. It appears to me, Mr. Speaker, that I am speaking to the question.

The SPEAKER. The Chair thinks that the gentleman has gone very far beyond opposition to the amendment.

Mr. ROGERS. I will confine myself to it. If I understand this section, Mr. Speaker, it renders liable to a fine of \$100 and to imprisonment for thirty days, in case of non-payment, any person liable to enrollment who neglects to send, by letter or otherwise, his name to be enrolled. It makes no difference, in the way the bill is drawn, whether the person be or be not aware of his liability.

If I understand it, the burden is laid upon the person who is to be enrolled, and not upon the Government, to show that he did not know he was liable to be enrolled. He is required to prove a negative, which no man can be supposed to be able to do. It does not lie upon the Government to show that the person knew he was liable to enrollment, but the burden of proof, contrary to all the rules of law and evidence laid down in the books from the "year books" to this time, is shifted upon the person who is charged with avoiding the enrollment. Under this bill how is a man to know that he is liable to enrollment? Is it to be supposed that every citizen knows what the act of Congress is upon this subject? There are hundreds of people in every State where laws are passed who are not aware of all the minutiae and particulars of those laws. It would be harsh indeed to say that people shall be liable to imprisonment and a fine of \$100 when the fact may actually exist that they do not know they are liable to draft.

They know that heretofore it has been the business of the enrolling officer to go around to take their names; and notwithstanding you may put the law upon your statute-book that a man shall be liable to punishment who does not come forward voluntarily and give in his name for enrollment, it may be that thousands will not know that any such thing is required of them. It imposes upon the citizen an obligation under which he ought not to be placed. It makes him responsible for knowing the rule of law, when, accord-

ing to the common understanding and judgment of mankind, it is not to be supposed that everybody will understand it. And when men have supposed that their names have been entered upon the enrollment list, they will after a time, while supposing that they are not liable to fine and imprisonment, find some officer coming along and picking them up, and having them indicted and imprisoned, when, so far as their own consciences are concerned, they knew not that they were guilty of any offense whatever.

The SPEAKER announced that debate on the amendment to the amendment had expired.

Mr. CHANLER withdrew his amendment to the amendment.

The question was on Mr. SLOAN's amendment.

Mr. SCHENCK. I would ask the gentleman from Wisconsin [Mr. SLOAN] to accept in lieu of his amendment the one which I will suggest, and which I think will accomplish the same object he has in view. I suggest the following: insert after the word "knowingly" the words "and with intent to avoid the draft."

Mr. SLOAN. I accept that amendment.

The amendment of Mr. SLOAN, as modified, was then adopted.

Mr. SCHENCK. I now move to amend this section by inserting after the words "the several acts to which this is an amendment" the words "and who has not yet been enrolled." My object is to make this section as nearly perfect as possible, by removing all reasonable grounds for objection, and still leave it with the efficiency which, I think, a law of this kind ought to have in order to accomplish the object intended.

I hope I shall not try the patience of the House or of the Speaker when I try to manage this bill so as to accomplish that purpose. I find the following in the rules governing this House:

"No member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending; in which case he shall be permitted to speak in reply, but not until every member choosing to speak shall have spoken."

"Where an amendment is offered after a member has occupied the floor, he may again occupy the floor, the question being changed."

I was reminded a few minutes ago by the Speaker that I had spoken two or three times upon this section, and therefore, even if no one else had claimed the floor, I could not be heard. I had not spoken two or three times upon any one amendment, and the question being changed, I wanted to be heard upon the amendment to change the bill. Now, if I have been mistaken in the rules, I have been led into that mistake by observing, what everybody in the House knows, that the chairman of the Committee of Ways and Means [Mr. STEVENS] and his colleague on that committee who sits near him, [Mr. MORRILL], have always been heard, and heard patiently, and been given the floor in preference to others in answer to objections to the bills under their charge.

The SPEAKER. After what the gentleman from Ohio [Mr. SCHENCK] has said, the Chair must be allowed to state that he has conformed to the usual practice of this House in the decision he has made. The gentleman from New York [Mr. CHANLER] moved to amend the first section of this bill by inserting the word "willfully," and upon that amendment he spoke ten minutes. The gentleman from Ohio [Mr. SCHENCK] was heard ten minutes in reply. Then the gentleman from New York [Mr. CHANLER] withdrew his amendment and moved to insert the word "intentionally," and upon that amendment he spoke ten minutes. Then the gentleman from New Jersey [Mr. ROGERS] claimed the floor, and the Chair thinks he claimed it in advance of the gentleman from Ohio, [Mr. SCHENCK.]

The gentleman from Ohio is mistaken to this extent in what he claims to be the practice in Committee of the Whole, when sections of appropriation bills are under consideration. The Committee of Ways and Means are first recognized to offer amendments to perfect the section. They are first entitled to the floor for that purpose. But they are not entitled, under any rule or usage known to the Chair to reply to every amendment which may be offered to any part of the appropriation bills.

Mr. SCHENCK. The Chair need not suppose that I am going to speak on every occasion and on every subject; but as to the practice in Com-

mittee of the Whole and in the House, in reference to replying to propositions to amend, I know, as every member of this House knows, what that practice has been.

Mr. MALLORY. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. MALLORY. My point of order is that the gentleman from Ohio [Mr. SCHENCK] is not addressing himself to any subject before the House, but is lecturing the Speaker.

Mr. SCHENCK. No, sir; the gentleman from Ohio is defending himself.

Mr. MALLORY. I call the gentleman to order. He is now violating the rules of the House.

The SPEAKER. The Chair thinks that the gentleman from Ohio has the right, when he thinks the Chair is in error, to have the Chair construe the rules correctly, and will always recognize the right of every gentleman, when he thinks that the Chair has erred, to give the Chair the benefit of any suggestion, reserving the right to reply or to defend himself.

Mr. SCHENCK. I do not wish to obtrude myself improperly upon the House or upon the Chair; but as the Chair put the objection to my answering, where a new and different amendment was offered, upon the ground that I had already occupied the floor, I felt justified in referring to what I understood to be the rule and the practice.

The SPEAKER. As this matter must go in the Globe, the gentleman having raised the point, it is proper that the Chair should state that both amendments were *pro forma* in their character, and were so understood in the House. The gentleman from Ohio had spoken once in reply when the gentleman from New Jersey [Mr. ROGERS] sought the floor to speak. Then the gentleman from Ohio remarked that he was entitled to the floor as chairman of the committee. That remark caught the ear of the Chair, and the Chair replied that he had already spoken three times, while the gentleman from New Jersey had not yet spoken, and therefore the floor was awarded to the latter gentleman.

Mr. SCHENCK. I wished merely to call attention to the difference in persons.

Now, Mr. Speaker, I have offered this amendment with the view of perfecting the bill. I find that the position of the gentleman from New Jersey, [Mr. ROGERS], like that of other gentlemen, including the gentleman from New York, [Mr. CHANLER], is one of general hostility to the bill. The arguments presented are directed against the whole system.

As to any disposition on my part to preclude proper discussion of this matter, the House will bear me witness that I have invited candid and thorough discussion, such as our limited time will allow. I have not been disposed to hurry this bill through without allowing the views of members to be heard. I appeal to the House in testimony of the fairness with which I have acted.

As to the speech of the gentleman from New York [Mr. CHANLER]—that "soldier of the Republic" who, forgetting his chivalry, attacks another humble "soldier of the Republic"—I admit that I well understood that he had prepared a speech of an hour's length, for he so admonished the House; but I did think that it would be easier for us to take it in small doses, and that we might in that way recover sooner from the infliction. Hence I found it rather an argument in favor of the ten minutes rule that, under it, that speech would be given to us in six successive charges. [Laughter.]

Mr. CHANLER. I congratulate the gentleman upon the working of the first dose. It seems to have operated very well.

Mr. SCHENCK. Not much, sir.

Mr. CHANLER. I shall supply the gentleman with a repetition of the same dose.

Mr. SCHENCK. Having left the tented field to come to the "cupola of safety," I hope to be defended hereafter by my friends, if I am incapable of taking care of myself, from any further attacks of this nature. I did not expect to get quite so high from any help the gentleman might give me. [Laughter.]

I shall not reply to these general attacks upon the system. I shall confine myself, so far as I may be permitted under the rules to do so, to proposing such modifications as will, in my opinion,

improve this or any other section of the bill. With this view, I now move to amend by inserting in the fifth line after the word "amendment" the words "and who has not yet been enrolled."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by striking out, in the fourteenth line, the word "thirty," and inserting in lieu thereof the word "twenty," so as to reduce the term of imprisonment.

The amendment was agreed to.

Mr. ODELL. I move on line seven to strike out "ten" and insert "twenty," so as to give persons twenty instead of ten days to report for enrollment. I do not think that the chairman of the Committee on Military Affairs will object to that amendment.

The amendment was agreed to.

Mr. LE BLOND. I suggest to the chairman of the Committee on Military Affairs the propriety of striking out in line twelve the words "courts of the United States," and inserting "State courts."

Mr. FARNSWORTH. That has been stricken out already.

The question recurred on striking out the entire section.

The House divided; and there were—ayes 60, noes 51.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs. SCHENCK and NELSON were appointed.

The House again divided; and the tellers reported—ayes 66, noes 49.

So the first section was stricken out.

The Clerk reported the second section, as follows:

*And be it further enacted,* That hereafter all persons mustered into the military or naval service, whether as volunteers, substitutes, representatives, or otherwise, shall be credited to the State and to the ward, township, precinct, or other enrollment sub-district where such persons belong by actual residence, (if such persons have an actual residence,) and where such persons were or shall be enrolled, (if liable to enrollment;) and it is hereby made the duty of the Provost Marshal General to make such rules and give such instructions to the several provost marshals, boards of enrollment, and mustering officers, as shall be necessary for the faithful enforcement of the provisions of this section, to the end that fair and just credit shall be given to every section of the country.

Mr. BLAINE. I move to amend the second section by adding thereto the following:

*Provided,* That in any call for troops, no county, town, township, ward, precinct, or election district, shall have credit except for men actually furnished on said call, or preceding call, by said county, town, township, ward, precinct, or election district, and mustered into the military or naval service on the quota thereof.

There were two provisions inserted in the enrollment law of last session, Mr. Speaker, which have in my judgment produced a great deal of mischief and very little good. I refer to those sections which permitted recruiting in the rebel States and the allowance of credits for previous naval enlistments. From these two sources have arisen the gigantic and wide-spread evil of filling quotas of towns without adding troops to the Army. The amendment which I have offered is designed to correct this evil, to cut it up by the roots, and to bring back recruiting to an honest, meritorious, and patriotic effort to fill the ranks of our gallant Army with men and not with the shadowy fictions which pass under the general name of "paper credits." We have witnessed with amazement the quotas of entire cities and districts, and I do not know but States also, technically filled, without adding a single man or muscle to the effective military force of the nation. How this is done, by what system of constructive credits, or fictitious credits, or fraudulent credits it has been accomplished, is a mystery which I am totally unable to solve. The fact, however, is one of general notoriety, and the evil is one which should not be allowed to exist for a single day when the correction can be applied by Congress.

And Congress, sir, is the only power that can apply the remedy! The State authorities see and appreciate the evil, but they have not sufficient jurisdiction in the premises to correct it. In the Legislature of my own State this winter there has been much discussion and excitement in regard to this matter, and a law was passed designed to abate the evil; but all State laws necessarily fall short of the object for want of



proper authority. Congress, sir, and Congress alone, can remedy the evil; and unless it is speedily remedied it will end in demoralizing and debauching the whole system of enrollment and conscription, bringing it into such popular contempt, odium, and distrust, as to paralyze it as an agency for raising troops for our Army.

My amendment, sir, is very simple and very direct. It provides that no credit shall be given to any town "except for men." Ay, sir, for men! Men "actually furnished by said town;" and not "actually furnished" only, but "mustered into the service on the quota of said town." It does not require that the men shall be citizens or residents of the town for which they enlist, but leaves the law on that point unchanged, the object being simply to require that men shall be furnished when men are called for. Sir, if this simple rule had been adhered to we should have had full ranks in our Army to-day, and the towns could have procured the "men" for little if any more than they have paid for these worthless "paper credits." Conscription after conscription, draft after draft, must ensue, if the Government fails in getting men; and it thus happens that this constructive mode of filling quotas reacts upon and severely punishes the very towns and districts that seem to derive a temporary advantage therefrom. Sooner or later, the men must come, and one man in good season often removes the necessity of raising five men at a later and less favorable juncture of military affairs. So that the policy, besides being disastrous to the Government, is equally disastrous to the towns, even when viewed from the stand-point of local interest, local jealousy, and self-preservation. I repeat, sir, it is a policy that saves one man to-day only to conscript five men to-morrow.

When it was originally resolved to allow credits for men in the naval service I thought some advantage might accrue to my own State in having her quota for the military service lessened thereby. I knew that Maine had contributed a large number of volunteers to the Navy; very large in proportion to her population as compared with other States; and I thought a fair recognition of this fact might diminish the number of her citizens to be drafted for the military service. And if the matter could have been fairly decided, on high and honorable grounds, that would have been the result. But instead of that, sir, the allowance of naval credits to the States, taken all together, has been a positive disadvantage to Maine. And for this simple reason; so many more have been allowed to other States than they were fairly entitled to that Maine relatively lost in the distribution. New York got some thirty thousand of these credits, and Massachusetts, I believe, some seventeen thousand, while Maine was assigned only some thirty-three hundred by the War Department. Other States, you will observe, were thus relieved to so much larger degree than Maine that the reaction was against us, and in the very next draft we found ourselves with a larger quota assigned to us than we should have had if no such thing as credits for naval enlistments had ever been allowed.

But, sir, aside from this injustice to my own State, a very great evil has sprung up in the matter of these naval credits. So far as they were assigned to the general credit of the State and went to the reduction of the entire quota the benefit was the same to all sections of the State, and was in this respect impartial. But on top of this, throughout the whole country we hear of substitute brokers selling these credits obtained in some mysterious way as one would sell town scrip in the market; and from this source has risen a large number of those constructive "paper credits" against which my amendment is leveled, and which, for the future, it will prevent. It may not be in our power to remedy the wrong practices of the past, but from this time forward we can guard against the repetition of these practices. We can deal with equal and exact justice to all men and to all sections—and above all, we can deal justly by the Government in its struggle for existence. In its hour of peril it calls for men; living, active, resolute men, and it is worse than madness to answer this call with anything else than men.

Let me say in conclusion, Mr. Speaker, that nothing so discourages and disheartens the brave men at the front as the belief that proper measures are not adopted at home for reinforcing and

sustaining them. Even a lukewarmness or a backwardness in that respect is enough; but when you add to that the suspicion that unfair devices have been resorted to by those charged with filling quotas, you naturally inflame the prejudices and passions of our veterans in the field in a manner calculated to lessen their personal zeal and generally to weaken the discipline of the Army. After four years of such patriotic and heroic effort for national unity as the world has never witnessed before we cannot now afford to have the great cause injured or its fair fame darkened by a single unworthy incident connected with it. The improper practices of individuals cannot disgrace or degrade the nation; but after these practices are brought to the attention of Congress we shall assuredly be disgraced and degraded if we fail to apply the requisite remedy when that remedy is in our power. Let us, then, in this hour of triumph to the national arms do our duty here, our duty to the troops in the field, our duty to our constituents at home, and our duty, above all, to our country, whose existence has been in such peril in the past, but whose future of greatness and glory seems now so assured and so radiant.

Mr. MALLORY. I ask the gentleman to insert the word "county."

Mr. BLAINE. I will correct my amendment by inserting the word "county." I endeavored to get the nomenclature so as to reach the various local designations in the country.

Mr. FARNSWORTH. If I understand that amendment, it will have the effect to make the section retroactive.

Mr. BLAINE. No, it will not.

Mr. FARNSWORTH. The section provides that credits shall only be given to towns, wards, and other subdivisions for the men who actually reside in them. We provide in that section that it shall be operative hereafter. The effect of the amendment of the gentleman from Maine will be to require the whole enrollment for the impending draft to be revised and corrected.

Mr. BLAINE. Not at all. If any objection lies in that criticism it may be removed by inserting the word "future." I do not design anything like what the gentleman states. I desire only to correct this evil, and that the cities, towns, or wards which have sent sailors into the Navy shall have credit for them. My own State did not get credit for one fifth that Massachusetts did in the naval enlistments, when she sent two men for Massachusetts' one.

Mr. WOODBRIDGE. I ask the gentleman from Maine whether under his proposed amendment the operation would not be, where a township on a former call had furnished more than its quota, to prevent that township having credit on the succeeding call for the surplus?

Mr. BLAINE. If they have furnished a surplus it gives them credit for it.

Mr. WOODBRIDGE. Vermont has furnished her own men.

Mr. BLAINE. I know she has, and I do not mean to intimate anything to the contrary.

Mr. WOODBRIDGE. I am unwilling to cut her off if she has furnished any more than her quota.

Mr. BLAINE. I do not want to cut her off, and my amendment will not cut her off.

Mr. A. MYERS. I suggest to the gentleman from Maine that he insert the word "future" before the word "call."

Mr. BLAINE. My object is to guard against fraudulent certificates which are put in, as has been the case in New York. I am perfectly willing to insert the word "future," as suggested by the gentleman from Pennsylvania.

Mr. FARNSWORTH. I understand that the section under consideration remedies that evil so far as all future calls are concerned. It provides that hereafter men shall be credited to the sub-districts where the men actually belong by residence. That will prevent the shifting of men from one locality to another, the taking of them from the country districts, seduced by the offer of large bounties, into wealthy districts, and crediting them where they do not belong by residence. The object of this section is that stated at the close of it, that fair and just credits may be given to every part of the country in proportion to the number of men actually furnished. The present plan has operated badly in some instances heretofore. Farming districts, and districts not able

to offer large bounties, although liable to have all their men enrolled and subject to be drafted according to that enrollment, have found a large number of their men capable of bearing arms seduced away to other States and districts, thus working a very great hardship upon them.

Another effect of this section, and a very good one too, will be to make the system of bounties more uniform. One district not being able, by offering larger bounties than another district, to get men from other districts, the bounties will become more uniform, and all men will be credited where they ought to be credited—the place of their residence.

This act cannot be made retrospective, for the reason that it would require a complete going over of all the enrollments of the whole country. It would require a readjustment of the whole thing, which would take months and months to accomplish.

And besides that, heretofore the muster-rolls have not shown, in many instances, where the men did actually reside. They have simply shown where they have enlisted, not where the men resided; so that it would be impossible at the War Department to ascertain from the muster-rolls really where the soldiers resided who appear upon the rolls. This section makes it the duty of the Provost Marshal General to instruct the mustering officers and boards of enrollment to remedy that, so that the muster-rolls shall show where every soldier that enlists resides, and where he shall be credited. I do not see that the amendment of my friend from Maine does anything more than that. This section applies to the future, and I do not see that it improves the matter by putting in the word "future" in his amendment.

Mr. PIKE. I would suggest to my colleague that he would accomplish his object by repealing the eighth section of the act of July 4, 1864.

Mr. BLAINE. I do not think it would entirely answer my purpose. I want to answer the gentleman from Vermont [Mr. WOODBRIDGE] very briefly, and also to raise a question of order. Is it competent for me to modify my amendment?

The SPEAKER. It is.

Mr. BLAINE. Then I recall my assent to incorporate in my amendment the word "future." I want it to apply to this call. No injustice can thereby be done to any town in Vermont, because on this call the excess on previous calls will be credited to them. What I want to accomplish by striking out the word "future" is, that under the present call no factitious credit shall be allowed to apply to it; but that, where there is a *bona fide* credit, it shall lap over and apply to this call.

Mr. GANSON. I suggest that the gentleman use the words "present and future."

Mr. KELLOGG, of Michigan. I ask leave of absence for a few days.

No objection being made, leave of absence was granted.

Mr. PIKE. I move to amend the amendment by striking out the last three lines. The amendment proposed by my colleague [Mr. BLAINE] seeks to attain a very good end, but I think it will not accomplish his purpose. I do not understand that the present law allows any credits to any locality unless the men have been furnished in some manner, nominally or otherwise, and for that reason I fear the amendment of my colleague will be ineffectual.

It is singular that a naval State like Maine should complain of naval credits, but such is the fact. The law of last session, section eight, provided that the men then in the naval service, or who had served in that service since the commencement of the war, should be credited to the States furnishing them. But unfortunately in executing this law the States actually furnishing the men did not get credit for them. Early in the session I introduced an order directing the Secretary of War to state in what manner and in accordance with what rule the apportionment of naval credits was made. The reply was that the men in the Navy were credited to the States where they enlisted unless proof was made that they belonged elsewhere. This rule would be sufficiently hard on my State, because heretofore the Navy Department has usually had no enlisting station in my State, and consequently naval enlistments of men belonging in Maine have been made in Boston and New York. But I have reason to believe that even this rule has not been

adhered to, and hence the result has come about which has been stated by my colleague, and Massachusetts and New York have absorbed almost all the naval credits of the country.

But worse than this, credits have been given to these States when no men have ever been furnished by anybody. Bold frauds; "paper men" have been substituted for sailors; and up to this time fifty per cent. more men have been credited to the different States than are in the Navy altogether. It is therefore time the thing should stop. By repealing this section no allowance would be made hereafter for any men put into the Navy prior to February, 1864, and that is what ought to be done. My State is quite willing to receive no credits for men not furnished, and she wants other States placed in the same category. She ought not to be obliged to put in her quota of live men—as good, to say the least, as any in the service—and New York and Massachusetts be permitted to fill up their quotas with "paper men." And for one, I am content to have the law repealed altogether, because I think that is the only effectual way to bring about a result which shall be fair all round. I withdraw the amendment to the amendment.

#### ORDER OF BUSINESS.

Mr. RICE, of Massachusetts. I ask unanimous consent that Friday next, after the morning hour, be devoted to business of the Committee on Naval Affairs.

Mr. RICE, of Maine. I object.

The hour of half past five p. m. having arrived,

The SPEAKER declared the House adjourned until to-morrow.

#### IN SENATE.

WEDNESDAY, February 22, 1865.

Prayer by Rev. JOHN THRUSH, of Washington, District of Columbia.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal was dispensed with.

#### ILLUMINATION FOR UNION VICTORIES.

The VICE PRESIDENT. The Chair desires permission to state that official communication has been made to the Vice President and to the Speaker of the House of Representatives that the public Departments of this city will be illuminated by order of the President this evening, and they have, correspondingly, issued an order to illuminate the national Capitol.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of merchants and residents of the city of New York, praying for the passage of the "bill to establish a uniform system of bankruptcy throughout the United States;" which was ordered to lie on the table.

Mr. TRUMBULL presented a petition of citizens of Decatur, Illinois, praying for the granting of a pension to Dr. Ira B. Curtis, of that place; which was referred to the Committee on Pensions.

Mr. WILSON presented a memorial of Norman Wiard, praying for the adoption of measures whereby the invention and fabrication of ordnance may be opened to public competition; which was referred to the Committee on Naval Affairs.

He also presented a memorial of Daniel J. Browne, appointed by the Commissioner of Patents an agent to visit various parts of Europe to investigate and report on the productions, manufactures, and commerce of Europe, praying for an investigation into the manner in which he has discharged his official duties, and that he may be compensated for detention and loss of time; which was referred to the Committee on Claims.

He also presented a memorial of Richard M. Williams, praying for the passage of an act providing that all those who have been drafted and paid the sum of \$300 for the procurement of substitutes under the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, and the act amendatory thereof approved February 24, 1864, shall be placed on the same footing with each other and with those who have furnished substitutes, and shall be exempted from liability to military service for the period of three years

from the time of the payment of said sum of \$300; which was referred to the Committee on Military Affairs and the Militia.

Mr. WADE presented a petition of manufacturers of agricultural implements, praying for a reduction of the tax on agricultural implements, and suggesting a tax of one per cent. on the gross sales of agricultural implements; which was referred to the Committee on Finance.

Mr. LANE, of Indiana, presented the resolutions of the Legislature of Indiana in favor of an extension of the time for the completion of the Grand Rapids and Indiana railroad; which was ordered to lie on the table, inasmuch as the Committee on Public Lands have already reported a bill on the subject.

#### BILL INTRODUCED.

Mr. LANE, of Kansas, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 120) to authorize the Union Pacific Railroad Company, eastern division, to acquire certain right of way and land from the incompetent Wyandotte Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

#### REPORTS OF COMMITTEES.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was referred the memorial of S. D. Carpenter, praying for an examination of his invention of a new method of defensive armor in the construction of war vessels, with a view to its adoption by the Government, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of contractors with the Navy Department for the building of certain vessels of war known as double-enders, and the memorial of William H. Webb, submitted a report accompanied by a joint resolution (S. R. No. 119) for the relief of Paul S. Forbes and others; which was read and passed to a second reading, and the report was ordered to be printed.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred a resolution of the Legislature of Iowa, in favor of the construction of a military and wagon road from some point on the west side of the Missouri river, in Nebraska Territory, to Gallatin, in Idaho Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the communication of David Gowdey, addressed to Hon. WILLIAM SPRAGUE, alleging certain inaccuracies in the census report of 1860 in regard to the number and location of reed-makers in the United States, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of citizens of New York, praying for the passage of a law making uniform regulations throughout the United States of the times, places, and manner of holding elections for Senators and Representatives, except as to the place of choosing Senators, defining the qualifications requisite for electors, and abrogating such regulations prescribed by the Legislatures in each State or otherwise as may be inconsistent therewith, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the Presbytery of Cincinnati and the petition of citizens of the United States, praying for such an amendment to the Constitution as will more fully recognize the obligations of the Christian religion, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the executive committee of the Board of Delegates of the American Israelites, protesting against an amendment of the Constitution of the United States more fully recognizing the obligations of the Christian religion as prayed for in the memorial of the Presbytery of Cincinnati, dated September 20, 1864, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 345) to prevent the Secretary of War and persons engaged in the military service of the United States from interfering with the freedom of religion, reported it adversely.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 108) to provide for submitting to the several States an amendment of the Constitution of the United States in reference to the mode of representation in the several States, reported it adversely.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 101) proposing an amendment to the Constitution of the United States, so as to allow the imposition of a tax upon exports, reported it adversely, the committee deeming it injudicious and unadvisable at this time to propose that amendment to the Constitution of the United States.

Mr. HOWE, from the Committee on Claims, to whom was referred the memorial of W. E. Morgan, second lieutenant first District Columbia volunteers, praying that he may be allowed pay from the 31st of May, 1863, to the 11th day of September, 1863, during which time he alleges he was held waiting the settlement of his accounts as acting assistant quartermaster, asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 441) to enlarge the canals and improve the navigation of the Fox and Wisconsin rivers, from the Mississippi river to Lake Michigan, for military and naval purposes; the bill (H. R. No. 126) to construct a ship-canal around the falls of Niagara; and the bill (H. R. No. 322) to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes, have directed me to report these bills back, not adversely or favorably, but to report them back accompanied by a joint resolution for the purpose of making surveys.

The joint resolution (S. R. No. 118) to authorize surveys to be made with a view to the construction of a ship-canal around the falls of Niagara; to deepen and enlarge the Illinois and Michigan canal, and improve the navigation of the Illinois river; to improve the Upper rapids and Lower, or Des Moines, rapids of the Mississippi river; and to improve the navigation of the Fox and Wisconsin rivers, was read and passed to a second reading.

He also, from the same committee, to whom was referred a bill (H. R. No. 765) concerning regimental and garrison courts-martial, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 61) amendatory of an act entitled "An act to provide for the protection of overland emigration to the States and Territories of the Pacific," approved March 3, 1864, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 172) to authorize the President to make transfers of officers in the Army of the United States, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 434) more effectually to provide for the national defense by establishing a uniform militia throughout the United States, reported it with amendments.

He also, from the same committee, to whom was referred a bill (H. R. No. 600) for the better organization of the subsistence department, reported it with amendments.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 169) to provide for the publication of a full Army Register, reported it with amendments.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred a bill (S. No. 465) to create the office of Solicitor and Naval Judge Advocate General, reported it without amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of William Nichols, praying for a pension, submitted a report accompanied by a bill (S. No. 469) for the

relief of William Nichols; which was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jane W. Nethaway, praying for an allowance of back pay and bounty claimed to be due her late husband, and the passage of an act allowing her a pension, submitted a report accompanied by a bill (S. No. 470) for the relief of Jane W. Nethaway; which was read and passed to a second reading, and the report was ordered to be printed.

Mr. JOHNSON, from the Committee on the Judiciary, to whom was referred a bill (S. No. 89) in relation to proceedings in the courts of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred a bill (S. No. 459) to provide for the consolidation of the Indian tribes and to establish civil government in the Indian Territory, reported it with amendments.

Mr. POWELL, from the Committee on the Judiciary, to whom was referred the petition of Preston Starritt, a messenger of the Senate, claiming pay which he asserts has been illegally withheld from him, reported the following resolution:

*Resolved*, That Preston Starritt be paid out of the contingent fund of the Senate the amount of his compensation as messenger of the Senate from the 23d of July, 1861, until the 17th of December, 1861, at which time his office is considered as vacated.

#### COPYRIGHTS.

Mr. COWAN. I am directed by the Committee on Patents and the Patent Office, to whom the subject was referred, to report a bill (S. No. 468) to amend the acts of Congress respecting copyright, and I ask that it may be put on its passage. I think it is important. It will only require a moment, and will lead to no debate.

By unanimous consent the bill was read by its title and considered as in Committee of the Whole. It provides that the provisions of the acts respecting copyrights shall extend to and include photographs and the negatives thereof which shall hereafter be made, which are to inure to the benefit of their authors in the same manner and to the same extent and upon the same conditions as to the authors of prints and engravings.

A printed copy of every book, pamphlet, map, chart, musical composition, print, engraving, or photograph for which a copyright shall be secured, is to be transmitted, free of postage or other expense, by the author or proprietor, within one month of the date of publication, to the Library of Congress, at Washington, for the use of the Library, and the Librarian of Congress is required to give a receipt in writing for the same.

If any proprietor of a book, pamphlet, map, chart, musical composition, print, engraving, or photograph which shall be secured, shall neglect to deliver the same pursuant to the requirements of this act, it is to be the duty of the Librarian of Congress to make demand thereof in writing at any time within twelve months after the publication thereof, and in default of the delivery thereof within one month after the demand shall have been made, the right of exclusive publication secured to such proprietor under the acts of Congress respecting a copyright is to be forfeited.

In the construction of this act the word "book" is to be construed to mean every volume and part of a volume, together with all maps, prints, or other engraving belonging thereto, and is to include a copy of any second or subsequent edition which shall be published with any additions, whether the first editions of such books have been published before or after the passage of this act; but it is not to be requisite to deliver to the Library any copy of a second or any subsequent edition of any book unless it shall contain additions, nor of any book which is not the subject of copyright.

Mr. SUMNER. So far as I have been able to understand that bill in listening to it I agree with it, and I am glad the committee has reported it; but I suggest to the Senator that, considering its importance and the subject to which it relates, it should be printed before the Senate act finally upon it. I beg to assure the Senator that I do not make this remark with any disposition to throw any impediment in the way of the passage of the bill, but simply because I think the Senate ought to understand it.

Mr. COLLAMER. I will say to the gentleman, which may perhaps relieve his mind on this subject; that the Committee on the Library have had this bill before them and have examined and approved it. It provides for including photographs in the copyright laws; and all the rest of it is merely for carrying into effect what used to be the law formerly, that one copy of all these publications shall be sent to the Library.

Mr. SUMNER. Then there are some statements as to what is a book. There are legal definitions in it. As I listened to it, I thought upon the whole it would be better that we should have time to consider it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### HOUSE BILL REFERRED.

On motion of Mr. CONNESS, the bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864, was taken from the table and referred to the Committee on the Pacific Railroad.

#### NEW YORK JUDICIAL DISTRICTS.

Mr. HARRIS. I move that the Senate postpone all prior orders and proceed to the consideration of House bill No. 184.

Mr. SUMNER. What is that?

Mr. HARRIS. It is a bill to divide the southern district of New York.

Mr. SUMNER. Allow me to ask, will it take much time?

Mr. HARRIS. It may take a little time and there may be some opposition to it. I cannot say that there will be.

Mr. SUMNER. The Senator will understand that at one o'clock there is a special order.

The motion was agreed to.

Mr. HENDRICKS. My colleague, a few moments since, introduced a memorial from the Legislature of the State of Indiana in relation to a matter of a great deal of interest to that State and the State of Michigan. The Committee on Public Lands has reported a bill on the subject which will not occupy a minute of the time of the Senate, and I will ask the indulgence of the Senator from New York to let that bill be passed. It is of great importance, else the enterprise may fail.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Senator from Indiana asks the consent of the Senator from New York to have the bill before the Senate laid aside for the consideration of another bill. It is entirely at the control of the Senator from New York.

Mr. HARRIS. If my bill will not lose its preference I have no objection.

The PRESIDING OFFICER. It will lose its preference.

Mr. HARRIS. Then I cannot consent, if it loses its place; I must insist on my bill.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 184) to facilitate proceedings in the admiralty and other judicial proceedings in the port of New York, and for other purposes, which had been reported from the Committee on the Judiciary with various amendments. The first amendment of the committee was in section one, line eight, after the word "a" to strike out the following words:

Judge to hold a district court in the said district, who shall reside therein, and shall have all the powers and authority which are now or may hereafter be possessed by any district judge in the said State; and the district court hereby established shall have such original jurisdiction as is now or may hereafter be vested in any of the district courts of the United States in the said State.

And to insert in lieu thereof:

District judge for said district who shall reside therein, and who shall possess the same powers and perform the same duties within said district which are now possessed and performed by the district judge of the southern district of New York. The said judge shall also receive the same compensation as is by law provided for the judge of said southern district. District and circuit courts for the trial of causes shall be held in the city of Brooklyn on the first Wednesday of every month. The courts so to be held shall have the same jurisdiction as is now or may hereafter be vested in other district and circuit courts of the United States.

So that the section will read:

That the counties of Kings, Queens, Suffolk, and Rich-

mond, in the State of New York, with the waters thereof, are hereby constituted a separate judicial district of the United States, to be styled the eastern district of New York. The President of the United States, by and with the advice and consent of the Senate, shall appoint a district judge for said district, who shall reside therein, &c.

The amendment was agreed to.

The next amendment was in section one, line twenty-eight, after the word "manner" to insert the words "and with the same fees and emoluments;" so that the clause will read:

Such officers shall be appointed for said district and court and in the same manner and with the same fees and emoluments as prescribed by law for other districts and courts of the United States.

The amendment was agreed to.

The next amendment was to strike out the second section of the bill, in the following words:

SEC. 2. And be it further enacted, That nothing in this act shall in any way change or impair the jurisdiction or powers of the circuit court of the United States held in the southern district of New York, as now organized; but the said circuit court, so held, shall be deemed to be, and shall possess all the powers of, a circuit court held within the said eastern district; and appeals and writs of error from any decree or judgment of the district court of said eastern district shall lie to the circuit court to be held in the southern district of New York in the same manner and with like effect as if said circuit court were held within said eastern district.

The amendment was agreed to.

The next amendment was in section three, line nine, after the word "waters" to strike out the following words:

The salary of the judge of said courts shall be \$5,000 per year, payable quarterly out of the Treasury of the United States.

The amendment was agreed to.

The next amendment was at the end of section four to strike out the following words:

But he shall not, except when called upon by the associate judge of the Supreme Court designated to hold the second circuit, be authorized to act as circuit judge, nor to hold the circuit within said southern district.

So that the section will read:

SEC. 4. And be it further enacted, That in case of the inability, on account of sickness, of the judge of the district court of the United States for the southern district of New York, to hold any court therein, it shall be the duty of the judge of the said eastern district of New York to hold such court, and do and perform all the acts and duties of the judge of said southern district, without any additional compensation; and whenever, from pressure of public business or other cause, it shall be deemed desirable by the judge of said southern district of New York that the judge of said eastern district perform the duties of a judge in said southern district, an order may be entered to that effect in the records of said district court, and thereupon the judge of said eastern district shall be empowered to do and perform, without additional compensation, within said southern district of New York, and in the district court thereof, all the acts and duties of the district judge thereof.

The amendment was agreed to.

The next amendment was to strike out the fifth section, in the following words:

SEC. 5. And be it further enacted, That all cases of prize brought in the district court for said eastern district shall have preference over all other causes upon any calendar of said court or pending thereon; and a term of said court for the trial of causes shall be held on the first Wednesday of each month, in the city of Brooklyn. Such other terms may be held at such other times and places within said district as may be fixed by the judge of said court.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. FOSTER. It seems to me very inexpedient to pass a bill of this sort at this time. It proposes to create a new district in the southern district of New York, and to add, of course, a district judge, marshal, district attorney, and the other officers connected with a district court, thus to charge upon the Treasury of the United States, in the matter of expense, a sum of more than \$50,000 a year. I am aware that that by itself is not a sufficient reason why the bill should not pass, if the public interest requires it; but I submit that the necessity should be apparent and great in order to justify such an increase of expense at this time.

The grounds on which it is asked are, as I understand, the great pressure of business in the southern district and circuit of New York; and it is true, no doubt, that in that great metropolis there is a large amount of business in the district court. But, Mr. President, I do not believe that the creation of a new district court will work the relief to the public that the friends of this bill anticipate. To create a new district court, giving to this new district court concurrent jurisdiction



with one already established, and within, in effect, the same limits, is an anomaly in our jurisprudence and in our legislation. This district is not divided from any other district by limits as all other districts in the United States are. The northern district of New York is divided from the southern district by a known, well-defined line; and so in all the States where there is more than one district. The limits of each district are defined by law; and it seems to me, I confess, rather a necessity, to prevent confusion in the transaction of business, that it should be so. But this bill gives to this new district court, the creation of which is contemplated by the bill, concurrent jurisdiction with the existing district court, which is called the court for the southern district of New York, and this is to be called the eastern district—not separated from the southern by definite limits, but having concurrent jurisdiction with it. There will be, as it seems to me, great difficulty and great confusion inevitably growing out of such a condition of things.

The reason urged for the new district, as I have suggested, is the great pressure of business. Mr. President, this will not relieve that pressure. This proposes to have the court held in the city of Brooklyn, which, although a large and prosperous city, is really a portion of the city of New York; and this new district is but a portion of the southern district, the two courts having concurrent jurisdiction. The great reason of the delay of business in the district court in the city of New York, the southern district, is not so much the great number of cases in court, although that number is very great, but it arises from the fact, more than any other, that the counsel who are engaged in important causes in that district court are leading counsel in most of the other causes of importance which arise in the courts in the city of New York, as well State as Federal. The counsel thus engaged in the important causes in the southern district have engagements in the State and other Federal courts in session in the city at the same time; and when a cause comes up in the southern district for trial the counsel, or a part of them who are engaged in it, are engaged in trials in other courts in session in the city. That works more delay and inconvenience than any other single reason, if not more than all other reasons, to delay business and prevent the clearing of the docket. Members of the profession are courteous to each other, and when the counsel on the other side are engaged in another court, they do not press the cause to trial; and thus the cause is passed by, and so on until the cause can be reached when the counsel are not engaged elsewhere. The consequence is, that business accumulates on the docket from term to term, because the counsel whom the parties litigant have selected to try their causes are really not prepared to act, and cannot act at the time the case comes on for trial.

If this bill passes and this new court is created, that difficulty, instead of being remedied, will be aggravated. The court will be transferred to the city of Brooklyn; but the counsel who will be concerned in almost all the important causes which will come before that court for trial are distinguished members of the profession who reside in the city of New York; they will practice in this court at Brooklyn; and when a cause comes on there for trial, if these gentlemen are engaged in the courts in the city of New York, these causes will be postponed, and business in this new court will accumulate, and will not be dispatched any more promptly than at present. This bill will multiply courts and embarrass business rather than facilitate its dispatch.

Mr. President, the law now is that the circuit judge may call to his aid in the southern district of New York one or more judges of adjacent districts in the same circuit, who may hold this district court in the southern district of New York from year's end to year's end if the necessities of the public business require it. There is no limit to the time that these courts may sit, and two courts, or rather two judges, may be in session at once. There is no conceivable difficulty in dispatching the business which may accumulate in the court of the southern district of New York, at least so far forth as having judges sit to try and determine all causes arising in that district.

I repeat, Mr. President, that the occasion of the accumulation of business does not arise from

the fact that there are not courts enough and judges enough, but mainly because the counsel that are engaged are also engaged in other courts, and cannot try their causes in two courts at once. That is the grand difficulty. Although the city of New York is blessed with a very large number of the members of the legal profession, like most other towns and cities in the United States, still the important legal business of that city, the great and important causes tried in that city, are tried by comparatively few men. Some half dozen men try most of the important causes that arise in the courts in the city of New York. I do not mean that they try all the causes, but that great and important questions involving large amounts of property are tried by comparatively very few of the profession.

Now, Mr. President, if you create a new court you aggravate the existing evil; the accumulation of business is chargeable to our having too many courts now. I honestly believe if there was but one court in that city more business could be accomplished than is accomplished by the whole now, for then all the counsel of the city would be in attendance upon that court; no cause would be put off because counsel were engaged in other courts. One single court, held by competent judges, would dispose of more business in a year than is disposed of by the whole now.

There are a great many persons that desire the passage of this bill; the honorable Senator from New York, of course, is better qualified to form an opinion as to the wants of his constituents than I am; but, with deference to his opinion, I must say that I believe the better judgment of the city of New York is against the creation of this court. I believe that the sense of the profession is against it. A very large number of the members of the bar of that city deprecate the passage of this bill. Many of them signed a remonstrance against the bill, which has been received here, and referred to the Judiciary Committee. I will not say that these remonstrants compose a majority of the members of the legal profession of the city of New York, but a very large number of the most prominent are on it. I am told that some of them have since changed their opinions; but I believe it is the settled judgment of the profession that the creation of this court will not be a public advantage, but will be a public misfortune. I trust that the bill will not pass.

Mr. HARRIS. I am so anxious to have action on this bill that I shall content myself with stating a very few facts very briefly.

In this southern district of New York there were commenced in the year 1863, as appears by a report made in answer to a resolution which was offered by the Senator from Illinois, the chairman of the Judiciary Committee, in April last, two thousand one hundred and four causes. It appears that in the whole thirty-two judicial districts in the States that have not seceded there were seven thousand and four causes. From this it will appear that nearly one third of all the actions brought in the Federal courts in the year 1863 were brought in the southern district of New York. Much more than a quarter of all the business of the Federal courts is in the southern district of New York.

Now, sir, two sessions ago I introduced a bill providing for the appointment of an assistant judge in New York; but there were so many objections to it that it was thought best to drop that measure; and those who are most deeply interested in the performance of the judicial business in the city of New York have thought it best to provide for an additional district. Sir, the business cannot be done in the city. The same thing has been found true in respect to our State courts. Our State constitution provided for a supreme court in the city of New York, consisting of five judges. The State of New York has found it necessary, in order to provide for the business within the State jurisdiction, to create a superior court there of six judges, and also a court of common pleas, consisting of three judges; making one court of five judges, another of six, and another of three, all of concurrent jurisdiction; and it has been found to work well.

We contemplate by this bill simply to provide a district to be composed of the three counties of Long Island and the county of Richmond, Staten Island, with a population of about half a million

and an amount of business far exceeding that of almost any other district in the United States. It is a little surprising that the Senator from Connecticut should feel it necessary to interpose in opposition to this bill, for the purpose (I will not say that this is his intention) of having the present state of things go on, and having judges from other districts brought in there to aid the judge in the southern district of New York. It is true that Connecticut furnishes a very able judge, who is enabled in consequence of the very small amount of business that he has to do at home to go in there and hold court for a large portion of the year. But, sir, it may not be improper for me to add that for the duties that he performs in the State of New York he receives much more compensation than he does for his salary as district judge of the State of Connecticut.

Mr. FOSTER. Will the Senator allow me to interrupt him at this point?

Mr. HARRIS. Certainly.

Mr. FOSTER. When the honorable Senator says that the judge from Connecticut who sits in court in New York receives more than he does for his salary in Connecticut, I think, with great deference to him, he is entirely mistaken. He does not, I believe, receive one cent. It is true his salary as district judge in Connecticut is very small, very much smaller than it ought to be; it is not remunerative; but it is something; and inasmuch as in New York he does not get one cent, I think the honorable Senator is mistaken. It is true that his expenses are paid; his board while there is paid; and I suppose his railroad fare to and fro. If that is what the honorable Senator calls receiving more than he gets for his salary, I think he is mistaken.

Mr. HARRIS. I hold in my hand a memorandum which I took from the records of the Treasury Department, showing that Judge Shipman received for the first six months of last year for his services for holding court in New York \$1,759 45.

Mr. FOSTER. Then he receives it without law, because the law does not authorize him to receive one cent; and I did not suppose that the accounting officers, either at New York or here, paid judges when there was no law to pay them one farthing.

Mr. JOHNSON. I imagine the Senator from New York will find that the \$1,700 is made up of the per diem which the judge receives, and is intended to pay expenses and nothing else, and is not intended as compensation, I suppose.

Mr. FOSTER. It is no compensation, and there is no bill for compensation.

Mr. JOHNSON. I say I do not suppose it was intended for compensation.

Mr. HARRIS. I do not understand that it is compensation.

Mr. FOSTER. If it is not compensation there is nothing between us.

Mr. HARRIS. It has this effect, however; Judge Shipman can hold court in New York the year round, and according to this rate he can receive \$3,500 for his expenses besides his salary of \$2,000 as judge of Connecticut. But I make no complaint of that. Judge Shipman is an excellent judge, and has rendered valuable services there.

But, sir, it is necessary that there should be more judicial courts in New York. Any one can see that with nearly one third of the business of the United States done in that southern district there must be some relief, and it is thought by those most familiar with the circumstances that this is the best mode of relief. Two sessions ago the Senate was willing to pass a bill to create a new judicial district in the State of Michigan, neither of which districts has one quarter of the amount of business, and each of which a far less population, than the district now proposed. But, sir, I am so anxious to have a vote upon this bill that I will not detain the Senate further. I hope it may be put on its passage.

Mr. FOSTER. One word only. As it regards my interference on the ground that the district judge from Connecticut is called to New York, I can assure the Senator that, so far as that is concerned, it furnishes no reason to me to interfere, and could furnish none. In the first place, I believe it would be greatly for the advantage of the judge to be relieved from the labor, which, I again repeat, he performs without one cent of

compensation. There is nothing, therefore, of interest which the judge can have unless it may be to labor and receive his board for his pay; for that is all he gets. I will read a portion of a letter of a highly distinguished member of the bar of New York, who writes under date of February 3, in regard to this bill, as follows:

"This bill creates what is called an eastern district of New York, and supplies it with an establishment of judge, clerk, district attorney, and marshal, incurring an expense of certainly \$50,000 a year, beside rent and cost of courtroom and officers. I can imagine no public ground for such a measure, and mischiefs of the gravest character in the administration of justice are sure to follow from this division of the port of New York into two judicial districts, which is the effect of the bill. The whole supply of maritime, admiralty, or commercial business for the new court, as at present for the existing court will come from the port of New York; and we shall have the strange spectacle of two Federal judicial establishments holding courts within three miles of each other, sitting at the same time all the year round, and dragging the waters of New York bay into concurrent jurisdiction in competition for business. We suffer but one need in this district for the due dispatch of business, and that is an additional judge, involving no legislation but the creation of the office, no expense but his salary, and no disturbance of the administration of justice. The mere statement of the case has heretofore been sufficient to prevent this measure from finding acceptance with the members of the Judiciary Committee of the Senate, to whom I spoke upon the subject last year, and I supposed the project was abandoned, at least while the general subject of remodeling the whole judicial system was pending in Congress and before the public. This latter measure is, I think, sure to be adopted either by this Congress or the next, and I should suppose this consideration alone would prevent the creation of a new judicial establishment at present."

I will not take up further time, as I am surely not disposed to prevent a vote being taken on the bill.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time.

Mr. FOSTER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. TRUMBULL. This is the first bill for the division of a judicial district in the United States since I have been a member of the Senate that I have ever supported. I have uniformly opposed all bills for dividing the judicial districts of the United States, and thereby increasing the business in the United States courts. I have thought the effect was bad in the creation of numerous unnecessary officers, in adding to the expense of the Government, and in increasing business in a court which is already overburdened. The more of these courts you have, the more convenient it is for litigants to bring their suits in the United States courts, the more cases you will have; and we all know that the Supreme Court is already overburdened with business. These courts were not designed for the transaction of the general business of the country; and I think if no suits were brought in them other than such as were contemplated to have been tried in the United States courts by the framers of the Constitution, there would be altogether less business before the Supreme Court than there is.

But, sir, only a year or two ago, contrary to the views which I entertained, Congress divided the judicial district in Michigan, and created a new set of officers there. I have before me a report of the Secretary of the Interior, communicated to this body on the 6th of December last, showing how much business there is in this western district of Michigan. I wish to call the attention of the Senate to it. I opposed the creation of that district at the time; I thought there was no sort of necessity for it; and the official report now shows that all the cases pending in the western district of Michigan are twenty-six, and not one single case was commenced in that court during the last year.

The PRESIDING OFFICER. (Mr. FOOT.) The Chair is obliged to request the Senator from Illinois to suspend his remarks. The morning hour having expired, the pending bill before the Senate is superseded by the special order.

Mr. TRUMBULL. I shall occupy the attention of the Senate not more than five minutes, and I think we had better dispose of this bill now.

Mr. SUMNER. If there can be an understanding that the special order be passed over informally, by unanimous consent, I shall not object.

The PRESIDING OFFICER. By common consent the special order can be passed over informally. The Chair hears no objection.

Mr. TRUMBULL. Mr. President, that would

afford no reason for passing this bill, because we improperly passed a bill to divide the State of Michigan into two judicial districts. But the same paper that I have before me, I think, contains a reason for the passage of this bill. This official report shows that in the southern district of New York there were two thousand one hundred and four cases commenced during the last year. It is a fact notorious to the Senate and the country that the business in the city of New York, it being the great commercial port of the country, in the United States court, is much larger than in any other court in the country. The admiralty and maritime jurisdiction alone there requires the session of a court, I suppose, nearly the whole time. The fact is that the judges from other districts, from Vermont and from Connecticut, have been compelled to go to New York to hold the courts under a provision of law that authorized the justice of the Supreme Court presiding in that circuit to call in the assistance of district judges anywhere within his circuit in order to dispose of the business. There is an amount of business in the southern district of New York that cannot be done by the judge of that district; it is a physical impossibility. You have an amount of business in that district that cannot be done by the court you have there. In order to remedy the defect, other judges from other districts are called in from time to time to help. Here is a bill proposing to divide that district so as to afford additional facilities for the transaction of business that cannot be done in the one district court. Sir, if there is an occasion for an additional district court anywhere in the United States, it is in the southern district of New York; and therefore, for the first time since I have been a member of the Senate and a member of the Committee on the Judiciary, to which these bills have gone, I am found favoring the division of a judicial district; and I do it simply upon the ground that the amount of business there requires it.

The question being taken by yeas and nays, resulted—yeas 26, nays 7; as follows:

YEAS—Messrs. Anthony, Carlile, Collamer, Conness, Davis, Doolittle, Farwell, Foot, Hale, Harris, Hendricks, Howe, Johnson, McDougall, Morgan, Nye, Pomeroy, Powell, Richardson, Sprague, Stewart, Sumner, Trumbull, Willey, Wilson, and Wright—26.

NAYS—Messrs. Buckalew, Chandler, Dixon, Foster, Grimes, Ten Eyck, and Wade—7.

ABSENT—Messrs. Brown, Clark, Cowan, Harding, Harlan, Henderson, Howard, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Rumsey, Riddle, Saulsbury, Sherman, Van Winkle, and Wilkinson—17.

So the bill was passed.

On motion of Mr. HARRIS, its title was amended so as to read, "A bill to create the eastern judicial district of New York."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the amendment of the Senate to the joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and Territory of Nevada, for the purpose of a branch mint located in said place, and in the amendment to the bill (H. R. No. 364) authorizing and requiring the opening of Sixth street west.

The message also announced that the House had passed the following bills of the Senate:

A bill (S. No. 240) for the relief of George A. Schreiner;

A bill (S. No. 368) to incorporate the Sisters of Mercy in the District of Columbia;

A bill (S. No. 376) to amend an act entitled, "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864; and

A bill (S. No. 241) to amend an act entitled, "An act to incorporate the Columbian Institution for the instruction of the deaf and dumb and the blind," approved February 16, 1857.

The message also announced that the House had passed the bill (S. No. 88) regulating proceedings in criminal cases, with amendments, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills, in which the concurrence of the Senate was requested:

A bill (H. R. No. 756) supplementary to the several acts regulating pensions;

A bill (H. R. No. 774) to establish certain post roads; and,

A bill (H. R. No. 776) concerning the Potomac bridge and Center market.

#### FREEDMEN'S BUREAU.

The VICE PRESIDENT. The unfinished business of yesterday is now before the Senate, being the report of the committee of conference on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. CHANDLER. House bill No. 307 has been put aside now for about a week. I desire to get action on it to-day. The Senator from Nevada [Mr. Nye] is prepared to make a speech upon it, and has been for a week, and I hope the Senate will be courteous enough to a Senator young and inexperienced to grant him this morning to make his speech, and I appeal to Senators to put aside not only the freedmen's bill but all other measures, and let us take up this commercial bill, act upon it, and pass it to-day. I move, and I hope the Senate will sustain me in the motion, to postpone all prior orders for the purpose of taking up House bill No. 307.

Mr. SUMNER. The Senator from Michigan knows that I am for his bill.

Mr. CHANDLER. Let us have it.

Mr. SUMNER. I say "let us have it," but I ask the Senate to let us have the other bill first; let us have business according to its order. The Senate adjourned last night with the report of the conference committee under discussion; that is the unfinished business, and I hope the Senate will proceed with it to a final vote.

The motion of Mr. CHANDLER was not agreed to.

The Senate resumed the consideration of the following report of the committee of conference on House bill No. 51:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An Act to establish a Department of Freedmen and Abandoned Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established at the seat of Government of the United States a Department of Freedmen and Abandoned Lands, whose object shall be the good of the freedmen and the administration of lands and other property falling to the national Government in the rebel States not heretofore appropriated to other uses. And this Department shall be under the care of a Commissioner, who shall be appointed by the President, by and with the advice and consent of the Senate, with an annual salary of \$4,000.

SEC. 2. And be it further enacted, That the Commissioner of Freedmen and Abandoned Lands shall appoint a chief clerk, with an annual salary of \$3,000, who shall act also as disbursing officer, and who in all cases during the necessary absence of the Commissioner, or when the principal office shall become vacant, shall perform the duties of Commissioner; and also such number of clerks, not exceeding two of each class, as shall be necessary. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of \$100,000 and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with sureties to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

SEC. 3. And be it further enacted, That the Commissioner shall, under the direction of the President, create districts of freedmen and abandoned lands within the rebel States, not to exceed two in each State, so far as the same may be brought under the military power of the United States; and each district shall be under the supervision of an assistant commissioner, with an annual salary of \$2,500, under bond as required for the chief clerk, to be appointed by the President of the United States, with the advice and consent of the Senate, and with authority to appoint local superintendents and clerks, so far as the same may be needed, not, however, more than four in each district, each of whom shall have an annual compensation not exceeding \$1,500.

SEC. 4. And be it further enacted, That the Commissioner shall have the general superintendence of all freedmen throughout the several districts, and he shall watch over the execution of all laws, proclamations, and military orders of emancipation, or in any way concerning freedmen; and he shall establish regulations from time to time, and cause the same to be enforced for their useful and judicious treatment, protecting them in the enjoyment of their rights, promoting their welfare, and securing to them and their posterity the blessings of liberty. And every such freedman shall be treated in all respects as a freeman, with all proper remedies in courts of justice, and no power or control shall be exercised with regard to him except in conformity with law.

SEC. 5. And be it further enacted, That the assistant com-

missioners, under the direction of the Commissioner and within their respective districts, shall take possession of all abandoned real estate belonging to disloyal persons, and all real estate to which the United States have title, or of which the United States have possession, and not already appropriated to Government uses, and all property found on and belonging to such estate, and shall rent or lease such real estate or any portion thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree; and if the lands with the property aforesaid shall not be required for the freedmen, then they shall rent or lease the same to other persons on such terms and under such regulations as shall be mutually agreed upon, and no freedman shall be employed on any estate above mentioned otherwise than according to voluntary contract reduced to writing and certified by the assistant commissioner or local superintendent: *Provided*, That no lease, permission to occupy, or contract, shall be for a longer period than one year, and all papers required or authorized by this act shall remain valid and effectual although no revenue stamp is attached thereto. But nothing herein contained shall be construed to prevent the due execution of process against the real estate or property above named issued in due course of law from any court of competent jurisdiction; but the possession of such real estate or property by any purchaser thereof at a judicial sale shall be postponed until the termination of any outstanding contract duly made and executed under the provisions of this act.

Sec. 6. *And be it further enacted*, That the assistant commissioners and local superintendents shall, as advisory guardians, aid the freedmen in the adjustment of their wages, or in the application of their labor; that they shall take care that the freedmen do not suffer from ill-treatment or any failure of contract on the part of others; that they shall do what they can as arbitrators to reconcile and settle any differences in which freedmen may be involved with each other or with other persons; and, in case such differences are carried before any tribunal, civil or military, they shall appear as next friend of the freedmen, so far as to see that the case is fairly stated and heard. And in all such proceedings there shall be no disability or exclusion on account of color.

Sec. 7. *And be it further enacted*, That leases heretofore made by the supervising special agents of the Treasury Department, under the authority of the General Order, three hundred and thirty-one, of the Secretary of War, dated October 9, 1863, and in accordance with the regulations of the Treasury Department, shall have the same effect as if made by assistant commissioners under this act; but such lease shall not continue beyond the period of one year from its date; and immediately upon the organization of any district of freedmen and abandoned lands such agents shall cease to execute their functions within such district, and shall deliver over to the assistant commissioner thereof all property and papers held by them as agents. But all expenses necessarily incurred by such agents in any district prior to its organization under this act, shall be defrayed by the Secretary of the Treasury out of any moneys in his hands arising from the leases made by such agents.

Sec. 8. *And be it further enacted*, That the Commissioner shall apply the proceeds accruing under this act to defray the expenses of this Department, so that the same may become at an early day self-supporting; and any proceeds over and above such expenses shall be paid into the Treasury of the United States.

Sec. 9. *And be it further enacted*, That whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall so far as practicable make provision for them with humane and suitable persons, at a just compensation for their services.

Sec. 10. *And be it further enacted*, That the President of the United States is charged with furnishing the military and other support needful to carry this act into effect, and any military officer may be appointed under this act without increase of salary.

Sec. 11. *And be it further enacted*, That the Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required. And it shall be the duty of all officers, civil and military, charged with the execution of any law, proclamation, or military order of emancipation, or in any way concerning freedmen not mustered into or regularly engaged in the military service, to make return to the Commissioner of all their proceedings in execution thereof, under such regulations as shall from time to time be prescribed.

Sec. 12. *And be it further enacted*, That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony; for any act of embezzlement or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or for any other willful violation of their official duties, upon conviction thereof shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

Sec. 13. *And be it further enacted*, That the last clause of a joint resolution explanatory of "An act to suppress

Insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Sec. 14. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

THOMAS D. ELIOT,  
WILLIAM D. KELLEY,  
*Managers on the part of the House.*  
CHARLES SUMNER,  
J. M. HOWARD,  
*Managers on the part of the Senate.*

Mr. HALE. I understand that the bill reported from the committee of conference cannot be amended. I suppose I am right in that.

The PRESIDING OFFICER, (Mr. Foot.) The report must be adopted or rejected as an entirety.

Mr. HALE. As upon this occasion I shall have to separate in my vote from a great many friends with whom I have generally sympathized and have generally voted, I feel called upon to state to the Senate the reasons why I shall vote against this bill. It is with great regret that I feel obliged to oppose the bill.

Sir, in common with the other members of the Senate, I have taken an oath to support the Constitution of the United States, and as I construe that oath, I not only swore to support the Constitution, but all the amendments to it. The amendments are as much a part of the Constitution as the original body of the instrument. The fifth article of the Amendments provides that—

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

The twelfth section of the bill is as follows:

Sec. 12. *And be it further enacted*, That all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions, to be ordered by the commanding general of the military department within which they act as such assistant commissioners, local superintendents, clerks, or supervising special agents. And for all offenses amounting to a felony, for any act of embezzlement or willful misappropriation of public or private property; for any willful act of oppression of any freedman, or of any loyal inhabitant; for any act of taking or receiving, directly or indirectly, any money or thing of value on account of any act done or omitted by them in their official capacity, or for being in any manner interested in any purchase of cotton, tobacco, sugar, or any other article produced upon any lands leased or worked under the provisions of this act, or for any other willful violation of their official duties, upon conviction thereof, shall be subject to punishment by fine not exceeding \$10,000, or imprisonment at hard labor for a period not exceeding five years, or by both such fine and imprisonment.

I take it there will be no dispute that the crimes thus punished are infamous crimes, and such as the Constitution says no person shall be held to answer for unless upon a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia in actual service in time of war or public danger. Now, sir, is it pretended that these local superintendents and clerks and supervising special agents are in the land or naval forces of the United States, or in the militia in actual service in time of war or public danger? I apprehend there is no pretense that they are; and the authors of this bill have endeavored to obviate this difficulty by putting in a provision, not that they shall be in the land or naval forces of the United States, or in the militia in time of war or public danger, but that they "shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions to be ordered by the commanding general of the military department." If it is competent for Congress by an act to declare that one man shall be so far deemed to be in the military service as to be liable to trial by court-martial, it is competent to declare the same of any other individual or any other class; and if it is competent for Congress to declare that certain persons shall be deemed to be in a service that they are confessedly not in, the provision of the Constitution is not worth anything; it is entirely nugatory, null and void, of no force or effect whatever. As it presents itself to my mind, this section of the bill is as clear and palpable a contradiction and violation of the Constitution as it is possible to have expressed in the form of language. That provision, if nothing else, would forever compel me to vote against a bill containing it. There are some other provisions of the bill to which I object; some of these

objections I possibly might get over by some means or other if it were not for this, but this is insuperable.

There is another provision which I think very exceptionable. The fifth section provides that the assistant commissioners are to take possession of all abandoned real estate belonging to disloyal persons, and to rent or lease it, or any portion of it, to freedmen, or permit the same to be occupied by them, on such terms and under such regulations as the assistant commissioners and the freedmen may agree upon; and it provides further, "that if the lands, with the property aforesaid, shall not be required for the freedmen, then they shall rent or lease the same to other persons, on such terms and under such regulations as shall be mutually agreed upon." If I am rightly informed, there are large sections of this country at this moment where there are loyal citizens of the United States and their families, that have been driven from their homes, houseless, hopeless wanderers, living upon the charity of friends, and I think as well entitled to the sympathy and protection and the support of this Federal Government and the friends of the Federal Government as any other class on earth. This bill prohibits any one of these individuals from occupying or having anything to do with any of these forfeited lands and supporting themselves in that way while a single freedman wants them. You in this way tie up your hands, and forbid your officers who are appointed under this law from making the slightest provision for any suffering white persons, loyal refugees that have been driven from their homes on account of their fidelity and attachment to this Government. You forbid these officers from giving them leases or any privilege in any of the abandoned lands so long as there is left in the country any colored person who wants them; and if at any time one of your officers under this bill may feel inclined to make some provision for some loyal, suffering white person, though he may have got the contract nearly consumed by which the outcast and the refugee is to obtain a place of shelter for himself, his wife, and his little ones, if a colored man comes up and says he wants it, your officer's hands are tied and he cannot move for the benefit of the white refugee.

I confess that I do not hold to that sort of philanthropy. I think I go as far as Christianity and humanity require me to go when, in cases of this kind, I let the white and the black stand together; but I am unwilling to have placed by my vote upon the statutes of this country a provision which would actually forbid our officers from extending any relief, even the slightest, to a white refugee, provided there was a colored person who wanted it. That, to my mind, is a very serious objection.

Then, Mr. President, there is another objection, which I shall state and then close, for I do not want to occupy the time of the Senate. I recollect reading the other day—I wish I had the article before me, but I have not; we get so many newspapers that I cannot keep the run of them; this was in a pretty orthodox, anti-slavery journal, which says "Down with the 'D.'"

Mr. SUMNER. The Commonwealth.

Mr. HALE. I believe it was the Commonwealth; pretty sound authority, for I think I saw an article in that same paper which counseled the anti-slavery Senators on this floor, who had any scruples on this subject, that they might be safe in following the counsel of my distinguished friend from Massachusetts. [Laughter.] And I will follow it just as far as I can; but when he asks me to neglect my own kin and kin to legislate for the exclusive protection and benefit of colored men he goes a little further than I am willing to go.

I will say further that from what little acquaintance I have had with the anti-slavery men and women of the country, (for the women have had as much to do with this movement as the men,) with those who have struggled and toiled for so many years, their action has been based upon the idea that but for the oppression which was practiced upon the colored people they would be competent to take care of themselves, and the argument was enforced by such suggestions as these: it was said "the slaves not only take care of themselves but take care of their masters; they do all the work, cultivate the plantations, take care of



themselves and support their masters. Now let them alone; take off their legal disfranchisement and give them a chance to rise, and they will show that they are competent and able to take care of themselves." But, sir, by this system of legislation you virtually give the lie to the whole teaching of the anti-slavery men and women of this country so far as I have known anything of them for the last twenty years. You now say that the colored race are not competent to take care of themselves, that they want guardians and officers to protect them. But, sir, I would not venture to separate from my friends on that question if the bill were free from obnoxious provisions in other respects.

There is one other feature of the bill that is liable to great abuse, to which I wish to call attention. The ninth section provides that whenever the Commissioner cannot otherwise employ any of the freedmen who may come under his care, he shall as far as practicable make provision for them with humane and suitable persons at a just compensation for their services. In other words, these officers, if they see fit and cannot otherwise provide for the freedmen, may let them out on hire to their old masters from whom they have been liberated, or to anybody that they see proper; and in that way, whenever the Government comes to be administered by bad men, not so pure and disinterested and patriotic as we are; if we have to give place to other men entertaining less liberal notions than we do on this subject, what is to prevent those men under the operation of the ninth section from reducing the whole colored population back again to slavery?

Mr. CONNESS. The amendment of the Constitution will provide for that.

Mr. HALE. The amendment of the Constitution! I am glad to hear that, because gentlemen begin to understand the force of the Constitution. But what is an amendment to the Constitution worth if this bill passes? The Constitution says that these men shall not be subjected to military trial; you say "Very well, we will get around that by providing that they shall be deemed so far in the military service as to be liable to court-martial."

These are the reasons which will govern me in my vote against the bill.

Mr. LANE, of Indiana. I shall be constrained to vote against concurring in the report of the committee of conference, and my reasons have been very fully stated by the Senator from Iowa, [Mr. GRIMES,] and the Senator from New Hampshire, [Mr. HALE;] but I wish again to call the attention of the Senate to a bill which has already passed the House of Representatives upon the same subject, which I think in every respect far better than the report of the conference committee. The alternative is not between the report of the conference committee and nothing, but between the report of the conference committee and the bill which has already passed the House of Representatives, and is here upon your table. That bill was passed by the House of Representatives on Saturday last, after the report of the committee of conference was known and understood by the House of Representatives; and so unacceptable was that report of the committee of conference to the House of Representatives that after that action, by a deliberate vote, they passed that bill. Now, what are the distinguishing features between the two propositions? The bill which has passed the House simply proposes to give the Secretary of War, under the machinery of a bureau to be controlled by that Department, power to afford temporary aid and support to refugees of all classes, black and white. That is the proposition of the House of Representatives; the proposition of the committee of conference is to establish a permanent Department of freedmen, with a vast machinery, to take charge of the freedmen, not temporarily, but, so far as we know, for all time to come.

I am in favor of temporary relief and temporary support to poor colored persons and equally to the white refugees. But I have an old-fashioned way of thinking which induces me to believe that a white man is as good as a negro if he behaves himself. [Laughter.] Now, sir, the report of this committee of conference goes upon the supposition that the negro is wholly incompetent to take care of himself. The reason assigned for slavery by slave-masters for the last fifty years has been

that these people are helpless, utterly unable to take care of themselves; that they have been under the guardianship of their masters so long that you cannot trust them with their own interests. As long as you keep them under the guardianship either of their masters, or of overseers to be appointed under this bill, so long will they be helpless and unable to take care of themselves. As long as you hold them up they will never stand alone; but the very moment you make them freemen and secure their rights in the courts of justice I believe they will be fully competent to take care of themselves. This proposition of the committee of conference only proposes a change of masters, under the provisions of the ninth section. You appoint commissioners who have a right to take possession of the farms, lease them to whomsoever they please, and then they may hire out these negroes at any price they shall agree upon between themselves and the lessees of the lands. That is what I understand to be the provisions of the bill, and under such provisions, it would introduce, in my opinion, a system of fraud and swindling unheard of in the history of the world. You give these poor creatures to the kind protection of broken-down politicians and adventurers, and decayed ministers of the gospel, and make them overseers to make fortunes out of these poor creatures, and they will treat the negroes, in my opinion, under this bill, far more cruelly than their masters under the old slave system did.

I am opposed to the whole theory of a Freedman's Bureau. I would make them free under the law; I would protect them in the courts of justice; if necessary, I would give them the right of suffrage, and let loyal slaves vote their rebel masters down and reconstruct the seceded States; but I wish to have no system of guardianship and pupillage and overseership over these negroes.

If this objection were not insuperable with me, the constitutional objection to placing under the Rules and Articles of War persons who have never belonged to the naval and military service would be sufficient; and if that reason did not stand in the way, there is another reason: this bill comes here in a questionable shape. The House of Representatives passed one bill upon the subject of freedmen, the Senate passed another; they differed in their provisions; and the committee of conference instead of, under parliamentary law, taking into consideration the disagreeing votes of the two Houses, over which alone they had any jurisdiction, come in and report a substitute essentially different from either the provisions of the House bill or the Senate bill. In my opinion they had no earthly power to do so. Is not the whole character of the bill changed? The bill as it passed the Senate provided simply for a Bureau of Freedmen; this provides for all the machinery of a great national Department of the Government, looking to no temporary duration or consequences, but a permanent system by which four million freed Africans are to be billeted upon the Treasury for all time to come. We make them free upon the theory that they deserve freedom, that they can take care of themselves. If I had believed these four million people were as helpless and as unable to take care of themselves as the Senator from Massachusetts seems to believe by his proposition, I should have cared little about their emancipation from one master to place them in the hands of another task-master under the forms of law.

The provision as it passed the House of Representatives is ample and sufficient to protect the rights of these Africans.

There is another omission in this report which would induce me to vote against it if every other objection were removed; and that is, that it makes no provision for white refugees; it makes no provision for the fifteen or twenty thousand Africans in the District of Columbia. This District, first born to freedom under the grand revolution made necessary by the progress of the rebellion, contains fifteen or twenty thousand suffering Africans here. This bill makes not the slightest allusion to them. There are more than half a million white refugees who have been driven from their homes in the South for no crime except that they loved their country, were true to their oath of allegiance, and remembered the grand historic traditions that cluster around the old flag. They are beggars, dependents, houseless and homeless wanderers, and your committee of conference makes no provision for them.

I cannot vote for this measure in any shape; and no man will doubt my anti-slavery record who knows me. I commenced more than twenty-eight years ago. The first speech I ever made in the Indiana Legislature was against the annexation of Texas and the extension of slavery. I have been true from that hour to this. I left Kentucky, my native home, the loveliest land that the sun ever shone upon, simply because I wished to live among a people who had free institutions. My grandfather and father before me were anti-slavery emancipationists in the State of Kentucky. Nor will any man at home either misunderstand or misrepresent my position; but whether they shall or not is matter of sovereign indifference to me. I stand here to discharge my convictions of duty according to my own conscience. If I stand alone, I shall vote against this most mischievous proposition.

Mr. CONNESS. Mr. President, I do not understand the force of the argument presented by the honorable Senator who has just closed his remarks, when he objects to the report of the committee of conference because it proposes to take charge of slaves made free, and because in that it violates the position generally held heretofore by himself and his coadjutors on this subject, that the slaves were able to take care of themselves, while at the same time he proposes to support a proposition which not only proposes to take care of them, but to take care of white refugees also. It appears to me that if the negroes just discharged from a state of servitude are capable of taking care of themselves, there is scarcely a necessity for organizing a bureau or for charging a Department of this Government with taking charge and care of half a million white refugees. I do not know what the House proposition is, but I should hesitate to vote for any proposition that proposed to give organized subsistence to half a million whites, for I am very much inclined to believe that both white and black persons in this country who are in good health and of certain ages are abundantly able to take care of themselves. While that proposition may be true, it is also true, I apprehend, that in the sudden change from slavery to freedom there must be a great many black people who require assistance from us; and differing with the Senator last up, I will vote for the report of the committee of conference because it is the only proposition, I believe, that we can get, the best that we can get; but that failing, if the House bill comes here and is made acceptable to my mind, I will then vote for that. I confess that I do not understand the force of the reasoning.

Mr. GRIMES. The House proposition is here; I have it before me precisely as it was passed by the other House and as it now stands before the Senate; and, with the Senator's permission, I will send it to the Secretary to be read.

Mr. CONNESS. I have no objection.

Mr. SUMNER. It has been already read three times in this debate.

Mr. GRIMES. Not at all. I read it last night as it was first printed, not as it was passed by the House of Representatives.

Mr. SUMNER. The Senator who spoke a moment ago read it.

Mr. LANE, of Indiana. I did not read it. I referred to it.

Mr. CONNESS. There can be no objection to the rereading of the proposition.

The PRESIDING OFFICER. It will be read as a part of the remarks of the Senator from California.

The Secretary read the bill (H. R. No. 698) to establish in the War Department a Bureau for the Relief of Freedmen and Refugees, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a bureau be established in the War Department, to continue during the present rebellion, to which shall be committed the supervision, management, and control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the Department and approved by the President. The said bureau shall have one chief, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be deemed necessary by the chief of the bureau, and approved by the Secretary of War, not exceeding two of the fourth class, two of the third class, three of the second class, and five of the first class.

SEC. 2. And be it further enacted, That the President may

assign to such bureau, for the benefit of said refugees and freedmen, the temporary use of such abandoned lands and tenements in insurrectionary States, not belonging to loyal owners, as may be necessary, and may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

SEC. 3. *And be it further enacted*, That all laws and parts of laws conflicting herewith are hereby repealed.

Mr. CONNESS. It seems to me that that proposition is obnoxious to the general argument presented by Senators who have spoken upon the question now pending in the Senate, namely, that it does propose to exercise governmental care, jurisdiction, and control over blacks, and over whites in addition. It appears to me that it is clearly obnoxious to the strongest argument which has been presented in this body against the report of the conference committee.

There is one other objection to the proposition just read that occurs to my mind; I will not discuss it, but barely state it. According to that proposition you commit both the blacks and the refugee whites to the care of the War Department. How long? Until the termination of the rebellion. When is the termination of the rebellion to be? When the President of the United States shall declare that by proclamation. We all expect that to occur now, happily, very soon; I trust that it will, but can Senators not see that if it should occur to-morrow, after this entire scheme is put into operation, it will fall with the proclamation of the President; and the control of the War Department over the blacks who have been taken charge of by the Department, and the white refugees to whom possessions have been assigned upon lands that have been abandoned by rebels, will cease; the whole scheme will fall the instant the proclamation of the President announces to the country that the rebellion is at an end. I am not willing by congressional action to put a great scheme in operation that may be terminated thus at any hour without caring what the consequences of that sudden termination may be. I suppose that nothing could be more disastrous to both the whites and the blacks that might thus be taken charge of by the Government than such a sudden termination of governmental control over them. But I am not prepared to say at this time that I could vote for the establishment of a system by any Department of this Government by which half a million whites or any other number of whites should be taken charge and control of by the Government of the United States; I do not believe that is necessary. Our Government, I think, has never failed to relieve the wants of loyal whites, refugees from the southern States; rations have been given to them under the orders of the War Department, as I understand, over and over again. I doubt very much whether, since this war began, a suffering white has been refused support by the Government, where those sufferings have been made known to the Government. But I do not intend to discuss the question; I am anxious for a vote. I really cannot see the advantage of the new proposition over the one before us, and it is doubtful whether I could vote for it from the slight consideration that my mind has been able to give it on having heard it read.

Mr. DAVIS. Mr. President, the measure that is under debate is not practical for the present year. At this very time in the cotton-growing regions, where they have had peace and the command of labor, the process of planting cotton is in full operation. Cotton is planted prior to the planting of corn in the cotton States, and it is planted usually in the latter days of February and in the first days of March, and in the course of the month of March both the cotton and the corn crops are planted in the southern States.

This is an important subject. There is great diversity of counsel among the members of the Senate and House of Representatives as to its best disposition. Why then hasten it by the adoption of a crude and imperfect measure that cannot be practically put into operation during this year? There is some sort of system now in operation in relation to the freedmen and abandoned lands in the South. That system necessarily has to continue for the present year. It is too late to inaugurate a totally new system and to give it a practical operation, because the time for plowing and planting cotton crops has already arrived, and it is the midst of the business of cot-

ton planting. I think, therefore, that this measure ought to be dropped for the present, and that more mature and intelligent counsels should prevail for the purpose of disposing of this difficult and intricate subject.

But, Mr. President, I have serious and insuperable objections to the measure under consideration. We have all learned, in some form or other, the corrupting influence of cotton. There is not a man from the North who has gone to the South whose position and authority have enabled him to trade in cotton, that has not fallen under the temptations that were offered to him, and become a corrupt trader in that great staple. If the subject of cotton corruption among the civil and military employes of the United States Army could be thoroughly investigated and distinctly presented to the people of the United States, it would disclose a mass of venality and corruption that would shock what little of conscience is left to the nation in this hour of war. The measure under consideration is but a legal device for giving greater effect and efficacy to a system of corruption in relation to the management of cotton fields and the direction of the negro freedmen's labor necessary for carrying into effect the operation of cultivating the cotton fields.

The Senator from Indiana [Mr. LANE] stated it truly that this is but a proposition to change one system of slavery for another; or in other words, upon the ruins of that system of slavery which you have overthrown, if indeed you have overthrown it, this proposition is nothing more nor less than to build up another system of slavery, temporary in its character, but which will hold to more rigorous and cruel service the freedman than he was subject to under the old system of slavery. Sir, what does it propose to do? It proposes that an independent Department for freedmen and for abandoned lands shall be established and become one of the great Departments of our Government. It authorizes the head of that Department to divide each rebel State into not exceeding two districts. It appoints a Commissioner with a salary of \$4,000 to manage the Department, and it authorizes him to appoint in each district an assistant commissioner, two superintendents and clerks, and all the machinery of a great Government Department. It creates necessarily a considerable, I may say a vast, governmental machinery, which will be expensive, and which will draw for its support largely upon the Treasury of the United States. There is a delusive intimation in the proposition that it is to be made self-supporting; but any man who is acquainted with the South, with free negroes, and with the general subject of the bill, knows that for years and years at least this system never can be worked so as to become self-supporting. It must be billeted upon the Treasury for the payment of most of its expenses, and it will draw largely upon the Treasury for its support.

But the particular objection I have to it is, in the first place, that every assistant commissioner and every superintendent of freedmen and of abandoned lands in all the districts will be a secret partner of every man to whom he lets these lands upon lease and to whom he assigns any portion of the freedmen for their cultivation. That will be the inevitable result of the system. It will run into that abuse, and no guards or provisions which can be thrown around the system by legislation will ever prevent it from degenerating into that abuse. Here, then, will be from twenty-two to twenty-five assistant commissioners and from fifty to sixty local superintendents, with their retinue of clerks and other officers, who are by this bill required to be sustained by the military power of the United States. That will give them energy and give them strength by which all of their schemes and all of the policy which they will bring into this new freedmen's Department shall be rigorously executed at the point of the bayonet.

Mr. President, what will be the consequences? There are gentlemen in the Senate who have visited southern plantations. They know that the negro cabins are built in villages around the mansion. They are not scattered widely over the broad cotton fields. They are huddled together in the form of villages around the mansion of the owner, and the slaves who have been in the habit of laboring in the fields come there at night for rest and depart in the morning to their labor.

This measure proposes that lands to the quantity of fifty acres shall be let by the Commissioner and the assistant commissioners to the freedmen. Where will a freedman find a house in which to shelter himself and his family upon fifty acres of a vast cotton estate? There are no such houses except in these villages that are built up by the owner of the estate around his mansion. They are not distributed and located so as to be let in tenements of fifty acres. In addition to that, where will the freedman get the capital to buy his horse or his oxen and his plow and other agricultural implements to put his crop of cotton or corn in the ground? All these require capital—capital far beyond the ability of the freedman to command—and renders the scheme impracticable so far as it professes to be for the benefit of the freedman.

The inevitable result will be that the freedman will lease no land. He will not be able to lease and to cultivate land. He will not be able to purchase equipments of horses and agricultural implements that will be necessary for its cultivation. Then he must fall into general line and become simply a laborer, to be hired by the assistant commissioners or by the superintendents, and to be hired to some man with whom they are secretly in partnership, with whom they are to share the profits and the produce of the freedman's labor from these abandoned lands.

It is true the bill provides that only such lands as belong to disloyal persons shall be appropriated to that purpose; but these voracious men, interested in having a monopoly of the cultivation of cotton, being clothed with military power and with *prima facie* authority to gather together in their several districts all the freedmen, to hire them to whom they please, and at such wages as they may choose, will always take care to hire them to their secret partners. They will do that for the purpose of enriching themselves as well as these partners.

Well, sir, what then will take place? In the language of the honorable Senator from Indiana, it will be but changing the form of slavery. There will be the name of freedman attached to the negro, but he will be subject to be taken by the assistant commissioners and the superintendents to be hired out; and if there is any obstacle in the way of the performance of this duty they are to be backed by the military power of the United States. These assistant commissioners and superintendents are authorized by the law to invoke that power; and if there is any interference by the courts or by the military power in the neighborhood these officers are authorized by the bill to supervise the action of the courts, if there should be any courts, and even the military officers who are in command of the particular section of the country are liable to be overruled, to be controlled, to be directed in their notions of right, and justice, and policy, toward the freedmen by the assistant commissioners and superintendents, by these partners with every lessee to whom they will grant lands for cultivation. The consequence will be that a few favorites and secret partners of these Government officials, corrupted by cotton, will obtain leases of all the cotton lands in large bodies.

These assistant commissioners and superintendents are invested by the bill with power to hire out the freedmen to whom they will, and at whatever price they may agree upon. I have intimated that they will be partners in the culture of these cotton fields, and no human ingenuity or arrangement can prevent it. When their business will be to hire the freedmen to cultivate the cotton fields the profits of the culture of which they are to share, is it not inevitable that there will be vast abuse in the discharge of the duty of hiring the freedmen by these officials? They will gather them together, they will present this law to the freedmen, they will show that the law itself authorizes them to command the freedmen to assemble upon any plantation that they may designate, to go into the service of any lessee they may name, at any wages they may agree upon, and the freedman, awed and intimidated by the law, becomes submissive, and entirely obedient to the mandate of the commissioners and superintendents. He becomes as tractable, ay, more tractable and obedient than he ever was to his former master or overseer, because here is the power that has given to him the name of freed-

man sending its official agents into the region of country where he lives, exhibiting the law which authorizes those agents to assemble and to command the attendance and the rendezvous of the freedmen at any place they may designate, and provides that the freedmen shall labor according to their mandate at such prices as they may agree upon. The consequence will be inevitably that the negro will labor for the white man, will labor for the lessee in connection and as a secret partner of the superintendents and of the assistant commissioners. The whole scheme will become a system of corruption, of plunder, of fraud and oppression upon the freedmen to enrich the white adventurer who goes into the business of discharging the duties of commissioners and superintendents.

Sir, you need not tell me that men will not yield to such a temptation and fall beneath it. How many Army officers, how many civilians of high character have been corrupted utterly by the power of king cotton during this war, even at the risk of exposition and punishment by military tribunals? Here, when the whole operation is undertaken and put into execution by authority of law, with a machinery created by law, with power conferred upon the commissioners and superintendents, and that power to be sustained and to be made efficacious by authorizing them to invoke all the military power in the neighborhood to make their authority efficient, and to cause it to be respected, that the whole system shall become utterly oppressive and corrupt is inevitable.

Sir, I know something about the negro, and the free negro. My honorable friend from Indiana does also; and I tell the Senate that it is much better and safer for the free negro that he shall be left to his own instincts and to his own resources than that he shall be put under any such guardianship as is created by this bill. He will take infinitely better care of himself than these organized guardians by Congress will take care of him. He will protect much more successfully and efficiently his own interests and he will reap a much larger amount of the produce of his own labor if left to his own wits, his own instincts, and his own knowledge of men, than if put under any such guardianship as this.

Now, sir, I will say a word upon the twelfth section, which was read by the Senator from New Hampshire, [Mr. HALE.] I cannot conceive how any Senator can vote for this bill in the face of that objection. I cannot conceive how any Senator can read the fifth amendment to the Constitution and vote for this bill. That amendment provides that no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia in actual service in time of war or public danger. What is an infamous crime? I have here legal definitions of that phrase, but I will not read them. They all establish the position that the infamy of a crime depends not upon the punishment, but upon the character of the act that is made a crime; that wherever a man does an act that is made criminal by law and that act is of a base character, wherever it brings moral turpitude and degradation upon the man who commits the act, whatever that act may be, it is an infamous crime. The provision of the Constitution is that men who are charged with an infamous crime, unless they belong to the naval or military forces, shall not be held subject to trial and punishment by court-martial, but that they shall be tried only upon the presentment or indictment of a grand jury in civil courts and by the civil law.

This measure seeks to obviate the conclusive force of the fifth amendment of the Constitution by declaring that for purposes of punishment by courts-martial all assistant commissioners, local superintendents, and clerks, as well as supervising special agents, shall be held to be a part of the military or naval forces of the United States. Is it competent for Congress to pass such a law? The Constitution here does not speak of names, it speaks of things. It does not speak of denominations; it speaks of substances. The language used is more restricted than the term "service." It says in plain language that no man shall be subject to military trial unless he be in the land or naval forces, or in the militia in the actual service of the United States. What does the phrase

"land or naval forces" mean? It means nothing more nor less than soldiers, men armed and equipped for war upon land or upon water; and because Congress chooses to declare that for the purposes of trial and punishment men who do not belong to the military or naval forces, men who are not soldiers, men who are not connected with the operations of war either upon land or upon sea shall be considered as a part of the forces for the purpose of trial simply, it does not make them so, it does not give them the character of forces, it does not attach them to the Army or Navy of the United States. They are no part of a body of men armed and equipped for war. They are still civilians. The term used in the Constitution and its significance is to be understood and used by Congress in the sense in which it was understood by those who introduced it into the Constitution. The meaning and the effect which the framers of this amendment to the Constitution and the Legislatures or conventions of the States that adopted it intended that the term "forces" should have, is to guide, control, and restrict the action of Congress. Congress cannot legitimately transcend the meaning and import of the term "forces" in the sense in which it was used by those who added this amendment as a part of the Constitution without a violation of that instrument.

Sir, as well might Congress undertake to declare to be a part of the military forces the gentlemen who wear shad-belly coats, and who call themselves friends of peace, and who preach peace upon earth and good will to men, and whose corner-stone, under George Fox and William Penn, was never to combat in war, but if they were stricken upon one cheek to turn the other. This vast body of men have become fierce advocates for war, have abandoned the principle upon which their sect was built up, and are now urging on the dogs of war with vehemence and energy. Could the Congress of the United States make an addition to this law, or introduce a passage in any other law, that these gentlemen, this body of men, having forgotten their principles and professions of peace, now stimulating the nation in bad passions to blood and to war, should constitute a part of the forces of the United States? It would be just as competent for Congress to pass a bill making them a part of the forces of the United States as to make the class of civilians named in this bill, though connected in employment with the Army of the United States, a part of its forces.

So you might take the strong-minded women of the North, they who seem to be the issue of the furies in their madness for blood and devastation and misery and war, and Congress might as well say that these modern furies should be considered a part of the military forces of the United States; and there would be quite as much logic, truth, and philosophy in declaring them to be a part of the forces of the United States as in declaring that these civilians, non-combatants, men who never bear arms, who are not soldiers, whose profession is not that of arms, who enter into no bloody fields, who shed no blood, shall be so considered.

Sir, there is no such absurdity and no such evanescence in the principles of the Constitution of the United States. The principles of this instrument are permanent; they are to be sought in the sense in which those who framed it understood its language. It is the duty of Congress and of the courts to look out and to study this language from the stand-point and circumstances in which they who framed and adopted the Constitution stood at that day, and to give to it precisely the same interpretation and sense which those framers intended it should have. When you adopt that rule of interpretation, the position that Congress by its legislation can make a non-combatant, a man bearing no arms, taking no part in battle or war, except simply to furnish the Army with some necessary supply, a part of the naval or military forces of the United States, is supremely absurd and untrue.

Sir, this great principle lies in the fifth amendment of the Constitution; it is a part of our Constitution, it is a part of the liberties of the people of the United States, that no civilian, no man who does not belong to the troops of the United States in the Army or the Navy, shall ever be held subject to be tried and punished by a court-martial. Our ancestry intended to establish that upon a

rock as one of the corner-stones of our Government, one of its principles in its lowest foundation, that no civilian should ever be brought before a mere military court and tried by officers holding their commissions at the will of their superior, not by law but by the overthrow of all law and by the mere arbitrary will of that court or of the higher officer who supervises its judgment. Sir, the importance of that principle of constitutional liberty no man can appreciate. Next to the trial by jury—and it is a necessary adjunct and aid to that important principle—there is none of greater and more enduring importance to the people of the United States. This bill, delusive in its form, deceptive in its purpose, seeks to introduce civilians to the jurisdiction and judgments of courts-martial, drum-head courts. I say they have a right to be tried upon the indictment and presentment of a grand jury, upon a charge of crime, the crime already beforehand declared by law, and to have a speedy and public trial in a court of justice, the witnesses against them being confronted by them, they entitled to process to compel the attendance of witnesses in their behalf, and to have the benefit of counsel, and then to be tried by a jury of their peers. All these guards are bulwarks of liberty the bill proposes to throw down, to strike low into the dust, and in lieu of this charter of liberty guarantied by the Constitution to every citizen, to make him subject to a court-martial and to the arbitrary, illimitable, irrational, corrupt will, if you please, of that court, or of its supervising superior officer.

If such a proposition as that had been introduced into Congress under the Administration of Mr. Buchanan there would be no man more vehement and more earnest in his denunciation of it and its monstrous injustice and tyranny, and its utter incompatibility with this fundamental provision of the Constitution, than the honorable Senator from Massachusetts. That honorable Senator seems to have a strange hallucination. He is a man of ability, of learning, and of attainments; but when he has a favorite measure or proposition that he wishes to carry, I never met with a mind that yields more readily all obstacles, whether considerations of justice or of constitutional law, that stand in the way of his success. He marches over them, I think, with the fury and strength of a blind Samson; and whatever promises to him immediate triumph and success, although in its essence, in its nature, in its relations to the interests of society, to the liberties and welfare of the present and the future ages, it is of infinitely less importance than that which he would sacrifice to its success, to me it seems, although I may be deceived, that the honorable Senator is always willing and makes haste to make the sacrifice.

Sir, I cannot doubt that if the condition and relations of parties were changed, if the Democratic party was now in power and was wielding the vast forces of this Government, and was endeavoring to enforce upon the Republican party out of power the identical principles and measures which the latter has been so swift to impose upon the whole country, the Black Republican party would rise as one man, with one heart, and with indomitable energy, and oppose all this policy and these measures which they are now seeking to fasten upon the country, and which have overthrown the liberties and the Constitution of the country for the time. The only question with me is whether the overthrow is not permanent and final; but I hope not.

I trust, Mr. President, that this measure, which I think is so wrong in its policy, that will be so injurious in its effects to the freedmen, and that contains a vital stab at one of the most important principles of the Constitution, will now fail, and fail forever.

Mr. MORRILL. Mr. President, it was not my purpose to say a word upon this measure, and I have taken it for granted that I should concur in the report of the committee, as I am very much in the habit of following the reports of the committees unless I have distinct impressions to the contrary.

A great deal of this debate, it seems to me, has sprung up on notions which certainly must be antecedent, I think, to this measure or to any consideration of this measure. I hear it said here that we should do nothing with the freedman; let him alone; take your feet from off his



neck and he will take care of himself; give him a fair chance, a fair opportunity for life, and he can live. I sympathize very thoroughly with that idea myself; but I hear it here upon the floor of the Senate from a quarter from which I have been accustomed to hear very different sentiments. I hear it now from a quarter from which I have heard it said that he was not fit for freedom; that his only condition was that of servitude; that he must have a master and he must be a slave.

Now, sir, of one great fact we must take notice as legislators, and that is, that by the circumstances and the conditions of this war, by the action of the Administration, the executive and the legislative departments of the Government, the slaves of this country are or are soon to be free. Another great fact is that they are unprovided for. They come upon the surface of society unprotected, uncared for, unprovided for. Are they to exist in this unorganized, unprovided condition, or is the Government which is responsible for it, the Government which has freed them, to step in and take the direction and care of these freedmen?

Mr. President, I do not consider that is an open question. We are committed, according to my understanding of the case, to some provident care and supervision over this helpless, dependent class of persons. We have already upon the statute-book laws covering this whole case, and if you will turn to the rules and regulations of the Secretary of the Treasury you will find provision for these freedmen almost identical in its character and in its provisions with that contemplated by this bill. Let us see what is the law, what is the policy of the Government to-day in regard to these freedmen. First, we have declared by statute, and the Secretary of the Treasury has undertaken to carry it out by regulations prescribed by him with the approbation of the President of the United States, that it shall be the duty of the Government to appropriate the abandoned and confiscable lands in the rebel States chiefly for the purpose of employing the freedmen. We are therefore committed to that policy. We intend to appropriate the abandoned lands and the lands which under the laws of Congress are being confiscated, to the support and maintenance of this class of persons, and according to the rules and regulations of the Treasury means have been taken to produce that result.

In the next place you will see that by the rules and regulations made by the Treasury, agents are to be appointed precisely as in this bill, only under another name, "to take possession of abandoned lands, tenements," &c.; and then there is a provision for leasing the lands; then the terms and stipulations of the leases are given. All this is set forth in the document before me; so that I maintain it is the settled policy of the Government, by the laws of Congress, that these lands are to be appropriated to this end, the employment and support of this great class of persons thus thrown upon society.

What is the next proposition? It is what care and supervision shall we have over the persons of these freedmen? I hear it said here, "none at all; none whatever; allow them to find their own places." In the infinite disorder that now reigns in those States, the military disorder and anarchy that now reigns, and that is likely to reign until order is restored and the Federal authority is set up and becomes supreme in those States, there is no personal security and there is no personal protection for the rights of these men; and the question is whether we will allow them to be the prey of that disorder, or whether the Government of the United States will interpose its authority in their behalf, mediate between them and their former masters, and provide in some way that they shall have employment, that they shall have support, that they shall have protection.

The existing law of Congress contemplates that; and in accordance with that law I find that the Secretary of the Treasury has made rules and regulations, has already a department in the insurrectionary States providing for "the employment and general welfare of all persons within the lines of national military occupation within insurrectionary States, formerly held as slaves, who are or shall become free." He goes on to specify what shall be done. In the first place there are agents to carry out these regulations. In the second place they are to establish freedmen's

homes, colonies for the freedmen. Then there is to be a superintendent of freedmen, and his duties are specified. What are they? To give employment, food, shelter, and protection to the freedmen. Then there is a classification of freedmen and their wages; the wages of men, women, and children are classified, and it is his business to see that they are employed and paid these wages. The fifth article of these regulations is in regard to "employment to be provided for freedmen of proper age; applications for laborers to be received and recorded; written agreements to be made between employers and employes, and their conditions," and so on to the end of the regulations.

Now, Mr. President, I argue that two things are settled by the laws of Congress and by the regulations of the Treasury Department authorized under them and approved by the President, in conjunction with the rules and regulations from the Secretary of War. First, it is the law and the policy of the Administration of the Government that the lands which were abandoned and are confiscable shall be appropriated to the end of giving employment and support to the freedmen. In the second place, we are committed to the policy that it is the duty of the Government in some way to intervene with its authority, its protecting care over these persons.

So I submit that the large portion of the argument we have heard here on this subject is entirely outside of anything that is really proposed, because there is no proposition to repeal the laws or the regulations to which I have referred, and the only possible question to be addressed to the Congress of the United States to-day is, whether the provisions that have been made are ample, whether they are sufficient. We have intended by these rules and regulations of the Secretary of the Treasury and the Secretary of War to accomplish all that the committee reporting this bill propose to accomplish. And since I have been here this morning I have been endeavoring to analyze this bill as reported from the committee; and in its objects, what it proposes, what it contemplates, and the methods to be pursued, it is almost identical. First, you will see that in the first section it declares that it shall be the duty of this Department to take possession of abandoned and confiscable lands; second, that it shall be their duty to take the direction of the freedmen, the care and supervision of the freedmen. Then you see in the object and in the purpose, and almost in method, they are identical. So to the end; and the only distinction which I can really see is this: as the law now stands the duty is to be performed by the Secretary of the Treasury, or under his direction and supervision aided by the Secretary of War, while by the measure proposed by the committee it is to be transferred to a distinct Department of the Government. One perhaps is a little more extended in its details, one perhaps is a little more permanent in its organization. I am not disposed to doubt that this bill having had the consideration of the committee, it is in its details somewhat more perfect and more elaborate than the one we already have. What I mean to say, and all I desire to say, upon the subject is that in the objects and purposes there is no difference between the law as it now stands and the law as it will be if the bill now proposed by this committee be passed. The only question which I see is whether really there is any necessity for this legislation. Upon that question, I have been, by the discussion and some examination of the subject, led somewhat to doubt; but as I said in opening my remarks, I had supposed as a matter of course that I should give my adhesion to this bill. I am not sure that in doing so I shall improve the matter.

Mr. SUMNER. Mr. President, I hesitate to add one word to this protracted debate, and in what I shall say I trust to be brief, and to speak directly to the point.

The Senator who has just taken his seat doubted whether the question could be considered at this moment as practical, whether, in short, there was a practical necessity for this measure. Sir, I have in my hand a letter which I have received this very morning from an officer, well known throughout the Northwest, of the Northwestern Freedmen's Aid Commission, dated at Chicago, February 18, 1865, and addressed to myself, as follows:

"I am distressed to see the Department bill hanging in the Senate. You can hardly overestimate our daily and

hourly need of a new administration. Pardon me if I beg you to press it to a safe conclusion."

Now, sir, I believe that these earnest words are the voice of all throughout this country, from the Atlantic coast to the distant Northwest, who from the beginning of this war have interested themselves in the fortunes of the freedmen. Could their voice penetrate this Chamber they would say, with this writer, Press this bill to a conclusion. I wish I had the ability to do it. I wish I were able to impress upon the Senate the importance of this question, as it presents itself to my mind. But I say nothing further on that head; I pass at once to the objections which have been made.

The Senator from New Hampshire [Mr. HALE] has reproduced to-day an objection which was made last evening, and which has been made more than once in this discussion. He objects to the twelfth section, providing that certain officers engaged in this service shall be so far deemed to be in the military service of the United States as to be liable to trial by court-martial or military commission. Why, sir, that clause came from the Senator from Wisconsin, [Mr. DOOLITTLE.] It was introduced into the original bill, on his motion, without a division of the Senate. At the time that he presented it there was but one general accord that, under the circumstances, it was a proper provision.

Mr. DOOLITTLE. The Senator from Massachusetts will recollect that at that time, while the question was pending in the Senate, it was believed, at all events by many persons in the Senate, and I among the number, that this bureau if established was to be a bureau of the War Department, and under the control of the War Department; and as it was necessarily mixed up with the affairs under the control of the military commanders of those districts, I felt that it was perfectly proper to secure against the frauds which might arise through the instrumentality of these special agents and commissioners, by providing that they be put under military control, and subject to trial by court-martial.

Mr. SUMNER. The Senator is mistaken. At the time he introduced his proposition the vote had been taken more than once by which the Senate had decided that this bureau should not be in the War Department, but should be in the Treasury. It was already the declared will of the Senate that the bureau, if constituted as a bureau, should be in the Treasury Department, and not in the War Department; and it was after those votes of the Senate that the Senator from Wisconsin introduced into the bill the proposition that has been assailed by the Senator from New Hampshire. The proposition cannot be changed in character even by the suggestion of the Senator from Wisconsin. It is just as effective, just as regular, and just as constitutional if the bureau be in the Treasury Department as if in the War Department. There can be no difference between the two cases.

Mr. DOOLITTLE. I do not take issue with the Senator in what he now says, that it would be just as constitutional if the bureau was in the Treasury Department as in the War Department, provided the scope of the bureau was to be confined to operations within the military districts where we have commanders actually in the field exercising their military powers.

Mr. SUMNER. The bill that is now before us is substantially the bill into which the Senator from Wisconsin introduced the provision in question. The bill has not been varied in any essential particular, except so far as it has established a Department by itself, instead of a bureau in another Department; and I say, therefore, that the proposition that has been assailed is now just as defensible as it was when originally introduced by the Senator from Wisconsin. Let me say that when introduced by that Senator I did not oppose it, for the simple reason that I was willing to do all in my power to surround these freedmen, for whose good I was laboring, with all possible protection, and to that end I was willing to go to the full extent of the precedents in the legislation of the country, even to the extent of bringing military power to bear swiftly against these officers, in the event of any crimes, or peculations, or frauds on their part. I say I was willing to bring the powers of the Government according to the precedents of our legislation to bear against them.

You do not forget an authoritative precedent. I have before me the statute of 1862, July 17, providing the punishment of contractors found guilty of fraud. In that statute it is provided (section nine) that—

"Any person who shall contract to furnish supplies of any kind or description for the Army or Navy shall be deemed and taken as a part of the land or naval forces of the United States for which he shall contract to furnish said supplies, and be subject to the rules and regulations for the government of the land and naval forces of the United States."

I take it when the Senator from Wisconsin introduced this provision into the original bill he had before him that precedent; he has followed its language, and if the provision which is now assailed is justly assailable, then is this earlier provision equally assailable. I submit, therefore, that the arguments which have been made against this provision must fall to the ground unless you are ready to declare that the earlier provision under which the Government is now acting is wrong.

Mr. DAVIS. Will the honorable Senator from Massachusetts remember that I opposed that section in the bill at the time on the very ground now taken?

Mr. SUMNER. I believe the Senator is right. I have no special recollection of it, but I know that he generally has opposed all that class of propositions.

Now, sir, what was the vote of the Senate when this question came up for a final vote? The Senator from Wisconsin had already introduced his proposition; it was in the bill; and the question was on the passage of the bill with that identical provision in it. I have before me the yeas and nays, which I shall read from the Journal of the Senate under date of June 29, 1864.

"Those who voted in the affirmative are—  
Messrs. Anthony, Chandler, Clark, Connors, Doolittle, Foot, Foster, Harlan, Howe, Lane of Indiana, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, and Wilson.  
"Those who voted in the negative are—  
Messrs. Buckalew, Carlile, Cowan, Davis, Hendricks, McDougall, Powell, Riddle, and Wiley."

That is the record. Now, when your committee of conference, following that record, have simply reported this measure back to the Senate, it is assailed as few measures ever before have been assailed, and all arguments, constitutional, political, personal, have been brought into debate. Is this just? Is it according to the usage of the Senate? I submit that the conference committee had no alternative. It was their duty to represent the Senate in its recorded votes, and there was that recorded vote of 21 yeas to 9 nays. In all simplicity, the conference committee have so acted. For one, I did not feel myself at liberty at that time to open a discussion which seemed to have been foreclosed by a vote of the Senate, and I acted accordingly. I believe that I followed the usages of this body, and also the dictates of sound sense.

But then, sir, comes another objection. It is to the fifth section, where it is provided that the Commissioner shall rent or lease such real estate or any portion thereof to freedmen, or permit the same to be cultivated, used, or occupied by them on such terms and under such regulations as the assistant commissioner and such freedmen may agree; and if the lands or other property aforesaid shall not be required for the freedmen, then they shall rent or lease the same to other persons on such terms and under such regulations as shall be mutually agreed upon. Senators rise here, and catching a tone from the worst days of the olden time, when slavery filled this Chamber with its voice, say that they wish to do something for whites as well as for blacks, and therefore, forsooth, they cannot vote for this proposition! And what is this proposition? It is simply to authorize the Commissioner to lease—nothing more—abandoned plantations for one year to freedmen, and if he cannot make terms with the freedmen, then he is to find such other persons as he can, and Senators here, with the old slavery cry, say that they wish to do something for the whites. I have already asked, on another occasion, whose sweat is it that has fertilized these lands? Whose rights lie at the very foundation of the war in which we are now engaged? Whose rights have for generations been assailed? It is fit that the freedmen should enjoy the first-fruits of returning justice, and they need them. They need

precisely this very provision for protection against speculators from abroad, who otherwise would monopolize these very lands; and they need them also for the protection against their white neighbors, who have not yet recovered from the virus of slavery.

Some of you have heard of a patriot general who fell not far from here, on the way to Richmond last spring—I mean General James S. Wadsworth, of New York. Shortly before he entered into that last conflict where he lay down to sleep forever, he visited Louisiana, and there on the spot he made himself acquainted with the condition of the freedmen and their necessities; and now listen to what he wrote:

"There is one thing that must be taken into account, and that is, that there will exist a very strong disposition among the masters to control these people and keep them as a subordinate and subjected class. Undoubtedly they intend to do that. I think the tendency to establish a system of serfdom is the great danger to be guarded against. I talked with a planter in the La Fourche district, near Tibadouville; he said he was not in favor of secession; he avowed his hope and expectation that slavery would be restored there in some form. I said, 'If we went away and left these people now do you suppose you could reduce them again to slavery?' He laughed to scorn the idea that they could not. 'What,' said I, 'these men who have had arms in their hands?' 'Yes,' he said; 'we should take the arms away from them, of course.'"

Such was the testimony of this gallant general and patriot observer, who now from his tomb invokes the intervention of Congress for the protection of these freedmen. I might accumulate testimony without end in the same direction illustrating the necessity of some such provision. Here is Colonel Hanks, who expresses himself as follows:

"If civil government be established here and military rule withdrawn, there is the greatest danger that the negro would become subject to some form of serfdom."

Then again there is similar testimony—

Mr. CARLILE. Will the Senator allow me to ask him a question at this point? I am not sure, but my impression is that this bill calculates that the superintendents of these freedmen are to be white persons. Am I correct in that?

Mr. SUMNER. There is no distinction of color. Nothing is said about it.

Mr. CARLILE. If that is contemplated by the bill, I merely wish to call the attention of the Senator to what would probably be its effect. If these superintendents are white persons, and these freedmen are subject to the terms and provisions of the bill under these white persons, I think that what General Wadsworth fears is very likely to take place, and that there will be a system of serfdom.

Mr. SUMNER. General Wadsworth was not anticipating any serfdom from the friends of the colored race. It was from their ancient enemies, those who had claimed to hold them as property. Those were the persons against whom General Wadsworth warns us. He did not warn us against the friends of the colored race.

I was saying, when the Senator did me the honor to interrupt me, that I might accumulate illustrations in this sense without end; but I will content myself with one other. Colonel McKaye, of New York, one of the most intelligent friends of the colored race, while he was in the Southwest, had a conversation with Judge Humphreys of Alabama, which he has recorded as follows:

"Judge Humphreys says, 'I believe, in case of a return to the Union, we would receive political cooperation, so as to secure the management of that labor by those who were slaves. There is really no difference, in my opinion, whether we hold them as absolute slaves or obtain their labor by some other method. Of course we prefer the old method. But that question is not now before us.'"

I have read these opinions merely to bring home to the Senate on authoritative grounds the importance of providing some protection for this large body of freedmen, who may now justly look to the national Government as their guardian. It is that Government which has given to them the great boon of freedom. It is for us to go further, and see that freedom is something more than a barren letter. We must see that it is a living word, of which they can avail themselves always, and which will be to them everywhere fruitful of good.

Mr. President, I did not intend to enter into this discussion this morning. I hoped that a vote might be taken without further debate. I have no desire to debate it. To my mind the question is perfectly clear. If you reject the pending

measure you voluntarily refuse to carry forward that great act of emancipation which you have already sanctioned. I say, therefore, for the sake of emancipation, let the report of this committee be adopted; and I appeal to you, Senators, do not be afraid to be just.

Mr. JOHNSON. I do not know, Mr. President, that I am afraid to be just. However it may be with myself, I am satisfied there is no member of the Senate who is not as willing to be just as the Senator from Massachusetts.

Mr. SHERMAN. I trust my friend will give way for one moment. I desire simply to give notice that to-morrow at one o'clock I shall ask the indulgence of the Senate to take up the fortification bill. I wish to give the notice now so as not to interfere with the measures of other Senators.

Mr. JOHNSON. I am a little surprised, Mr. President, that the Senator, who tries to be courteous, and I suppose that he is courteous for the most part, should attempt to influence the Senate by appealing to their supposed apprehensions of the effect of their votes. That Senator has been long enough in this Chamber, I should think, to believe that there is not a member who is not as decided in his opinions and as willing to take the responsibility for acting upon them as he is, or any member of the Senate who ever came from Massachusetts.

The question before the Senate is whether this particular project shall receive its sanction. I understand—and the Chair will set me right if I am wrong in that particular—that the Senate have no control over the report of the committee by way of amendment. It must be, therefore, taken in the whole, or rejected in the whole; and if there be any provision in the report which is inconsistent in the opinion of any member of the Senate with the oath which he has taken to preserve the Constitution it is his duty to vote against the report.

Before I proceed very briefly to state why I suppose it contains such a provision, I beg leave to state to the honorable member from Massachusetts that there is no present need for this particular enactment. There is now upon the desk of the Senate a bill, passed almost with unanimity by the House, making provision sufficient to answer the exigencies of the moment, and providing not only for the freedmen, as the honorable member calls them, but for those who were born free, the white as well as the black. It is entitled, "An act to establish in the War Department a Bureau for the Relief of Freedmen and Refugees," and it reads as follows:

Be it enacted, &c., That a bureau be established in the War Department, to continue during the present rebellion, to which shall be committed the supervision, management, and control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the Department and approved by the President. The said bureau shall have one chief, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be deemed necessary by the chief of the bureau, and approved by the Secretary of War, not exceeding two of the fourth class, two of the third class, three of the second class, and five of the first class.

Sec. 2. And be it further enacted, That the President may assign to such bureau, for the benefit of said refugees and freedmen, the temporary use of such abandoned lands and tenements in insurrectionary States, not belonging to loyal owners, as may be necessary, and may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

Sec. 3. And be it further enacted, That all laws and parts of laws conflicting herewith are hereby repealed.

If the President performs his duty under that act, provided it should become a law, (and no one has a right to doubt that he will perform his duty,) there can be no suffering among the black refugees or the white refugees. And although it is true that the black refugees outnumber the white, yet it is equally true that the white refugees number a very great many, and are in a state of almost hopeless destitution. The bill now before us makes no provision for them. Pass this bill, and they may starve. Should they be permitted to starve? What have they not done? Surrounded by all the influences that have carried away some of the best men in the country, they have sturdily resisted them, and at the hazard of life and all that they held before the rebellion took place. They are

here now in our midst in a state of utter destitution, and the honorable member from Massachusetts is so wedded (and I do not blame him for it) to the black race that he loses sight for the moment of what is due to the white race. As far, therefore, as the necessity for legislation is concerned, the passage of the bill which has come from the House will answer all the purposes of the moment, and answer them more effectually, because more generally.

I rose principally for the purpose of saying that in my opinion the twelfth section of the bill proposed by the committee of conference is clearly unconstitutional. So vigilant were our fathers that they were unwilling to leave the right of trial by jury, as secured by the common law of England, to stand upon any provisions to be found in the original Constitution, and they therefore, by the fifth article of the amendments to the Constitution proposed and adopted shortly after the Constitution itself was ratified, provided that—

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

There are then two cases in which a man may be tried for a capital offense without an antecedent presentment by a grand jury. They are cases arising in the land and naval forces, either in time of war or in time of peace, or cases arising in the militia force of the United States when called into actual service of the United States during war, or during the existence of public danger. The words, therefore, clearly exclude the right to punish in any other way than by previous indictment any man for any one of those offenses. Now, what do the committee propose? They were aware of that provision in the Constitution, and they seem to think that they avoid the protection which it is intended to give by providing—

That all assistant quartermasters, local superintendents—

Black or white, if blacks are to be superintendents—

and clerks, as well as supervising agents, shall be—

Not in the military service of the United States. They are not to be considered as a part of the land or naval forces of the United States; they are not to be considered as constituting a part of the militia of the United States during the rebellion, but shall be—

so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions.

Why, Mr. President, if we can do that, what is to prevent Congress from providing that every member of the next Congress and every officer holding any civil trust under the Government of the United States, executive, legislative, or judicial, "shall be so far deemed to be in the military service of the United States as to be liable to trial by courts-martial or military commissions," and deprived of the protection which the provision of the Constitution to which I have adverted was intended to cast around every citizen? It is obvious to my mind that if it can be done in the case in which it is proposed to do it, it can be done in every case. Why the Army and the Navy are to be excluded from the privileges of the protection secured by the amendment to the Constitution is obvious; why the militia when in the actual service of the United States during a time of war are not entitled to the protection is equally obvious; but it is just as obvious by the existence of the exception of these cases that in every case not falling within the exception the protection which the people when they adopted that clause designed to secure applies.

What would the honorable Senator from Massachusetts say if we were to pass a law saying that the honorable member from Massachusetts, the friend of the freedmen, is to be considered, as far as relates to the right of trying him for a capital offense or a misdemeanor, as in the military service of the United States? He would at once say that such a provision as that would be wholly unconstitutional; and what difference does it make who is the party who is taken out of the constitutional provision by a law which says that he is to be deemed, for the purpose of the mode of trial, to be without the constitutional provision? If you can do it in this instance you can do it in

all cases, and the amendment of the Constitution is a dead letter whenever Congress thinks proper by legislation to declare it a dead letter.

Willing as I am to provide for this poor class, I am not willing to make a provision for them which strikes at a constitutional inhibition of that description; and even if I could yield my convictions of constitutional duty to considerations of policy, I should not be able to yield it in this instance, because as far as there is any policy in the matter it may be provided for effectually by the bill which is now upon your table, and only awaiting the sanction of this body to become a law.

Mr. HARLAN. I was in favor of the Senate bill on this subject that was referred to the committee of conference, and am in favor of some legislation. The question has been suggested in the Senate from different quarters, whether Senators were not compelled to vote for the report of the committee, or have no new legislation on this subject. I do not think that we have arrived at that stage in the consideration of this bill which will justify such a conclusion. It has been no uncommon thing heretofore to reject a report of a committee of conference, insist on the amendments of the Senate, and ask for a new committee. There are certainly some defects in this bill that could very easily be remedied by that committee if they were reconvened. If we had approached within a few hours or a few days of the termination of the session of Congress, it would influence my judgment very materially on this practical question; but we yet have a number of legislative days. There is ample time to resubmit the amendments of the Senate and this whole question to a committee of conference; or, if this were deemed inadvisable the Senate might proceed now and act, as the House has acted, *de novo*; or the Senate might take up the House bill which is now on the desks of Senators and so amend that bill as to incorporate all the valuable provisions in this new bill reported by the committee of conference, and reject the provisions which are evidently defective. Believing, therefore, that the whole subject is still under the control of the Senate, and that there is ample time to mature a bill for which a majority of the Senate can vote without hesitation, I shall vote against the report of the committee of conference with a view of insisting on the Senate amendment to the House bill and asking for a new committee of conference.

The VICE PRESIDENT. The question is on concurring in the report of the committee of conference, and upon that question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. HENDRICKS (when his name was called) said: I desire to state that the Senator from Kansas [Mr. LANE] has been called away from the Senate, and I agreed to pair off with him, he being in favor of the proposition and I against it.

Mr. NYE (when his name was called) said: I have paired off on this question with the Senator from Delaware, [Mr. SAULSBURY], who was obliged to leave, he being opposed to this report and I in favor of it.

The result was announced—yeas 14, nays 24; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Foot, Howard, Morgan, Morrill, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Wade, and Wilson—14.

NAYS—Messrs. Buckalew, Carlile, Cowan, Davis, Dixon, Doolittle, Grimes, Hale, Harlan, Harris, Henderson, Howe, Johnson, Lane of Indiana, McDougall, Nesmith, Powell, Richardson, Riddle, Ten Eyck, Trumbull, Van Winkle, Wiley, and Wright—24.

ABSENT—Messrs. Clark, Collamer, Conness, Farwell, Foster, Harding, Hendricks, Lane of Kansas, Nye, Saulsbury, Sherman, and Wilkinson—12.

So the report of the conference committee was non-concurred in.

The VICE PRESIDENT. The bill is still before the Senate.

Mr. WILSON. I move that the Senate further insist on its amendment disagreed to by the House of Representatives, and ask for another committee of conference.

The motion was agreed to.

The VICE PRESIDENT. In what manner shall the committee of conference be appointed? Mr. FOOT. By the Chair.

The VICE PRESIDENT. That will be taken as the sense of the Senate, if there be no objec-

tion, and the Chair will appoint Mr. WILSON, Mr. HARLAN, and Mr. WILLEY, the committee of conference on the part of the Senate.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were signed by the Vice President:

A bill (S. No. 424) to facilitate the collection of certain debts due the United States;

A bill (H. R. No. 222) to extinguish the Indian title to lands in the Territory of Utah suitable for agricultural and mineral purposes;

A bill (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington;

A joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and State of Nevada for the purposes of a branch mint located in said place;

A bill (S. No. 368) to incorporate the Sisters of Mercy in the District of Columbia;

A bill (S. No. 240) for the relief of George A. Schreiner;

A bill (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864; and

A bill (S. No. 241) to amend an act entitled "An act to incorporate the Columbian Institution for the instruction of the deaf and dumb and the blind," approved February 16, 1857.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 756) supplementary to the several acts relating to pensions—to the Committee on Pensions.

A bill (H. R. No. 774) to establish certain post roads—to the Committee on Post Offices and Post Roads.

A bill (H. R. No. 776) concerning the Potomac bridge and Center market—to the Committee on the District of Columbia.

#### ENROLLMENT IN LOUISIANA.

Mr. SPRAGUE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be, and he is hereby, directed to communicate to the Senate copies of all instructions and orders issued relating to the enrollment of citizens of Louisiana.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. I now move that the Senate postpone all prior orders and proceed to the consideration of House bill No. 307, to regulate commerce among the several States.

Mr. TRUMBULL. I hope that will not be done, and before the vote is taken I desire to say to the Senate that it is necessary that we should take some action in regard to the State of Louisiana. There are two gentlemen here claiming seats from that State, and it is a privileged question before the Senate that ought to be determined. The Committee on the Judiciary have made a report on the subject which has been printed, and there is a joint resolution accompanying it. I think it due to the gentlemen who are claiming seats here and due to us that that question should be settled. If it be not a question of privilege, I shall insist upon a division of the Senate on the motion of the Senator from Michigan. I do not know but it will come up as a question of privilege at any rate. The resolution reported by the committee does not go to the immediate admission of the Senators, although it is a report made on their credentials. The resolution which the committee report is that the existing State organization in Louisiana be recognized as the legitimate State organization of Louisiana. When that is done, the Senators as a matter of course would be entitled to their seats. If it is a privileged question, I insist upon it; and if not, I shall ask for a division of the Senate upon the motion of the Senator from Michigan.

Mr. COLLAMER. Permit me to ask the gentleman whether that resolution is a joint one.



Mr. TRUMBULL. Yes, sir, for both Houses.

Mr. HOWARD. I shall not undertake to advance any opinion as to whether this is a privileged question or not. I rise merely to say that the report to which the honorable Senator from Illinois has alluded was placed upon our tables in print only yesterday, and I have not yet had time to read the report. It is a question of great magnitude and great interest to the country, and I hope that we shall not be precipitated into a consideration of it unnecessarily. I want a little more time to examine the facts of the case. I am not yet prepared. My mind is not made up what course to take in reference to it, for the very reason that I am not in possession of the facts which I deem necessary to a full understanding of the question before the Senate. I hope, therefore, that this matter will not be taken up now, whether it be privileged or otherwise.

Mr. TRUMBULL. I desire to say, in reply to the statement of the Senator from Michigan that he is not yet prepared to go on with this question as to the recognition of the State government in Louisiana, that others are prepared to go on with it. We can commence the consideration of it, and perhaps he will get such information as he desires from others who are prepared to discuss it. I understand there are Senators prepared to express their views upon the subject now. I trust we may commence its consideration.

The VICE PRESIDENT. The question is on postponing all prior orders.

Mr. SUMNER. As I understand it, the question is on the motion of the Senator from Michigan.

The VICE PRESIDENT. That is the motion now pending. In the opinion of the Chair, the other subject to which the Senator alludes is not a question of privilege.

Mr. SUMNER. The bill which the Senator from Michigan proposes to take up has already been discussed several days in this body. Now I understand the Senator from Illinois proposes to take up another measure which has never yet been approached in this body, and to thrust it in the pathway of debate. Sir, I do not think it good economy of the time of the Senate for us to proceed in that fashion. The Senator from Michigan is right in pressing to a vote a measure which has already been commenced, on which speeches have been already made, and on which the Senate has not yet reached its final conclusion. I think, therefore, the Senate should adopt the proposition of the Senator from Michigan, and let the other matter be postponed until we have reached a conclusion on the first question.

Mr. HALE. I think if there is a single question that ought to demand the attention of the Senate, and demand it immediately and until it is finally closed, it is the question that is referred to by the honorable Senator from Illinois, the chairman of the Committee on the Judiciary. I think if there is a question that looks to the perpetuity and existence of the Government, the reconstruction of the Union, and the salvation of the country, it is the question that relates to the reorganization and reconstruction of civil governments for these States, preparatory to their admission into the Union. It is the principal point upon which the whole controversy and gist of this rebellion depends; and I want to know how we can justify ourselves to the country by postponing that vital question, in these last days of the session, to enter into the consideration of a question which, whatever may be its bearing upon the commerce or the politics of the country, derives its principal interest from being a contest between two stock companies of the State of New Jersey. I trust that the Senate will not postpone the question of the reconstruction of the Union and the admission of these States for any such question.

Mr. McDOUGALL. I am compelled, and I am pained to be compelled, to differ with the President on the question of the rule. When persons accredited to the Senate present their commissions, it seems to me, if there be any question of privilege, that must be a question of privilege. They have a right to be heard, and they have the right to have the question adjudicated, if they come here and claim a right to represent a State of the Union. I think we cannot well dispose of this matter without taking it up and considering it as a question of privilege. In

my opinion, when the people of a State come here and claim to be heard, or to have a place on the Senate floor, it must be one of the first questions of privilege. It cannot be otherwise. We may differ as to whether they have a right to a seat on this floor, we may differ as to whether they have been qualified properly by their constituency, yet that they have the right and the privilege to be heard, to see whether they shall debate with us and vote with us with regard to great questions of government, is almost as certain as the demonstration of the forty-seventh problem in Euclid.

Mr. CHANDLER. I hope that this motion will prevail, and that this bill will be taken up. As the Senator from Massachusetts has remarked, it has been discussed for several days, an opportunity has been given to every man to express his views, and I think we are about ready for a vote. This is not a question of two corporations; it is one corporation versus the people and the business interest of the United States; and I am sorry to say that that corporation are able to pay for counsel.

Mr. FOOT. I desire to state that I shall vote for this motion, among other reasons, as a matter due in courtesy to the Senator from Nevada, [Mr. NYE,] who took the floor, on the bill now proposed to be taken up by the Senator from Michigan, something more than a week ago, and it was made a special order for the next morning at one o'clock. He is prepared and desirous of submitting the remarks he has to make upon that question. It was overridden then, and has been to this time. I think it is a courtesy that we do not often refuse to a member under the circumstances.

The motion of Mr. CHANDLER was agreed to; there being, on a division—ayes 24, noes 10; and the Senate resumed the consideration of the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. NYE addressed the Senate for some time without finishing. That his whole argument may appear together the portion delivered this day is reserved until it can be published with the concluding part. [See Appendix.]

Mr. HOWARD. I understand the Senator from Nevada consents to give way to a motion for a recess. I will therefore move that the Senate now take a recess until seven o'clock. I will first inquire of the Chair whether we have a standing order for a recess.

Mr. SUMNER. No.

Mr. FOSTER. I suggest to the Senator that we are to have an illumination to-night.

Mr. WILSON. If the Senator will withdraw that motion, I should like to have an executive session for a few moments to refer some messages.

Mr. HOWARD. There is no objection to that. I withdraw the motion for that purpose.

#### EXECUTIVE SESSION.

On motion of Mr. WILSON, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 22, 1865.

The House met at twelve o'clock, m. Prayer by Rev. JAMES MITCHELL.

The Journal of Saturday was read and approved.

#### REPRIMAND OF A. P. FIELD.

The Sergeant-at-Arms appeared at the bar of the House, having in custody A. P. Field as directed by the resolution of the House of yesterday.

The said A. P. Field having been arraigned. The SPEAKER said: Mr. Field, the duty has been devolved upon me, by the Representatives of the American people, to express to you their condemnation of the act for which you have been tried before a committee of their members, and ordered to be reprimanded at the bar of the House by their Presiding Officer.

In this Hall assemble those who have been chosen by the suffrage of their constituents, throughout the continental area of the Republic, to deliberate and decide upon the gravest matters of national concern. Differing often widely from

each other, their acts and votes on many questions may prove distasteful to large portions of the people for whom they legislate; and the Constitution has therefore wisely declared that no Representative shall be questioned elsewhere for words spoken here in debate. Accountable as every Representative is to this body with which he is associated, to which is reserved the right of expulsion for whatever renders him unworthy of its membership, the House has repeatedly decided that menace, or assault by one member upon another, is a flagrant breach of privilege, rendering the offender amenable to whatever proper punishment it may see fit to inflict. And, while thus subjecting a sworn associate to its discipline, it claims and exercises the right to fix the penalty against those, not of the body itself, who endeavor, by threat or attack, to interfere with the freest action of its members.

In your case the offense seems more inexcusable, because you were yourself a claimant of a seat on this floor, and the question involved in the decision of that claim was one of far more than ordinary importance to the nation and your State. The Representative, who was first denounced and then attacked by you, was not a member of the committee before which the issue was pending, and whose report was necessary to bring it before the House. He had himself joined in the unanimous vote by which you were authorized to occupy a seat upon this floor, pending its decision, and to vindicate your claim to membership when the question should come before this body for its action. Yet, without provocation, without any preliminary personal controversy, you first insulted him at a public table and then followed it with a violent attack, with an open knife, inflicting a painful wound upon his person, and with threats that you would shoot him before you went to bed. You must rejoice that your assault did not terminate in graver results than those for which you are now arraigned.

It is but just to you to state that the testimony of your friends before the committee declares you to be "a gentleman of correct deportment, kind and amiable in your intercourse with others, and unexceptionable in demeanor, except on occasions of indulgence in conviviality;" and the unpleasant position you occupy to-day is, therefore, only another illustration of the exceeding value of that warning voice of inspiration, "Look not upon the wine when it is red, when it giveth its color in the cup; for at last it biteth like a serpent and stingeth like an adder."

Invoking you, finally, to remember that whether as an individual or a legislator, "he that is slow to anger is better than the mighty, and he that ruleth his spirit than he that taketh a city," it only remains for me to direct the Sergeant-at-Arms to discharge you from his custody.

#### PENSION LAWS.

Mr. HOLMAN. I rise to a privileged question. I call up the motion to reconsider the vote by which bill of the House No. 756, supplementary to the several acts relating to pensions was referred to the Committee on Invalid Pensions.

The motion to reconsider was agreed to.

The question recurred upon the motion to refer; and being put, the motion was disagreed to.

Mr. HOLMAN. I move to strike out the first section of the bill. I do it with the concurrence of the gentleman from Virginia [Mr. WHALEY] who reported the bill.

The motion was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JAMES B. ROYCE.

On motion of Mr. WOODBRIDGE, by unanimous consent, joint resolution of the Senate (No. 112) for the relief of James B. Royce, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions.

## EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior transmitting an estimate to supply a deficiency of \$5,000 for the Chippewas of Pembina and Red Lake, under the treaty of October 2, 1863; which was referred to the Committee of Ways and Means, and ordered to be printed.

## ORDER OF BUSINESS.

Mr. RICE, of Massachusetts. I ask unanimous consent that Friday next, after the morning hour, be assigned for the business of the Committee on Naval Affairs.

Mr. WILSON. I shall object if the committee intend to report a resolution for the relief of naval contractors.

Mr. PENDLETON. I desire to ask the Speaker whether the effect of such an assignment would be to override prior orders?

The SPEAKER. It would override them.

Mr. PENDLETON. Then I object. I should have no objection to its being made a special order after the prior orders are disposed of.

## CARSON CITY, NEVADA.

Mr. WORTHINGTON. I ask unanimous consent to take up from the Speaker's table a bill (H. R. No. 45) in regard to the title of lands in Carson City, in the Territory of Nevada. It has been returned from the Senate with a merely verbal amendment to strike out the word "Territory" wherever it occurs, and insert the word "State." I move that the amendment be concurred in.

No objection being made, the bill was taken up, and the amendment was concurred in.

## ADVERSE REPORTS.

Mr. PERHAM. I ask unanimous consent to make adverse reports from the Committee on Invalid Pensions upon the petition of G. W. Bonner, and the petition of Mary M. Lee, widow of Stephen Lee, for a pension. I ask that the committee be discharged from the further consideration of the same, and that Mary M. Lee have leave to withdraw her papers.

The motion was agreed to.

Mr. PRICE. I ask unanimous consent to make an adverse report from the Committee on Revolutionary Pensions upon the petition of the heirs of Philip Johnson, and the petition in the case of Mary A. Beraut, administratrix. I move that the committee be discharged from further consideration of the same.

The motion was agreed to.

## GEORGE A. SCHREINER.

Mr. PERHAM, by unanimous consent, reported back from the Committee on Invalid Pensions, Senate bill No. 240, for the relief of George A. Schreiner, with a recommendation that the bill do pass.

The bill was read the third time, and passed.

## COLLECTION DISTRICT OF NEW YORK.

Mr. STARR. I ask that the Senate bill (No. 454) be taken from the Speaker's table, being an act supplementary to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City," approved February 21, 1863.

The bill was taken up.

Mr. STARR. I ask that the bill be put upon its passage at this time.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on Commerce.

The motion to refer was agreed to.

## PORTRAIT OF LIEUTENANT GENERAL GRANT.

Mr. INGERSOLL asked unanimous consent to introduce a joint resolution authorizing the Joint Committee on the Library of Congress to purchase, at a cost not to exceed \$1,200, the full-length portrait of Lieutenant General U. S. Grant now on exhibition in the rotunda of the Capitol.

Mr. PRUYN objected.

## DELAY IN PUBLIC PRINTING.

Mr. A. W. CLARK. I desire to make a verbal report from the Committee on Printing upon the resolution of the gentleman from Illinois, [Mr.

WASHBURN,] in relation to the delay in printing the proceedings of Congress in the Daily Globe. We called upon the proprietors of the Globe, and they assured us that they have employed all the help they can obtain in this city, in Philadelphia, and in New York, and they are now negotiating for all the help they can procure, and they hope to be up with their printing in a few days.

In relation to the printing at the Public Printing Office, the Superintendent of Public Printing assures us that he is doing the work with all the rapidity the means at his command will enable him to do it. He hopes to deliver the Agricultural Reports during the week as fast as members may desire them. Further than that the committee do not propose any action.

I would state that I had here upon my table the reply of the proprietors of the Globe, which I proposed to have read; but some one has seen fit to remove it. I have, however, stated the substance of their letter.

## SAN JOSÉ, CALIFORNIA.

Mr. HIGBY, by unanimous consent, reported from the Committee on Public Lands a bill for the relief of the occupants of lands in the exemption of San José, in the State of California.

The bill was read for information.

Mr. HIGBY. A few words of explanation as to the character of this bill are due to the House.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. BALDWIN, of Massachusetts. What action is sought?

The SPEAKER. The gentleman from California [Mr. HIGBY] desires to have the bill passed. It is a bill reported from the Committee on Public Lands.

Mr. BALDWIN, of Massachusetts. It seems to me to be a bill of too much importance to be put through now.

Mr. HIGBY. I can explain it, I think, satisfactorily, if the gentleman will allow me.

Mr. WASHBURN, of Illinois. I desire to know whether the bill has been submitted to the Commissioner of the General Land Office.

Mr. HIGBY. It has been, and he favors its passage.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. BALDWIN, of Massachusetts. I certainly am not prepared to vote on the bill till I have a clearer understanding of it. It contains very important provisions.

The SPEAKER. If the gentleman from Massachusetts objects, the bill is not before the House.

Mr. BALDWIN, of Massachusetts. I have no objection to the gentleman from California [Mr. HIGBY] making an explanation, provided I can reserve my right to object.

The SPEAKER. The gentleman's right to object will be reserved.

Mr. HIGBY. The lands here in question are some twenty-five or thirty thousand acres of valley land and hill and mountain land, to which it has been supposed there was a valid Mexican title. Three commissioners authorized by Congress went to the State of California to settle these Mexican claims—a class of claims in respect to which the Government of the United States, by the treaty made when California was acquired, guaranteed to respect the Mexican title. The commissioners confirmed the Mexican title; and under that confirmation nearly all the parties, I believe, who were embraced in the memorial, went on to the lands and made purchase of this title, paying a valuable consideration. In addition to that they have expended three or four hundred thousand dollars in fencing and planting their orchards and vineyards, and in making improvements of various character.

The United States appealed from the judgment of the commissioners to the district court of the United States, and the decision of the commissioners was reversed. The claimants appealed from the decision of the district court, and carried the case to the Supreme Court of the United States, where it is now pending. The claimants are now here asking that they may be permitted to enter their lands, paying the minimum price, \$1 25 per acre. It is due to the House that I should state that some of these individuals have more land within their inclosures than would be allowed under the general land law, by which

one hundred and sixty acres constitute the limit. I believe that there are two of the claimants who have something like two thousand acres each.

The application of these parties for this legislation is based on the same principle that was involved in one or two cases that were before Congress at the last session. Under a title supposed to have been guaranteed by the Government of the United States, a title of a peculiar character, these parties have gone on and made purchases of these lands and put their improvements upon them. Their claim does not meet with any opposition from individuals. They simply ask that they shall be allowed to enter these lands at the Government price, the United States giving them an undisputed title. These are the simple facts.

Mr. BALDWIN, of Massachusetts. I shall not urge any objection to the bill.

There being no objection, the bill was read a first and second time, and was ordered to be engrossed for a third reading. Being engrossed, it was accordingly read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MARGARET BRADY.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, reported adversely upon the petition of Margaret Brady, of Harrisburg, Pennsylvania, praying for a pension on account of the services of her late husband.

The petition was laid on the table.

## ILLUMINATION OF THE CAPITOL.

The SPEAKER. The Chair desires to state that the President of the United States having ordered the Department buildings to be illuminated this evening in honor of the late victories for the Union, the Vice President and the Speaker, on consultation this morning, deemed it fitting that this Capitol should also be illuminated, and directed the Commissioner of Public Buildings to make the requisite arrangements for this purpose. It was necessary that the work of preparation should be commenced before either House of Congress would be in session.

## NATIONAL MISSISSIPPI BRIDGE COMPANY.

Mr. WILSON. I demand the regular order of business.

The SPEAKER stated the regular order of business to be House bill No. 634, to incorporate the National Mississippi Bridge Company, on which the previous question had been demanded.

Mr. J. C. ALLEN. I hope that my colleague will withdraw the demand for the previous question, as it is a matter in which Illinois is deeply interested.

Mr. NORTON. I would be happy to accommodate my colleague, but I cannot.

Mr. J. C. ALLEN. I desire to ask my colleague a question.

Mr. NORTON. I yield for that purpose.

Mr. J. C. ALLEN. Does my colleague know that Illinois has chartered a company to build this bridge, in connection with a company chartered by the State of Missouri? I ask whether this is not an independent company, for the purpose of depriving Illinois and Missouri of the benefit of building this bridge.

Mr. NORTON. I cannot hear my colleague.

Mr. J. C. ALLEN. Does not my colleague know that the State of Illinois has recently chartered a company in conjunction with a company chartered by the State of Missouri, and that it has authorized it to build this bridge across the Mississippi river? Does he not know that this is a scheme to deprive the State of Illinois of a voice in a work in which it is deeply interested?

Mr. NORTON. I am glad to answer my colleague. I will state to him that when I reported this bill there was not to my knowledge a charter granted by the State of Illinois to construct a bridge across the Mississippi river. He knew, when he put the question to me, that neither he nor myself knew there was any project passed by the Illinois Legislature until yesterday afternoon. None of us knew that any such proposition had passed the Illinois Legislature. I knew nothing about it, and I do not know that my colleague did. I do not know it now, except that my colleague intimated to me that such a bill had passed ver-

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, FEBRUARY 24, 1865.

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terday, or that such a bill had been before the Illinois Legislature.

Further than that, this bill has no intention to cut out any other corporation in the State of Missouri or the State of Illinois. I am not aware there is any company to build this bridge across the Mississippi river except the one proposed in this bill. And I am astonished that my colleague should put such a question to me. He knows that the first intimation I had that this matter had been before the Illinois Legislature was given by him to me yesterday afternoon, after this bill had been under discussion.

Mr. J. C. ALLEN. I hope that my colleague will understand that I meant no reflection on him. I made the statement for the information of the House. I was told that the Illinois Legislature was acting on this subject. I was not advised until yesterday what was the result of their legislation. I inquired of the proper source, and I was informed that they had chartered a company to build a bridge across the Mississippi river. I see that the names of the corporators in this bill are of citizens of St. Louis, Missouri. Illinois is as much interested in this bridge as Missouri, and there are the names of none of the citizens of that State here. But this bill, in assuming the authority of the United States, is to deprive those two States of a voice through their Legislatures in the building of this bridge. It is for that reason I have propounded these inquiries to my colleague. I hope that this House will not undertake to overthrow the legislation of Missouri and Illinois by passing at this time an act of this kind.

Mr. NORTON. I yielded to my colleague for a question, and not for a speech.

So far as the corporators being citizens of Missouri, if my colleague will suggest the names of citizens of Illinois, I will insert them in lieu of others. I am willing to do that. Further than that, my colleague does not pretend to know that a bill has passed the Illinois Legislature, or what is the character of the legislation of Illinois on this subject.

But I am not going into a discussion of this matter. The object of the bill is to provide for saving any conflict of State jurisdiction. The authority of Congress is paramount over the business and commerce of the country. This bill brings the company under the jurisdiction of the United States exclusively, and there will be no conflict between sovereign States. The bill further provides that the bridge shall not interfere with the navigation of the river; that the bridge shall be built seventy feet above the highest water, which was in 1844; and further, that it shall not interfere with the navigation of the Mississippi river in any respect.

Mr. WASHBURN, of Illinois. I did not see the bill now before the House until this morning, for I was not here yesterday, being detained from the House on the business of the House. It is certainly a very important bill, involving important principles, and the interests of the State of Illinois, to a very considerable degree. As my colleague has the bill now before the House, I would be very glad to have him postpone its consideration for a short time, until we can have an opportunity of looking at it carefully and to see what action the Legislature of Illinois has taken upon this same subject. The seventh section provides in reference to the rates of toll, and I think the Representatives of the State of Illinois ought to consider very carefully whether we shall authorize this bridge to be made, and authorize it to impose a heavy tax upon the citizens of Illinois who go into Missouri for purposes of business.

Mr. NORTON. It is very well understood that this whole question was raised yesterday. I tell my colleague that I assured the House yesterday that if this bill could be made a special order for any given day, so that a postponement would not be virtually killing the bill, I would have no objection to postponing it. But every one knows that we cannot postpone this bill ex-

cept to a day certain without giving it the go-by for the whole session; much less can we postpone it until we hear from Illinois, to learn whether there has been any legislation there, and whether this bill interferes with any bill which may be passed by the Illinois Legislature.

Mr. GRISWOLD. If there is no opposition to this bill, and if it does not conflict with the guaranteed right of the free navigation of the Mississippi, why is this application made to Congress for a charter?

Mr. NORTON. The gentleman asks, if there is no opposition to this bill anywhere, why application is made to Congress? The reason why they have come to Congress and asked their action on the question is, that the question affects the interests of two States, Illinois and Missouri; and they wanted to avoid any conflict between the separate interests of the two States.

Mr. GRISWOLD. I understand there is no conflict or opposition. I ask the gentleman again, why then come to Congress and ask these extraordinary privileges?

Mr. NORTON. The gentleman is confounding the two ideas of conflict of interest and conflict of jurisdiction. I do not know that there is any conflict of interest; but there may be a conflict of jurisdiction between the two States; and there might be two charters granted, one by one State, and one by the other.

Mr. GRISWOLD. I hope the gentleman will not insist upon his demand for the previous question.

Mr. NORTON. We shall avoid all the difficulties which have been suggested by this legislation. I insist upon my demand for the previous question.

Mr. STEELE, of New York. I appeal to the gentleman from Illinois to dispose of this matter in some way, as it is taking up all the time to which the Committee for the District of Columbia is entitled.

Mr. NORTON. I will do it by adhering to my demand for the previous question.

Mr. PENDLETON. I appeal to the gentleman to yield to a question.

The SPEAKER. The gentleman has just stated that he will not yield.

Mr. HOOPER. I appeal to the gentleman to answer me a question.

Mr. NORTON. I cannot yield to the gentleman from Massachusetts and refuse the gentleman from Ohio. I demand still the previous question.

The previous question was not seconded.

Mr. PENDLETON obtained the floor.

Mr. STEELE, of New York. This bill is taking up the time of the Committee for the District of Columbia, and I hope it may be postponed.

The SPEAKER. The gentleman from Ohio is upon the floor.

Mr. PENDLETON. To what time would the gentleman postpone it?

Mr. STEELE, of New York. To any time the gentleman may indicate.

Mr. PENDLETON. I will yield to the gentleman to make the motion.

Mr. STEELE, of New York. I move to postpone the bill indefinitely.

Mr. NORTON. I call for tellers.

Mr. ROSS. Would it be in order to move to postpone until Monday next?

The SPEAKER. It would not, a motion to postpone indefinitely being now pending, on which the House is dividing.

Tellers were ordered; and Messrs. NORTON and PENDLETON were appointed.

The House divided; and the tellers reported—ayes 62, noes 39.

So the bill was indefinitely postponed.

Mr. PENDLETON moved that the vote by which the bill was postponed be reconsidered; and also that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. Reports are in order during

the remainder of the morning hour from the Committee for the District of Columbia.

## INCORPORATION OF WASHINGTON CITY.

On motion of Mr. DUMONT, and by unanimous consent, an act (S. No. 376) to amend an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864, was taken from the Speaker's table, and read a first and second time.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DUMONT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## OPENING OF SIXTH STREET WEST.

On motion of Mr. DUMONT, by unanimous consent, bill of the House No. 364, authorizing and requiring the opening of Sixth street west, returned from the Senate with an amendment, was taken from the Speaker's table, and the amendment of the Senate was concurred in, as follows:

Add to the bill the following proviso: *Provided, however,* That Sixth street through the public grounds known as Armory square shall not be opened until after the removal of the Army hospital from such public grounds, or until the consent of the Surgeon General of the United States Army shall be first had and obtained.

## POTOMAC BRIDGE AND CENTER MARKET.

Mr. STEELE, of New York, from the Committee on the Judiciary, reported a bill concerning the Potomac bridge and the Center market, which was read a first and second time.

The bill requires the Secretary of War to cause the iron rails now used for the railroad track across the Potomac bridge to be removed therefrom as soon as possible, and to be laid down upon the railroad bridge recently erected across the Potomac river near the Potomac bridge, and that, as soon as the said rails are removed, the care of the Potomac bridge shall revert to the Commissioner of Public Buildings, in whose custody it is by law placed, who shall appoint the draw-keepers heretofore authorized by law.

The bill also appropriates \$5,000, or so much thereof as may be necessary, for the repair of the bridge, provided that the corporation of the city of Washington appropriate a like sum for the same purpose.

The bill further provides for the removal of the present Center market-house, and the building of a new market-house, the site thereof to be selected by the President.

Mr. HOLMAN. This bill contains an appropriation of \$5,000. I desire to reserve the right to raise a point of order on this bill until I can hear from the gentleman from New York.

Mr. STEELE, of New York. I would state to the gentleman from Indiana that this appropriation of \$5,000 is an appropriation for the purpose of putting in repair the Long Bridge, which has recently broken down; but the bill provides that no part of the \$5,000 shall be expended until a similar amount is raised and placed to the credit of the United States by the corporate authorities of the city of Washington.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEELE, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SISTERS OF MERCY.

Mr. PATTERSON, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the Senate No. 368, to incorporate the Sisters of Mercy in the District of Columbia.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the



vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### COLUMBIAN INSTITUTION.

\*Mr. PATTERSON. I have been instructed by the Committee for the District of Columbia to report back a House bill, but there is a Senate bill (No. 421) of precisely the same nature upon the Speaker's table, and I ask that it be taken up and put upon its passage.

No objection was made; and bill of the Senate No. 421, to incorporate the Columbian Institution for the instruction of the deaf and dumb and the blind, approved February 16, 1857, was taken from the Speaker's table, and read a first and second time.

The bill provides for repealing so much of the act of incorporation of the Columbian Institution as requires the teaching of the blind, and authorizes the Secretary of the Interior to cause all indigent blind children who are or may hereafter become entitled, under the laws it now exists, to instruction in that institution to be instructed in some institution for the education of the blind in Maryland or some other State, provided that the cost for each pupil shall not be more than that paid for the time being for similar pupils in such State.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### METROPOLITAN RAILROAD COMPANY.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported back Senate bill No. 441, to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," with sundry amendments thereto.

The first amendment was to strike out the words in the first section, "also a double or single-track railway, commencing at the intersection of D street north and Four-and-a-half street west."

The second amendment was to insert in the first section, just before the proviso, the words "and the Washington and Georgetown Railroad Company shall have the right to charge the same rate of fare as is herein allowed to be charged by the Metropolitan Railroad Company."

The third amendment was to strike out of section five the words "extended to every other railroad in the District of Columbia," and insert the word "repealed;" so that the section will read:

Sec. 5. *And be it further enacted*, That the provision prohibiting any exclusion from any car on account of color, already applicable to the Metropolitan railroad, is hereby repealed.

Mr. ODELL. I would ask my colleague what the rate of fare will be under the second amendment.

Mr. DAVIS, of New York. It will be eight cents.

Mr. WASHBURN, of Illinois. Raising the fare about one hundred per cent.

Mr. ODELL. That is all.

Mr. DAVIS, of New York. I would ask a separate vote on the last amendment.

The first amendment was then agreed to.

The second amendment was again read.

Mr. WASHBURN, of Illinois. I have only to say that the stock of the Washington and Georgetown Railroad Company is now worth four hundred per cent. premium; and yet it is proposed that we shall raise the fare to the public, while we have passes in our pockets.

Mr. DAVIS, of New York. It is very easy for gentlemen on this floor to make assertions, and yet to understand very little of the truth of what they utter. But when the gentleman from Illinois [Mr. WASHBURN] asserts here that the stock of this company is held at four hundred per cent. premium, he asserts what he may perhaps believe to be true, but what is in fact absolutely false.

The great argument in favor of this amendment is this: in consequence of the increase in the value of all the materials which enter into the construction and maintenance of the road, and of all articles employed in the equipment of the road, this company has been doing business during the

last year at a heavy loss. And I undertake to say, from some little personal knowledge upon the subject, that there is scarcely a horse railroad in the United States which to-day is paying its expenses where the fare is limited to five cents. In regard to the article of railroad iron, which cost when this road was constructed \$50 per ton, it now costs in your markets from \$175 to \$190 a ton; horses which were then bought at an average of about \$80 each now cost from \$150 to \$160 each. Labor was then worth from seven to nine shillings a day; it now commands \$2 50 a day. And every other item of construction and equipment has advanced in the same ratio.

Relief to these roads has been granted in other cases in this country; the Legislatures of States and the common councils of our cities have interfered for the protection of public interests and the interests of these roads, and it is but just that the Congress of the United States should not compel companies within the limits of the capital to do business at a loss. I know it may be asserted that perhaps the stock of this company represents more than the original and actual cost of the road. Now that may be very true. But suppose it is; that stock has been transferred from those who constructed the road, and has now come into the hands of parties who have paid par or a premium for that stock. They are innocent holders of that stock, and it is no answer to say that this company may originally have made money out of this transaction.

The one point to consider is this: can the company run this road and furnish the accommodation which the public demand without losing money at the present cost of construction, equipment, and maintenance? I maintain that that cannot be done, and the books of this company, a transcript of which I have had an opportunity of examining, show that the losses of this company for the last six months have been more than twelve thousand dollars. This loss was incurred in attempting to supply the wants of the public by furnishing proper facilities for communication between different parts of the metropolis.

The Metropolitan Railroad Company, for which this bill asks relief, has barely commenced operations. I venture to say that it has not yet, on any two days since it has been in operation, received money enough to pay its running expenses. And when Congress proposes, as a matter of justice and equity, to allow this company to increase its fare to eight cents, it is proper that the Washington and Georgetown Railroad Company should be permitted to do the same thing; for it is very evident that if the latter company be limited to a fare of five cents, the Metropolitan Railroad Company cannot charge more than five cents and obtain passengers.

I believe it to be a matter of justice and equity that this bill should pass, that this relief should be extended. It will rest within the power of Congress, hereafter, when times shall change, when our currency shall be in a different condition from that which now exists, to impose such restrictions upon the rate of fare as shall be equitable and just.

I am no friend to injustice. I am no friend to a false and miserable and contemptible economy. I remember that at the last session there was introduced here a measure proposing that the Congress of the United States should appropriate \$4,000 toward the purchase of a steam fire-engine for the use of the District of Columbia and for the protection of the public buildings in the capital. That proposition was earnestly, and I regret to say successfully, opposed by the honorable gentleman from Illinois. Had that proposition been adopted the public buildings might have been safe; the Smithsonian Institution might have been protected. Sir, the towers of that institution, scathed and blackened by the flames, stand to-day as a monument to the comprehensive sagacity and liberality of the honorable gentleman from Illinois.

Sir, I believe that we should be generous and just; that, while guarding our expenditures with a reasonable spirit of frugality, we should be willing to do what is necessary for the public interest, and what is due to those enterprises which demand protection in these peculiar times.

Mr. WASHBURN, of Illinois. Mr. Speaker, this is a bill to amend the act incorporating the Metropolitan Railroad Company, and provides

that that company may charge a fare of eight cents. This is a new road, which I believe is well conducted, but which is having a rather hard time to get along. I do not know that I should be disposed to make any objection with regard to that. But when it is proposed to incorporate in this bill a provision to raise the rate of fare upon the Washington and Georgetown railroad to eight cents, I think that very few members of this House will be willing to adopt it.

Now, sir, the statement which I made was made upon information which I deemed to be correct; and I have within a moment been assured by a gentleman that one of the stockholders of the Washington and Georgetown Railroad Company told him in conversation that the stock of this company was worth four hundred per cent. premium. Although every member is aware of the immense travel upon this line, although a member cannot one time in five get a seat in these cars, this company has, within a few days, as I understand, taken off eight cars, thus failing to afford proper facilities for the travel upon the road. Yet we are asked to tax the people of this District, and tax those of our constituents who may be here, and tax the soldiers, by allowing this company to increase its fare to eight cents, instead of five. I think the proposition needs only to be stated to be voted down by this House.

Mr. PATTERSON. I think, Mr. Speaker, that the proposition of the gentleman does need to be proved. It is not sufficient simply to state such a proposition; it should be demonstrated, especially if as broad as that made by the gentleman from Illinois.

When this matter with reference to the Washington and Georgetown Railroad Company was before this House last winter I sympathized with the position taken by my honorable friend, supposing at the time that this company was making immense profits. But from facts which have since come to my knowledge I am satisfied that I was then entirely mistaken. I do not propose to lay before the House unfounded opinions and prejudices, but facts. I ask that the Clerk shall read a statement made before the committee by the president of that company, showing its receipts and expenditures during two quarters only.

The Clerk read, as follows:

*Comparative statement of the business of the Washington and Georgetown Railroad for the quarter ending February 1, 1864, and the quarter ending February 1, 1863.*

Receipts for quarter ending February 1, 1864...	\$115,115 10
Expenses of transportation.....	\$66,493 27
Taxes and licenses.....	3,508 45
	72,003 72

Surplus (exclusive of interest and depreciation), \$9,111 38

Receipts for quarter ending February 1, 1865...	\$98,118 15
Expenses of transportation.....	\$104,362 01
Government taxes.....	4,632 21
Licenses.....	1,200 00
Horses.....	6,043 60
	116,237 82

Deficit (exclusive of interest and depreciation), \$18,119 66

Receipts for quarter ending February 1, 1864...	\$115,115 10
Receipts for quarter ending February 1, 1865...	\$8,118 15

Increase, 20 per cent.....\$17,003 05

Expenses for quarter ending February 1, 1864...	\$104,362 01
Expenses for quarter ending February 1, 1865...	\$116,237 81

Increase, 60 per cent.....\$11,334 69

GEORGE S. GIDEON, President.

February 10, 1865.

#### DISTRICT OF COLUMBIA BILLS.

Mr. STEELE, of New York. I ask the gentleman from New Hampshire to yield to me for the purpose of taking certain Senate bills from the Speaker's table for reference to the Committee for the District of Columbia.

Mr. PATTERSON. I yield for that purpose. There being no objection, the following joint resolution and bills were taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia:

An act (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes;

An act (S. No. 430) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter;

An act (S. No. 167) to incorporate an insurance company in the city of Washington;

An act (S. No. 386) to incorporate the National Protection Insurance Company, of the District of Columbia; and

A joint resolution (S. No. 113) authorizing certain banks in the District of Columbia to accept the provisions of an act therein named.

#### METROPOLITAN RAILROAD COMPANY—AGAIN.

Mr. PATTERSON. Mr. Speaker, it will be seen from the paper read at the Clerk's desk that this company has lost over \$18,000 during the quarter ending February 1, 1865.

It has been stated that the fare was five cents. Now, sir, the average price of a ticket, taking into account the transfers given on this road, is only three and a half cents. And, sir, I say without fear of contradiction that no road in this city, no road in any other city of the United States, can make money or continue to operate at that rate of fare. The gentleman from Illinois proposes to put the price of the tickets of the Metropolitan Railroad Company at a higher rate, while the price of the tickets of the Washington and Georgetown Railroad Company shall remain what it now is.

Mr. WASHBURN, of Illinois. I did not mean to propose anything of the kind. Now, I ask my friend whether, if the revenue bill passes the Senate as it has passed the House, and becomes a law, the fare will not really be nine cents instead of eight; for they are there authorized in the case of a fraction to charge the whole amount.

Mr. PATTERSON. If so, we will put it at seven cents, as the company desire but eight, and as that will be more convenient in making change than nine. Let me remind the gentleman, however, that the bill provides that tickets shall be sold in packages of sixteen for a dollar. That would give only six and a quarter cents per ticket. But as I have shown, the real price of tickets at the present time is really only three and a half cents—that is, on the Washington and Georgetown road—on account of the granting of transfers. Suppose, now, we allow the Metropolitan road to charge eight cents while the Washington and Georgetown road is allowed to charge only five cents; travel would gravitate to Pennsylvania avenue, and all who ride would pass over the latter road. Our desire is to pass a bill which will give some relief to the new road.

I will send to the Clerk's desk to be read a statement of the receipts and expenditures of the Metropolitan Railroad Company. It will show that it is losing \$651 75 a week, and unless this relief is granted the company will be compelled to throw up the road.

Mr. WASHBURN, of Illinois. My friend then means to make this bestowment on the Washington and Georgetown railroad because of the Metropolitan railroad.

Mr. PATTERSON. Not at all. It has been shown that the Washington and Georgetown Railroad Company have lost, the last quarter, over \$18,000.

Mr. UPSON. That was an *ex parte* statement. Mr. PRUYN. I ask the gentleman from New Hampshire whether the difficulty would not be removed by allowing the Washington and Georgetown Railroad Company to charge say three cents on the side lines? If any road in the world is paying, this road must be on the main line along the avenue. The gentleman says, in consequence of giving these transfer tickets without charge the income of the main road is exhausted. Would it not be a remedy to allow it to charge three cents on the branch roads?

Mr. PATTERSON. That would meet the wants of the Washington and Georgetown road, but it would not meet the wants of the Metropolitan Railroad Company, because it has no branch road, and would tend to throw travel on to the avenue.

Mr. MORRIS, of Ohio. Mr. Speaker, as a member of the Committee for the District of Columbia, I am decidedly opposed to increasing the fare of the Washington and Georgetown Railroad Company. I think that the gentleman from Illinois [Mr. WASHBURN] is very much mistaken when he says that the stock of this road is worth \$400. I think that it is about one and a half as held by innocent holders.

I am willing, as a member of that committee, to allow the company to charge three cents for transfer tickets, but I am not willing to increase

the fare on the main line. If the stockholders of the Metropolitan Railroad Company have made a bad investment it is no reason why we should raise the fare on the citizens of this District.

Mr. PATTERSON. I cannot yield any longer. It has been shown that the company is constantly losing money by running this road at the present rates.

Now, so far as this Washington and Georgetown road is concerned, the difficulty might be met by giving them permission to charge for transfer tickets, but that would be doing wrong to the Metropolitan road. We ought to meet the difficulty in a way which shall not do injustice to either party. I will now ask the Clerk to read the paper which I have sent to the desk.

The Clerk read, as follows:

Statement of weekly expenses and receipts of Metropolitan Railroad for week ending February 8, 1865, and showing cost of running street cars at present time.

Pay-roll for week.....	\$739 05
Feed bill and straw for one week.....	560 00

	1,299 05
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Wear and necessary repairs on cars.....	50 40
Wear of harness, lubricating and illuminating oil, expense of keeping road in working order, and loss of horses by bad roads, with depreciation of stock and cars per week, actual cost,	105 10

Actual cost.....	1,454 55
Interest at six per cent. on the cost of road, (actually expended,) \$200,000, is per week.....	230 70

	1,685 25
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Weekly receipts.....	\$1,060 00
Less Government tax, 2½ per cent....	26 50

	1,033 50
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Actual weekly loss.. .. .	\$651 75
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The within statement does not include the loss by death of horses. Since the road commenced running five horses have died, costing \$700. The severity of the winter has kept an average of twelve horses on the sick list unfit for use. The actual cost of running car per diem is \$20 06 each.

Mr. PATTERSON. It will be seen by this statement, drawn up by a director of the road, that the price of hay has risen from sixteen or seventeen dollars to fifty dollars a ton during the last three years. The price of labor is \$2 50 a day. It was only \$1 50 before the war. Everything else which the road uses has risen in the same proportion. It would seem, therefore, but simple justice that the rate of fares should be increased in the same ratio. I know, from facts which were before a committee, that this Metropolitan road must cease running their cars unless aid is soon extended to them. Why, sir, iron which cost only forty-five dollars a ton when the Washington and Georgetown road was built, cost this road \$164 a ton; and the increase upon the price of lumber and other materials used in the construction of the road was equal to the rise upon iron.

Gentlemen say there has been a great increase upon the par value of the stock of the Washington and Georgetown road. That may be so; but the majority of the present stockholders bought it at an advance upon the original cost, and they have not realized any great increase upon their original investment.

The SPEAKER. The morning hour has expired, and the bill goes over. Reports from the Judiciary Committee are in order for the remainder of the day.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, their Chief Clerk, announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 450) for the relief of Samuel Gerould;

An act (S. No. 422) for the relief of William Pierce;

An act (S. No. 311) for the relief of W. H. & C. S. Duncan; and

A joint resolution (S. No. 109) authorizing the adjustment of the claim of George J. Stubblefield for chewing tobacco furnished to the United States.

The message also announced that the Senate had passed the following joint resolution and bill of the House, severally with amendments, in which the concurrence of the House was requested:

Joint resolution (H. R. No. 139) of thanks to

Major General George H. Thomas and the army under his command; and

An act (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes.

#### CIRCUIT AND DISTRICT COURT JURORS.

Mr. KERNAN, from the Committee on the Judiciary, reported back, with an amendment in the nature of a substitute, a bill (H. R. No. 609) to prescribe the mode of designating the citizens of the United States who shall serve as jurors in the circuit and district courts of the United States.

The substitute was read, and agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KERNAN moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TITLES TO LAND IN DISTRICT OF COLUMBIA.

Mr. KERNAN, from the Committee on the Judiciary, reported back an act (S. No. 91) to quiet titles in favor of parties in actual possession of land situated in the District of Columbia.

The bill was read in *extenso*.

Mr. MALLORY. If I understand that bill it subverts the laws protecting the rights of married women and heirs, the owners of real estate in the District of Columbia. I understand that where a conveyance on record of a *feme covert* has not been made in improper form heretofore, and where conveyances of land sold in the District of Columbia are defective, the bill cures all defects, and makes the titles all perfect. It divests rights which have grown up in this District under the law, and that, too, in relation to a class of persons who deserve the protection of law as much, if not more, than any other: I mean married women. I can never give my sanction to a law of that sort. I must see this bill in print and examine it more closely before I can ever be induced to do it.

The bill goes further, as I understand it. Where a conveyance has been made by an attorney and the proceedings under the power of attorney have been wrong and improper, it validates such conveyances, when, such conveyances being invalid as the law now stands, rights have sprung up, and this bill deprives the parties of these rights which they have acquired under the existing law.

I cannot be induced to vote for such a bill. It is true there is a saving clause in the bill authorizing parties having such claims to sue within three years, but if they do not do that then the operation of this bill is to make all such defective titles valid titles.

Mr. ASHLEY. I suggest that this bill ought to be printed.

Mr. KERNAN. Allow me to make a brief statement. I desire to say that I have been uniformly opposed to this kind of legislation, unless great care is exercised. This bill was carefully examined by the Committee on the Judiciary before they recommended its passage. This is a Senate bill. It simply provides for confirming the titles of parties who are already in possession, but whose acknowledgments have been defective. Any gentleman who should attempt to understand the laws relating to the acknowledgment of deeds in this District would find himself considerably involved. In some cases, where the law required the acknowledgment to be made before two justices of the peace or aldermen, the acknowledgments have been made before one, and sometimes before a judge of a District court, rather than before a judge of a United States court. This bill only provides that where the deeds are on record and the parties under them are in possession, and where there has been this defect in the form of the acknowledgment or in the certificate, then the title shall be good. It expressly provides that it shall not affect a married woman, unless there shall be equivalent words to her having acknowledged the deed apart from her husband and freely.

And then the second section provides that it shall not affect any suit pending or any suit which shall be brought within three years.

Now, all that I can say in behalf of the committee is this: we learned that this bill had been very carefully considered in the Senate by a very able lawyer and former judge, Mr. COLLAMER.

The Senator from Maryland, Mr. JOHNSON, who is familiar with the laws in this District and in Maryland, said that it had been examined and is right, and that it only confirms acknowledgments apparently defective on the record, but which were really good and ought to be confirmed.

Now, in reference to one clause of the bill, it declares that where an attorney of a corporation who is authorized to convey title has omitted to state in his certificate that he acknowledged it in behalf of the corporation the title is made good. I consulted Mr. Carlisle, a counselor of high standing in this District, and I was informed by him that attention had been called to this bill, that it had been examined by lawyers here, and that there is no objection to its passage.

Now, that is all the information that I can give or that the committee can give. We have endeavored to be very careful. We have not desired to legislate for any cases where there ought not to be legislation. We supposed that if upon the record there were acknowledgments which from the certificates appeared to be defective, but where in reality everything essential had been complied with, the titles ought to be confirmed.

Now, I do not desire to persuade any one to vote for this bill if he thinks it ought not to be passed. If it is desired by the House that this bill shall be printed for their information I presume there will be no objection, although I do not think they will be any wiser by it; for I spent a great deal of time in reading this bill and trying to understand it.

Mr. MALLORY. It seems to me that the object of the bill, as the gentleman states it, is to perfect by law imperfect titles in cases where *femes covert* have failed to make a proper acknowledgment, or to take the steps which the law requires. I would suggest to the gentleman, who is a learned lawyer, that those titles can now be made perfect by going before the proper officer and having the proper acknowledgments made. If any woman is opposed to doing that, it is because she thinks she has been wrongfully deprived of that title.

Mr. KERNAN. In the first place, I do not think there is a State in this Union that has not, time and time again, passed laws to cure these formal defects.

Mr. MALLORY. There has been no such legislation in my State.

Mr. KERNAN. It has been done in other States; it has been done in Maryland. Every gentleman knows that it is a very great burden to impose upon a party in possession, where any one disputes his title, and where there is on record an apparent defect in the title which would prevent his selling or mortgaging his property, to require him to run all over the United States, or even all over the State of Maryland, to find some one from whom to get a proper acknowledgment. Is it right to permit the *feme covert* to compel the owner to pay her again, and to exact something from him before she will consent to make his title good, when in reality she has already parted with that title, or intended to do so? Unless the House shall desire it, I will move the previous question.

Mr. NOBLE moved to lay the bill on the table. The motion was not agreed to.

Mr. MALLORY. I would ask the gentleman from New York [Mr. KERNAN] to withdraw his call for the previous question and allow me to move that this bill be printed and recommitted to the Committee on the Judiciary.

Mr. KERNAN. I will do so, if the motion is made to include the right of the committee to report upon it at any time.

Mr. MALLORY. I will make that motion. The motion to print was agreed to; and the bill was recommitted to the Committee on the Judiciary, with leave to report at any time.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington;

An act (H. R. No. 222) to extinguish the In-

dian title to lands in the Territory of Utah suitable for agricultural and mineral purposes; and

Joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City and State of Nevada for the purpose of a branch mint located in said place.

#### EMILE COHEN.

Mr. THOMAS, from the Committee on the Judiciary, reported a bill to change the name of Emile Cohen of Washington, District of Columbia, to Emile Cornely.

The bill was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

#### INSANE HOSPITAL IN DISTRICT OF COLUMBIA.

Mr. WOODBRIDGE, from the Committee on the Judiciary, reported back a resolution instructing the committee to inquire into the expediency of providing by law for the appointment of the superintendent of the Insane Hospital in the District of Columbia by the President; and moved that the committee be discharged from the further consideration of the same.

The motion was agreed to.

#### ATTORNEY GENERAL'S OFFICE.

Mr. WOODBRIDGE reported back from the Committee on the Judiciary a bill (H. R. No. 758) amendatory of the act relative to the Attorney General's office, and to fix the compensation of his assistant and clerks, with sundry amendments.

The first amendment was to strike out of the first section "\$4,000" and insert "\$3,500" as the salary of the Assistant Attorney General.

Mr. HOLMAN. I would ask what is the full effect of the section as proposed to be amended.

Mr. WOODBRIDGE. I would state for the information of the gentleman from Indiana, [Mr. HOLMAN,] that the Senate have already provided in a bill before them that the salary of the Assistant Attorney General shall be \$3,500, instead of \$3,000, as now provided by law. The present condition of the country has brought before that office far more questions to decide than formerly, and the business of that office is now of such magnitude that the Committee on the Judiciary, upon investigation, deem it only just that the Assistant Attorney General should have a compensation of \$3,500. That amount was recommended by the Attorney General, and it only places the Assistant Attorney General upon an equal footing with those occupying similar positions in the other Departments. It is certainly a very responsible office, one that ought to command the services of a person learned in the law, and in my judgment a salary of \$3,500 is quite as small as it ought to be.

Mr. ASHLEY. I desire to offer an amendment to increase the salary of the Assistant Secretary of the Interior to \$3,500.

The SPEAKER. That amendment would not be in order, not being germane to the bill.

Mr. WOODBRIDGE. I would state further that this bill is intended to reorganize the Attorney General's Department, and make it correspond with the other Departments of the Government. It seems to have had no perfect and thorough organization under the laws heretofore passed; and hence this bill has met the approval of the Judiciary Committee.

Mr. HOLMAN. The amendments reported by the Judiciary Committee are certainly an improvement upon the original bill. My objection was to the increase of salary at all; but still I think it better to adopt the amendments. I admit that the expenses of the office have increased enormously since the commencement of the war. If I did not apprehend that an attempt to defeat it would only defeat the modifications reported by the Judiciary Committee I would move to lay it on the table, but as I conceive that the amendments are much better than the bill I shall not make that motion.

The question was taken on the first amendment reported by the Committee on the Judiciary; and it was agreed to.

The next amendment, to strike out the third section of the bill, was also agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### OPINIONS OF ATTORNEYS GENERAL.

Mr. WILSON, from the Committee on the Judiciary, reported back, with a recommendation that it do pass, House bill No. 707, to provide for the publication of the opinions of the Attorneys General of the United States, the question being on ordering it to be engrossed and read the third time.

The bill directs the Attorney General to contract for the publication of the opinions of the Attorneys General of the United States given since the 4th of March, 1857, of uniform style and appearance with the eighth volume of such opinions, published by Robert Farnham in 1858, and as nearly as possible of uniform size; the whole to be numbered on regularly after the eighth volume, the copyright to be taken out by the publisher, who is to deliver to the Attorney General, within one month after the publication, three hundred sets, at the price of three dollars per volume. It authorizes the Attorney General to employ a competent person to edit and prepare and index such opinions and to supervise their publication. The Attorney General is to cause them to be distributed as directed in the bill, the residue of the set to remain at the future direction of Congress.

Mr. WILSON. I desire to have a letter from the Attorney General read in explanation of the matter.

The Clerk read, as follows:

ATTORNEY GENERAL'S OFFICE,  
WASHINGTON, January 23, 1865.

SIR: The opinions of the Attorneys General up to the 4th of March, 1857, have, as you are doubtless aware, been published in eight uniform volumes. The opinions delivered since that date have not been published, and remain in this office on its records. These opinions, like those contained in the eight volumes published, relate to and decide a great variety of questions of great interest and frequent occurrence in the various Executive Departments of the Government. By established custom since the foundation of the Government they have been accepted as settling the rule of practice in the executive offices upon the points to which they relate. Hence they constitute a body of departmental law valuable not only for their intrinsic merit, but as precedents which secure uniformity of practice in those offices. Many of these opinions, as is well known to you, are elaborate and carefully considered discussions of grave questions of constitutional and international law, having greater or less intrinsic value, but all delivered under the sanction of official authority, and some of them having the weight of eminent professional names.

These remarks apply as well to the unpublished as to the published opinions. And I may add, in regard to the opinions of my immediate predecessors, that many of them relate to questions which have arisen with the existing rebellion, and furnish rules of practice and decision in the Executive Departments under statutes enacted within the last four years.

Of course the occasion to refer to and examine the unpublished opinions frequently occurs in the Executive Departments, the want of them often occasioning delay and difficulty in the transaction of important and pressing public business, and they are often called for to be used in the United States courts. Hence this office is subjected to constant applications for them, generally from officers in the public service. To supply the demand would draw very largely on the time and labors of our clerical force, which is needed for other duties. The Departments ought to have these opinions; and I have therefore prepared an amendment which I have the honor to submit to you with the request that you will give your aid to Hon. THADDEUS STEVENS, chairman of the Committee of Ways and Means, to whom I have also sent a copy, in order to have it inserted in some suitable appropriation bill if Congress shall see fit to do so.

The demand for the work being limited, the book publishers inform me that they cannot afford to publish the volumes unless the Government will agree to take the number of copies which, at the price fixed, will compensate for the publication of the work. The publisher will then rely on the copyright granted by the proposed law for his profit. This, I am informed, is in accordance with precedent in the publication of the former volumes.

I am, sir, very respectfully, your obedient servant.

JAMES SPEED,  
Attorney General.

Hon. JAMES F. WILSON,  
Chairman of the Judiciary Committee.

Mr. GARFIELD. I suggest to the gentleman from Iowa to insert before the word "index" the words "fully and completely." I have noticed in many of our public volumes that the index is most defective.

Mr. WILSON. I have no objection.

The bill was so modified.

Mr. WILSON. I do not desire to add anything further to the explanation contained in the letter from the Attorney General. I therefore move the previous question.



Mr. BALDWIN, of Massachusetts. I ask the gentleman from Iowa to let me suggest an amendment.

Mr. WILSON. I will hear what the gentleman has to suggest.

Mr. BALDWIN, of Massachusetts. I propose to amend that part of the bill which provides that the residue of the books undistributed shall remain at the future direction of Congress, by providing that they shall remain in charge of the Librarian of Congress, in order that they may be in some definite place and be safely kept until wanted.

Mr. WILSON. I cannot accept the amendment as representing the committee, but I have no objection to its being offered.

Mr. BALDWIN, of Massachusetts. I propose that amendment.

The amendment was adopted.

The previous question was seconded, and the main question ordered; and under its operation the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PROPERTY TAKEN FOR PUBLIC USE.

Mr. WILSON, from the Committee on the Judiciary, reported a bill in relation to the appropriation of private property to the public use; which was read a first and second time.

The bill provides that the provisions of an act in addition to an act for the establishment of certain arsenals, approved April 19, 1864, shall extend to, and be construed as applying to, all cases wherein the Government of the United States may deem it necessary to appropriate private property, being real estate, to the use of the Government, and in relation to which the Government and the owner or owners of such property are not able to agree to the price; provided that the board of commissioners shall be appointed by the circuit court for the circuit in which the proceedings are to be had.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TAKING OF DEPOSITIONS.

Mr. WILSON, from the Committee on the Judiciary, reported a bill to regulate the taking of depositions in certain cases; which was read a first and second time.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PROCEEDINGS IN CRIMINAL CASES.

Mr. WILSON, from the Committee on the Judiciary, reported back with amendments a bill (S. No. 88) entitled "An act regulating proceeding in criminal cases, and for other purposes."

The first amendment reported by the committee was read, as follows:

Immediately after the enacting clause insert the following as the first section:

That every grand jury impaneled before any district or circuit court of the United States to inquire into and make presentment of public offenses against the United States, committed or triable within the district for which the court is holden, shall consist of not less than sixteen, and not exceeding twenty-three, persons. If, of the persons summoned, less than sixteen attend, they shall be placed on the grand jury; and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to complete the grand jury. And whenever a challenge to an individual grand juror is allowed, and there are not other jurors in attendance sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose. No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors.

Mr. SLOAN. I would like the gentleman from Iowa [Mr. WILSON] to give some explanation of this amendment. I did not understand entirely

that provision with regard to the attendance of less than sixteen.

Mr. WILSON. If less than sixteen attend, those who do attend are held, and the remaining number are made up of persons summoned from the body of the district. The reason for proposing this provision is, that the United States judge for the district of Oregon has decided that a grand jury composed of seven persons, as provided in the laws of that State, is sufficient to find an indictment for an offense against the laws of the United States. In order to avoid any difficulty of that kind in any other districts we now propose to adopt this provision.

Another object of the amendment is to prevent a grand jury from being made up of professional jurors—men who are constantly hanging about the court-rooms all over the country. It is therefore provided that jurors shall be taken from the body of the district.

Mr. SLOAN. That explanation is satisfactory. The amendment was agreed to.

The second amendment reported by the Committee on the Judiciary was read, as follows:

In the second and third lines of the first section of the original bill strike out the words "in any district or circuit court of the United States."

The amendment was agreed to.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### B. C. WHITING.

Mr. MORRIS, of New York, from the Committee on the Judiciary, reported back, with amendments, joint resolution (H. R. No. 46) relating to the account of B. C. Whiting.

The amendment reported by the committee was read, as follows:

Add at the end of the joint resolution the following: *Provided, That such amount shall not exceed the sum of \$650.*

Mr. HOLMAN. Is there a written report accompanying this bill?

The SPEAKER. There is not.

Mr. MORRIS, of New York. There are affidavits accompanying the bill. I may also add that I have consulted with the Attorney General on this subject. It is supposed that there is merit in this claim; but the bill only proposes that the whole subject be referred to that officer, and that if he shall find the claim just it should be paid, provided that it shall not exceed the sum of \$650.

Mr. HOLMAN. These claims all stand on the same footing; and in the absence of a report I think that this bill ought to go to the Committee of the Whole on the Private Calendar.

Mr. COLE, of California. There was an attempt to eject the light-house keeper at Point Pinos, near Monterey, California. That light-house is or was upon private property, and the light-house keeper naturally applied to the district attorney of the United States to defend him in possession of the property, that the lights might be kept up. This was outside of the duty of the district attorney. There was no time to consult with the authorities here in Washington; but he was requested by the other United States officers to proceed and defend the light-house keeper in his possession. He did it, and he performed valuable service to the Government, beyond question. He saved the Government a vast amount of expense and trouble. This labor was not within the scope of his duty as district attorney of the United States.

Again: persons squatted upon the custom-house lands at Monterey, and like application was made to him. On the solicitation of the United States authorities, he proceeded to defend them. It was no part of his duty. These suits properly belonged to the Treasury Department.

It does not make any new appropriation, as I understand the resolution, but allows his payment to be made out of appropriations heretofore made. He is to be allowed such sum as may be deemed just. The sum proposed is very moderate. I will state further that he is out of pocket in the matter. He has lost money by his services on behalf of the Government.

Mr. HOLMAN. Is he not the district attorney? Mr. COLE, of California. He is. This was

not in the line of his duty. He is not the attorney of the Treasury Department. The communication between here and California is so long that great injury would be done before application could be made to the Treasury Department for the employment of an attorney there to defend suits of this nature.

Mr. HOLMAN. I believe the gentleman is wrong in saying that this does not make an appropriation. If the money is to be paid out of appropriations heretofore made I do not object.

Mr. COLE, of California. I think the gentleman is mistaken.

Mr. HOLMAN. I believe that this is an additional appropriation of money, and it is not to be paid out of money heretofore appropriated.

Mr. COLE, of California. It refers the matter to the Speaker.

The SPEAKER. This is not an appropriation bill.

Mr. HOLMAN. It directs this money to be paid.

The SPEAKER. It cannot be paid until it has been appropriated.

Mr. HOLMAN. I suggest that the resolution be amended so as to make the money payable out of former appropriations.

Mr. COLE, of California. I do not object to that.

The amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. COLE, of California, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WRITS OF ERROR ON APPEALS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back House bill No. 638, to facilitate judicial proceedings on writs of error and appeals, with amendments.

The amendments were severally concurred in. The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

Mr. WILSON, from the Committee on the Judiciary, reported back House bill No. 740, to establish the supremacy of the Constitution in the insurrectionary States, with the following substitute:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That neither the people nor the Legislature of any State, the people of which were declared to be in insurrection against the United States by the proclamation of the President, dated August 16, 1861, shall hereafter elect Representatives or Senators to the Congress of the United States until the President, by proclamation, shall have declared that armed hostility to the Government of the United States within such State has ceased; nor until the people of such State shall have adopted a constitution of government not repugnant to the Constitution and laws of the United States; nor until, by a law of Congress, such State shall have been declared to be entitled to representation in the Congress of the United States of America.*

Mr. MALLORY. I make the point of order that this whole subject was laid on the table yesterday.

The SPEAKER. That bill and amendments were laid on the table, but that does not preclude the committee reporting back any measure expressly referred to it.

Mr. MALLORY. This is substantially the same subject.

The SPEAKER. It is for the House to decide whether it will lay this on the table or not.

Mr. ELDRIDGE. I move that the bill and substitute be laid on the table.

The SPEAKER. The gentleman from Iowa has the floor.

Mr. ASHLEY. I ask the gentleman to yield to me to submit an amendment.

Mr. WILSON. I cannot. I desire to have a vote upon this bill, and am willing, in order to secure that vote, to yield my time to such gentlemen as may desire to express their views in relation to it, reserving to myself a very small por-

tion of the hour to express my views and explain the features of the bill.

Mr. ELDRIDGE. I want to move to lay the whole subject on the table.

Mr. WILSON. I do not desire to yield to such a motion. Inasmuch as the gentleman from Kentucky [Mr. MALLORY] has raised a point of order upon this bill, I will state that it is different in its provisions from either of the bills which were laid upon the table yesterday. It is entirely different in principle from the substitute which I offered to the bill reported by the gentleman from Ohio, [Mr. SCHENCK], and it is entirely different in its framework from the bill reported by that gentleman, inasmuch as it does not prescribe any of the conditions contained in that bill. The principle upon which this bill is based is that springing from that provision of the Constitution which authorizes Congress to prescribe regulations in relation to the time and mode of electing members of the Senate and House of Representatives, as found in section four of the first article of the Constitution. The Constitution says:

"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

The committee reported this substitute for the purpose of having an exercise, upon the part of Congress, of the power here conferred, to determine the time of electing Senators and Representatives within the States heretofore declared to be in insurrection. It is true that the substitute does not fix the particular date, nor the particular day of the year for this election; but it provides that an election shall not take place until the happening of certain events, after which the President by proclamation fixes the time when the States may proceed to this election. The substitute provides that neither the people nor the Legislature of any State, the people of which were declared to be in insurrection against the United States by the proclamation of the President, dated August 16, 1861, shall elect Representatives or Senators to the Congress of the United States until the President, by proclamation, shall have declared that armed hostility to the Government of the United States within such State has ceased; nor until the people of such State shall have adopted a constitution of government not repugnant to the Constitution and laws of the United States; nor until, by a law of Congress, such State shall have been declared to be entitled to representation in the Congress of the United States of America.

Mr. POMEROY. I would inquire of the gentleman whether any action of Congress, under the clause of the Constitution which he has read, must not be uniform in its action throughout the United States.

Mr. WILSON. I do not think it necessary; if I did I should not have based this substitute upon that provision of the Constitution, because it would have been in conflict with it.

Mr. DAWES. Suppose the President does not choose to declare, by proclamation, the facts prescribed in the substitute the gentleman has offered, would he not have the power to prevent the representation here of any State? And I would inquire whether it is any part of the power conferred upon the President of the United States to deprive any State of representation here.

Mr. WILSON. I do not suppose it was intended to do so.

Mr. DAWES. I would inquire whether the President has it not in his power, if this bill becomes a law, to prevent any one of those States from ever having a representative in Congress?

Mr. WILSON. No, sir; he will have no such power under this bill.

Mr. DAWES. I understand the bill to declare expressly that there shall be no election in these States until the President shall have made the proclamation. Then if the President should not so declare, there could be no election.

Mr. WILSON. The state of facts which the gentleman suggests might call for a remedy if the President should fail to do that which it would be his duty to do under the bill. If, for instance, at the next session of Congress, we should determine it proper to admit Representatives, or permit the people of those States to elect Representatives, and the President should not issue his proclamation, we can change the law. We are conferring

power upon him which may not at any time be taken away. It is to be presumed that the President will discharge his duty faithfully, and in accordance with the Constitution and laws of the United States.

Mr. DAWES. Let me ask the gentleman one more question. As I understand the gentleman, his bill is based upon the presumption that the President of the United States will do what to us seems to be his duty. Now, I have only to say that when the Constitution was formed its framers did not seem to think that that was enough, but they thought it proper and necessary to throw some safeguards around the people. And I submit that when my friend from Iowa says that the case which I suggested may call for a remedy he concedes that it is possible for the President, under this bill and until another law shall be passed to cure the mischief, by his own act to deprive a State of representation here.

Mr. WILSON. It is possible for the President to disobey the injunctions of every law passed by Congress, and if he should do so the remedy is in the hands of Congress. There is no more reason for presuming that the President will not do his duty in this regard than there is for presuming that he will not do it in any other respect or in every other.

Mr. DAWES. What law will the President disobey in omitting to declare what you say there shall be no representation until he does declare?

Mr. WILSON. Why, Mr. Speaker, this bill would be passed for a particular purpose, for the purpose of defining the time when these States may engage in the election of Senators and Representatives; and when the state of facts shall occur which would require the issuance of such a proclamation, it would be the duty of the President to issue such a proclamation.

Mr. MALLORY. Does the gentleman intend to allow discussion on this bill? I want to make a few remarks.

Mr. WILSON. Oh, certainly. I have already said that I will yield the most of my time to gentlemen who desire it.

Mr. MALLORY. May I have the floor now to make a few remarks?

Mr. WILSON. Certainly. All I ask is that no one gentleman shall consume too much of the time, for I want to divide it. How much time does the gentleman from Kentucky want?

Mr. MALLORY. Not over ten minutes.

Mr. WILSON. I yield to the gentleman ten minutes.

Mr. COX. Does the gentleman intend to allow amendments to be offered, or does he intend to call the previous question?

Mr. WILSON. I design to call the previous question at the expiration of my hour.

Mr. COX. Without allowing amendments to be offered?

Mr. WILSON. Yes, sir; I desire a vote upon the bill. I have just refused the gentleman's colleague [Mr. ASHLEY] the privilege of offering an amendment.

Mr. MALLORY. Mr. Speaker, I do not know, after what has fallen from the lips of the gentleman from Massachusetts, [Mr. DAWES], that it is necessary that anything should be said against this bill. The gentleman from Iowa [Mr. WILSON] admits that the sole effect of the bill will be to place this whole matter in the power and discretion of the President of the United States. So far as these States are concerned there is no limitation, as I contend, on their right now to send Representatives to the Congress of the United States whenever they choose to do it.

This bill adds nothing to the right that those States at present have under their existing constitutions to send Representatives to the Congress of the United States. I contend, then, that the only effect which this bill can have is to restrict the rights of these States, and to place them at the feet of the President of the United States. It provides, in other words, that they shall not send Representatives to this House or to the Senate of the United States until the President of the United States by proclamation says that the rebellion is suppressed within the limits of those States. That is the effect of the bill.

Now, each House of Congress is, under the Constitution, the judge of the election, returns, and qualifications of its members, and to-day, or tomorrow, or next week, or a year from this time,

when the people of these States choose to lay down their arms and send their Representatives to the Congress of the United States they have a right to send their Representatives to both branches of Congress; and all that each House is called upon to decide, and that they have a right to decide, is whether the members so sent are properly entitled to their seats. There is no restriction, sir, on this right of judgment by both Houses in the Constitution of the United States. There is no restriction in any law that I know of on the exercise of those rights by each State. The gentleman's bill removes no such restriction, because none exists.

The gentleman talks about their adopting constitutions republican in form. They have constitutions republican in form. There is not a State in rebellion now against this Government that has not a constitution as republican in form as that of any State loyal to this Government at this time. I may be asked the question whether, if they have changed the provisions of their constitutions, and made them relate to the confederate government, that fact does not nullify their constitutions, and require them to adopt new ones before they again become members of the Union. No, sir; no, sir. If they have changed their constitutions, and adopted provisions in conflict with the Constitution of the United States, to that extent those provisions are nullities. The constitutions under which they act now are their constitutions in every respect and particular, except where they come in conflict with the Constitution of the United States and the laws and treaties made in pursuance thereof. And so I may be permitted to say of every law that has been passed by any rebel legislature.

If that is not acknowledged to be the case, in what a dilemma will the unfortunate people of those States be left after the rebellion is over. Laws have been passed there relating to marriage, relating to the inheritance of property, relating to all those things which are of the most vital interest to the community. Is it intended that because those States have been in rebellion all their laws shall be, when the rebellion is suppressed, declared to be absolutely null and void, and every marriage contracted in those States, under the operation of their laws, invalid? Why, sir, that would be an outrage. It is an outrage on common sense to propose so.

So of the descent of property, of inheritances, &c. If anything in any one of those laws heretofore passed by their Legislatures shall be found hereafter to conflict with the Constitution of the United States, or with the laws and treaties made in pursuance thereof, then that provision is null and void. Every one of their laws must be judged by that test, and by that test alone. I see no use in these enabling acts. I see no use in these reconstruction acts. You cannot reconstruct the Union until you recognize that the Union is destroyed. How can you reconstruct a thing already in existence? We contend that those States are still members of the Union; that their acts of secession are null and void, and did not carry the States out of the Union, but that they remained and still are members of the Union.

That is my doctrine, and if it be correct, how are you to bring back by legislation here a State that had never gone out of the Union? I may be dull; but this being my theory, I cannot see why you should enact any law on this subject. Sir, masterly inactivity is your wisest course now. Let things remain as they are under our existing Constitution and law. And when the people of each State choose to send their Representatives here—and I hope it will not be long before they all do so—let us receive their Representatives if we believe that they have been properly elected under the constitutions and laws of those States, and let them engage in the deliberations of this body. Let the President appoint the judges of United States courts and the postmasters. Let Congress put the post routes in those States into operation; and then you will have the whole machinery of Government reestablished in those States as before they engaged in the rebellion. I see no other mode of ending the war and putting a close to the rebellion. For these reasons, sir, no reconstruction bill can be formed that can meet my approbation.

I merely wanted an opportunity to make a statement of these views, that they may go on the

record; for on their soundness I am willing to be judged.

Mr. KERNAN. Mr. Speaker, the bill under consideration provides—

That neither the people nor the Legislature of any State, the people of which were declared to be in insurrection against the United States by the proclamation of the President, dated August 16, 1861, shall hereafter elect Representatives or Senators to the Congress of the United States until the President, by proclamation, shall have declared that armed hostility to the Government of the United States within such State has ceased; nor until the people of such State shall have adopted a constitution of government not repugnant to the Constitution and laws of the United States; nor until, by a law of Congress, such State shall have been declared to be entitled to representation in the Congress of the United States of America.

The chairman of the Committee on the Judiciary claims that we have power to pass this bill under section four of article one of the Constitution. That section declares that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Sir, I deny that this confers the power claimed. I deny that, under the power to make regulations as to time, places, or manner of holding elections, we can prohibit the people of a State from holding an election of Senators and Representatives until the President shall permit an election to be held. This is the purport of the proposed law. Authority to make regulations was not intended to and does not give Congress the power to prohibit any election under any regulation. This bill declares that neither the people nor the Legislature of any State which has been declared to be in insurrection shall hereafter elect Representatives or Senators to the Congress of the United States, until the President, by proclamation, shall have declared that armed hostility to the Government of the United States in such State has ceased.

If we can rightfully do this, we can enact a law that they never shall elect Senators or Representatives until the President issues a proclamation saying that they may do so. It is equivalent to doing this when, by this bill, we declare that certain States shall not elect until the President shall declare that armed hostility has ceased. No President should be intrusted with such power if Congress had authority to grant it. But Congress has not the power—it is well that it has not—to prohibit a State from sending its Representatives here until after the President shall have declared that it may. The President, acting up to the letter and spirit of this law, if it shall be enacted, might prohibit elections when, I am sure, every Union man would desire that elections should be held and Representatives sent here. According to this bill, so long as a guerrilla band is in the State, the President may truthfully refuse to declare that armed hostility toward the United States has ceased.

I insist that if to-morrow the State of Georgia, or any other of these States, should through its organized government, the Legislature and Governor, disavow the ordinance of secession, and declare itself in favor of the Union and against the rebellion, its Representatives here should be received. Is there any Union man in the country who would not welcome its Representatives here? No. And yet if we pass this bill we say that they shall not elect Representatives in the contingencies I have mentioned. Such legislation tends to defer the restoration of the Union and peace, and to perpetuate the war. If, therefore, we have authority to enact such a law it should not be enacted. Our policy should be to induce, by all proper measures, the people of these States to lay down their arms and renew their constitutional connection with the Federal Government by sending Senators and Representatives to Congress under and in accordance with the Constitution. We should in no way repel or embarrass such action on their part; we should invite it. We should pass no law by which it is declared that this House shall not receive as Representatives Union men elected by the Union men of one of these States unless the President shall have authorized their election.

Again, by another provision of this bill there can be no election of Senators or Representatives in either of these States until after an act of Congress has been passed declaring that the State is entitled to representation in the Congress of the United States. Why, sir, no enabling act passed by Congress is required to empower the people

of these States to elect Senators and Representatives. These States are in the Union. The people, or a majority of them, are in rebellion against the authority of the Constitution of the United States; they refuse to submit to the United States Government, and have declined to send Representatives to take part in its administration. When they desist from their rebellious and treasonable acts and return to their allegiance they have a right under the Constitution to elect and send here their Representatives; and when these Representatives present themselves, each House by the Constitution is to judge of the election and qualifications of those demanding admission. Each House is to judge for itself. Neither is to consult the other or the President. But if we pass this law and obey it this House cannot admit Representatives from one of these States, although we may be satisfied they are loyal to the Constitution and were properly elected by loyal Union constituencies, because the Senate and President, or even the latter, did not or would not assent to an act of Congress enabling the people of the State to hold an election. Neither House should or rightfully can surrender its constitutional right and duty to exclusively judge of and determine as to the election and qualifications of those asking admission as members. We should enact no law by which the action or assent of the President is made necessary to the admission of Representatives to this body or the Senate. Executive power and influence have increased to an alarming degree. I fear they are increasing, and I believe they should be diminished. Let us not then by act of Congress put it in the power of the Executive to say whether or not States shall be represented in Congress.

The proposed legislation is in my judgment unwise in reference to the present condition of these insurrectionary States. We should take no action which shall tend to prevent, embarrass, or discourage the people of these States or any portion of them, whenever they are disposed to submit to the Constitution and laws, from electing and sending Representatives to Congress. I shall rejoice to see them do so. I believe the friends of the Union everywhere will rejoice to see this evidence of the restoration of the Union under the Constitution; this evidence of Union sentiment among these people; this evidence that the war is drawing to an end and that union and peace among our people will soon be restored. As my friend from Kentucky [Mr. MALLORY] has well said, we should discard all these unwise reconstruction schemes, these schemes for prescribing conditions as to the return of the people of these States to the Union under the Constitution, and allow matters to remain as they are, so far as legislation on the subject is concerned. At least there should be no legislation apparently hostile to their return. We should wait and deal with the people of each State and their Representatives when the case arises for our action, and should not attempt by act of Congress to prescribe in advance any unbending rule of policy or action on this subject. Certainly wisdom forbids that we should declare that the people of these States shall not hold elections for Senators or Representatives, and send them here to take part in the councils of the Union as Union men, until they have complied with conditions, not required by the Constitution, which we prescribe. I believe the cause of the Union, and the cause of peace based on the Union, which all parties desire so earnestly, will not be promoted by the passage of this bill, or by the policy sought to be inaugurated by a portion of the party in power by the passage of this and similar acts. On the contrary, in my judgment, we should manifest a willingness on our part to receive into Congress the Representatives of the people of any State, so soon as we are satisfied that they represent the people of that State, and that the people of that State, or a majority of them, are opposed to the rebellion, willing to submit to the Constitution and laws made in pursuance of it, and in favor of peace based upon the Union under that Constitution. When they are thus disposed I am in favor of admitting their Representatives here and of allowing them to administer their State governments and local matters with all the rights enjoyed and exercised by the people of the other States.

[Here the hammer fell.]

Mr. POMEROY. Mr. Speaker, my first objection to this bill is that, so far from fixing a time at which an election may be held, it simply prescribes conditions precedent to the holding of an election. It fixes no time whatever, but it prescribes that certain things shall occur before any election shall be held. Now, it is as much within the power of Congress to prescribe that no election shall be held within the State of New York, except by proclamation of the President, and call that fixing a time for an election within the State of New York.

But there is another, and with me it is the principal, objection to this legislation. I sympathize fully with the object which the Committee on the Judiciary have in view. I wish as much as they wish that the time may never come when the States now in rebellion shall again be represented under the constitutions which formerly existed in those States.

I believe that all those constitutions have, by the act of the people of those States, been subverted, are now of no force, and never again can be in force, unless new life be breathed into them through the same instrumentality by which they were overthrown. I believe that as fully as the chairman of the Judiciary Committee; and I desire as much as he does to see the new state of things which will come when slavery shall be wiped out from the seceded States. But my objection to this legislation is that our action upon this whole subject is purely and entirely judicial. The initiative in reorganizing those States is with their people, and not with the Congress of the United States. The people of those States, in whatever way they may elect, whether through some constituted bodies, through conventions legally organized, through legislative action which shall meet the approbation of the people of the States—in whatever way they choose, they may restore political order under such constitutions as they see fit. Under those constitutions they may send Representatives to this House, and they may send Senators to the other. When those Representatives come here, and not till then, are we called upon to determine whether the constitutions under which they come here are republican in form and recognize the supreme authority of the Constitution of the United States, and whether those Representatives have been legally elected, and have the qualifications required by the Constitution of the United States. I am not, for my part, disposed to anticipate the fruits of this rebellion.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. POMEROY. Certainly.

Mr. HIGBY. I would like to know whether the gentleman is in favor of allowing any one of the States now conceded to be in rebellion, and that has had no representation in either end of this Capitol for the last four years, to come back here with the same number of Representatives that it had when it entered upon this rebellion, without regard to its present population.

Mr. POMEROY. I will say to the gentleman that if, while I have a seat in this body, any Representative should come here from any one of those States, I will endeavor to judicially determine the question whether he has been constitutionally elected, and has the qualifications required by the Constitution. That is all I am called upon to determine. I will not undertake to declare to-day by legislation what a year or two years hence I will judicially determine. Acting in a legislative capacity I cannot bind my own judgment upon this question; much less can I undertake to bind the judgment of anybody else.

What I claim (and it is all that I claim) is that those States have to-day a right to send Representatives here. I should not vote to admit Representatives from those States unless I believed them to represent a loyal sentiment within those States sufficient to preserve their political order. Whenever any man comes here to represent such a political sentiment I will vote for his admission without regard to the manner in which the State constitution under which he comes may have been inaugurated. It is sufficient for me to know that he is a representative of the loyal sentiment of that State, and comes here under a State constitution which is in harmony with the Constitution of the United States.

Mr. COX. Mr. Speaker, the proposition of



the gentleman from Iowa [Mr. WILSON] does not authorize elections to be held. It is a prohibition against elections being held in these States, except three conditions are complied with. It provides that all these conditions shall be complied with before the States shall have the privilege of electing. Not these three conditions only, but each one will be a bar to the election and entrance of members from such States. Neither the people nor the Legislatures of States in insurrection shall elect until, first, the President, by proclamation, shall have declared that armed hostility to the Government of the United States within such States has ceased. That is one condition before they can elect. The second is, nor until the people of such State shall have adopted a constitution of government not repugnant to the Constitution and laws of the United States. Who is to judge of the kind of constitution which the States may adopt? Is it the Congress? The gentleman does not by this bill raise the question as to the character of the constitution. We are not required to vote as to what is or is not repugnant to the Constitution and laws. Is the President the judge as to the quality of the constitution? Not by any special clause of this bill. Is it Congress who is the judge? Congress does not undertake to judge at all until the members are elected. Who then is to judge whether these constitutions are or are not repugnant to the Constitution and laws of the United States? I ask the gentleman to answer me that question.

Mr. WILSON. I will answer the gentleman. The two Houses of Congress constitute the tribunal undoubtedly for determining these questions. They determine whether these conditions exist before these States can engage in the election of Senators and Representatives.

Mr. COX. That will bring it at last, as the gentleman will see, to section five, article one, of the Constitution, the supreme law, that "each House shall be the judge of the elections, returns, and qualifications of its own members." We need no law. We have the paramount law of the land on the subject. Each House shall judge not only of the election, but the mode, manner, and propriety of it. Each House can by the supreme law of the land determine all of these questions. No law of ours, now and here, can prevent or foreclose these questions. Each House is the tribunal for each case as it arises. When the gentleman makes conditions before the election as to their legality, I think that he only strives to reenact what we have already in a good deal better shape in the Constitution.

My friend from New York [Mr. FERNANDO WOOD] suggests to me that by this bill, and by no other bill, can you deprive either House of Congress of the right to pass upon the election, returns, and qualifications of members.

Mr. WILSON. I will state to the gentleman from Ohio that I admit that. Before either House can pass upon the election there must have been an election. The holding of that election we propose to prevent until certain events.

Mr. COX. The gentleman is not undertaking to facilitate the election of members; not to make an enabling act, but to prevent—for that is his word—the election of members of Congress to represent these insurrectionary States. The bill is a prohibition and not an enabling act. How, then, can he base his bill upon the fourth section of the first article of the Constitution? It says that "the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." I cannot see that this bill has any foundation in that clause of the Constitution. There is no time fixed in that bill. There is no place fixed in that bill. There is no manner fixed in the bill for holding elections for members of Congress. Congress may make and alter such regulations when the State Legislatures fail to do it. Does the gentleman mean to anticipate or forbid the action of the State Legislatures, or of the people in the respective States? If so, it is a bill to destroy representation, to destroy the States, and destroy the Union. That is all I have to say.

Mr. HIGBY. I shall not pretend to answer the gentleman from Ohio; but what little I have to say will be directed to the theory upon which

this bill, or any other bill for reconstruction, is opposed in this House.

Now, sir, I understand that unless we have a law of Congress that will debar any State now in rebellion from coming here with Representatives, that we in this body are obliged, if we will receive any, to receive as many Representatives as were upon this floor at the commencement of this rebellion. I understand we have no power to lessen the number unless there be a law of Congress, passed by both Houses, under which we can act. Sir, the population of those States is being depleted every day. Thousands of refugees are every day coming to the North, and thousands of graves are being filled by those slaughtered upon the field of battle; and in every direction the living are going. The population is wasting away in those States.

And upon this principle, in opposing the passage of the bill of yesterday, or the one of to-day, it is no matter if the population of these States is wasted to one fourth of what it was at the time these seats were vacated. If we have no act of Congress we are obliged to receive as many Representatives as left these Halls at the commencement of this rebellion. We have no safeguard unless we have one in the shape of an act passed by both Houses of Congress. And I put it to gentlemen upon this side of the House who are opposing this amendment, if they are ready to receive the same number of Representatives back into these Halls, without regard to the amount of their population. If they are, it strikes me that they are transferring the battles we are now fighting in the field to the floors of Congress. I choose to fight it out on the battle-field. And I think this is the only way by which we can secure ourselves from any such intrusion here.

Mr. WILSON. I am anxious to get a vote upon this measure to-day, not only for the purpose of disposing of it, but because I have some other reports to submit from the committee, which I probably shall not have another opportunity to do during the session. One of them is a bill upon which gentlemen upon the other side of the House have felt quite as much, if not more, interest than we have on this side. I refer to the bill in relation to the interference with elections by military or naval officers. Therefore I desire to get this bill disposed of in some way.

I do not think the objection raised by the gentleman from Kentucky [Mr. MALLORY] in relation to the action of the President is well founded; for we all know that the inclination of the President's mind has been very liberal in relation to the admission of members from those insurrectionary States. Almost every one who has come here from those so-called reorganized States has, to a greater or less degree, had the favor of the President in relation to his claim to a seat. There can be no danger from that source; and I should apprehend no difficulty whatever in the issuing of the proclamation by the President at any time when a state of things exists in those States as set forth in the bill.

Mr. MALLORY. Does not the gentleman suppose it possible that we may have another President before all the States come back?

Mr. WILSON. I have a faith, strong and abiding, that the ultimate triumph of this nation will be insured long before the termination of the next presidential term. I do not believe that any man on either side of the House doubts an early triumph of the Government over the rebellion.

Mr. MALLORY. The President may die.

Mr. WILSON. That is true; but if that event should occur we would have a faithful Executive in the person of Andrew Johnson, of Tennessee, to issue the proclamation upon the happening of the prescribed contingency. I think if the reins of Government should fall into his hands he would not hesitate to issue a proclamation in reference to his own State or any other State when armed resistance to the Government should be subdued.

Mr. MALLORY. This gentleman from Tennessee, of whom the gentleman from Iowa speaks, was the one who proclaimed that no one should be allowed to vote in Tennessee who would not swear that he cordially approved of every proclamation and act of the President of the United States.

Mr. WILSON. That has nothing to do with the actual suppression of armed rebellion; but it

suggests to my mind another objection raised by the gentleman from Kentucky, and that was, that we proposed to interfere with the local affairs of those States, such as marriage, and all civil rights of the citizens thereof. Sir, we propose no such thing. Those are questions which must depend upon the action of the local authorities of the States, and we interfere with them in no manner whatever.

Mr. COX. I desire to ask the gentleman one question, to which I hope he will give a plain and clear answer. I ask him whether, if members are elected to Congress from these States in defiance of and in spite of this bill, a future Congress cannot admit them anyhow?

Mr. WILSON. Not rightfully, not lawfully.

Mr. COX. Not under the Constitution?

Mr. WILSON. They may override the law; they may disregard the provisions of the statute and by a majority vote admit any person they may see fit to give a seat in this body, but not lawfully.

Mr. COX. Does not the Constitution give us the right to admit any one here?

Mr. WILSON. No, sir; it does not give us the right to admit any one here. It gives us the right to admit any person rightfully and lawfully elected.

Mr. COX. Congress is to judge of that.

Mr. WILSON. We are to be the judges of the election.

Mr. COX. That brings the gentleman right round in the circle again.

Mr. WILSON. Not at all. The difficulty which the gentleman labors under is that he confuses the judgment which the House pronounces upon an election which has taken place with the right or the absence of right of the people to hold elections. They must hold elections in accordance with the provisions of law. I desire by this bill to determine when they may hold elections for Senators by these Legislatures, and Representatives by the people. Let this first be done, and then the House can exercise the power to which the gentleman refers and determine whether an election has been held in pursuance of law; that is the sole object we have in pressing this matter.

Now, I think it must have occurred to the mind of every member of this House that the great difficulty we have in dealing with the election cases that are now pending before the House from Louisiana and Arkansas is this; that we are required, because of the manner in which those cases are presented, to pass upon, not merely the election of the members or those claiming seats, but also the condition of the country, the condition of the local governments in those States; we are required to go back and examine all the acts of those people from the time they rebelled against the Government of the United States down to the time they elected or pretended to elect the persons claiming seats here as Representatives from those States. The whole subject is involved in our action upon the cases now pending in the House. The question of election is surrounded and burdened with a multitude of issues which should all be settled in advance of an election.

Now, one object that I have in asking the House to pass this bill is, that we may sever the two questions, that we may decide first in relation to the condition and organization of the State governments, and if we determine that the conditions of the law have been properly complied with, then we have no more to do in passing upon the claims of persons from Louisiana claiming admission here than we have in the cases of claimants from New York or Ohio. The sole consideration then will be whether the election has been legal or whether the parties have been properly elected, all other questions having been disposed of in advance.

Now, sir, in relation to the suggestion made by the gentleman from New York, [Mr. POMEROY], that we might, if we pass this bill, interfere with the election of members in the State of New York; that, sir, shows that there is a wide difference between the gentleman's conclusion in relation to the rebellious States and mine. I do not believe that we are called upon to treat the insurrectionary States in the same manner we treat those which have always been true to their allegiance to their Government. To assume such a position is to place the Government in many

respects at the mercy of those who are endeavoring to destroy the Republic. I can never yield my assent to such doctrines.

Now, I should like to name some other conditions in this bill, for I am free to say, as one of the members of this House, that I will not vote to recognize a reconstructed government in any State which has been in rebellion against the United States unless that reconstructed government utterly repudiates and forever prohibits the existence of slavery within its jurisdiction. It is not my purpose to recognize or tolerate the existence of a right on the part of the people of any portion of this Republic to make slaves of men. I cannot and will not by any vote of mine favor the continuance of that system of bondage out of which have sprung all of the evils that have been oppressing this nation for the last four years, covering this land with sorrow, and causing mourning in every household. Others may do this if they will, but the crime shall not be found at my door, nor the blood upon my skirts.

Sir, other persons may differ from me in that respect. Other persons may be willing to recognize those reconstructed governments without such a provision being embodied in their constitutions. I therefore make no issue with them on that question, so far as this bill is concerned. I merely say that we will require them to organize a republican form of government, and that the Congress of the United States shall pass on that form of government before the States are permitted to elect Senators and Representatives. If, when I come to exercise my judgment on the constitution which they may adopt and present here, I shall find in it anything that will lead me to the conclusion that it is not a republican form of government, this bill will not prevent me from giving expression to that judgment by a negative vote; nor will it prevent, by any provision in it, the gentleman from Kentucky [Mr. MALLORY] from passing upon it in such manner as he may deem best, whether it be anti-slavery or pro-slavery.

Mr. MALLORY. Mr. Speaker, will the gentleman from Iowa, who occupies the position of chairman of the Judiciary Committee in this House, selected for his ability as a lawyer to preside over that law committee, tell me—for I suppose his opinion would have great weight with the community—whether he regards these rebel States as in the Union or out of the Union?

Mr. WILSON. I will answer the gentleman's question with pleasure. I regard this Republic as being possessed of a common domain, consisting of all the territory within the borders of the United States; that that entire domain is subject to the authority of the Government of the United States, and that, so far as the action of the Government of the United States concerns the people, it operates on them as citizens of the United States resident within certain States, but not as the citizens of those States. Yet that portion of the people of the United States residing within the State of South Carolina may, by their own wrong, destroy the local State government which protects them, but the destruction of that local government, which has already taken place by the action of the people of South Carolina, does not release the people of South Carolina, being a portion of the people of the United States, from their obligations to the Government, nor will it relieve them from such measures as the Government may adopt for their punishment for the gigantic crime they have committed against our sovereignty. Neither the people nor territory are out of the Union. They are a part of our people; the territory is a part of our common domain—both subject to our jurisdiction.

#### • MESSAGE FROM THE SENATE.

A message from the Senate of the United States, by Mr. HICKER, their Chief Clerk, announced that the Senate had passed the following bills:

An act (S. No. 468) supplemental to an act entitled "An act to amend the several acts respecting copyright," approved February 3, 1831, and to the acts in addition thereto and amendments thereof; and

An act (H. R. No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes, with amendments; in which bill and amendments he was directed to ask the concurrence of the House.

#### RECONSTRUCTION—AGAIN.

Mr. MALLORY. I wish to thank the learned gentleman from Iowa [Mr. WILSON] for his luminous and intricate answer to my question, and to say that the upshot of it, as I understand, is that the territory of these States is in the Union, but the people all out of it.

Mr. WILSON. No, sir; the gentleman will find himself mistaken if the laws of the United States shall be executed on these people as I think they ought to be executed; at least in regard to that portion of them who have misled the masses there into the crime of treason against a Government which never harmed them, but always gave them protection. Every law of the United States is of binding force on all the territory within that southern land, and on all the inhabitants thereof; but the people there have destroyed the machinery of their local government, and we must interfere to reestablish that which they have destroyed, and reassert the authority of the nation, and make it effective for the public good and the general welfare.

Mr. MALLORY. Then, according to the gentleman's theory, they are in the Union for no other purpose than to be hanged.

Mr. WILSON. Mr. Speaker, they are in the Union for every rightful purpose under the laws of the United States. They have no officers there sworn to support the Constitution of the United States. And the gentleman from Kentucky knows that without that they can have no Governors, no judges, no Legislatures, no officers to execute the law, which we can recognize as being clothed with any authority whatever; and yet he would have us believe that these men, perjured traitors as they are, constitute the State government of South Carolina. No, sir; they are subject to the Constitution of the United States, but they have destroyed their local government.

Now, Mr. Speaker, I hope the House will indulge me in the demand for the previous question. I ask it because I think I have been liberal in the division of my time, and because I desire to submit the other reports to which I have referred.

Upon seconding the demand for the previous question the House divided; and there were—ayes 42, noes 53.

Mr. WILSON asked for tellers; and tellers were ordered.

Messrs. WILSON and MALLORY were appointed tellers.

The House again divided; and the tellers reported—ayes 42, noes 69.

So the demand for the previous question was not seconded.

The question recurred upon agreeing to the substitute reported from the Committee on the Judiciary.

Mr. ASHLEY. I move to amend the substitute by striking out all after the enacting clause and inserting what I now send to the Clerk's desk.

The amendment was read, as follows:

That in the States declared in rebellion against the United States the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, whose pay and emoluments shall not exceed that of a brigadier general of volunteers, who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided.

Sec. 2. *And be it further enacted*, That until the United States shall have recognized a republican form of State government, the provisional governor in each of said States shall see that this act, and the laws of the United States, and the laws of the State for the protection of persons and property in force when the State government was overthrown by the rebellion, are faithfully executed within the State; but no law or usage whereby any person was heretofore held in involuntary servitude shall be recognized or enforced by any court or officer in such State; and the laws for the government, trial, and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention.

Sec. 3. *And be it further enacted*, That all persons held to involuntary servitude or labor in the States or parts of States in which such persons have been declared free by any proclamation of the President, are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And if any such persons or their posterity shall be restrained of liberty under pretense of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

Sec. 4. *And be it further enacted*, That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted of so restraining

him before a court of competent jurisdiction of such act shall be punished by fine of not less than \$1,500, and be imprisoned not less than five nor more than twenty years.

Sec. 5. *And be it further enacted*, That so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient number of deputies, and to enroll all white male citizens of the United States of the age of twenty-one years resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, and in his enrollment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall, together with the citizens of the United States from such State in the military or naval service of the United States, amount to a majority of the persons enrolled in the State, he shall, by proclamation, invite the loyal people of the State thus enrolled and in the military or naval service of the United States to elect delegates to a convention charged to declare the will of the people of the State relative to the reestablishment of a State government, subject to and in conformity with the Constitution of the United States.

Sec. 6. *And be it further enacted*, That the convention in each State shall consist of as many members as both houses of the last constitutional State Legislature. The delegates shall be elected in single districts, and the apportionment shall be made by the provisional governor among the counties, parishes, or districts of the State, in proportion to the number of electors enrolled by the marshal, in compliance with the provisions of this act, including those who are in the military or naval service of the United States, as aforesaid. The provisional governor shall, by proclamation, name a day of election, not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming, as nearly as may be convenient, to the places used in the State elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

Sec. 7. *And be it further enacted*, That all citizens of the United States of the age of twenty-one years, residents of the State, who are in the military or naval service of the United States, and all who have been honorably discharged therefrom, together with all loyal citizens enrolled as aforesaid, who shall take and subscribe the oath of allegiance to the United States, prescribed in the act of July 2, 1862, shall be electors, and may vote for delegates to the convention hereinbefore authorized, in the county, parish, or district in which they reside, and all such citizens of the United States who are in the military or naval service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote or be eligible to be elected as delegate at such election.

Sec. 8. *And be it further enacted*, That the said commissioners, or either of them, shall hold the election in conformity with this act, and, so far as may be consistent therewith, shall proceed in the manner used in the State prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed; but every person known by or proved to the commissioners to have held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote, he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

Sec. 9. *And be it further enacted*, That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid at the capital of the State, on a day not more than three months after the election, giving at least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall call the convention to order, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form hereinbefore prescribed, after which the delegates shall select their own presiding and all other officers of the convention.

Sec. 10. *And be it further enacted*, That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the constitution of the State, that is to say: First. No person who has held or exercised any office, civil or military, except civil offices merely ministerial and military offices below the grade of colonel, State or confederate, under the usurping power, shall vote for or be a member of the Legislature or Governor. Second. Involuntary servitude is forever prohibited, and freedom and equality of civil rights before the law are guaranteed to all persons in said State. Third. No debt, State or confederate, created by or under the sanction of the usurping power, or in any manner in aid thereof, shall be recognized or paid by the State; and all acts, judicial or legislative, for the confiscation or forfeiture of any debt, property, or franchise of any loyal citizen of the United States, are hereby declared null and void.

Sec. 11. *And be it further enacted*, That when the convention shall have adopted those provisions, it shall proceed to reestablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the State entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates, but at a time and place named by the convention, at which election the said electors, and none other, shall vote directly for or against such constitution and form of State government. And the returns of said election shall be made to the provisional governor, who shall canvass the same, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of Congress, by act or joint resolution, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the State; and from the date of such recognition, and not before, Senators and Representatives and electors for President and Vice President may be elected in such State, according to the laws of the State and of the United States.

Sec. 12. *And be it further enacted*, That if the convention shall refuse to reestablish the State government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than a majority of those enrolled as aforesaid, are willing to reestablish a State government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention or to certify the State government reestablished by it to the President.

Sec. 13. *And be it further enacted*, That if the persons exercising the functions of Governor and Legislature under the rebel usurpation in any State heretofore declared to be in rebellion shall, before armed resistance to the national Government is suppressed in such State, submit to the authority of the United States, and take the oath to support the Constitution of the United States, and adopt by law the third provision prescribed in the eighth section of this act, and ratify the amendment to the Constitution of the United States proposed by Congress to the Legislatures of the several States on the 31st day of January, anno Domini 1865, and repeal all ordinances and laws inconsistent with the Constitution and laws of the United States, it shall be lawful for the President of the United States to recognize the said Governor and Legislature as the lawful State government of such State; and to certify the fact to Congress for its recognition: *Provided*, That nothing herein contained shall operate to disturb the boundary lines of any State heretofore recognized by and now represented in the Congress of the United States.

Mr. MALLORY. I rise to a question of order. So far as I can remember, and my memory is pretty good, the amendment just read is identical, *verbatim et literatim*, with the bill offered by the gentleman from Ohio, [Mr. ASHLEY,] and which was laid on the table yesterday. I now raise the question of order that that bill having been laid on the table it is not in order to offer it now as an amendment.

The SPEAKER. The Chair is informed that there have been several changes made in the bill; one in the fifth section by inserting the word "white" before the words "male citizen;" which is an important change. The Chair overrules the point of order.

Mr. KELLEY. I appeal to the gentleman from Ohio [Mr. ASHLEY] to yield for a moment that I may submit an amendment to strike out the word "white" in the fifth section. I will ask him to accept that amendment.

Mr. ASHLEY. Personally I would have no objection to that; but I have been instructed by the committee to insert that word. If I could have a separate vote upon it, which I desire very much, I would vote to strike out the word "white."

The SPEAKER. That would not be in order, for there is already an amendment pending.

Mr. ASHLEY. Mr. Speaker, I know how anxious the House is to proceed with the important business before the House, and therefore I will detain them but a few moments. I very much desire the adoption of the amendment which I have submitted. Had I consulted my own wishes, I should not have inserted the word "white," which will be found written in the fifth section. I hope to get a vote on the question of striking it out. I intend, however, to vote for the amendment, if it is not stricken out; for, as gentlemen will see, by referring to the seventh section, all colored citizens of the United States of the age of twenty-one years, who have been in the military or naval service of the United States, will be authorized to vote at the election for delegates to the State convention, and they alone who vote for delegates to the convention will be authorized to vote upon the adop-

tion or rejection of the constitution which that convention may submit to the people of the State, when that convention shall have been held, and a constitution formed. Thus I secure the right of suffrage to two thirds, if not more, of all the colored men who are in these rebel States, and by the provisions of this bill civil rights will be equally secure to all men.

Mr. STEVENS. I do not think it necessary to say whether a colored man ought to vote or ought not. Why not say simply "enroll the citizens of the United States," without saying anything about whether those who have served in the Army or anywhere else shall be allowed to vote? It seems to me that "citizens of the United States" is the true phrase to employ, and I hope the gentleman will agree to that. Let the State itself decide who shall be its citizens.

Mr. ASHLEY. I would gladly accept the proposition of the gentleman from Pennsylvania, [Mr. STEVENS,] if the matter depended upon my vote. The substitute which I had the honor to submit on yesterday contained the proposition he has suggested, as gentlemen will see by referring to the printed bill. I could not, however, prevent the adoption of the previous question on the bill reported by the gentleman from Iowa, [Mr. WILSON,] and thus have my amendment cut off, unless I consented to insert the word "white." To get my amendment before the House I consented to insert the word "white." I did so, however, with the understanding that I might yield to my friend from Pennsylvania, [Mr. KELLEY,] to move to strike the word out, so we might have a direct vote on that proposition.

I want a record made on this question. I do not expect to pass this bill now. At the next session, when a new Congress fresh from the people shall have assembled, with the nation and its Representatives far in advance of the present Congress, I hope to pass even a better bill. Sir, I know that the loyal people of this country will never be guilty of the infamy of inviting the loyal blacks to unite with them in fighting our battles, and after our triumph—a triumph which we never could have achieved but for their generous cooperation and aid—deny these loyal blacks political rights while consenting that pardoned but unrepentant white rebels shall again be clothed with the entire political power of these States.

Failing to secure the adoption of the amendment as printed, I desire as a practical man to secure the next best thing, and that is, the declaration here, on the part of the Congress of the United States, that the people of no rebel State shall hold a convention and frame a constitution which does not contain in it a provision securing the civil rights of these people. And even if the word "white" is not stricken out of the fifth section I secure by the provision of the seventh section to every colored citizen of the United States, who now is or who has been in the military or naval service of the United States, the right to vote first for delegates to a convention, and then upon the constitution which that convention may adopt and submit to the people for their ratification or rejection.

Mr. DAWES. I am very much astonished that my friend from Ohio [Mr. ASHLEY] should offer this amendment, inserting the word "white" in the manner proposed.

Mr. ASHLEY. I have no doubt that my friend from Massachusetts [Mr. DAWES] is very much astonished and shocked; but I would remind him that I have just explained at length the reasons which induced me to offer the substitute with the word "white" to which he objects. I hope when the vote is taken the gentleman from Massachusetts will vote to strike out as I shall.

Mr. COX. My colleague [Mr. ASHLEY] has a great deal of influence in this House; he is the chairman of a committee; and I want to understand from him distinctly his position on this question. I understand that personally he is in favor of the negro, but as a committee man he is in favor of the white man. [Laughter.] Now, I want the gentleman to explain to this House why it is that he will not yield the floor to the gentleman from Pennsylvania [Mr. KELLEY] to offer an amendment which conforms to his own political policy. Why is it that he is willing, as he says, if he cannot get the negro, to take the white man as the next best thing? [Laughter.]

Mr. ASHLEY. If the gentleman had been

paying attention to the business of the House he would have learned that the Speaker had decided that my friend from Pennsylvania who desired the floor to offer his amendment could not offer it, because there was already pending an amendment to an amendment.

Mr. COX. Well, Mr. Speaker, my colleague can accept this amendment if he chooses. After the gentleman has made these colored people go into the Army and expose their lives for their country, and after all his professions of regard for them, I ask whether he is willing now to stab them under the fifth rib, and deprive them of the privilege of voting. The gentleman has the matter now in his power.

Mr. ASHLEY. If the gentleman will look at the seventh section, he will see that it secures to every colored man who is now or has been in the military or naval service of the United States the right of suffrage.

Mr. COX. Then what does the gentleman from Pennsylvania want?

Mr. ASHLEY. He wants to make it universal, as I do. If there is to be any limitation of the right of suffrage in the reorganization of the rebel State governments, for one I am determined that it shall not be one of caste, of color, or of nationality. If there is to be any restriction let it be one of intelligence, and let no man vote unless he can read in the English language the Constitution of the United States.

Mr. DAVIS, of Maryland. I think we all want to go on the record upon all the questions involved here, and I desire that everybody shall be accommodated. Now, as this bill as reported back with amendments is substantially the same as the original bill, though varying in form, I propose that, by common consent, it be treated as the original text. Then the substitute of my friend from Ohio will stand as the first amendment; and my friend from Pennsylvania [Mr. KELLEY] can move his amendment.

Several MEMBERS. That is right.

The SPEAKER. If there be no objection, the bill as amended by the committee will be treated as the original text.

There was no objection.

Mr. KELLEY. I move to amend by striking out the word "white" in the eighth line of the fifth section.

Mr. ASHLEY. I call the previous question upon the amendment and the amendment to the amendment.

Mr. MILLER, of Pennsylvania. I move that the bill, with the pending amendments, be laid on the table.

Several MEMBERS. Oh, withdraw that.

Mr. MILLER, of Pennsylvania. I will withdraw my motion with the understanding that we shall have a direct vote upon the amendment of my colleague from Pennsylvania, [Mr. KELLEY.]

Mr. BLAIR. I move that the bill and amendments be laid on the table; and on that motion I ask the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 65, not voting 37; as follows:

YEAS.—Messrs. James C. Allen, Ancona, Anderson, Baily, Blair, Bliss, Brooks, William G. Brown, Chanler, Clay, Cobb, Cox, Gravens, Dawes, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Gooch, Grider, Griswold, Hall, Harding, Harrington, Benjamin J. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Kabisch, Kasson, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Marvin, McAllister, McKinney, Noble, Odell, Pendleton, Perry, Pike, Pomeroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Townsend, Tracy, Voorhees, Wadsworth, William B. Washburn, Whaley, Wheeler, Winfield, Fernando Wood, and Yeaman—80.

NAYS.—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Brandegee, Broming, Ambrose W. Clark, Cole, Henry Winter Davis, Deering, Dixon, Donnelly, Driess, Dumont, Eckley, Eliot, Garfield, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Corlies, O'Neill, Orr, Perham, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Edwin B. Washburne, Williams, Wilder, Wilson, and Woodbridge—65.

NOT VOTING.—Messrs. William J. Allen, Alley, Arnold, Augustus C. Baldwin, Blaine, James S. Brown, Free-



man Clarke, Coffroth, Creswell, Thomas T. Davis, Farnsworth, Frank, Hale, Hotchkiss, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, King, McDowell, McIndoe, Middleton, Norton, John O'Neill, Patterson, Robinson, Scott, Spalding, Sweat, Thomas, Ward, Webster, Chilton A. White, Joseph W. White, Windom, Benjamin Wood, and Worthington—37.

So the bill, with the pending amendments, was laid on the table.

During the roll-call,

Mr. ORTH stated that his colleague, Mr. JULIAN, was absent on account of indisposition in his family.

The result of the vote was announced as above stated.

Mr. BLAIR moved to reconsider the vote by which the bill and amendments were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATURALIZATION LAWS.

Mr. BOUTWELL moved that the Committee on the Judiciary be discharged from the further consideration of a resolution to amend the naturalization laws, and that it be laid on the table.

The motion was agreed to.

#### ENCOURAGEMENT OF ENLISTMENTS.

Mr. WILSON, from the Committee on the Judiciary, reported back Senate joint resolution (No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

Mr. MALLORY. Does the gentleman believe that Congress has the constitutional power to pass such a law?

Mr. WILSON. I answer the gentleman's question with great pleasure. I have always believed that the Congress of the United States, in time of war, when it was necessary to make our population most effective for the purposes of war, has the power, and has the power to liberate slaves by congressional enactment. That may be, and doubtless is, a doctrine different from that entertained by many gentlemen in this body, but it is not a new one to me. I will not take up time of the House to refer to the opinions of many able and very learned men who have acted, not only in the Halls of Congress, but in other prominent positions in this country, in relation to that question.

Mr. MALLORY. I will ask the gentleman from Iowa whether the learned chairman of the Committee on the Judiciary of the Senate does not differ from him?

Mr. WILSON. I will state that the learned chairman of the Senate Judiciary Committee does differ from me; but I am happy to state that he is not the only learned gentleman in that body, and that a majority of the learned gentlemen in that body concur with me, for the Senate passed this bill.

Mr. HARRIS, of Maryland. Mr. Speaker, with permission of the gentleman from Iowa I will say a few words on this measure before he calls the previous question.

Mr. WILSON. I yield to the gentleman from Maryland.

Mr. HARRIS, of Maryland. Mr. Speaker, it is very evident to me that the members of the House on the other side are getting perfectly wild on the subject of the negro.

Mr. WILSON. I think that we are getting our senses.

Mr. HARRIS, of Maryland. They have contracted the disease called "nigger on the brain." [Laughter.] In the space of not more than one hour he has been served up for us in three or four different forms, and in every shape in which he comes he is used for the purpose of disparaging and overthrowing the conceded and established rights of the white man. This measure is presented and is pressed on its passage under a pretended necessity that the country wants the services of the negro as a soldier, and as payment in part for his having become a soldier, or as an inducement for his enlistment as such, and that, too, while you are rejoicing over what you suppose to be the perfect overthrow of those whom you are pleased to call "rebels." I do not believe that it is for the purpose of supplying soldiers to the United States that measures such as this are introduced. I am fully convinced that it is for the purpose, and that only, of interfering

with and abolishing the institution called slavery in those States where it is legalized and maintained, and which you are determined to abolish by the most underhand and unconstitutional means, even though the other great reserved rights of the States may be involved in its ruin. Where was the necessity of submitting the question of slavery to the States for their decision under the provision for amending the Constitution, if Congress itself by a majority of its two branches can constitutionally pass a bill to effect the same object?

If you can abolish slavery so far as it relates to the wives and children of negroes who are or are to be your soldiers, why can you not abolish the entire institution by act of Congress? The very fact that you have submitted the question to another tribunal, to three fourths of all the States, under the clause of amendment in the Constitution, shows that you yourselves believe you are violating the provisions of that instrument and its true construction by adopting this measure. You are fearful that that amendment may not be adopted by the States, and you are determined to break through all legal and moral obligations in order to carry out your determination to destroy this institution. I deny your right to touch it in any way with a view to its injury. Your resolution submitting the question of abolishing slavery to the States, which was passed a short time since, and the pretended amendment, when it shall be adopted by three fourths of the States, cannot be made a part of the Constitution which our forefathers have handed down to us for the protection of our rights and liberties, and it will be so decided by any honest judiciary that will ever occupy the bench of the Supreme Court or any other court. The idea that a set of men (and great men, such as the framers of our Constitution were) should allow the unrepealable privilege to the States to carry on the foreign slave trade itself for twenty years, and to import from Africa an unlimited number of slaves into this country, and at the same time intend that the United States in any way should during the same period or at any time have the constitutional right and power to destroy slavery when they are brought in, is too absurd for belief. It certainly would not have been sensible or honest for them to have given this inducement to their citizens to press all sail so as to obtain all advantages of the slave-trade in the year 1807, and then in 1808 (at which time the privilege of importing slaves ceased) to turn about and abolish all the effect and advantages resulting from that trade. And if not in 1808, why should they intend that the General Government, or the States not interested in the institution, should have that power at any time thereafter? Sir, they never did intend to claim for Congress or for any number of States such a power; on the contrary, the institution was left by them under the exclusive control of the individual States in which it existed.

Sir, that slaves are property in this country is a doctrine that has been recognized by every authority, political and judicial, for centuries. Your highest tribunals have so recognized it, and have declared that it was the duty of Congress to protect this property—not to destroy it. This was the uniform judgment of your courts up to and including the judgment and opinion of the Supreme Court in the Dred Scott case, a case so thoroughly braced by law and reason that I will defy all the ingenuity of the chairman of the Judiciary Committee, and all the legal aid he can bring from the ranks of his party to refute, and especially in regard to the condition of the negro, whether slave or free.

In speaking of this class of our population, this court, in the case referred to, declares:

"The only two provisions in the Constitution which point to them and include them treat them as property, and make it the duty of the Government to protect it. No other power in relation to this race is to be found in the Constitution, and as it is a Government of special delegated powers no authority beyond these two provisions can be constitutionally exercised. The Government of the United States had no right to interfere for any other purpose but that of protecting the rights of the owner, leaving it altogether with the several States to deal with this race, whether emancipated or not, as each State may think justice, humanity and the interests and safety of society require. The States evidently intended to reserve this power exclusively to themselves."

"Exclusively to themselves," is the language of this court.

I have thus cited the decision of the highest judicial tribunal known to our laws (a tribunal which the people of the North have professed to have the highest respect for) to sustain my opposition to the measure now before this House and all kindred measures—a decision not only of the highest judicial authority, in which respect alone I might array it against such propositions as this—but one sustained by a train of argument and reasoning which the successor of our late pure and venerated Chief Justice may be willing but will never be able to refute. What can be your design, then, when you adopt such measures as this, under such circumstances, but to break through all the obligations imposed by our Constitution and to make it a dead letter?

Mr. WILSON. I hope the gentleman will not consume too much of my time.

Mr. HARRIS, of Maryland. I wish only to say further that the whole difficulty of gentlemen on the other side of the House originated in their departure from the fundamental principles of this Government, that each State shall have control of its own institutions, and above all things that the negro, slave or free, should be *exclusively* under the control of the laws and constitution of the States in which he shall be located. I may add that a greater difficulty, and one which has brought upon us and our country the most dreadful, and I fear lasting calamities, is the entire disregard by the members on the other side, and the party they represent, of that great principle on which our political systems are founded, which is, "that the people have in all cases a right to determine how they will be governed."

Mr. WILSON. I must resume the floor. I did not give way to the gentleman from Maryland to consume all my time, yet I desired to give him a fair opportunity to express his views in regard to this bill. I think the most perfect development of the disease the gentleman referred to that I ever met with may be found in his own person. If he has not the disease which he denominates "nigger on the brain" I do not know that a person can be found who is distressed with it.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 376) to amend an act entitled, "An act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864;

An act (S. No. 240) for the relief of George A. Schreimer;

An act (S. No. 368) to incorporate the Sisters of Mercy in the District of Columbia; and

An act (S. No. 421) to amend an act entitled "An act to incorporate the Columbian Institution for the instruction of the deaf, the dumb, and the blind," approved February 16, 1857.

#### ENCOURAGING ENLISTMENTS—AGAIN.

Mr. WILSON. We were formerly accustomed to hear such arguments in this Hall, but I am happy to know that the time is rapidly passing away when any man will rise up before the American people, in the Congress of the United States, or elsewhere, and submit such arguments as the gentleman has just drawn from the late Dred Scott decision.

Mr. HARRIS, of Maryland. I ask the gentleman if he recognizes that as the decision of the Supreme Court.

Mr. WILSON. I do not recognize it as a decision in that part of it to which the gentleman has referred, and I never did. The Court as now constituted will never disgrace itself by uttering such an opinion. The time for such things has gone by forever.

Mr. MALLORY. I would ask the gentleman whether that decision has been reversed by the Supreme Court?

Mr. HARRIS, of Maryland. Does not the gentleman consider it as binding law until it is reversed?

Mr. WILSON. Only so far as it related to the single question legitimately before the court, but not in regard to the question to which the gentleman has referred—thence it is a mere *dictum*.

Now, sir, the gentleman wants to know the pur-

pose of this act. I can tell him. To-day, in the forefront of your Army, are hundreds and thousands of colored men risking everything for the salvation of this Republic. Upon the fields once cursed by slavery, resounding with the clank of the slave's chains and the crack of the overseer's whip, now tread the colored soldiers of the Republic, under the ensign of the nation, striking sturdy blows for freedom and free government.

And, sir, this Republic cannot afford to disgrace itself in the eyes of the civilized world by sending these men out to fight its battles and chaining at home their wives and children in that bondage which is worse than death. It would be a disgrace never to be wiped from the face of this nation if we should permit this wrong to continue beyond the present time, when to us is afforded an opportunity to stop it at once and forever. It is a duty which we owe not only to these men who are fighting our battles, but it is a duty we owe, under the powers which we possess, to the great and eternal principles of God's justice, to see that a full meed of equity and right is meted out to these men who are risking all for our sakes and for the sake of this nation. It is no time to talk about this "property tenure," which, I insist has not been recognized by the Congress of the United States and cannot be recognized by the people of the United States. States have acted on this property basis in regard to these people, but we, acting for the nation, must treat them as persons; they are a part of our population. We are in time of war, with supreme power to deal with the people of this nation in such manner as to render our population most effective in the service of the nation in passing through this great trial of the rebellion.

If, sir, we can strengthen the hearts and arms of these soldiers of the Republic by causing to be conveyed to them the joyous intelligence that their wives and little ones at home are free, and no longer subject to the cruelty of unfeeling masters, we shall not only be doing our duty to them and to our God, but exercising the power resting with us as the Representatives of the people in determining measures to render our population most effective in carrying us successfully through the present trial by battle. We are not bound up by any "property tenure." We do not deal with these people upon any such basis. We deal with them as a part of the people of the United States. We have a right to determine, in providing for the general welfare, whether these people, as a free people, shall aid us in maintaining the sovereignty of the Government or not, and it is upon this broad basis that I place the right and power of Congress to declare that the wives and children of these brave men who are fighting the battles of those who have so long oppressed them, shall be free. On this very day many colored soldiers may be yielding up their lives amid the din and smoke of battle to restore the authority of this nation throughout all its borders. Let us not determine by a refusal to pass this bill that the wives and children shall survive them as slaves.

I do not believe, sir, that it is necessary for me to urge these considerations upon the House. I present this bill as a report from the Judiciary Committee, affording this House an opportunity of doing an act of justice which we have too long withheld. I now demand the previous question.

Mr. MALLORY. I ask the gentleman to withdraw the previous question to enable me to make a statement.

Mr. WILSON. I withdraw it for the present.

Mr. MALLORY. Mr. Speaker, I do not intend to reply to all the declamation of the gentleman from Iowa, because I do not think it needs a reply. But I wish to ask the House whether it proposes to pass this measure now. The States are acting on the constitutional amendment proposed by the Congress of the United States. If that amendment shall be ratified, slavery is abolished throughout the United States, swept overboard everywhere, as the gentleman from Iowa will admit. If that amendment be not ratified by the States, the President's proclamation, he contends, frees every slave in the rebel States—and the gentleman addressed his remarks particularly to the slave population in the rebel States. In view of the fact which I have mentioned, why press this measure upon the House? I cannot perceive the

necessity or reason for it, even from the gentleman's stand-point.

Mr. WILSON. Mr. Speaker, I am not surprised that the gentleman from Kentucky cannot see this matter in the light that I do. He has been too long connected with that system of slavery for him to view this question as I do. But the gentleman must know, as we all know, that at the best that constitutional amendment will not be ratified by three fourths of the States for probably two years to come. And, sir, I do not wish, during that time, to have the bondage of these women and children resting upon me. I do not wish to be held, as a Representative of a portion of the American people, responsible for the continuance of this great wrong. I now renew the demand for the previous question.

Mr. MALLORY. I move that the bill be postponed indefinitely.

The SPEAKER. The motion for the previous question takes precedence of that.

The previous question was seconded, and the main question ordered.

Mr. HARRIS, of Maryland. I move that the bill be laid on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 66, nays 77, not voting 39; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Clay, Coffroth, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Kaibfleisch, Kernan, Knapp, Law, Lazar, Le Blond, Long, Mallory, McBride, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, Smith, Smithers, John B. Steele, William G. Steele, Sutes, Strouse, Stuart, Sweet, Townsend, Voorhees, Wadsworth, Webster, Whaley, Winfield, Fernando Wood, and Yeaman—66.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubburd, Ingersoll, Jenckes, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Worthington—77.

NOT VOTING—Messrs. William J. Allen, Alley, Blair, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Thomas T. Davis, Deming, English, Farnsworth, Frank, Benjamin G. Harris, Holman, Hotchkiss, Hutchinson, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, King, Lazar, Marcy, McAllister, McDowell, McIndoe, Middleton, John O'Neill, Robinson, Rogers, Scott, Spalding, Starr, Thomas, Ward, Wheeler, Chilton A. White, Joseph W. White, Windom, Benjamin Wood, and Woodbridge—39.

So the House refused to lay the bill on the table.

During the roll-call,

Mr. GOOCH stated that his colleague, Mr. ALLEY, was detained from the House in consequence of the injury which he sustained some days ago.

The bill was read the third time.

Mr. WILSON moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. MILLER, of Pennsylvania, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 63, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Dawes, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubburd, Ingersoll, Jenckes, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Worthington—74.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, Chanler, Clay, Coffroth, Cox, Cra-

vens, Henry Winter Davis, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Charles M. Harris, Herrick, Kaibfleisch, Kernan, Knapp, Law, Le Blond, Long, Mallory, McBride, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, Ross, Smith, Smithers, John B. Steele, William G. Steele, Sutes, Strouse, Stuart, Sweet, Townsend, Voorhees, Wadsworth, Whaley, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—63.

NOT VOTING—Messrs. William J. Allen, Alley, Blair, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Thomas T. Davis, Deming, English, Farnsworth, Frank, Benjamin G. Harris, Holman, Hotchkiss, Hutchinson, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, King, Lazar, Marcy, McAllister, McDowell, McIndoe, Middleton, John O'Neill, Patterson, Robinson, Rogers, James S. Rollins, Scott, Spalding, Starr, Thomas, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Windom, and Woodbridge—45.

So the bill was passed.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Clerk, informed the House that the Senate had disagreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs; that the Senate still insist upon their amendments, which had been disagreed to by the House, and ask for a second committee of conference; and that Messrs. WILSON, HARLAN, and WILLEY, had been appointed for that purpose upon the part of the Senate.

#### FREEDMEN'S BUREAU.

The SPEAKER laid before the House the message from the Senate asking for a second committee of conference upon the disagreeing votes of the two Houses upon the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

Mr. SCHENCK. I move that the House still insist upon its disagreement to the amendments proposed by the Senate, and consent to another committee of conference.

The motion was agreed to; and Mr. SCHENCK, Mr. BOUTWELL, and Mr. ROLLINS of Missouri, were appointed on the part of the House.

#### MILITARY INTERFERENCE IN ELECTIONS.

Mr. WILSON. I am instructed by the Committee on the Judiciary to report back Senate bill No. 37, entitled "An act to prevent officers of the Army and Navy and other persons engaged in the military or naval service of the United States from interfering in elections in the States," with the recommendation that the bill be passed.

The bill was read at length, for information. Mr. WILSON. I call the previous question on the third reading of the bill.

Mr. SLOAN moved to lay the bill on the table. The motion to lay on the table was not agreed to.

The previous question was seconded, and the main question was ordered; and under the operation thereof the bill was read a third time.

Mr. WILSON demanded the previous question on the passage of the bill.

Mr. SLOAN moved to lay the bill on the table. Upon that motion the House divided; and there were—yeas 16, nays 96.

Mr. SLOAN called for the yeas and nays upon the motion to lay the bill on the table.

The yeas and nays were not ordered.

So the motion to lay on the table was not agreed to.

The previous question was then seconded; and the main question was ordered.

The question was upon the passage of the bill.

Mr. SLOAN called for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 18, not voting 51; as follows:

YEAS—Messrs. James C. Allen, Ames, Ancona, Anderson, Arnold, Bailly, Augustus C. Baldwin, Baxter, Blaine, Blow, Boutwell, Brooks, Broomall, Chanler, Ambrose W. Clark, Clay, Coffroth, Cox, Cravens, Dawes, Dawson, Denison, Donnelly, Dumont, Eckley, Eden, Edgerton, Eldridge, Eliot, English, Finck, Ganson, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubburd, Ingersoll,

Jenckes, Kalbfleisch, Kasson, Kernan, Knapp, Law, Le Blond, Littlejohn, Long, Longyear, Mallory, Marvin, McBride, McKinney, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, Patterson, Pendleton, Perham, Perry, Pomeroy, Price, Prunty, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Edward H. Rollins, Ross, Scofield, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thayer, Townsend, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilson, Winfield, Fernando Wood, Woodbridge, and Yeaman—113.

**NAVS**.—Messrs. Ashley, Beaman, Boyd, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Garfield, Kelley, Knox, John H. Rice, Shannon, Sloan, Smithers, Stevens, Upson, Wilder, and Worthington—18.

**NOT VOTING**.—Messrs. William J. Allen, Alley, Allison, John D. Baldwin, Blair, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Downing, Dixon, Driggs, Farnsworth, Frank, Harrington, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, Orlando Kellogg, King, Lazar, Loan, Marcy, McAllister, McClurg, McDowell, McIndoe, Middleton, Morrill, Norton, John O'Neill, Orth, Pike, Robinson, Rogers, James S. Rollins, Schenck, Scott, Spalding, Starr, Thomas, Ward, Wheeler, Chilton A. White, Joseph W. White, Windom, and Benjamin Wood—51.

So the bill was passed.

During the call of the roll,

Mr. ECKLEY said: My colleague, Mr. SPALDING, is detained from his seat to-day by indisposition.

The result of the vote was announced as above.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### UNITED STATES COURTS IN NEVADA.

Mr. WILSON. I ask that unanimous consent be given to take from the Speaker's table Senate amendments to the bill (H. R. No. 640) entitled "An act to provide for a district and a circuit court of the United States for the district of Nevada, and for other purposes." I desire that we may non-concur in a portion of those amendments, and ask a committee of conference.

Mr. SCHENCK. I hope that the proposition will be extended, and that the House will consent to take all the Senate bills from the Speaker's table and refer them.

The SPEAKER. The Committee on the Judiciary are entitled to the floor until they complete their business.

Mr. SCHENCK. I would suggest that that be done by general consent.

The SPEAKER. Is there objection to taking from the Speaker's table Senate amendments to House bill No. 640?

There was no objection.

The first amendment of the Senate was to strike out in the fifth line of the fourth section the words "which are possessed by them" and insert in lieu thereof the words "which are vested in said court and said judge."

The amendment was concurred in.

The second amendment of the Senate was to strike out sections six, seven, eight, and nine, and insert a substitute.

Mr. TODD. I desire to move an amendment providing that the salaries of the judges in the Territories of Colorado and Dakota shall be increased to \$2,500.

The SPEAKER. The Chair is of the opinion that that amendment with regard to a territorial court would not be in order, as this bill relates to district and circuit courts in the State of Nevada.

Mr. WILSON. I call the previous question. Mr. HOLMAN. I move that the House concur.

Mr. WILSON. The provisions inserted by the Senate are in the nature of a substitute for the House bill. To the first amendment, in which the House has just concurred, the Committee on the Judiciary have no objections; but the portion of the bill which the Senate has stricken out embraces provisions relating to the clerks in Oregon and California, which, we think, if preserved in the form in which they were passed by the House, would save to the Government \$6,000 a year. We therefore desire a committee of conference, in order that, if possible, the matter may be arranged, and that we may save that amount to the Government.

Mr. HOLMAN. Will the gentleman explain how that amount is to be saved?

Mr. WILSON. The bill as passed by the House provided that the clerk of the circuit court should act as clerk of the district court, and applied to him the same limitations that apply to all other clerks. His salary is limited to \$5,000. If there were two clerks, the pay of the two would be \$12,000.

Mr. HOLMAN. The House bill gave him double the usual fees, while the Senate bill gives him the usual fees.

Mr. WILSON. It limits the amount to \$6,000. Although the fees may be doubled, as is the case in California, yet they cannot in the aggregate get more than \$6,000. The two clerks, under the law as it now stands, can receive \$6,000 each.

Mr. HOLMAN. I withdraw my motion to concur.

The amendments were non-concurred in, and a conference was asked on the disagreeing votes of the two Houses.

#### UNITED STATES COURTS IN PENNSYLVANIA.

Mr. WILLIAMS, from the Committee on the Judiciary, reported back House bill No. 80, to divide the State of Pennsylvania into three judicial districts, and to establish a district court to be holden in the city of Erie, with a substitute.

The substitute was read.

Mr. HOLMAN. Does this simply increase the terms of the courts?

Mr. SCOFIELD. It authorizes the same court to hold one more term. There is no increase of pay.

The substitute was adopted. The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIAMS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JUDICIAL PROCEEDINGS IN NEW-YORK.

Mr. WOODBRIDGE moved to take up and concur in the amendments of the Senate to House bill No. 184, to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes.

The motion was agreed to.

Mr. WOODBRIDGE moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONFISCATION.

Mr. WILLIAMS, from the Committee on the Judiciary, reported back House bill No. 579, providing for the forfeiture of the fee of rebel landholders; and demanded the previous question on its passage.

It provides that so much of a joint resolution explanatory of an act to suppress insurrection, &c., approved July 17, 1862, as prohibits the forfeiture of the real estate of rebels beyond their natural lives be, and the same is hereby, repealed.

Mr. ELDRIDGE moved that the bill be laid on the table.

Mr. WORTHINGTON demanded the yeas and nays.

Mr. COX. Has not this bill been disposed of during the present Congress?

The SPEAKER. This bill certainly has not.

Mr. NOBLE. I rise to a question of order. The same provision has passed in the freedmen's bill.

The SPEAKER. It was incidental to that bill, and does not preclude this committee, which has had the subject solely under consideration, from reporting on it.

Mr. WORTHINGTON withdrew the demand for the yeas and nays.

Mr. PENDLETON renewed it.

The yeas and nays were ordered.

Mr. WASHBURNE, of Illinois, moved to rescind, for this day only, the order of the House fixing the adjournment at half-past five o'clock, p. m.

Mr. SMITH demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The motion was agreed to.

And then, on motion of Mr. WASHBURNE, of Illinois, (at quarter-past five o'clock p. m.) the House adjourned.

#### IN SENATE.

THURSDAY, February 23, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. FOOT, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. GRIMES presented a petition of professors of mathematics in the Navy, praying to be placed on an equality with surgeons of the Navy in regard to pay; which was referred to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S. No. 445) making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of a ship-canal to connect Lake Superior with Portage lake in the upper peninsula of said State, reported it with an amendment.

Mr. WILLEY, from the Committee on Naval Affairs, to whom were referred a petition of chaplains in the Navy, praying to be allowed the pay of line officers with whom they rank, and a petition of chaplains in the Navy, praying for an increase of compensation, asked to be discharged from their further consideration.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom the subject was referred, reported a joint resolution (S. R. No. 121) to purchase pouches or boxes of Marshall Smith's patent for the postal service, and for other purposes; which was read twice by its title.

Mr. CHANDLER, from the Committee on Commerce, to whom were referred petitions of citizens of Wisconsin, praying an appropriation for the improvement of the harbor at the mouth of the Manitowoc river, in that State, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 457) to change the name of the propeller F. W. Backus to Metacomet, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 435) to amend an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, reported it without amendment, and that it ought not to pass.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred messages of the President of the United States relating to international exhibitions to be held in Bergen, in Norway, and Oporto, in Portugal, during the coming summer, reported a joint resolution (S. R. No. 122) relating to international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865; which was read, and passed to a second reading.

Mr. SUMNER asked for its present consideration, but Mr. TRUMBULL objecting, the resolution was laid over under the rules.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 170) defining the meaning of the law in regard to officers' servants, reported it without amendment.

Mr. LANE, of Kansas, from the Committee on Territories, to whom was referred the bill (S. No. 360) to enable the people of Colorado to form a constitution and State government and for the admission of such State into the Union on an equal footing with the original States, reported it with an amendment; and he asked for its present consideration, but Mr. SUMNER objecting, it was laid over.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the motion to print one thousand additional copies of the report of the Joint Committee on the Library in regard to the burning of the Smithsonian Institution, five hundred of which to be for the use of the Institution, reported in favor of the motion, and it was agreed to.

Mr. FOOT, from the Committee on Public



Lands, to whom were referred the following bills, reported them severally without amendments, and that they ought not to pass:

A bill (S. No. 239) to grant aid for the construction of certain railroads in the State of Minnesota;

A bill (S. No. 369) for the relief of the occupants of the lands of the mission of San José, in the State of California; and

A bill (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin; another bill on the same subject having been reported.

Mr. FOOT, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration:

A bill (S. No. 263) to grant one million acres of public lands for the benefit of public schools in the District of Columbia;

A bill (S. No. 431) to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State;"

A bill (S. No. 433) to extend the homestead act of May 20, 1862, to settlers on land reserved for railroad purposes; and

A bill (S. No. 436) making a grant of lands to the Territories of Dakota, Montana, and Idaho, in alternate sections, to aid in the construction of certain railroads in said Territories, to connect with the railroad system of Minnesota and Iowa.

He also, from the same committee, to whom were referred a resolution of the Senate instructing the committee to inquire into the expediency of extending the provisions of the bill granting swamp and overflowed lands to certain States to overflowed lands in the State of Kansas; a letter of the Commissioner of the General Land Office to the chairman of the committee on Public Lands, recommending selections of the public lands on the Pacific slope to be reserved for the use of the Government; resolutions of the Legislature of Kansas in favor of a grant of land to aid in the construction of a railroad from Elwood, in that State, to the Big Bend of the Republican river; resolutions of the Legislature of Kansas in favor of the construction of a bridge across the Republican river on the Government reservation at Fort Riley; resolutions of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from Lac La Belle to the Cliff mine, thence along the mineral range to some point on the Montreal river, in that State; resolutions of the Legislature of Indiana in favor of an extension of the time for the completion of the Grand Rapids and Indiana railroad; resolutions of the Legislature of Minnesota in favor of the location of the North Sioux city branch of the Pacific railroad westwardly along the parallel of forty-two and one half degrees of north latitude to a point of junction with the main track of said road; a petition of settlers in Alameda county, California, remonstrating against a grant of the lands on which they have their homes to the claimants of the pretended San José mission, or to parties claiming by purchase under them; petitions of citizens of Michigan, praying for a grant of land to aid in the construction of a railroad from Lac La Belle to the Cliff mine, thence to some point on the Montreal river, in that State; and the memorial of Rudolph Wicczorek, asked to be discharged from their further consideration; which was agreed to.

#### POSTAL LAWS.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom were referred the amendments of the House of Representatives to the bill (S. No. 390) relating to the postal laws, report in favor of concurring in the second amendment and against concurring in the first, third, fourth, and fifth amendments. I ask for action on the report at this time.

By unanimous consent, the Senate proceeded to consider the report.

The VICE PRESIDENT. The amendment will be read.

Mr. COLLAMER. I hardly suppose gentlemen wish to have a statement of the merits of each amendment; the number of the amendments we propose to concur in and of those we propose to non-concur in has been stated; that is enough.

The VICE PRESIDENT. The reading of the amendments will be dispensed with by unan-

imous consent; the Chair hears no objection. The question is on agreeing to the report, which is that the Senate concur in the second House amendment and non-concur in the others.

The report was agreed to.

#### POST OFFICE CLERKSHIPS.

Mr. COLLAMER. The Committee on Post Offices and Post Roads, to whom were referred the amendments of the House of Representatives to the bill (S. No. 389) in relation to clerkships in the Post Office Department, report that the Senate concur in the second and non-concur in the first amendment.

The reading of the amendments was dispensed with, and the report was agreed to.

#### AMERICAN REGISTERS.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to British schooners Minnie Williams and E. M. Baxter, have directed me to report it back without amendment, and as it will take but a moment to pass it I ask unanimous consent to put it on its passage now.

There being no objection, the joint resolution was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to issue American registers to the British-built schooners Minnie Williams and E. M. Baxter, they being now owned by a citizen of Buffalo, New York.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### LOTS IN STOCKBRIDGE, WISCONSIN.

Mr. HOWE. I move that the Senate postpone all prior orders and proceed to the consideration of House bill No. 558. It is one of considerable importance both to the Government and a portion of our State. My time is almost continually occupied upon the Committee on Finance, and I hope the Senate will indulge me to this extent now.

The motion was agreed to, and the bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes, was considered as in Committee of the Whole. The Committee on Public Lands had reported the bill with amendments, the first of which was to strike out the first and second sections of the bill, in the following words:

That, upon satisfactory proof being made that any occupants of land in the town of Stockbridge, Calumet county, in the State of Wisconsin, which has, by treaty or otherwise, been allotted to any individual members of the Stockbridge or Munsee tribe of Indians, are the purchasers, grantees, or assignees of such members of said tribes, the President of the United States be authorized to issue patents for the land so occupied to such purchasers, grantees, or assignees, respectively: *Provided*, That in case of conflicting claims to any of the lots of land the Commissioner of the General Land Office is authorized to hear the proofs of the respective claimants, and to decide which of such claimants are justly entitled to said land, and patents shall be issued in accordance with such decision.

Sec. 2. *And be it further enacted*, That patents issued according to this act shall vest in the patentee title to the land described in such patent, in fee simple, subject to any valid lien or incumbrance thereon created by said patentee or those under whom he claims.

Mr. HOWE. Before the question is taken on striking out I believe it will be in order to move an amendment to one of the sections proposed to be stricken out.

The VICE PRESIDENT. It will be.

Mr. HOWE. I move to amend the first section by inserting the word "unpatented" before "land" in the fourth line.

The amendment was agreed to.

Mr. HOWE. Now I hope the Senate will not concur in the amendment proposed by the committee. Since that report was made I have had a conversation with the chairman, [Mr. HARLAN,] and I think he is now satisfied that the amendment ought not to be made. The amendment which has been adopted at my instance was suggested to me by the Commissioner of the General Land Office. The Commissioner is entirely satisfied with the bill as now amended, and so I believe is the chairman of the committee.

Mr. HARLAN. As now informed, I do not think the Committee on Public Lands would insist on striking out the sections as amended.

The amendment of the committee was rejected.

The next amendment of the committee was to strike out at the end of the bill the words "the residue of said lands shall be brought into market and sold as other Government lands," and in lieu of them to insert "the lands not sold within one year as hereinbefore provided, shall be brought into market and sold at not less than the minimum prices fixed by this act;" so as to make the third section read:

Sec. 3. *And be it further enacted*, That the lots of land in said town of Stockbridge belonging to the United States, not hereinbefore directed to be patented, shall be attached to and form a part of the Menasha land district, and if in the opinion of the Commissioner of the General Land Office it shall be for the public interest, the same may be sold at the minimum price of three dollars per acre for lots fronting on Lake Winnebago, five dollars per acre for the two tiers of lots fronting on the military road, one tier of lots on each side thereof, and \$2 50 per acre for the residue of said land to actual settlers thereon possessing the qualifications requisite to acquire preemption rights, who shall prove to the satisfaction of the register of the land office at Menasha, Wisconsin, that he or she has made improvements to the value of not less than fifty dollars, and is actually residing upon the land; the time of paying the purchase price may be extended for a period not exceeding one year from the passage of this act: *Provided*, That no such actual settler shall be permitted to pre-empt more than two contiguous lots on which he or she has made improvements of the value of not less than \$100. The lands not sold within one year, as hereinbefore provided, shall be brought into market and sold at not less than the minimum prices fixed by this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. DOOLITTLE. I desire to make an inquiry of my colleague and my friend from Iowa, whether under the provisions of the bill any member of this Stockbridge tribe can have the privilege of entering this land and purchasing it, the same as other citizens. If not, I should like to have a provision inserted to that effect.

Mr. HARLAN. There is nothing in the bill forbidding it, though an amendment expressly including them could do no harm. These are lands that have been exposed to sale at a price above that of the public lands in the market generally, and the Commissioner of the General Land Office has no authority, under the law as it now stands, to reoffer them. This bill is intended to remedy that evil and place the minimum below that sum, if in the opinion of the Commissioner of the General Land Office the public interests shall require it.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 471) to incorporate the National Mississippi Bridge Company; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. WILKINSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; which was read twice by its title, and referred to the Committee on Territories.

#### RAILROADS IN MICHIGAN.

On motion of Mr. HOWARD, the bill (S. No. 414) to authorize the construction of the Northern Pacific Railroad eastward to Ontonagon, in the State of Michigan, and provide for its connection eastward with the Ohio, Indiana, Michigan, and Canadian system of railroads, at Port Huron, Detroit, Toledo, Fort Wayne, and Dayton, was considered as in Committee of the Whole.

The VICE PRESIDENT. The bill will be read.

Mr. HARLAN. It will not be necessary, I think, to read the bill, as it was referred to the Committee on Public Lands; that committee having reported an amendment in the nature of a substitute.

The VICE PRESIDENT. The Chair hears no objection to dispensing with the reading of the original bill, and the substitute only will be read.

The Secretary read the words proposed by the Committee on Public Lands to be inserted in lieu of the original bill, as follows:

That there be, and is hereby, granted to the State of Michigan, to aid in the construction of a railroad from the

terminus of the lines of the Grand Rapids and Indiana, and the Amboy, Lansing, and Traverse Bay railroads, at the point of junction at or near Traverse Bay, in the State of Michigan, as provided by existing laws of the United States, to the straits of Mackinaw, and from the straits of Mackinaw to Little Bay de Noquet, and to aid in the construction of a railroad from Ontonagon, in the said State, to the western boundary thereof, every alternate section or parts thereof of public lands not mineral, designated by odd numbers, not reserved, appropriated, or otherwise disposed of, and to which a preemption claim or homestead settlement has not attached, to the amount of ten sections per mile for each mile of railroad, to be located as near as practicable to the line of said railroads throughout their whole extent: *Provided*, That the land so granted shall in no case be located more than twenty miles from the lines of said road: *Provided further*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, subject to the approval of the President of the United States: *Provided further*, That any lands which may have been granted to the State of Michigan for the purpose of aiding in the construction of any railroad, which lands may be located within the limits of this grant, shall be deducted from the full quantity of lands hereby granted, and that any lands which may have been so granted shall be strictly applied in accordance with the terms and conditions in said act or acts.

Sec. 2. *And he it further enacted*, That the sections and parts of sections of land, which by this grant shall remain to the United States, within ten miles on each side of said roads, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual bona fide settlers under the preemption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the increased minimum price: *And provided also*, That settlers under the provisions of the homestead law, who comply with the terms and requirements of said act, shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

Sec. 3. *And he it further enacted*, That the lands hereby granted shall be subject to the disposal of the Legislature of the State of Michigan, for the purposes aforesaid, and no other. And the said railroads shall be and remain public highways for the use of the Government of the United States free of all toll or other charges upon the transportation of any property or troops of the United States.

Sec. 4. *And he it further enacted*, That the lands hereby granted shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: when the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, and the said Secretary shall be satisfied that said State has complied in good faith with this requirement, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and selected as aforesaid, situated opposite to and within a limit of ten miles of the line of said section of road thus completed, extending along the whole length of said completed section of ten miles of road, and no further. And when the Governor of said State shall certify to the Secretary of the Interior, and the Secretary shall be satisfied that another section of said road, ten consecutive miles in extent, connecting with the preceding section or with some other first-class railroad which may be at the time in successful operation, is completed as aforesaid, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and situated opposite to and within the limit of ten miles of the line of said completed section of road or roads, and extending the length of said section, and no further, and so, from time to time, until said roads are completed. And when the Governor of said State shall so certify, and the Secretary of the Interior shall be satisfied, that the whole of said roads is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted for the purposes indicated in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road: *Provided*, That no land shall be granted and conveyed to said State under the provisions of this act on account of the construction of any railroad or part thereof that has been or may hereafter be constructed under the provisions of any other act, and adopted as a part of the line of railroad provided for in this act: *And provided further*, That said lands shall not in any manner be disposed of or incumbered, except as the same are patented under the provisions of this act; and should the State fail to complete said road within ten years after the acceptance of this grant, then the said lands undisposed of as aforesaid shall revert to the United States.

Sec. 5. *And he it further enacted*, That as soon as the Governor of the said State of Michigan shall file, or cause to be filed, with the Secretary of the Interior maps designating the routes of said road, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

Sec. 6. *And he it further enacted*, That the United States mail shall be transported on said road, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law, the Postmaster General shall have power to fix the rate of compensation.

Sec. 7. *And he it further enacted*, That the time for the completion of each and all of the railroads named in the act approved June 3, 1855, entitled "An act making a grant

of alternate sections of the public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes," be, and the same is hereby, extended eight years.

Mr. HOWARD. I move to amend the amendment by inserting in section seven, line six, after the word "purposes," the words "and an act amendatory thereof, approved June 7, 1864;" and after the word "years," at the close of the section, to insert "from the day of the approval of this act." These amendments are agreed to by the chairman of the Committee on Public Lands.

The amendments to the amendment were agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the bill be engrossed for a third reading; and it was read the third time, and passed. Its title was amended to read, "A bill making a grant of lands to the State of Michigan to aid in the construction of railroads in that State."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed, without amendment, the bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States; and the joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

The message further announced that the House had agreed to the amendment of the Senate to the bill of the House (H. R. No. 184) to facilitate proceedings in admiralty and other judicial proceedings in the port of New York, and for other purposes.

The message also announced that the House had further insisted upon its disagreement to the amendment of the Senate to the bill of the House (H. R. No. 51) to establish a Bureau of Freedmen's Affairs, insisted upon by the Senate; that it agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. R. C. SCHENCK, of Ohio, Mr. G. S. BOUTWELL, of Massachusetts, and Mr. JAMES S. ROLLINS, of Missouri, managers at the same on its part.

The message further announced that the House of Representatives had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 80) directing a district or circuit court to be held at the city of Erie, in the State of Pennsylvania.

A bill (H. R. No. 609) to prescribe the mode of designating citizens of the United States who shall serve as jurors in the circuit and district courts of the United States;

A bill (H. R. No. 638) to facilitate judicial proceedings on writs of error and appeals;

A bill (H. R. No. 707) to provide for the publication of the opinions of the Attorneys General of the United States;

A bill (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistant and clerks;

A bill (H. R. No. 775) for the relief of the occupants of the ex-mission of San José, in the State of California;

A bill (H. R. No. 777) changing the name of Emil Cohen;

A bill (H. R. No. 778) in relation to the appropriation of private property to the public use;

A bill (H. R. No. 779) to regulate the taking of depositions in certain cases; and

A joint resolution (H. R. No. 46) relating to the account of B. C. Whiting.

#### COMMITTEE ON CURRENCY.

Mr. FOOT. I submit a resolution proposing to amend the rules:

*Resolved*, That the 34th rule of the Senate be amended by inserting after the words "a Committee on Finance, to consist of seven members," the following: "a Committee on Currency and Banking, to consist of seven members."

Of course this resolution cannot be considered unless by unanimous consent, but if no objection be made, it may as well be adopted now.

Mr. TRUMBULL. Let it go over.

Mr. FOOT. Very well.

#### ORDER OF BUSINESS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the joint resolution recognizing the existing State government in Louisiana.

Mr. SUMNER. I hope not.

Mr. TRUMBULL. I think that subject should be considered.

Mr. SUMNER. Before the vote is taken on this motion, I wish the Senate to understand that the Senator from Nevada [Mr. Nye] is engaged in a speech which was cut off by the adjournment last night on the bill known as the railroad bill. I presume the Senator from Illinois would not push the matter that he has in charge so far as to prevent the Senator from Nevada from finishing his speech. He has the floor, in the natural course of business, at one o'clock.

Mr. TRUMBULL. It will be soon enough to decide that question when the time comes. It is not one o'clock now; he has not the floor now.

Mr. SUMNER. He has not the floor now; but I presume the Senator is serious when he proposes to take up a measure of this importance, and expects to proceed with it. I merely wish that the Senate should see what is before them, that at one o'clock, according to the natural course of business, we shall have the pleasure of listening to the Senator from Nevada.

Mr. TRUMBULL. I think it very unjust to the public business of this country that from day to day these questions of courtesy should be forced in here to the detriment of the public service. Yesterday, because the Senator from Nevada was in the midst of a speech, the Senate gave way with its other business that he might go on. Is that to be repeated from day to day? I do not know that the Senator from Nevada is complaining. When he appeals to the courtesy of the Senate and wishes to proceed with his speech, I shall certainly be disposed to extend to him all the courtesy that the Senate is in the habit of extending to any of its members; but it will be for him and not the Senator from Massachusetts, I suppose, to complain if he is not treated with proper courtesy by the body. I hope we may proceed with the consideration of this question; it is an important one; it ought to be settled, and it ought to be settled now. The gentlemen claiming seats from the State of Louisiana are entitled to have it settled.

The VICE PRESIDENT. The question is on the motion of the Senator from Illinois.

Mr. CHANDLER. I hope that motion will not prevail. The Senator from Illinois has had this Louisiana case before his committee week after week and month after month. If it was a matter of so much importance as he represents I should suppose he would have reported it at a proper time, when we could have had proper discussion and proper action. Now to bring it up, eight days from the close of the session, to interfere with important business, I will not say reprehensible or outrageous, but it is at least crowding the good nature of this body.

Mr. HARLAN. I deem it my duty to state my objection to taking up the measure named by the Senator from Illinois. The Committee on Public Lands have had before them the subject of the disposition of the private land claims in California for some two months, have labored carefully on the subject, and have finally reported a bill which they think will simplify the disposition of those lands greatly, and believe that action on that subject is necessary at the present session of Congress. As that bill originates in the Senate and must necessarily be considered by the House of Representatives before it can become a law it is important that it be acted on soon. I have been deferring the subject from time to time through feelings of courtesy to other members, and I feel now like raising the question if the Senator from Illinois shall insist on his motion. I do not believe that the bill to which I allude will occupy more than five or ten minutes, but it is a bill of vast consequence. There is one claim alone pending in which the value of the property amounts, it is said, to more than half a million dollars, and it is believed by the Committee that this bill will dispose satisfactorily of the whole subject; and if this motion of the Senator from Illinois shall be voted down I shall then

try to get the bill up. I shall therefore have to vote against his motion; though I would vote to give that joint resolution the preference of the pending order.

Mr. CONNESS. I beg leave to say that the bill to which the honorable Senator from Iowa alludes will not pass in ten minutes unless the Senate could at some time pass it without hearing the voice of California in the premises, for it is the opinion of this part of the California delegation that no more mischievous bill could possibly be passed for our State than the bill spoken of so highly and recommended by the honorable Senator from Iowa. When a question of so much importance as the one proposed is to be discussed, I apprehend the Senate of the United States will hear us very fully before it is disposed of. I say this much to give notice that no bill of that kind can pass this body, unless the Senate imposes it upon us, until it has been very thoroughly and fully discussed. Of course I will not occupy the time of the Senate now by entering upon any discussion of it. It is not before us. I find myself very unpleasantly situated in having to say this of the bill spoken of by the honorable Senator from Iowa, and at the same time being opposed to the motion pending, which proposes to launch us into the consideration of whether we shall not only receive Senators from a new State, but whether we shall admit a State into the Union at this point of time. I am totally and entirely against the consideration of the proposition now presented by the honorable Senator from Illinois, but will not vote when his motion shall be voted down, if it shall be, to take up the bill proposed by the honorable Senator from Iowa.

The VICE PRESIDENT. The question is on the motion of the Senator from Illinois.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. GRIMES. I should like to inquire of the Senator from Nevada if he is prepared to proceed with his speech at this time.

Mr. NYE. I shall only occupy a few minutes.

Mr. GRIMES. That will control my vote against the motion proposed by the Senator from Illinois. As soon as the Senator from Nevada shall have concluded his speech I will vote with the Senator from Illinois if he makes the motion to take up his joint resolution.

Mr. FOOT. So will I.

Mr. DOOLITTLE. I suggest to my friend from Illinois whether this resolution cannot be taken up and then informally laid aside until the Senator from Nevada finishes his speech.

Mr. WILSON. Let him conclude and then this can be taken up.

Mr. DOOLITTLE. It is immaterial to me which way it is done; but after the Senator from Nevada shall have finished his speech I am with the Senator from Illinois for taking up the resolution in regard to Louisiana.

Mr. TRUMBULL. If the Senator from Nevada insists on the floor to go on with his speech, I withdraw my motion and he may go on at once, as far as I am concerned.

The VICE PRESIDENT. The yeas and nays having been ordered, the motion cannot be withdrawn without the consent of the Senate. The Chair hears no objection, and the motion is withdrawn.

Mr. POWELL. I desire to offer a resolution—

Mr. SUMNER. I wish to make a remark on the motion of the Senator from Illinois before it is withdrawn.

Mr. POWELL. The Senator is too late.

The VICE PRESIDENT. The motion has been withdrawn, and is not now before the Senate.

#### ORDERS OF GENERAL BANKS.

Mr. POWELL. I offer the following resolution:

*Resolved*, That the President be respectfully requested to transmit to the Senate General Order No. 23 issued by Major General Banks at New Orleans, and dated February 3, 1864.

Mr. SUMNER. Allow me to ask the Senator if he is sure of the number of the order. Is it not No. 34?

Mr. POWELL. I am sure of the number. I wish to have this order, to be used in the discussion of this very Louisiana case.

Mr. SUMNER. If I understand the matter,

it is the military order by which this State government has been constituted.

Mr. POWELL. It is one of the orders connected with it. There are several orders, and this is one.

The resolution was considered by unanimous consent, and agreed to.

#### RECESS.

Mr. WILSON moved that the Senate take a recess at half past four o'clock until seven o'clock, p. m.; and the motion was agreed to.

#### HOUSE BILLS REFERRED.

The following joint resolution and bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary:

A joint resolution (H. R. No. 46) relating to the account of B. C. Whiting;

A bill (H. R. No. 80) directing a district or circuit court to be held at the city of Erie, in the State of Pennsylvania;

A bill (H. R. No. 779) to regulate the taking of depositions in certain cases;

A bill (H. R. No. 778) in relation to the appropriation of private property to the public use;

A bill (H. R. No. 777) changing the name of Emil Cohen;

A bill (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistant and clerks;

A bill (H. R. No. 797) to provide for the publication of the opinions of the Attorneys General of the United States;

A bill (H. R. No. 609) to prescribe the mode of designating citizens of the United States who shall serve as jurors in the circuit and district courts of the United States; and

A bill (H. R. No. 638) to facilitate judicial proceedings on writs of error and appeals.

The bill (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José, in the State of California, was read twice by its title.

Mr. CONNESS. I move to lay that bill on the table.

Mr. HARLAN. I object to that motion. I move the reference of the bill to the Committee on Public Lands.

The VICE PRESIDENT. The motion to lay on the table takes precedence of the motion to commit.

Mr. CONNESS. I ask for a vote on my motion, and I desire to say—

The VICE PRESIDENT. The motion to lay on the table is not debatable.

Mr. TRUMBULL. This is a House bill, and is it proposed to lay it on the table without consideration?

Mr. CONNESS. A similar bill has been referred to the Committee on Public Lands of the Senate, and that committee during the whole session has not reported it until this morning, when the committee made an adverse report. I do not desire the same identical bill sent to the committee, because it is of no use; we now have the report of the committee on the same subject.

The VICE PRESIDENT. The motion to lay on the table is not debatable.

The motion was not agreed to.

Mr. HARLAN. I move to refer the bill to the Committee on Public Lands.

The motion was agreed to.

#### COMMERCE AMONG THE STATES.

The VICE PRESIDENT. The morning hour having expired, the unfinished business of yesterday is now before the Senate, being the bill (H. R. No. 307) to regulate commerce among the several States; upon which the Senator from Nevada is entitled to the floor.

Mr. NYE addressed the Senate, continuing and concluding the speech which he commenced yesterday. [His speech will be published in the Appendix.]

Mr. MORRILL obtained the floor.

Mr. TRUMBULL. If the Senator from Maine is not anxious to proceed with his remarks now, I hope he will allow the joint resolution in relation to Louisiana to be taken up.

Mr. MORRILL. I have no special preference on the subject.

Mr. TRUMBULL. If the Senator from Maine

does not insist on going on at this time, as I understand he does not, I move that the Senate now proceed to the consideration of the joint resolution for the recognition of the existing State government in Louisiana.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the motion of the Senator from Illinois.

Mr. CHANDLER. I hope that motion will not prevail, and if the Senator from Maine does not desire to speak I hope we shall have a vote immediately on this bill. I gave notice that I should antagonize it against any measure before this body except the regular financial and appropriation bills. The bill has now been thoroughly discussed, and we are prepared for a vote, and we can get a vote to-day if the Senate will stand by me; and certainly we never shall get a vote until after the 4th of March upon the Louisiana case. I am surprised that the Senator from Illinois should propose to bring up that case at this late day of the session. I hope the Senate will stand by me in regard to the pending bill, and if the Senator from Maine desires to make a speech upon it he will be listened to, and I shall ask for a session to-night if we do not get through with it before that time, for the purpose of disposing of the bill. I hope the Senate will not adopt the motion of the Senator from Illinois, but will permit the Senator from Maine to go on with his speech if he desires to do so.

Mr. SUMNER. I certainly agree with the Senator from Michigan, and I must remark again, as I have repeatedly, that I think it is a bad economy of the time of the Senate to go on a little way with one measure and then abandon it and take up another. Let us finish the pending measure. There are two ways of killing a measure; one is by voting it down, the other is by postponing it until you lose an opportunity of voting upon it, and the latter is the policy of certain Senators with regard to the railroad measure. I think that the friends of that measure ought not to be insensible to that policy; they ought to be prepared against it; and they should insist that the measure be proceeded with until they have a vote. If the Senator from Maine is not disposed to go on now, there are other Senators, doubtless, who are; at any rate we can vote, and let the question be taken from our Calendar.

Mr. MORRILL. I believe I expressed no wish on the subject. I yielded to the inquiry put to me by the Senator from Illinois. I am entirely indifferent on the question. Before the bill is acted on by the Senate I desire to be heard.

Mr. SAULSBURY. I desire to say in regard to the bill now before the Senate, that believing as I do in the doctrine of State rights I can never vote for it; but circumstances are such that before gentlemen vote I should like to have them state their opinion whether these strong State monopolies have got such influence that they can come in the presence of the Senate of the United States and seek to control the legislation of the country. I will not vote for this bill under any circumstances, and yet I would just as lief see it passed as not. I want to know whether there is any political intrigue, whether the Democratic party of this country is sold by the Camden and Amboy Railroad Company or not. I should like some of my Republican friends—perhaps the class-leader of the party, the Senator from New Hampshire is just as capable of giving an opinion as anybody else. I mean no reflection on him, for I regard him as a personal friend.

The PRESIDING OFFICER. The question before the Senate is on postponing the pending bill.

Mr. SAULSBURY. I want to call the attention of the country to this question. With my ideas of State rights I would not vote for such a bill under any circumstances, but I do not want these State monopolies to come into the Senate of the United States and undertake to control the legislation of the country; and I am apprehensive that they are here with their lobby agents. I want now to advertise the country that if I am not present on the vote—and if I were outside I would not enter the room to vote on the question—the reason of it is because I believe there is corruption foul and damnable in the whole thing.

The PRESIDING OFFICER. The question before the Senate is the motion of the Senator



# THE CONGRESSIONAL GLOBE.

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from Illinois to postpone the present and all prior orders and proceed to the consideration of the joint resolution relative to the State government of Louisiana.

Mr. TRUMBULL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. Before the yeas and nays are taken, I wish to say a word in regard to this question. It is one of very great importance to the country. It is known that there is an organization in the State of Louisiana claiming to be loyal to the United States, and to act in obedience to the laws and the Constitution of the United States. It is known that the inhabitants of that State have been declared to be in a state of rebellion. It is known that this organization has elected Representatives and Senators to the Congress of the United States. It is known that those persons are here claiming seats, and it is of vital importance, as I think, to the well-being of this country that we should determine it one way or the other. This is not the time to argue how we should determine it; but it is important that we should settle for the inhabitants of Louisiana who are loyal to this Government, and who have undertaken to set up a State government in conformity to the Constitution, whether their government is to be recognized or not. The Senate ought to consider it. The question partakes of the character of a question of privilege, because upon the recognition of this existing government in Louisiana depends the right of the persons elected by the Legislature there to seats in this body, and I cannot see how Senators can refuse to consider a question of this kind.

The question now is, will you consider it? not how you will decide it. We are within a few days of the close of the session. I have struggled before to-day to get up this resolution. If it is to be postponed to other bills and we are not to determine who is to constitute the Senate of the United States, it seems to me we are pursuing a very improper and unparliamentary course. The first thing to be done is to determine, as soon as it can be intelligently determined, who are the proper persons to constitute the body. If these gentlemen claiming seats here are proper Senators, they have a right to be here and to vote on this very question. If they are not properly elected, let the inhabitants of Louisiana know that the organization that they have attempted is not a proper one, and let them take the necessary steps to get up a proper organization that we can recognize. I trust that the Senate will vote to consider the question.

Mr. CHANDLER. All that is known about the State of Louisiana has been long known. For months and months this knowledge has been before the Senate and before the country, and yet until the last forty-eight hours no motion even has been made to bring the question before the Senate. If we take up that subject the discussion will continue until the 4th of March, and we shall not have a vote upon it if we do take it up. The bill now under consideration has been before this body for two long years. It has been put off by divers and sundry subterfuges from day to day and from month to month and from year to year. It has now been thoroughly discussed. There are but one or two more speeches to be made on the subject. I believe if we now adhere to the bill we can get a vote to-day, and we can settle this question forever. I hope the Senate will stand by the bill until the vote is taken. I have no speech to make upon it, not a single word to say upon it. All I ask is a vote on the bill, and I hope the Senate will stand by the bill until the vote is taken. If it is voted down, let it be voted down; but if the Senate believe the bill ought to be passed, let it pass.

Mr. HENDRICKS. I think the proposition of the Senator from Illinois is to devote the balance of this session to the consideration of that particular question. Is there any Senator here who supposes that that question of the readmission of the rebellious States into the Union, if that

be a proper expression, or the restoration of their rights in this body, can be disposed of short of a very lengthy discussion? It may not be desirable that it shall be postponed, but it is the misfortune of the case. The subject is brought up here just at the heel of the session. I think there are many measures that do deserve the attention of Congress before the adjournment. This proposition is tantamount to saying that nothing else shall be considered.

One word more, sir. I do not expect to discuss the merits of the bill which the Senator from Michigan has in charge. To some extent I sympathize with the sentiments of the Senator from Delaware. I do not like to be found on the side of a monopoly, and I do not like much to interfere with the laws of the States. But this is certain, as I believe from my observation of the business of the Senate, that to get along with business, when a bill is taken up it ought to be disposed of. If this measure is right it ought to be voted upon and adopted; if it is wrong it ought to be voted down. I do not favor this system of defeating a measure by merely pushing it off. I think that the success of business in this body requires that when a measure is once taken up it be disposed of.

Mr. TEN EYCK. I think that the most important question is the one submitted by the Senator from Illinois. I believe the State of New Jersey is yet in the Union. Although it has been a subject of a great deal of pastime and pleasantry about her being out of the Union, still I believe, in fact, she is in the Union. How long she may remain there I am unable to say.

Mr. SUMNER. I am sorry it is doubtful.

Mr. TEN EYCK. The Senator from Massachusetts says it is a doubtful subject.

Mr. SUMNER. I said, "I am sorry it is doubtful."

Mr. TEN EYCK. Sir, I am sorry that a constitutional question like the one involved is regarded as doubtful.

The State of New Jersey then being still in the Union at the present time in fact, I think it a matter of vast importance that we should consider whether the State of Louisiana should be entitled to be considered as in this Union, and to have her representation on this floor, especially after she has gone through the trials of this rebellion, especially after she has put treason under her feet, especially as she has sent her representatives here who have been standing with their heels out in the cold at the door of this body, and is desirous to aid and assist in the entire and complete restoration of this Union and the power of this Government over the length and breadth of this land. Why, sir, we have sacrificed in vain tens of thousands of the lives of our purest, noblest, and best, and we have expended thousands of millions of money for the accomplishment of a purpose which now appears to be upon the very eve of accomplishment if after all this Senate persists not only in refusing to hear the application of Louisiana, but in slapping her in the face. I know of no question so important as the recognition of the rights of these States which have been trampled upon, after having been brought into the vortex of the rebellion, and who, when they now seek to come back and be allowed to resume their places in the Union in the only way in which they can come, are to be met with the plea that a discussion will spring up upon the subject, and that it will last until after the 4th day of March, when no decision can be had. I do not think that that will be the result of taking up the joint resolution reported by the Judiciary Committee in relation to Louisiana. I hope it will not be the result.

Much as I wish that the question in relation to the New Jersey railroads now agitating the people of this country, and especially the people of New Jersey, a question which is troubling and grinding and worrying the masses of her people, may be disposed of, notwithstanding my anxiety that that question may be settled, I desire that a question which is of infinitely more importance may at least have the preference upon this floor. I

believe that both these measures can be considered and acted upon before the adjournment of the present Congress.

Mr. HOWARD. Mr. President—  
The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Chair must state that upon a motion of this character extended discussion is not in order; nor is any discussion in regard to the merits of the bill in order.

Mr. HOWARD. I hope the bill relating to New Jersey will be acted upon and disposed of before we proceed to the consideration of the joint resolution reported by the Judiciary Committee. That bill has been long under discussion, and it is one of great importance; and, certainly, I feel that we shall be but doing our duty to proceed and dispose of that measure either the one way or the other, and get it out of the way. We shall then know what we are about, and what is before us.

I do not consider that the other measure, relating to the State of Louisiana, is of such transcendent importance as seems to have been ascribed to it by the honorable Senator from New Jersey. What is this State as to which he declares that all her rights have been trampled upon, and are still trampled upon; or at all events neglected and disregarded? The very document before us, furnished from the Committee on the Judiciary, shows that this so-called State of Louisiana comprises only a little more than eight thousand legal voters who participated in the adoption of the constitution either *pro* or *con.*, together with the usual proportion of females. Out of a voting population in 1860, as reported by the census of that year, of more than fifty thousand in the State of Louisiana, the present number of voters in that State claiming to exercise the rights and to be represented by Senators here and by Representatives in the other House, is but eight thousand, and those eight thousand are to-day, as is well enough known, protected in the enjoyment of such rights as they possess, not by the laws of Louisiana, not by the will of the people of Louisiana, but by the bayonets of your armies who are now within the limits of that State, and but for which Louisiana would to-day be, to all intents and purposes, a rebel State, and actually in the possession of the rebel authorities.

The PRESIDING OFFICER. The Chair must remind the Senator—

Mr. HOWARD. I beg pardon of the Senate for going into the merits of the question at all. I simply make these observations in reply to the few remarks which fell from my honorable friend from New Jersey on this subject. I do not think the country is likely to suffer much from a suspension of our action on this Louisiana matter.

Mr. SUMNER. There was a remark that fell from the Senator from Illinois to which I wish to reply. He urged the importance of the measure which he had in charge. Sir, in reply to him I urge the importance of the measure which he proposes to displace; and the importance of the latter measure is decided by the fact that it has already occupied the attention of the other House, and that we are now considering a bill from that House and not a resolution first reported by a committee of this body. The proposition now moved by the Senator from Illinois makes its appearance here for the first time at the close of this session. It did not appear here during the last session. The other measure has the advantage of it in every respect. I submit there can be no comparison in the intrinsic importance of the two measures. The one proposes to overthrow an odious monopoly, and to declare an important principle of constitutional law; the other is simply an attempt on the part of the Senator to open a dance which is to last through the remainder of this session. That is all, sir. I doubt if the Senator himself seriously imagines that his measure can pass in any practical form. It is merely a dance of debate that he wishes to inaugurate in this Chamber. Sir, I think that the Senate had better proceed with the practical measures before it, those to which it has already given attention, and in which the country is really interested.

Mr. TRUMBULL. The Senator from Massachusetts seems to suppose that the only object of getting up the bill for the recognition of the existing State governments is to inaugurate "a dance of debate;" and then he goes on to tell us that the matter that is to be displaced by it has already passed the House of Representatives, has been under discussion for twelve months and longer. They have been dancing in this debate for twelve months, and the Senator wants to pursue it. I think if there was nothing else involved in this matter but simply this "dance of debate," it would be well to have a new figure after dancing twelve months to this old one.

This is not the proper time to speak of the merits of this measure; to speak of the merit of the bill which the Senator from Michigan has in charge, or of the merit of the joint resolution I desire to call up; but it is proper to speak of the importance of that resolution. Sir, it relates to the restoration of this Union. It relates to the establishment of commercial relations with a State the inhabitants of which have been in rebellion against the Government. "It relates to the opening of the great Mississippi river to the commerce of the country. It relates to peace, which we all desire upon honorable terms at the first practicable moment. At some time these revolted States are to be brought into harmony with the Government of the United States. At some time the authority of the Constitution and laws of the country is to be recognized throughout Louisiana, and all these States, I trust. Here is an effort of eight thousand persons, says the Senator from Michigan, and the testimony of sworn witnesses says of more than half the loyal voting population of Louisiana, asking that their government may be restored to the authority of the United States, asking that they may set up a government in harmony with ours, asking that they may establish local laws and freedom, which I know the Senator from Massachusetts loves, throughout Louisiana; and the Senator from Massachusetts will not hear them. If a single negro is expelled from the cars in the District of Columbia, the voice of the Senator from Massachusetts is heard in this Hall; he will repeal charters and take up the time of Congress about the rights of the negro, but when more than ten thousand voters, representing hundreds of thousands of loyal Union men, ask the protection of your laws and the rights guaranteed to them by the Constitution, the Senator from Massachusetts says they shall not be heard, because some proposition is here, a new proposition, brought into the Senate for the first time since the foundation of the Government, by which the Congress of the United States propose to take charge of the roads and highways of the United States! That is such a pressing measure that you cannot attend to one affecting the vital interests of the country, the restoration of peace and the establishment of the authority of the Government throughout one of the States which has heretofore been in rebellion. Sir, if there is any question of transcendent importance which this Congress can consider, it is that which relates to the bringing into harmony with the Constitution and laws of the United States the population of those districts of country which have been in rebellion against the United States.

Mr. DOOLITTLE. It seems to me the Senator from Massachusetts gives far less importance to this question than it is entitled to. In addition to all the strong reasons given by the Senator from Illinois there is, in my judgment, a very powerful one which should press for its consideration now at this session, and it should be disposed of at the present session.

Mr. President, you know with what anxiety and what earnestness members of the Senate and members of the House of Representatives, as well as a large majority of the American people, have urged the adoption of an amendment of the Constitution of the United States which was to settle forever this vexed question of slavery. We know that if the people of Louisiana have a right to organize their State government, as we insist they have, it is of almost vital importance that that State should be recognized in some form in such manner as to allow the people of that State and the Legislature of that State to vote upon the great question, I will say the paramount question, now submitted to the American people, whether that constitutional amendment shall or shall not

be adopted. Upon that subject, in the minds of nine tenths of all the people of this country, the conviction is clear that the votes of twenty-seven States are necessary to the ratification or the adoption of that amendment to the Constitution. The vote of Louisiana, therefore, becomes necessary. My honorable friend from Massachusetts shakes his head and says substantially no.

Mr. SUMNER. I say no.

Mr. DOOLITTLE. I understand that the honorable Senator has a resolution before the Senate of the United States in which he proposes to declare as the sense of Congress that three fourths of the States of this Union, in voting upon the constitutional amendment, are only intended to include three fourths of those States in which the insurrection has not existed.

Mr. SUMNER. Three fourths of the *de facto* States.

Mr. DOOLITTLE. Three fourths of the States that are represented in Congress substantially. I do not question the sincerity of my honorable friend in his opinion. I have never done so. Much as I have differed with him on many questions, I have never doubted his sincerity. I have sometimes thought that in the earnestness with which he advocates his views he sees very clearly what makes for him, and does not see quite so clearly what makes against him; yet I have never questioned his sincerity in the opinions that he advocates. But although he may be sincere, I venture to say that nine tenths, if not ninety nine out of every hundred, of the people of the United States and the legal profession will maintain that "three fourths of the States" means three fourths of all the States of the United States which are necessary to the adoption of a constitutional amendment. Whether it be necessary or not, it is necessary to have them to put the question beyond doubt; and therefore I maintain that in this present exigency there is not and cannot possibly be a more important question presented to Congress than this very one, whether Louisiana is to be recognized as a State, with power to vote on this question, in addition to all the other strong reasons that are given why this subject should be acted upon. Sir, is there any greater measure to be presented to Congress than a question whether a State shall be represented on this floor? I say it is not only an important question, but it is a question of paramount importance, a privileged question, which takes precedence of other questions, the question of the admission of a member of this body.

Now, sir, what is this other question which is insisted upon and is presented to the Senate as of such transcendent importance. It is a question between two railroad companies in the State of New Jersey, involving the other question, whether the Congress of the United States shall now assume to do what it never has assumed to do in the whole history of the Government, annul the provisions of the charter of a company which has been incorporated under the laws of a State. I do not desire to enter into a discussion of that question on its merits at the present time; but the importance of this question in relation to Louisiana cannot be overstated, in my opinion.

Mr. SUMNER. I hoped not to say another word in this discussion, but a remark that fell from the Senator from Wisconsin does tempt me again into debate. Sir, I cannot conceal my astonishment at the Senator from Wisconsin. The Congress of the United States has already proposed an amendment to the Constitution to secure liberty throughout all the land, and to make the words of the prophecy a reality, "Proclaim liberty throughout all the land and to all the inhabitants thereof." The Senator from Wisconsin who voted for that proposition now comes forward swiftly in order to seek to impose upon the country his own interpretation of the Constitution so as to prevent that from becoming a practical reality.

Mr. CONNESS. I do not like to interrupt the honorable Senator; but, sir, for ten days I have been trying to call up a measure of the greatest consequence to the people I represent, and here, on a motion having for its object the mere precedence of business, not only the question in the Louisiana matter is discussed, but the question of the resolutions formerly introduced by the Senator from Massachusetts. I do hope that we shall get to some subject so that I may get to the

legislative business with which I am charged at some time.

Mr. SUMNER. Well, Mr. President, I will not say anything more on the point except to protest, in the name of liberty and in the name of the Constitution, against any such interpretation as the Senator from Wisconsin now seeks to impose.

Mr. DAVIS. I call the Senator to order. I protest against his making any protest in the name of or for the Constitution. [Laughter.]

Mr. SUMNER. The Senator may make his protest and I shall continue to make mine. I do protest, in the name of liberty and in the name of the Constitution, against any such suggestion as the Senator from Wisconsin has chosen to throw out now in order to arrest the great march of human freedom. Sir, that constitutional amendment will become a part of our fundamental law when it has been approved and ratified by nineteen States of this Union. I submit that question to the judicial and juridical talent of the land. I do not doubt the result. I know already the opinions of learned lawyers and judges on the question. I am not alone. If the Senator again sets himself up on the side of slavery, and by his interpretations seeks to arrest the great march of human freedom, he will find himself in the minority.

Mr. DOOLITTLE. Mr. President—  
The PRESIDING OFFICER. The Chair has several times remarked that no extended debate can be indulged in on a motion such as is now before the Senate, except by unanimous consent.

Mr. DOOLITTLE. When the Senator refers to me personally in these terms, I think I ought to be permitted to reply. The honorable Senator says that when I again set myself up as the great defender of the institution of slavery I ought not to be listened to either by the Senate or the country. Is it forgotten to this Senate how that Senator struggled against the passage of this constitutional amendment? There is no member of this body that does not remember with what pertinacity, in season and out of season, he struggled against it, denouncing it in advance as a useless undertaking, when I was urging it as the great measure of peace on this question of slavery; that it was necessary to have the constitutional amendment to give efficacy to presidential proclamations; to put this question of freedom where it could not be disturbed by a change of parties or a change of Presidents, or a change of the decisions of the Supreme Court. Sir, I arraign that Senator, boastful as he is of being the friend of freedom—

Mr. CHANDLER. I call the Senator to order.

Mr. DOOLITTLE. I submit that I am not out of order.

Mr. CHANDLER. The whole debate is out of order, and I call the Senator to order.

Mr. DOOLITTLE. Allow me to finish my sentence, and the Senator from Michigan will understand whether I am out of order or not. Instead of my standing in the march of freedom and in favor of the building up of slavery, I say that Senator, by struggling against the admission of the free State of Louisiana now, which by its constitution has knocked off the shackles of ninety thousand slaves that the emancipation proclamation did not reach, stands in the way of freedom, and is throwing the weight of the influence of his great name in favor of holding those men still in the condition in which they were left by the emancipation proclamation, which excepted them and left them slaves in Louisiana. Talk to me of standing in the march of freedom under circumstances like these! I am for the constitutional amendment which sets free every slave; not merely the wife or the children of the soldiers in our armies, but all their cousins and all their relatives and all their neighbors. I am for a measure which is to be effective, and which is not open to discussion even in Congress or in the courts; a measure which overrides Congress and the courts and Presidents and parties, and puts this question of freedom forever at rest, where it never can be disturbed in this country. I arraign him for opposing now the admission of a free State whose voice may be necessary to the consummation of this great measure.

Mr. SUMNER. Mr. President—

The PRESIDING OFFICER. The Chair must again remind the Senate that this protracted

discussion cannot be in order. Any personal explanations may be made.

Mr. SUMNER. I merely wish to set my friend from Wisconsin right on one point. I do not believe he intended to do injustice. He has strangely miscollected the facts. I have before me a joint resolution submitted by myself, February 8, 1864, proposing an amendment to the Constitution of the United States. I am not aware that at that time the Senator had made any particular expression of opinion on the subject. The amendment that I proposed was in these words:

"Everywhere within the limits of the United States, and of each State and Territory thereof, all persons are equal before the law, so that no person can hold another as a slave."

That resolution I maintained, in season and out of season, always. The Senator has no authority for saying that I ever in any respect questioned or opposed the constitutional amendment. I gave it my most ardent support. At the same time I did support all measures against slavery. I sought by those measures to girdle the tree, while at the same time by the ax I sought to fell the tree to the ground. The Senator is entirely mistaken. I correct him in point of fact.

Mr. DOOLITTLE. I will refer to the Senator's speeches and give him his language on some other occasion. I remember his speeches very well.

Mr. HOWARD. The honorable Senator from Wisconsin urges as a reason for taking up the joint resolution, which it is proposed now to consider, that it is necessary that the State of Louisiana should be readmitted into the Union in order to secure the ratification of the amendment of the Constitution abolishing slavery. I do not consider that there is much weight in this reason. Let us look very briefly at the facts as they exist at present; for I will not consume the time of the Senate unnecessarily. The number of loyal States now in the Union and acknowledging the authority of the United States without the interposition of military power is twenty-four, and in this number are included the States of Kentucky, New Jersey, and Delaware. This number of twenty-four also includes the very recent State of Nevada. The number of disloyal States which have been all along and are still covered by the President's proclamation, as being in a state of insurrection, is eleven. The whole number of States—

Mr. TRUMBULL. Mr. President—  
The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Illinois?

Mr. HOWARD. Not unless he calls me to order.

Mr. TRUMBULL. I do; I call the Senator to order; he is not discussing the question of the order of business.

Mr. HOWARD. I demand that the words may be taken down in writing, so that the point may be in writing.

Mr. TRUMBULL. The point of order is that the Senator's remarks are irrelevant to the question under consideration.

The PRESIDING OFFICER. The Chair has stated at various times that no discussion of the merits of the measure was in order; but great indulgence has been extended to allow personal explanations. The Chair hopes that the Senator will confine himself entirely to the question.

Mr. HOWARD. Why did not my friend from Illinois interrupt the honorable Senator from Wisconsin when he was indulging in this same line of remark? Why does he visit me with his call to order?

Mr. TRUMBULL. I will state to the Senator from Michigan that I thought the discussion some time ago was out of order, and was in hopes that it would cease; but I give notice now that I will call the Senator from Wisconsin or anybody else to order when I think he is trespassing or out of order.

Mr. HOWARD. I believe the honorable Senator from Illinois also urged that as a reason for taking up this joint resolution.

Mr. TRUMBULL. No.  
Mr. HOWARD. I may be mistaken as to that. At all events he considered that the question was one of great importance. Its importance consists in that, and very little else, if it has any importance. Now, sir, I want to show that it is not of so much importance. We have thirty-six States,

including the loyal and the disloyal States. Upon the hypothesis that it will require three-fourths of all these States, loyal and disloyal, to ratify the amendment to the Constitution, it will be necessary that it should be ratified by at least twenty-seven States. I do not here state my opinion as to the correctness of that hypothesis, but I know that hypothesis is entertained by many gentlemen in this Chamber. According to it, there must be a ratification by twenty-seven States. Suppose we deduct from the twenty-four loyal States the States of New Jersey, Delaware, and Kentucky. That will leave only twenty-one which at present can be relied upon to ratify this amendment to the Constitution. What sort of use then will it be at present to introduce Louisiana? It will only increase the number of certain States to twenty-two, and that will be just five short of the necessary three-fourths. Why, therefore, press this matter upon us? I have no more to say on the question.

The question being taken by yeas and nays, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Brown, Carlile, Collamer, Dixon, Doolittle, Foster, Grimes, Hale, Hathan, Harris, Johnson, Lane of Indiana, Nesmith, Richardson, Riddle, Ten Eyck, Trumbull, Van Winkle, Willey, and Wright—20.

NAYS—Messrs. Buckalew, Chandler, Conness, Davis, Farwell, Foot, Hendricks, Howard, Lane of Kansas, Morgan, Nye, Ramsey, Sprague, Stewart, Sumner, Wade, and Wilkinson—17.

ABSENT—Messrs. Anthony, Clark, Cowan, Harding, Henderson, Howe, McDougall, Morrill, Pomeroy, Powell, Saulsbury, Sherman, and Wilson—13.

So the motion was agreed to.

#### STATE GOVERNMENT OF LOUISIANA.

The joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana, was read a second time, and considered as in Committee of the Whole. The resolution is as follows:

Resolved, &c., That the United States do hereby recognize the government of the State of Louisiana, inaugurated under and by the convention which assembled on the 6th day of April, A. D. 1864, at the city of New Orleans, as the legitimate government of said State, entitled to the guarantee and all other rights of a State government under the Constitution of the United States.

The joint resolution was reported to the Senate without amendment.

Mr. SUMNER. I have an amendment to offer.

Mr. LANE, of Kansas. I should like to propound a question to the chairman of the Committee on the Judiciary. Why is it that he reports a joint resolution for Louisiana, excluding Arkansas which stands in the same position?

Mr. TRUMBULL. I will state that it was thought more advisable by the Committee on the Judiciary to act upon the State of Louisiana separately. The facts are not precisely the same in Louisiana and in Arkansas, though the principle may be very similar, and it was thought that it would, perhaps, complicate the matter to put the two together. The principle upon which the committee have reported this joint resolution, if adopted by the Senate, would be made applicable of course to any other State. This had been referred separately to the committee, and it was thought best to act upon one case first.

Mr. JOHNSON. If the chairman will permit me, I think he will remember that the Arkansas case was not before the committee at the time we were hearing this case, and hence the resolution is limited to the Louisiana case.

Mr. TRUMBULL. It was not before us when the Louisiana case was first considered, but it came before us before it was finally disposed of.

Mr. LANE, of Kansas. Do the committee expect to report the Arkansas case during the present session?

Mr. TRUMBULL. I think it is the intention of the committee to act immediately upon the Arkansas case when this is disposed of.

Mr. SUMNER. I move to strike out all of the resolution after the enacting clause, and to insert the following in lieu thereof:

That neither the people nor the Legislature of any State, the people of which were declared to be in insurrection against the United States by the proclamation of the President, dated August 16, 1861, shall hereafter elect Representatives or Senators to the Congress of the United States until the President, by proclamation, shall have declared that armed hostility to the Government of the United States within such State has ceased; nor until the people of such State shall have adopted a constitution of government not repugnant to the Constitution and laws of the United States; nor until, by a law of Congress, such State shall have been declared to be entitled to representation in the Congress of the United States of America.

I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. TRUMBULL. I merely wish to say that I trust the amendment will not be adopted. Although the general features of the amendment would not be unacceptable to me in most of its features, still I think it better not to adopt it with reference to the State of Louisiana at this time. It would not operate upon this particular case, because it is prospective. Another objection to it is, if I heard it read correctly, that it would put it in the power of the President to keep out a State forever by refusing to issue his proclamation. I do not believe in placing any such power in the hands of the President. When Congress think proper to admit the Senators and Representatives from a State I think they should be permitted to do so; and to say that no representation shall be had until the President issues a certain proclamation is what I am not willing to say.

The question being taken by yeas and nays, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Brown, Conness, Grimes, Howard, Sprague, Stewart, Sumner, and Wade—8.

NAYS—Messrs. Anthony, Buckalew, Carlile, Collamer, Cowan, Dixon, Doolittle, Farwell, Foster, Hale, Hathan, Harris, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Pomeroy, Powell, Ramsey, Richardson, Riddle, Ten Eyck, Trumbull, Willey, and Wright—29.

ABSENT—Messrs. Chandler, Clark, Davis, Foot, Harding, Henderson, Howe, McDougall, Saulsbury, Sherman, Van Winkle, and Wilkinson—12.

So the amendment was rejected.

Mr. POWELL. I desire to make some remarks upon this subject, but I am not prepared to do so to-day. The Senate this morning passed a resolution requesting the President to transmit to us a certain order issued by General Banks, which is a very important document to have in the discussion. If no other Senator wishes to address the Senate on the subject, I move that the resolution be postponed until to-morrow, by which time we shall probably receive that order, and I shall then be prepared to address the Senate, very briefly however, on this subject. I do not suppose I shall occupy more than a few minutes.

Mr. TRUMBULL. I dislike very much to have this matter go over, but I certainly will not be discourteous to the Senator from Kentucky. I think the Senator from Kentucky is apprised of the contents of the order about which he wishes to comment; that the substance of it is embraced in a report already submitted to the House of Representatives. I do not know whether he will be able to get an answer to his resolution by to-morrow, and I think it very questionable whether the order to which he alludes is in the possession of the President. I submit to him whether he cannot proceed to-day. If the resolution goes over, and we wait for the answer to this inquiry, it may be postponed for a number of days.

Mr. POWELL. I cannot proceed to-day for another reason: I did not expect this measure would be called up to-day, and all my papers on the subject are in my room. I will inform the Senator, however, that I do not ask for a postponement longer than to-morrow morning. If the President does not send an answer to the resolution of the Senate by that time, I shall then be ready to proceed with my remarks.

Mr. TRUMBULL. According to the uniform practice of the Senate, if the Senator from Kentucky insists upon the resolution going over, and no other Senator is prepared to make any remarks upon the question, I cannot resist it, and it will have to go over, I suppose. If it does, I think we had better make it the special order at one o'clock, so as to dispose of it to-morrow. With that understanding, I shall not resist the motion, if the Senator will move to make it the special order for to-morrow at one o'clock.

Mr. POWELL. I am perfectly willing to do that. I was in hopes that some other Senator desired to discuss it to-day.

Mr. TRUMBULL. I hope if any other Senator wishes to speak that we will go on with the discussion to-day.

Mr. POWELL. If any other Senator wishes to speak to-day I will withdraw the motion.

The PRESIDING OFFICER. Does the Senator withdraw the motion?

Mr. POWELL. Yes, sir.



Mr. HOWARD. I beg to say that it is my intention to address the Senate upon this joint resolution, but I am not prepared to proceed to-day. I hope, therefore, that the motion made by the Senator from Kentucky will prevail.

The PRESIDING OFFICER. That motion has been withdrawn.

Mr. CONNESS. Then I renew it, so that we may get to other business.

Mr. TRUMBULL. Let it be made the special order at one o'clock to-morrow.

Mr. CONNESS. Yes, sir. I move that the further consideration of the joint resolution be postponed to, and made the special order for, to-morrow, at one o'clock.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills of the Senate:

A bill (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes; and

A bill (S. No. 439) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter.

The message further announced that the House had passed a bill (H. R. No. 579) to repeal a portion of a joint resolution "explanatory of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, in which the concurrence of the Senate was requested.

#### COURTS IN NEVADA.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM HIGBY, of California, Mr. H. C. WORTHINGTON, of Nevada, and Mr. F. KERNAN, of New York, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada and for other purposes, disagreed to by the House of Representatives; and

On motion by Mr. FOSTER, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. FOSTER, Mr. STEWART, and Mr. JOHNSON.

#### REPORT FROM A COMMITTEE.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San Jose, in the State of California, reported it without amendment.

#### PROSECUTIONS FOR LIBEL IN THE DISTRICT.

Mr. TRUMBULL. There are several bills, some of them of considerable importance, which have been reported from the Committee on the Judiciary, that will not take up time, and I will ask the Senate to consider them. That committee has taken up very little of the time of the Senate at this session. I move that the Senate proceed to the consideration of the bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia, reported by the committee unanimously, and which will take no time, I think.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that in all prosecutions or indictments for libel instituted, or which may hereafter be instituted, in the District of Columbia, the truth thereof may be given in evidence under the general issue as a justification of the alleged libel; and if it appear that the matter charged as libelous was true, and was written or published with good motives, and for justifiable ends, the defendant shall be acquitted.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### COURTS IN VIRGINIA.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 664) for changing the time for holding the circuit courts in the district of Virginia. It provides that the circuit courts in the districts of Virginia, heretofore holden at Richmond, shall be held at Norfolk on the first Monday in May and on the fourth Monday in November in each year; and all proceedings and process in or issuing out of the court which are or may be made returnable to any other times or places appointed for holding the same than those above specified are to be deemed legally returnable on the days and at the place above specified, and not otherwise; and all suits and other proceedings in the court which stand continued to any other time or place than those above specified are to be deemed continued to the place and time prescribed by this act, and no other.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City," approved February 21, 1863.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for the collection districts of Memphis and Oregon, and for other purposes;"

A bill (H. R. No. 697) further to provide for the verification of invoices;

A bill (H. R. No. 738) relating to the enrollment and license of certain vessels;

A bill (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington;

A bill (H. R. No. 780) to extend the provisions of the first section of "An act for the government of persons in certain fisheries," approved June 19, 1813; and

A bill (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor.

#### BUST OF CHIEF JUSTICE TANEY.

Mr. TRUMBULL. I move now to proceed to the consideration of House bill No. 748.

Mr. SUMNER. What is that?

Mr. TRUMBULL. A bill providing for a bust of the late Chief Justice Taney, to be placed in the Supreme Court Room of the United States.

Mr. SUMNER. I object to that; that now an emancipated country should make a bust to the author of the Dred Scott decision.

The PRESIDING OFFICER, (Mr. POMEROY.) The question before the Senate is on taking up the bill.

Mr. TRUMBULL. I trust the bill will be taken up; that a person who has presided over the Supreme Court of the United States for more than a quarter of a century, and has added reputation to the character of the judiciary of the United States throughout the world is not to be hooted down by an exclamation that the country is to be emancipated. Suppose he did make a wrong decision. No man is infallible. He was a great and learned and an able man. I trust the Senate will take up the bill, and not only take it up, but pass it.

Mr. SUMNER. The Senator from Illinois says that this idea of a bust is not to be hooted down. Let me tell that Senator that the name of Taney is to be hooted down the page of history.

Judgment is beginning now; and an emancipated country will fasten upon him the stigma which he deserves. The Senator says that he for twenty-five years administered justice. He administered justice at last wickedly, and degraded the judiciary of the country, and degraded the age.

Mr. JOHNSON. I cannot fail to express my astonishment at the course of the honorable Senator from Massachusetts, which he thinks it, I suppose, his duty to pursue. Sir, if the times in which we are living are honestly and truly recorded by the historian, I think the honorable member from Massachusetts will be very happy if he stands as pure and as high upon the historic page as the learned judge who is now no more.

The honorable member seems to suppose that the decision in the Dred Scott case was a decision of the Chief Justice alone. It was not so. In that decision a majority of the court concurred. Whether that decision is right or not, permit me to say to the honorable member there are men belonging to the profession at least his equals, who think it to have been right; but whether right or wrong, those who knew the moral character of the Chief Justice as well as I did would blush to say that his name is to be execrated among men. Sir, the decisions of that learned jurist are now quoted with approbation everywhere, and there is not a judge upon the bench now, three or four of them having been selected by the present incumbent of the presidential office, who will not say at once that a brighter intellect never adorned the judicial station. But it is a matter of history. Every judge who has been at the head of that tribunal has his bust placed in that court-room. Does the honorable member wish to have it unknown in future times that there was such a Chief Justice? I suppose he does; I presume he does; and why? Because he differed with him. If so, to be consistent, he will be compelled to wish that two thirds of the profession in the United States, and two thirds of the country, should be forgotten in all after time, for I am sure I am not mistaken in supposing that at least that number will be found in opposition to the peculiar opinions of the honorable member from Massachusetts.

The PRESIDING OFFICER. The Chair must insist that upon a motion to take up, the merits of the bill cannot be considered.

Mr. JOHNSON. I beg pardon. It was only because the honorable member thought proper, and I take it for granted he considered it a matter of duty, to assail the memory of a departed, and a great, and a virtuous man, that I deemed it my duty to rise up and say a word in his vindication.

Mr. McDUGALL. Mr. President—

The PRESIDING OFFICER. The Chair must repeat to Senators that this discussion is out of order except by unanimous consent.

Mr. McDUGALL. For the same reason that these remarks have been permitted I may be allowed to express a sentiment at least in response to the rude, the very rude, remarks of the Senator from Massachusetts; and I will express my sentiment in a brief form of words. When the judge of whom he has spoken so rudely stood in his own place the Senator was not more worthy than this, to stand at the door of his chamber.

The motion to take up the bill was agreed to, there being, on a division—ayes twenty-one, noes not counted; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 748) providing for a bust of the late Chief Justice Taney to be placed in the Supreme Court Room of the United States. It requires the Joint Committee of the two Houses of Congress on the Library to contract with a suitable artist for the execution, in marble, and delivery in the Supreme Court Room of the United States in the Capitol, of a bust of the late Chief Justice Roger B. Taney; and appropriates the sum of \$1,000, or so much thereof as may be necessary, for this purpose.

Mr. SUMNER. I objected to this joint resolution some days ago, when it was reported by the Senator from Illinois, [Mr. TRUMBULL,] and he was disposed to hurry it at once upon the Senate, to the exclusion of important business. I objected to it again to-day, but it was from no indisposition to discuss it.

I know well the trivial apology which may be made for this proposition, and the Senator from Maryland [Mr. JOHNSON] has already shown something of the hardihood with which it may be

defended. But in the performance of public duty I am indifferent to both.

The apology is too obvious. "Nothing but good of the dead." This is a familiar saying, which, to a certain extent, may be acknowledged. But it is entirely inapplicable when statues and busts are proposed in honor of the dead. Then, at least, truth must prevail.

If a man has done evil during life he must not be complimented in marble. And if indiscreetly it is proposed to decree such a signal honor, then the evil he has done must be exposed; nor shall any false delicacy seal my lips. It is not enough that he held high place, that he enjoyed worldly honors, or was endowed with intellectual gifts.

"Who wickedly is wise, or madly brave,  
Is but the more a fool, the more a knave."

What is the office of Chief Justice, if it has been used to betray Human Rights? The crime is great according to the position of the criminal.

If you were asked, sir, to mention the incident of our history previous to the rebellion which was in all respects most worthy of condemnation, most calculated to cause the blush of shame, and most deadly in its consequences, I do not doubt that you would say the Dred Scott decision, and especially the wicked opinion of the Chief Justice on that occasion. I say this with pain. I do not seek this debate. But when a proposition is made to honor the author of this wickedness with a commemorative bust, at the expense of the country, I am obliged to speak plainly.

I am not aware that the English judges who decided contrary to Liberty in the case of ship-money, and thus sustained the king in those pretensions which ended in civil war, have ever been commemorated in marble. I am not aware that Jeffreys, Chief Justice and Chancellor of England, famous for his talents as for his crimes, has found any niche in Westminster Hall. No, sir. They have been left to the judgment of history, and there I insist that Taney shall be left in sympathetic companionship. Each was the tool of unjust power. But the Power which Taney served was none other than that Slave Power which has involved the country in war.

I speak what cannot be denied when I declare that the opinion of the Chief Justice in the case of Dred Scott was more thoroughly abominable than anything of the kind in the history of courts. Judicial baseness reached its lowest point on that occasion. You have not forgotten that terrible decision where almost unrighteous judgment was sustained by a falsification of history. Of course the Constitution of the United States and every principle of Liberty was falsified, but historical truth was falsified also. I have here the authentic report of the case, from which it appears that the Chief Justice, while enforcing his unjust conclusion which was to blast a whole race, used the following language:

"It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken.

"They had for more than a century before been regarded as beings of an inferior order and altogether unfit to associate with the white race, either in social or political relations; and so far inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit."—19 Howard's Reports, 407.

In these words, solemnly and authoritatively uttered by the Chief Justice of the United States, humanity and truth were set at naught, and the whole country was humbled. "Then you and I and all of us fell down while bloody slavery flourished over us."

I quote his words fully so that there can be no mistake. Here then is his expressed assertion, that at the Declaration of Independence in 1776, and the adoption of the national Constitution in 1789, in Europe as well as in our own country, "colored men had no rights which white men were bound to respect." Now, sir, this is false—avociously false. It is notorious that there were States of the Union where, at the adoption of the Constitution, colored persons were free, and even in the enjoyment of the electoral franchise, while in England the *Somerset* case had already decided that there could be no distinction of persons on account of color, and Scotland, Holland, and France had all declared the same rule. On this

point there can be no question. And yet this Chief Justice, whom you propose to honor with a marble bust, had the unblushing effrontery to declare that at that time, as well abroad as at home, "colored men had no rights which white men were bound to respect;" and this he said in order to justify a wicked interpretation of the Constitution. Search the judicial annals and you will find no perversion of truth more flagrant.

Sir, it is not fit, it is not decent, that such a person should be commemorated by a vote of Congress; especially at this time when liberty is at last recognized. If you have money to appropriate in this way, let it be in honor of the defenders of liberty now gathered to their fathers. There was John Quincy Adams. There also was Joshua R. Giddings. Let their busts be placed in the court-room, if you please, where with marble lips they can plead always for human rights and teach judge and advocate the glory and the beauty of justice. Then will you do something not entirely unworthy of a regenerated land; something which will be an example for future times; something which will help to fix the standard of history.

I know that in the court-room there are busts of the other Chief Justices. Very well. So in the hall of the dogs, at Venice, there are pictures of all who filled that high office in unbroken succession, with the exception of Marino Faliero, who, although as venerable from years as Taney, was deemed unworthy of a place in that line. Where his picture should have been there was a vacant space which testified always to the justice of the republic. Let such a vacant space in our court-room testify to the justice of our Republic. Let it speak in warning to all who would betray liberty.

The PRESIDING OFFICER. If no amendment be proposed, the resolution will be reported to the Senate.

Mr. SUMNER. I move to strike out the name of "Roger B. Taney" and insert "Joshua R. Giddings," and on that I ask for the yeas and nays.

Mr. TRUMBULL. I think it would be just as appropriate to put in the name of "Joshua R. Giddings, a justice of the Supreme Court" into this resolution, as is the Senator's speech, following to his grave and denouncing a man who has stood high, certainly, as an able jurist, for a quarter of a century and more in this country. The Senator talks about honoring Roger B. Taney. Sir, Roger B. Taney has passed beyond your assaults or your honors. He has gone where the feelings of hate and animosity or love and affection can reach him no more; and I for one am not for undertaking to follow a departed brother into that other world for the purpose of denouncing him. I agree that the decision in the Dred Scott case was wrong. I always thought so. The Senator has read from it, and he says that the late Chief Justice made a mistake as to the truth of history, that he made a statement in regard to the condition of the negro at the time of the Declaration of Independence which was not true. Suppose he did; what has that to do with the question of preserving in the Supreme Court of the United States busts of the Chief Justices of that court? Every man who has presided over that eminent tribunal from the foundation of the Government has had his bust preserved in marble. It is proposed to continue that custom. Chief Justice Taney presided there for a long time; Marshall himself did not sit there much longer. I will not undertake to institute a comparison between Marshall and Taney. They were great men, both of them, great jurists, and each has shed luster upon the judicial tribunal over which he presided. Each was a man of great ability, of great learning, of great purity of character, and I am sorry that the Senator from Massachusetts should come in with this denunciation of a man against whom he can find no fault except that he made an erroneous decision. If the Senator from Massachusetts had presided, or should ever preside over the Supreme Court of the United States for thirty years, he would be more than man if he did not make any erroneous decision.

I do not desire to take up time on this question. We wish to do for Chief Justice Taney what we have done for the other judges who presided over that court, and we have done it in every instance, and the insertion of the name of Mr. Giddings

as now proposed is so inappropriate, so out of place, that I cannot suppose it will receive any support.

Mr. SUMNER. I withdraw the amendment, and am willing to come to a direct vote.

Mr. HALE. Mr. President, I do not propose to indulge in any denunciation against Chief Justice Taney, or say anything that I think any of his friends have a right to be offended at. But, sir, the placing of a marble bust of any man in any public place by the act of the Government is an indication that the Government highly esteems and regards his memory and his character and his example, and that they will cherish his fame and take this mode of perpetuating his name and memory in enduring marble. If it has not that meaning it has no meaning at all. I apprehend Congress would not be willing to pass a general act that whoever has heretofore been, or shall hereafter be Chief Justice of the Supreme Court of the United States, should have a marble bust placed up in the court-room. If that was the character of the act, it would have no value at all. But when the Congress of the United States direct that a marble bust of a certain individual shall be preserved in a public place it is an indication to the world, to the present time, and to coming ages, that the Congress and the people of the United States deem him to have been worthy of such distinguished honor.

Sir, all that has been said about the ability of Chief Justice Taney may be true. I confess that while he was upon the bench, a portion of the time, to say the least, I was in the practice of the law, and had occasion to know something about him; and I began to feel, yes, sir, I began to hope that before he went off the stage of action he would do something to redeem his memory from the opprobrium and the odium under which it rested, in my humble judgment, for the manner that he came on the bench. Unfortunately for the Supreme Court of the United States, it has not been the fashion to appoint men there because they are lawyers, but rather because they are not lawyers, and in some cases because they not only are not lawyers but in all human probability never can be lawyers. That is what gets men on the bench of the Supreme Court of the United States; and if you get one that is a lawyer, it is a mere accident.

I remember discussing in this body the question of confirming a man to a seat on that bench, and the discussion was not whether he was a lawyer but whether he entertained sound views on the question of the negro; and we had the assurance of Mr. Benjamin, of Louisiana, and others of that ilk and school, that upon this transcendent question the candidate was sound. The Senate did not go any further than that; they confirmed him, and confirmed him for that reason; and I suppose if it should so happen in the course of nature or politics that that individual should be made Chief Justice we should have to put up a marble bust of him because the precedents are that way.

I am opposed to this being done in this particular instance, because whatever Judge Taney may have been—he may have been as good a judge as the Senator from Maryland thinks him to have been, or as my friend from Illinois thinks.—he will be known to posterity outside of the legal profession, he will be known to the world, by the Dred Scott decision. That will associate itself with his memory, and his memory will associate itself with that. There have been very distinguished judges in England, and some of them are distinguished and their memory is cherished and held in reverence by posterity at the present time in connection with some great judgment that they gave illustrative of some great principle; and in future ages, when the history of this time and of the controversy in which we are now engaged, and through which we have gone, shall go down to posterity, Judge Taney and the Dred Scott decision will go together; the name of Dred Scott will bring up Roger B. Taney, and the name of Roger B. Taney will bring up Dred Scott. There they are for evil or for good, and thus associated they will live through all coming time as long as the history of this country and the history of the great trial through which it has passed is remembered and preserved, and it is for this decision and by this decision that Judge Taney becomes eminent.

Entertaining that opinion and believing beyond controversy that to be the fact, I am not willing

to pass an appropriation to do honor to the Dred Scott decision or to its author. Mr. President, I have been compelled sometimes to say some unpleasant things about the Supreme Court, things that I wish I could not have been compelled to say, and now I will tell you another fact about this Dred Scott decision; and bad as I think of the decision itself, I do not think so bad of it as I do of the fact which I am going to read, and read from the official report. I may do injustice to these men's motives, but I hope not. I want it now understood, if there is any friend of the court here, that I am speaking of the court as an abstraction, not of its members. The report of the case says that it "was argued at the December term, 1855, and ordered to be reargued at the present term," that is, December, 1856. That is the fact to which I allude, and which I am going to illustrate and explain a little. In December, 1855, the awakened public sentiment of this country was arrested and drawn to the very alarming encroachments which the slave power was making in its mad efforts to extend itself into the Territories of the United States, to usurp exclusive control over those Territories for the uses and purposes of perpetuating and extending slavery. That sentiment had made such great progress in the public mind that it developed itself in the organization of a party which nominated soon after a candidate for the Presidency, John C. Frémont. These things were as well known and foreshadowed in 1855 as they have been known to history since. The Supreme Court of the United States was at that time the thrall of slavery, just as much so as Gurth, the son of Beowulf, and Wamboa, son of Witless, that had a ring about their necks by which they were marked "born thrall of Cedric, of Rotherwood." The Supreme Court, the thrall of slavery, did not think it prudent to publish the decision which they made at December term, 1855, and for what reason? There was a presidential election coming on in the fall of 1856; and if the decision had been made at the sitting of 1855, and the public had known it; if the decision which was afterward proclaimed in 1857 had been declared in 1855 or the early part of 1856 the sage of Wheatland would now be an ex-Senator instead of an ex-President. The Supreme Court kept back the decision. The matter was fully argued at the term of 1855. There was no question about complexion that might not as well have been decided then as after, but after it was argued in 1855 they dared not, in the interest of the Democratic party, proclaim the decision, and they resorted to this dodge:

"It was now argued by Mr. Blair and Mr. G. F. Curtis"—

By the way, I want to do justice to the name of Mr. Curtis, and call on all the world to notice that the reporter has not got his name right; it is G. T. Curtis, not G. F.—

"for the plaintiff in error, and by Mr. Geyer and Mr. Johnson for the defendant in error."

Notwithstanding the luminous arguments that were submitted to the court at the December term of 1855 the court were not ready to make a decision; they virtually said "Put the decision off till after the election, which comes on before the next term of the court; then the Democratic party will have the benefit of our decision, and escape the odium of it." That is the way that I read the decision of the Supreme Court of the United States, because I believe that men do not act without a motive, and there is no other possible motive to be assigned.

They put it off, they held this decision in suspense, and I remember that the gentlemen who were associated together at that time in the Free Soil or Republican party, whenever they undertook to intimate that such a decision as was afterward made would be rendered, were met with indignant denial and remonstrance, and it was said the court would never decide anything of that sort. Things went on, the election of 1856 occurred, Mr. Buchanan was elected, and then the Supreme Court did not want any more light on the subject; then they decided just exactly as they did decide, and just exactly as they would not decide if they had to decide it now.

I believe that this decision is discreditable to Judge Taney; I do not say it is disgraceful. I believe it is discreditable to him. I believe it was a reproach to the civilization and the humanity of the age, and if I may be permitted to say it

without the imputation of arrogance—and I will say it if I am submitted to that imputation—I believe it was not only a reproach to the civilization and humanity of the age, but was a perfect parody on the Constitution; and anybody who will read the dissenting opinions of Judge Curtis and Judge McLean, it seems to me, cannot help coming to that conclusion.

Now, sir, I think the most that can reasonably be asked of those who entertain views such as I do, and I do not know that anybody else does, is that we let Judge Taney alone, let his memory alone, let his fame go for what it is worth, and let impartial posterity, which does not fail as a general fact to do justice to the character and the motives of men, be left to do that justice to Judge Taney; but do not let us in our mistaken kindness for the memory of the dead or the feelings of the living—do not, in Heaven's name, let any friends of right, of justice, of liberty, and of downtrodden humanity, give lie to what they have said again and again upon this subject, and what I trust they believe, by voting this extraordinary honor to the memory of Judge Taney.

Mr. President, it is said, and perhaps truly—I have no doubt of it—that every Chief Justice that has heretofore sat there has been an eminent, excellent man. I believe that Chief Justice Marshall was such a man; I believe that Chief Justice Jay was such a man. If I were called upon now to vote a marble bust to the memory of those men I would willingly do it. But, Mr. President, I should feel that I had done them no honor any more than the man who makes the register, and puts their names in to show that they have been Chief Justices. I should do no honor to the memory of Marshall or Jay if at the same time that I voted a marble bust to them I voted a marble bust to the memory of the author of the Dred Scott decision. I want, sir, to mark my disapprobation and condemnation of that now, here, forever, and at all times. I am not afraid that an impartial posterity, I am not afraid that the considerate, thinking, reflecting men of the present day, will accuse me of any hyena-like ferocity on the ground that I want to prey upon the fame, character, and reputation of the dead. I do not want to do so; and I have not said what I have said from any such feelings, but I have said it because I want to vote upon this subject consistently and as I believe my duty is, and for that reason I have assigned these as the motives that will govern me.

Mr. WILSON. Mr. President, I have no heart to follow any man to the grave with reproaches, nor to dishonor his name or defame his memory. I heed that voice of nature that bids us deal gently with the errors of humanity when the grave has closed forever. But I am impelled by an imperative sense of duty to vote against this joint resolution to perpetuate in marble the features of the judge who pronounced the Dred Scott decision, that greatest crime in the judicial annals of the Republic. Sir, it seems to me that the loyal millions of the nation who were horrified eight years ago by the promulgation of the blackest crime against man in our history will be surprised to see the Senate of the United States, on this, the 23d day of February, 1865, voting honors to the author of the judicial usurpation that enthroned the dark spirit of slavery from which the slave-masters leaped into this bloody rebellion. Sir, eight years ago the people, the humane, Christian people of America, were horrified when that decision, which blasted the hopes of a race and allowed slavery to pour itself out without restraint, was pronounced. From that hour to this that decision has been the abhorrence, the scoff and jeer of the patriotic hearts of America. The people, the loyal people of our struggling country, condemn that Dred Scott decision as a violation of the spirit of the Constitution of their country and an outrage upon our common humanity. Yes, sir, the people who sent us here are, by an uncounted majority, against that judicial crime and its author. Yet we, the chosen representatives of a people who have reversed that unrighteous decree, trampled it beneath our feet with loathing and scorn unutterable, sitting here in the closing hours of the Thirty-Eighth Congress, with an empty Treasury, with \$130,000,000 due the heroes of the Republic who are fighting, bleeding, dying to defend their country, menaced by armed treason born of the Dred Scott decision, are consuming precious time and giving our voices and votes to take \$1,000

out of the pockets of the people, to keep out of the hands of our soldiers, outstretched to receive them, \$1,000 to set up a bust to the memory of the man who did more than all other men that ever breathed the air or trod the soil of the North American continent to plunge the nation into this bloody revolution. The Dred Scott decision, proclaimed when the aggressions of the slave-masters had reddened the sods of Kansas, enthroned the slave power, from which it leaped into revolution. You know, sir, and I know, that when the slave-masters had raised the banners of civil war, Judge Taney, who had been swift for thirty years to utter their decrees, had no aid to give his struggling country. In its hour of humiliation, trial, and agony, he never gave one cheering word nor performed one act to protect or save. He sank into his grave without giving a cheering word or a helping hand to the country he had vainly sought to place forever by judicial authority under the iron rule of the slave-masters. His sympathies and feelings were ever with the class whose willing instrument he had been for more than a generation.

Sir, it is not in the power of the Congress of the United States to affect his reputation with the present or with the coming ages. Laudations, statues, and busts will be as impotent as were the eulogies pronounced by a few conservative gentlemen in the Supreme Court-Room a few weeks ago. You may, sir, erect statues to him; you may pass resolutions, you may pronounce eulogies; but the future, the coming future, grand and great, of emancipated, disenthralled, and regenerated America will place him just where it will place others who were recreant to liberty and humanity. That future will declare that he nurtured the spirit of slavery, strengthened its power, enthroned it, hedged it around with judicial authority, till it, in the pride and arrogance of its power, raised its hand against the nation, and rushed headlong into the fire and blood of civil war.

Mr. JOHNSON. Mr. President, I was a little surprised at the course taken by the Senator from New Hampshire. He was a member of the Committee on the Judiciary, and, as far as I recollect—he will set me right if I am wrong—he did not express a word of dissent to this report. It would have been but fair to the committee, I think, if he had determined to oppose this bill, or thought that it was one which should not be passed, that he should have given us some notice of it, that we might have tried if we could to set him right, or have been ready to hear him when he should think proper to assail it in the Senate. But, irrespective of the fact that he took no part against this bill in committee, but, on the contrary, assented to it, I am not so much surprised at his opposing it now, because, for the last twenty years his favorite topic has been the Supreme Court and the abuse of it. Long before the Dred Scott case was decided he came to the conclusion that, if there was honesty on the bench, there was nothing but folly. He brought to the test of the wisdom which should illustrate that bench his own high standard; and believing that some of its members were below himself he came to the very rational conclusion that they were not fit to be members of that tribunal.

Now, sir, as to the other fact on which he relies, that the court designedly kept back the decision until 1856 for a corrupt purpose, I am amazed that the honorable member should yield to such a suspicion. The case was argued late in the term of 1855, and the court supposed that the argument had not been exhausted, and they directed a second argument, and the second argument was made by counsel who did not appear in the first, and the court made the decision just as soon after the argument as it was expected they would make it. That honorable member, [Mr. HALE,] and he who spoke last, [Mr. WILSON,] and the other from Massachusetts, [Mr. SUMNER,] have thought proper to say that the late Chief Justice was the author of this wicked opinion, this horrible opinion; this opinion that revolts the humanity of the country! He was but one of eight or nine judges who concurred with him. It was concurred in by that man whose purity no one will dare to question, who has stood out loyal against all the influences of his own section and is now upon the bench, Mr. Justice Wayne. Mr. Justice Catron, who is as loyal as either of the honorable members from Massachu-



setts, and, if they will permit me to say so, more serviceable to the cause of loyalty than either of them—and in that remark I include the honorable member from New Hampshire—concurred. Mr. Justice Grier, who has decided the prize cases and given to the honorable members the benefit of the doctrine upon which they are relying for other purposes, concurred with him. It is wrong in point of fact, it is illogical and unjust, to attribute such influence to the Chief Justice as would cause the three honorable officers to whom I have alluded to yield their own judgments either upon matters of law or matters of policy to the Chief Justice.

The honorable member from Massachusetts who spoke first [Mr. SUMNER] has quoted from the decision in the Dred Scott case a passage which has been used for the same purpose in his region, and has answered its purpose; it was to effect a party object, and they have used it so as to assist in accomplishing that object. He has read that portion of the opinion and has denounced it as at war with all history and repugnant to the feeling of the human heart; and it has been published in Massachusetts as a mere extract from a single sentence in which it is to be found, without giving either what precedes or what succeeds it, and without giving the historical facts upon which the Chief Justice relied, or without stating his own individual opinion of the sentiment which he supposes those historic facts proved to be the sentiment of the country at that time. What is the fact? I will not refer to what he quotes in the legislation of Maryland. What does he quote from the legislation of Massachusetts and Connecticut? I pass by the Maryland act.

"The other colonial law to which we refer was passed by Massachusetts in 1705, (chap. 6.)"

The accuracy of the references I have never heard called in question.

"It is entitled 'An act for the better preventing of spurious and mixed issue,' &c.; and it provides that 'if any negro or mulatto shall presume to smite or strike any person of the English or other Christian nation, such negro or mulatto shall be severely whipped, at the discretion of the justices before whom the offender shall be convicted.'"

"And that none other Majesty's English or Scottish subjects, nor of any other Christian nation within this province, shall contract matrimony with any negro or mulatto; nor shall any person duly authorized to solemnize marriage presume to join any such in marriage, on pain of forfeiting the sum of £50; one moiety thereof to her Majesty, for and toward the support of the Government within this province, and the other moiety to him or them that shall inform and sue for the same in any of her Majesty's courts of record within the province; by bill, plaint, or information.""

Then he quotes from the legislation of Connecticut, and adds:

"We refer to these historical facts for the purpose of showing the fixed opinions concerning that race upon which the statesmen of that day spoke and acted."

And before making the quotation he says:

"It is difficult at this day to realize the state of public opinion in relation to that unfortunate race which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence and when the Constitution of the United States was framed and adopted."

And in a succeeding part of the opinion he says that the same words which are to be found in the Declaration of Independence, if now used, would be held to include the whole of the human family.

Now, sir, when the learned gentlemen from Massachusetts and New Hampshire, [Messrs. SUMNER and HALE,] and the equally learned gentleman who spoke last from Massachusetts, [Mr. WILSON] expressed such a decided opinion against the correctness of the Dred Scott decision, I wonder it did not occur to them, one of them not being a lawyer even, one of them being a lawyer for a few months and then ceasing, and the other not in a very extended practice until lately, that it was barely possible that such men as Taney, and Wayne, and Catron, and Grier might be right, and they might be wrong. But no; they are infallible; the world is in error and the Senators from Massachusetts and New Hampshire are not. Great men, towering intellects, with knowledge unparalleled; not the equals but the superiors of the men who have heretofore figured upon the bench of the Supreme Court of the United States, or who have ministered as officers before its bar! Let me say to the honorable members, that humble as I hold my own ability, I should feel it much more humble (and I speak it in a spirit of absolute humility) if I thought I was not equal to either of the honorable members, and particularly

to him who spoke last, upon a question of law. I thought when I argued that case, and have thought ever since, that the decision was right.

Now, a word more and I have done. The honorable member who spoke last, with that taste which always characterizes him, saw proper to say that the memory of the Chief Justice is not to be saved by eulogies pronounced by a few men who collect in the Supreme Court-Room for that purpose. I do not think (and I do not mean to say anything unkind of the honorable member when I say it) the men who were there stand in need of his eulogy; and they are not likely much to suffer from his condemnation.

Mr. HALE. Mr. President, I did not hear the first remarks of the Senator from Maryland; I was called out of the Chamber; but I came in while he was talking, and I gathered from what fell from him that he was censuring me or reproving me for not intimating my dissent from this bill when it was up in the committee. I will not have a question of veracity with the Senator from Maryland, but I will say, and I hope it will refresh his recollection when I do say it, that if there is a man in the world whose mouth should be forever shut against making that charge it is the honorable Senator from Maryland; for although I understand it not to be within the rules of the body to refer to what took place in committee, yet, as the honorable Senator has provoked me to it, and has introduced the subject, reproving me for not doing it, I will state exactly what did occur. It was only a few days ago, and of course I am governed by memory—there was very little conversation when the bill was taken up—it was agreed that it should be recommended. I took the bill up, called the attention of the honorable Senator from Maryland to it, who was its particular advocate, and said I, "Mr. JOHNSON, I want you to understand, though I have made no noise against this bill in committee, I am opposed to it, and shall oppose it in the Senate."

Mr. JOHNSON. If the honorable member said so I have entirely forgotten it, and I am not alone in that particular; no other member of the committee has any recollection of it.

Mr. HALE. I did not say it to anybody else. The Senator made some facetious remark, I do not remember what it was, to me upon the subject; and if I remember my existence, remember that. There was no great discussion upon it; but if I ever said anything in my life, and my memory is to be depended upon for three days, I did say that to the honorable Senator from Maryland, and he made some answer to it which I do not remember now, but it seems to me that if the honorable Senator taxes his memory it cannot have entirely escaped it.

Perhaps I might as well sit down now, as I do not want to say anything else; but the honorable Senator seems to think that when he censures and reproves both the honorable Senator from Massachusetts and myself he is doing a great deal. If there is one single thing in the history of my friend from Massachusetts [Mr. WILSON] that I have congratulated him for and think he is lucky in it is that he was not educated a lawyer. There is no knowing what legal nonsense he might have babbled here if he had had his strong good sense spoiled in the technicalities of Blackstone and the black-letter decisions of the old English courts. He was saved from that, and he stands here now as nature made him, an honest, sensible man.

Mr. President, in saying this I do not mean to say anything disparaging to the profession; and I need not, for the honorable Senator from Maryland intimates that I am not so much of a lawyer as to hurt me a great deal. [Laughter.] That statement was accompanied by a profession of humility; but in my judgment, so far as my experience goes, real, genuine humility, such as you will find in the Pilgrim's Progress, is not uttered with such a dogmatical manner, and in such a vociferous tone as the honorable Senator from Maryland takes when he is going to profess a great deal of humility. [Laughter.]

Mr. WILSON. Mr. President, in uttering the few words I felt it my duty to utter to-day against this resolution, I did not expect to excite the wrath of the honorable Senator from Maryland. That Senator, full of indignation, crosses to this side of the Chamber, and in manner and tone that hardly became even him, makes a personal attack upon

those of us who have had the temerity to oppose this ill-timed measure. Swelling with indignation, the honorable Senator, so far forgot the proprieties of this Chamber as to speak of my want of legal training. Sir, this is the Senate of the United States, not a convocation of lawyers. This is a Chamber for the exercise of higher qualities than the capacity to dribble, hour after hour, into the weary ear of the Senate legal credulities learned in judicial tribunals. I never exhaust the patience of the Senate in profitless discussions of legal points plain to the comprehension of all; I wish the Senator from Maryland could say as much. Sir, the honorable Senator, who hastened with alacrity to argue the Dred Scott case must be patient under the criticisms even of gentlemen outside the legal profession. Perhaps, sir, I am quite as able to judge of the sentiments of the people concerning the Dred Scott case as is the Senator from Maryland. Lawyers equal, to say the least, to the Senator from Maryland, have pronounced that decision, in the words of one of the judges, "an assumption of authority." Sir, this Dred Scott decision has gone down under the common sense and the general judgment of the American people, and from their verdict there lies no appeal. The Senator from Maryland should remember that an uncounted majority of the loyal people of the United States have pronounced the Dred Scott opinion inhuman, unchristian, and unconstitutional. The Senator may cling to that godless decree; it is quite natural that he should "cling to errors past," but the nation has discarded it and disowned the men who proclaimed it as the law of Christian America.

But the Senator takes offense to a casual allusion to the eulogies pronounced in the Supreme Court a few weeks ago. I thought, and I still continue to think, that the judgment of the future is not likely to be determined any more than was the judgment of Maryland last autumn by that Senator. Nor is the judgment of the future likely to be determined by the utterances of Charles O'Connor, whose recorded sentiments are abhorrent to the reason of the nation. Sir, it was fitting that the Senator from Maryland, who hastened to instruct Judge Taney to decree all laws to keep slavery out of the Territories unconstitutional, and Mr. Charles O'Connor, who maintains the right of the slave-master to take his slave into the free States, should pronounce eulogies upon him who had decreed the right of the slave-masters to carry their slaves without restraint into the Territories. It is more fitting that these two champions of the rights of the slave-masters should eulogize the judge smitten with judicial blindness than it is for Senators who were borne into this Chamber on a wave of popular indignation against the aggressive policy of the slave power.

Sir, Senators may forget or forgive crimes against a harmless and long-suffering race; they may forget or forgive crimes against liberty; but the people forget not nor forgive not. This day and this hour the common sense, the judgment, the heart, the conscience of loyal America repudiates the Dred Scott iniquity and the men who proclaimed it. I am asked to forget the great crime, the crime of our history, to comply with a customary usage, and place in the sight of a regenerated tribunal the bust of the chief actor. For twenty-nine years I have never given a vote or uttered a word to sustain slavery. God has given me the priceless opportunity to give voice and ballot against the giant crime of my country. I am grateful for the opportunity, and have hailed and welcomed it. Slavery is rapidly sinking into the grave of dishonor, to rise no more forever. I have neither eulogies to utter nor statues to erect to the memory of its apologists or champions. I give no vote, Mr. President, now that any man of the present or of the future who shall see it or read it can construe into a vote to applaud or honor him who has been the enemy of freedom in America.

Mr. WADE. Mr. President, I was here at the time the Dred Scott decision was pronounced. I had been struggling prior to that time in a very small minority in this Senate for the recognition of the rights of the free States. I had seen them trampled under foot by the Senate and by the Congress of the United States. I had seen myself and others who were associated with me denounced in the public prints which were paid out

of the Treasury of the United States for our endeavors to resist the torrent of oppression and wrong that seemed to pervade the nation. Daily as we took up the newspapers which were upheld and supported by the Treasury of the United States we saw attempts to set the populace upon us as we passed to and fro between our lodgings and this Capitol. We had then scarcely power enough in the Senate to call for the yeas and nays, so that we might record our opinions upon any question. Then was got up this partisan Dred Scott decision, to give judicial sanction to the enormous iniquity that prevailed in every branch of our Government at that period. We know how it was brought up. Dred Scott was an old negro, who was worth nothing, notwithstanding the high price at which negroes were held at that time. He was made the John Doe in order to raise this issue before the court, which everybody foresaw would decide it in one way.

Sir, talk not to me of judicial independence; talk not to me of judicial sagacity and ability—the greater you make Judge Taney's legal acumen the more you dishonor his memory by showing that he sinned against light and knowledge. It would be more for his fame if you could prove him a fool. Talk not to me of the ability and purity of a man who makes such a decision as that for no better purpose than to enslave forever nearly five million people and subjugate the whole North to the dominion of those who held slaves.

I tell you, sir, that case arose in no sense as a judicial case. It was a political case. It was got up in the name of Dred Scott, who was supposed to have no authority to sue, at a time when he was seventy years old and entirely decrepit and broken down. It was at that time that it was proposed to interpose a suit for his freedom, because he had been permitted to reside in free States and Territories, and because the whole current of judicial decisions had been that a slave who was permitted by his master to reside in free Territories and free States thereby became a free man. It was necessary, in order to enable the slave power to dominate your Territories, that that good old doctrine of the common law should be subverted. Who should do it? Was the ignorant old negro Dred Scott well calculated to sue in the courts of the United States for his freedom? Not at all; but politicians bent on the subjugation of the North and the enslavement of mankind got up the suit. History will not mistake it; mankind will not misunderstand it; and they do not misunderstand it now.

The case arose, I believe, in Missouri. There was a plea to the jurisdiction of the court, or rather a plea in abatement, alleging that Dred Scott had no right to sue in the courts of the United States. The court sustained that plea. They held that a person of African descent like Dred Scott had no right to sue in the courts of the United States, and there properly ended the case.

Mr. JOHNSON. The Senator is wholly mistaken. The court in Missouri decided that he had a right to sue, and his counsel brought up the case.

Mr. WADE. Very well; the Supreme Court that you boast of held that he could not sue, that he had no right here. Why did you not drop your case there? You talk about law and judicial decisions. The Senator knows, as the judges knew, and as we all knew, that the case ended with that decision; and if it had not been for base political reasons, the suit would have ended there. It was not, however, permitted to end there. I do not profess to have much legal sagacity, but I do profess that my opinion and the opinion of the Senators from Massachusetts and of the Senator from New Hampshire are as reliable as that of the feed attorney in the case, at all events. We have not been hired or paid for our opinion, and if it is adverse to Judge Taney's—

Mr. JOHNSON. Will the Senator permit me to ask on what authority he says I was a feed attorney in that case?

Mr. WADE. I do not know that the Senator was a feed attorney.

Mr. JOHNSON. You said so.

Mr. WADE. He was an attorney in the case; and if he volunteered, so much the worse.

Mr. JOHNSON. I did volunteer.

Mr. WADE. I am sorry for it; I was in hopes you were only induced to embark in so bad a cause by an enormous fee.

Mr. JOHNSON. I would rather take the court's opinion than yours on that point.

Mr. WADE. I suppose you would; and the court was more likely to be favorable to you than I should be. Sir, the decision in that case will admit of no criticism judicially. Take the opinions of Judge McLean and Judge Curtis, and they tear your Dred Scott decision to pieces, and everybody who reads them knows it. The fame of that decision and of all its proposers in spite of all the eulogies of those who pronounced them, has gone down to posterity with utter contempt and disgrace, and the people of Ohio, whose representative I am, and whose opinions I profess to represent on this floor, would pay \$2,000 to hang this man in effigy rather than \$1,000 for a bust to commemorate his merits. I was willing that he should sleep; but his friends injudiciously, notwithstanding all the admonitions of public sentiment upon his head, saw fit to drag him here and to propose to take money out of the Treasury to pay for a bust to commemorate him whom the world execrates.

Mr. President, I did not want to speak on this subject. I was willing that Judge Taney, like many other bad men who have figured in troublesome times, should go down to oblivion, where his friends ought to have permitted him to go. If they had been content with that, they would have heard nothing from me; but when it is proposed to take money from the pockets of my constituents to commemorate the merits of him who pronounced the Dred Scott decision, I am amazed; and I am more than amazed when I find that a committee composed as committees are composed here should think they could do honor to him who pronounced that decision by bringing such a measure as this before the Senate.

If the enunciation contained in that decision could have become the law of the land, every negro would be now and forever a slave, and not only a slave but a brute, a beast, incapable of any rights as a man, and one to whom no rights should be awarded. Not only did it trample down the negro, but your court intended to trample down the rights of freemen in the Territories forever. That is what Mr. Taney intended and expected to do.

The Senator from Maryland appeals to his coadjutors to help him out. Sir, when you propose to spend public money for a bust to any one of those who concurred with him in that infamous opinion, I will be as ready to do them justice as I am now to do it to their chief. Nor will it do to invoke what the Senator calls law. There are cases too plain for law. I say there is not a lawyer in this body who does not know that that political opinion was pronounced for political purposes and not to give anybody his rights; for as I said before, when the court came to the conclusion that Dred Scott had no standing and no rights in the court, the decision should have ended there. Why did the court go on further to pronounce opinions perfectly at war with the rights of every Territory of the United States, and of every white man therein? You cannot find any authority for it in the books. The law is that whenever in pronouncing a judgment a judge goes beyond what is necessary to decide the case before him, all that he says beyond that is no more than though it came from any other source. All that is said in the Dred Scott opinion, after announcing the conclusion of the court that Dred Scott had no right to sue, is the same as though it had been pronounced by anybody else in a bar-room or anywhere else. It has no legal efficacy. Why, then, was it pronounced? Why did they go beyond the case in order to give opinions that were to bind mankind forever? It was only part and parcel of that accursed system of usurpation which had commenced in an attempt to subvert the Territories to slavery, and afterward sought to subject all the free people of this nation to the slave power.

Sir, I feel deeply on this subject, because I was here at a time perhaps when it was hardly safe for a man to pronounce an opinion such as I pronounce now. What, sir, give money to commemorate the merits of the enunciator of the Dred Scott decision! If I were to give such a vote, it would not do for me afterward to face my constituents anywhere.

Gentlemen say that this is not given as a token of merit, but it is a kind of custom to record and

perpetuate in the court-room the memory of the Chief Justices. Then, as the Senator from New Hampshire has well said, it is perfectly meaningless. If you award it to all alike, why do you have them there? They are not remarkable for their good looks. Why do you put them all there unless it is as a kind of compliment, unless it is a merit to them? I will never yield to any such rule as that. If a man stands conspicuous for his merit, for the glory of his judicial decisions for a number of years, incorruptible, unbiased by public opinion, standing for the right, I will give him a monument, for such men are very rare in our day. Find such a man, and I will withhold from him no token of merit; but this is the case of a man who, it has been said, obtained a foothold in the Supreme Court by most questionable practices. I believe, before God, he won his title to the bench by nothing but trampling your Constitution under his feet when he undertook, against law, to remove the deposits from the old Bank of the United States, because the President wanted him to do it. That I understand was his only title to this high position. His commencement then was not very good, and from it I should have expected very much such a run as he has made. I am not here to criticize the general course of his decisions; I know nothing about them; I care nothing about them, because this one decision was so palpably wrong in point of law, and so contrary to the common sense, the common judgment, and the common propriety of mankind, that it has met with universal condemnation; and no attempt of the Senate to prop it up, as my friend from Massachusetts has well said, will have any other effect than to make the infamy of the decision more lasting and conspicuous.

Mr. CARLILE. Mr. President, I have but a word or two to submit, not so much for the consideration of Senators as in explanation of the vote that I shall give. I think if the debate be correct I entirely misapprehend what would be the effect of this bill if it should receive the sanction of the Senate. I do not believe we can honor Chief Justice Taney by perpetuating his features in marble, but I do believe the Senate by voting to embody the features of Taney in marble will do honor to itself. Nor do I believe that in voting for the resolution I can be regarded as indorsing the many able and learned opinions delivered by that distinguished jurist during the many years he presided in the Supreme Court. If such were to be the effect of my vote I should want time to review those decisions. The passage of this resolution cannot add to or its rejection detract from the fame of Taney; his memory will be cherished by the wise and the good long after the names of those who now strut their little hour upon the political stage will have been forgotten.

It may be that the decision of the Dred Scott case was sought and obtained for political purposes, but the late lamented Chief Justice had no agency in bringing that case before the court. He found it before him, it was his duty as a judge to decide upon it, and as an able, upright, and wise judge, as he was, he decided it. No one is authorized to say that his decision was in accordance with his own views as a man or that the law as expounded by him was what he would have made it; but he decided it as every honest judge must decide, and as he did decide every case before him, according to the law as it was under the Constitution which he had sworn to support and to expound as a member of the highest judicial tribunal in the land.

The passage of this resolution cannot, I repeat, add to the fame of Chief Justice Taney; that fame will live and his memory will be cherished long after the Constitution which he expounded and the Government which he sought to perpetuate under it shall have passed away. I shall vote for the proposition in order that my country may be saved the stigma that history would have to record if we should refuse to one who so long and so worthily filled the place where Jay and Marshall sat the same mark of respect that has been shown to his predecessors.

Mr. SUMNER. Alas! I have the floor again. I rose at once to reply to the Senator from Maryland [Mr. Johnson] when he made his obnoxious vindication of the present proposition; but the floor was given to others. And now as I look at the clock I see that I can only begin what I have to say.

As I listened to the Senator I was reminded of a character known to the Roman church who figures at the canonization of a saint, under the name of *l'Avvocato del Diavolo*, which is nothing else than *Devil's Advocate*. The Senator may not perform precisely the same function, but the earnestness with which he advocates a cause which has as its inspiration the very spirit of evil suggests the parallel. Again let me say that I am sorry to be drawn into this debate. But they who seek to canonize one of the tools of slavery are responsible. Tancy shall not be recognized as a saint by any vote of Congress if I can help it.

The Senator has a bad cause, and I inferred that he thought so himself; first, because he talked so loud, and secondly, because he became personal. A good cause would have been discussed in a softer voice, and there would have been no occasion for personality. But the Senator becomes personal easily. In the sweep of his movement he brushed against my distinguished friend from New Hampshire, [Mr. HALE,] and also against my colleague and myself, simply because we could not join in the canonization of the author of the Dred Scott decision. The Senator from New Hampshire and my colleague have already answered him in proper terms. But I will say for my colleague what he could not say for himself. He can bear the gibes of the Senator because he is not a lawyer. It is true that he is not, like that Senator, a counselor of the Supreme Court of the United States, but as an observer in this Chamber, I say fearlessly that in all the duties of a Senator he is in every respect the equal of the Senator from Maryland.

The VICE PRESIDENT. The hour prescribed by the Senate for that purpose having arrived, the Senate will now take a recess till seven o'clock p. m.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock p. m.

#### HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 667) to provide for two local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling, and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for the collection districts of Memphis and Oregon, and for other purposes."

A bill (H. R. No. 697) further to provide for the verification of invoices;

A bill (H. R. No. 738) relating to the enrollment and license of certain vessels;

A bill (H. R. No. 780) to extend the provisions of the first section of "An act for the government of persons in certain fisheries," approved June 19, 1813; and

A bill (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor.

The bill (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington, District of Columbia, was read twice by its title, and referred to the Committee on the District of Columbia.

The bill (H. R. No. 579) to repeal a portion of the joint resolution explanatory of an act to suppress insurrection, punish treason and rebellion, and to seize and confiscate the property of rebels, and for other purposes, was read twice by its title.

Mr. TRUMBULL. I move to put that bill upon its passage. The Senate has passed the same provision.

Mr. HENDRICKS. I move the reference of the bill to the Committee on the Judiciary.

Mr. TRUMBULL. I see no object in referring it. The same bill has been before the Committee on the Judiciary, and the Senate has passed the same provision incorporating it in another bill that has been defeated in the report of a committee of conference. There is no necessity for referring it. If the Senator objects to acting upon it at this time, let it go upon the table for the present.

Mr. HENDRICKS. I know not what part

the Senator took this morning in regard to the disposition of a bill that came from the House of Representatives, and the Senator from California [Mr. CONNESS] informed the Senate that it had already been considered by the committee of the Senate, and when it was proposed to refer the House bill he opposed the reference for the reason that it had been considered by the Committee on Public Lands. The Senate overruled his motion and sent it to the committee as a matter of course. I only allude to it as a question of consistency.

Mr. TRUMBULL. This particular measure has passed both Houses. It is not a measure that now comes from the House of Representatives for the first time, which would, as an ordinary thing, and doubtless should be, referred. This very identical thing, which is the repeal of a part of a law, has been passed by the two Houses. I will not urge action upon the measure now if the Senator objects and wants it to go over, but I see no object in referring it; we have considered the same measure in the Judiciary Committee and reported upon it.

The motion to refer was agreed to.

#### CAPITOL HOTEL COMPANY.

Mr. DIXON. I move to take up the bill (S. No. 452) to incorporate the Capitol Hotel Company in Washington city, District of Columbia. I am told that the parties are ready to proceed at once to the erection of a hotel such as ought to be erected in this city for the accommodation of the public.

Mr. TRUMBULL. If that motion be agreed to will it displace the bill upon which the Senator from Massachusetts [Mr. SUMNER] has the floor?

The VICE PRESIDENT. It will.

Mr. WILSON. I moved to have a session this evening for the purpose of disposing of five or six military bills that have been passed by the House of Representatives, and I think we can get through with them in half an hour.

Mr. DIXON. The bill which I have moved to take up is one introduced by the Senator himself.

Mr. TRUMBULL. I object to proceeding with other business so as to displace the regular order, but I have no objection to this bill coming up informally.

Mr. DIXON. Very well, let it come up informally, by unanimous consent.

Mr. CONNESS. I think this bill can afford to wait for a few days while we get other business attended to of great public interest.

Mr. DIXON. It is only a few lines.

Mr. CONNESS. I have been two weeks trying to get the floor to call up a bill of great consequence to my constituents.

Mr. DIXON. I move to postpone all prior orders and take up the bill I have named.

The motion was agreed to, and the bill (S. No. 452) to incorporate the Capitol Hotel Company in Washington city, District of Columbia, was considered as in Committee of the Whole. The incorporators are Charles C. Little and A. C. Washburn, of Boston; George Folsom, Charles A. Stetson, and Frank Moore, of New York; Z. C. Robbins, of Washington, and their associates and successors. The capital stock is not to exceed \$1,500,000, divided into shares of \$1,000 each.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes;

A bill (H. R. No. 729) to amend the act relating to officers employed in the examination of imported merchandise in the district of New York;

A bill (H. R. No. 739) to regulate the fees of custom-house officers, on the northern, north-eastern, and north-western frontiers of the United States;

A bill (H. R. No. 783) concerning the collection district of Salem and Beverly, in Massachusetts;

A bill (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," and

A joint resolution (H. R. No. 175) to change the name of the ship William F. Storer to Montana.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution:

A bill (S. No. 37) to prevent officers of the Army and Navy and other persons engaged in the military and naval service of the United States from interfering in elections in the States;

A bill (H. R. No. 393) to authorize the corporation of Georgetown to levy certain taxes;

A bill (S. No. 439) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter; and

A joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

#### REPORT OF A COMMITTEE.

Mr. STEWART, from the Committee on Public Lands, to whom was recommended the bill (S. No. 373) to aid in the construction of a telegraphic line from St. Cloud, in Minnesota, to the British possessions, reported it with an amendment.

#### TOWN LOTS IN CALIFORNIA.

On motion of Mr. CONNESS, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 380) to give title to the occupants of lots in cities and towns in the State of California, the pending question being on the amendment reported by the Committee on Public Lands as a substitute for the bill.

Mr. HENDRICKS. This amendment was proposed at the General Land Office. The bill as introduced by the Senator from California was referred to the Commission by the Committee on Public Lands, and the Commissioner suggested this as a substitute. I will say to the Senate that the law of last year provided for the sale of coal mineral lands at public sale at not less than twenty dollars an acre. This bill, prepared by the Commissioner, gives the right of preemption to persons who are now occupying and developing coal mines for general purposes, at twenty dollars an acre.

The second section, in respect to towns now built up, waives two things: first, the restriction in quantity of six hundred and forty acres, which was a restriction in the act of last year; and second, as to the extent of the lots. The Government is not interested in restricting the extent of the towns under the law of last year, because the larger the town the more money the Government gets; but I desire to suggest to the Senator from California, and also to the chairman of the Committee on Public Lands, whether there ought not to be some restriction as to the size of lots. It will be recollected by the chairman of the committee that the bill of last year fixes the price of town lots at ten dollars. This bill has no limitation as to the size of the lots. Ought there not to be, in view of that fact, some limitation?

Mr. HARLAN. I think the suggestion of the Senator from Indiana is a wise one, and I suggest further to him that it might be made double the size indicated in the law to which this is an amendment.

Mr. CONNESS. I wish to explain this second section so that it may be understood. I have before me the act passed last year, which is to be found on page 354 of the Statutes of that year, and it provides that persons disposed to lay out a town upon public lands of the United States may proceed by having a plat made, the whole area of which shall not exceed six hundred and forty acres, dividing it into lots of a given size, of a given number of square feet, and that upon the return of that plat to the land office, and from the local land office, after being approved there, to the General Land Office at Washington, the parties wishing to purchase those lots may do so, and get a patent from the General Land Office here at a price of ten dollars per lot. The maximum size of the lot is stated.



This is a very good act for the establishment of all new towns upon the public domain, but it happens not to be applicable to a State like ours where our towns are already established and not laid out in accordance with such a regulation, or with such conditions. Therefore, upon consulting the General Land Office in regard to it, the Commissioner concluded that the old act had better be amended by simply removing the restriction as to the maximum size of each lot and as to the maximum size of the area of the town or the whole plat. Perhaps in California there will be not more than two or three towns that will exceed the entire area of six hundred and forty acres. Those cases will be the city of San José, the city of Benicia, and perhaps the city of Petaluma. All the cities and towns, amounting to a great many, in our State have been petitioning for the passage of separate acts giving them title. It was deemed by the Land Office the safest plan and the best to pass an amendment to the general act.

I do not know how you can regulate the matter by doubling the size allowed here as the maximum size of each lot, because the lots in these towns are not only various in size, but they are various as to form, and it is proposed to accept them as they are, it being quite impossible to change them, they being now towns long settled and upon which improvements exist. As to the price to be paid for each lot in the case of lots that exceed the maximum rate stated here, I would have no objection to an increase; but the object is not to get revenue from these towns, but to give an opportunity to the owners of lots in them to obtain title.

I desire to offer an amendment to the first section, and if there be no objection I will offer it now; and I beg to call the attention of the Senators who have had this matter under consideration to the character of the amendment. I propose that it shall come in in the fifth line of the first section, after the word "lands," where I propose to insert the words "except on lands reserved by the President of the United States for public uses." If this reservation is not made, the result would be that persons could carry on their mining operations and get a title to reservations of the Government, which I do not wish; and there is a case to which I need not now call attention that has specifically made this necessary. I therefore offer this amendment to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. HENDRICKS. I move to amend the amendment of the committee by inserting at the end of the second section:

*And provided further, That the lots shall not exceed in size twice the size of the lots as fixed in the act to which this is an amendment.*

Mr. CONNESS. I will state to the honorable Senator that in the case of most of our towns that would be a great grievance. Those towns consist of little homesteads built upon the public domain, surrounded by their little orchards, and all their household gods are there. You propose to draw a line right through a man's possession and cut off half of it, and say he shall not have it; that the trees he has planted with his own hands and the vines he has nursed for ten years past shall not be his. I hope that will not be done. I suggest to the Senator from Indiana that he allow the price to be increased if necessary where there is an excess; but that is hardly an object. You cannot reduce the size of these lots. It is provided that you shall allow them to make plats of these towns and villages according to their present boundaries, according to their present lines and improvements. It is a matter of very small consequence to the United States.

Mr. HARLAN. Will this amendment meet the views of the Senator from California?

*Provided, That the minimum price of any lot larger than the maximum size named in the act to which this is an amendment shall be increased in proportion to the increased size of said lot.*

Mr. CONNESS. I apprehend that in many cases the lot would not be worth the price.

Mr. HENDRICKS. I shall be satisfied with the suggestion of the chairman of the Committee on Public Lands. I think that will accomplish what I desire to accomplish by this amendment.

Mr. CONNESS. I propose under the circumstances to lay the bill over for the present and go on with other business.

The VICE PRESIDENT. The Senator from California moves to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

#### BURLINGTON AND MISSOURI RIVER RAILROAD.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 123) to extend the time for constructing the Burlington and Missouri River railroad in Iowa, and filing a map of relocation.

Mr. HARLAN. This is a very small matter, and I ask the indulgence of the Senate to put the resolution on its passage now. It merely extends the time for completing certain sections of a railroad one year, and makes a little amendment in relation to the time at which the company shall file a map as to the relocation of their line. There is nothing else in it, and it is important that it should go through speedily.

By unanimous consent the joint resolution was read three times, and passed. It proposes to extend for one year the time allowed by the eighth section of the act of May 15, 1856, for the construction annually of sections of twenty miles each of the Burlington and Missouri railroad, and to repeal the provisions of the second section of the act approved July 1, 1864, entitled "An act to regulate the compensation of registers and receivers of the land offices in the several States and Territories in the location of lands to States and corporations under grants of Congress," which require that a map of the change of location shall be filed with the Commissioner of the General Land Office within one year.

#### HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A joint resolution (H. R. No. 175) to change the name of the ship William F. Storer to Montana;

A bill (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes;

A bill (H. R. No. 729) to amend the act relating to officers employed in the examination of imported merchandise in the district of New York;

A bill (H. R. No. 739) to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States;

A bill (H. R. No. 783) concerning the collection district of Salem and Beverly in Massachusetts; and

A bill (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States."

#### ARMY REGISTER.

Mr. WILSON. I desire to take up to-night three or four military bills that have been passed by the other House. I move first to take up the joint resolution (H. R. No. 169) to provide for the publication of a full Army Register.

Mr. DOOLITTLE. With the indulgence of the Senator from Massachusetts I desire to state that after he gets through with his military bills to-night, or if we cannot have time then, to-morrow in the morning hour I shall move to take up a very important bill in relation to Indian affairs in the Indian Territory that requires immediate action. That Territory is in a terrible condition as it now stands, and is costing the Government a very large sum of money. We hope that an organization of the Indian tribes properly under something in the nature of a civil government may in some measure in all events prevent the continuance of this condition of things. I desire now to call the attention of the Senate to that bill, which was printed and laid on our tables to-day, and I want to have it acted on to-night after the Senator gets through with his bills, if we have time.

The motion of Mr. WILSON was agreed to, and the joint resolution (H. R. No. 169) to provide for the publication of a full Army Register was considered as in Committee of the Whole. It proposes to require the Secretary of War in connection with the Army Register for the year 1865, to cause to be printed and published a full roster

or roll of all general, field, line, and staff officers of volunteers who have been in the Army of the United States since the beginning of the present rebellion, showing whether they are yet in the service, or have been discharged therefrom, and giving casualties and other explanations proper for such Register. And to defray in whole or in part the expenses of this publication, an edition of fifty thousand copies of such enlarged Register is to be published and may be sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume.

The Committee on Military Affairs and the Militia reported the joint resolution with amendments.

The first amendment was to strike out in lines three and four the words "in connection with the Army Register for the year 1865."

The amendment was agreed to.

The next amendment was to insert the words "at any time" before "since" in line eight.

The amendment was agreed to.

The next amendment was after the word "rebellion," in line nine, to insert "including all informal organizations which have been recognized or accepted and paid by the Government of the United States."

The amendment was agreed to.

The next amendment was in line fourteen, to strike out "fifty" and insert "twenty-five," so as to read "twenty-five thousand copies."

The amendment was agreed to.

The next amendment was after the word "binding," in line eighteen, to strike out the words "and shall not in any case exceed one dollar per volume."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the resolution read the third time. The joint resolution was read the third time, and passed.

#### DANIEL COLLETT, JR.

On motion of Mr. WILSON, the joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased, was considered as in Committee of the Whole. It is a direction to the Secretary of War to cause the name of Daniel Collett, jr., who died of wounds received in battle, to be entered and borne upon the rolls of the Army as a first lieutenant of the fortieth regiment Ohio volunteer infantry from the 9th of May, 1864, the date at which he was commissioned to that office by the Governor of the State of Ohio, the same as if he had been on that day mustered in as such first lieutenant.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CANAL SURVEYS.

On motion of Mr. WILSON, the joint resolution (S. R. No. 118) to authorize surveys to be made with a view to the construction of a ship-canal around the falls of Niagara, to deepen and enlarge the Illinois and Michigan canal, and improve the navigation of the Illinois river, to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river, and to improve the navigation of Fox and Wisconsin rivers, was read the second time, and considered as in Committee of the Whole. It proposes to authorize the President of the United States to direct that competent engineers be employed for the purpose of making the necessary examinations and surveys with a view to the construction of a ship-canal, as a military work for the use of the Government of the United States, around the falls of Niagara, in the State of New York, commencing at some convenient point on the Niagara river, above the falls, and terminating at some convenient point below upon the same stream, or upon the shore of Lake Ontario; to make the necessary examinations and surveys with a view to deepen and enlarge the Illinois and Michigan canal, supplying the same with water from Lake Michigan, and to improve the navigation of the Illinois and Des Plaines rivers in such a manner as to insure a safe and uninterrupted navigation between Lake Michigan and the Mississippi river for naval and

war vessels, and to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river; to make the necessary examinations and surveys with a view to improve the Fox and Wisconsin rivers, to enlarge the canals, locks, and draws on and between those rivers, and to construct such additional works thereon in such manner as to furnish a suitable and sufficient water communication for gunboats and other naval and war vessels of the United States, between Lake Michigan, at Green Bay, and the Mississippi river; and to report a proximate estimate of the expense of constructing such works and making such alterations and improvements. Ten thousand dollars is appropriated to defray the expense of the surveys, examinations, and reconnaissances.

Mr. TRUMBULL. I have no objection to a commission to survey these proposed improvements and estimate the amounts which they will cost, unless such a provision is to carry with it an implication that nothing more is to be done. A bill has been passed by the House of Representatives for the opening of a ship-canal between the waters of Lake Michigan and those of the Mississippi river; that bill is now pending in the Senate, I believe. If we are to pass a bill or resolution directing a commission to go and survey that route to ascertain what the expense is to be, I should presume it was the understanding that we were to do nothing with the bill which has been passed by the other House. Now, sir, it is a fact, that this route was surveyed several years ago, in the first place by engineers in the employment of the State of Illinois, and since that by a Government engineer. The whole work has been planned; the number of yards of excavation, necessary to deepen the canal to have the requisite amount of water, the character of the excavation, whether of rock or earth, and its probable cost, have all been estimated for. Plans of the whole of it have been made not only by the engineers in the employment of the State of Illinois, but by a Government engineer designated by the President of the United States; and surely there can be no necessity for delaying the work upon that improvement for the purpose of making a new survey. I am prepared to bring those surveys to the notice of the Senate or of the committee, and show them that this whole ground has been examined and as accurate estimates made as can possibly be made of the character of the work to be done, and all about it. Why, you should make an appropriation to survey the work over again I do not know, unless it is with a view of delaying action upon the other bill.

I cannot speak in reference to the other works. This joint resolution relates to the construction of a canal around the falls of Niagara as well as the deepening of the canal between Lake Michigan and the waters of the Mississippi river, and it also has reference to an improvement of the Des Moines rapids of the Mississippi and of the Fox and Wisconsin rivers. There are several things in it. I did hope we were to have some action upon the bill from the House of Representatives in regard to the Illinois and Michigan canal, and I should be very glad if we could take up and consider that measure. I do not know whether the Senator from Massachusetts designs to use this joint resolution for the purpose of defeating that bill. I certainly have no objection to this measure unless it is to be used as an excuse for not going on with the other and seeing what we can do with it. It is hardly advisable to make an appropriation to go on and make a survey of the route unless the Senator from Massachusetts has some reason to suppose that the surveys which have been made are not accurate. A survey has been made under the present Administration since it came into power, and we have plans of the whole improvement and everything in regard to it.

Mr. WILSON. Various measures contemplating the construction of a ship-canal around the falls of Niagara, the deepening of the Illinois river and canal, the improvement of the Fox and Wisconsin rivers, and the improvement of the Mississippi at the Des Moines rapids, were sent to the Committee on Military Affairs. Whatever may be the views of members of the committee in regard to the expediency of completing any one or all of these works, it was the opinion of the committee that in the present condition of the finances we ought not to enter upon any of

them. The committee, however, did not report for or against these several propositions, but reported them back without any recommendation, and also reported this joint resolution authorizing a survey of these various works under the direction of the President, and appropriating \$10,000 for that purpose; and I am told by General Delafield that this sum of money will accomplish the object, and that the surveys and estimates can be made in a few months.

I say to the Senator from Illinois that the passage of this joint resolution will certainly not prevent his moving to take up the bill referred to by him, or prevent any action which he may choose to take in regard to it; but the committee did not think in the present condition of the country, however important those works are to the country both as military and commercial measures, that we ought to enter on such a great expenditure at the present time. I am in favor of finishing the improvement to which the Senator has referred; I reported in favor of it at the last session; and I believe that if it were completed to-day at the cost at which it was estimated it would add tens and hundreds of millions of dollars to the wealth of the country. But, sir, the question with us now is this: we have a country to save, rather than one to improve, and we have got a Treasury that is quite too poor at the present time, both in money and in credit, to enter upon anything but necessary appropriations.

I think the Senator from Illinois had better allow this survey to be made, and if it does not apply to any great extent to the Illinois canal it certainly does to the Niagara falls canal and to these other projects that are regarded by their friends as of great importance. The passage of this resolution will not preclude the Senator from making any motion he pleases in regard to the bill referred to by him. It has not been reported either for or against, but simply reported back with a view of not prejudicing it in any way whatever. The committee were decidedly of opinion that no report they would make should prejudice any one of these measures before the Senate.

Mr. TRUMBULL. I should like to inquire of the chairman of the Committee on Military Affairs whether when the committee agreed upon this joint resolution they had before them the report of the engineers who were appointed to estimate the expense of making the improvement in Illinois, or whether it was known to the committee. I am aware the Senator from Massachusetts must have known it, because it was once before that committee at a former session; but was it brought to the notice of the committee that this whole work had been carefully examined and measured and estimated? If so, there should be some reason for making a new survey; some apprehension that the former surveys were not correct. If there is anything of that kind I should like to know it.

Mr. WILSON. I will say to the Senator that we had the matter of the Illinois improvement before the committee on a former occasion, and I prepared a report in favor of it, and the report of the survey of Colonel, now General, Webster was a portion of it incorporated into the report of the committee. I do not think it was used by the committee at this last examination, but the members of the committee all understood that a great deal had been done to get accurate estimates of the cost of the Illinois improvement. If that matter has been fully examined, certainly the Government will spend no time or money in making any further examination of it under this resolution; but in regard to the other three improvements, the estimates are such that we cannot rely upon them, and it will certainly do no harm to examine and perhaps revise the estimates that have been made in regard to the Illinois and Michigan canal and the Illinois river.

Mr. TRUMBULL. As I said before, I have no sort of objection to the passage of this resolution unless it is to be used to defeat the other bill. I understand the Senator from Massachusetts does not put it upon that ground, but he thinks it necessary to have a survey and estimate in regard to the other improvements. I do not wish to be committed or to have anybody else committed against the other measure if this joint resolution is passed. I should have preferred to have action on the other bill before this was called up, and I

was not aware that the Senator from Massachusetts intended to call up this joint resolution at the present time.

Mr. WILSON. I think you had better let it pass.

Mr. TRUMBULL. I would rather it should go over and let the other bill be acted on first.

Mr. WILSON. At the suggestion of the Senator I will let it go over and call up another bill.

The joint resolution was postponed until tomorrow.

#### ARMY AND MEDICAL CORPS.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 548) to increase the efficiency of the medical corps of the Army, have directed me to report it back without amendment; and I ask for its present consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides that the medical director of an army in the field consisting of two or more Army corps, and the medical director of a military department in which there are United States general hospitals containing four thousand beds or upward, shall have the rank, pay, and emoluments of a colonel of cavalry; and that the medical director of an Army corps in the field, or of a department in which there are United States general hospitals containing less than four thousand beds, shall have the rank, pay, and emoluments of a lieutenant colonel of cavalry. This increased rank and pay are only to continue to medical officers while discharging such special duties; and the assignments from time to time to such duty shall be at least two thirds of them made from among the surgeons and assistant surgeons of volunteers.

Mr. HALE. I wish the Senator from Massachusetts would inform the Senate what will be the increased pay of these officers, and how many of them will be increased. What is the necessity of it?

Mr. WILSON. The medical director of an army in the field consisting of two or more corps will be increased from a major to a colonel, and so with a medical director of a military department where there are United States general hospitals containing four thousand beds and upward. I cannot tell how many armies we have, but where ever there is an army consisting of more than one corps the medical director will be increased in rank.

I will say to the Senator from New Hampshire that the medical department of our Army has been less cared for perhaps than any other portion of the Army. Some of the directors of large armies after being in service for a long while, three years, are simply majors, with the same rank and pay with which they entered the service, and a great many of our best surgeons are leaving the service. They have no opportunity for promotion. No service, no fidelity, brings them an increase of pay or any reward whatever. Many of them are leaving the service and returning home, and it is with the greatest difficulty that we are getting the necessary surgeons for the Army; and unless some action is taken I believe a great many of our best surgeons will leave the service. It is in the power of a good surgeon to render immense service to the country, and to save thousands and tens of thousands of dollars in the Army and in the large departments and hospitals. I think we ought to give them this promotion. I have held back on this subject as long as I could do so with any sort of sense of justice to these men; but the public service demands that we should pass this little bill which gives an increase to a few men; but they are men who have been in the service a long while and who have had no promotion, and who have rendered great service to the country, who find that their compensation does not support themselves and their families. The most eminent medical men refuse now to go into the Army because if they do they lose their practice at home, and learn that which when they return home will be of no great value to them. I think as a matter of justice we ought to pass this bill. It was passed by the House of Representatives at the last session, and we have held it back here until this time.

Mr. HALE. I do not doubt anything the Senator states, but I want to call the attention of the Senate to this bill. The difficulty is this bill does not remedy the evil the Senator complains of.

There have been no great resignations of medical directors, nor of that very limited number who will get increased pay by this bill. The Senator did not tell us how much pay this bill gives, but my impression is that it gives something like a thousand dollars; I am not certain; I have been so told. The difficulty is not in the ranks of the men whose pay you propose here to increase, but it is among the regimental surgeons, those who are not occupying such high posts, that the resignations which the Senator speaks of take place. I happen to have some little knowledge of this subject, because I have ascertained that there is no want of surgeons at the present time, and from a circumstance which I will state. I know a very fair surgeon, I will not say a distinguished man, but a man who stands very fair, who was appointed by the Governor of Massachusetts as a surgeon in one of their regiments. After he had been in the field some time he had to leave not long ago on account of his health. He was a man of very high qualifications and had very high testimonials from all the medical and other officers of Massachusetts. He has recovered his health, and finds it impossible to get service in the medical corps again from the fact that there are no vacancies for him, no place where he can go in. That is the case at this moment, so that I do not apprehend there is such a want as the Senator thinks; and if there are resignations taking place they are taking place not among those whose pay will be raised by this bill.

It is useless to repeat what I have said many times before: I do not think this is the time to largely increase or to increase at all the pay of these men. I am opposed to it because I think it is unnecessary and inexpedient, and if you pass the bill it will not remedy the evil; there will be just as much complaint among those who are not high up on the list as there is now. The truth is that if there is any complaint, it is among surgeons who get small pay, and this bill does not increase them at all; it only increases the medical directors of armies. I hope it will not pass.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 3; as follows:

YEAS.—Messrs. Bucklew, Canlie, Chandler, Cowan, Dixon, Doolittle, Foot, Foster, Harlan, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, Nye, Pomeroy, Powell, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Wiley, Wilson, and Wright—25.

NAYS.—Messrs. Farwell, Hale, and Riddle—3.  
ABSENT.—Messrs. Anthony, Brown, Clark, Collamer, Conness, Davis, Grimes, Harding, Harris, Henderson, Howard, McDougall, Morgan, Morrill, Nesmith, Ramsey, Richardson, Saulsbury, Sherman, Van Winkle, Wade, and Wilkinson—22.

So the bill was passed.

#### SUBSISTENCE DEPARTMENT.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 600) for the better organization of the subsistence department. It provides that during the continuance of the present rebellion the Secretary of War may, when in his judgment it is necessary, assign to each geographical military division, to each separate army in the field consisting of more than one Army corps, to each military department, and to each principal subsistence depot, not exceeding ten in number, an officer of the subsistence department to act as chief commissary of such military division, army, military department, or depot, and also an officer of the subsistence department as assistant in the office of the Commissary General of Subsistence, each of whom, while so assigned and acting, is to have the rank, pay, and emoluments of a colonel of the subsistence department; and, in like manner, may assign, for purposes of inspection or other special duty in the subsistence department, commissaries of subsistence, not exceeding six in number, each of whom, while so assigned and acting, is to have the rank, pay, and emoluments of a lieutenant colonel of the subsistence department; and to each Army corps an officer of the subsistence department to be chief commissary of the corps with the like rank of lieutenant colonel; and, in like manner, may assign to each division of two or more brigades a commissary, who, while so assigned and acting, is to have the rank,

pay, and emoluments of a major of the subsistence department; but when any one of these officers is relieved from such duty, his increased rank, pay, and emoluments are to cease, and he is to return to his commissioned rank in the subsistence department; and the officers authorized to be assigned by this act are to be selected from the commissaries of subsistence who hold commissions or rank in the volunteer service only. When within the limits of any geographical department there shall be not more than one Army corps, in such case the chief commissary of the Army corps is to perform the duties of the department commissary. During the continuance of the present rebellion the President of the United States may appoint, by and with the advice and consent of the Senate, as many commissaries of subsistence of volunteers, with the rank of captain, as the exigencies of the service may require.

The Committee on Military Affairs reported the bill with an amendment, in section one, line thirty, after the word "that" to insert the words "at least two thirds in each grade of;" so that the proviso will read:

*And provided further,* That at least two thirds in each grade of the officers authorized to be assigned by this act shall be selected from the commissaries of subsistence who hold commissions or rank in the volunteer service only.

Mr. WILSON. I will simply say that the House bill excluded all regular Army officers from promotion in this department, and this amendment allows one third of these appointments to be from the regular Army.

The amendment was agreed to.

Mr. TRUMBULL. There is a provision in the second section of this bill that I think ought not to pass. The second section provides:

*That, during the continuance of the present rebellion, the President of the United States may appoint, by and with the advice and consent of the Senate, as many commissaries of subsistence of volunteers, with the rank of captain, as the exigencies of the service may require.*

That is an authority to the President to make just as many of these officers as he thinks proper. I should like to know if it is not practicable to limit that in some way. We all know that the pressure upon the President and other officers of the Government is such that a great many persons are appointed to office whose services could be dispensed with. We have in the Army, as is known, general officers who are not on active duty. At one time we had more than one hundred generals appointed that Congress thought were unnecessary, and they limited the number afterward by law. Here is a provision to allow the President to appoint as many commissaries of subsistence as the exigencies of the service in his opinion may require. It seems to me there ought to be some limit placed upon it.

Mr. WILSON. I will say to the Senator from Illinois that is the law at the present time. They appoint just as many as they think necessary for the public service, and they have appointed a great many. But the Senator must remember that there are a great many men who go out of the service. I will state to the Senator, however, that there is no need of that provision, and as the bill has been amended and will have to go back to the House of Representatives, I am perfectly willing that it shall be stricken out.

Mr. TRUMBULL. Do I understand that the law now is that they may appoint as many as they please?

Mr. WILSON. There is no limitation upon the number that may be appointed, and they appoint any number that they think necessary in that department to do their work. If General Eaton, of the commissary department, notifies the Secretary of War that he wants one, two, three, or any number of these men appointed, owing to resignations or increase of business, or anything of that kind, they are appointed.

Mr. JOHNSON. But those that are appointed in that way are temporary appointments. These are to be permanent, as I understand, to be appointed by and with the advice and consent of the Senate.

Mr. WILSON. They are all appointed in that way. I think there is no need of the section, and it may as well be stricken out.

Mr. TRUMBULL. I see no object in striking this out if there is a provision of law of the same character already. What I desire to get at is to have a limitation somewhere. If, as is suggested

by the Senator from Massachusetts, commissaries resign or by any casualty leave the service, of course others would be appointed; but it seems to me to be a very loose way of legislating to provide that the President may make just as many of these officers as in his judgment he shall think proper. There ought to be a limit somewhere. I do not know how many commissaries of subsistence, with the rank of captain, are required. Perhaps we need one for each regiment.

Mr. WILSON. No; one for each brigade, post, and division.

Mr. TRUMBULL. Very well. I think the law ought so to be that there should be any number of commissaries which the public service may require, not exceeding one for every brigade and military post in the United States. Some limitation somewhere certainly ought to be imposed.

Mr. LANE, of Indiana. I think it is wholly impracticable to limit the number of quartermasters and commissaries. We might by law to-day say that so many commissaries were necessary, and to-morrow a larger number would be necessary. As you extend your base of operations, at every single military post it becomes necessary to appoint another disbursing commissary at that post. If we should limit the number to-day, perhaps we should cripple the service to-morrow, for we might need then a much greater number than we do now. I think a discretion must be left in the President or in the commissary department to appoint commissaries wherever they are necessary. I should certainly be willing to restrict the number if it were practicable, but I do not see how it can be done. For instance, when our lines were at Chattanooga we had disbursing commissaries up to that point; but at every succeeding stage, wherever we made a base of supplies, we needed another commissary, and so on as your armies advanced. It seems to me you will cripple the service by restricting them to any specific number. I do not know how many you will need, and I think it is wholly impracticable to say how many commissaries or quartermasters shall be appointed.

Mr. WILSON. I will say to the Senator from Illinois, further, that there are a large number of acting commissaries, that is, officers of regiments detailed to act as commissaries, and quartermasters in the department. Some of them have been acting for two years, and are pressing daily on the War Department for promotion from lieutenantcies to captaincies, but it is very seldom that any of these men are nominated. As they are doing the work, the matter is allowed to go on just as it is when a colonel is put in command of a brigade.

Mr. TRUMBULL. I move to strike out the second section, at any rate.

Mr. WILSON. I have no objection to that. The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

#### RAILROAD IN MICHIGAN.

Mr. HENDRICKS. I ask the Senate to take up and pass a bill which is a mere matter of form, to extend the time in which a railroad is to be completed in Michigan, and in which Indiana is interested. If there is a word of objection to it I will not press it. It is Senate bill No. 463.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes.'" It proposes to amend section one of an act to amend an act entitled "An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes," which amendatory act was approved June 7, 1864, so as to make the last proviso in the section read as follows:

*Provided further,* That the time specified in the fourth section of the act hereby amended for the completion of said road shall be, and the same is hereby, extended eight years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.



## CONSOLIDATION OF INDIAN TRIBES.

Mr. DOOLITTLE. I move to take up Senate bill No. 459, to provide for the consolidation of the Indian tribes, and establish civil government in the Indian Territory.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to create and establish within the territory of the United States, bounded as follows, to wit: on the north by the southern boundary of the State of Kansas, on the west by the eastern boundary of the Territory of New Mexico and the State of Texas, on the south by the northern boundary of the State of Texas, and on the east by the western boundary of the States of Arkansas and Missouri, a temporary government by the name of the Indian Territory; but this government is not to be permitted to interfere with or to affect in any way the rights of any Indian tribe at peace with the United States residing and being in the Territory, secured by treaty between the United States and such Indians, without the consent of the tribe or tribes, or to affect the authority of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the United States to make if this act had not taken effect; and nothing in this act contained is to be construed to inhibit the Government of the United States from dividing the Territory, or changing its boundaries, in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion of it to any other State or Territory of the United States, after the Indian title shall have been extinguished, with the consent of the Indians residing in the Territory.

The executive power and authority in and over the Territory is to be vested in a Governor, who is to hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President of the United States. The Governor is to reside within the Territory, and to be commander-in-chief of the militia and superintendent of Indian affairs. He may grant pardons and respites for offenses against the laws of the Territory, and reprieve for offenses against the laws of the United States until the decision of the President of the United States can be made known thereon; he is to commission all officers appointed to office under the laws of the Territory; and to take care that the laws be faithfully executed.

There is to be a secretary of the Territory, who is to reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he is to record and preserve all laws and proceedings of the Council hereinafter constituted, and all the acts and proceedings of the Governor in his executive department; he is to transmit one copy of the laws and journals of the Council within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the 1st days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress, and one copy to each Indian tribe located in the Territory; and in case of the death, removal, resignation, or absence of the Governor from the Territory, the secretary is required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

The legislative power and authority of the Territory is to be vested in the Governor and a Legislative Council. The first Legislative Council is to consist of one member for each one thousand Indians or fraction of a thousand greater than five hundred, being members of any tribe of Indians lawfully residing in the Territory, to be selected by the tribes, respectively, which may give their assent to the establishment of the temporary government provided for in this act; and if none should be thus formally elected, then to consist of the chief or chiefs of the tribe or tribes, to be taken in the order of their rank as recognized in their tribal usages. The members of the Council

are to reside in and be inhabitants of the district or reservation and members of the tribe for which they may be elected respectively. Previous to the first session of the Legislative Council the Governor is to cause a census or enumeration of the several tribes residing on reservations in the Territory to be taken by such persons and in such mode as the Governor shall designate and appoint, and the persons so appointed are to receive a reasonable compensation therefor, not exceeding three dollars per day for the time necessarily employed. After the census shall have been completed, the Governor is to declare the number of members of the Council to which each of the districts or tribes is entitled under this act, and the persons entitled to represent the districts or tribes in the Council are to meet at such place and on such day as the Governor shall appoint; but thereafter the time and place of the commencement of the regular sessions of the Legislative Council is to be fixed by the Council; but no session in any one year is to exceed the term of thirty days. The Governor is to appoint a suitable person to preside at all meetings of the Council.

Every male member of any Indian tribe lawfully residing in the Territory, above the age of twenty-one years, at peace with the United States, and who has been an actual resident of the Territory for thirty days prior to the first election, is to be entitled to vote in the selection of members of the Council from the tribe of which he is a member, and eligible to a seat in the Council; but the qualifications of voters, and of members of the Council, at all subsequent elections, are to be such as shall be prescribed by the Legislative Council.

The legislative power of the Territory is to extend to all rightful subjects and matters pertaining to the intercourse of the Indian tribes in the Territory, and the administration of internal justice and the punishment of crimes, and the civilization and improvement of the people, consistent with the Constitution and laws of the United States and the provisions of this act; but no law is to be in force providing for the sale, taxation, or incumbrance of real estate, or the forcible collection of debts, until approved by Congress, nor is any tax to be imposed upon the property of the United States; and no law, rule, or regulation adopted by the Council is to take effect and be in force until it receives the approval of the Governor; nor is slavery or involuntary servitude to be permitted in the Territory except in punishment of crime whereof the party shall have been duly convicted.

The judicial power of the Territory is to be vested in a supreme court and district courts. The supreme court is to consist of a chief justice and two associate justices, to be appointed by the President by and with the advice and consent of the Senate, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of the Territory annually; and they are to hold their offices during the period of four years, and until their successors shall be appointed and qualified, unless sooner removed by the President. The Territory is to be divided into as many judicial districts as there are Indian tribes in the Territory, and a district court is to be held in each of the districts by one of the justices of the supreme court, at such times and places as may be prescribed by law or required by the Governor; and the judges are, after their appointments, respectively, to reside in the Territory, at the place assigned them by the Governor. The supreme and district courts, respectively, are to possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, is to appoint its clerk, who is also to be the register in chancery, and to keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals, are to be allowed in all cases from the final decisions of the district court to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, may appoint its own clerk; and every clerk is to hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of the supreme court are to be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in contro-

versy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, exceeds \$1,000, except that a writ of error or appeal is to be allowed to the Supreme Court of the United States from the decision of the supreme court created by this act, or of any judge thereof; or of the district courts created by this act, or of any judge thereof, upon any writs of *habeas corpus* involving the question of personal freedom. Each of the district courts is to have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States, subject to the limitations contained in this act; and the first six days of every term of the courts, or so much thereof as shall be necessary, is to be appropriated to the trial of causes arising under the Constitution and laws; and writs of error and appeal in all such cases are to be made to the supreme court of the Territory the same as in other cases. The clerks are to receive, in all such cases, the same fees which the clerks of the district courts of Washington Territory now receive for similar services. The supreme court and circuit courts are to recognize and enforce all laws, rules, and usages of each of the Indian tribes, lawfully residing in the Territory, not inconsistent with the Constitution and laws of the United States and of the Legislative Council.

There is to be appointed an attorney for the Territory; who is to continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who is to receive the same fees and salary as the attorney of the United States for the present Territory of Washington. There is also to be a marshal for the Territory appointed, who is to hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States, and who is to execute all processes issuing from the courts when exercising their jurisdiction as circuit and district courts of the United States. He is to perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Washington, and in addition is to be paid \$200 annually as a compensation for extra services.

All officers provided for by this act, executive, legislative, and judicial, before they act as such, are respectively to take an oath or affirmation before the judge of a district court of the United States, or of the Territory, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, and an oath of fidelity similar to the oath now required by law of members and Senators in Congress; which oaths, when so taken, are to be certified by the person by whom the same shall have been taken; and such certificates are to be received and recorded by the secretary of the Territory among the executive proceedings; and afterward the like oath or affirmation is to be taken by all civil officers holding offices in the Territory, hereafter created by law, which is to be certified and recorded in such manner and form as may be prescribed by law. The Governor is to receive an annual salary of \$2,500; the chief justice and associate justices \$2,500; and the secretary \$2,000, which salaries are to be paid quarterly yearly from the dates of the respective appointments, at the Treasury of the United States; but no payment is to be made until they shall have entered upon the duties of their respective appointments, or for any period of time during which they may be, respectively, absent from the Territory. The members of the Legislative Assembly are to be entitled to receive four dollars each per day during their attendance at the sessions thereof, and four dollars each for every twenty miles travel in going to and returning from the sessions, estimated according to the nearest usually traveled routes; and an allowance of eight dollars per day is to be paid to the presiding officer of the Legislative Council for each day he shall so preside. A chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms and doorkeeper may be chosen for the Council. The chief clerk is to receive four

dollars per day, and the other officers three dollars per day, during the session of the Legislative Assembly; but no other officers are to be paid by the United States. There is to be but one session of the Legislative Assembly annually, unless, on an extraordinary occasion, the Governor, with the approval of the President of the United States, shall think proper to call them together. There is to be appropriated annually the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of the clerk of the executive department; and there is also to be appropriated annually a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses. The Governor and secretary of the Territory, in the disbursement of all moneys intrusted to them, are to be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall semi-annually account to him for the manner in which these moneys shall have been expended; but funds intrusted to the Governor, as superintendent of Indian affairs, are to be disbursed and accounted for as provided by law and the rules and regulations of the Interior Department. No expenditure is to be made by the Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

The Governor and Legislative Assembly are to locate and establish the seat of government for the Territory at such place as they may deem eligible; but the seat of government fixed by the Governor and Legislative Assembly is not to be at any time changed except by an act of the Assembly duly passed and approved, after due notice, by the several Indian tribes, or by a majority of them, in such manner as the Secretary of the Interior may prescribe.

A Delegate to the House of Representatives of the United States, to serve for the term of two years, who is to be a member of some one of the Indian tribes residing in the Territory and at peace with the United States, may be elected by the voters qualified to elect members of the Legislative Council, who is to be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the House of Representatives; but the Delegate first elected is to hold his seat only during the term of the Congress to which he shall be elected; and the first Delegate may be elected by the Legislative Council, and afterward in such manner as may be provided by law. The Constitution and all laws of the United States, which are not locally inapplicable, are to have the same force and effect within the Indian Territory as elsewhere within the United States.

When the lands in the Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing them into market, sections numbered sixteen and thirty-six in each township in the Territory are to be reserved for the purpose of being applied to schools in the Territory, and in the States and Territories hereafter to be erected out of it.

Until otherwise provided by law, the Governor of the Territory may assign the judges who may be appointed for the Territory to the several districts, and also appoint the times and places for holding courts in the several subdivisions in each of the judicial districts, by proclamation to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

All officers to be appointed by the President of the United States, by and with the advice and consent of the Senate, for the Territory, who, by virtue of the provisions of any law now existing, or which may be enacted by Congress, are required to give security for moneys that may be intrusted with them for disbursement, are to give such security at such time and in such manner as the Secretary of the Treasury may prescribe.

The Committee on Indian Affairs reported the bill with various amendments.

The Secretary read the first amendment of the committee, which was in line twenty-six, section one, after the word "States" to strike out the words "after the Indian title shall have been extinguished" and to insert the word "or;" so that the proviso will read:

*And provided,* That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory, or changing its boundaries, in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States, with the consent of the Indians residing in said Territory.

Mr. DOOLITTLE. That word "or" should be stricken out also.

The VICE PRESIDENT. That word will be considered as included in the motion to strike out.

The amendment was agreed to.

Mr. POMEROY. I think that amendment should include the last sentence. The insertion of the word "or" is certainly wrong. I do not think we ought to ask the consent of the Indians whether we shall change the boundary of that country or not.

Mr. DOOLITTLE. In relation to that I will say to my friend from Kansas that we specially reserve that the consent of the Indians shall be necessary. We are under treaty obligations with those Indians in relation to this matter which we ought not to depart from, and which we cannot depart from without violating the faith of the United States.

Mr. POMEROY. But by the text of the bill, as it is printed, the word "or" is printed as an amendment of the committee.

Mr. LANE, of Kansas. That has been stricken out.

Mr. POMEROY. If the word "or" is stricken out that makes good grammar of it.

Mr. DOOLITTLE. That was a misprint, and I have moved to strike it out.

The next amendment was in section three, line two, after the word "Territory" to insert the words "appointed by the President, by and with the advice and consent of the Senate;" so that the section will read:

That there shall be a secretary of said Territory, appointed by the President, by and with the advice and consent of the Senate, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States, &c.

The amendment was agreed to.

Mr. DOOLITTLE. I propose to add an amendment at the end of the fifth section. I move to insert the words "and approved by Congress" after the words "Legislative Council;" so that the clause will read:

But the qualifications of voters, and of members of said Council, at all subsequent elections, shall be such as shall be prescribed by the Legislative Council and approved by Congress.

The VICE PRESIDENT. That amendment will be made, if there be no objection.

The next amendment was in section six, line nine, to strike out the word "forcible" and insert the word "compulsory;" so that the clause will read:

But no law shall be in force providing for the sale, taxation, or incumbrance of real estate, or the compulsory collection of debts, until approved by Congress, nor shall any be imposed upon the property of the United States.

Mr. DOOLITTLE. That is one of the important provisions of the bill, and I will simply state that the reason why that provision was inserted was because such are the laws of the Indian tribes in those Territories now. They have no law to enforce the collection of debt, and it is deemed entirely improper that among Indians in their present state such a law should exist.

The amendment was agreed to.

The next amendment of the committee was in section seven, line fifty-five, to strike out the words "and enforce" after the word "recognize," and in line fifty-six to strike out the words "lawfully residing in said Territory," and to insert "as to the members and within the limits of the same;" so that the clause will read:

The said supreme court and circuit courts shall recognize all laws, rules, and usages of each of said Indian tribes, as to the members and within the limits of the same, not inconsistent with the Constitution and laws of the United States and of the Legislative Council.

The amendment was agreed to.

The next amendment was in section seven, line

two, after the word "appointed" to insert the words "by the President, by and with the advice and consent of the Senate;" so that the clause will read:

That there shall be appointed by the President, by and with the advice and consent of the Senate, an attorney for said Territory, who shall continue in office four years, &c.

The amendment was agreed to.

The next amendment was in section eight, line nine, after the word "appointed" to insert "by and with the advice and consent of the Senate;" so that the clause will read:

There shall also be a marshal for the Territory appointed by and with the advice and consent of the Senate, who shall hold his office for four years, &c.

The amendment was agreed to.

The next amendment was in section nine, line nineteen, after the word "dollars" to insert "and the further sum of \$500 as superintendent of Indian affairs;" so that the clause will read:

The Governor shall receive an annual salary of \$3,500, and the further sum of \$500 as superintendent of Indian affairs.

The amendment was agreed to.

The next amendment was in section nine, line thirty-one, after the word "Legislative" to strike out the word "Assembly" and to insert the word "Council."

The amendment was agreed to.

Mr. DOOLITTLE. The committee propose that same amendment, striking out "Assembly" and inserting "Council" in a great many places in the section, and I suggest that the question be taken on them all together.

The PRESIDING OFFICER. (Mr. Foor in the chair.) All those amendments throughout the bill will be considered as agreed to, if there be no objection.

Mr. DOOLITTLE. After the words "duly passed" in the seventh line of section ten I move to insert the words "and approved by the Governor;" so that the proviso will read:

*Provided,* That the seat of government fixed by the Governor and Legislative Council shall not be at any time changed except by an act of the said Council duly passed, and approved by the Governor, and which shall be approved, after due notice, by the several Indian tribes, or by a majority of them, in such manner as the Secretary of the Interior may prescribe.

The amendment was agreed to.

The next amendment of the committee was in section twelve, line one, to strike out the word "when" and to insert "whenever with the consent of the said Indian tribes;" so that it will read:

That whenever with the consent of the said Indian tribes the lands in the said Territory shall be surveyed under the direction of the Government of the United States, &c.

The amendment was agreed to.

Mr. DOOLITTLE. In section thirteen, line seven, after the word "Council" I move to insert "with the approval of the Governor;" so that it will read:

But the Legislative Council, with the approval of the Governor, at their first or any subsequent session may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HENDRICKS. I do not want to interpose any objection to this measure if it be the pleasure of the Senate to adopt it, but it is very new in its character, and it seems to me the attention of the Senate to some little extent ought to be given to it. This is a proposition coming from the Committee on Indian Affairs, not having been considered, I believe, by the Committee on Territories, to organize a new Territory, with all the machinery applicable to a territorial government, with two peculiarities not found, I believe, in any other territorial organization: first, that there shall be a Legislature to be selected from among the Indians themselves to legislate upon all questions of a domestic character; and in the second place, that there shall be a Delegate to Congress selected by the Indians. I merely desire to call the attention of the Senate to the bill. I hardly know whether I am in favor of it or against it; I am not prepared to vote for it without some consideration. It is a bill that was introduced by the Senator from Iowa, [Mr. HARKLAW,] I observe, three days ago, on the 20th of

this month, and referred to the Committee on Indian Affairs, and reported by that committee yesterday, and laid upon our desks to-day.

Mr. DOOLITTLE. I will state to the honorable Senator that several weeks ago a resolution of the Senate directed the committee to inquire into the propriety of this measure, and the matter has been the subject of consideration for some considerable time in the committee, although in the form of a bill it did not appear until the Senator from Iowa reduced it to form and had it referred to a committee.

Mr. RAMSEY. I should like to learn from the chairman of the Committee on Indian Affairs what tribes it is contemplated to collect upon this reservation.

Mr. DOOLITTLE. This Indian Territory is very peculiar from all the other Territories of the United States. It belongs in fee simple as it stands, by patent from the United States, to the Cherokees, the Creeks, the Seminoles, the Choctaws, and the Chickasaws. They own the fee simple derived from the United States by a patent, and those tribes in that Territory, previous to this rebellion, had advanced to such a degree of civilization that they were capable of self-government, and maintaining a government. They had their written constitutions, their written laws, their courts, their treasurers, and other officers, &c. The rebellion, it is true, involved some of those tribes in the rebellion against the United States, and in this Territory there have been terrible conflicts, and wars, and anarchy, and confusion. The committee, after full consideration, have deemed that the best form in which to get at this Territory, and get it into some shape, and bring some kind of order out of this chaos and anarchy, was to provide by some law of Congress for some mode by which these Indians themselves could be brought, with their consent, (because the bill contemplates the consent of these tribes that are at peace with the United States,) into a measure of this kind, which would authorize them to choose their own legislators or counselors, and by which the United States would be authorized to appoint a Governor, who should at the same time be superintendent of Indian affairs, with the power of an absolute veto upon the proceedings of the councils, which was believed to be necessary in the present state of affairs. It is believed something of this kind is the best mode in which to reorganize that Territory, and bring peace, and order out of chaos and confusion.

Mr. RAMSEY. This is somewhat a question of geography, and I should like to understand from the chairman whether it is calculated to bring the northern tribes down into the country south of the southern line of Kansas.

Mr. DOOLITTLE. There is nothing—  
The PRESIDING OFFICER. The Senator from Indiana has the floor, and all this debate is out of order except with his consent.

Mr. HENDRICKS. I do not object to the Senator from Wisconsin making any explanation in answer to the question of the Senator from Minnesota.

Mr. DOOLITTLE. There is nothing in this bill on that subject, but I will state frankly to the honorable Senator from Minnesota that there has been a hope entertained by the Committee on Indian Affairs of the Senate, and I believe by the Department, that the more civilized portions of our Indian tribes might be induced, not forced, but by some treaty arrangements made be induced, to go and join their fortunes with the Indians in this Territory, and better their condition and advance in civilization. That is the hope, although there is nothing in this bill which provides for that.

Mr. HENDRICKS. The fourth section of the bill provides for the selection of the Legislative Council. It does not require that the members of the Legislative Council shall be Indians, but that they shall be selected for the Indians; that is, there shall be "one member for each one thousand Indians or a fraction of a thousand greater than five hundred." The person selected may be an Indian, or he may be a white man. He is to be selected by the Indians, or the members of the tribe, (and I believe that white persons may become members of the tribe,) by the persons who are defined as voters in this section. If there is no election, then the head of the tribe is to be the legislator for that tribe. When that mixed Le-

gislation, then, part Indian and part white, meet, they will have jurisdiction by the sixth section to legislate upon—

All rightful subjects and matters pertaining to the intercourse of the Indian tribes in said Territory, and the administration of internal justice—

This is very comprehensive language—

and the administration of internal justice and the punishment of crimes; and the civilization and improvement of the people, consistent with the Constitution and laws of the United States and provisions of this act; but no law shall be in force providing for the sale, taxation, or incumbrance of real estate, or the compulsory collection of debts, until approved by Congress, nor shall any tax be made upon the property of the United States; and no law, rule, or regulation adopted by said council shall take effect and be in force until it has received the approval of the Governor.

I desire Senators to observe that all legislative power in respect to the Indians and in respect to all other persons in this Territory is conferred upon this Legislative Council, selected in the manner in which I have suggested; but no laws upon certain subjects, that is, for the "sale, taxation, or incumbrance of real estate or the compulsory collection of debts shall be in force until approved by Congress." I take it that all other laws upon all other subjects that can affect the Indians are to be in force without the approval of Congress; so that by the passage of this bill Congress surrenders to this Legislative Council the right to legislate for the Indians.

Mr. DOOLITTLE. In relation to that, perhaps there is some force in the objection of the Senator from Indiana. I do not know that I have any objection to make the approval of Congress essential to the validity of all laws passed by the Council. That was the form of the early territorial governments. All laws were required to be submitted to Congress, and we approved them before they took effect; and it is possible, as the Senator suggests, that it would be wiser to require all the laws of this Council to be submitted to Congress. I should not object to an amendment of that kind.

Mr. HENDRICKS. I believe that in the acts passed recently for the organization of territorial governments, the right of Congress to say whether the territorial laws shall be in force or not is not found except in respect to Utah. I believe that Congress must approve the laws of the Territorial Legislature of Utah; but with that exception, I believe it is not found anywhere in any of the Territories. But I would not consider that of much importance. I have never known the laws of any Territorial Legislature to receive the careful consideration of Congress. They are not referred to any committee of the body, I believe, with a view to their careful examination, and the power that is reserved to Congress to review these laws is really of little value. Therefore, in substance, Congress, by the passage of this bill will surrender to an Indian Council the power to make all laws governing the intercourse of the Indians and the intercourse of white persons with the Indians in the Territory.

Mr. DOOLITTLE. If the Senator from Indiana will allow me to interrupt him, we have already by treaty surrendered to the Indian tribes in that Territory the soil and the jurisdiction, and the whole power of legislation over all persons coming within the jurisdiction of the tribes. That is our treaty arrangement with them now. By an express provision and by a patent we have given them the land in fee simple; and prior to the rebellion they had regularly-organized governments. The confusion and terrible anarchy which have grown up there since the rebellion broke out have thrown many of these Indians as refugees on our hands, whom we have had to send back and keep there by military protection, and a necessity has been thrown upon us to do something for the Indians in this Territory. The proposition we make is, that, in our action, so far as the loyal Indians friendly to the United States are concerned, we act with their consent, and not against their consent or wish.

Mr. LANE, of Kansas. Mr. President, when this war commenced there were sixty-five thousand Indians in this Indian Territory, each tribe having a separate and independent government, divided into counties. By the war we have had thrown upon our hands about eighteen thousand out of the sixty-five thousand. The balance have gone over to the traitors. There are eighteen thousand refugees who are left in that Territory

entirely unprotected, and who are being maintained by the Government at an expense of a million and a half a year, perhaps two million a year. There is no subject that can come before the Senate in which the people I represent feel more interest than this; and I suggest to the Senator from Indiana, when he is discussing this as a new bill, to remember that the Indian tribes in this Indian Territory are largely advanced in civilization, and a very large proportion of them are white men, half breeds, three fourths and seven eighths. I presume three fourths of the entire body of these Indians are three fourths white blood, as intelligent as any people that we have; and as well educated. The Indian regiments now in our service are commanded to a considerable extent by Indian officers, as intelligent as our own officers; and the people there are far advanced in civilization beyond any other Indians on the continent.

Mr. HENDRICKS. I am rather gratified to be interrupted by the chairman of the committee and by the Senator from Kansas, who are presumed to be very conversant with the subject the Senate is now considering. My purpose was mainly to call out some information upon this bill, and to call the attention of the Senate to its provisions. Now I understand the Senator from Wisconsin, who has reported this bill, to say that by treaty we have already surrendered to the tribes separately the power of legislation touching their own tribal affairs; but I presume those treaties do not confer upon the tribes the power to legislate in respect to the intercourse of every body else with the tribes.

Mr. DOOLITTLE. Within their jurisdiction it does. That is the treaty.

Mr. HENDRICKS. Then I take it if there be such provisions in the treaties, before we can take away from any one tribe the power to legislate exclusively for itself and to confer it upon a council representing the different tribes, we must obtain the consent of each particular tribe.

Mr. HARLAN. That is contemplated by this bill. It provides distinctly that their rights shall not be interfered with until they consent to it.

Mr. HENDRICKS. Can a treaty be modified by a mere assent of the tribes? How is that assent to be given? What evidence are we to have of the fact? A treaty is a very solemn compact between the Government and the tribe. Now this proposition is, by ordinary law, to allow the provisions of the treaty to be materially modified simply by the assent of the tribe. Does the Senator desire that? I am not going to discuss this other provision which gives to the Indians the right to be represented in the House of Representatives. If the House of Representatives should be satisfied with that, of course, as a Senator, I do not choose to interpose any particular objection to it. Nor do I know but what, after a very careful examination of this bill, I might be in favor of it; but it is a very important modification of the policy of the Government toward the Indian tribes; and I think that to introduce a bill on the 20th, to report it on the 22d, to lay it upon our table to-day, and pass it, is rather hasty legislation in respect to so grave and important a national question.

Mr. RAMSEY. I should like to learn from the chairman of the Committee on Indian Affairs, before proceeding further with this bill, what tribes it is contemplated to bring within this reservation.

Mr. DOOLITTLE. The tribes now occupying that Territory are the Cherokees, who occupy all between Kansas and the Arkansas river; the Creeks, who occupy south of the Arkansas and north of the Canadian; the Seminoles, who occupy between the Canadian, I think, and the south fork of the Canadian; and then the Choctaws occupy south of the Canadian, the south-west portion of this Territory; and the Chickasaws occupy south of the Canadian, about the middle portion; and the Wachitas, or the affiliated tribes that were brought in from Texas, occupy the western portion of the Territory which lies south of the Canadian.

In relation to the tribes that it is supposed may be induced by treaty to go into the Territory and unite their fortunes with these other tribes, that is to be a matter of arrangement by treaty with the other friendly tribes. It has sometimes been expected that the Delawares might go there, and the civilized tribes of Kansas, Nebraska, and per-



haps as far north as Michigan, Wisconsin, and Minnesota; but the latter may never think of going there, it is true. The climate is very different, and the habits of the Minnesota Indians are different; they live on the rice lakes, and on the game which abounds in those rice lakes, and the fish of those lakes; their habits are very different from the habits of the Indians further south, and they may never desire to go there.

I do not understand that there is to be any attempt to force these Indians to go there, nor does this bill of itself or anything contained in it of necessity contemplate the removal of any other Indian tribes to the Territory. But it is a very fine Territory; it is as fine a section of country as there is in the United States, and perhaps as fine as the sun ever shone upon, and before this war broke out the Indian tribes there were increasing in population, they were increasing in wealth, they were increasing in flocks of cattle and horses, I believe beyond any equal number of persons in the whole United States. It is a country where flocks and herds grow, as it were, almost spontaneously; they require no labor to winter them; and it is a truth that the armies of the rebels, the armies of the United States, and the conflicting and fighting Indians have lived upon the cattle that were found and are still to be found in that Indian Territory. By hundreds and by thousands they are still there. It is a very productive Territory. It is the country that the Government long, long ago, under the policy of General Jackson, solemnly set apart for the Indians, and it belongs to them. The only thing involved in the bill is this: we could by strict right forfeit the title of those Indians who have rebelled against the United States if we chose to do so; but when the war is over the Indians will still be upon our hands, as they must be provided for somehow, and perhaps it is better that we should begin an organization over this Territory, get the consent of the Indians to it, and perhaps this may be used as one of the instrumentalities to induce the Choctaws and Chickasaws who have been in rebellion against us to come into this arrangement when they find that they can take part in the legislation of this very Territory if they lay down their arms against the Government. But these are rather speculations than otherwise.

Mr. HENDRICKS. I will ask the Senator if he does not in this provide that before they can do that they have got to swear that they will have nothing to do with the rebellion.

Mr. HARLAN. No; that provision is in relation to office holders in the Territory only.

Mr. POMEROY. I would not like to put any obstacle in the way of the passage of this bill. Still, it is a new measure, and there are some features of it that do not seem to me altogether proper. I sympathize somewhat with the Senator from Indiana; and I should like a little more time to consider it. There are three things that I think somewhat essential which are not provided for. In the first place, this sets out to be a temporary government; yet it is provided that it shall be permanent for all time to come. Secondly, it sets out to be an Indian Territory, and yet no provision is made against white people going in and actually being adopted as members of the tribes and absorbing the Government of the country; and as if to offer an inducement for that, there is a direct provision made that there shall be no forcible legal collection of debts inside this Territory. That is a new feature.

Mr. DOOLITTLE. The honorable Senator will allow me to interrupt him. That is one of the distinguishing features of the laws of these Indian tribes, the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles; all of them by their laws provided that there should be no compulsory collection of debts, because in a state of society not fully civilized it would be a dangerous power to be exercised if Indians could be permitted to contract debts and have those debts enforced against them; and we provide that there shall be no sale of lands.

Mr. POMEROY. I do not object to a law that would prevent the enforcement of the collection of debts against Indians; but this bill is so drawn and the existing usage is such that the Indians are to be absorbed. My colleague very well says they are bleaching out now; they are becoming white men.

Mr. LANE, of Kansas. On a point suggested

by my colleague I should like to ask him a question. Does he not know that a large number of black persons have intermarried with Indians of these tribes and become members of the tribes? Does he object to the provision of the bill which permits black people to continue to go in and become members of the tribes?

Mr. POMEROY. I understand that negroes and Indians have intermarried. I do not object to it. That is not the point. My colleague stated what I think is true, that these tribes are becoming white persons to a great extent, and there is no provision in the bill against white people taking possession of this country and this Government. That is what I am talking about.

Mr. LANE, of Kansas. It is suggested to me that my last remark may lead to a misapprehension. These tribes are composed of an amalgamation of the whites on the one hand, under the chivalry, while they were in the South, and the blacks on the other hand. The finest specimens of manhood I have ever gazed upon in my life are half-breed Indians crossed with negroes. It is a fact which I state here that while amalgamation with the white man deteriorates both races, the amalgamation of the Indian and the black man advances both races; and so far as I am concerned I should like to see these eighty thousand square miles, almost in the geographical center of the United States, opened up to the Indian and to the black man, and let them amalgamate and build up a race that will be an improvement upon both. I say to anti-slavery men here, if you desire to furnish a home for the black man, pass this territorial bill and let him go there. The climate is genial. He understands how to cultivate the products. They are those of the South, cotton and tobacco. In my opinion nothing can be better calculated to clear the political arena of the question of what shall be done with the black man than to pass this territorial bill, open up this country for him, and he will flock in there and become a useful member of society.

Mr. POMEROY. I will not prolong this discussion, because I have not prepared the amendments which I desire to offer to the bill. I do not wish to make any opposition to the measure, but only to perfect it. I move to postpone its further consideration until to-morrow.

Mr. SHERMAN. I submit a motion that the further consideration of the bill be postponed with a view to take up the fortification bill. I do not want to act upon it to-night, but I desire to have it left as the unfinished business for to-morrow.

Mr. LANE, of Kansas. Let this bill be postponed until to-morrow, and made the special order for one o'clock.

Mr. SHERMAN. I object to that; I desire to have the fortification bill passed to-morrow.

Mr. CONNESS. There is a special order for one o'clock to-morrow.

Mr. FOSTER. I will ask the honorable Senator from Ohio to withhold his motion to call up the fortification bill for a few minutes, that I may move to take up two or three little bills which have been reported from the Committee on Pensions that I think we have time to pass to-night.

Mr. SUMNER. I inquire of the Senator from Ohio if the fortification bill will take much time?

Mr. SHERMAN. I hope not.

Mr. LANE, of Kansas. The bill now before the Senate is of more importance to my constituents than any bill which will come before this body. We have now no protection from the South; this disorganized Territory of eighty-four thousand square miles lies on our border, subjecting us to raids; and I move that this bill be postponed until to-morrow evening at seven o'clock, and made the special order for that hour.

The PRESIDING OFFICER, (Mr. FOOT.) The question is on the motion of the Senator from Kansas to postpone the further consideration of this bill until to-morrow evening at seven o'clock, and make it the special order for that hour.

The motion was agreed to.

#### FORTIFICATION BILL.

Mr. SHERMAN. I now move to take up the fortification bill, so that it may be left as the unfinished business.

The motion was agreed to; and the bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of fortifications and other works of defense for the year ending June

30, 1866, was taken up for consideration by the Senate as in Committee of the Whole.

Mr. FOSTER. I ask that that bill be laid aside informally for ten minutes—I will not ask for more than ten minutes—to allow a few pension bills to be considered.

The PRESIDING OFFICER. It may be done by unanimous consent. The Chair hears no objection.

#### THOMAS BOOTLE.

On motion of Mr. FOSTER, the bill (H. R. No. 454) granting a pension to Thomas Booth was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Thomas Booth on the invalid pension roll of the United States, at the rate of four dollars per month, from the 2d of September, 1858, to continue during his natural life.

The bill was reported from the Committee on Pensions with amendments, the first of which was to strike out "Booth" and insert "Bootle."

Mr. FOSTER. That was a verbal error in the engrossment of the bill.

The amendment was agreed to.

The next amendment was to strike out "the 2d day of September, 1858," and insert "the 1st day of May, 1860."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read the third time. The bill was read the third time, and passed. Its title was amended by substituting "Bootle" for "Booth."

#### MARY SHIRCLIFF.

On motion of Mr. FOSTER, the bill (H. R. No. 389) for the relief of Mary Shircliff, was considered as in Committee of the Whole. It proposes to place the name of Mary, widow of John Shircliff, on the pension roll, and pay her a pension at the rate of eight dollars a month during her widowhood.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### SISTERS OF COMMODORE MORRIS.

Mr. FOSTER. I now move to take up the bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris, and it is the last bill I shall move to take up.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides that Harriet and Emily W. Morris, the unmarried sisters of the late Commodore Henry W. Morris, shall be entitled to and receive the same pension as their brother would have been entitled to if he had been totally disabled, to commence from his death; but in case of the death or marriage of either of the sisters, her pension shall cease.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### EXECUTIVE SESSION.

The PRESIDING OFFICER. The fortification bill is now before the Senate as in Committee of the Whole.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, February 23, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. THOMAS BOWMAN, Chaplain to the Senate. The Journal of yesterday was read and approved.

#### JOHN HASTINGS.

Mr. HALE. I ask unanimous consent to take from the Speaker's table a bill (S. No. 276) for the relief of John Hastings, collector of the port of Pittsburgh.

Mr. HOLMAN. Let it be read for information.

The bill, which was read, directs the Secretary of the Treasury, in adjusting the accounts of John Hastings, collector of the port of Pittsburgh, to give him credit for \$9,956 62, the amount of public moneys of which he was robbed on the 10th

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, FEBRUARY 24, 1865.

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of March, 1854, while acting in the aforesaid capacity.

Mr. HOLMAN. If the object be to refer the bill to the Committee on Claims I shall not object.

Mr. HALE. The bill has been before that committee, and they unanimously report in favor of its passage. They reported in favor of it at the last session of Congress. The bill has passed the Senate at three different times, and always failed in the House for want of time.

Mr. HOLMAN. I hope the gentleman will allow this bill to pass over for the present. I will not object to the bill coming up to-morrow morning.

Mr. WASHBURN, of Illinois. I call for the regular order of business. I have no objection, however, to the bill being referred to the Committee on Claims.

The SPEAKER. If there be no objection, the bill will be postponed until to-morrow morning, after the reading of the Journal.

Mr. WASHBURN, of Illinois. I object. Let it go to the Committee on Claims.

No objection being made, the bill was referred accordingly.

## ARMY APPROPRIATION BILL.

Mr. MORRILL. I ask unanimous consent that the Army appropriation bill, with Senate amendments, be taken from the Speaker's table, and referred to the Committee of Ways and Means.

No objection being made, it was so ordered.

## ORDER OF BUSINESS.

Mr. MORRILL. I move that for to-day the House take a recess at half past four o'clock till seven o'clock this evening, for the purpose of considering appropriation bills only.

Mr. SCHENCK. Before any change is made in our sessions, I desire to inquire what the regular order of business is. I desire to know particularly with a view of ascertaining whether there is any prospect of carrying out the order of February 2 making the enrollment bill the special order.

The SPEAKER. The first business before the House this morning is the consideration of the bill which was pending when the House adjourned last evening, and which comes up as unfinished business. After that, the morning hour is devoted to the consideration of reports from the Committee on the District of Columbia, after that the remainder of the day, by the assignment of the House, is devoted to reports from the Committee on Commerce, after that the enrollment bill will be next in order.

Mr. STEVENS. The loan bill was postponed till to-day.

The SPEAKER. It was, and so was the enrollment bill. Both are special orders, the enrollment bill having precedence in order of time.

Mr. STEVENS. Such being the condition of things, I move to postpone the loan bill until Monday next, after the morning-hour.

There being no objection, the bill was postponed accordingly.

Mr. SCHENCK. I now object to making special assignments of anything until we get at this enrollment bill.

The SPEAKER. The Chair would state that the loan bill is not made a special assignment. It is the postponement of a special order.

Mr. SCHENCK. I remember very well that when we had the enrollment bill as a special order before, the business of the Judiciary Committee, by previous unanimous consent, came before the House and crowded it out; and now, when we should reach it to-day, the Committee on Commerce comes in and shoves it off again. And so it may be next Monday, or any other day.

The SPEAKER. No special assignment after to-day has been made by the House.

## EVENING SESSION.

Mr. MORRILL. I now renew my motion in reference to an evening session. I will state for the information of the House that but one single general appropriation bill has yet passed both

Houses. If we can have an evening session, we should probably dispatch a large amount of business. Upon consultation with several members on both sides of the House, I learn that my proposition will be satisfactory.

Mr. KALBFLEISCH. Does this arrangement extend beyond to-day?

The SPEAKER. For to-day only. The change can be made for this day only by a majority of the House.

The motion was agreed to.

## CONFISCATION BILL.

Mr. WASHBURN, of Illinois. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 579) providing for the forfeiture of the fee of rebel landholders, reported last evening from the Committee on the Judiciary, upon which the gentleman from Iowa [Mr. Wilson] demanded the previous question.

Mr. HOLMAN. Has the bill been read?

The SPEAKER. It has.

Mr. HOLMAN. Has the previous question been sustained?

The SPEAKER. It is now pending.

Mr. HOLMAN. I move to lay the bill on the table.

The SPEAKER. The Journal clerk informs the Chair that the motion to lay on the table was made last evening, and is still pending.

Mr. HOLMAN. I call the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. WADSWORTH. I raise the point of order that this House at this session has already passed a bill repealing the section of the law referred to in this bill, and therefore it is not in order to consider it again now.

Mr. ASHLEY. The proposition that passed this House was defeated in the Senate.

The SPEAKER. This point of order has been already raised and overruled. The gentleman from Ohio [Mr. Noble] raised the same point of order on yesterday, and in vindication of it stated that a section of the Freedman's Bureau bill was the same in effect as this bill. The Chair overruled the point of order, upon the ground that the proposition referred to by the gentleman from Ohio [Mr. Noble] was but a single section of a bill, while this is an entire and independent bill, and therefore does not come within the rule.

The question was then taken; and it was decided in the negative—yeas 52, nays 61, not voting 69; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Blair, Bliss, Chanler, Clay, Dawson, Denison, Eden, Edgerton, English, Finck, Gauson, Hale, Hall, Benjamin G. Harris, Holman, Philip Johnson, Kalfleisch, Kernan, King, Law, Le Blond, Long, Mallory, McAllister, William H. Miller, James R. Morris, Morrison, Nelson, Odell, John O'Neill, Pendleton, Perry, Pruyn, Samuel J. Randall, James S. Rollins, Ross, John B. Steele, Strouse, Townsend, Tracy, Voorhees, Wadsworth, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—52.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Benman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Dixon, Dumont, Eckley, Eliot, Frank, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Wilder, Wilson, and Worthington—61.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Baxter, Blow, Brooks, James S. Brown, William G. Brown, Freeman Clarke, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Denning, Driggs, Eldridge, Garfield, Grider, Griswold, Harding, Harrington, Charles M. Harris, Herrick, Hotchkiss, Hubbard, Hutchins, Jenckes, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Knapp, Lazarus, Loan, Marcy, McDowell, McIntosh, McKinney, Middleton, Amos Myers, Noble, Charles O'Neill, Orth, Radford, William H. Randall, Robinson, Rogers, Scofield, Scott, Smith, Spalding, William C. Steele, Stiles, Stuart, Sweet, Thomas, Ward, Webster, Chilton A. White, Williams, Windom, Benjamin Wood, and Woodbridge—69.

So the motion to lay the bill on the table was not agreed to.

The question recurred upon seconding the call for the previous question upon ordering the bill to be engrossed and read a third time.

The previous question was seconded, and the main question was ordered.

Mr. MALLORY. I move a call of the House. The SPEAKER. The previous question having been seconded, a call of the House is not in order unless upon an actual count it is found that there is not a quorum present. The House has just voted by yeas and nays, and there is a quorum present.

Mr. WADSWORTH. I call for the yeas and nays upon ordering the bill to be engrossed and read a third time.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 67, nays 54, not voting 61; as follows:

YEAS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Benman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Dumont, Eckley, Eliot, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Kasson, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburn, William B. Washburn, Wilder, Wilson, and Worthington—67.

NAYS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Blair, Bliss, Chanler, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Gauson, Hall, Benjamin G. Harris, Holman, Philip Johnson, Kalfleisch, Kernan, King, Law, Le Blond, Long, Mallory, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, Strouse, Stuart, Townsend, Tracy, Voorhees, Wadsworth, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—54.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Baxter, Blow, Brooks, James S. Brown, William G. Brown, Clay, Cravens, Creswell, Henry Winter Davis, Donnelly, Farnsworth, Frank, Garfield, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herrick, Hotchkiss, Hutchins, Jenckes, William Johnson, Julian, Kelley, Francis W. Kellogg, Knapp, Lazarus, Loan, Marcy, McAllister, McDowell, McIntosh, McKinney, Middleton, Amos Myers, Odell, Charles O'Neill, Robinson, Rogers, Scofield, Scott, Smith, Spalding, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Townsend, Tracy, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Woodbridge—61.

So the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the final passage of the bill,

Mr. WILSON demanded the previous question.

Mr. COX. I move that the bill be laid on the table.

Mr. CHANLER. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, there were—yeas 68, nays 66, not voting 46; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Gauson, Griswold, Hale, Hall, Benjamin G. Harris, Holman, Hutchins, Philip Johnson, Kalfleisch, Kernan, King, Law, Lazarus, Le Blond, Long, Mallory, Marcy, McAllister, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Townsend, Tracy, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—68.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Benman, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Driggs, Dumont, Eckley, Eliot, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu

B. Washburne, William B. Washburn, Wilder, Wilson, Woodbridge, and Worthington—68.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Arnold, Baxter, Blaine, William G. Brown, Freeman Clarke, Cravens, Creswell, Henry Winter Davis, Donnelly, Farnsworth, Frank, Grider, Harding, Harrington, Charles M. Harris, Herrick, Hotchkiss, Jenckes, William Johnson, Julian, Kasson, Kelley, Francis W. Kellogg, Knapp, Loan, McDowell, McIndoe, McKinney, Middleton, Amos Myers, Charles O'Neill, Robinson, Rogers, Scott, Smith, Spalding, Sweat, Thomas, Ward, Chilton A. White, Williams, Windom, and Benjamin Wood—46.

The **SPEAKER**. The Chair votes in the negative, and the bill is not laid on the table.

During the roll-call,

Mr. A. W. CLARK stated that Mr. SPALDING was detained at his room by illness.

The result was announced as above stated.

The question then recurred on seconding the call for the previous question.

On the question there were, on a division—ayes 63, noes 62.

Mr. ANCONA called for tellers.

Tellers were ordered.

The House divided; and the tellers reported—ayes 69, noes 67.

So the call for the previous question was seconded.

The main question was ordered.

Mr. HOLMAN. I move that the bill be laid on the table.

The **SPEAKER**. That motion has already been made and voted down.

Mr. HOLMAN. There have been intervening questions.

The **SPEAKER**. There is no change in the status of the bill.

The question being on the final passage of the bill,

Mr. COX demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 71, not voting 39; as follows:

**YEAS**—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Kelley, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Orth, Patterson, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wilder, Wilson, Woodbridge, and Worthington—72.

**NAYS**—Messrs. James C. Allen, Ancona, Bailly, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Hale, Hall, Holman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Law, Lazear, LeBlond, Long, Mallory, Marcy, McAllister, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Townsend, Tracy, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—71.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Arnold, Blow, William G. Brown, Creswell, Henry Winter Davis, Farnsworth, Grider, Harding, Harrington, Charles M. Harris, Herrick, Hotchkiss, William Johnson, Julian, Kasson, Francis W. Kellogg, Knapp, Loan, McDowell, McIndoe, McKinney, Middleton, Amos Myers, Charles O'Neill, Perham, Robinson, Scofield, Scott, Smith, Spalding, Thomas, Ward, Chilton A. White, Williams, Windom, and Benjamin Wood—39.

So the bill was passed.

During the roll-call,

Mr. NOBLE said: My colleague, Mr. JOHN-SON, is detained from the House by sickness. If he were here he would vote against the passage of this bill.

The result was announced as above stated.

Mr. O'NEILL, of Pennsylvania. I desire to state that if I had been present when my name was called I would have voted in the affirmative on the passage of this bill.

Mr. WILSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WILSON. I move to amend the title of the bill so that it will read as follows: An act to repeal a portion of a joint resolution explanatory of an act to suppress insurrection, punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July

17, 1862; and on that I demand the previous question.

Mr. COX. I ask the gentleman from Iowa to permit me to make a suggestion in reference to the title.

Mr. WILSON. I cannot yield for that purpose. I have taken the title of the law to which this is amendatory.

The House divided; and there were—ayes 72, noes 64.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. KERNAN. What was the old title of the bill?

The Clerk read, as follows:

"An act to provide for the forfeiture of the fee of rebel landholders."

Mr. WADSWORTH. What is the matter with that title?

Mr. MALLORY. It is pertinent, and exactly indicates the object sought to be accomplished. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 69, not voting 37; as follows:

**YEAS**—Messrs. Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubard, Ingersoll, Jenckes, Kelley, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Starr, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburne, Williams, Wilder, Wilson, Woodbridge, and Worthington—76.

**NAYS**—Messrs. James C. Allen, Ancona, Bailly, Augustus C. Baldwin, Blair, Bliss, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Hale, Hall, Holman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Law, Lazear, LeBlond, Long, Mallory, Marcy, McAllister, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Townsend, Tracy, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Fernando Wood, and Yeaman—69.

**NOT VOTING**—Messrs. William J. Allen, Alley, Blow, William G. Brown, Creswell, Henry Winter Davis, Farnsworth, Grider, Griswold, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hotchkiss, William Johnson, Julian, Kasson, Francis W. Kellogg, Knapp, Loan, McDowell, McIndoe, McKinney, Middleton, Amos Myers, Robinson, Scofield, Scott, Smith, Spalding, Thomas, Ward, William B. Washburn, Chilton A. White, Windom, and Benjamin Wood—37.

So the amendment was agreed to.

Mr. WILSON moved to reconsider the vote by which the title was amended; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### METROPOLITAN RAILROAD COMPANY.

The **SPEAKER** stated the next business in order to be the consideration of Senate bill No. 411, to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," on which the gentleman from New Hampshire [Mr. PATTERSON] was entitled to the floor.

Mr. PATTERSON. Mr. Speaker, it is very difficult to reply to the objections which were yesterday brought against the proposed amendment to this bill. They came in such a questionable shape that I find only the ghost of an argument to speak to. It is difficult to answer any other than solid objections. We have had only the opinions, prejudices, and vague ideas of men who know nothing definitely on the subject. I presented to the House yesterday a statement of the president of the road, which was a transcript of the books of the company, and that statement was reindorsed by Mr. Darling, a director and a member-elect of this House, as correct, showing that the road does not pay any profits at the present rate of fare. Yet gentlemen told us that that company was amassing wealth at a rapid rate. It is represented to me as a fact that one fourth of the individuals who travel upon the Washington and Georgetown road travel free of charge, on account of the transfer system. The average price of tickets is only three and a half cents each; and at the present value of our currency—that is, its value in gold—that would be

equal to about one cent and three quarters in cash. Sir, there is not a road in the country that can carry passengers at that rate, and the testimony is that they are losing upon this road \$18,000 a quarter. The roads elsewhere charge above five cents. In Brooklyn they charge eight cents; in Philadelphia, I am told, they charge eight cents; and I learn that there is a proposition before the Legislature of New York to allow all the roads in that State to charge eight cents a ticket. I believe they are charging eight cents a ticket on the roads in and about Boston. I have been so informed.

It would therefore seem but just that the price of tickets should be raised on the Washington and Georgetown railroad. Why, sir, I am told this morning, on good authority, that the stock of the Washington and Georgetown road has been offered in the market at the original cost to the present stockholders, but found no purchasers at that price.

But the objection is made that this company does not allow colored people to ride in their cars, and that they have been ejected from them. It may be true that this has been done in some instances, but to my personal knowledge conductors so ejecting colored people have been discharged when the facts were brought to the notice of the president of the road.

It is alleged that the committee propose, by an amendment to the Senate bill, to continue this evil. Now, sir, I submit that the amendment under discussion ought not to suffer from views which gentlemen may entertain in respect to other parts of the report. I agree with my friend from Illinois [Mr. WASHBURN] upon the propriety of allowing black people to ride in the same cars and on equal terms with white people.

I may vote with him when we reach the resolution proposed by the committee on that point, but let us not bring that question in here to prejudice this part of the bill. I may be permitted to say, however, that I do not, as a general rule, believe in special legislation for black or for white men. Make them equal before the law, and leave the black men to the blessing of God and their own abilities to take their position in the social world. If the black man is not able to rise to an equality with the white man socially, it will not then be our fault, but his own want of native ability and enterprise which will keep him down. So, as a general rule, I do not believe in special legislation for races or classes. Make them free and give them equal rights under the law, and then leave them to work out their social status and civil history among men. The struggle to rise will develop power, and give position and character. No amount of legislation can ever do this.

Mr. STEVENS. I would inquire of the gentleman if he means to exclude them from the cars? He does so by not legislating for them.

Mr. PATTERSON. I will say that the law does not exclude them, and if they are excluded it is the result of the exercise of a petty, arbitrary authority by some mean conductor; but that authority is not given them by the law. The president of this road, as I am informed, in every such instance that has come to his knowledge, has discharged those conductors who have ejected from the cars black men on account of their color. The blacks have now, before the law, all the rights that the whites have. If they are ejected, let them resort to the law.

Mr. DAWES. I would inquire of the gentleman what is the meaning of those boards which are put up over the cars, which say "colored persons admitted in this car."

Mr. PATTERSON. If the gentleman will wait, he will learn my views.

Mr. DAWES. I do not want to know what the gentleman's views are, for I know they are all correct; but I want to know what is the meaning of that inscription put up over the cars.

Mr. PATTERSON. I will say that what is written on those boards is generally written in good English, and I do not know any gentleman in this House who can better understand and interpret good English than the gentleman from Massachusetts.

Sir, you cannot make one hair white or black by legislation, or make a black man a white man. You may pass a joint resolution that the leopard's spots and the Ethiopian's skin shall be changed, but you will not remove a spot or lighten the



hue of the wronged but docile child of the sun. You may vote that the costly gas-light of this Hall is the glory of heaven, but you will find on applying to it a nasal test that it is only a faint glimmer of that light which makes Stygian darkness visible.

Equally vain will it be to attempt to correct social prejudice by special legislation. Differences which are natural will be permanent, differences which result from ages of degradation and outrage can only be removed by the uplifting of other ages of education and social progress. To remove the prejudices of men, even, must be the work of time. Sir, if you adopt the policy of special legislation in favor of the blacks you establish the right of special legislation against them, and I am opposed to that policy.

Mr. STEELE, of New York. I rise to a point of order. There is a section of this bill which relates to colored people riding in the cars, but the section under consideration does not, and therefore that this discussion is not applicable to it.

The SPEAKER. The Chair sustains the point of order. The pending question is the second section, which relates to the rate of fare.

Mr. PATTERSON. I was only answering objections which have been brought against this section of the bill by the gentlemen who oppose it.

What I say is that legislation will not meet the general difficulties which we all feel. Still there may be some abuses practiced by conductors on this road which render it absolutely necessary in this particular case to curtail their power by legislation. But whatever are the abuses on this subject, it is hardly fair to bring in our prejudices to bear upon the amendment before the House, which proposes to increase the price of tickets on the street railroads of the city.

But in order to meet objections upon this point, I wish to modify the amendment proposed by the committee, so as to make the fares on both roads "seven" cents, instead of "eight;" and to add thereto the proviso which I send to the desk. If it is in order I would be glad to offer them both at the same time.

Mr. STEELE, of New York. Do I understand that these amendments are authorized to be reported by the committee?

Mr. PATTERSON. Yes, sir. I ask for the reading of the amendment.

The Clerk read the amendment, as follows:

And the Washington and Georgetown Railroad Company and the Metropolitan Railroad Company shall have the right to charge seven cents fare: *Provided*, That after two years from and after the passage of this act only the original fare of five cents as authorized by the charters of the two companies named in this act shall be charged.

Mr. PATTERSON. I now demand the previous question.

Mr. WASHBURNE, of Illinois. I hope it will not be seconded.

Mr. SCHENCK. I desire to offer an amendment to the amendment, and I hope the previous question will not be seconded.

The SPEAKER. The Chair will state to the gentleman that there is an amendment and an amendment to the amendment now pending.

Mr. SCHENCK. Then I wish to comment on the amendment and to show what amendment I would offer.

The SPEAKER. Does the gentleman from New Hampshire withdraw the demand for the previous question or insist upon it?

Mr. STEELE, of New York. I appeal to my colleague upon the Committee for the District of Columbia to yield to me for a moment before he calls the previous question.

Mr. PATTERSON. I will yield to the gentleman if he will call the previous question when he is through.

Mr. STEELE, of New York. I will give the gentleman an opportunity to call it after I get through. Before proceeding, however, I will yield to my colleague on the Committee for the District of Columbia from Indiana, [Mr. DUMONT,] who desires to make some reports that will give rise to no discussion.

#### CHANGE OF NAME.

Mr. DUMONT, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the Senate No. 439, to change the name of Dorsey Edwin William Towson, of Georgetown, in the District

of Columbia, to that of Dorsey Edwin William Carter.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. MALLORY. Is it in order to move to strike out one of the remaining names?

The SPEAKER. The bill has passed the point where it can be amended.

The bill was passed.

Mr. DUMONT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TAXES IN GEORGETOWN.

Mr. DUMONT also, from the same committee, reported back, with the recommendation that it do pass, bill of the Senate No. 393, to authorize the corporation of Georgetown to levy certain taxes.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DUMONT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WASHINGTON INSURANCE COMPANY.

Mr. DUMONT also, from the same committee, reported back, with the recommendation that it do not pass, bill of the Senate No. 167, to incorporate an insurance company in the city of Washington. The bill was laid on the table.

#### NATIONAL PROTECTION INSURANCE COMPANY.

Mr. DUMONT also, from the same committee, reported back, with the recommendation that it do not pass, bill of the Senate No. 386, to incorporate the National Protection Insurance Company of the District of Columbia.

The bill was laid on the table.

#### CONTINENTAL HOTEL COMPANY.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, reported back, with the recommendation that it do pass, bill of the House No. 764, to incorporate the Continental Hotel Company in the city of Washington.

The bill was ordered to a third reading, and it was accordingly read the third time.

Mr. GANSON. I want to know if there is any provision in that bill allowing colored persons to put up at this hotel. [Laughter.]

Mr. WASHBURNE, of Illinois. I want everything equal. The fare in all the hotels now in this city is limited, and I want the fare limited in this bill. [Laughter.]

Mr. DAVIS, of New York. I demand the previous question on the passage of the bill.

Mr. MORRIS, of Ohio. I want, as a member of the Committee for the District of Columbia, to offer an amendment providing that this company shall make no distinction of color in the reception of their guests. [Laughter.]

The SPEAKER. That would require unanimous consent, the bill having been read the third time. Is there objection?

Mr. DAVIS, of New York. I object. They can provide for that in the by-laws of the corporation.

Mr. MORRIS, of Ohio. I move to reconsider the vote by which the bill was ordered to a third reading.

Mr. BEAMAN. I move to lay the motion to reconsider on the table.

The question was taken, and the House refused to lay the motion to reconsider on the table.

The question recurred on the motion to reconsider; and being put, the motion was rejected—ayes 44, noes 48.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### METROPOLITAN RAILROAD COMPANY—AGAIN.

Mr. PATTERSON. I cannot yield the floor any longer. I call the previous question on the pending amendment to the railroad bill.

Mr. SCHENCK. I hope the previous question will be voted down.

Mr. TRACY. I hope my colleague on the District Committee will not call the previous question on this bill at this stage. If he does, I hope the House will vote it down.

The question was taken; and the House refused to second the previous question.

Mr. SCHENCK. I believe there is an amendment to the amendment now pending. I send to the Chair an amendment which I propose to offer when an opportunity shall be presented, and I do it with a view of submitting a remark or two on the amendment itself. I ask to have it read for information.

The Clerk read, as follows:

*Provided*, That neither of the railroad companies named in this bill shall be permitted to charge or collect a fare from any passenger conveyed on either of such railroads without furnishing a seat to such passenger.

Mr. SCHENCK. I think the American people are, perhaps, the most patient in the world in the manner in which they permit corporations to treat them.

Mr. J. C. ALLEN. I rise to a question of order. Is the amendment which has been read before the House?

The SPEAKER. It is not.

Mr. J. C. ALLEN. Then I insist that the gentleman shall confine himself to the question before the House.

Mr. SCHENCK. For the benefit of the gentleman from Illinois, I will repeat as nearly as I can the sentence which I had commenced. I say that I think the American people are perhaps the most patient in the world as regards their submission to the demands of corporations. I believe there is no country in which common carriers, being authorized or licensed by law or otherwise to perform certain duties for the mutual benefit of themselves in the shape of profits, and of the public in the shape of conveyance furnished, are permitted to give that conveyance or not as may suit their objects, without much reference to the public, as in this country. Now, everywhere else except in the United States public corporations proposing to carry passengers supply facilities for the conveyance of such passengers. It is not so here, and as little so in the case of these particular railroads as any others in the country. I hold that what we authorize this Washington and Georgetown Railroad Company and Metropolitan Railroad Company to do is to carry on the business of common carriers. If they are common carriers, then I do not see any difficulty in this question, which has occasioned, as I think, such unnecessary excitement about the distinction between blacks and whites. I suppose that everybody who civilly and respectfully applies either to have his goods conveyed, if that be the object of the association, or to have his person carried, if that be the business engaged in, has a right to have his freight or his person transported by any one authorized to act as a common carrier. In the same way he has the right to expect that this common carrier shall furnish to him all the ordinary and usual facilities and accommodations to make that transportation comfortable to him. I have no objection to the amount of business that these railroads do. I am glad to see them prosper. I am glad to see that the directors or stockholders in this company, whether in New York or Washington, whether in the Senate or House of Representatives, are getting due profits on their stock.

Mr. DAVIS, of New York. I desire to say one word in reference to a remark which I heard yesterday, intimating that I was a stockholder in this company.

Mr. SCHENCK. I never dreamed of it.

Mr. DAVIS, of New York. I desire to say that I never owned, and never expect to own, one dollar of stock in the road. I never gave a vote in this House on any measure in which I had any interest whatever other than as a common citizen of the United States. If I ever have occasion to vote under any such circumstances, I will announce my interest to the House.

Mr. SCHENCK. I am very glad that the gentleman from New York should have been afforded this opportunity to make his disclaimer, if he thought it necessary to do so. I do not know who made the imputation he refers to. I never dreamed of it. I think his integrity and purity of character is such as to be at once an answer to any suspicion that he is interested in this com-

pany. I do not know, and I do not care, whether anybody in or out of Washington, or anybody in or out of Congress, comes within the category of stockholders. But I say that, whosoever they may be—and I have heard that the interest is pretty widely diffused, and is not confined to Washington or to officials, but is to be found in other cities—I am glad they should make profit, and I am glad that the public at large should be accommodated. What I say is, that while they are thus authorized, as common carriers, to have exclusive privileges, and to a certain extent a monopoly, for the accommodation of the public, they should be held bound on their part to furnish all those accommodations that may be reasonably expected. When, therefore, an opportunity is afforded to amend the bill further, I propose to offer the amendment which I have had read for information. The only effect of it will be not to break down this company, not to injure its business, but to require it to increase the number of its cars and to run them more frequently, so that all the public may be accommodated; and, my word for it, there will be seats found when seats only are to be paid for. There will be cars enough, and they will run frequently enough, because personal interest will stimulate the company, when one of the conditions of its charter is that every individual who seeks conveyance by these cars shall have a seat.

In reference to the general proposition to increase the fare, I am opposed to it; and I am opposed to it on this general fact. Sympathy is attempted to be got up here in behalf of this company, and a bill for its relief is introduced, because owing to the troubles in the country, and the greatly enhanced price of everything, they cannot run their cars at anything like the same cost that they could run them at before the war. That is true of pretty much all the business of the country. But then there is another side to this. If it costs them two or three times as much for materials, for their rolling stock, and for feed for their horses, they do five, six, or seven times as much business in consequence of the war as they could do before it. We see this illustrated in all the business of life. Your salaried men, your men whose incomes neither expand nor contract, because they always receive so much and no more, are suffering in this matter. But it is not true in reference to those who engage in trade or business of any kind; for they find their business expanded quite in proportion to, and generally beyond, the expansion of the currency. Your people who are merchants, who are mechanics, who are manufacturers, who are railroad men, who are carrying cars along Pennsylvania avenue here, are not like the clerks in your offices, or like the soldiers and officers in your armies.

Mr. HOLMAN. Or like members of Congress.

Mr. SCHENCK. Or like members of Congress, as my friend from Indiana [Mr. HOLMAN] says, who have the same duties to perform, whether they perform them well or ill; all receive the same pay, no matter what are the changes of the times, no matter what the depreciation of the currency, or what the inflation of the prices. It is not so with any of these people; and I repeat the general proposition, that if we undertake to relieve people in one case we must relieve them all over the land. I am not talking about anything that is at all abstruse; I am not talking about anything that is not familiar to the whole thinking public of this country; and I think it is enough to meet demands of this sort with the general proposition, that these people no more need relief on account of the inflation of prices and the cost of carrying on their business than do our merchants, manufacturers, and traders all over the land. They do not need it, for the reason that they are not like salaried men with fixed incomes which do not expand with the expansion of the currency; and the traders, manufacturers, merchants, and railroad men do not need it, because their incomes expand as prices are inflated. And just in proportion as the currency increases, it gives these companies a great deal more with which to get feed for their horses, to build their cars, buy their rolling stock, and do all their business, which is stimulated by the increase of prices all over the country. And that enables them to carry, and they have the opportunity to carry, for instance, in Washington, five, seven, ten, and I am not

certain but twenty passengers now, where they would have carried but one if it were not that the war had crowded this city with soldiers and citizens from all parts of the country.

Mr. PATTERSON. I would ask the gentleman from Ohio [Mr. SCHENCK] if the prices of all kinds of merchandise of which he speaks are fixed by law, or if they have not been increased as the war has progressed.

Mr. SCHENCK. No, sir. And so far as that goes it is an argument, but not an argument against the fact; and having answered the question of the gentleman, I will retort by asking him if these railroads do not carry from ten to twenty passengers now, in consequence of the crowded condition of the city, where they carried but one before the war?

Mr. PATTERSON. I will answer that question by saying that if they do they lose on every passenger they carry; and the more they carry the greater is the amount they lose.

Mr. SCHENCK. I cannot believe that the stock of that company would sell at par if that was so. If they were losing on every passenger they carried their stock would be sold at a great depreciation. Indeed, it is admitted that the stock is not depreciated, that it is worth at least all these gentlemen paid for it at second-hand. That much has been admitted by the gentleman this morning. I have seen no indication that this company is losing from day to day, losing on every passenger they carry.

This bill contemplates increasing the fare not only on the Washington and Georgetown railroad, but on the Metropolitan railroad. Now, let me say in regard to the Metropolitan Railroad Company, that, so far as comfort and convenience are concerned, every one must regret that they do not appear to be doing anything like the same smashing business that their brethren on the avenue between the navy-yard and Georgetown seem to be doing. That is perhaps in part owing to their line not having the same length, and those who wish to go all the way to Georgetown or all the way to the navy-yard are necessarily thrown upon the other line of road. It may be owing to other causes. But, however that may be, the proposition embraces increase of fare to both the Metropolitan Railroad Company and the other.

Now, when was that Metropolitan Railroad Company chartered? Since this war commenced—only a few months ago—with gold then bearing a greater disproportion to the paper currency of the country than it does even to-day. And yet now, with gold going down, with prices certainly not greater than then, we are called upon to make a change in the fare to be charged upon that road. Why, sir, either there was a very great mistake in this company's then accepting the conditions of the grant, or else there is a very great mistake in supposing that now, after the lapse of merely a few weeks, when circumstances are at least not worse than they were, this company need the relief which is proposed.

I do not wish either of these companies, or any company that furnishes conveniences, as these do to a very great degree, to the public, to lose by what they undertake. But I shall not believe that they are thus suffering and thus losing until I see some further indications of it than we have had as yet. On the other hand, looking upon these railroad cars as being, in the fullest sense of the term, the people's carriages, the poor man's means of conveyance, I would aid them in increasing their business by multiplying to the greatest possible extent the number whom they are permitted and whom they are enabled to accommodate; but, unless some very good and clear reason be shown to the contrary, I would keep the prices down to the minimum amount, in order that the mass of the people of the country maybe accommodated through the means of these conveyances afforded for the general benefit and the general comfort.

These are the reasons why I cannot vote for increasing these rates of fare. In no fact presented here do I see anything to show that they are doing a losing business. On the other hand, I would gladly see imposed upon them such restrictions that, like other common carriers, they should be required to furnish, as an equivalent for the monopoly given to them by their charter, all the facilities and accommodations that they ought to give to those who are conveyed by them.

# ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 364) authorizing and requiring the opening of Sixth street west; and

An act (H. R. No. 184) to create the eastern judicial district of the State of New York.

## MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. Nicolay, his Private Secretary, announced that he had this day approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 223) to extinguish the Indian titles to land in the Territory of Utah suitable for agricultural and mineral purposes;

An act (H. R. No. 624) to provide for the payment of the value of certain lands and improvements of private citizens appropriated by the United States for Indian reservations in the Territory of Washington;

A joint resolution (H. R. No. 45) to enable the Secretary of the Treasury to obtain the title to certain property in Carson City, and State of Nevada, for the purposes of a branch mint located in said State; and

A joint resolution (H. R. No. 143) to facilitate the adjustment of certain accounts of the American Colonization Society for the support of recaptured Africans in Liberia.

## LEAVE OF ABSENCE.

Mr. STEELE, of New York, asked and obtained leave of absence from this evening's session.

## METROPOLITAN RAILROAD COMPANY—AGAIN.

Mr. TRACY. If it be in order, I propose to offer a substitute for the pending amendment.

The SPEAKER. The Chair is of opinion that no further amendment is now in order.

Mr. TRACY. I do not offer this as an amendment to an amendment, but as a substitute for the bill as reported from the committee and the pending amendment.

Mr. WASHBURNE, of Illinois. I hope that the proposition of the gentleman from Pennsylvania [Mr. Tracy] will be read for information. Perhaps it may be adopted by unanimous consent.

The proposed substitute was read.

The SPEAKER. The Chair, after hearing this proposition read, understands the intent of the gentleman from Pennsylvania. It is, after the bill shall be perfected in its present form, to strike out all after the enacting clause and insert the substitute which he proposes. That will be in order hereafter. This is a Senate bill, to which the Committee for the District of Columbia recommend various amendments. Those amendments must be acted on first. After the bill has been perfected as far as possible by amendments this substitute will be in order.

Mr. WASHBURNE, of Illinois. I desire to call the attention of the House to the fact that in this Congress a bill was reported to amend the charter of this Washington and Georgetown Railroad Company. That bill, as introduced, instead of increasing the fare, provided for reducing it to three cents; and I have been advised that if Congress would give a charter to another company to put down a track between the Capitol and the Treasury building, they will bind themselves to carry passengers for three cents. The Washington and Georgetown Railroad Company found fault with this proposed decrease of fare, yet they did not ask that the fare might be increased. But that bill contained other provisions to which the company did not object, and which gentlemen do not now propose to incorporate in this bill along with this increase of fare. For instance, it was provided in that bill that the company should run their cars at given intervals of time and at given rates of speed, so that the cars would not be so much crowded. It was further provided that the company should keep in order the tracks, and should clean the flagging, which it was believed to be right and fair that they should do, so that persons desiring to get on or off the cars would not have to wade ankle-deep in mud, as they now do. And all these things which bear upon the company are not to be touched at all by this

increase; they are to be left out entirely. As I said yesterday, we are called upon to increase this fare to eight cents, and to impose upon the laboring men and women of this District, the clerks of the various Departments, marketmen, soldiers, and our constituents who may be here and use these cars, an additional tax, and to put additional money into the already gorged pockets of this company.

The gentleman seems to think that this is an abused corporation. Why, gentlemen will recollect when this bill was passed the tremendous scramble to get stock between the cities of New York and Philadelphia. I believe there was no less than \$10,000,000 subscribed, out of which the stock had to be taken, so greedily were the people to get the stock. And well they might be. I recollect that the gentleman from Massachusetts, not now in his seat, well acquainted with these things, said that the franchise as it was passed was worth \$500,000. I believed that it was worth \$1,000,000. And, Mr. Speaker, I do protest against raising this fare for the benefit of this corporation. I protest against it in behalf of the people.

I am not satisfied with the statements made in regard to the profits of this road when I see the cars going eighteen hours every day and filled all the time. I cannot be made to believe that this is a losing business. I undertake to say that no considerable amount of stock in the hands of present holders can be bought at anything like a reasonable premium. The gentleman from New York [Mr. DAVIS] professes to have better information. I was told on authority believed to be good that the original stock which only cost, or on which there was only paid in, twenty dollars, is worth \$400. The gentleman from New York says that that is not so. Perhaps he knows better than I do. I was told by what I understood to be good authority.

Mr. DAVIS, of New York. The gentleman said yesterday that that information had been furnished to him by a director of the company.

Mr. WASHBURN, of Illinois. No, sir.

Mr. DAVIS, of New York. On the authority of the president of the company, I pronounce the statement in reference to the stock to be untrue. The stock was never sold for any such sum. It can be proved that it was never worth any such sum.

Mr. DAWES. Tell us the exact difference between what the stock cost and what it can be now bought for.

Mr. DAVIS, of New York. I will tell the gentleman exactly: the last sale of that stock, which is in shares of fifty dollars, was for \$67.50.

Mr. DAWES. What I want to know is, how much was paid in.

Mr. DAVIS, of New York. I will state that the original capital was \$500,000, and I understand that forty or fifty per cent. was paid in. The bonds of the company were given for the construction of the road.

Mr. Speaker, I have always admired the exemplary and Christian spirit with which my friend from Illinois resigns himself to the misfortunes of other people when nothing comes from his pockets or the pockets of the people of Illinois. He is ready to make the appropriation when his constituents are affected. He has an intense love for the great people, and corporations must take nothing from them even though the corporations are losing by the business they are doing.

What I said yesterday is true. This company is losing money on the business they are doing, and the road will not be able to continue running unless this relief is extended by Congress. Sir, the free list of this company, the passengers they carry over the road without charge of one cent, amount to one thousand passengers per day.

Mr. WASHBURN, of Illinois. I would like to know what this free list is?

Mr. DAVIS, of New York. Senators, members of the House, clerks, and other persons.

Mr. WASHBURN, of Illinois. I have never seen anybody but our honorable selves exhibiting passes.

Mr. DAVIS, of New York. I have a great many times. Perhaps the gentleman does not ride on the road as frequently as he would if he had not had a quarrel with the company.

Mr. WASHBURN, of Illinois. I ride whenever I desire. I never had any quarrel with

them. My friend from New York is entirely mistaken.

Mr. DAVIS, of New York. I am happy to hear it.

Mr. WASHBURN, of Illinois. The company owe me nothing, and I owe them nothing. They afford me tolerably good accommodations, and I pay them for it.

Mr. DAVIS, of New York. This bill was introduced, and I have advocated it upon the ground of justice, and justice alone. I do not desire to put money inordinately into the pockets of this company or that of any other. This bill was introduced for the purpose of relieving the Metropolitan Railroad Company, a company having a line two miles long, upon which they were permitted to charge a fare of only five cents. The fact has been stated here, and I believe truly, that upon their business now they are losing more than two hundred dollars a day.

Mr. WASHBURN, of Illinois. Then according to this statement of my friend the object of our charging every passenger who shall ride upon the Washington and Georgetown railroad three cents in addition to the present fare is not for the benefit of that company but for the benefit of the Metropolitan Railroad Company. So that when we ride on the Washington and Georgetown road and pay an additional three cents it is not for their benefit but for the benefit of the other company.

Mr. DAVIS, of New York. The gentleman misunderstood the position I took. I was merely stating the history of this transaction, and saying that the Washington and Georgetown Railroad Company had nothing to do with the purposes for which this bill was introduced. They knew nothing of the matter, but when they saw this bill for the relief of the Metropolitan Railroad Company the president of the other company saw at once that the right to increase the fare on the Metropolitan railroad to eight cents would not inure to their benefit unless the fare of the Washington and Georgetown Railroad Company was raised also.

Mr. WASHBURN, of Illinois, (interrupting.) Has the morning hour expired?

The SPEAKER. It has, and the remainder of the day is assigned to the business of the Committee on Commerce.

#### MACREL FISHERIES.

Mr. ELIOT, from the Committee on Commerce, reported, with a recommendation that it do pass, a bill to extend the provisions of the first section of the act for the government of persons in certain fisheries, approved June 19, 1813; which was read a first and second time.

The bill, which was read, provides that the first section of the act for the government of persons in certain fisheries, approved June 19, 1813, shall extend to the master or skipper and seamen of vessels of the burden of twenty tons and upward qualified according to the law for carrying on the mackerel fisheries, bound from any port in the United States to be employed in such fisheries, in the same way as if such fisheries had been embraced in said act, provided that the agreement named in said section shall be duly made, indorsed, and countersigned.

Mr. ELIOT. I demand the previous question. The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CHANLER. I would inquire of the gentleman from Massachusetts what is the special object of this bill.

Mr. ELIOT. It is only to extend certain provisions of the act of 1813 to certain persons engaged in the mackerel fisheries.

Mr. CHANLER. I understand that very well; but I want to know why, at this time, he has introduced this bill to protect those fisheries? What is the necessity for it?

Mr. ELIOT. It is not for protection exactly. I will explain. Since 1790 there have been certain provisions to compel seamen in the merchant marine who desert to return to their vessels. In 1813 the provisions of that act were extended to the cod fisheries. At that time the mackerel fisheries had not been fairly established. It has been found lately, and especially since the commence-

ment of this war, that there is great difficulty in compelling the services of mariners who had engaged to serve in the mackerel fisheries, because the laws of 1813 do not extend to them. The object of this law is simply to extend the provisions of the law of 1813 to that class.

Mr. CHANLER. Are they in the service of the United States?

Mr. ELIOT. Not at all.

Mr. CHANLER. The service to which the gentleman alludes is not very clear to me. In what service are those men?

Mr. ELIOT. The mackerel service only.

Mr. CHANLER. I represent to a certain extent what is called Mackerelville, and I feel very much interested in knowing how far the provisions of this act would touch my constituents. But at the same time I consider that the provisions of this bill do protect the mackerel service and give to the men in that service a protection whereby they are induced to remain in that service rather than go into any other. Am I not correct in that supposition?

Mr. ELIOT. Do I understand the gentleman to say that he belongs to the mackerel brigade, and desires to know whether the provisions of this bill will protect him? [Laughter.]

Mr. CHANLER. No, sir; the gentleman is mistaken. He is the exponent of the codfish aristocracy, [laughter,] and my object in addressing him was to irritate his dorsal fin. He has been here for some time cutting capers with regard to the fisheries, and putting hooks into the mouths of this House and drawing them hither and thither.

Now, I am of the opinion that the gentleman is indeed an admirable fisherman and admirable representative of the codfish aristocracy. But it is not necessary to include me in the mackerel brigade, for I do not bear any of those fins which characterize him individually. At the same time, I do not want the gentleman to misunderstand me, or to throw ridicule upon an honest effort on the part of this side of the House to bring before this body the provisions of a bill which is being passed without consideration.

If the bill is a good one, I have no objection to it. My question was put in good faith, and if the gentleman wishes he can answer it. It is a plain question. I wish to know whether this bill does not protect a certain business and source of profit. I believe it does. If it does not, the gentleman can say so.

Mr. ELIOT. When the gentleman gets through I will answer him.

Mr. CHANLER. I am through.

Mr. ELIOT. The gentleman inquires whether this bill protects the interests of a certain fishery. It does not in one sense and it does in another.

Mr. CHANLER. Exactly.

Mr. ELIOT. It extends to that fishery the same privileges and rights and imposes upon it the same burdens as the law now extends to the mercantile marine and to all the other fisheries. Now, is the gentleman answered?

Mr. CHANLER. I am satisfied, and I rose to ask the question in order that the House might understand that very fact. The bill does give certain advantages to a local interest, and the House ought to give it some consideration before they pass it.

Mr. ELIOT. I now call the previous question.

Mr. COX. Will the gentleman yield to me for a moment?

Mr. ELIOT. Certainly.

Mr. COX. From a cursory reading of this bill we are not able to understand it. I would ask the gentleman from Massachusetts if this bill extends the fishing bounties.

Mr. ELIOT. No, sir; it has nothing to do with bounties.

Mr. COX. Will the gentleman permit me to move an additional section to this bill repealing all laws or parts of laws granting fishing bounties?

Mr. ELIOT. That would not be germane to this bill.

Mr. COX. It would be American.

Mr. WASHBURN, of Illinois. I consented to the reporting of this bill because I do not think there is anything particularly objectionable in it, and nothing that touches the question to which the gentleman from Ohio refers. I hope and believe that my friend from Massachusetts will, at the next session of Congress, bring in a bill to



repeal all the bounties allowed to fishermen. I think the time has come when that question can be fully considered, and when these bounties can be repealed. But the proposition is not germane to this bill; and the Committee on Commerce, therefore, did not consider the question of repeal of the fishing bounties in connection with it.

Mr. COX. Mr. Speaker, I am very glad that the gentleman from Illinois anticipates the action of a future Congress on this subject. I speak earnestly when I say that I believe these bounties should be repealed. It is an outrage on certain sections of the country, as we all know. I do not wish to discuss the question now. I am only sorry that I cannot be in the next Congress to vote with my friend from Illinois for the repeal of the fishing bounties.

Mr. BLAINE. Will the gentleman from Ohio allow me to ask him a question?

Mr. COX. Yes, with the permission of the gentleman from Illinois, who holds the floor.

Mr. BLAINE. I ask the gentleman whether he proposes, in connection with this, to strike down the protection of the lake commerce?

Mr. COX. If I were a member of the next Congress I certainly should do so.

Mr. BLAINE. The gentleman promised at the last session of Congress that he would do that at this session, but he has not moved in the matter.

Mr. COX. I will try and gratify the gentleman before Congress adjourns.

Mr. BLAINE. I suppose you will, after the 4th of March.

Mr. COX. I want the gentleman from Massachusetts [Mr. ELIOT] to get rid of these onerous bounties, and to strike down all these monopolizing and protective influences in New England. The great question hereafter to be agitated in the country, now that the negro question is out of the way, is, shall we protect all classes equally? The people of the country are determined—

Mr. BLAINE. Will the gentleman allow me to make one remark before he sits down?

Mr. ELIOT. I must resume the floor.

Mr. BLAINE. A single moment—

Mr. ELIOT. I want to say one word in reply to the gentleman from Ohio, [Mr. Cox.] I am very sorry, Mr. Speaker, that he will not be in the next Congress, where he might have an opportunity to record his vote on the question of the repeal of the fishing bounties. I have just received a petition which purports to be signed by the owners of the largest fleet engaged in cod fisheries on our coast, asking, in view of the condition of the country, that those bounties which the gentleman from Ohio is so indignant against may be repealed. If the matter had been brought to the attention of the Committee on Commerce at a time when such a measure could have been introduced, with such protection to their rights as is proper, the committee would have been prepared to act on it.

My friend the chairman, [Mr. WASHBURNE,] was right in what he said, that we hope to have an opportunity at next Congress to introduce such a bill; and I trust it will receive the support of the distinguished gentleman who will succeed my friend from Ohio. I now move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered, and under its operation the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CUSTOMS OFFICERS AT NEW YORK.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back, with a recommendation that it do pass, a bill (H. R. No. 729) to amend the act relating to officers employed in the examination of imported merchandise in the district of New York; the question being on ordering the bill to be engrossed and read the third time.

The bill was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of the appraisers now authorized by law for the appraisement of goods, wares, and merchandise at the port of New York, the President of the United States shall, by and with the advice and consent of the Senate, appoint for said port one appraiser who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, and who,*

*before he enters upon the duties of his office, shall take and subscribe an oath faithfully to direct and supervise the examination, inspection, and appraisement according to law, of such goods, wares, and merchandise as the collector may direct, and to cause to be duly reported to the collector the true value thereof, as required by law. And the appraiser, in cases of his necessary and occasional absence, may perform his functions, *ad interim*, by deputy, designated by him in writing, from the assistant appraisers to be appointed under the provisions of this act.*

*Sec. 2. And be it further enacted, That, in lieu of the assistant appraisers now authorized by law for the port of New York, the Secretary of the Treasury may appoint not exceeding nine assistant appraisers for said port, who shall be practically acquainted with the quality and value of some one or more of the chief articles of importation subject to appraisement, and included among the goods, wares, or merchandise, to the examination and appraisement of which they are respectively to be assigned, and who shall be employed in appraising goods, according to law, under the direction and supervision of the appraiser; and each of whom shall, before entering upon the duties of his office, take and subscribe an oath diligently and faithfully to examine and inspect such goods, wares, and merchandise as the appraiser may direct, and truly report to him the true value thereof according to law; such report to be subject to revision and correction by the appraiser, and when approved by him to be transmitted to the collector, and to be deemed and taken to be the appraisement by the United States local appraiser of the district of such goods, wares, or merchandise required by law.*

*Sec. 3. And be it further enacted, That one of the assistant appraisers to be appointed by virtue of this act, with special reference to his qualifications for the duties in this section set forth, shall, in addition to the duties that may be required of him by the appraiser, perform the duties and act in the place and stead of the special examiner of drugs, medicines, chemicals, &c., at the port of New York, as provided by the act of June 26, 1848, chapter seventy.*

*Sec. 4. And be it further enacted, That, in lieu of the clerks now employed in the examination, inspection, and appraisement of goods, wares, and merchandise at the port of New York, the Secretary of the Treasury may, on the nomination of the appraiser, appoint such number of examiners as said Secretary may deem necessary, their compensation to be limited and fixed by him, to aid each of said assistant appraisers in the examination, inspection, and appraisement of goods, wares, and merchandise according to law; and no person shall be appointed such examiner who is not at the time of his appointment practically and thoroughly acquainted with the character, quality, and value of the article or articles in the examination and appraisement of which he is to be employed; nor shall any such examiner enter upon the discharge of his duties as such until he shall have taken and subscribed an oath faithfully and diligently to discharge such duties according to law; and the Secretary of the Treasury shall also appoint, on the nomination of the appraiser, the clerks, samplers, messengers, and other assistants employed in the appraiser's office, and shall limit and fix their number and compensation.*

*Sec. 5. And be it further enacted, That it shall not be lawful for the appraiser, the assistant appraisers, examiners, clerks, samplers, messengers, or other assistants, or any of them, to engage or be employed in any commercial or mercantile business, or act as agent for any person engaged in such business, during the term of their appointment.*

*Sec. 6. And be it further enacted, That the appraiser who may be appointed under the provisions of this act shall receive a compensation of \$5,000 per annum, and the assistant appraisers shall each receive a compensation of \$3,500 per annum, to be paid out of the proceeds of the customs.*

*Sec. 7. And be it further enacted, That the compensation allowed respectively to the appraiser and the assistant appraisers, under the provisions of this act, shall be paid to them in monthly payments, and in due proportion for any period less than one month, for the time they may actually serve.*

*Sec. 8. And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed; and all provisions of existing acts relating to the duties of the appraisers now provided for by law, or to any proceedings consequent or dependent upon the action of such appraisers, and not inconsistent with the provisions of this act, shall be construed to apply to the appraisers and assistant appraisers provided for by this act, and shall be continued in full force, and that this act shall take effect on and after the 1st day of April, 1865.*

Mr. HOLMAN. I rise to a question of order. This bill creates a great many officers, and provides that their salaries shall be paid out of the customs duties received at the port of New York.

Mr. WASHBURNE, of Illinois. That part of the bill is altered by an amendment which I propose offering, if the gentleman will suspend his point of order for a moment.

Mr. HOLMAN. Very well.

Mr. WASHBURNE, of Illinois. I think I understand the point of the gentleman from Indiana, [Mr. HOLMAN.] I would state that the committee propose to amend the bill so that these officers shall be paid precisely in the same manner as other officers of the customs are paid. If gentlemen desire any explanation of this bill I will give it in a few words.

The bill which has just been read is the result of examinations made in relation to custom-house matters in New York city for the last two years. The Solicitor of the Treasury and a special agent of the Treasury Department were there for a long time, and made a report upon this whole sub-

ject. A bill was drawn up by the Secretary of the Treasury and the Solicitor of the Treasury, designed to cover certain abuses which are alleged to exist in the custom-house in New York city; and this bill is for that purpose.

Under existing laws there are now five appraisers and five assistant appraisers in the custom-house in New York city. The appraisers receive an annual salary of \$2,500 each; the assistant appraisers a salary of \$2,000 each. The total amount of salaries received under existing laws, by the appraisers and assistant appraisers, is \$22,500. The result of the examination and observation of all parties connected with this matter was that the system of appraisement in New York was materially defective, and that great abuses have grown up under it. It is proposed by this bill, instead of having these five appraisers and five assistant appraisers, all the five appraisers being equal, and there being no head, to make one appraiser, and nine assistant appraisers. That is what the bill itself proposes. The Committee on Commerce propose to amend the bill by striking out "nine," and inserting "six" as the number of assistant appraisers; so that there will be in all seven appraisers, one chief and six assistants. The bill as sent to the committee proposed that the chief appraiser should receive an annual salary of \$5,000, and the assistant appraisers an annual salary of \$3,500 each. The committee propose to reduce the salary of the chief appraiser from \$5,000 to \$4,000, and the salaries of the assistant appraisers from \$3,500 to \$3,000 each, and by the third section we propose to make one of these assistant appraisers *ex officio* the inspector of drugs, thus doing away with that office entirely, which is now filled at an annual salary of \$2,000; and in addition to the amendments I have mentioned, the committee propose an amendment, which will meet the point suggested by the gentleman from Indiana, [Mr. HOLMAN,] that these officers shall be paid precisely as other officers of customs are paid.

Mr. HOLMAN. The sixth section expressly provides that this chief appraiser and the assistant appraisers shall be "paid out of the proceeds of the customs." That may mean that they shall be paid in gold.

Mr. WASHBURNE, of Illinois. To save any question, I will move an amendment when we reach that portion of the bill. I now move to amend section two by striking out the word "nine" and inserting the word "six," as the number of assistant appraisers.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to amend section six by striking out the word "five" before the word "thousand" and inserting the word "four," as the salary of the chief appraiser.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to amend the same section by striking out the words "five hundred," after the words "three thousand," so that the salary of the assistant appraisers shall be \$3,000 instead of \$3,500.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now move to amend the same section by striking out the words at the close, "out of the proceeds of the customs," and inserting the words "in the same manner as officers of the customs." That portion of the section will then read, "to be paid in the same manner as officers of the customs."

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move to amend by inserting at the end of the fifth section the following:

*And it is hereby provided, That, if any appraiser, assistant appraiser, clerk, sampler, messenger, or other assistant shall violate the provisions of this section, such person shall be dismissed from office, and shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine of not less than \$500 and imprisonment at the discretion of the court.*

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I move further to amend by striking out all after the word "paid" in the third line of the seventh section, and inserting in lieu thereof "in the same manner as officers of the customs."

The amendment was agreed to.

Mr. CHANLER. I rise to address an inquiry

to the gentleman. What is the extent and reason of the change made by this bill? Upon its face it alters the existing system.

Mr. WASHBURNE, of Illinois. It does alter the existing system, as a matter of course, to this extent: instead of the present system of five appraisers and five assistant appraisers, it provides for one chief appraiser and six assistant appraisers. In point of fact it gives a head to the institution.

Mr. CHANLER. Is that the only change which the bill will introduce?

Mr. WASHBURNE, of Illinois. That is one change. Another provision changing the existing law is embraced in the amendment just adopted. That is, I think, a very important provision, because it is designed to punish all persons who, while acting as officers in the custom-house, engage in any commercial transaction which might influence their action.

Mr. CHANLER. Does it make any further change in the system now existing?

Mr. WASHBURNE, of Illinois. None whatever.

Mr. FERNANDO WOOD. I desire to inquire of the gentleman from Illinois whether there is anything in this bill that makes it a punishable offense for any of these appraisers to receive presents from importers. That is a practice which has led to serious evils in the city of New York.

Mr. WASHBURNE, of Illinois. The existing laws, I believe, provide for the punishment of that offense.

Mr. FERNANDO WOOD. I would suggest to the gentleman the propriety of including in the section which refers to penalties a penalty for that offense.

Mr. WASHBURNE, of Illinois. If the gentleman from New York will prepare an amendment which will embody his idea, I have no doubt that the House will adopt it. I understand, however, that there is now on the statute-book an enactment by which all offenses of that kind can be punished. If there be no such law now in force, it is very certain that we ought to enact a very stringent law on the subject.

Mr. ODELL. I would say to the chairman of the Committee on Commerce, [Mr. WASHBURNE, of Illinois,] that a law reaching these cases was passed during the session of 1863. The crime is now punishable to the same extent as smuggling.

Mr. WASHBURNE, of Illinois. That was what I understood.

Mr. ODELL. The present law is amply sufficient to punish all offenders of that kind.

While I am upon the floor, I desire to say that I know something in reference to what will be the practical operation of the provisions embraced in this bill, and I can assure every member of the House that they will work a very beneficial change in the administration of affairs in the appraiser's office at the port of New York.

I regret exceedingly, however, that the chairman of the Committee on Commerce has seen fit to propose to reduce the salary of the principal appraisers to \$4,000, and that of the assistants to \$3,000. Now, it is known to every gentleman acquainted with commercial matters that the appraiser's office at the port of New York is the key to the whole business of collecting the revenue of the country from customs. A higher class and character of men are required in the appraiser's office than in any other branch of the service of the United States. Every one of the six or seven men who may be appointed under this bill will have passing through his hands foreign goods amounting to millions upon millions of dollars. I therefore regret exceedingly that the chairman of the Committee on Commerce has proposed this reduction of salary, especially as to the assistant appraisers. The services of men of the requisite character to fill these places are worth in the city of New York more than the sum first proposed in this bill. I believe that it will be the best judgment of the House to put that sum back into the bill, \$3,500 for each of these men. The chairman has amended the bill, reducing the number, thus making a material saving in the expenditure, and I hope that he will consent to pay the assistant appraisers \$3,500.

Mr. WASHBURNE, of Illinois. I am glad to have an indorsement of the principle of the bill from the gentleman from New York, whose judgment and experience in these matters are

worth a great deal. But I cannot agree with him in regard to the change of salaries.

I demand the previous question.

The previous question was seconded, and the main question was ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VERIFICATION OF INVOICES.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, also reported back House bill No. 697, further to provide for the verification of invoices.

The bill was read.

Mr. CHANLER. Has this reference to the consular system generally, or is it limited?

Mr. WASHBURNE, of Illinois. It is an amendment to the bill of the last session in reference to frauds by false invoices.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLMENT OF VESSELS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, also reported back House bill No. 738, relating to the enrollment and license of certain vessels; which was ordered to be engrossed, and read a third time, and being engrossed it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### STEAMBOAT INSPECTORS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, also reported back House bill No. 667, to provide for two assistant inspectors of steamboats in the city of New York, and two local inspectors at Galena, Illinois.

The bill was read.

Mr. WASHBURNE, of Illinois. The bill has been up before. I move to add the following:

And the local board of inspectors at Wheeling is hereby reestablished.

The amendment was agreed to.

Mr. ALLISON. I want to know why the two local inspectors should be at Galena.

Mr. WASHBURNE, of Illinois. I explained that when the bill was up before. It is a matter of very little importance.

Mr. ALLISON. I think that it is a matter of great importance to put these inspectors where they can reach steamboats readily. I think one of these inspectors should be at Dubuque.

Mr. WASHBURNE, of Illinois. They must be both at the same place. It is a matter of little importance.

Mr. WILSON. Then why not put both of them at Dubuque?

Mr. WASHBURNE, of Illinois. I demand the previous question.

Mr. ROSS. I move to strike out "Galena" and insert "Lewiston."

Mr. WASHBURNE, of Illinois. I do not yield.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to amend the title so that it would read:

A bill to provide for two assistant inspectors of steamboats in the city of New York and two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create two additional inspectors of steamboats and two local inspectors of steamboats for the collection districts of Memphis and Oregon, and for other purposes."

The amendment was agreed to.

#### MICHIGAN CITY HARBOR COMPANY.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Commerce, to whom was referred a petition of certain citizens of Indiana and Illinois asking the Government to permit the Michigan City Harbor Company to use the foundations of the old Government piers at Michigan City, and that Michigan City may be made a port of delivery, have directed me to report a bill granting to the Michigan City Harbor Company the use of the Government piers in said harbor for the purpose of protecting said harbor.

The bill was read a first and second time by its title.

The first section of the bill, which was read, grants to the Michigan City Harbor Company, at Michigan City, in the State of Indiana, the privilege of using the foundations of the old Government piers now in that harbor for the purpose of improving and protecting said harbor, provided that no expense made by said harbor company for such purpose shall be considered a charge against the Government of the United States.

The second section constitutes Michigan City a port of delivery, subject to the same regulations and restrictions as other ports; annexes said port to the collection district of Chicago, and provides that there shall be appointed a surveyor of customs, to reside at said port, at an annual salary of \$350.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved that the vote by which the bill was passed be reconsidered; and also moved that the vote to reconsider be laid on the table.

The latter motion was agreed to.

#### VOTES RECORDED.

Mr. LOAN. I ask unanimous consent to record my vote upon the confiscation bill passed this morning.

Mr. MALLORY. I will not object if my colleague [Mr. HARDING] is also permitted to record his vote.

Mr. ASHLEY. I object, if it changes the result.

The SPEAKER. It will.

Mr. ASHLEY. I object. If the two gentlemen desire to vote on opposite sides I will withdraw my objection.

The SPEAKER. The chair understands that they desire to record their votes on opposite sides. No objection being made, Mr. LOAN recorded his vote in the affirmative, and Mr. HARDING in the negative.

Mr. O'NEILL. I ask unanimous consent to record my vote on the same bill.

Mr. MALLORY. And I ask permission that my colleague [Mr. GRIDER] have leave to record his vote.

Mr. STEVENS. I object.

Mr. LE BLOND. It will not change the result.

The SPEAKER. The gentleman from Pennsylvania objects.

Mr. STEVENS. I do not know how far this may go, hence I object. I know the bill is safe now, and I do not want the result changed.

#### SHIP WILLIAM F. STORER.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported a joint resolution to change the name of the ship William F. Storer to Montana.

The bill was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOYAL REFUGEES FROM TEXAS.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, also reported a bill for the purpose of checking contraband trade and to provide a fund for the relief of indigent loyal refugees from the State of Texas.

The bill was read a first and second time by its title.

The first section of the bill, which was read, provides that during the existing rebellion or until the authority of the United States shall have been completely restored in the State of Texas, the commercial agent or consul of the United States at Matamoras, in Mexico, shall, pursuant to such instructions as may be given him by the Secretary of State, be authorized to charge one cent per pound upon all cotton, wool, and dry hides, and two cents upon all pecan nuts intended for shipment to any port of the United States; provided that the said commercial agent or consul shall be satisfied that such merchandise is the product of any State or Territory in rebellion against the United States.

The second section authorizes the said commercial agent or consul, under such instructions as may be given him by the Secretary of State, to apply the proceeds of such charge, or so much thereof as may be necessary, to the relief of indigent loyal citizens of the United States at Matamoras, refugees from the State of Texas.

The third section authorizes such commercial agent or consul to retain for his own expenses and services the residue of the fund so collected, provided that the same, together with the compensation now allowed him by law, shall be no more than at the rate of \$3,000 per annum for such expenses and services; provided that all amounts of moneys remaining in the hands of such commercial agent or consul not applied under the provisions of this bill shall be paid into the Treasury of the United States.

Mr. MALLORY. Do I understand that the bill authorizes an export duty upon those articles?

Mr. WASHBURNE, of Illinois. Not exactly that.

Mr. MALLORY. Is it in the shape of a duty collected on all articles exported?

Mr. WASHBURNE, of Illinois. Exported from Matamoras and Mexico. If the gentleman will hear the letter of our late minister to Mexico read, and also the letter of the Secretary of State, I think he will be satisfied.

Mr. MALLORY. I desire to ask the gentleman where he gets the authority to authorize our consular agent at Matamoras, which is a foreign port, to levy a duty upon merchandise exported from that port?

Mr. WASHBURNE, of Illinois. It is before he gives permission to have it shipped.

Mr. BROOKS. Is it not against our treaty with Mexico?

Mr. WASHBURNE, of Illinois. I think not. I ask the Clerk to read Mr. Corwin's letter.

The Clerk read, as follows:

WASHINGTON CITY, February 11, 1865.

SIR: Some days ago I spoke to your assistant about the situation of our commercial agent at Matamoras. Hundreds, nay thousands of loyal families are driven from Texas to Matamoras. Our consul at that place is obliged to take care of them. Mr. Pierce not long since sent a claim of about twelve hundred dollars, sustained by very good vouchers, money expended last year in this way. From what I saw in Mexico I wonder it is not more.

I think as rebellion in Texas brings this expense on our Government I would make the products of that State foot the bill. That can only be done by giving the commercial agent power to charge fees on cotton coming from Texas, and other articles, whereby a fund can be raised to pay for the expenses attending the care of loyal people driven by rebellion from that State, and also pay the agent for those extra services.

I send here with a rough draft of a bill, with a statement of the necessary outlay of any one who acts for us there. The lately appointed agent, Mr. Wood, I hear is a very honest man. If this law is not passed he will not stay there three months.

The bearer of this, Mr. Lount, has resided in Matamoras, and can explain fully the situation of affairs there.

Very respectfully, THOMAS CORWIN.

Hon. W. H. SEWARD.

Mr. WASHBURNE, of Illinois. I now ask the Clerk to read the letter of the Secretary of State.

The Clerk read, as follows:

DEPARTMENT OF STATE,  
WASHINGTON, February 15, 1865.

SIR: I have the honor to inclose a copy of a letter of the 11th instant, addressed to this Department by Hon. Thomas Corwin, late United States minister at Mexico, suggesting the expediency of providing the commercial agent at Matamoras with means to relieve loyal refugees from Texas. A draft of a bill for the purpose accompanies Mr. Corwin's letter. If the committee should think favorably of the proposition, it is recommended that the bill be brought before Congress, with a view to its sanction by act or joint resolution.

I have the honor to be, sir, your obedient servant,  
WILLIAM H. SEWARD.

Hon. E. B. WASHBURNE, Chairman of the Committee on Commerce, House of Representatives.

Mr. BROOKS. I have not had time to look at the treaty of Guadalupe Hidalgo and our preceding treaties with Mexico, but it strikes me that such a discrimination as is here proposed is in direct conflict with all those treaties. If not, how is the consul to distinguish between Mexican products and those of the rebel States? I wish that we should proceed with caution, because it is not Mexico that we are dealing with here, but France in point of fact. It is necessary, therefore, that we should go slowly and be sure of our steps.

Mr. WASHBURNE, of Illinois. The Committee on Commerce had before them Mr. Corwin in relation to another matter, and he brought this subject to their attention. He said that while he was our minister in Mexico a great many refugees from Texas made their way to him, and that they were in a most deplorable condition, starved, and almost naked, and something had to be done for them or else they would be starved to death. These men had been driven from Texas because of their loyalty and devotion to the flag of the country. Mr. Corwin said that he would go himself to the Secretary of State and explain the matter to him, and get the Secretary of State to address a letter on the subject to the Committee on Commerce. The Secretary of State has addressed such a letter to the Committee on Commerce, which has been read, and has prepared the bill which has been introduced here. I do not see any particular objection to that bill. If there be any objection the House can vote it down. It is a matter in which I feel no interest.

Mr. BROOKS. I suppose we all concur in what the gentleman says in reference to these Texan refugees, but the important question is this, can we do these things under the existing treaties? I do not think the House should act precipitately upon this subject.

Mr. MORRILL. I suggest to the gentleman from Illinois that he postpone this measure for a day or two.

Mr. WASHBURNE, of Illinois. I will do so with great pleasure. I have simply made a statement of the effect of this bill. The House can act upon it as they see fit. I am willing that it shall be postponed.

Mr. TOWNSEND. I think that is rather an insidious measure, and that the House had better act upon it at once. This matter is to be left under the control of one man.

Mr. WASHBURNE, of Illinois. I desire to hear everything that can be said for or against the bill, but I will move that it be postponed until Tuesday next after the morning hour. No member of the Committee on Commerce wants to press it here against the judgment of the House.

The motion to postpone was agreed to.

B. C. BAILEY.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back adversely the bill (S. No. 48) for the relief of B. C. Bailey; which was laid on the table.

#### STEAMBOAT MAGNET.

Mr. WASHBURNE, of Illinois, from the same committee, also reported back adversely a bill (S. No. 322) to change the name of the steamboat Magnet, of Buffalo, to Home; which was laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes by which the two foregoing bills were laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DISTRICT OF SALEM AND BEVERLY.

Mr. ELIOT, from the same committee, reported an act concerning the collection district of Salem and Beverly; which was read a first and second time.

The first section abolishes the office of naval officer for the district of Salem and Beverly in the State of Massachusetts. The second section abolishes the office of surveyor of said district, to reside at Beverly. The third section fixes the salary of surveyor of said district hereafter at \$400 per annum.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by

which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADMEASUREMENT OF VESSELS.

Mr. ELIOT, from the same committee, also reported a bill to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May 4, 1864; which was read a first and second time.

The bill provides that the act referred to shall be so construed that no part of any ship or vessel shall be admeasured or registered for tonnage that is used for cabins or state-rooms, and constructed entirely above the first deck, which is not a deck to the hull.

Mr. HOLMAN. I suppose that this bill entirely relieves the steamboats on the western waters from the effects of the admeasurement act.

Mr. ELIOT. It is intended to relieve them. That is the object.

Mr. HOLMAN. I supposed that was the design of the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ELIOT, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to communicate to this House at the next session of Congress the operation of the act of May 6, 1864, to regulate the admeasurement of tonnage of ships and vessels, as shall exhibit, first, the effect of said act on the amount of registered tonnage, distinguishing between sailing vessels and others; second, the expediency of any modification for perfecting said act; and to indicate such additional legislation as the commerce and tonnage of the United States may render proper in order to provide a just and uniform admeasurement applicable to steamers and sailing vessels.

#### COLLECTION OF DUTIES.

Mr. ELIOT, from the same committee, also reported back, with amendments, an act (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 2, 1815, and for other purposes, the question being on ordering the bill to be engrossed and read the third time.

The first section enacts that the first sentence of the second section of the act referred to, "that it shall be lawful for any collector, naval officer, surveyor, or inspector of the customs, as well in any adjoining district as that to which he belongs, to stop, search, and examine any carriage or vehicle, of any kind whatsoever, and to stop any person traveling on foot, or beast of burden, on which he shall suspect there are goods, wares, or merchandise which are subject to duty, or which shall have been introduced into the United States in any manner contrary to law; and if such officer shall stop any goods, wares, or merchandise on any such carriage, vehicle, person traveling on foot, or beast of burden, which he shall have probable cause to believe are subject to duty, or have been unlawfully introduced into the United States, he shall seize and secure the same for trial," shall be revived and made perpetual; and declares that every such beast of burden, carriage, or vehicle, together with the teams or other motive power, and all the appurtenances used in conveying such goods, wares, or merchandise, shall be subject to seizure and forfeiture in like manner as is by law now provided in regard to such goods, wares, and merchandise; and all fines, penalties, and forfeitures recovered under this act, or in consequence of such seizures, shall be disposed of as is provided in other cases by the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799; and repeals the last proviso of said ninety-first section.

The second section extends the power and authority given to collectors, naval officers, and surveyors, by the sixty-eighth section of the said last-mentioned act, to inspectors of the customs; and authorizes any officer or other person entitled to or interested in a part or share of any fine, penalty, or forfeiture, incurred under this or any other law of the United States, to be examined as a witness in any of the proceedings for the



recovery of such fine, penalty, or forfeiture by either of the parties thereto, and such examination shall not deprive such witness of his or her share or interest in such fine, penalty, or forfeiture.

Mr. ELIOT. I am directed by the Committee on Commerce to move to amend by striking out the words "made perpetual" and inserting in lieu thereof the word "reënacted;" so that it will read, "and the same is hereby revived and reënacted."

The amendment was adopted.

Mr. ELIOT. I am instructed by the Committee on Commerce to move to add the following as an additional section:

SEC. 3. *And be it further enacted,* That in case any store, warehouse, or other building shall be upon or near the boundary line between the United States and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein, or carried through or into the same without payment of duties, and in violation of law, and the collector, deputy collector, naval officer, or surveyor of customs shall make oath before any magistrate competent to administer the same, that he has reason to believe and does believe that such offense has been therein committed, such officer shall have the right to search such building and the premises belonging thereto; and if any such goods shall be found therein, the same, together with such building, shall be seized, forfeited, and disposed of according to law, and the said building shall be forthwith taken down or removed, and any person or persons who shall have received or deposited in such building, or carried through the same, any goods as aforesaid, or shall have aided therein, in violation of law, shall, upon due conviction before any court of competent jurisdiction, be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or by both such fine and imprisonment.

The amendment was agreed to.

Mr. ELIOT. I am instructed by the Committee on Commerce to move to add the following as an additional section:

SEC. 4. *And be it further enacted,* That the first section of the act of April 2, 1844, entitled "An act directing the disposition of certain unclaimed goods, wares, or merchandise, seized for being illegally imported into the United States," be so amended that in place of the word "one," wherever the same may be found in said section, the word "five" shall be inserted.

Mr. CHANLER. I would like to ask the gentleman from Massachusetts, [Mr. ELIOT,] who has charge of this bill, to make some explanation of the full scope of the bill. It seems to me that it is intended to interfere with smuggling; but I could not fully understand it from hearing it read from the Clerk's desk. I would ask the gentleman to explain a little more fully the application of this bill. The interests which I represent in part are more or less commercial, and I should be glad to understand the bill before I am called upon to vote on it. I do not ask this for the purpose of caviling, but I ask for information.

Mr. ELIOT. I will answer the gentleman by sending to the Clerk's desk to be read a letter from the Secretary of the Treasury.

The Clerk read, as follows:

TREASURY DEPARTMENT, January 11, 1865.

SIR: I have the honor of submitting for your consideration inclosed draft of a "bill to revive part of an act therein named, and for other purposes."

The numerous expedients resorted to recently to evade the customs laws, and deplete the revenues, especially on our extended northern and northeastern frontiers, render additional legislation of the character designed by this bill highly desirable. The act of March 3, 1815, (3 Stat., p. 231,) part of which the bill is intended to revive, expired by limitation of the act of March 3, 1817, (3 Stat., 398,) by which it was temporarily revived, and since then there has existed no authority for stopping and searching carriages and other land vehicles other than those crossing our frontiers. It is proposed to revive this authority, and to extend the provisions of the sixty-eighth section of the collection act of 1799, authorizing searches of houses, &c., under proper judicial warrants to inspectors.

This is believed to be necessary, as many of the collection districts are so large that the delays consequent upon procuring the "special" authority now required from collectors, naval officers, or surveyors for suing out search warrants to be executed at points remote from the port of entry, often frustrate the objects sought to be accomplished.

I think it would add materially to the efficacy of the law if the vehicles and beasts of burden, with all that appertains to them, were subjected to forfeiture, as is provided by the bill.

The other provision regarding the giving of testimony by officers and others interested in the forfeitures are believed to be necessary also to an efficient execution of the revenue laws.

With great respect,

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. E. B. WASHBURN, Chairman Committee on Commerce, United States House of Representatives.

Mr. ELIOT. I ask that the following letter also be read.

The Clerk read, as follows:

CUSTOM-HOUSE, DISTRICT OF CHAMPLAIN,  
COLLECTOR'S OFFICE,  
PLATTSBURG, February 8, 1865.

SIR: There are along this frontier quite a number of stores and groceries, one half said to be in the States, the other in Canada, which afford great facilities for smuggling. Some of these have a line drawn upon the floor, which they claim is the exact boundary line. Some of the "groceries" have their casks of liquor so placed that while the liquor is in Canada the end of the faucet is in the States.

You will readily comprehend how this practice affects trade, and how wide a door it opens for smuggling. I would very much like to break up this whole business, for it is a fraud upon both Governments, and these marked-out lines are often undoubtedly some rods from the true one.

Most respectfully, your obedient servant,

H. DUNN, Collector.

Hon. N. SARGENT, Commissioner of Customs, Washington, District of Columbia.

Mr. CHANLER. My attention had been drawn to this subject before. My reason for asking the question I did was for the purpose of drawing out this information; and I am gratified to receive it. But I wish to draw the attention of the House to this fact, that we are now in the year 1865; this war has been going on for years; this system has been going on increasing annually; yet up to this moment, notwithstanding the immense loss along the whole coast, the Government has remained silent with regard to suppressing the system of smuggling, and the city of New York, and every other city upon the coast, have been robbed of millions, owing to the utter neglect of the Administration in power to extend its protecting arm along the frontier. And coming at this time, late as it is, with a renewed lease of power to the Administration, it stands on record as an additional proof that they left the doors open for all means of corruption, and for the purposes of power. It was for the purpose of drawing attention here and elsewhere to that fact that I rose to put the question to the gentleman representing the Committee on Commerce. I am delighted with the information which my inquiry has elicited; and I believe that the country will receive it as a proof of the growth of patriotism in the right direction on the part of this Administration.

Mr. ELIOT. In reply to the gentleman from New York, I will say in the first place that I am glad to assure myself that this bill will receive his support. I may say to him further that if he will examine the statutes which have been passed since the beginning of this rebellion he will find that Congress has adopted from time to time different measures for the express purposes of preventing this system of smuggling upon our frontier; that Congress has endeavored from time to time to counteract the difficulties which the officers of the Government have encountered in administering the laws. It has been found that the ingenuity of men who love money more than they do honor, and who are ready at any time to expose their lives for the sake of gain, has invented means of evading one law after another; and it has been found necessary to meet them from point to point, passing laws as the exigencies of the case seemed to call for them. The present bill has been rendered necessary by the action of the smugglers who have endeavored to evade or defeat the laws heretofore passed. Sir, the present Administration has done all within its power to stop smuggling, and I call upon the gentleman from this time forth, during the period that he shall remain with us, to aid the Administration in its efforts to prevent or punish smuggling on the frontier.

I now call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third; being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASSISTANT COLLECTOR AT JERSEY CITY.

Mr. ELIOT. I am directed by the Committee on Commerce to report back, with a recommendation that it pass, bill (S. No. 454) entitled "An act supplemental to an act entitled 'An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant assessor to reside at Jersey City,'" approved February 21, 1863.

The bill was read.

It authorizes the assistant assessor appointed under the act to which it is a supplement to enroll and license, according to the laws of the United States, all vessels engaged in the coasting trade and fisheries, owned in whole or in part by residents in the counties of Hudson and Bergen, in the State of New Jersey, such enrollments or licenses to be as valid and effectual as if made in any other part of the United States. It is also provided that the assistant assessor, in the discharge of this duty, shall be subject to all the penalties and responsibilities imposed by the laws of the United States upon collectors in like cases.

The bill was ordered to a third reading, was read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DECREASE OF AMERICAN NAVIGATION.

Mr. ELIOT. The Committee on Commerce have directed me to submit the following resolution:

*Resolved,* That the Secretary of the Treasury be directed to communicate to the House of Representatives, at the next session of Congress, any facts and information upon the subject referred to in the communication of Edwin G. Easton to Hon. William H. Seward, accompanying this resolution, that shall be required in order to determine what legislation, if any, is expedient and proper, and to indicate such legislative action as shall be deemed necessary.

THE SPEAKER. This being a call for executive information, unanimous consent is required for its consideration to-day. Is there any objection?

Mr. BROOKS. I will not object if the gentleman will explain what the resolution means.

Mr. ELIOT. The resolution refers to a communication submitted with it concerning the decrease of our navigation, and containing suggestions in regard to the subject—a subject upon which the Committee on Commerce believe it would be desirable to act. But they are not prepared to act at this time; and the object of the resolution is to procure more information.

There being no objection, the resolution was considered and agreed to.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROMOTION OF COMMERCE.

Mr. ELIOT, from the Committee on Commerce, also reported back Senate bill No. 310, for the promotion of commerce and the improvement of navigation.

The bill was read.

Mr. HOLMAN. I rise to a point of order. The bill contains an appropriation, and must have its first consideration in the Committee of the Whole on the state of the Union. The measure is an entirely new one to the House; and I suggest to the gentleman from Massachusetts that instead of pressing it now he will agree to postpone its further consideration until some future time. If he does that I will withdraw the point of order.

Mr. ELIOT. To what day would the gentleman like to have it postponed?

Mr. WASHBURN, of Illinois. I object to its being considered in the House on any condition.

THE SPEAKER. Then the bill, under the rules, goes to the Committee of the Whole on the state of the Union.

Mr. ELIOT. Cannot the bill be considered in the House as if in the Committee of the Whole on the state of the Union?

Mr. WASHBURN, of Illinois. It appropriates \$169,000 to buy a lot of old maps and charts.

Mr. ELIOT. It is an appropriation that ought to be made.

THE SPEAKER. The bill has gone to the Committee of the Whole on the state of the Union.

SLAVE TRADE.

Mr. ELIOT, from the Committee on Commerce, reported adversely on House bill No. 739, to prohibit the slave trade between the several States of the Union, and various memorials on the same subject, and moved that they be laid on the table.

The motion was agreed to.

## CUSTOM-HOUSE FEES.

Mr. LONGYEAR, from the Committee on Commerce, reported back House bill No. 739, to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States.

The bill was read.

Mr. STEVENS. I do not understand that the bill taxes tonnage. I see that it is confined to the lakes.

Mr. LONGYEAR. It is to create uniformity in fees collected on the northern, northeastern, and northwestern frontiers.

Mr. STEVENS. It does not levy tonnage duties?

Mr. LONGYEAR. It does not.

Mr. GANSON. How much does it increase the fees?

Mr. LONGYEAR. There is no increase, but in some instances there is a decrease. It is to make the fees more uniform.

Mr. GANSON. Is it made uniform up or down?

Mr. WASHBURN, of Illinois. It strikes a general average.

Mr. LONGYEAR. Mr. Speaker, the object of the bill is twofold. The first is to render uniformity in the fees of custom-house officers upon the northern, northeastern, and northwestern frontiers; and the second is to remedy an evil in reference to the fees for entrance and clearance of foreign vessels. By section four of the act of 1831 these duties were in fact abolished. That section four was repealed at the last session of Congress, and it left a general provision to apply. It was found that that provision has been differently construed on different parts of the northern, northeastern, and northwestern frontiers. The object of the bill is to create uniformity in this respect.

Another difficulty was in regard to fees for entrance and clearance of foreign vessels. It was found that on the lakes and rivers, especially on the Detroit river, where steamboats touch half the time in Canada and half the time in the United States, they were compelled to pay these enormous duties. We remedy that.

The only new legislation in the bill is the last clause, which provides that there shall be paid for a certificate setting forth the names of the owners of a vessel, with their respective interest, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance; the date and amount of such incumbrance, and the parties thereto, one dollar; provided, no bill of sale, mortgage, hypothecation, conveyance, or discharge of mortgage or other incumbrance of any vessel, shall be recorded unless the same is duly acknowledged before a notary public or other officer authorized to take acknowledgments of deeds.

I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LONGYEAR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## IMMIGRATION.

Mr. WASHBURN, of Illinois. I ask unanimous consent to report back from the committee on immigration House bill No. 746, to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes.

Mr. COX. This is a very long bill, and I do not wish to have it read. If the gentleman from Illinois will explain its object I have no objection.

Mr. BROOKS. I object to action upon that bill now.

The SPEAKER. Then the bill is not before the House.

## ENROLLMENT BILL.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the bill of the House

(No. 678) to amend the act entitled "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft, made a special order under a suspension of the rules. The pending question is on the amendment offered by the gentleman from Maine [Mr. BLAINE] to the second section.

Mr. BLAINE. In order to meet objections made the other day to my amendment I desire to modify it so that it may meet general acceptance. I modify the amendment so that it shall read:

*Provided*, That in any call for troops no county, town, township, ward, precinct, or election district, shall have credit except for men actually furnished on said call or a preceding call by said county, town, township, ward, precinct, or election district, and mustered into the military or naval service on the quota thereof.

Mr. CHANLER. This, as I understand it, is an amendment to the second section, which relates to the question of quotas. Now, I wish to draw the attention of the House to that matter, and to the existing confusion which is consequent upon it in every district in the country. The whole military system has been thrown into confusion by the way those quotas have been distributed, and it is a question whether the trouble which will follow this effort may not be ruinous and fatal to the military organization of the country. There have been here from different sections of the country legislative committees seeking for a fair adjustment of these quotas. The matter is in a perfect snarl, and the Provost Marshal General seems to be in a muddle, and a fair adjustment of the draft is impossible under the existing system. From time to time I have endeavored to secure, through the action of this House, full and satisfactory information relative to the assignment of these quotas and the basis upon which they are made, but I have been unable to accomplish my purpose.

Now, sir, I am opposed to having any amendment made here in ignorance and without sufficient and full information before this body. I have no doubt that the gentleman who has charge of this bill is perfectly sincere and honest in his efforts. I do not impute to him or to any other member who is acting in defense of this bill, or to those who, in an official capacity, are trying to carry out the law of Congress, anything but fair motives. My object is not, as some gentlemen would have the House believe, to oppose this bill on all occasions. I am opposed to the bill, but I am ready to modify my action upon full and just information given by the Department so that we can act understandingly.

This section should be amended so as to meet two difficulties which arise under it. The parties having no residence are, as I understand it, aliens or freedmen. Now, sir, there exists in the Army to-day a great source of weakness, and a great depreciation of the value and dignity of your soldiers. By the introduction of aliens into the Army you have depreciated the value of your volunteers. And then you degrade the American soldier by placing him side by side with the slave just set free, men without historical association, and up to that time without rights. Now, sir, I maintain that such a policy is bad, and that this section is inherently bad from that standpoint.

A substitute is a luxury of the rich. The draft must fall, like death and taxation, at last on the poor man. By the enrollment act we have called out a gigantic standing Army; but for some cause, only known at the War Office, if even known there, it has never been consolidated and organized into a thorough and harmonious force. We have made "I will" wait upon "I would." We have delayed so long and changed so often that improvement of this law seems impossible. The Administration raised troops and money too easily to stop and think on consequences. As if not content with the evils we had, our discreet rulers flew to those they knew not of. We bought and bribed the slave from his master and turned him into a military machine, commanded by officers holding commissions directly from the President, and then we put these colored troops by that course next in rank to the regulars, reducing the white volunteer force to a third rank, and the doomed conscripts to a fourth rank in the service. We raised the negro to an equality with the white by statute, but put the white below the negro in

arms. It was degradation to the white race to put arms into the hands of the negro, but it is putting the ruling race beneath degradation to subordinate them to the black freedman. The result has become apparent in the difficulty of filling the quotas, when the regular Army recruiting officer comes in competition with the volunteer recruiting committee. The enlistments are more in favor of the regular Army recruiting offices and the colored troops, notwithstanding the smaller bounty offered by the Government. The white substitute is being driven from the Army by the lower-priced negro, invited to take his place in the van in the onward march to glory.

Thus far the effect has only been seen in the volunteer force. But if this war continues much longer and the black man is the hero some members claim that he is, the same result must eventually follow in the regular Army. The rapid changes of revolution, the demand for labor, the scarcity of money, or rather the excessive expansion of the currency, the demand for troops to supply the waste of war and disease, the cheapness of the black compared with the white soldier, must tend to increase the enlistment of colored troops, and finally will force this Administration or its successors to hold its own at the back of an Army of freedmen. The standing Army will then, indeed, be compact and serviceable for the most despotic uses. Servile in its nature, it will become the ready tool of tyranny, as soon as the future military dictator, for whom all these things seem to have been prepared, shall summon the people of this Union to surrender to his genius and his arms.

Further than this, owing to the same causes just enumerated, suppose the Army be recruited, not from the negro, but from the foreign substitute just landed on our shores, brave, hardy, full of adventure, with the world before him, and no cares or kin to check his onward course of fearless enterprise. How long will he remain a mere soldier in our ranks? What does he know of or care for the Constitution, or the time-honored institutions of any State, or of the Union? He will exclaim, "The world is my field and its wealth my prize."

In a collision with Europe, should such occur, having driven the American citizen from our Army by underbidding him, having cut off all sympathy of the great mass of the people with this Government by trampling on their most sacred and most cherished rights, how do you calculate to again arouse the volunteer spirit in the nation? We have insulted a free and courageous people by this conscription. We reduce the volunteer to a mercenary by the bounty. We have depreciated the alien mercenary by enrolling the slave, and the slave has degraded the career of the soldier. Such is the promise held out by our present policy for the future condition of the Army when the existing force of veterans is disbanded or destroyed.

Again, the policy pursued invites either, first, a collision between the white and black races, with banishment or annihilation of the latter; or, second, a surrender of the bayonet to the black man while the white race holds the sword. This experiment has been tried by England in India, we know with what fearful consequences. It has been practically the system in Mexico until the Spanish creoles were all officers, and the private soldiers of a feeble, mixed race, forming an army weak in time of war, and turbulent and mercenary in time of peace. The bayonets and artillery of France, wielded by Frenchmen, commanded by Frenchmen, will soon fix the fate of that military organization.

The tendency of the policy of putting one race over another is to make the officer despise his men and the men hate their officers. Bonaparte crushed the power of the old French nobility in the armies of France at a single blow when he declared that every soldier of the great nation carried the baton of a marshal of France in his knapsack. Can we bestow such a boon on the private soldiers in our armies as now constituted? Have you not, in fact, established a military aristocracy in the heart of our Army? We exclude the black recruit from the honors of his career, and declare he shall die that another may attain them. Sir, the policy of the Administration is logically driving the Army to discord and revolt. The party in power must take one horn of the dilemma

their conduct creates, and commission our black soldiers as officers, or they must follow the consequences of the opposite, and while declaring all men free and equal, and uttering promises of freedom to the negro slave, they must hold him in the more miserable plight of an armed serf, doomed to the toil of battle, the sufferings and sickness which a soldier's life entails, and finally to die in military shackles, the victim of a hope raised by a false fanaticism for a political advantage, created by this Administration to avoid the dangers it forces him to meet in its defense.

I am opposed to the establishment of black military serfs in American armies. I am opposed to the degradation of our white soldier by the policy of this Administration. I am opposed to promoting the black freedman, however brave he may be, to the rank of an officer in the United States Army.

But there is a project on foot in that direction, and finally must succeed if the present policy continues and the Republican party remains in power. European Governments may do this thing with impunity, because an aristocracy, social, legal, and supreme, controls all the avenues to power, rank, and honor. In my opinion, if the negro is admitted as a soldier into our armies, he will be subdued by the superior race and become the base of a military aristocracy in fact if not in law; and the same result that followed slavery in the South will be seen wherever the negro is introduced as a prevailing and permanent element of society, namely, a white aristocracy of superior caste, rising on the shoulders of the negro to the mastery of the poor whites around them. It is fixed in the law of race, and is immutable. I have no fear for the superior race, I only fear lest the liberties of the people may be subverted by a military aristocracy or an aristocracy of caste. The conflict is upon us, and we must meet it openly and frankly. And in the same spirit of frankness it must be admitted that had the Administration adhered to the practice established in the Constitution, of leaving the manner of raising quotas to the States themselves, then no collision as to the relative claims or rights of soldiers of the United States would have arisen. Each State would have regulated that for itself. The conflict of races would have been kept from our national Congress, and the agitation of the public mind by so absorbing and deep a subject have remained locked up in the precincts of the several States, like fire, or steam, or gunpowder, controlled, cribbed, confined, harmless, useful and beneficial.

A new danger seems to hang over us in the gathering storm of foreign war. It may be far off, or at this moment a secret council of the crowned heads of Europe may be partitioning this Union among themselves or their assigns, as they did once for unhappy Poland; as they have just done for subjugated Mexico, and the republic of St. Domingo. The course of France, Spain, and England in regard to those distracted and betrayed republics has roused our people and this House to an attitude of watchful defiance. The Monroe doctrine in its first and highest sense has been reasserted here and accepted by the whole country as a pledge of our future policy. We have declared that no monarchy can be established and upheld here with our consent. Under such circumstances, with our knowledge of the facility with which the negro is induced, by flattering promises, to desert his home and the associations of his life, is it not well to be guarded in the trust we put in him after our failure to fulfill the fond hope of his ignorant nature, and our selfish use of his race? With Europe, rich in the resources of war and diplomacy, with everything to gain by tampering with and protecting the black race as an element of discord in our midst, we may find ourselves in the relation to our freedmen that the rebel States now hold to us in the treatment of their slaves, with this disadvantage to the United States, that we have armed the slave and trained him to a freedom which he will never relinquish, while the unarmed slaves of the South dare not turn upon their masters in arms. The Administration, by the conscription, seems likely to force the white laboring classes out of the Army to give place to an element which would prove hostile in foreign war to the very system which liberated and armed them.

But there is another point of view I would pre-

sent in this connection. If the conscription has been a failure in the war against the rebels, what have we to hope from it in conflict with Europe? Substitutes fresh from the Old World may or may not become mercenary. They might be true to our flag, which they never saw until enlisted, through all the fortunes of war; or they might after a protracted contest take our cause into their own hands and go over to the enemy; or, like their Vandal ancestors, put the price of the Republic in a scale and kick the beam; or, like the Huns, treat first with the enemies of the Republic, and coolly betray the cause they rushed so wildly to defend. As the Representative of a large foreign population, I can testify, did the history of the war not make it useless, to the love the adopted citizen bears to our common country, to our free institutions, and to her flag. But every battlefield is a glorious witness to their zeal, bravery, and patriotism. I deem our cause safe in such hands; but the high bounty and the general system introduced by the enrollment act tend to drive all our citizens, native and foreign-born, from the service, and has caused to be imported direct from abroad an alien and perhaps dangerous population, in every degree different from the immigrant who formerly brought the simple virtues and sterling habits of the laboring classes of the Old World from the field, the workshop, and the mine.

Mr. BLAINE. I move, *pro forma*, to strike out the last word of the amendment. I wish to say to the gentleman from New York that I do not understand him as opposing my amendment. He has not spoken in reference to it at all.

Mr. CHANLER. I spoke to the section.

Mr. BLAINE. Well, the section and the amendment, taken together, commend themselves to the support of every member of the House who wishes to do away with these great frauds upon the people, who pay enormous bounties and get no equivalent for them. As I said the other day, the adoption of this section as reported by the Committee on Military Affairs, with this amendment upon it, will cut up by the roots all the frauds and malpractices that have grown up under the two mischievous sections, allowing recruiting in rebel States and naval credits. Both these provisions should be suspended summarily. I withdraw my amendment to the amendment, and hope the vote will be taken on my amendment.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HICKEY, its Chief Clerk, announced that the Senate insisted on the amendments disagreed to by the House to the bill of the House No. 640, providing for a district and a circuit court for the United States for the district of Nevada, and for other purposes, agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. FOSTER, STEWART, and JOHNSON, the committee on the part of the Senate.

The message further announced that the Senate had agreed to the second amendment and had disagreed to the first amendment to the bill of the Senate No. 389, relating to clerkships in the War Department.

The message further announced that the Senate had agreed to the second amendment and had disagreed to the other amendments of the House to the bill of the Senate relating to the postal laws.

The message further announced that the Senate had passed without amendment a joint resolution and bills of the House of the following titles:

Joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to the British steamers Minnie Williams and E. M. Baxter;

Bill (H. R. No. 664) for changing the time for holding the circuit court in the district of Virginia; and

Bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia.

The message further announced that the Senate had passed a bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, in the State of Wisconsin, and for other purposes, with amendments; in which he was directed to ask the concurrence of the House.

The message further announced that the Senate

had passed a bill (S. No. 114) making a grant of lands to the State of Michigan to aid in the construction of certain railroads in said State; in which he was directed to ask the concurrence of the House.

#### ENROLLMENT BILL.

The question being on Mr. BLAINE's amendment,

Mr. JOHNSON, of Pennsylvania. I move to amend the amendment by striking out the last word. While I admit that evils have grown up under the system of credits, and while there are, perhaps, radical errors at the bottom of the whole system, yet, if we undertake to make this change now great injustice may be done to some sections of the country. For this reason I am opposed to the amendment. I withdraw my amendment.

Mr. BLAINE called for the yeas and nays on the adoption of his amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 36, not voting 62, as follows:

YEAS—Messrs. Ames, Ashley, Baxter, Blaine, Blow, Boyd, Broomall, Clay, Cobb, Cole, Cravens, Henry, Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Elliot, English, Finck, Frank, Gooch, Griswold, Hale, Harding, Harrington, Higby, Holman, Hooper, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Philip Johnson, Kelley, Orlando Kellogg, Le Blond, Littlejohn, Loan, Longyear, Mallory, Marcy, Marvin, McAllister, McClurg, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Starr, William G. Steele, Stevens, Stuart, Sweat, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Ellihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Woodbridge, Worthington, and Yeaman—84.

NAYS—Messrs. Baily, Augustus C. Baldwin, Brooks, Chanter, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Ganson, Hall, Benjamin G. Harris, Heick, Asahel W. Hubbard, Kernan, Knapp, Law, Lusk, Loug, William H. Miller, Noble, Odell, John O'Neill, Pendleton, Price, Pruyn, Radford, Samuel J. Randall, Rogers, James S. Rollins, Ross, Siles, Strouse, Townsen, and Winfield—36.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Allison, Ancona, Anderson, Arnold, John D. Baldwin, Beaman, Blair, Bliss, Boutwell, Brandegee, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Creswell, Eldridge, Farnsworth, Garfield, Grider, Grinnell, Charles H. Harris, Hotchkiss, Hutchins, William Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, King, Knox, McBride, McDowell, McIndoe, McKinnis, Middleton, Samuel F. Miller, James H. Morris, Morrison, Amos Myers, Nelson, Orth, Perry, Pike, Pomeroy, William H. Randall, Robinson, Edward H. Rollins, Scott, Smith, Spalding, John B. Steele, Tracy, Voorhes, Ward, Chilton A. White, Joseph W. White, Windom, Winfield, Benjamin Wood, and Fernando Wood—62.

So the amendment was adopted.

Mr. SCHENCK. Mr. Speaker, to remove the objection made by the gentleman from New York [Mr. CHANLER] I move to amend the second section by inserting after the word "residence" the words "within the United States;" so that it will read, "if such persons have an actual residence within the United States."

The amendment was agreed to.

Mr. STEVENS. I move to amend by striking out the second section, as follows:

SEC. 2. And be it further enacted, That hereafter all persons mustered into the military or naval service, whether as volunteers, substitutes, representatives, or otherwise, shall be credited to the State and to the ward, township, precinct, or other enrollment sub-district where such persons belong by actual residence, (if such persons have an actual residence within the United States,) and where such persons were or shall be enrolled, (if liable to enrollment;) and it is hereby made the duty of the Provost Marshal General to make such rules and give such instructions to the several provost marshals, boards of enrollment, and mustering officers as shall be necessary for the faithful enforcement of the provisions of this section, to the end that fair and just credit shall be given to every section of the country.

Mr. UPSON. Before the question is taken on striking out the section I move to amend it by inserting after the word "enrollment" the words "provided that persons not liable to enrollment or draft, who may hereafter volunteer, shall be credited to such sub-district as they may elect at the time of their enlistment." It will be seen that the section, as it now stands, does not provide for transient persons or foreigners.

Mr. SCHENCK. Certainly it does.

Mr. UPSON. As the persons not liable to draft or enrollment do not swell the quota, there is no injustice in allowing them to elect where they shall be credited. It is to govern the case



of foreigners and transient persons that I propose my amendment.

Mr. SCHENCK. I am opposed to the amendment for the reason that instead of perfecting the section it would destroy it. The whole object of this section, as must be obvious to gentlemen, is to require the crediting of recruits and substitutes and drafted men to the sub-districts to which they actually belong, where, if they have any residence at all, their actual residence is to be found; but the effect of the amendment now proposed would be to throw open the door and restore *pro tanto* the present existing law that they shall be credited to such districts or sub-districts as they shall elect.

Mr. UPSON. Where does the gentleman propose to have men credited who are foreigners and have no residence here?

Mr. SCHENCK. There is no necessity for making any provision for them. They are left under the general law. It is only those who have actual residence within the United States that require to be thus credited. The law is untouched as regards aliens. I hold that if there be any distinction this is the most wholesome of all the sections contained in this bill. It cuts up by the roots the greatest of all the evils under which we now labor in the enrollment, and the drafting after the enrollment, with the propriety to be considered toward the people of this country unable to do military duty, for the purpose of filling up the ranks of our armies.

If you require that those who are drafted or are put in as substitutes or as recruits shall have an actual residence in some of the sub-districts of the United States, and shall be credited to those districts, the first effect will be to prevent towns, townships, and counties from bidding against each other in a strife to offer the largest bounties in order to get the greatest number of recruits. Thus you do away with that source of corruption which has led to the introduction of that most villainous of all systems, the system of substitute brokerage. If men, when they are credited, are to be credited to the sub-district within which they belong, then the competition can be only within the districts. As it is now the large cities and towns are enabled to draw off the country population. The large cities and towns and various counties in the States hold out inducements to draw away from the country districts and from the sub-districts the men who, instead of filling their own quotas, go off and sell themselves to brokers in some other parts of the country where they are promised larger bounties. This would not be so bad if it inured even to the benefit of the substitute himself. But every one who knows anything about the practices of this most unmitigated set of scoundrels upon the face of the earth, the substitute brokers, knows that in nine cases out of ten the broker pockets nearly if not quite all the money given for bounty, and the man who is enlisted gets none of it. Now, to cut this all up by the roots it is proposed by the committee that these men shall no longer have inducements to sell themselves to fill up quotas away from home; that they shall no longer be parties, even innocently, to the frauds practiced by those brokers; but that every man shall help out his own neighborhood and his own district by helping to supply the quota of troops called for from that sub-district.

I think the amendment of the gentleman from Michigan, [Mr. UPSON,] so far as it goes, will operate simply to defeat this wholesome effect of this section; such an amendment will merely throw us back upon the old system of allowing each man to elect the district to which he shall be credited. The aliens are already protected by the introduction of the words "within the United States," leaving the question open in regard to those who are not resident within the United States.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles:

A joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States;

An act (S. No. 439) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter;

An act (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes; and

An act (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States.

Whereupon the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. RADFORD asked and obtained leave to be absent from to-night's session.

#### ENROLLMENT BILL.

Mr. DAVIS, of New York. I move to amend the section by inserting after the words "actual residence" the words "in any of the United States not in rebellion." As the section now stands, if a refugee from any State in rebellion should come into any of the loyal States, and there be mustered into service under the provisions of this bill, it would be at his option to be credited to the locality or district from whence he came, and the district where he was enlisted or mustered in would not receive credit for him. Therefore I think it but just that the bill should be amended in this respect, so that if refugees from States who do not contribute to the naval and military forces of the United States shall come into those States which under this bill are required to contribute, these States shall have the benefit of the persons thus coming, and not the States from which they came.

Mr. CHANLER. Mr. Speaker, I will join most cordially in every effort which the chairman of the Committee on Military Affairs may make to do away with this system of bounty jumping and substitute brokerage. There has never been in the history of this or any other country a more corrupt and detestable organization of men than those who center around the recruiting offices under the name of substitute brokers. And this circumstance furnishes a peculiar illustration of the argument which I have heretofore urged and will continue to urge against the whole system of drafting. Commend it as you may, "the trail of the serpent" is over it still. It is corrupting the Army and demoralizing the whole country.

All the evils resulting from this law seem to grow and look more dangerous in presence of the power which it confers upon the Executive. There is not a stronger Government extant than this. It is useless and unnecessary to discuss the course which leads to the grant of powers to the President. The bald fact shines out on every page of our annals during this rebellion. No czar, emperor, king, or potentate has a greater revenue, troops organized in larger armies, or more extensive navies, than those which obey the undisputed will of the President of the United States at this moment. Billions of money fill his coffers; millions of slaves, just set free or soon to be, bow in servile admiration of his august name. Millions of free men depend on his will for life, liberty, and happiness; and his will is law. No constitutional check holds him, as it once did his predecessors, in wholesome subordination. His friends, his creatures, and his liberated slaves, watch his eye for the motive to their every act—subservient, devoted, or mercenary. Politician, soldier, or citizen—all willingly look, or are forced to look to him, as the source of power in this Government—for one will rules here. His courtly press calls him sovereign, and chronicles his every deed as of royal import. We carry Cæsar and his fortunes. The nation is a representative democracy; its capital is a monarchy; perhaps some may prefer to call it a republic. A distinction without a difference—tyranny under a sacred name. Venice was a republic—powerful, victorious, and great; her executive a doge, who ruled by a secret council of ten for life. Our Executive rules by the secret council of his Cabinet for a limited term. England under Cromwell was a republic; but we would search in vain for representative liberty during the usurpation of the Protector.

Have we not reason to pause here, before conferring new powers, or at least to consider the wisdom of revoking, at this time, some of the unlimited powers already conferred by this military system upon the Executive? Have we not good reason to apprehend that, at some not very remote period in this struggle, our cause may be sacrificed on the altar of personal ambition? We have made the prize so great, the power so vast,

the task so easy, to such as dare "wade through slaughter to a throne," that prudence, if not patriotism, should check our headlong course of hasty legislation in adding to or continuing the power of the sword and purse in the grasp of one man, to our own humiliation, and perhaps our destruction. If we can boast of a mimic little Cromwell, "guiltless of his country's blood," who has led our Puritan hosts to doughty deeds, how long are we to await the coming of some silent and selfish General Monk?

There is a similitude in the facts and dangers which link the spirits of liberty and fanaticism now as they were linked in the days of the great Cromwell. May not the Puritans of to-day seize with reckless hands the mace which marks the presence of popular sovereignty in this Hall, and in the words of their archetype bid some soldier of fortune at their heels "Take away that bauble?" They have long since beheaded the Constitution. History repeats herself, and teaches by example; but nations are dull scholars, and fanatics are blind. Have they not already forced you to succumb to their dictation, and robbed you of some of the most honored and best-established privileges of this body?

Does the Executive really need your aid to carry on this Government? I think not. He seems to have thought not when he pledged, after adjournment of the last Congress, the credit of the nation without law, and in defiance of the peculiar right of this House to initiate all money bills; and allow me to remind this House that it was in connection with the military power that the President committed that treasonable breach of law. Practically, the Executive is now independent of all legislative authority in this Government. Actually, the conscripts, the veterans, and colored troops are his own and not the nation's soldiers. He commissions their officers directly himself, or through his partisans. It is true the past career of the different Presidents of this Union give us little to fear from personal malevolence or desperate daring; but there is a political cunning which sometimes covers ambition with a comic mask, and serves as a shield behind which to shoot fatal shafts at the liberties of the people, the rights of the States, the spirit of the Constitution, and the existence of this Union. I will not presume to probe the motives of the Administration; we are asked to believe that they are good. The present Chief Magistrate may become as famous as any of the great founders of the Union he has sworn to protect. He may be as wise and brave as Washington; as bold and firm as Jackson; as upright and politic as Adams; as great and good as Madison; as continental and broadly national as Monroe; but his course has not yet developed fully the qualities which may promise such fame for himself, or such glory for his country, as cluster around the name of the humblest of his predecessors.

Now we may not praise him.

"Et laudas nullo nisi mortuus poetas."

His labors are those of Hercules, but he is without claims as a hero. The Augean stable of the Treasury balks his genius and paralyzes his nerve. His tasks are already so laborious that no human hand can perform them alone. And he is no demigod. He may be the instrument of the Ruler of nations to scourge us to humility, but need we anticipate him by useless degradation and by abandonment of our duty, by adding to his powers at this time? Should we not rather seek now to limit them?

Sir, let us remember that we too are instruments to check the overbearing conduct of the Executive in the administration of this Government; that we are here to protect the people of this Union amid the confusion and conflict of this civil war, in the reasonable hope that in peace posterity may bless our names. And with the growing likelihood of peace diminishes the necessity of conscription. The people look to their Representatives as agents for good and not for evil, as swift messengers to bring glad tidings and avert the sorrows, if possible, which attend on nations as on men. The burdens of the people now are almost too heavy to be borne by even a self-governed nation. They look to us for prompt and effectual relief. I trust the time for the realization of their hope has come.

The hour of half past five having arrived, the House took a recess till seven o'clock p. m.

## EVENING SESSION.

The House reassembled at seven o'clock, p. m.

## INDIAN TRUST BONDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting and recommending the passage of a bill authorizing the surrender of the bonds held in trust by the Secretary of the Interior for Indian tribes belonging to Virginia to West Virginia for like amount of obligations to the latter-named State; which was referred to the Committee on Indian Affairs, and ordered to be printed.

## RECEIPTS AND EXPENDITURES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a statement of the receipts and expenditures of the United States for the fiscal year ending June 30, 1864; which was laid on the table, and ordered to be printed.

## CIVIL JURISDICTION IN TEXAS.

Mr. WILSON. I ask unanimous consent to introduce, for reference to the Committee on the Judiciary, a bill to establish civil jurisdiction over the eleventh judicial district in the State of Texas, composed of the counties of El Paso, Presidio, and Worth.

Mr. WADSWORTH. I object.

## REIMBURSEMENT TO MISSOURI.

Mr. BLOW. I ask unanimous consent to report from the Committee of Ways and Means a bill (S. No. 359) entitled "An act to reimburse the State of Missouri for moneys expended for the United States." I hope that the bill will be considered by the House now.

Mr. HOLMAN. I do not object to the reporting of the bill, but I must insist that it shall go to the Committee of the Whole on the state of the Union.

Mr. BLOW. Then I withdraw the bill.

## TRAVEL ON RAILROADS, ETC.

Mr. BOUTWELL, by unanimous consent, reported back from the Committee on the Judiciary a resolution relating to travel and transportation of soldiers and citizens on the railroads and post roads of the United States, and moved that the committee be discharged from the further consideration of the subject.

The motion was agreed to, and the resolution was laid on the table.

## INDIAN APPROPRIATION BILL.

Mr. MORRILL. I desire to move that the House proceed to the consideration of bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1866. But before making that motion I ask unanimous consent that that bill be considered in the House as in Committee of the Whole on the state of the Union.

There was no objection.

Mr. MORRILL. I now move that the House proceed to the consideration of the bill.

The motion was agreed to.

Mr. J. C. ALLEN. Mr. Speaker, I would like the gentleman from Vermont to let the Indian appropriation bill lie over for the present. The chairman of the Committee on Indian Affairs, who has some amendments, I understand, to propose, is absent. It was expected that he would have returned to the city to-day. I know he feels an interest in the subject.

Mr. MORRILL. We are now in the last week but one of the session, and only one appropriation bill has passed both Houses of Congress. This is a long bill, and if the Committee on Indian Affairs have amendments to propose, it is certainly their duty to be here. I am informed that many of the amendments of that committee are in the hands of other members of that committee, and will be offered at the proper time.

Mr. J. C. ALLEN. I am not prepared to say that the gentleman from Minnesota has amendments in his hands to offer. I know that he feels a deep interest in regard to Indian matters.

Mr. MORRILL. This is to carry out treaty stipulations.

Mr. WASHBURN, of Illinois. Is not this the ordinary Indian appropriation bill?

Mr. MORRILL. It is, with a few additions.

The SPEAKER. The first reading of the bill for information, as it is a long one, will be dispensed with, if there be no objection.

There was no objection.

The Clerk proceeded to read the bill by sections for amendment.

The Clerk read, as follows:

*Chippewas of Saginaw, Swan creek, and Black river.*

For last of ten equal annual installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of August 2, 1855, \$10,000.

Mr. HOLMAN. I do not see any reason for the retention of the words "in coin" in the bill as it is a discrimination against the currency, and I therefore move that they be stricken out.

Mr. PRUYN. I hope not.

Mr. MORRILL. We may strike those words out, but it would be in violation of the treaty with these Indians. The treaty stipulates that the money shall be paid in coin.

Mr. HOLMAN. When was the treaty made?

Mr. MORRILL. In 1855.

Mr. HOLMAN. I hope the gentleman will have the stipulation of the treaty read. I hardly think that at that time we discriminated against the currency of the United States. I insist on my amendment to strike out the words "in coin."

Mr. PRUYN. I hope the words will not be stricken out. I think that we ought to pay all of these Indians in coin under treaty stipulations. Instead of striking out here we ought to make it broader and applicable to all treaties with these Indians.

Mr. MORRILL. It was provided in the treaty that the money should be paid in coin.

Mr. HOLMAN. Every citizen who understood that he would get coin is now getting currency.

Mr. PRUYN. They stand in a different position from citizens of the United States. They have no delegates, no representation here, and they cannot control our legislation. It strikes me that under all of these treaty stipulations these Indians ought to be paid in coin.

Mr. FERNANDO WOOD. I hope that the bill will remain as it is, and that we will deal honestly with these unsophisticated Indians. The treaty stipulates that they should be paid in coin, and we ought to pay them in coin.

The amendment was disagreed to.

Mr. McBRIDE. I move the following to come in at the end of line six hundred and ninety-nine:

For payment of the claims of the Wyandotte tribe of Indians under the treaties of the year 1842, and January 31, in the year 1855, the sum of \$48,788 81.

Mr. Speaker, the amount of the amendment is made up of several distinct items. By the treaty of 1842 the Wyandottes were entitled to an annuity of \$17,500 annually. By the treaty of 1855 this annuity was to cease on the payment of the first installment of the amount provided to be paid under the new treaty of that date. That stipulation was not complied with by the Government; about one half of the amount was paid at the time, and some six months afterward the balance was paid. The Indians claim that as their second annuity did not begin at the time agreed upon, the original one is clearly due. The justice of this item, amounting to some eight thousand dollars, so clearly commends itself to every one that I only state the facts and leave it to the judgment of the House.

Another item is for the payment of \$1,300, due an annual annuity; it was not paid for a want of appropriation, which was deficient, and it has been suffered to pass along from time to time. There is no question as to both the justice and propriety of this appropriation.

In 1850 there was another treaty made by which a fund of \$100,000 was to be invested in United States stocks. In 1855, by a new treaty, the Government agreed to pay them \$100,000 in cash instead of these bonds. When called upon for it, instead of paying the cash, they invested \$100,000 in Tennessee bonds. The Wyandottes finding that they were unable to get anything else, agreed, under protest, to take the bonds for what they were worth, not at their face. The item I refer to now is for the purpose of making up the difference between the face of those bonds and what they brought in the market.

The fourth item is perhaps a little more questionable, and occurred in this way: by the treaty of 1855 certain lands were reserved and set aside for the Wyandotte Indians, and they were to be exempt from taxation for five years after their territory should be embraced within the bounds of a State government. It seems, however, that the territorial authorities went forward and commenced taxing the lands, and these Indians were compelled to pay it up to the time that the State government of Kansas went into effect. There is no question but that it was a violation of the treaty, and the Department very appropriately have asked for a repayment of this amount to the Wyandottes.

Mr. KASSON. Will the gentleman state why this appropriation has not been brought to the attention of Congress prior to this time, as that claim accrued years ago?

Mr. McBRIDE. I cannot say as to that. The tribe has been urging this claim upon the Government from that time until now.

[Here the hammer fell.]

Mr. KASSON. Under the sixth and seventh articles of the treaty of 1855 it was provided that instead of the investment made as before provided certain sums therein named and the accumulations of prior investments were to be distributed *per capita*. The facts, which have been partially explained by the gentleman from Oregon, did not seem to me satisfactorily to make plain the title of the Indians to the sums now demanded, but which accrued years ago, if at all, under the treaty of 1855. While I am not able, in the absence of papers, to explain the discrepancy between the United States and the Indians differently from the gentleman from Oregon, I suggest to him whether it is not far better for his committee to report a bill upon this subject than to put it upon a general appropriation bill which is designed simply to make regular and unquestionable appropriations for Indian tribes. It seems to me to be rather in the nature of a private claim, if I may so call it, which ought not to be attached to a general appropriation bill.

Mr. McBRIDE. As debate is closed on this amendment, I will move another. I move to strike out the last line of the amendment. The gentleman from Iowa doubtless understands why I could not adopt his suggestion. The only result would be, at this stage of the session, to lose the bill. The committee have carefully investigated this matter, and they are satisfied the claim is just, and is entitled to the consideration of the House. The Indians are entitled to this money under the treaty.

Mr. THAYER. I desire to ask the gentleman a question. This is a very large sum to attach to an appropriation bill, and I would like some further explanation of an item which constitutes one half the amount of his amendment—that is the item of \$30,000. I would like to know by what authority the investment was made.

Mr. McBRIDE. By authority of the Secretary of the Interior, Mr. Thompson; but it was protested against upon the part of the Indians. They were entitled to \$100,000 cash, but the Secretary, instead of paying it in that way, invested it in Tennessee bonds and compelled the Indians to take them. Seeing they could get nothing else, they took them under protest, and upon their sale in the market they failed to bring their face by this amount.

Mr. THAYER. This certainly is an appropriation of such a character and of so large an amount, as to be worthy of more deliberate consideration than can be given upon such an occasion as this; and on that account I shall be obliged to vote against it.

Mr. MORRILL. I think this claim is an old acquaintance. It has been before Congress heretofore.

Mr. McBRIDE. I think the gentleman is mistaken.

Mr. MORRILL. I am sure it has been before Congress heretofore. The amount of the claim is nearly fifty thousand dollars, and a part of it originated more than twenty years ago. We ought to have a full examination of it by the proper Department, and have it sent here in some authorized estimate, so that it can be investigated by the whole House. I trust that at this late period of the session we shall not feel disposed to increase our appropriations by making amend-

ments involving so large an amount where we have had no opportunity to examine it.

Mr. McBRIDE. I desire simply to say that the first item occurred in 1855; and the Indians have been pressing it in their way from that time till now.

Mr. MORRILL. Part of it originated in a treaty before 1855.

Mr. McBRIDE. I withdraw my amendment to the amendment.

The amendment was not agreed to.

The Clerk proceeded with the reading of the bill.

The Clerk having read the paragraph making appropriations for the Arapahoes and Cheyenne Indians of the Upper Arkansas river,

Mr. HOLMAN. I move to amend by striking out the paragraph. I think that gentlemen connected with the Committee of Ways and Means are not aware of the fact that the great body of these Cheyenne Indians have been slaughtered by Federal troops at the Cheyenne village, and that a bill now lies on the Speaker's table, and has been lying there for the last three or four weeks, proposing to remedy, as far as may be, the barbarities perpetrated on that occasion. It is very singular that we are so prompt in appropriating money to pay these Indian annuities, while we permit the most barbarous and infamous acts of barbarity to be perpetrated upon the Indians without any effort to hold the guilty parties to punishment. These Cheyenne Indians were murdered in cold blood, and for the object of plunder, deliberately murdered while they were under the protection of the Government of the United States, and while their interpreter was sleeping quietly in his tent.

I do think, sir, that in connection with these circumstances, the conduct of this Government is most remarkable. We allow barbarities to pass unnoticed, while we are remarkably prompt in carrying out what seem to be the mere words of our treaty stipulations. I might well insist that the paragraph for the Cheyenne Indians should be struck out, a large majority of them having been murdered in cold blood by the United States troops.

Mr. MORRILL. Does the gentleman from Indiana propose, in order to remedy these barbarities, that we shall not live up to our treaty, and not pay what we have stipulated to pay? Is that the way the gentleman would atone for these barbarities?

Mr. HOLMAN. So far as the little remnant of the tribe is concerned, it may be well enough to continue the appropriation. But yet the gentleman from Vermont, and other leading gentlemen on that side of the House, may well blush at the reflection that while we are carrying out these treaty stipulations, we are allowing a Senate bill to lie on the Speaker's table for a month, which is intended to inflict some reasonable degree of punishment on men who have been guilty of wiping out nearly this whole tribe of Indians, under the guns of a United States fort. I withdraw my amendment.

Mr. MORRILL. The gentlemen from Indiana has had the opportunity of making his speech. He surely could not have been in earnest in offering his amendment.

The SPEAKER. The amendment is withdrawn.

Mr. BROOKS. In regard to the appropriation for the Seminole and Creek Indians I should like to have some assurance that the money is properly disbursed. These Creek Indians are partly in the service of the Government, and receive pay and rations from the Government.

Mr. MORRILL. The Committee of Ways and Means has the information on the subject that is contained in the report of the Commissioner of Indian Affairs. My understanding of all these appropriations for Seminole and Creek Indians is that the larger portion of them has not been expended. That part that could be made to reach the friendly Indians has been expended, but that which was for the portion of them hostile to the Government remains unexpended. After two years the appropriation lapses and goes back to the Treasury.

Mr. BROOKS. I am content to have a record made of the fact. The gentleman from Vermont supposes that much of this money is unexpended. I think it ought not to be expended.

Mr. TOWNSEND. I move to amend by striking out the following paragraph:

For general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$50,000.

I find on page 51 an appropriation of \$746,000 for the Navajoe Indians of New Mexico, which, with this \$50,000, makes about \$800,000 for the Indians of New Mexico. This sum is appropriated, not to supply their necessities, but merely to assist them to locate in permanent abodes. It strikes me, Mr. Speaker, that, in view of the great numbers of the inevitable negroes that are about us and of the poor white refugees that must be taken care of by the Government, we might refrain from making appropriations to induce the Indians to change their mode of life which they have practiced for centuries.

Mr. HOLMAN. I make the point of order that this appropriation is not to carry out any treaty. I call upon the gentleman from Vermont to state whether there is any law for it.

The SPEAKER. The appropriation is identical with that we made last year.

Mr. MORRILL. I desire merely to say, in response to the gentleman from Indiana, [Mr. HOLMAN,] that the same appropriation for the same purpose was made last year.

Mr. HOLMAN. Made last year for the first time.

Mr. MORRILL. Merely as an appropriation. It was formally recommended by the Department, and I think our experience in the western part of the country, on the plains, and in New Mexico and Utah, and various other places, has been that it is far better to expend a sum of money, small in amount compared to that which we would be compelled to expend should we become involved in any Indian wars, such as have been frequent for the last three or four years. It is a mere matter of policy on the part of the Government.

Mr. HOLMAN. The most serious difficulties we have had with Indian tribes have been with those tribes with whom we have treaty stipulations, and to whom we have paid the money under those treaties, and the most depredations have been committed by those tribes who had no possible cause of complaint. There have been fewer depredations committed by the Indians in New Mexico than by the other tribes. And up to the last session of Congress it never was deemed necessary to make appropriations for their benefit. We have had terribly devastating and bloody wars with the tribes with whom we have had treaty stipulations. So far as that is concerned, we gain nothing by carrying out these treaty stipulations and the payment of this money.

The SPEAKER. The Chair thinks the paragraph is in order, as it is continuing an appropriation which Congress has commenced. The Chair overrules the point of order of the gentleman from Indiana, [Mr. HOLMAN.]

Mr. McBRIDE. I think the gentleman from Indiana [Mr. HOLMAN] is entirely mistaken in regard to this appropriation. He tells the House that there has been no war with Indians in New Mexico. He certainly understands very little of the history of that portion of our country when he makes such a statement as that. I have been informed by the Delegate from New Mexico, [Mr. PEREA,] that ever since the settlement of that Territory, Arapahoe Indians have been the constant foes of the settlers there. Something less than a year ago the military commandant of that department succeeded in capturing a large mass of the Indians and bringing them into the reserve where they have been held by the military at the expense of the Government. It seems to me that there can be no question as to the propriety of this appropriation. The Government must expend the amount either through the military Department of the Government or through the legitimate department of Indian affairs.

The question was then taken upon the motion of Mr. TOWNSEND to strike out the paragraph, and it was not agreed to.

The Clerk proceeded with the reading of the bill.

Mr. HOLMAN raised the point of order in relation to the appropriation for the Indians lately residing in Texas, that it was not an appropriation authorized by law.

The SPEAKER. The Chair overrules the point of order.

Mr. KERNAN. I move to strike out the following paragraph:

*Indian service in the district of country leased from the Choctaws for the Indians lately residing in Texas.*

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron, and steel, and maintenance of schools for Indians lately residing in Texas, to be expended under the direction of the Secretary of the Interior, \$22,825.

I would not move or vote to strike out anything which I believed would really benefit these Indians. I have felt that they have been and probably are now wronged by us, and I do not believe that a large sum of money appropriated for miscellaneous purposes, for schools, for medicines, &c., for the Indians lately residing in Texas, to be expended under the direction of the Secretary of the Interior, will do the Indians any good. I believe that the money appropriated for this purpose is merely plundered by interested parties. Therefore I think we should not make these appropriations. There is no treaty, no law, no obligation on our part which requires us to appropriate this money. I shall be glad to be corrected; but from all I can learn, these appropriations do the Indians no good. A set of men hang about these Indians for the purpose of getting this money, under the pretense of keeping schools for the Indians lately in Texas, and now the Lord knows where. I think we should strike out this appropriation, unless the Committee on Indian Affairs or some member acquainted with the subject will show that it is likely to be of some service to these wronged people.

Mr. KASSON. The pending paragraph reads, "Indian service in the district of country leased from the Choctaws for the Indians lately residing in Texas." It thus appears that a contract has been made by the Government with the Choctaws for the purpose of providing for these Texas Indians upon their reservation. It is well known that the Choctaws are very intelligent and very well educated for Indians. This proposition is simply to extend to those who are now located upon a part of this Choctaw reservation the same opportunity for improvement and education which is now extended to the Indians living there. I hope this paragraph will not be stricken out, unless the burden of proof is assumed by those who oppose it, to show that it is not for the benefit of the Indians. The presumption is certainly in favor of carrying out what has become the established policy of the Government. Wherever this bill proceeds upon the recommendations of the Department for carrying out that policy it is, I think, not only within the rule, as the Speaker has decided, but it carries with it the presumption of propriety in carrying out the system which has been established for the protection and education of these Indian tribes who are thus taken from roving warfare and introduced to the peaceful pursuits of civilization.

Mr. KERNAN. I move to amend by reducing the amount of the appropriation to \$10,000. Now, I would ask whether existing treaties do not provide for the expenditure of whatever we ought to expend. Will these Indians get the benefit of any gratuity which we may appropriate?

Now, sir, with what we now know in reference to the expenditures of these moneys among the Indians, I think that the burden of proof is not on those who propose to strike out a miscellaneous appropriation for schools among roving Indians. We should not, it appears to me, vote for any appropriation unless some committee of the House or some member can show either that we are bound by treaty to make the appropriation or that it will really do good to those for whom the appropriation is made. We have not the money to give away. I admit that we can provide for no more deserving class than these Indians; and if I thought that this appropriation would benefit the Indians, such is my feeling in reference to their wrongs, from all that I have ever read or heard, that I would vote for the appropriation. But I do not believe that it will benefit them. The rule, I think, should be, not that we should vote everything asked unless we can show it to be wrong, but that we should vote for no proposition unless some committee or some member can give us facts to justify our vote.

Mr. WILSON. The first portion of this paragraph provides for "the expenses of colonizing,



supporting, and furnishing agricultural implements," &c. This, I am informed, is the second time that this appropriation has been embraced in the Indian appropriation bill. I presume that the Indians by this time are colonized.

Mr. KASSON. My colleague will allow me to state one additional fact. I understand these Indians to be those who were in Texas at the opening of the war, and who were obliged either to escape from the rebels or to join them. They therefore fall within the class of refugee Indians for whom we have been obliged to provide homes, and who have been provided for in the manner named. The colonizing goes on as the refugee Indians come from any part of Texas.

Mr. THAYER. I desire to ask the gentleman whether the withholding of this appropriation will induce these Indians to go back into Texas. If it will, I will vote against the appropriation.

Mr. WILSON. I think that the great body of these Indians are colonized by this time, and as we last year appropriated the same amount now proposed, for colonizing them, furnishing them with agricultural implements, &c., I think that we may properly reduce the appropriation somewhat this year. It certainly will not cost as much this year to buy the agricultural implements as it cost last year to colonize the Indians and buy the agricultural implements. Therefore, if the gentleman from New York will withdraw his amendment I will move to reduce the appropriation to \$15,000.

Mr. MORRILL. As we are not in possession of accurate information as to the precise manner in which this money is expended, I trust that we may have some faith in the Department that it is expending no more than is necessary. I suppose that some portion of this amount is expended for the purpose of paying the Choctaws for the lease of these lands; how much I do not know.

Mr. WILSON. As the gentleman desires that we shall base our votes upon faith in the Indian Department, I should like to know whether he can inform us of any unexpended balances on any of the appropriations that we have made for the purposes of that Department. I think that all the money we appropriate departs from the Treasury in some way or other, and if we appropriate \$50,000 instead of \$22,000 somebody will get it, and that if we appropriate \$10,000 instead of \$22,000 the Indians will derive just as much benefit.

Mr. WILSON's amendment was agreed to.

Mr. KERNAN's motion to strike out the section was disagreed to.

The Clerk read, as follows:

*For the Wichitas and other affiliated bands.*

For the expense of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron, steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, \$37,800.

Mr. WILSON. I move to reduce the appropriation to \$20,000. I do that for the same reason I have already stated. It is an appropriation of the nature of the one we reduced. It is for the colonization and support of Indians. I am opposed to annual colonizations. I would rather have it fixed for two or three years. I think that we would then save money. I hope the amendment will be adopted.

Mr. BROOKS. There are about two hundred and fifty or three hundred thousand dollars appropriated by this bill, to be expended under the direction of the Secretary of the Interior for this sort of purpose, without the authority of law. I have read the report of the Secretary of the Interior and I do not think that many here have read it. The main ideas of that report have been introduced in this bill. It is the beginning of a new policy, and I think it ought to be considered in a bill. The policy of the Secretary of the Interior is to colonize and take care of these Indians. He thinks that it is a wise policy and will obviate all existing difficulties, and I am willing to consider it. I do not think that this is the proper time, or that the proper place is in this bill. As we progress with the bill we will find other items of a like character.

The amendment was disagreed to.

The Clerk read, as follows:

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, \$7,500.

Mr. COLE, of California. I move to strike that out and insert in lieu thereof the following:

For expenses of Indian service in California already incurred, \$7,500.

Mr. Speaker, I receive by every mail from California letters from persons who have furnished supplies to these Indians, some to the Indian agents under fair contracts, and who have not been paid. Women who have been teaching Indian children have not been paid for a year past. It seems impossible for these parties to secure the compensation they are entitled to. It seems that there has been no possibility of obtaining it up to this time. I leave it discretionary with the Secretary of the Interior to make the disbursement of this appropriation for the benefit of those who have rendered this service.

Mr. MORRILL. If that appropriation is proper at all it should be made in the deficiency bill. I would suggest that the gentleman withhold the amendment until we have that bill before us. This bill appropriates for 1866, while the amendment is for 1865.

Mr. COLE, of California. I withdraw the amendment.

Mr. KERNAN. I would like to know what are the general incidental expenses of the Indian service in California. It seems to me that it is a miscellaneous mode of appropriating money unless we know something about it.

The Clerk read, as follows:

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California, \$55,000.

Mr. WILSON. I move to strike that out. It is the inauguration of a new policy of dealing with these Indians. We propose to purchase beef, milk, and clothing for Indians in California.

Mr. HUBBARD, of Iowa. A similar appropriation was made at the last session of Congress.

Mr. WILSON. The experience we have had with beef contracts in the Army I think ought to cause us to hesitate before we continue appropriations of this character. And buying milk for Indians! I have heard of it as food for babes before but never as food for Indians. I hope the item will be stricken out, and that we shall stop the policy altogether.

Mr. SHANNON. Then we ought to repeal the law for the reservation.

Mr. WILSON. There is nothing in that law about beef and milk.

Mr. WASHBURN, of Illinois. I desire to know of the gentleman from Vermont whether this item is to carry out a treaty stipulation?

Mr. MORRILL. I will say to the gentleman that this item is of the same character as those which have already been reduced on the motion of the gentleman from Iowa, [Mr. WILSON.]

The first appropriation made for a similar object was last year. It was then deemed the soundest policy to be adopted by the Government in relation to the Indians in California to make these appropriations in a specific manner, and thereby save the Treasury from a vast expenditure such as we have had to bear for the last six or eight years in the Pacific States.

It is for the House to decide whether they will drop this policy and run the risk of having the country involved in a much greater expenditure for the same object upon the part of the Indians.

Mr. WASHBURN, of Illinois. I prefer to hold on to this \$55,000 and take the chances. I hope that will be stricken out.

Mr. SHANNON. I hope it will not be stricken out. To enable me to make what remarks I desire to submit, I move to strike out the last clause of the paragraph.

Mr. HUBBARD, of Iowa. Will the gentleman tell us what necessity there is for this appropriation? If he can satisfy us of the necessity for this appropriation, I shall vote for it.

Mr. SHANNON. That is what I rose for the purpose of doing. The Government has established reservations, and collected the Indians upon them, and they must now feed them or turn them out. I have no doubt that if the \$55,000 is appropriated, and honestly and faithfully laid out and invested in beef, the Indians will appreciate that beef very much, particularly if they are hungry. And I have no doubt that they would like to have milk in their coffee, if necessary. I have no doubt that in the mountainous portions

of the country, if they are very cold, and have no clothing, and they are furnished with blankets, they will sleep much more comfortably than they would sleep without them. Is that satisfactory to my friend from Iowa, [Mr. WILSON?] [Laughter.] These are self-evident propositions which I do not propose to elaborate here. And you can do just as you please. [Laughter.] You can feed these Indians in accordance with a scheme already established, and according to a contract made with the Indians who have been taken from their homes and placed under the charge of the Government. You can either carry out that contract, and supply them with those necessary materials until they are able to sustain themselves, or you can turn them out, and refuse to give them anything, and fight them. And then you will have a bill here for \$555,000 for fighting those Indians, and my friends in the rear, from Illinois [Mr. WASHBURN] and Iowa [Mr. WILSON] will no doubt vote to pay that sum instead of \$55,000.

[Here the hammer fell.]

Mr. WEBSTER. If I understand the gentleman, this is a proposition to improve the diet of the Indians in California, for the purpose of improving their manners and morals. My idea is that his argument is an improper one.

Mr. SHANNON. The gentleman will understand me that I intended to convey the idea that you could feed them cheaper than you can fight them.

Mr. WEBSTER. I understand that the diet of these Indians heretofore has been crab-worms and roots. Now, the gentleman seems to think that if you give them milk and beef they will need blankets to cover their nakedness. The gentleman makes a mistake upon that question. It is a fact known to everybody that the more beef you eat the more you will fight, and he therefore desires to make these Indians a fighting race. The gentleman from New York, too, thinks that this milk diet has some fighting quality in it.

Mr. KERNAN. I think I have discovered that this provision for milk is to purchase that which a man said would not go far where there was no milch cow in the family.

Mr. SHANNON. The gentleman laid down the proposition that the more beef a man eats the more he feels like fighting. Upon the Eastern Shore of Maryland I have no doubt of that, because they get very little good beef there. It is just the reverse in our State.

Mr. WEBSTER. Not coming from that part of Maryland called the Eastern Shore, the gentleman who represents that district [Mr. CRESWELL] will take this allusion very unkind of him; but I will say this, that upon the Eastern Shore of Maryland it is not beef but oysters, terrapins, and canvas-back ducks which make our people equal to the beef-eaters of California.

Mr. MORRILL. I move that all debate be closed upon this paragraph.

The motion was agreed to.

The question was taken upon the motion to strike out the paragraph, and it was agreed to.

The Clerk read the following:

For the compensation of five extra clerks, employed in the Indian Office under the act of 5th August, 1854, and 3d March, 1855, and under appropriations made from year to year, \$7,000.

Mr. WASHBURN, of Illinois. I would inquire what these extra clerks are employed upon.

Mr. MORRILL. I understand that these clerks were authorized under various appropriation bills, and that some of them have been continued, but not for the purpose for which they were originally provided. In relation to this item, the paragraph itself shows what the appropriation is for.

Mr. WASHBURN, of Illinois. What I want to know is what services they perform.

Mr. NELSON. I think I can answer the gentleman.

Mr. WASHBURN, of Illinois. I desire to get some information from the gentleman from Vermont in regard to the service of these clerks. I do not know but that it may be proper to make this appropriation, but I propose an amendment providing that these extra clerks shall not be employed after the 1st of January next, unless specially provided for by law.

Mr. MORRILL. I will say that the Secretary of the Interior is very anxious to have Congress legislate upon this subject.

Mr. WASHBURN, of Illinois. I move to add to the paragraph the following:

*Provided*, That the said extra clerks shall not be employed after the 1st day of January, 1866, unless specially provided for by law.

Mr. NELSON. I desire to make a statement to the gentleman from Illinois. I have taken occasion to read a great many of the treaties made with the Indian tribes, but I confess that I have read none of them in which the "poor Indian" was not cheated. The gentleman asks about the duties of these clerks. I find upon the files of the Indian Office assignment after assignment, and I have no doubt that it is necessary to have four, five, or perhaps ten clerks to fill the record of assignments of claims, even while pending in Congress.

Now, I think that if the gentleman from Illinois will look into this subject he will agree with me. I have no doubt that every one of these clerks is necessary. The duties of the office seem to be very onerous and burdensome.

Mr. WASHBURN, of Illinois. I will modify my amendment by substituting the 30th of June, 1866, for the 1st of January, 1866.

The amendment proposed by Mr. WASHBURN, of Illinois, was agreed to.

Mr. WASHBURN, of Illinois. I move to amend the following clause:

For compensation of one clerk in the Indian Office, to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of March 3, 1855, granting bounty lands to Indians, §1,400.

By adding thereto the following:

*Provided*, That the said clerk shall not be employed after the 30th day of June, 1866, unless specially provided for by law.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I move to insert after line eleven hundred and seventy-one the words:

*Provided*, That said extra clerks shall not be employed after the 30th day of June, 1866, unless specially provided for by law.

The amendment was agreed to.

The Clerk read the following clause:

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office traveling expenses of the superintendent and sub-agents, \$35,000.

Mr. WASHBURN, of Illinois. I desire to inquire what that means—"office traveling expenses."

Mr. MORRILL. I think that must be improperly printed; it is a very trifling matter anyhow.

Mr. STEVENS. The word "and" between the words "office" and "traveling expenses," seems to have been omitted.

Mr. MORRILL. I move to insert the word "and" before the word "office."

The amendment was agreed to.

Mr. WILSON. I move to reduce this appropriation to \$30,000. I do it for the purpose of inquiring from the gentleman from Vermont whether there has been any treaty with the Indians in Oregon and Washington.

Mr. MORRILL. I would say in response to the gentleman that I am not aware of the existence of any such treaty; but this appropriation is in pursuance of the policy adopted last year.

Mr. WILSON. I understand all that. What I want to know is whether we have any treaty stipulations with these Indians, and if so whether there is any necessity for this additional appropriation.

Mr. MORRILL. The gentleman from Oregon [Mr. McBride] is on the Indian Committee. Perhaps he can explain.

Mr. McBride. I will strive to do so. The object of this appropriation is to take care of Indians with whom treaties were made in 1855. Those treaties were never ratified. The Indians were removed from their own lands to reservations, and have been there sustained by appropriations similar to this from that time until now. No treaty stipulation actually exists with them, although they are being taken care of by the Government.

Mr. WILSON. Do they receive nothing from the Government under treaty?

Mr. McBride. No, sir.

Mr. WILSON. I wish the gentleman from

Oregon would state where these reservations are located, how far they are apart, and what amount of traveling this superintendent will have to do in order to discharge his duty.

Mr. McBride. The superintendent lives at the capital of the State. The reservation is fifty or sixty miles distant.

Mr. WILSON. That is a very convenient way, sir.

Mr. HUBBARD, of Iowa. I would inquire of the gentleman from Oregon how many Indians there are in that State.

Mr. McBride. I cannot inform the gentleman.

Mr. HUBBARD, of Iowa. I understand there are but seven or eight thousand Indians in the State of Oregon, and between thirty and forty thousand in the Territory of Washington. I believe, from the records which I have examined, that treaties have been made with every tribe of Indians in the State of Oregon, that there are agents there taking care of these Indians, and that appropriations have been made for the support and subsistence of these Indians so far as Oregon is concerned.

Mr. WILSON. Inasmuch as my colleague [Mr. Hubbard] cannot state the circumstances in regard to the Indians in Washington Territory, I move to amend by reducing the appropriation from \$35,000 to \$25,000.

Mr. McBride. I have only to repeat what I said before, that these Indians were taken from their lands and located by the Government under a treaty made with them. The Government, however, failed to perform its part of the contract, and now, instead of receiving the annuities which they expected to receive, and which the Government stipulated to pay them, they are simply being subsisted at the expense of the Government on these reservations.

Mr. WILSON. Mr. Speaker, that cannot possibly be true, or the Committee of Ways and Means has mistaken the facts in preparing this bill, for there is an appropriation for certain expenses, including insurance and transportation of annuity goods and presents. Annuity goods, I understand, are provided in pursuance of treaties between the Government and the Indians.

Mr. McBride. I think I can explain that also. Some of the treaties with the Indians were ratified, and these appropriations for them seem to have been expended by the Department.

Mr. WILSON. When were the treaties ratified?

Mr. McBride. I do not know when they were ratified.

Mr. WILSON. This is only the continuance of a mode of appropriation which has not been changed although treaties have been made with these Indians.

Mr. McBride. I beg the gentleman's pardon, for I have been urging on the Government ever since I have been here to make new treaties with these Indians or to ratify the old ones.

Mr. WILSON. Well, this appropriation is wrong.

Mr. STEVENS. Mr. Speaker, the way I understand this matter is this: the Government undertook to make treaties with these Indians, and, in pursuance of them, took possession of their lands. The Government afterward failed to ratify most of the treaties, and kept the lands; and now it is proposed to keep the money.

Mr. WILSON. I ask the gentleman from Pennsylvania to explain that provision of the appropriation which provides for the appropriation of annuity goods. How are we to deliver annuity goods unless in pursuance of treaty stipulations?

Mr. STEVENS. The gentleman must have understood me to say that most of the treaties were not ratified. Some of them were, but most of them were not.

Mr. DAVIS, of New York. I move to amend by striking out all but the last word. I rise for the purpose of saying that I hope the amendment of the gentleman from Iowa [Mr. Wilson] will not prevail.

The SPEAKER *pro tempore*, (Mr. Dawes.) The Chair is informed that there is but one word in the amendment of the gentleman from Iowa, [Mr. Wilson.]

Mr. DAVIS, of New York. Then I move to strike out a part of that word. [Laughter.]

The SPEAKER *pro tempore*. The gentleman from New York [Mr. Davis] will proceed.

Mr. DAVIS, of New York. I believe the Indians, not only those on the western coast, but also those all through the country, have been already defrauded sufficiently by the white people of the country, and even by the Government itself, and I hope that at this day Congress will not set the example of imposing further upon the Indian tribes which have suffered so much at our hands. I do not know of any Indians in any part of the country who have suffered more than the poor defenseless tribes of Oregon and Washington. They have been warred upon mercilessly by the whites. White speculators, traders, men who have not the interests of the Indians at heart, have been there to deprive them of their substance and drive them from their lands; and they are now on reservations away from the lands where they were originally located; upon lands appropriated to them by the Government, under promise of subsidies and annuities.

Now, if there be anything expressed or implied on the part of the Government in relation to supplies or annuities, we are bound in good faith and honesty to see that the promises of the Government are fulfilled. I say there is a promise; and if the Government of this country has taken these Indians from the lands where they once lived happily and placed them on lands in reservation, then I say that there is a moral promise on the part of the Government to pay them something to maintain them upon the lands to which they have been removed. It is unfair and unjust in us to take away what the policy and beneficence of this Government has hitherto given them. It is shown here that year after year we have made a similar appropriation to this, which now, in this spirit of false economy, we propose to take away.

Mr. MORRILL. I move to terminate all debate on this paragraph.

The motion was not seconded.

Mr. WASHBURN, of Illinois. I think the gentleman from New York [Mr. Davis] is laboring under a misapprehension in regard to this paragraph. It has nothing to do with appropriations to Indians. It is for the general expense of the Indian service in Oregon, including insurance and transportation of annuity goods and presents, where no special provision is made therefor by treaties, and office and traveling expenses of the superintendent and sub-agents, \$35,000. Now what I complain of in this whole matter is, that this Indian bill, instead of making appropriations for carrying out treaty stipulations, is introducing new matter in making these various appropriations. Here is \$35,000 not for the benefit of the Indians; the Indians get no sort of advantage from these appropriations.

Mr. MORRILL. If we have annuities and goods to carry to the Indians, how can they be benefited by them if we retain them here, and do not send them there?

Mr. WASHBURN, of Illinois. That is provided for by treaty. But this goes on to provide for all matters not provided for by treaty. You propose to appropriate the sum of \$35,000. I undertake to say the great proportion of this sum will go into the hands of this superintendent and these sub-agents.

Mr. DAVIS, of New York, withdrew his amendment.

Mr. SLOAN. Mr. Speaker, I renew the amendment.

I have no doubt of the truth of all that has been said by the gentleman from New York [Mr. Davis] as to the Indians of this country having been wronged and defrauded in almost every conceivable way. But I also believe that the proper method of making reparation to the Indians does not consist in granting these general appropriations to be expended in the discretion of the Indian Department; for, Mr. Speaker, either that department is the worst-abused bureau in the whole Government, or it is the most corrupt. Every gentleman with whom I have conversed, who has had any knowledge of the way in which the Indians are treated, of the way in which appropriations for their benefit are expended, of the manner in which the annuities are paid to them, even under treaty stipulations where the amount and the kind of goods are specified, has expressed the belief that the Indians are almost invariably wronged and in some way defrauded of a large

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part of these goods; that a considerable portion never reaches them; and of the amount that they do receive, the agents of the Government, through their friends and tools, succeed in defrauding them of a large portion.

I believe, therefore, that we should not make these general appropriations, to be expended by the Indian department in its discretion, how and where it pleases, but should insert some provision which will secure the payment to the Indians of the money and the delivery of the property which we design for them, and some provision under which the department will be required to furnish accounts and proofs to the proper committees of Congress that the Indians are fairly and honestly dealt with. I believe that there ought to be a radical change in our policy in relation to the Indian tribes, a thorough reorganization of the department which now has charge of this subject, and that the House ought to put its condemnation upon this system of voting general appropriations to be expended under the discretion of any officer of the Government. These Indians are in distant parts of the country. Even if the department itself intends to administer the law with entire honesty, and to treat them with justice, it is obliged to depend upon agents who are beyond the confines of civilization, who are beyond the reach of our laws, whom it is almost impossible to hold to a strict accountability, because evidence of their improper transactions cannot be obtained. I believe that these general appropriations ought to be stricken from this bill, that a specific appropriation for each particular tribe or party of Indians should be made, and that the department should be required to prove in each case, by two respectable witnesses who are not Indian agents or connected with the service, that the money and property appropriated is actually received by the Indians or expended for their benefit.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. COBB, one of their Clerks, informing the House that the Senate had passed bills and a joint resolution of the following titles, in which they requested the concurrence of the House:

An act (S. No. 452) to incorporate the Capitol Hotel Company, in Washington city, District of Columbia.

An act (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan to aid in the construction of certain railroads of said State,' " and for other purposes; and

A joint resolution (S. No. 473) to extend the time for constructing the Burlington and Missouri River railroad in Iowa, and filing a map of relocation.

Also, that the Senate had passed without amendment a bill and a joint resolution of the following titles:

An act (H. R. No. 543) to increase the efficiency of the medical corps of the Army; and

A joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased.

Also, that the Senate had passed a bill and a joint resolution of the following titles, with amendments, in which they requested the concurrence of the House:

An act (H. R. No. 600) for the reorganization of the subsistence department; and

A joint resolution (H. R. No. 169) to provide for the publication of a full Army Register.

## INDIAN APPROPRIATION BILL—AGAIN.

Mr. STEVENS. Mr. Speaker, all that has been stated by the gentleman from Wisconsin [Mr. SLOAN] may be true. I have no knowledge of the fact that corruption exists in the Indian department; but if I had knowledge, as the gentleman seems to have, of the utter rottenness and corruption of that department—

Mr. SLOAN. I did not say that I had knowledge of such corruption; I said that the general belief among all those with whom I had conversed was that such corruption existed.

Mr. STEVENS. The gentleman certainly asserted that it was the general belief; and I understood him to indorse that belief. Now, sir, if I believed, as he believes, that that department is rotten to the core, that it is robbing the Indians as well as the Government, I should certainly have deemed it my duty long ago to ask for a committee of investigation to examine into the facts. That would have appeared to me as a solemn duty which I owed to this Government, a duty which I could not neglect without violence to my own conscience. But to stick here until the last week of the session and say not one word on the subject, neither to detect the frauds nor to give the department an opportunity to vindicate itself, it seems to me to be great injustice to that department. To condemn it unheard and to give it no opportunity of being heard, is what certainly does not become this House.

How, indeed, if fraud be suspected, are we to make a correction by withholding this appropriation? These goods must be delivered to these Indians or they will starve or go into insurrection.

We know the immense cost of transportation in that western country, from this side of the river and up the Missouri, for we examined that subject at the last session of Congress. We found that the freight cost three or four times as much as the original price of the goods if we deliver them on the other side. And shall these appropriations, with nothing but clamor against them, be cut off? It would be unjust. It may be that these men are corrupt. It may be that these Indians have been cheated. I admit that they have been cheated from the time the first Pilgrim landed upon the continent until this day; that treaties have been shams; and that wars upon the part of white men have been mere murders; but all that is no reason why we should now withhold these appropriations to carry out the policy established by this Government. The slaughter of the men, women, and children of that country would be the result.

I hope, sir, that we will not be led away. I hope that my friend will get up an investigating committee and have this matter thoroughly examined.

Mr. MORRILL. We are anxious to get a vote on this bill to-night, and if possible to act on the Navy appropriation bill; and I again move that debate be closed on the pending paragraph.

The motion was agreed to.

Mr. SLOAN, by unanimous consent, withdrew his amendment.

The question then recurred on Mr. WILSON's amendment, and it was disagreed to.

Mr. SHANNON. I move to reconsider the vote by which the clause in reference to California was stricken out.

Mr. MORRILL. We are now acting as in Committee of the Whole, and the motion to reconsider is not in order.

The SPEAKER. Does the gentleman insist on the motion to reconsider?

Mr. SHANNON. I do not.

The Clerk read, as follows:

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employes, \$50,000.

Mr. WILSON. I move to reduce that to \$25,000. Mr. Speaker, I will state that this is the third time that this appropriation has appeared in an appropriation bill. It is the same amount and for the same purpose, defraying the expenses of the removal and subsistence of Indians. It is another set of Indians upon wheels. [Laughter.] The Government keeps removing them. We do not permit them to rest at all. Fifty thousand dollars a year is expended in their constant removal. Now, it does seem to me that before we appropriate another \$50,000 the committee should be able to tell us how much it cost the first year to remove these Indians, and then we can deduct that and leave the rest for subsistence. I think

it would cost about one half, and I have made the deduction accordingly.

Mr. McBRIDE. Mr. Speaker, the gentleman seems to be acting on a single idea, and that is to reduce the appropriation. His action is not based upon any knowledge of what he is doing.

The gentleman says that this is for the removal of Indians, and has appeared in the appropriation bills before. That is true; but the previous appropriations do not necessarily apply to the same Indians. Every year treaties are being made with Indians and they are being removed to reservations. In some cases they have no annuities, and we are compelled to subsidize them. The policy of the department has been, as fast as they can get the control of the Indians, to place them upon reservations. These Indians are merely subsidized at the expense of the Government. I hope that the gentleman will not be permitted to cut off their supplies.

Mr. WILSON. I do not propose to cut off their supplies; but I do propose to reduce this to what I believe to be a proper amount. As the gentleman has questioned my information, of course he should know more than I do. I would like him to tell us how many tribes were removed in Oregon the first year, year before last, for which this appropriation was made; how many tribes last year; and how many are to be removed hereafter.

Mr. McBRIDE. I cannot inform the gentleman.

Mr. WILSON. Then the gentleman has no more information than I have.

Mr. McBRIDE. I have some and the gentleman has none.

Mr. WILSON. I wish he would give us some information, for I certainly have not received any.

The gentleman from Pennsylvania says it costs too much to educate us here. I presume it does; for I have noticed that whenever an attempt upon the part of members of this House to cut down appropriations is made, and when we seek to get information to enable us to see whether appropriations should or should not be reduced, we find them maintained by the Committee of Ways and Means in spite of all the efforts made to reduce them, and they are maintained by the Committee of Ways and Means not always with the best of reasons. Now, I ask the Committee of Ways and Means to tell us how many of these Indians were removed last year, how many year before last, and how many still remain to be removed.

Mr. McBRIDE. I know that this appropriation is considerably less than the estimates of former years. There has been an unexpended balance remaining in the Treasury.

Mr. WILSON. The gentleman from Oregon tells us there was an unexpended balance remaining over, and yet we are asked to appropriate the same amount we appropriated last year and the year before, from which appropriations this unexpended balance has accrued.

The question recurring upon the motion to strike out, and there being, on a division, no quorum voting,

The SPEAKER ordered tellers, and appointed Messrs. WILSON and J. C. ALLEN.

The House divided; and the tellers reported—ayes 49, noes 44.

So the amendment was agreed to.

Mr. ROSS. If it is in order I move that this bill be recommitted to the Committee of Ways and Means, with leave to report at any time when they shall have made themselves sufficiently familiar with the bill to explain its provisions. [Laughter.]

Mr. SHANNON. That would amount to an indefinite postponement.

The SPEAKER *pro tempore*, (Mr. DAWES in the chair.) In the opinion of the Chair it is in order to move to recommit, but so much of the gentleman's motion as is of a general character is not in order.

The motion was not agreed to.

Mr. SHANNON. I have no doubt that the House, in merely playful good-humor, voted out



the appropriation for the California Indians, on page 48; and if it is in order, I move to reconsider the vote by which that paragraph appropriating \$55,000 was stricken out.

Mr. HOLMAN. I rise to a point of order. This bill is being considered in the House as in Committee of the Whole on the state of the Union, where a motion to reconsider is not entertained.

The SPEAKER *pro tempore*. The Chair overrules the point of order. It is impossible, by the order that this bill should be considered by the House as in Committee of the Whole, that the House should be deprived of the power of reconsidering its action.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

Mr. HIGBY. Is debate in order?

The SPEAKER *pro tempore*. It is not.

Mr. SHANNON. I ask the gentleman from Indiana to withdraw his motion for a moment.

Mr. HOLMAN. I will, of course.

Mr. SHANNON. I want that vote reconsidered in order that I may present the question to the House once more, to see whether they really intend to cut off that appropriation or not. There is no question but that some appropriation should be made in order to prevent an Indian war there which would cost hundreds and thousands of dollars for every one here refused to be voted.

Mr. HOLMAN. If the gentleman will say that this is an appropriation to carry out an existing law, I will vote with him.

Mr. SHANNON. It is in conformity to a state of things which has existed there for years.

Mr. HOLMAN. Was there any treaty under which this is claimed? Wherever there is a treaty requiring an appropriation this bill expressly says so, and points out the treaty itself. This is an appropriation of \$55,000 for the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools, for the Indians in California—a mere general appropriation.

Mr. SHANNON. I will say for the information of the gentleman from Indiana that we have no formal treaty, but we have an agreement and understanding which amounts to the same thing. Under the existing system established by the Government these Indians are collected upon the reservations with a promise of being maintained, and that system must be abandoned and the Indians turned loose if you fail to appropriate any money.

Mr. HIGBY. The condition of our Indian affairs is simply this: the Government has set apart a large tract of land and gone to a great expense for the purpose of taking care of the Indians. Upon these lands the Indians reside. A part of the land is devoted by them to agricultural purposes, and upon the remainder they fish and hunt; and in those two ways they obtain a livelihood. The Government has wisely pursued the course of setting apart lands, gathering the Indians upon them as much as possible, and making an annual appropriation toward their maintenance. The Indians have been kept so for a number of years. Up to last year there were three reservations, but by the legislation of last session they were reduced to two. If they are to be left without any means they will, as has been said, be turned loose, and the consequence will be an Indian war, and the blood of the white man will be shed as it has been heretofore. Following upon that, of course, would be the necessity of sending a large military force to look after them; and that will create the necessity for a very much larger appropriation than is asked for here.

I cannot say whether this amount is the right one to be appropriated, but that something should be appropriated is imperatively necessary, and I trust this House will not allow this bill to pass without including such an appropriation in it.

Mr. WILSON. I ask the gentleman from California if he does not think that one half of this amount would be sufficient.

Mr. HIGBY. I will say to the gentleman in all frankness that I do not know what amount should be appropriated. I do not know whether it should be one third, one half, or the whole of the amount. But that some appropriation is necessary for this purpose I have not the least hesitation in saying.

The question was taken on Mr. SHANNON's motion; and it was agreed to.

So the vote striking out the paragraph was reconsidered.

The question recurred on the motion to strike out the following paragraph:

For the purchase of cattle for beef and milk, together with clothing and food, teams, and farming tools, for Indians in California, \$55,000.

Mr. WILSON. I move to amend the paragraph by reducing the amount to \$30,000.

Mr. SHANNON. Make it \$40,000.

Mr. WILSON. Let it stand at \$30,000.

Mr. SHANNON. I move to amend the amendment by making the amount \$40,000.

Mr. KASSON. Mr. Speaker, I wish to say since this subject has been up, that I concur, on specific information from the Department, with the views and representations made by the gentlemen from Oregon and California respectively. I find that there are about four thousand Indians on certain reservations in California named by the Commissioner of Indian Affairs in his report. He goes into details and furnishes the reports of the sub-agents. He shows the policy that has been adopted, points out its advantages, and proposes to continue that policy by the concentration of the roving Indians. He gives in detail all the information which any man can expect to get from a report, showing the beneficial results of the policy adopted recently in the management of Indians. He also discusses the effect of the act to provide for the better organization of Indian affairs in California, under which all these appropriations have been made establishing that policy. And when we recollect that, as late as June last we had an Indian war in California, I submit to gentlemen in all seriousness whether it is safe for us in this House to provoke a renewal of the war, and an extension of it, by refusing appropriations to those Indians.

Mr. WILSON. I desire to ask my colleague if he can state to the House whether there is or is not an unexpended balance remaining over from the appropriation of last year, or of the year before last.

Mr. KASSON. There is no unexpended balance. This is the identical amount that was appropriated before; and they have become accustomed to this amount being appropriated for this specific purpose.

Mr. WASHBURN, of Illinois. And it makes no difference whether most of it is stolen or not.

Mr. KASSON. Indian wars are often prevented by the fact that some of the money is stolen. The Senate of the United States has even, by a secret article, added to one of its treaties, expressly provided for a certain payment, which the Indians themselves are not to be made acquainted with. Any man who knows the mode of managing these Indians in the western country knows that certain men control hundreds of Indians; and if we can buy such men, as we sometimes can, as low as one hundred or one hundred and fifty dollars, there is no person acquainted with the conduct of our Indian affairs who would not justify us in securing them by buying them up. This system has been established and repeatedly acted upon, and any sudden or marked change in the conduct of affairs will tend to produce war with these Indians.

Mr. SHANNON. I desire to say that my colleague is mistaken in stating there were but two reservations. There are three: one recently established near the Oregon line, in Klamath county, another in Hoopa valley, in the mountainous region of country, and another in Round valley, in Coast range.

Mr. HIGBY. I will ask my colleague [Mr. SHERMAN] if the number of reservations was not reduced last year. I so understood from the committee.

Mr. SHERMAN. No, sir.

Mr. STEVENS. They were collected together last year. But one of the tribes, living upon this side of some mountains there, was taken over toward the Pacific ocean to a new reservation fixed there, upon which this appropriation was made.

Mr. SHERMAN. I withdraw my amendment, and I hope this House will adhere to the appropriation of \$55,000.

The question was upon the motion of Mr. WILSON to reduce the appropriation from \$55,000 to \$30,000.

The amendment was not agreed to.

The motion to strike out the paragraph was not agreed to.

The Clerk proceeded with the reading of the bill.

Mr. PRUYN. I move to add the words "payable in coin" to the following paragraph:

For payment of interest on \$1,699,300, non-paying stock held by the Secretary of the Interior in trust for various Indian tribes, up to and including the interest payable July 1, 1886, \$416,433 50.

Mr. WILSON. I do not know but this amendment should be adopted, as it comes from a member of the Committee of Ways and Means. As we cannot get that committee to cut down the appropriations, we may be able to help them increase them.

Mr. MORRILL. The habit of the gentleman from Iowa [Mr. WILSON] has become chronic on every occasion that is proper or improper, to come before this House and endeavor to stab the Committee of Ways and Means. He appears disposed to do so. I undertake to say that the questions which that gentleman has propounded here on several occasions to the Committee of Ways and Means have been utterly preposterous, and he has no right to complain that they were not answered. There is no man in this House, however robust he may be in constitution, and however great may be his intelligence, who could undertake to master all the infinite details in relation to every appropriation bill. He might as well undertake to ask us how many stones have been already put into the foundation of a fort when an appropriation for the completion of such fort is under consideration, as to ask some of the questions which the gentleman has asked, and when he undertakes to stigmatize the whole of the Committee of Ways and Means as being in favor of the largest expenditures, and always going for the largest sums. For one I protest against it as being untrue in point of fact. There are members of this House belonging to the Committee of Ways and Means who are as truly economical as the gentleman from Iowa, [Mr. WILSON]—though the smallest sum is not always the truest economy—and for one I am not disposed to submit to these constant and repeated attempts to—I will not say blackguard the Committee of Ways and Means, but to undermine the confidence of the House, by leading them to suppose that the committee have not given sufficient attention to these appropriation bills.

Now, in relation to the amendment proposed by the gentleman from New York [Mr. PRUYN]. I will say that as the Department has not asked that these sums be paid in coin I hope the amendment will not be adopted.

Mr. WILSON. I move, *pro forma*, to amend the amendment so as to provide that one half the amount shall be payable in coin.

Now, Mr. Speaker, the gentleman from Vermont [Mr. MORRILL] neither does justice to himself nor to me. I have not blackguarded the Committee of Ways and Means, and I have no disposition to do so. I never indulge in such things. But I do assert here now, as I have asserted on many other occasions, that this House is not able to get from the Committee of Ways and Means that information in relation to their bills, especially appropriation bills, to which we are entitled. I said on a former occasion that I had no disposition to charge that the committee do not do all that they can to inform themselves; nor do I make that charge now. I know, as every member of this House knows, that the Committee of Ways and Means has labored more diligently probably than any other committee; but I know also that the members of committees cannot possibly inform themselves as to the details of all their measures; and what I have said during this session of Congress in regard to that committee and in regard to the information that we get from them, has been for the purpose of fixing upon the minds of members of this House the necessity of organizing at least three committees that shall have charge of that business the extent of which now renders it impossible for the Committee of Ways and Means to so inform themselves as to enlighten the House upon every matter of detail in the bills that they report. My remarks on this subject have been prompted by no ill-will or unkind feeling toward any member of that committee, but by a conviction that the best interests of the country demand that the business of that committee shall be divided among several committees, in order to secure that completeness of

investigation of that multitude of important subjects affecting every interest of the country which now all go to the Committee of Ways and Means that will enable the House to act understandingly. That is what I have in view.

Mr. MORRILL. Will the gentleman yield to me a moment?

Mr. WILSON. Certainly.

Mr. MORRILL. To illustrate the fact that the efforts of the gentleman have not been with the view to obtain information, but for the purpose of carrying some other measure than that which he has mentioned, let me call his attention to two prominent instances in which he has called upon the Committee of Ways and Means for information, and then complained that he has not obtained it.

On one occasion he called upon the Committee of Ways and Means to give information as to the precise amount which had been paid out to all the assessors of internal revenue throughout the United States. Now, does any one suppose that it would be possible for any member of this House to have that information in his possession? Why, sir, the question itself was not designed for the purpose of being answered. And now on this occasion he asks us to give to the House information as to the precise number of Indians out in Oregon who have been removed from year to year! There is not a reasonable man in the House who supposes that that information is on any record or in the possession of any member of this House.

Mr. WILSON. Mr. Speaker, the gentleman has not stated either of those facts correctly. In the first place, I did not ask the committee to state to this House how much was paid to every assessor in the United States. My question, as he will find by referring to the Globe, was this: what is the highest sum received, or that can be received by any assessor or collector in any district in the United States? I did not make the inquiry which he now states.

Again, sir, I did not call upon the committee to inform this House as to the precise number of Indians in Oregon. I asked for the number of tribes; that is all; and it does seem to me that it was not an improper question. And I must say this—notwithstanding my remarks seem to have excited the gentlemen on that committee—that I do not believe that I ought to be shut off from seeking information on the subjects coming before us for action because the gentleman from Vermont gets angry and exhibits his temper on such occasions. I believe that it is a duty which I owe to the country, and I intend to discharge it to the best of my ability, either to bring out the information or to show that there should be some reform in the rules of this House whereby we may be enabled to get that which we cannot now get. Now, sir, whether gentlemen like it or not, I expect to pursue this course until it shall secure, if possible, an amendment of the rules, so that we can have the various committees required for the proper examination of the subjects coming before the House, organized and charged with their appropriate duties.

Mr. STEVENS. I am opposed to this amendment, because I do not want any coin paid.

Now, Mr. Speaker, so far as I am concerned, I care but very little what anybody may say about the Committee of Ways and Means or any of its members. But there can be no doubt at all that there has been, during this session, a studied determination in certain quarters to disparage and malign, so far as possible, the action of the Committee of Ways and Means.

The gentleman from Iowa [Mr. Wilson] justifies his course upon very strange ground. When has any member of the Committee of Ways and Means ever objected to reforming the rules? When has the question ever been before this House? and when has any member of this committee ever said that the change proposed would not be palatable to him? Sir, I have not seen it. I cannot believe but that the gentleman is laboring under a hallucination, and that he believes he was actuated by one motive when he was actuated by another and a different one.

As to the Committee of Ways and Means, we do not pretend to be omniscient; we do not pretend to be able to answer every question connected with the whole legislation of the country.

We had hoped that other members would deem it to be their duty, while the Committee of Ways and Means were laboring as well as they could to inform themselves, to make an effort to learn something, and not deem that it was necessary to be "crammed" by the Committee of Ways and Means. [Laughter.] It is not to be expected that we should constantly stuff their heads with ideas. That, however, seems to be considered the duty of the Committee of Ways and Means. Gentlemen sit here in supreme indifference and supreme ignorance, and then rise in their places and ask questions the answers to which may be found in the books. They ask us to decide for the whole of them instead of learning for themselves. I had hoped that these men would try and inform their own minds. I do not think from what I have seen that it would hurt them to look a little for themselves into the legislation of the country, and inform their own minds of the things that are going on.

Mr. WILSON. I withdraw my amendment, and move to reduce it to one third.

Mr. Speaker, I understand very well how dangerous it is to come into contact with the gentleman from Pennsylvania, [Mr. STEVENS.] I know, sir, that very few members of this House dare do it; but while it is not a thing which I desire by any means, I shall not shrink from it, notwithstanding it may bring me in contact with the acknowledged power and ability of that gentleman. I will, as a Representative of the people, in spite of that power and ability, do my duty to the best of my capacity, and not stop to ask his pleasure.

The gentleman speaks about the duty of members informing themselves, and that they should not expect to be "crammed" with the information which the Committee of Ways and Means may have collected. Well, sir, I do not expect to be "crammed" by the committee, and no member need fear such a result in any case; and I have taken the pains on more than one occasion to inform myself in relation to matters coming from that committee, and when propounding questions to the committee I have received anything but an indication of a disposition to furnish the information they were calculated to draw out for the instruction of the House; and almost every member has had more or less of this experience as a reward for his pains.

I repeat what I said before, that my course was based upon what I regarded to be my duty, to bring about a reform in this House, demanded by the highest interests of the public business. The gentleman says that no member of the committee has opposed it. I have not said that opposition rests with the Committee of Ways and Means, or any member of that committee. I do not know that it does, but I know very well that it has been difficult to get this matter before the House. I believe the report has been made, and I hope that it will be acted on during this session, and that during the next Congress the business will be divided, as it should be.

It has not been through any unkind feeling toward any member of the Committee of Ways and Means that I have pursued this course; but when members consider the usual course pursued by the committee, I shall be fully justified by them in the efforts I have made to advance the public interests. The Committee of Ways and Means have been disposed to follow merely the estimates. And I say again that that is the result of the inability of any one committee to attend to all of the details of the great variety of subjects and measures which it is now the duty of that committee to examine.

Mr. STEVENS. The Committee of Ways and Means in one bill cut down the estimates \$6,000,000, and the House restored them.

Mr. WILSON. I speak of appropriations made in accordance with the estimates and corresponding in sum, and to which the committee so often give the weight of their position without disposition or ability to give information in detail.

Mr. STEVENS. We cut them down more than six million dollars, and they were restored by the House.

Mr. WILSON. The gentleman does not understand me.

Mr. J. C. ALLEN. I make the point that this debate is not in order.

The SPEAKER. The Chair overrules the point of order.

Mr. WILSON. It is an unpleasant position for any member to occupy to run counter to the views and feelings of any committee of the House, and particularly is this so with respect to the Committee of Ways and Means. I must be permitted to repeat that, notwithstanding the crushing weight the chairman of that committee can bring to bear upon any member who may differ from him, I shall not withhold my efforts to discharge my duty as my judgment may dictate, regardless of his wishes, consulting only my desire to serve the country as best I can.

Mr. COX. I desire to say to the House simply that the Committee on Rules placed in my hands a proposition to produce the reform referred to by the gentleman from Iowa—namely, to divide the Committee of Ways and Means into three committees, one on revenue, one on appropriations, and—

Mr. J. C. ALLEN. I rise to a point of order. It is that the gentleman from Ohio is not speaking to the question before the House.

The SPEAKER *pro tempore*, (Mr. DAWES.) The Chair sustains the point of order. The gentleman from Ohio will proceed in order.

Mr. COX. I would like to know whether the Speaker knows how I am coming out on my argument.

The SPEAKER *pro tempore*. The Chair is unable to say whether he does or not.

Mr. COX. I understood the Speaker to rule that the gentleman from Iowa was in order in his discussion.

The SPEAKER *pro tempore*. The gentleman from Ohio is mistaken. The point of order taken in the form in which it was was not a point of order, and the gentleman from Iowa was speaking to the question. It was simply an inquiry as to what the question was before the House.

Mr. COX. Then, as I understand, the Chair overruled a point of order when there was none made. [Laughter.] I am sorry to put the Speaker in that predicament, and I withdraw my remark. [Renewed laughter.]

I was about to say that proposed rules were placed in my hands in order to be reported to the House—

Mr. J. C. ALLEN. I rise to a point of order. The gentleman from Ohio is not speaking to the question before the House.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

Mr. COX. I respectfully decline to discuss this question any further. [Laughter.]

Mr. WILSON withdrew his amendment.

Mr. PRUYN. I move to amend the amendment by inserting the words "payable in gold." I move the amendment simply for the purpose of saying a word or two. Here are debts due from the United States to Indian tribes. We are paying interest in gold to the holders of our public debt, and I can see no reason why we should not pay this debt in gold. I propose this amendment at this time simply for the purpose of saying that I intend to move an additional section to this bill by which it shall be provided that all payments made to Indian tribes by virtue of treaty stipulations shall be payable in coin. I therefore withdraw my last amendment and renew my original amendment.

The amendment was not agreed to.

The Clerk proceeded with the reading of the bill. Mr. HUBBARD, of Iowa. I move to amend in line twelve hundred and forty-one, page 51, by striking out "\$150,050" and inserting in lieu thereof "\$100,000;" so that the clause will read:

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, \$100,000.

On looking over the appropriations of last session of Congress I noticed that we appropriated only \$100,000 for this purpose, and I believe the estimated amount of appropriation necessary was reduced upon the motion of the chairman of the Committee on Indian Affairs.

Mr. MORRILL. I will say to the gentleman that I think the amount inserted in the bill is a mistake, and that the amount should have been \$100,000.

The amendment was agreed to.

The Clerk resumed the reading of the bill.

Mr. WASHBURN, of Illinois. I move to amend by striking out the paragraph contained in lines twelve hundred and eighty-one and twelve hundred and eighty-three, inclusive, as follows:

For salary of a special agent to take charge of Winnebago and Pottawatomie Indians now in the State of Wisconsin, \$1,500.

I see that the last provision in the bill is an appropriation of \$10,000 to enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Pottawatomie Indians in the State of Wisconsin.

Mr. RANDALL, of Pennsylvania. I would inquire of the gentleman from Illinois whether this agency is authorized by law.

Mr. WASHBURN, of Illinois. I suppose it is not, but I really feel afraid to inquire of the gentleman from Vermont, [Mr. MORRILL,] for fear he will consider it an indignity to the committee.

Mr. HOLMAN. I submit to the gentleman from Pennsylvania that a point of order can be well taken upon this proposition. There is no pretense that there is any law authorizing this agency.

Mr. RANDALL, of Pennsylvania. I do not take a point of order, but I take a point of equity.

Mr. WASHBURN, of Illinois. I would take a point of order if I thought it would be sustained. Every appropriation is now construed as a contingency for carrying on the Government.

Mr. RANDALL, of Pennsylvania. I do not consider this agency necessary, and if there is no law for it, I will go with the gentleman from Illinois in favor of striking it out.

Mr. COBB. I have not informed myself much upon this subject, and my colleague, [Mr. McINDOE,] a member of the Committee on Indian Affairs of this House, having charge of this particular matter, is absent from the House on account of sickness. I will, however, say to the gentleman from Illinois that this agency was provided for by a law of the last session. There was a great delay in carrying out the act, and the agent for collecting these roving bands of Indians was not appointed until it was too late to do much.

Mr. WASHBURN, of Illinois. Will the gentleman state whether this was done in accordance with the provision of law of last session by which the salary of Dr. Davis was increased?

Mr. COBB. No, sir, it has nothing whatever to do with him.

Mr. WASHBURN, of Illinois. I do not recollect any other.

Mr. COBB. The act was passed last session, but the appointment for the purpose of carrying out the provisions of the law was made too late, and those roving bands of Indians are there yet, very much to the annoyance of the people of that State. The Legislature and State officers have frequently asked the Department to take charge of them, and it was for the purpose of accomplishing that that the act was passed.

Mr. KASSON. I wish to state in a few words what the Commissioner of Indian Affairs says upon this subject. The various wandering fragments of tribes which have hitherto given us so much trouble in the Northwest, and especially in Wisconsin, have been placed under the charge of a special agent, and any difficulty that might arise with them would be brought to the notice of the Department.

Mr. WASHBURN, of Illinois. I stated, when I moved to strike out this provision, that the same thing was apparently provided for in a bill which is already before the House.

Mr. MORRILL. With the permission of my friend from Illinois, I will send to the Clerk's desk a communication in reference to this matter.

Mr. WASHBURN, of Illinois. I yield for that purpose.

The communication was read, as follows:

DEPARTMENT OF THE INTERIOR.  
OFFICE INDIAN AFFAIRS, December 14, 1864.

SIR: In making up the general estimates for the requirements of the Indian service for the prospective official year, it was inadvertently omitted to estimate for an appropriation of \$10,000, as a continuation of the provision in section one, act of June 25, 1864, "to enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Pottawatomie Indians now in the State of Wisconsin," &c.

I would respectfully ask that you call the attention of the Secretary of the Treasury to this omission, and request

him to present the matter to Congress, that the requisite appropriation of the above-named sum may be procured.

Very respectfully, your obedient servant,  
W. P. DOLE, Commissioner.

Hon. J. P. USHER, Secretary of the Interior.

Mr. MORRILL. I will merely add that these Indians were removed from the State of Wisconsin; but after they were removed they found the country into which they had been sent incapable of supporting them. They were in danger of starvation and they returned to the State. The Government had taken charge of them, and a special agent had been appointed for that purpose.

Mr. RANDALL, of Pennsylvania. I move to strike out the last half of that amendment. I did not expect that there would be any discussion upon this question when I joined with my Republican friend on the other side of the House in objecting to an unnecessary postponement of it. The gentleman who represents the Committee of Ways and Means now tells us that it is necessary to appropriate this \$10,000. I do not think it is at all necessary to appropriate this money, and therefore I object to it. I would like to know wherein this agent, who has been appointed as a special agent, has rendered any services to the Government requiring the payment to him of this amount. I withdraw the amendment to the amendment.

The question was taken on the amendment, and it was disagreed to.

Mr. HOLMAN. I move to amend the amendment by reducing the amount to \$1,000.

I make this motion for the purpose of saying that these agencies practically do not amount to much, at least in the protection of the Indians. I ask for the reading of an extract from a letter of Judge John W. Wright, of Indiana, a gentleman of truth and honor, with reference to the recent massacre of the Cheyenne Indians, in Colorado Territory. Here we see the value of these agencies.

The Clerk read, as follows:

"At the time of the attack of Chivington the village was under the protection of Major Colley, the Indian agent. In the village was John Smith, the interpreter, who came near losing his life. It was charged on by a regiment of troops at the dawn of day, without any notice and totally unexpected to the Indians, of whom about five hundred are killed, including all the women and children, as stated by Major Colley; six hundred horses, a large amount of Mexican dollars, of buffalo robes, and other plunder stolen, and their lodges burned. When Lawrence was sacked, part of the houses were burnt, some of the men killed; but there were no women and children murdered, and plenty of houses remained to shelter the inhabitants; but in the Cheyenne village all the women and children are killed, the lodges all burnt, after being robbed, and the naked inhabitants driven on the plains covered with two feet of snow."

Mr. HOLMAN. That shows how these Indians are protected. In order to show the further movement of this third Colorado regiment, which was guilty of this inhuman butchery, I ask the Clerk to read the paragraph which I send to the desk, from the Rocky Mountain News, published at Denver City.

The Clerk read, as follows:

"The third regiment boys will probably not be here for a few weeks, as they say they are loaded down with buffalo robes, scalps, strings of silver dollars, &c., plunder taken from the Indians. Bully for them!"

Mr. HOLMAN. Plunder and scalps! Here we are appropriating every year vast sums of money, without any attempt to remedy the constantly recurring barbarities so dishonorable to our humanity. I had intended, if an opportunity had offered, to call attention to the remarkable fact that we made the usual appropriation last year for these Colorado Indians, as though they were the objects of our generous solicitude. I hold in my hand a message issued by the Governor of that Territory, on the 11th day of last August, in which occurs the following paragraph:

"And further, as the only reward I am authorized to offer for such services, I hereby empower such citizens or parties of citizens to take, capture, and hold to their own private use and benefit, all the property of such hostile Indians that they may capture, and to receive for all stolen property recovered from said Indians such rewards as may be deemed proper and just therefor."

And from this incentive, as I am assured, four hundred and eighty-one innocent women and children were deliberately slaughtered by the third Colorado regiment, one hundred and eighty-two of whom were little children.

These persons were not simply under the protection of the Government, but under the protec-

tion of our Indian agent, and but a short distance from Fort Lyon.

Of the amount that we annually appropriate for the protection of the Indians three fourths are for the benefit of that herd of men who hang about the Indian country and appropriate the money that we vote here in a spirit of humanity. Not one fourth of it reaches the unfortunate.

Mr. ASHLEY. I would ask the gentleman from Indiana if he pretends to charge gentlemen who favor this clause with being in complicity with men of that stamp.

Mr. HOLMAN. I make no such charge.

Mr. ASHLEY. Then I would like to know what the gentleman's argument amounts to.

Mr. HOLMAN. I will tell the gentleman what my argument is. I am a little surprised that the gentleman should be wanting in sympathy for these unfortunate Indians. If it had been the case of an African, and he had been told that one hundred and eighty-two of the little children of Africans had been slaughtered in cold blood, we should have had this Hall resounding with his indignant eloquence. But they were Indians only.

[Here the hammer fell.]

Mr. McBRIDE. I wish to say a few words, and a few words only. The great difficulty we have had to encounter heretofore is that the Government has not kept its stipulations with the Indians. The gentleman now proposes to withhold the appropriation, so as not even to make a semblance of performing our treaty stipulations.

Mr. HOLMAN. The Government owes it to itself and to civilization to see that the money which it appropriates shall be applied to the purposes for which it was designed, and not betaken up by plunderers and spoilers.

Mr. McBRIDE. I would support any plan that would enable the Indians to derive the benefit of the appropriations made here. The gentleman says that slaughters have taken place there. That is very true. Whether they were innocent women and children that were slaughtered I will not undertake to say; but I will state some few things which I have witnessed on the plains. I crossed them last fall, coming by Denver City, Colorado, and through the borders of Missouri. For one third of that distance every house and every improvement that was combustible had been destroyed by the Indians. Hundreds of persons traveling on the plains had been murdered during the fall and the early part of the winter by roving bands of Indians. It is not in human nature to witness the murder of men's friends and neighbors by savages without being moved to revenge. Does it startle gentlemen to know that those people felt sufficiently indignant to get together in parties and bands strong enough to take what they thought a just revenge? I think these facts should be known.

Mr. WADSWORTH. I would like the gentleman from Oregon to tell me whether they did kill women and children in the way reported.

Mr. McBRIDE. They murdered men, women, and children indiscriminately on the plains.

Mr. WADSWORTH. Then they ought to be hanged, every one of them.

Mr. McBRIDE. Perhaps I did not understand the question of the gentleman from Kentucky.

Mr. WADSWORTH. I asked the gentleman from Oregon whether the men of this Colorado regiment killed children under nine years of age, and women.

Mr. McBRIDE. I know nothing of that, except what I have heard. I thought the gentleman had inquired of me whether the Indians had murdered white women and children.

Mr. MORRILL. I move to terminate the debate on this paragraph.

The motion was agreed to.

The question being on Mr. HOLMAN's amendment,

Mr. HOLMAN withdrew the amendment.

Mr. PRUYN. I move the following as an additional section to the bill:

And be it further enacted, That all sums appropriated under this act, to be paid or expended in compliance with treaty stipulations, be so paid or expended in coin.

It will be perceived, Mr. Speaker, that my amendment refers only to such payments as are to be made under treaty stipulations. It does not



apply to other sums appropriated in the bill. It is perfectly clear that if we had made treaties of this kind with a foreign Power we should be compelled to pay in coin. Should we do less for those in our power and under our control? Should we do less because the power is in our own hands? Can we afford to be unjust under such circumstances? I have been told that, to some extent at least—I do not know how far—some of these payments have been made in coin by the Secretary of the Treasury. But I doubt whether it has been so beyond those very few cases in which, for some special reasons, payment in coin has been expressly stipulated for. If we are bound to pay others in coin we certainly should pay these Indians in coin. At the time these treaties were made the value of a dollar was well understood. It was known just what it would purchase. If paid in our present currency it will procure only half of the commodities, half of the necessities for the Indians which it was agreed they should have. I trust that there is such a sense of justice in the House as will lead it to adopt this amendment.

Mr. MORRILL. I move the previous question on the bill and amendments. I will not undertake, at this late hour of the night, to reply to the gentleman from New York.

Mr. DRIGGS. I ask the gentleman from Vermont to withdraw the call for the previous question so as to permit me to say a word.

Mr. MORRILL. Certainly, sir. I withdraw the call for the previous question.

Mr. DRIGGS. Mr. Speaker, I wish to say a word in regard to the amendment offered by the gentleman from New York, [Mr. PRUYN.] I think there is great force in the proposition submitted as an additional section, and in the remarks of the gentleman from New York. He has well said that if it were with a powerful nation we were dealing we should never think of paying in paper money instead of in coin. I received, not long since, a very able letter from an Indian chief in my district, asking whether the Government proposed to pay the Indians in gold and silver, as it had agreed to do, or, if not, whether the Government proposed eventually to pay them in gold and silver or their equivalent. Now, I would like to see a proposition adopted by this House, if we cannot pay them in gold and silver, to pay them the equivalent of coin. It is but simple justice, and we should deal it out to these people. We should be just though the heavens fall, and not take advantage of these people because they are poor and weak and cannot defend themselves. I am in favor of this amendment.

In accordance with my promise to the gentleman from Vermont, [Mr. MORRILL,] I renew the call for the previous question on the bill and pending amendments.

The previous question was seconded, and the main question was ordered.

The first question was upon the amendment of Mr. PRUYN.

The amendment was not agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

Mr. MORRILL. I call the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered; and under the operation thereof the bill was passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### HALL OF THE HOUSE.

Mr. DAVIS, of New York, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Hall of the House of Representatives shall not be opened for public meetings, after the 4th day of March next, until the meeting of the Thirty-Ninth Congress.

Mr. DAVIS, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

And then, (at twenty minutes to eleven o'clock p. m.) on motion of Mr. RANDALL, of Pennsylvania, the House adjourned.

#### IN SENATE.

FRIDAY, February 24, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. FOSTER, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### RECESS.

Mr. FOOT. I will move now that the Senate take a recess to-day from half past four o'clock until seven o'clock.

The motion was agreed to.

#### CREDENTIALS.

Mr. TRUMBULL presented the credentials of Hon. RICHARD YATES, chosen by the Legislature of the State of Illinois a Senator from that State for the term of six years from March 4, 1865; which were read, and ordered to be placed on the files.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, communicating estimates of the Commissioner of Indian Affairs of the sums required to be appropriated to carry into effect the provisions of the treaty made with the Great and Little Osage Indians in Kansas, August 29, 1863, and the amendments thereto of July 2, 1864; which was read, ordered to lie on the table, and be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating estimates of the Commissioner of Indian Affairs of the amount recommended to be appropriated for the balance due the confederated tribes of Kaskaskia, Peoria, Wea, and Piankeshaw Indians, arising from the sale of their trust lands by the late receiver general, William Brindle, and to be reimbursed on the final settlement of said Brindle's accounts; which was read, and referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, recommending that special authority be given to the President of the United States to negotiate with the State of West Virginia for the assumption or payment by her of the bonds and obligations of the State of Virginia held by the Secretary of the Interior in trust for various Indian tribes; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of importing merchants in the city of New York, praying for an extension of the time within which goods in public stores may be withdrawn or the duties paid thereon; which was referred to the Committee on Finance.

Mr. SPRAGUE presented a memorial of Caleb Tompkins praying for compensation for property destroyed by the Army of the United States, at Cartersville, Georgia, on or about the 20th day of May, 1864; which was referred to the Committee on Finance.

Mr. NYE presented resolutions of the Legislature of the State of Nevada in favor of the passage of a law fixing the thirty-seventh degree of longitude west from the city of Washington as the eastern boundary of the State of Nevada; which were ordered to lie on the table, and be printed.

Mr. RAMSEY presented the resolutions of the Legislature of Minnesota in favor of a grant of land to aid in the construction of a ship-canal from Lake Superior through the neck of land known as the Portage Isthmus to Portage Lake; which were read, referred to the Committee on Public Lands, and ordered to be printed.

#### BILLS INTRODUCED.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 474) to establish a commission of claims at Knoxville, Tennessee; which was read twice by its title.

Mr. DOOLITTLE. I desire to say, in introducing this bill, that I do not stand committed to favor all its provisions contain; but I introduce it for the purpose of having it considered by the Committee on the Judiciary, to which committee I move its reference.

The motion was agreed to.

Mr. FARWELL asked, and by unanimous

consent obtained, leave to introduce a joint resolution (S. R. No. 124) authorizing the Northern Pacific Railroad Company to invest its funds in Government securities for certain purposes; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

#### REPORTS FROM COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 471) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes, reported it with an amendment.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska, reported it without amendment.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred the bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof approved July 2, 1864, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Charles Fosdick Fletcher, praying for the passage of an act authorizing a railroad to be built along the line of the thirty-second degree of latitude, following as near as practicable the surveyed route from New Orleans to St. Diego, with a branch to San Francisco, asked to be discharged from its further consideration; which was agreed to.

Mr. HALE, from the Committee on the Judiciary, to whom was referred the bill (S. No. 394) for the relief of the parties in a cause pending in the supreme court of the District of Columbia, wherein Emily F. Wiley is plaintiff, and Marshall Brown and others are defendants, reported it without amendment, and that it ought not to pass.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of James Todd, administrator of Joshua D. Todd, a lieutenant in the Navy, praying to be allowed the difference of pay between master and passed midshipman during the time he was acting master, submitted a report, accompanied by a bill (S. No. 473) for the relief of the heirs of Lieutenant Joshua D. Todd, late of the United States Navy, deceased; which was read and passed to a second reading; and the report was ordered to be printed.

Mr. WRIGHT, from the Committee on Public Lands, to whom was referred the petition of Edgar Conkling, agent for the Refugee Relief Commission of Ohio, praying for an appropriation to be expended under the direction of the Secretary of War, in furnishing poor white refugees of the South with seed and farming implements, and such who are mechanics with tools, &c., asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Mrs. Brandt, widow of Frederick Brandt, praying to be reimbursed for losses sustained by the sacking of Lawrence, Kansas, by Quantrell, on the 21st of August, 1863, asked to be discharged from its further consideration; which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 377) granting lands to the State of Missouri to aid in the construction of certain railroads in said State, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 161) in relation to certain railroads, reported it without amendment, and that it ought not to pass.

#### MEXICAN AFFAIRS.

A motion by Mr. WADE to print the message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 13th ultimo, information in relation to the present condition of Mexico and the case of the French war transport steamer Rhine, was referred to the Committee on Printing.

## CHAPIN HALL.

Mr. CLARK. The Committee on Claims, to whom was referred the bill (H. R. No. 160) for the relief of Chapin Hall, have directed me to report it back without amendment and with a recommendation that it pass; and I ask the unanimous consent of the Senate to put it on its passage. It will take but a moment or two.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which requires the Secretary of the Treasury to pay to Chapin Hall the sum of \$2,500 in full for damages sustained by him in consequence of the taking and using of his lumber at Louisville, Kentucky, by General McCook's division of the United States Army, in the month of September, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## LAND GRANT TO MINNESOTA RAILROAD.

Mr. WILKINSON. I move that the Senate postpone all prior orders, and proceed to the consideration of Senate bill No. 295.

Mr. COLLAMER. What is the bill?

Mr. WILKINSON. It is a bill reported from the Committee on Public Lands for a certain road in Minnesota. There is no objection to it. The committee reported it unanimously.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 295) making additional grant of lands to the State of Minnesota to aid in the construction of a railroad in said State. The bill proposes to grant to the State of Minnesota, for the use and benefit of the Southern Minnesota Railroad Company, for the purpose of aiding in the construction of a railroad from La Crescent, and from Brownsville, on the Mississippi river, in Minnesota, to a convenient point of junction at or near Hokah; hence westwardly, between the south bend of the Minnesota river and the south line of the State of Minnesota, to the western boundary of the State, every alternate section of land, designated by odd numbers, for ten sections in width on each side of the road; but any lands which may have been granted to the State of Minnesota for the purpose of aiding in the construction of this railroad, or any portion thereof, by the act of Congress of March 3, 1857, are to be deducted from the full quantity of lands hereby granted, and any lands which may have been so granted are to be strictly applied in accordance with the terms and conditions contained in that act.

The sections and parts of sections of land which by this grant shall remain to the United States within ten miles on each side of the roads are not to be sold for less than double the minimum price of public lands when sold, nor are any of them to become subject to sale at private entry until they shall have been first offered at public sale to the highest bidder at or above the minimum price.

The Committee on Public Lands reported the bill with amendments. The first amendment was in section one, line eleven, before the word "land" to insert the word "public," and after the same word to insert "not mineral."

The amendment was agreed to.

The next amendment was in section one, line twenty-two, to insert the word "public" before the word "land," and after it to insert the words "not mineral."

The amendment was agreed to.

The next amendment was in section four, line seven, after the word "railroad" to strike out the following words:

Then the Secretary of the Interior shall issue to the State patents for one hundred sections of land for the benefit of the road having completed the ten consecutive miles as aforesaid. When the Governor of said State shall certify that another section of ten consecutive miles shall have been completed as aforesaid, then the Secretary of the Interior shall issue patents to said State in like manner, for a like number; and when certificates of the completion of additional sections of ten consecutive miles of said road are, from time to time, made as aforesaid, additional sections of land shall be patented as aforesaid, until said road is completed, when the whole of the lands hereby granted shall be patented to the State for the uses aforesaid, and none other.

And to insert in lieu thereof:

And the said Secretary shall be satisfied that said State

has complied in good faith with this requirement, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and selected as aforesaid, situated opposite to and within a limit of ten miles of the line of said section of road thus completed, extending along the whole length of said completed section of ten miles of road, and no further. And when the Governor of said State shall certify to the Secretary of the Interior, and the Secretary shall be satisfied that another section of said road, ten consecutive miles in extent, connecting with the preceding section, is completed as aforesaid, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and situated opposite to and within the limit of ten miles of the line of said completed section of road, and extending the length of said section, and no further, and so, from time to time, until said road is completed. And when the Governor of said State shall so certify, and the Secretary of the Interior shall be satisfied that the whole of said road is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted and selected for the purposes indicated in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road: *Provided*, That no land shall be granted and conveyed to said State under the provisions of this act on account of the construction of any railroad or part thereof that has been, or may hereafter be, constructed under the provisions of any other act, and adopted as a part of the line of railroad provided for in this act.

So that the section will read:

SEC. 4. And be it further enacted, That the lands hereby granted shall be disposed of by said State, for the purposes aforesaid only, and in manner following, namely: when the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner as a first-class railroad, and the said Secretary shall be satisfied that said State has complied in good faith, &c.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

## DOCUMENTS FOR THE STATE DEPARTMENT.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (S. R. No. 114) authorizing additional copies of public documents to be printed for the Department of State, have directed me to report it back without amendment, and recommend its passage, and I ask for its present consideration. It will create no debate. It merely provides for the printing of a certain number of documents for the Department of State, to be given to our agents abroad.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which provides that of all public documents relating to foreign affairs, which are or may be ordered to be printed for the two Houses of Congress, there shall be printed and furnished to the Department of State two hundred additional copies, and that of all other public documents so ordered to be printed for Congress there shall be printed and furnished to the Department of State fifty additional copies.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## REVOLUTIONARY PENSIONERS.

Mr. FOSTER. The Committee on Pensions, to whom was referred the bill (H. R. No. 728) to pay to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension roll, \$300 annually, as a gratuity in addition to the pension now paid to them, have directed me to report the same back without amendment, and recommend its passage. The bill is very short; I do not think any gentleman is opposed to it; and I will ask that it be read and put upon its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that there shall be paid the sum of \$300 annually to each of the persons hereinafter named, five in number, during their natural lives, as a gratuity on the part of the Government, they being the sole survivors of the Army of the Revolution whose names are enrolled on the books of the Pension Office, which gratuity is to be paid to them by the Commissioner of Pensions in addition to the pensions now paid them under former acts of Congress; the payment to each of the persons named to cease on the death of such person: to Lemuel Cook, enlisted at Hatfield, Massachusetts, is now about ninety-eight years of age,

and resides in Clarendon, Orleans county, New York, \$300; to Samuel Downing, enlisted in Carroll county, New Hampshire, is about ninety-eight years of age, and lives in Edinburg, Saratoga county, New York, \$300; to William Hutchings, enlisted at Newcastle, Maine, (then Massachusetts,) is now one hundred years old, and resides in Penobscot, Hancock county, Maine, \$300; to Alexander Maroney, enlisted at Lake George, New York, as a drummer boy, is now about ninety-four years old, his residence is Yates, Orleans county, New York, \$300; to James Barmham, substitute for a drafted man in South Hampton county, Virginia, lives in the State of Missouri, and is in his one hundred and first year, \$300. The second section makes it the duty of the Commissioner of Pensions, as soon as this act has been passed by both Houses of Congress, and approved of by the President, to have made out five copies of the same, each signed by the Speaker of the House, the President of the Senate, and the President of the United States, and to send a copy to each of the revolutionary soldiers above mentioned.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## CONDITION OF LOUISIANA.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President be requested to furnish to the Senate, if not inconsistent with the public interests, a statement showing what portions of the State of Louisiana were in the military occupancy of the United States on the first Monday of September, 1863, the date of the ratification of the alleged revised constitution of that State, and what portions of that State were then in the military occupancy of the rebels; and also in what parishes or election districts votes were given for or against the ratification of said instrument.

## SOUTHERN REFUGEES.

Mr. SPRAGUE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Agriculture be instructed to consider the expediency of so enlarging the powers of the Bureau of Emigration as to bring within its jurisdiction the relief and protection of the large number of loyal southern refugees who are fleeing from the tyranny of the rebel rulers to the loyal States, and may report by bill or otherwise.

## MAIL POUCHES.

Mr. COLLAMER. There is a joint resolution on the Calendar reported from the Committee on Post Offices and Post Roads which I desire to call up. It is Senate joint resolution No. 121.

The motion was agreed to; and the joint resolution (S. R. No. 121) to purchase mail pouches or boxes of Marshall Smith's patent for the postal service, and for other purposes, was read a second time, and considered as in Committee of the Whole. It authorizes the Postmaster General to purchase of Marshall Smith such number of mail pouches or boxes (constructed on the principle of letters patent issued April 28, 1863, and May 17, 1864, to him) as he may deem proper to fully test their utility and value in the postal service; and also to test a new mode of fastening mail bags, invented by Solomon Andrews, and to secure a patent for the same, the expense of which is to be paid out of any appropriations heretofore made or hereafter to be made to the Post Office Department.

Mr. HALE. That is a very singular proposition. I wish the chairman of the Committee on Post Offices and Post Roads would explain it.

Mr. COLLAMER. The Postmaster General has been trying an invention made by Mr. Smith of boxes for the mails in lieu of pouches, especially for the railroad trains. Many improvements have been made in them, and the Department have found, so far as they have proceeded with the experiments, that the invention is a very valuable one. The Postmaster General now desires to have the privilege of buying a quantity of them in order to make a full experiment. There is no appropriation contained in the resolution. The proposition is merely to substitute them for the pouches now used.

Mr. HALE. Then there is a singular provision at the end of the resolution about some other invention.

Mr. COLLAMER. A Mr. Andrews has

invented a new mode of fastening the pouches, and the Department want to buy some of them, and to pay for them out of the general appropriation for mail bags. The proposition is to allow them to use that general appropriation for this purpose if they wish.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### INTERNATIONAL EXHIBITIONS.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate joint resolution No. 122. It will only take two minutes.

The motion was agreed to; and the joint resolution (S. R. No. 122) relating to international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865, was read a second time, and considered as in Committee of the Whole.

As the Governments of the kingdom of Sweden and Norway, and of the kingdom of Portugal, have communicated to the Government of the United States the programmes of two international exhibitions to be held respectively at Bergen, in Norway, and at Oporto, in Portugal, during the summer of 1865, the resolution, therefore, proposes that the President of the United States be charged with the duty of making known to the people of the United States, by proclamation, or otherwise, as shall to him seem best, the facts in his possession relating to the international exhibitions proposed to be held at Bergen, Norway, and Oporto, Portugal, during the summer of 1865, and of inviting their participation therein.

Mr. HALE. I move to amend the resolution by adding the following proviso:

*Provided*, That no expense shall be incurred for any agency with regard to such exhibition, nor shall any claim of any agent of our Government be hereafter recognized.

Mr. SUMNER. I have no objection to that. That carries out the idea of the committee.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

#### BILL RECOMMITTED.

Mr. FOOT. I move to take up House bill No. 710, to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin. I made an adverse report from the Committee on Public Lands on that bill yesterday morning. I desire now to have it taken up with a view to its recommitment to that committee for further consideration.

The motion to take up the bill was agreed to.

Mr. FOOT. I now move that it be recommitted to the Committee on Public Lands.

The motion was agreed to.

#### PATENT FEES.

Mr. COWAN. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 387. It is a bill which will not provoke any debate whatever.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 387) amendatory of "An act to amend an act entitled 'An act to promote the progress of the useful arts,' approved March 3, 1863." It provides that any person having an interest in an invention, whether as inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March 3, 1863, but who has failed to make payment of the final fee as provided in that act, shall have the right to make an application for a patent for his invention the same as in the case of an original application, provided such application be made within two years after the date of the allowance of the original application; but nothing in this act is to be so construed as to hold responsible in damages any persons who have manufactured or used any article or thing for which a patent was ordered to issue. This act is to apply to all cases now in the Patent Office, and also to such as shall hereafter be filed.

Mr. HALE. This bill seems to make an important alteration in the patent laws. I do not understand it. I wish the chairman of the committee would explain it.

Mr. COWAN. I think I can explain it in a very few minutes. Originally, under the patent laws, all the fees were required to be paid in advance, but some five or six years ago the laws were remodeled, and fifteen dollars was required to be paid in advance and twenty dollars to be paid after the patent was ordered to be issued. That twenty dollars is called a balance fee. The law required it to be paid within six months after the ordering of the issuance of the patent. Owing, however, to the difficulty of getting notice to patentees, scattered as they are over all the world, it very frequently happens that they neglect within the six months to pay this balance fee, and by that means lose their right to obtain a patent, and it gives to a person not really the inventor an opportunity to come in over their heads and ask for a patent for the same invention. We have two or three times passed acts extending the time within which the balance fee may be paid, so that the inventor may take out his patent; but still there remain a considerable number of them on hand, and the Commissioner is of opinion that this bill had better be passed now, by which the applicant will be allowed to begin *de novo*, the same as though he had made no former application, so as to get his patent.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MILITARY ARRESTS.

Mr. TRUMBULL. I move to take up Senate bill No. 317, providing for bail in certain cases of military arrests. It is a very short bill of one section.

The motion was agreed to.

Mr. TRUMBULL. I suggest that the amendment reported by the Committee on the Judiciary only be read, as it is a substitute for the bill.

The VICE PRESIDENT. The amendment reported by the committee has been read and amended heretofore, and there is now a pending amendment offered by the Senator from Kentucky [Mr. POWELL] which will be read.

The Secretary read the amendment, which was to add the following as a new section:

*And be it further enacted*, That any officer in the executive, military, or naval service of the United States, who shall arrest, or cause to be arrested, any person or persons not engaged in the military or naval service of the United States, and who is not engaged in the rebellion against the United States, shall immediately hand the person or persons so arrested over to the civil authorities to have the case investigated and the parties so arrested tried according to law. Any officer engaged in the executive, naval, or military service of the United States, who shall violate this section, shall be deemed guilty of a felony, and, upon indictment and conviction thereof in any court of the United States having jurisdiction to try and punish such cases, shall be punished by a fine of not less than \$500 and not exceeding \$10,000, and confinement in the penitentiary of not less than one year nor more than five years, in the discretion of the court trying the same: *Provided*, That nothing in this section shall be so construed as to prevent any officer who shall make an unlawful arrest from being prosecuted in a civil suit for damages for such unlawful arrest.

Mr. TRUMBULL. That amendment did not come from the committee, and I was not aware that it was pending. I hope it will not be adopted. The object of the bill is a very simple one, and it contains but a single section. It was to provide that parties who, by the sixteenth section of the act of July 17, 1862, were placed in the military service, should be entitled to bail. That section has reference to contractors, and places them in the military service so far as to subject them to trial by military tribunals. It was thought by the Committee on the Judiciary that parties so arrested ought to be allowed bail, and that was the simple object of the bill. The amendment of the Senator from Kentucky goes very much further, and opens this whole field of trial by military tribunals. I sympathize to some extent with the object which the Senator from Kentucky has in view. I do not believe in the absorption of all the judicial authority of the country in military tribunals; but I think he had better not press it upon this bill, as that amendment will doubtless lead to discussion. The bill we have prepared, I am quite sure, the Senator from Kentucky was in favor of in the committee. It is to allow bail to all those persons who are arrested under the sixteenth section of the act of July 17, 1862, instead of allowing them to be confined. I hope the Senator will not press his amendment on this bill.

I do not wish to discuss it now. I could not probably go for it in the shape in which it is presented, at any rate.

Mr. POWELL. I think the amendment is a very proper one, and I hope it will be adopted by the Senate. I know that the civil rights of citizens are being stricken down every hour by those persons engaged in making military arrests. I think the amendment will meet the approval of every Senator. It ought to do so, in my judgment.

The VICE PRESIDENT. The question is on agreeing to the amendment; and upon that question the yeas and nays have been ordered.

Mr. HENDRICKS. I desire to say just one word on this amendment. My own observation satisfies me that it is a very important one. The law which authorizes the suspension of the writ of *habeas corpus* directs that when arrests are made by the military authorities of persons not engaged in the military service of the country; in other words, when political arrests are made, the Secretary of War or the Secretary of State shall report to the proper court of the United States the persons under arrest at the next term of the court, and if no indictment be found against the parties so arrested at that term of the court, they shall be discharged upon such terms as the court may prescribe; and that if the Secretary of War or the Secretary of State did not so report to the court at the term of the court, then the party might apply to the court at the adjournment of the grand jury, and no bill being found, the court should thereupon discharge the party from such arrest. I understand that no attention whatever has been paid to this important provision of law. I think some effort ought to be made by Congress to secure some slight respect to this provision. It is an important provision.

On the contrary, sir, instead of obeying this law, men arrested under circumstances defined by the law of 1862 have been denied an opportunity to appear before the civil courts, as that law required they should be, and have been put upon trial before a military commission; and in some cases, as I understand, though the decisions have not yet been made public, have been sentenced to death. Whether these courts have jurisdiction to try such cases in some instances, is a question that is now before the President of the United States, or will be before him; but it is very clear that if the law of 1862, which authorizes the suspension of the writ of *habeas corpus*, has any force or validity whatever, these military courts have no jurisdiction of the men they have assumed to try and condemn to death. I think after two years have elapsed, and these Departments have not respected this law, it is proper that Congress prescribe a penalty against any officer that disregards it in the future. It is a simple question whether the law of 1862 is to be respected by the Departments, or whether the Departments are to disregard the provisions of the law entirely. It was going a great way to suspend the writ of *habeas corpus*; but Congress was not willing to do it unless there should be this provision for the safety of the citizen. If this provision be disregarded, the citizen is without remedy. He is not allowed to ask the interposition of the writ of *habeas corpus*. He is denied that. His only remedy is that which the law gives to him, and that being denied him he is without remedy, and liable, in the case to which I have referred, to the terrible penalty of death.

I think, under such circumstances, the amendment proposed by the Senator from Kentucky is a very important one, much more important than the proposition which comes from the committee. I care but little about that proposition which the Senator from Illinois says may be endangered by this amendment. The law provides that a contractor to supply the Army or the Navy shall, by his taking a contract, be regarded as a part of the Army or the Navy, according as he has agreed to furnish the one or the other. The Senator from Illinois, the chairman of the Committee on the Judiciary, esteems it of very great importance that these persons being charged before a court-martial, as they may be charged under that law, shall have the right and opportunity to give bail. I am content that that should be; but it is not so very important as the proposition of the Senator from Kentucky. The man who becomes a contractor under the law as it now stands voluntarily



becomes a part of the Army if he agrees to supply the Army; if he agrees to supply the Navy he voluntarily becomes a part of the Navy, and liable to all the usages of the Army and the Navy in respect to military or naval trials. It is not so important that he shall have the right to give bail as that that other class of citizens who have never become a part of the Army and never become a part of the Navy, who are arrested without authority of law, who are denied the writ of *habeas corpus*, shall have the benefit of the provisions of the law which suspended the writ of *habeas corpus*.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, the fortification bill, and upon that question the Senator from Ohio [Mr. SHERMAN] is entitled to the floor.

Mr. SHERMAN. I should like to have the bill and amendments read. I do not think it will take long.

Mr. TRUMBULL. There is a special order for this hour, on which the Senator from Kentucky [Mr. POWELL] has the floor.

The VICE PRESIDENT. The unfinished business has precedence, however, by the rule.

Mr. TRUMBULL. I was not aware of it, certainly, when this bill was left as the unfinished business; but I will move to postpone the present and all prior orders for the purpose of proceeding to the consideration of the joint resolution recognizing the State government of Louisiana.

Mr. SHERMAN. I believe I have the floor. The VICE PRESIDENT. The Senator from Ohio is entitled to the floor on the bill before the Senate.

Mr. TRUMBULL. He was not occupying the floor when I submitted my motion; but I will make the motion when he is through.

Mr. SHERMAN. I call for the reading of the amendments. I will say to the honorable Senator from Illinois that at this period of the session it is important that the appropriation bills be no longer delayed. The fortification bill has been lying on our tables for some days past. I called it up last night before the adjournment so that it might be the unfinished business for to-day. I do not think it will take long. I do not think the honorable Senator ought to interpose legislative business, especially of a character which might have been acted upon long ago, at this period of the session, in the way of an appropriation bill. This is the only appropriation bill now pending in the Senate, but all of them are now pending in the House of Representatives, and we must therefore give them the preference or precedence in business in order to get them through during the next week. I will ask for the reading of the bill now before the Senate and the amendments of the committee.

Mr. CHANDLER. I merely wish to say that the Senator from Illinois has utterly repudiated all special orders, and I am very glad that he has an opportunity to take a dose of his own medicine. I trust the Senate will repudiate all special orders, especially those of the Senator from Illinois. [Laughter.]

Mr. TRUMBULL. My motion to postpone this measure and all others and proceed to the consideration of the special order assigned for this hour, I suppose is now in order.

The VICE PRESIDENT. It is not. The Senator from Ohio is entitled to the floor, and he calls for the reading of the bill.

Mr. TRUMBULL. Can I not stop the reading of the bill by making a motion at any time when a bill is being read? Is it not my privilege to stop the reading of a bill and make any motion I think proper?

The VICE PRESIDENT. Not while another Senator is entitled to the floor. The Senator from Ohio is entitled to the floor.

Mr. TRUMBULL. The Senator from Ohio has sat down.

Mr. SHERMAN. I simply called for the reading of the amendments, so that I may then make my remarks upon them.

Mr. TRUMBULL. If the Senator claims the floor, of course I am not entitled to it.

Mr. SHERMAN. In order to enable the Senator to test the sense of the Senate, (I hope without debate,) I have no objection to allow the Senator to submit his motion. As a matter of course, I hope the Senator will not debate the motion.

The VICE PRESIDENT. If the Senator will yield, the motion will be in order.

Mr. SHERMAN. I will yield for the purpose of testing the sense of the Senate.

Mr. TRUMBULL. I do not ask him to yield. I claim the right to make this motion, and if I am not entitled to make it now, I will wait until I have the right to make it.

Mr. SHERMAN. Then I will ask for the reading of the amendments of the Committee on Finance to the fortification bill, and I will say what I have to say upon that subject.

The VICE PRESIDENT. The bill will be laid aside informally to enable the Chair to receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866; in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution; which thereupon received the signature of the Vice President:

A bill (H. R. No. 664) for changing the time for holding the circuit courts in the district of Virginia;

A bill (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia; and

A joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to the British schooners Minnie Williams and E. M. Baxter.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States yesterday approved and signed the following bills:

A bill (S. No. 240) for the relief of George A. Schreiner;

A bill (S. No. 368) to incorporate the Sisters of Mercy in the District of Columbia;

A bill (S. No. 376) to amend an act entitled "An act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May 5, 1864;

A bill (S. No. 421) to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February 16, 1857; and

A bill (S. No. 424) to facilitate the collection of certain debts due the United States.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866, was read twice by its title, and referred to the Committee on Finance.

#### FORTIFICATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866, which had been reported from the Committee on Finance with amendments.

The Secretary read the first amendment of the committee, which was in section one, line three, to strike out the words "the following sums be and they are" and to insert the words "there is;" so that it will read:

That there is hereby appropriated out of any money in the Treasury not otherwise appropriated, &c.

The amendment was agreed to.

Mr. TRUMBULL. Am I entitled now to the floor?

The VICE PRESIDENT. The Chair thinks, if these questions are put separately, the Senator would be entitled to the floor; but if the bill is simply to be read through for the information of the Senate before the Senator from Ohio proceeds

in his explanation of it, the Senator would not be entitled to the floor.

Mr. TRUMBULL. I trust the Chair will either recognize me or not, as it so pleases the Chair; it is indifferent to me.

The VICE PRESIDENT. If a debatable question arises in the reading of the bill, and the Senator from Ohio yields the floor, then the Senator from Illinois would be clearly entitled to it; not otherwise.

Mr. SHERMAN. The first amendment of the committee has been read, I think.

The VICE PRESIDENT. It has.

Mr. SHERMAN. I certainly do not want to interpose in the way of the Senator from Illinois submitting his motion; but as he would not accept as a courtesy what he had not a right to do, I will not yield, but will say what I desire to say in favor of this amendment.

The amendment of the committee proposes to strike out all the specific appropriations for fortifications, amounting to something like four or five million dollars, and to substitute in lieu thereof the following:

For the completion, preservation, and repair of such existing fortifications and other works of defense as, in the opinion of the President, are needed for the present war, and to preserve in repair existing fortifications and works of defense, \$1,500,000.

The basis of this amendment is this, that during the present war it is not wise for the Government to expend large sums of money in anticipation of a future war. All the fortifications that are stricken from this bill are fortifications built for a war against France and England, or other foreign Powers. They are of no consequence whatever in the present war. It is not expected that the rebels will take New York, or put in danger any of our fortifications.

This was the leading idea of the amendment. It was adopted after full consideration, after an examination of General Delafield, and after full conversation with the officers of the Department having charge of these works, and I hope it will be adopted by the Senate.

The fortifications that are stricken out are on the Pacific coast, on the lake coast, and on the Atlantic coast. The appropriations that are retained will enable the President to complete and preserve all fortifications needed for present defense, including, I hope, the repair of Fort Sumter, Fort Pulaski, and all the forts that are now needed for the defense of the southern coast. The appropriation proposed is ample for all the purposes of the present war. We do not strike out any appropriation for the present war. The money, however, cannot be expended in completing or carrying on the work on fortifications on our northern boundaries.

I do not think it is necessary for me now to make any further explanation. Although upon this subject there was some difference of opinion in the committee, yet I believe it was almost the unanimous sentiment of the committee that at this time we ought not to make further appropriations for this purpose.

Mr. TRUMBULL. I take it I am clearly entitled to the floor now.

The VICE PRESIDENT. That is the opinion of the Chair.

Mr. TRUMBULL. I move that the Senate postpone the present and all other orders, and proceed with the special order assigned for one o'clock to-day; and on that subject I desire to say a word or two in reference to what was said by the Senator from Ohio as to this fortification bill. The very statement made by the Senator from Ohio shows that there is no necessity for proceeding with it now. He informs us that it is the only appropriation bill left.

Mr. SHERMAN. One has come in since.

Mr. TRUMBULL. One of them has come in since; and the others are all in the House of Representatives. It is a short bill, which he thinks he can pass in a very few minutes; and being so, certainly there is no great urgency to press out of the way a matter of very considerable importance to this country, I think of vital importance to it; and it is not a measure that might have been acted upon months ago. It has not been before us months. It is true, it is some weeks since the credentials in the Louisiana case were submitted; but it has taken time to take testimony and ascertain facts, and the joint resolution reported by the

committee, and which was made the special order for to-day at one o'clock, was reported back last week. I think the members of the committee at least will bear witness to what I say when I state that that subject has given us a great deal of thought. We have spent a great deal of time upon it, and brought it before the Senate at as early a moment as we could. It is not a matter of that general legislation which ought to be permitted to have the go by.

I was present in the Senate last evening, but it seems it escaped my notice, or I should have objected at the time to the fortification bill being taken up. I was not aware that the Senator had called up this bill with the view of superseding the special order for to-day. I certainly should have objected to it. It must have been done at some moment when my attention was not called to it. Under the circumstances I should have objected to it at the time. I was very much surprised, when the order of the day was called for, that an appropriation bill, the only one left, that is to occupy our attention but half an hour, was to crowd this Louisiana matter aside, and on the assurance of the Senator from Ohio that it is vastly important, that we have got but half an hour to devote to this measure, and it must be considered now, and crowd out the special order of the day. But, sir, as this matter is up, I will not occupy the time of the Senate, but will withdraw my motion, and let us devote the half hour to the Senator's bill and see if we can finish it.

Mr. SHERMAN. Before the motion is withdrawn I will state to the Senator that it is true this bill might be postponed, probably without great disadvantage, but let me remind him that the Committee on Finance have leave to sit during the sessions of the Senate. I have not been able to take a part in the deliberations of the Senate during this week, and the very moment this bill is passed I have to go back to the committee to complete the examination of the tax bill; and although we are not to-day pressed with appropriation bills, to-morrow and the next day and the next day we will be. I hope this afternoon to be able to report the tax bill if I can get a little leisure. That will come up on Monday, and must be disposed of. In the mean time, the appropriation bills, not one of which has been passed, will come to us. One has come within a few minutes, and two others must come to us from the House of Representatives, and all the rest must yet be acted upon on reports of committees of conference. It is therefore indispensable, in order to prevent the accumulation of business at the close of the session, that these appropriation bills be taken up and acted upon the very moment we can reach them.

Mr. DOOLITTLE. Is the motion withdrawn? The VICE PRESIDENT. It is.

Mr. DOOLITTLE. I simply desire to make an inquiry. The resolution to which the Senator from Illinois alludes having been fixed for one o'clock to-day and having been displaced by this bill as the unfinished business, I suppose it will come up immediately after this bill is disposed of.

The VICE PRESIDENT. The Secretary will proceed with the reading of the bill and amendments.

The next amendment was in section one, line five, after the word "appropriated" to strike out the words "for the construction, preservation, and repairs of certain fortifications and other works of defense."

The amendment was agreed to.

The SECRETARY. The next amendment is in section one, line nine, to strike out the following item:

For Fort Wayne near Detroit, Michigan, \$125,000.

Mr. SHERMAN. The whole of these items are in fact but one amendment, and I hope the question will be taken on the whole of them together.

Mr. JOHNSON. I ask the honorable member whether this amendment, if adopted, will not strike out all the other appropriations except such as are included in the amendment of the committee? I think the bill as it came from the House of Representatives provides for the completion of Fort Patapasco, upon which the defenses of Baltimore rest. I will ask if there is any appropriation in the bill as it came from the House for that purpose.

The VICE PRESIDENT. The Chair will

suggest to the Senator that they will all be read, and he will then see.

The Secretary read the amendment, which was in section one, after line eight, to strike out the following items:

For Fort Wayne, near Detroit, Michigan, \$125,000.  
For repairs of Fort Niagara, near Youngstown, New York, \$50,000.

For Fort Ontario, Oswego, New York, \$100,000.

For Fort Montgomery, at outlet of Lake Champlain, New York, \$100,000.

For Fort Knox, at narrows of Penobscot river, Maine, \$150,000.

For Fort Popham, Kennebec river, Maine, \$150,000.

For Fort Preble, Portland, Maine, \$150,000.

For Fort Scammel, Portland, Maine, \$100,000.

For Fort Georges, on Hug Island Ledge, Portland, Maine, \$150,000.

For Fort Constitution, Portsmouth, New Hampshire, \$50,000.

For Fort McClary, Portsmouth, New Hampshire, \$100,000.

For Fort Winthrop, Boston, Massachusetts, \$30,000.

For Fort Independence, Boston, Massachusetts, \$10,000.

For Fort Warren, Boston, Massachusetts, \$20,000.

For sea-wall of Great Brewster's island, Boston harbor, Massachusetts, \$40,000.

For repair of sea-walls on Deer and on Lovell's islands, Boston harbor, Massachusetts, \$5,000.

For permanent forts at New Bedford harbor, Massachusetts, \$100,000.

For Fort Adams, Newport, Rhode Island, \$100,000.

For Fort Hale, New Haven, Connecticut, \$35,000.

For Fort Schuyler, East river, New York, \$50,000.

For fort at Wilet's Point, opposite Fort Schuyler, New York, \$100,000.

For repairs of Fort Hamilton, New York, \$50,000.

For fort on site of Fort Tompkins, Staten Island, New York, \$100,000.

For fort at Sandy Hook, New Jersey, \$100,000.

For repairs of Fort Mifflin, near Philadelphia, \$35,000.

For repairs of Fort Washington, on the Potomac river, \$50,000.

For Fort Monroe, Hampton Roads, Virginia, \$50,000.

For Fort Clinch, Florida, \$100,000.

For Fort Taylor, Key West, Florida, \$400,000.

For Fort Jefferson, Garden Key, Florida, \$200,000.

For fort on Ship Island, coast of Mississippi, \$100,000.

For fort at Fort Point, San Francisco bay, California, \$400,000.

For fort at Alcatraz island, San Francisco bay, California, \$330,000.

For additional defenses at San Francisco, \$100,000.

For defenses of Washington, \$500,000.

And to insert in lieu thereof:

For the completion, preservation, and repair of such existing fortifications and other works of defense as, in the opinion of the President, are needed for the present war, and to preserve in repair existing fortifications and works of defense, \$1,500,000.

The amendment was agreed to.

The next amendment was in line eighty-three, to strike out the words "contingencies of fortifications, including," so that the clause will read:

"For field-works and field operations, \$1,000,000."

The amendment was agreed to.

The next amendment was after line ninety-six, to strike out the following clause:

For repairing, equipping, and enlarging Fort Porter, at Buffalo, \$100,000.

The amendment was agreed to.

Mr. MORRILL. I cannot concur in the general policy of the amendment proposed by the committee, which contemplates the absolute suspension of all expenditures upon the forts of the country. If these works have at any period during this war been deemed necessary it seems to me the argument holds good at the present moment.

The appropriations for the completion of these works are as necessary this year as they were last. Last year it was the policy of the Government, and the opinion of the War Department, that these works should be prosecuted to completion.

I am not aware of any particular change in the sentiment of the country, or of the Administration, or of the Departments, or in the general condition of the country, which authorizes this radical change, this absolute and entire suspension of these Government works. None has been stated, I believe, by the honorable chairman of the committee, and surely none can be conceived, I think, from the general attitude of public affairs.

It may be said, I know, that these works must be prosecuted at the present time at great expense.

It should be remembered also that they must be suspended at great loss. These works cannot be suspended at the present moment without very great loss; and it seems to me that a policy which has been recommended by every Department of this Government since this war began, and urged as necessary for the defense of the country, should not be brought to a stand-still without some evidence, some exhibit, some recommendations from

the proper Departments of the Government that the thing was desirable. I do not know what reason the committee have. I have heard none in particular stated, and therefore I protest against this general change.

I rose more particularly to call the attention of the Senate to the obvious distinction which is made in this amendment. I think if the amendment is to prevail the same principle should be applied to other portions of the bill. The general feature of the amendment of the committee is that these appropriations shall be limited to such works as are deemed absolutely necessary, in the judgment of the President, for the present war; and so all the appropriations for works upon the coast, which it seems to be assumed by the Committee are not necessary during the prosecution of this war, are stricken out. But, on the 5th page of the bill, \$300,000 are appropriated "for surveys for military defenses, and for purchase of campaign maps." What defenses? What part of the country, and for what purpose? I submit that, if that appropriation is to be allowed at all, it should be amended so as to read in conformity with the general feature of the amendment of the committee, by adding the words "and needed for the present war." Then again I find:

For survey of northern and northwestern lakes, including Lake Superior, \$125,000.

Now I do not rise to make a general opposition to that appropriation, but I ask the honorable chairman of the committee on what ground is it that \$125,000 are to be appropriated for the survey of the western lakes, without any statement or any specification of any necessity or urgency for that survey as applicable to the present state of the country, while, at the same time, you are to have these expenditures upon the coast stricken out?

Mr. GRIMES. Move to strike that out.

Mr. MORRILL. I shall only move that in case the general appropriations deemed necessary heretofore to prosecute these works on the coast should be stricken out. The same is true also, I think I may say, in regard to the next item:

For engraving and printing charts of lake surveys, \$15,000.

The other items on this page seem to have some relation, I suppose, to the present prosecution of the war. If it be the sense of the Senate to adopt the amendment of the committee, striking out these general appropriations for the prosecution of the works of defense, which have been recommended by the Government since the war began, and which I conceive to be as essential for the successful prosecution of this war against all interference or pretense of interference abroad as any of the fortifications which you can construct, I shall then move that this part of the bill to which I have alluded be made in conformity to the general objects of the bill.

Mr. SHERMAN. I think I can satisfy the honorable Senator that we have not retained the items to which he objects from any sectional view, or from any desire to discriminate in favor of one class of improvement over another; and our attention was called to the very items to which he refers.

For surveys for military defenses, for purchase of campaign maps, \$300,000.

The amount seemed to be very large, but it was said that in the country in which they will be used the expense of making these campaign maps was very great indeed, as in the recent campaign from Chattanooga to Atlanta, and from Atlanta to Savannah. We have each of us been served with campaign maps, the very appearance of which indicates that a great deal of expense and care has been taken in making those maps, and their value is of infinite importance. The amount of \$300,000 seemed to be very large, but we had not the materials to make the reduction. The "surveys for military defenses" would be entirely in the South, and for the purposes of the present war. There is no occasion for surveys for military defenses in the northern States.

In regard to the second item, "for survey of northern and northwestern lakes, including Lake Superior," I can inform the Senator that a system has been adopted by which these surveys are placed under the engineer department, while the surveys on the coast are placed under the Coast Survey. We did not wish to interfere with the appropriations either for the coast survey or for

the lakes. If, however, the Senator thinks we ought to suspend these surveys during the war, as a matter of course this item ought to be stricken out, and with it the items for the coast survey in another bill. The committee were not disposed to interfere with either of these surveys for this reason: we are informed by the proper officers that if we should suspend the operations of the coast survey or the surveys of the northwestern lakes, we should probably lose a great deal more than we would gain by temporary economy. That did not apply, however, to the fortifications, which were permanent in their character, upon which the loss could not be much. The present system of surveys of the northern and northwestern lakes has been going on with the coast survey, but they are carried on by different Departments of the Government. The provision for the one is made in this bill, and the other appropriation is made in what is called the civil appropriation bill. It is a matter upon which I have not the slightest feeling.

The appropriation "for engraving and printing charts of lake surveys" is the ordinary appropriation for that purpose, and, as a matter of course, should fall in case we either diminish or stop the surveys on the northwestern lakes.

Now, in regard to building fortifications at present, I can say that the estimate submitted to us was nearly twice what was granted by Congress at the last session. What was done at the last session was done under entirely different circumstances from the circumstances that exist now. No one anticipates an immediate European war. No one anticipates that if we were to be involved in war for the next five years that these fortifications would be completed for the purpose; and indeed they are only a part of a system of improvement which cannot be completed for four or five years. If we appropriate \$4,000,000 this year we will be called upon to appropriate the same sum next year and the year after. It is probable that five years must pass by before these fortifications would be of any great value; and if my friend from Iowa [Mr. GRIMES] is right in his theory these fortifications are of no account when completed. The old fortifications are admitted to be of little value. The earthworks thrown up on the southern coast of Fort Fisher and Fort McAllister, new works composed entirely of earth and wood, have resisted a much greater amount of force than the best fortifications built under the old system. The present fortifications built by the United States have been of but very little service to the southern States. With the exception of Fort Sumter, they have been scarcely any; and that was built on an island, you may say; a peculiar fortification, where earth could not be used. General Delafield himself said that wherever earth could be obtained an earth fortification was superior to a rock fortification. That is a demonstration of the present war. More than that, the improvements made recently in gunnery have made unavailable the old method of fortifications, so that they are of no account. An iron-clad will run by a fort even of the best character; and our iron-clad boats could demolish any one of the old fortifications.

Now if you prepare a new system of fortifications to meet the present guns, the probability is that by the time the fortifications are built new guns will be invented, new projectiles will be devised. The wit of the whole world is now employed in improving gunnery, and machinery, and works of defense. The probability is that after we should have expended twenty or thirty million dollars to make a new system of fortifications some ingenious person would devise new projectiles, new guns, new improvements of aggressive attack which would render nugatory and valueless all this large expenditure.

On the whole, the Committee on Finance were satisfied that we ought not now, in the midst of war, to go on expending large sums of money in building fortifications when we were in no immediate danger. It was also shown that \$2 50 of appropriations now will not build any more work than one dollar would six years ago; and the probability is that if we postpone our system of fortifications until a time when our paper dollar is equivalent to a gold dollar, we can do then for \$1,000,000 what it will now cost \$3,000,000 to do. Under these circumstances, it seemed to us to be unwise to continue this system of fortifications.

We applied this rule to all sections of the country, to the Pacific coast, to the lake coast, (and there are several appropriations in this bill intended for the protection of the lake coast,) and also to the Atlantic coast, and only appropriated money enough to enable the President to repair such fortifications in the southern States as it may be necessary to repair. I trust that Fort Sumter will be rebuilt, merely for the honor of the thing, and perhaps Fort Pulaski should be rebuilt also; but with the exception of the fortifications in the southern States, necessary for the present war and the present exigencies, we deemed it unwise now to appropriate money.

Mr. MORGAN. The specific appropriations that are proposed to be stricken out, I suppose, were made upon the estimates or recommendation of the engineer department. I should like to know whether that department has changed its mind in reference to these appropriations. The amount appropriated by the bill is upward of four million dollars, and the appropriation proposed by the amendment of the committee is but \$1,500,000. I will inquire of the chairman whether that amendment is in accordance with the views of the War Department or the engineer department.

Mr. SHERMAN. I have had no official communication with the War Department on the subject. General Delafield, who submitted these estimates, as a matter of course desires these appropriations. I have had no official communication from the head of the War Department, and do not desire to quote his opinion or any conversations that I have had with him on the subject.

Mr. MORGAN. These specific appropriations, I suppose, were made in accordance with the views of the engineer department.

Mr. SHERMAN. Yes, sir; in accordance with the annual estimates; and I can state to the honorable Senator from New York that General Delafield was examined by the Committee on Finance, and his views were very maturely considered.

Mr. CONNESS. Mr. President, it is true, as stated by the honorable chairman of the Finance Committee, that General Delafield, the chief of the Engineer Bureau, was before the committee when the bill now before the Senate was being considered. It is also true that General Delafield adhered with great pertinacity to the recommendations specifically made and contained in the bill, a substitute for which has been reported by the honorable chairman; and upon the closest examination he adhered to his opinion in every case. I wish now to state to the Senate that while I regret being compelled to oppose the recommendation of the committee of which I have the honor to be a member, I feel that it is due to the country and due to the State that I represent here to take that course.

The proposition is to abandon the ordinary appropriations made for the fortifications on our seaboard, both east and west. It has been stated by the chairman of the Committee on Finance that these appropriations are about double what they have been heretofore. That point was explained very clearly by General Delafield when before the committee. He said the need for these increased appropriations arose, first, from the necessity of a new armament upon all or nearly all our fortifications; that if those fortifications were to be preserved as means of national defense, to be effective now for that purpose against the new system of building ships, they must necessarily be furnished with new artillery, otherwise they would be ineffective and subject to be successfully attacked by any enemy that might approach our coast. To meet that, the majority of the committee thought that we did not stand at this time in danger of a foreign war; that the iron-clads of France and England and the rams of the rebels, if they could get upon our sea-board, would not approach our forts; that we stood in no danger of attack. Upon that proposition the judgment of the Senate is to be pronounced.

Mr. President, in my own humble judgment there never has been a time in our history, nor since this war began, when it was better economy to secure the United States from attack from abroad than at this time. It is true that we are not directly threatened with a foreign war; but it is true and patent to every American that the reason why we are not threatened with a foreign

war is because the nations who are able to threaten, and whose interest, perhaps, it would be to threaten, do not desire to do it now. We are passing through a period when it is no longer, perhaps, a matter of doubt as to our success against our domestic enemies; but is that a reason why we should leave our coast defenseless, with thirty-pounder guns, with a few columbiads here and there; which are no longer relied upon as means of defense? I think not, sir. I think it would be very bad economy indeed to refuse this appropriation of \$4,000,000 simply that it might be saved, while by so doing we should be exposed to the direct necessity in case of a foreign war.

Mr. SHERMAN. As my friend is going off on an error, perhaps I ought to inform him that the appropriation for guns and ordnance is not in this bill at all. We have appropriated in the Army bill all that was asked for guns and ordnance. The only trouble is that we do not put them on works which are not built.

Mr. CONNESS. I take issue there with the honorable chairman. I know that was stated in reply to me in the committee. I know that the chairman can show appropriations for guns in the Army bill; but, sir, it was stated specifically by General Delafield in the committee that these appropriations did not contemplate new works, but the increased effectiveness of old works, by placing guns of a superior quality and caliber upon them. To the objection made and now stated by the honorable chairman of the committee, or to a question put to General Delafield, "Are not earthworks more approved now, and have they not been proven to be of greater utility than fortifications built of granite?" this was his reply: "Earthworks alone without bomb-proofs, requiring a very heavy expenditure, are worth nothing. The enemy can throw up earthworks as well as you, and he can shell you out of your earthworks unless you have expensive bomb-proofs built. You cannot preserve your ammunition from the weather and the shells of the enemy, nor your men from his iron hail, unless you have those bomb-proofs built, which are very expensive."

Again, the general explained the necessity of adhering to fortifications built of stone. At many of our ports, where science and engineering demonstrated their necessity, there was no possibility of building earthworks, and therefore they had to build them into the sea, and build them of stone, and build them by providing for one tier of guns above another. He said that earthworks were not new; that every demonstration that had been made in favor of earthworks of late had been long known to the engineers, not only of this country, but of other Governments. I think the statement made by General Delafield before the committee was as convincing proof as anything could possibly be that we should adhere to the appropriations recommended by that department.

Why, sir, if we refuse the appropriations asked for for the Pacific coast at present, to what does it expose us? I appeal to honorable Senators who have been in that country, and whose minds furnish them at once with its topography. The engineer department have answered the question, Is the great port and city of San Francisco sufficiently protected from a foreign enemy? The answer at once is, no. It was stated by General Delafield, to a question I put to him on that point, that there was nothing to hinder an enemy from taking many of those fortifications in reverse, that the appropriations asked for did not even contemplate the construction of a fortress at what is known as Lime Point, on the northern side of the passage known as the Golden Gate, but for the placing of more effective artillery and carrying on and finishing the works that were being built upon the island known as Alcatraz island, in the harbor opposite the entrance, and for the erection of such other works as should protect Fort Point on the rear.

But honorable Senators and the committee say, "There is no danger of your coast, there is no foreign enemy." Sir, we think there is a foreign enemy getting pretty near our doors. We think that that foreign enemy is a jealous and powerful enemy. We think that that foreign enemy has recently, during our great national needs, been guilty of a policy that deserves the severest watchfulness, the highest degree of preparation and the most intense determination on the



part of Americans to defend ourselves against its encroachments. Why, sir, the emperor of France did not conceal his purpose in his letter to General Forey, but declared that the purpose of his policy in Mexico was to check the advance of the United States. That declaration is on record. It has not been withdrawn by him. We have no reason to assume that he has taken it back. We have no reason to suppose that he is prepared to modify it. In my opinion, he never will modify it, but in view of the attitude that we shall take, and the ability we shall show to preserve ourselves against his encroachments. His encroachments thus far, it is true, have consisted in attacking and nearly destroying a feeble next-door republican neighbor. But, sir, when he shall have successfully accomplished that, if he shall unfortunately, what will be his next step? Are we to be let alone after he has secured a base from which he can operate? If we are, it is to be only because we shall be prepared for that time and hour. I do not mean here to threaten war against any Power with which we are at peace; but I do mean that all shall understand we mean to be prepared and to confront whatever Power, or all foreign Powers together, whenever they shall encroach upon or assail us.

I warn Senators not to lose sight of the importance of that preparation because of the desire to economize. It is true that there is a necessity for economy; but, sir, we are often wasteful of the public moneys, either by ill-projected operations or by wasteful expenditures of a varied character. Shall we in regard to this arm of the public service, in regard to this great fountain of our national security, undertake to make up these wasteful losses and economize? I hope not.

It was explained by General Delafield that there was the greatest possible national necessity for retaining in the highest state of defense the fortifications known as Key West and the Tortugas. Why, said he, let those be taken by a foreign Power, and they have at once a base from which they can invade us. Is it policy to neglect the warning voice of the able and gifted man who stands at the head of the engineer department of the United States? I think it is highly creditable in the Committee of Finance to endeavor by every means to lessen the public expenditure; but I think that disposition to lessen the public expenditure, and to guard it, should not be set up against the opinion of General Delafield. I think his opinion should be regarded; and I trust the Senate will not accept the substitute offered by the committee. In my opinion it would be an unwise economy and an inferior statesmanship.

One word more, sir, and I shall conclude. Explanation was further made by General Delafield in regard to the protection necessary to the city of Detroit. I will not dwell at length on his statements; but suffice it to say that he gave it as his opinion that there was a necessity for the improvement of Fort Wayne. He explained that the use of steam furnished great advantages to an enemy in passing fortifications; but that at that point a complete barrier might be erected or lodged in the passage, by which the ships of the enemy would be compelled to stand until they would be destroyed by our guns. Shall we leave that important point, with others, exposed? I hope not.

Mr. GRIMES. Mr. President, I rejoice that the Committee on Finance have come to the conclusion which I reached four years ago, and have recommended, that the Senate shall not proceed with the costly business of continuing to make large forts. I am willing to admit with the Senator from California, and with other friends of the distinguished gentleman who is at the head of the engineer corps, that he is a very scientific, practical, and able man. I am willing to admit also that that corps is the *élite* of the Army; but it should be remembered that it is their profession to make forts, and that whenever you take away from them the appropriations and the power to continue the exercise of that profession, their vocation is gone. I trust that the engineer corps are not like the Bourbons, who "never forget and never learn anything."

Sir, has not this war taught us something? Has not our experience at New Orleans taught us something? When the expedition against New Orleans was gotten up there was but one man in the entire engineer corps who did not say that it was utterly impracticable for New Orleans to be taken.

There was one single exception, and I will name that man. It was General Barnard. He said that it was possible to be taken. Did not your wooden ships pass right by those fortifications, fortifications that were deemed by everybody almost, and especially by your engineer corps, as being incapable of being passed by any kind of vessels, much less by wooden vessels? Were we not told that Fort Morgan was the strongest fort on this continent? And what was the result when Farragut attacked it? How long was it able to resist wooden ships? What has been our experience with Fort Pulaski, also one of the strongest forts, it was said at the beginning of the war, that we had on this continent? How long was it able to resist the attack of the members of this same engineer corps? Why, sir, I apprehend there is not a single fort now in the possession of the United States that is not capable of being reduced in forty-eight hours by our own vessels, should they see fit to attack it, or should it become necessary for us to attack it; partly growing out of the nature of the constructions, and partly growing out of the incapacity thus far to make projectiles and guns which are capable of attacking and destroying iron vessels.

Mr. President, it is not inappropriate for me to read in this connection a letter which I have before me, published in the London Post, and which reached this country, I believe, only the day before yesterday. The letter is written by the celebrated Mr. Blakeley, the inventor and maker of guns in England, and one of the most distinguished artisans of that country. It will be remembered that after the taking of Fort Fisher, Admiral Porter made some remarks in his report in regard to the value of the iron-clad monitors, which he said had been under the guns of Fort Fisher for five days at a distance of eight hundred yards, and had come out entirely, or almost entirely, uninjured; and he also said that with the *Monadnock* and vessels of her class he would be willing to undertake to cross the ocean, or something tantamount to that, and reduce the towns on the coast of Great Britain. Captain Blakeley says:

*To the Editor of the London Post:*

Now that Fort Fisher has fallen, in spite of the heroic defense of General Whiting, Colonel Lamb, and the rest of its garrison, there can be no indiscretion in my giving you some information about its armament.

The fact most instructive to us is that the fort contained not one gun powerful enough to sink an iron-clad ship. A very late letter mentions as the most effective gun in the place an eight-inch five-ton cannon, rifled on the plan of Commander Scott, of the English navy, and firing one hundred and thirty pound shells. Of the rest, about half were seven-inch built-up rifles; half were ten-inch, smooth-bored, cast-iron guns.

Now mark what he says:

Most of these guns were more powerful than any gun mounted on any fort in England or on any English ship, (except one, which has a few of the valuable 100-pounders ordered by the Duke of Somerset,) yet they failed to injure the Federal fleet. It follows that that fleet could attack Portsmouth or Plymouth with more impunity than Fort Fisher so far as artillery fire is concerned.

I am, sir, your obedient servant,

T. A. BLAKELEY.

We have the highest British authority for saying that those iron-clad vessels, if they crossed the Atlantic, were capable of attacking the fortifications of Portsmouth and Plymouth—fortifications that were designed to protect the largest navy-yards on the globe, navy-yards that contain more supplies by double than any navy-yards on the globe. Now, what is the necessity for our going on and proceeding to build more of these forts, when—

Mr. CONNESS. If the Senator will permit me to interrupt him, I will rest the opposition I make to the adoption of the substitute now before the Senate upon an application to General Delafield as to whether these appropriations are recommended for the purpose of building forts or not. I am entirely satisfied that that is not the purpose of the recommendations and appropriations; but on the contrary, his statement is clear and unequivocal that the appropriations are chiefly needed. I know that the honorable chairman believes himself right; I know that he gesticulates with great earnestness, and says I am wrong.

Mr. SHERMAN. I simply shook my head, for I do not wish the Senator to fall into that error. I hold in my hand the Army bill, which appropriates \$3,000,000 for guns for fortifications, and those guns are made in the ordnance

department. My friend certainly should know the organization of the War Department sufficiently to know that the Engineer Bureau and the Ordnance Bureau are separate and distinct things. The Engineer Bureau, which General Delafield has charge of, has nothing to do with making guns; he builds fortifications. General Dyer is the man who can talk to you about guns.

Mr. CONNESS. I am quite aware of that. Will the Senator from Iowa excuse me if I trench a moment more upon his time?

Mr. GRIMES. Certainly.

Mr. CONNESS. I presume we are all aiming to get at a correct conclusion. I am just as well aware as the honorable Senator from Ohio that General Dyer or the ordnance department takes charge of the preparation of guns; but General Delafield did say that the guns now necessary to beat off iron-clads could not be placed upon the platforms which hold the guns of the old style, and that large appropriations were necessary to make the necessary changes. Now, I repeat again that I will withdraw all opposition to the amendment of the chairman, if General Delafield will not, in a communication, reaffirm what I say.

Mr. GRIMES. That this is to make guns?

Mr. CONNESS. That that is not to make guns, but to prepare the forts to receive the guns that have been demonstrated to be necessary for coast defense.

Mr. SHERMAN. I think I can satisfy the Senator from California. I will ask him whether there is any fort now at Fort Point.

Mr. CONNESS. There is.

Mr. SHERMAN. Is there any fort at Alcatraz island?

Mr. CONNESS. There is.

Mr. SHERMAN. Now I will ask the Senator if it requires \$730,000 to put guns upon those forts?

Mr. CONNESS. I will answer the Senator—

Mr. SHERMAN. Then let me say further, that in the Army bill which has already passed both Houses, and which is a distinct and separate appropriation, there is an appropriation for these guns of \$3,500,000.

Mr. CONNESS. I am glad the honorable Senator has made this specific statement; we shall now understand each other, and the Senate may understand the matter. The Senator, in the first place, asks me if there is a fort at Fort Point. I say yes. He asks me, is there one at Alcatraz island? I say yes. Now, the next question is, is \$730,000 necessary to put guns on those two forts? I say to the Senator in answer to that question, that in the first place, General Delafield did not say so; that in the next place, I do not say so; but that General Delafield did say that some part of this \$730,000 was necessary to erect such defenses in the rear of Fort Point as should prevent it from falling into the hands of an enemy who might approach it in the rear; that not one of these guns is worth a straw—the Senator smiles; I suppose he has a right to smile—that not one of those guns at Fort Point is worth anything except in the direction of the sea and the harbor, and that therefore a portion of the appropriation is necessary to erect fortifications to protect the fort known as Fort Point from being taken in reverse.

Now, let me make an additional statement to the honorable Senator from Ohio, and the honorable Senator from Iowa, both of whom I conceive to be aiming to secure the highest degree of the public interest. I asked General Delafield what was the armament at Fort Point now. I stated to him that when I was there, (which was not very long since,) there were only two or three columbiads in the entire fort; that its defenses consisted of 30-pound guns. He said it was in that condition still, but the ordnance department had recently sent some large guns to that coast. I knew they had. But you cannot work one of those guns without making some changes in Fort Point. You cannot prepare it for them without heavy expenditure. The guns required and demonstrated to be required by the very letter read by the honorable Senator from Iowa, written by Mr. Blakeley, shows that necessary appropriations must be made before they can be availed of. What does Mr. Blakeley write? He says there was not an iron-clad sunk by the guns of Fort Fisher. Why? Because he says the guns

were not of sufficient caliber and force. All our forts on the eastern sea-board are in just that condition; and you cannot place those large guns in position without large appropriations of money. I repeat again, before I close, that I know I am right; that this appropriation is not for the manufacture of guns, but that it is for the proper replacement of the old and inefficient artillery with guns that shall be necessary and effectual in sinking iron-clads that dare approach them.

If the argument of the Senator from Iowa is worth anything, it goes against all fortifications on our sea-coast. I will not say to the honorable Senator that he represents Iowa, which needs no fortifications of this kind; because he is too high-spirited, and this Senate have shown a sufficient evidence of his knowledge of that branch of the public service by placing him in the high position of chairman of the Committee on Naval Affairs of this body. I appreciate his opinions; but I ask him in candor to examine and weigh the effect and force of that letter of Mr. Blakeley, which shows clearly that we have not a fort in the United States that is capable of sinking an iron-clad at the distance which her great artillery enables her to lie off from us, while she assails us, unless we replace the guns that are now upon our Atlantic and Pacific sea-board fortifications by more effective artillery.

Mr. GRIMES. The letter of Mr. Blakeley proves a great deal more than the Senator from California says. It says that Fort Fisher was more heavily and more ably armed than any of the vessels in the British navy or any of the forts along the British sea-coast. His expression is:

"Most of these guns were more powerful than any gun mounted on any fort in England or any English ship, except one, which has a few of the valuable nine-inch 100-pounders ordered by the Duke of Somerset."

Mr. Blakeley might further have said that two of the Armstrong guns that bore the mark of the English arsenal upon them, the best pattern of Armstrong guns, were also included in the armament of Fort Fisher. The inference, therefore, not only would be that the 30-pounders and the 24-pounders, or the 68-pounders that are now mounted in our forts, to which the Senator from California has alluded, would be of no possible use against an attack by sea by a naval force, but even if you were to increase your armament, and strengthen it up to the same degree of excellence that the English Government have strengthened their armaments, they would be of no value. Many of the English ships-of-war have mounted upon them Armstrong guns, which that Government have hitherto considered as the best armament that could possibly be devised; and yet, in the estimation of Mr. Blakeley, none of those guns are able to meet an iron-clad at a distance of eight hundred yards, and do it any material injury.

Mr. CONNESS. Will the Senator permit me to interrupt him again?

Mr. GRIMES. Yes, sir.

Mr. CONNESS. Is it not now palpable to the Senator from Iowa that the confession that is contained in that letter of Mr. Blakeley, that there is not an English ship that can at the same distance withstand the fire of the guns we now use, or the guns with which we captured Fort Fisher, furnishes the strongest reason why we should place that class of ordnance that our iron-clads used in the capture of Fort Fisher upon our forts? If, as he says, there is not a British ship that can withstand the power of those guns, I should think it would follow that there is no British ship that can withstand our forts, having like guns placed upon them.

What Mr. Blakeley tells the British people is, that the American fleet which captured Fort Fisher could successfully attack the fortified ports of the British empire, and therefore they should at once put their forts in a proper condition of defense against our iron-clads by placing upon them heavier armaments than they now have. Can anything be more conclusive in favor of the proposition the Senator now opposes?

Mr. GRIMES. No, sir; it does not follow at all. What we want to successfully resist an iron-clad when it attempts to enter our harbor is a gun mounted on a vessel that can come nearly in contact with the iron vessel that is attempting to make an encroachment upon us, and not locate it on a fort a mile or a mile and a half

away from the channel, as many of these forts are located.

Now, Mr. President, if this appropriation were wholly and exclusively for what the Senator from California thinks it is, that is, to change the embrasures of the fort so as to admit a different species of cannon to be used from those for which the forts were originally constructed, I would be in favor of it.

Mr. CONNESS. That is it.

Mr. GRIMES. But here is a diversity of opinion between the two Senators. The chairman of the committee says that it is to build new forts and to prosecute the construction of old forts that were undertaken before the developments and the instruction that have been furnished to the nation by the prosecution of the present war.

Mr. CONNESS. We can easily get the opinion of General Delafield for the Senate.

Mr. GRIMES. The Senator from California says the purpose of the amendment is to change the construction of these embrasures so as to admit the use of a different species of artillery. I am willing to go with the Senator from California to accomplish that purpose, because the forts may then be of some service. I do not think the old forts that have been built will ever be of any material service; but I think they would be of some service; I think it would be a wise expenditure for us to change them, so that we can use the proper kind of artillery in them; but I am unwilling to vote for an appropriation that shall provide for prosecuting the construction of forts that were undertaken before the commencement of this war, and before the lessons that have been taught us by Fort Hindman and Fort Morgan, and St. Philip and Jackson, and Macon and Sumter, had been learned by the nation. I thought there was one thing that was learned from the Crimean war by all the nations of the earth; I thought Todleben had been a great instructor of people; and that was, that the old necessity of fortifications was an exploded idea; and that where ever earth could be obtained, earth was the proper material with which to make fortifications.

The Senator from California says that it is necessary to have bomb-proofs. That is true. There should be bomb-proofs, and magazines; but those will not constitute the stone fortifications. It would be necessary to make walls around those bomb-proofs, perhaps, and then cover them with earth. I would be willing to provide for the construction of such fortifications as those; and stone walls should be built around the magazines; but the idea of building a magazine in a fort entirely of stone, as some of them are being built now, I think would be absurd in the highest degree, with the teachings we have had on this subject.

Mr. President, I do not know what the vote may be on this subject. I do not know whether we are prepared to abandon this old and effete system that has been fastened on us for the last fifty years; but the time is not far distant when the Senator from California and I will occupy precisely the same position on this subject. The first foreign war that this nation has will demonstrate that the old fortifications are utterly valueless, just as this war has demonstrated that our artillery was of no value; just as the Mexican war demonstrated that the artillery with which our ships were mounted in 1812, by the side of the artillery we had in 1846, was of no comparative value.

Mr. CLARK. The Senator from Iowa, I think, has made a captive of himself. He has promised or said he would be in favor of an appropriation for the building of forts for the purpose stated by the Senator from California; that if the object of the appropriation was to enlarge the forts or to reconstruct the forts—

Mr. GRIMES. I did not say that. I stated expressly that if the purpose was to prosecute to completion old forts that had been undertaken before the lessons we have learned during this war were taught us, I was opposed to it; but that if we were merely to change the embrasures so that artillery of a different description could be used, then I was in favor of it.

Mr. CLARK. If the Senator had allowed me to get through with my statement, perhaps he would not have been so ready to correct me. I understood him to say, and I submit to the Senate that was the spirit of what he did say, that if the appropriation was intended for the alteration

of forts or the enlargement of the embrasures of forts so as to use artillery or guns of a different caliber, such as had been demonstrated to be useful in a war like this, then he was for it. Now, if General Delafield said anything—and I think he did say something, because I put the question to him myself in regard to it—but if he did say anything in regard to these forts, he did say what the Senator from California says he did say: that he desired to reconstruct or so repair these forts that they should take this very artillery which had been demonstrated to be so useful in this war.

I did not understand from what General Delafield said that he was a man who never learned anything, as the Senator from Iowa would seem to intimate the engineer corps never did. He did not say, in so many words, they never learned anything; but he said he hoped they were not like the Bourbons, who never forgot and never learned. General Delafield confessed that the war had demonstrated that you must have better guns, and he wanted to prepare these forts under his charge to receive those better guns, and hence he asked the appropriation. He asserted, what everybody will assert, probably, who has looked on this war, that earthworks were better to a certain degree where they could be used, than stone; but, said he, what are you going to do on a rocky point, where you cannot build an earthwork; where the sea would wash it away the moment you did build it? You are driven—it is your last resort—to use stone. When the Senator from Iowa, with all his astuteness, undertakes to say that Fort Fisher was armed with these heavy guns, heavier than any English fort was ever armed with, and yet they were powerless under the Navy, let me tell the Senator from Iowa that Fort Fisher held the Navy at bay entirely until a land force was landed and took it by assault. What we want is to arm these forts all along the coast with the guns that are made necessary by the progress of war, the progress of engineering, and the ordnance department; to arm them with that sort of guns that shall be efficient, and to alter the forts for the reception of those guns.

Mr. CONNESS. And the progress in ship-building.

Mr. CLARK. And the progress of the Navy. I admit, and I feel a pride in it, that the great Navy has made wonderful progress; that the victories of the Navy have been full of glory, and have won for it renown. I rejoice that we have made this improvement in guns and missiles. I hope we shall be able to make the improvement in fortifications made necessary by these improved guns, and thus protect our harbors.

Now, Mr. President, it will be understood, I think, from what I say that I did not agree to this amendment of the Finance Committee. There is another reason why I did not agree to it beyond what I have stated. The bill appropriates specific sums for different fortifications, as, for instance, Fort Wayne a given sum, Fort Niagara another given sum, and so on through the list of fortifications which it is desired to improve or rebuild. The proposition of the Finance Committee is to strike out all these different appropriations and to put into the hands of the President of the United States a given sum of money to expend where he shall deem best. I do not doubt the honesty, I do not doubt the discretion of the President of the United States; but here it is understood that he has a million and a half of money to be expended at Portland, or Portsmouth, or Boston, or New York, or Philadelphia, or some location on the Pacific coast, and the men who are the smartest and who can make him understand that there is the most necessity in this or that harbor, will get the money. I do not propose, and do not wish to leave it in the hands of the President in that way. I say that Congress should judge of the necessity of the appropriation at a given place, and make the appropriation or refuse it, as the necessity may be. If it is not necessary that any of these forts should be improved or rebuilt, or the work be carried on upon them, let us strike out the appropriation entirely and take it away, and not put money into the hands of the President to use it as he may deem wise, (and perhaps it will be wise,) or as certain people may persuade him is wise.

But I want to call the attention of the Senate to another thing that General Delafield said bearing

on these earthworks. The question arose on an appropriation made in this bill; in lines seventy-six and seventy-seven, the Senate will see an appropriation for the defenses of Washington of \$500,000. I said to the general, "How can it be necessary that you shall expend \$500,000 for the fortifications around Washington, when the war is coming to an end apparently, and when there will be no further necessity to maintain those forts for a great while?" and his answer was that the earthworks around Washington have got to be rebuilt to a very great extent. We had wooden breastworks in them, and magazines made of timber and earth thrown over it, and the timber is all rotting and falling down, and we have got to rebuild the magazines of all those forts. It is not wise, I submit to the Senate, to construct forts so that we shall have to rebuild them every four or five years in that way. We must have a more durable material than that. It may be well, as the Senator from Iowa says, to construct them of stone and then throw earth over them, where you can get the earth and the earth will stay, because earth is a thing that resists shot better than anything else that can be used.

I agree with all that has been said by Senators on the one side in regard to the economy that should be practiced at this time. I know that it is more expensive to build works now than it was three years ago, and perhaps more expensive than it will be two or three years hence; but if we are to do any work now, if we are to make an appropriation to be used the coming season, I submit that it will be better to strike out a part of the appropriations in the bill for specific places and to appropriate the balance, than to cut it all out at one swoop and then give a gross sum to the President to expend as he chooses. Let us use the discretion that legislators ordinarily use, and if Fort Wayne needs a less sum than the bill appropriates, make it less; if Fort Wayne does not need anything, cut it out; and then of the next item, if that work needs less, cut it down, and so on; but not, against the opinion of the engineer who has the works in charge, sweep the whole away and appropriate a gross sum to be put into the hands of the Chief Executive to do as he may see fit in regard to it.

Let me instance the harbor of Portsmouth in my own State. There are two forts there, Fort McClary and Fort Constitution, those forts lying perhaps in a direct line a mile and a half below your navy-yard, and you leave them unfurnished with arms in the state they are now in, or nearly so, and you leave all the property of your navy-yard and your yard itself entirely unprotected. It has been found necessary by the engineer and the ordnance departments during this war to mount two heavy Parrott guns in Fort Constitution for the protection of the harbor for the time being. At Fort Constitution you no more could make an earthwork than you could make one in this Senate Chamber. It is on an extreme rocky point projecting into the harbor where the tide runs around it with a velocity that would take away any earth you might put there. It is founded on solid rock.

Mr. CONNESS. The Senator will permit me to say that I thought I understood General Delafield to state specifically in answer to a question of the Senator in regard to Fort Constitution, that the object of the large appropriation for that very work was to put heavy guns in it.

Mr. CLARK. He did so state, and anybody who has known that fort for any length of time would know the necessity of putting heavy guns there. Fort McClary, on the other side of the harbor, is a water battery down close to the edge of the water, with a hill behind it, for the defense of the harbor.

Now, Mr. President, I submit to Senators whether it is wise in this state of the military art to leave all these fortifications entirely useless, if I may so speak, or nearly so, for the want of preparation and heavy guns to put upon them. Take Portland harbor in the State of my friend before me, [Mr. MORRILL.] I submit to him and I submit to the Senate that on the rocky island at the mouth of that harbor you cannot build an earthwork; it is an impossibility to do it. I submit to him and the Senate, and to anybody who knows the locality, the necessity of building up fortifications in the harbor of Portland, which is the very point that the enemy would seek in a foreign

war, if we should ever be engaged in one with England, in order to reach the Canadas by the Grand Trunk railroad. It may be wise to forsake what has been the policy of the Government for years and years, but I do not believe it is. I hold that the way to prevent a foreign war is to make yourselves strong against it. Your enemy will not attack you when he sees that he will be beaten if he does.

Mr. GRIMES. I simply desire to say that the remarks of the Senator from New Hampshire in regard to any claim that I preferred for the Navy in connection with Fort Fisher are wholly gratuitous and uncalled for. I claimed nothing for the Navy in that connection. I simply read a letter from the highest authority in the empire of Great Britain to show that the fact that our iron-clad vessels remained uninjured under the fire of the rebels at Fort Fisher indicated that Portsmouth and Falmouth in England lay at the mercy of our iron-clads, should they go there and attack them. That is all I said; and as to the remark that the Navy did not accomplish anything and were incapable of accomplishing anything until a land party from the Army went ashore, it was wholly gratuitous.

Mr. CLARK. Mr. President, if the Senator does not claim anything for the Navy, I will be a little gratuitous and I will grant him something for the Navy. I think they behaved with great gallantry on that occasion. I do not desire and I will not take from them one particle of the meed of glory which they earned. I simply meant to say that that fort was so armed with heavy guns that the Navy could not take it—not to detract anything from the Navy. My object was to show that forts could be armed so as to resist the iron-clads of a foreign Power as that resisted our iron-clads.

Mr. SHERMAN. Mr. President, it is always an invidious task to endeavor to reduce appropriations. One would suppose here, from listening to this argument, that the Committee on Finance were in some way proposing a very radical reduction of expenditure. Now, sir, I declare that the amount appropriated by this bill for fortifications is more than has ever been appropriated by this Government in any bill, with the single exception of the bill of last year. The amount proposed by the Committee on Finance is within \$300,000 of the amount appropriated last year, and never was so much appropriated before; and yet from the clamor raised here in regard to this bill one would suppose we were striking at all the fortifications.

Mr. President, I am tired of this. We are now involved in a war in which everything is at stake. All the money is needed just as the life-blood of the system is needed, and he who would abstract money from the Treasury of the United States now for any purpose that can be postponed is not doing the country a public service; yet there is scarcely a measure that has been proposed in the last twenty years demanding public money but is now pending before us. We must stand up and resist these things. I know that honorable Senators desire to advance the interests of their constituents. They naturally see in the works to be constructed in their own neighborhood reasons that others cannot see; but the question is presented to us, shall we now in the midst of this war, when we have all we can do to raise the money necessary to carry on the war, pile up granite in New Hampshire or in Maine, shall we build fortifications at San Francisco? I say to the honorable Senator from California that if California be attacked, all the power of this Government will be at her back to defend her against France or any other country, and I ask him whether the expenditure of \$1,000,000 now on Fort Point will tend to protect us from the French? Not at all. The history that is now being made by our gallant soldiers and brave officers in the South will protect us and protect California more than all the granite that may be piled up on Fort Point. Let us postpone these works until we can build them with care and fidelity; let us postpone all these improvements until we have money without borrowing it from the people; let us not divert loans which are given to us for our national defense in this struggle to piling up granite anywhere for a doubtful service.

But the honorable Senator from New Hampshire, who desires a part of the appropriations in

this bill for his State, says that the President ought not to be trusted to distribute this money as the committee propose. Let us see whether we have not guarded the discretion of the President. We provide here that \$1,500,000 shall be expended "for the completion, preservation, and repair of such existing fortifications and other works of defense as in the opinion of the President are needed for the present war, and to preserve in repair existing fortifications and works of defense." He has no power under this appropriation to take money and expend it on works which are not now needed in this war. We give him no discretion to do that. He will have no power under this appropriation as reported by the Committee on Finance to take money and expend it at Detroit or on the forts in Portland harbor; he can only keep those forts in a state of preservation and repair; but he has power, and we place at his discretion \$1,500,000 to be expended on the forts needed in the present war, as for the repair of Fort Sumter and Fort Pulaski, and the forts at Key West. There it may be necessary to continue the works during the present war to preserve our armament in that region, to maintain our hold along the Atlantic coast. It is necessary for us also to rebuild and repair the forts at New Orleans and at Mobile, which are in our possession. We make an appropriation and do not cripple or limit the power of the President in expending this money on the line of forts along the southern coast. We have every one of them now, and we intend to hold them; and until the flag of our country floats in every portion of the South we will hold these fortifications as the line of coast defense, and we place in the power of the President an ample sum—more than was demanded—to hold these forts and put them in a state of perfect repair. But when we are called upon to expend so much money, to take three or four millions more and plant it in the form of granite along our Pacific coast and Atlantic coast, it seems to me the idlest thing in the world. We place no unreasonable discretion in the President, we do not give him power to spend money and subject him to being harassed and bothered by those who demand money for their particular localities. All the power we place in his hands is to hold on to the forts we have in the southern States and not to expend the money of the people in forts along the northern coast.

Some honorable Senators seem to anticipate a war with the French. Sir, such remarks and discussions invite controversy with the French. I tell you that our guarantee against a French war is in the power evinced by the American people. I do not fear a French war; let it come when it will, we are prepared for our defense. I do not fear any of the Powers of Europe. I would not excite a controversy with them. We have no occasion for a European quarrel. There is no point now upon which we can have a European quarrel. We propose no interference with them, and when they undertake to interfere with us our history within the last five years shows that we are able to defend ourselves.

Mr. President, this has been an earnest effort at least to check expenditure in this direction. At the last session we appropriated for all the fortifications \$1,800,000. Now the committee propose to appropriate \$1,500,000. I ask if that is not enough. Last year we appropriated for the defense of San Francisco \$140,000. They have two forts there. Now it is proposed to appropriate for those works over eight hundred thousand dollars. I ask Senators if that be wise.

But the honorable Senator from California says the forts ought to be armed with the new guns. I say to him again that the guns are made in the Ordnance Bureau, and we have appropriated all that was asked for guns. If any money is desired to place guns in position in the forts there are appropriations which can be used for that purpose; or if it is necessary for that identical purpose, there is no objection to giving the engineer department enough money to man or reman our fortifications. But the great body of the money appropriated in this bill would not be used for any such purpose. I doubt whether \$50,000 of it would be used for the purpose of transporting ordnance and placing it in the forts. All that is the business of the ordnance department; and what the engineer department does is to adapt the forts to the new armament. Whatever is necessary to adapt the forts to the new armament, I have no objection



to appropriate here; but I know from General Delafield, and I know also from the whole history of this matter, that the great body of this money if appropriated will not be spent in adapting the forts to new gunnery, but in carrying on new works of defense and completing those which have been already commenced. That is the intention, and General Delafield, who has been quoted so often, said the object was to place these forts in a condition of permanent defense against foreign Powers; and when the question was put to him whether the money was needed to enable us to protect ourselves against our present enemy, he promptly answered, "Certainly not."

Now, sir, we must defend ourselves on the plains of Virginia and North Carolina and Tennessee. We need not prepare ourselves for future defense against foreign Powers. Let the future take care of itself. Let us do our duty now, put down our present enemy, and I tell you we shall have peace in this country for a generation to come. I do not fear future war. Let us only get out of our present trouble, husband our resources for that purpose, and we need not fear foreign Powers. But for us now to borrow money which must eventually be repaid in gold and plant it on the shores of the Atlantic, or the lakes, or the Pacific, to be repaid hereafter threefold is an act certainly not of wisdom or economy. We cannot do it; we must put down the brakes somewhere; and I do not know where it can be done better than in this fortification bill. For one, I do not apply to this bill or to any measure affecting the Atlantic or the Pacific coast a rule that I would not apply to myself and my own constituents. Some of the people in my State along the northern border fear that the British may come over and attack us as they did in the war of 1812. I represent a section of the country which was occupied at one time during that war by the British and Indians. I do not fear that now. We feel able to defend ourselves, and with the good aid of the people of New Hampshire and California and other sections of the country, if we shall ever again be involved in war with Great Britain, we will make Canada the battle-ground, and not the plains of Ohio. I do not utter this as a threat. I only say what every man of sense knows, that the contest will not be at Fort Wayne or at the forts along the lake shore, which it is now proposed to rebuild and improve; but it will be in Canada where the battles will be fought for the defense of our own territory. Why then seek difficulty? Why provoke difficulty by building forts and fortifications for which there is now no use? If, as I said, it is necessary to appropriate a small sum of money to adapt our existing fortifications to the new armament, that is provided for; we have appropriated in the Army appropriation bill, which has now received the sanction of both Houses, \$3,500,000 for ordnance for fortifications.

There was one remark made by the Senator from New Hampshire which struck me with surprise. He said that \$500,000 was needed for the defense of Washington. We have provided for that. It is here in the first item not stricken out, "for field-works and field operations." The Senator says the reason why the appropriation is necessary is to rebuild works. Undoubtedly General Delafield said he desired to rebuild some of these magazines; but his principal purpose is to make another line of defense about Washington, a new line; and the Senator, I suppose, in order to prevent them from rotting down in three or four years, would build them of granite, and in that way would save the loss and damage of their rotting down. Does the Senator know how much it would cost to transport enough granite or stone from New England here to rebuild these fortifications and make them water-proof and fire-proof?

Mr. CLARK. The Senator will pardon me; I said no such thing; and I think I said nothing from which it could be inferred that I meant to build them of granite. In that connection I was not speaking about these temporary fortifications around Washington. I hope they are but temporary. I instanced them merely to show that earthworks in that way would decay very quickly.

Mr. SHERMAN. No doubt of it; but what has that to do with the question? We have provided here \$1,000,000 for field-works and field operations, and the very fact that during this war these

improvised earthworks made entirely of earth, with wooden magazines, which are drier and better for many purposes, according to the books, have resisted us more than any other form of fortification, ought to prevent us from continuing the old system of fortifications. Wherever earth can be found, wherever it can be hauled, wherever it can be reached, it is admitted now to be the best basis of fortification, and granite works and stone-works are to be only used where earth cannot be found. That is shown by the case of Fort Fisher and by the case of Fort McAllister. Not a single one of the old fortifications which cost this country \$150,000,000 has ever been of any material service to us or, I believe, to the rebels. The \$150,000,000 which have been expended in fortifications, if put out at interest at the time the money was expended, and accumulated to this hour, would carry on this war for one year. There never has been money worse wasted than that we have spent in building a system of fortifications which must be changed every ten or twelve years to adapt them to modern improvements.

I have been perfectly willing to vote any amount of money for building iron-clads and iron boats wherever they have been demanded. I believe the only way to defend our sea-coast is by building a certain class of monitors and boats to float in our harbors. It appears to me sensible and reasonable that a single battery floating upon a monitor in the port of New York, for instance, in such a position that it can be moved from place to place, can follow a public enemy, itself impervious against attack, so strongly armed that the most powerful projectile now known to modern warfare cannot penetrate it, is the proper kind of harbor defense upon which we must rely. Earthworks, and stoneworks, and guns planted on the shores will not answer the purpose. Hereafter naval contests and all contests along the shore will be such contests as that between the Monitor and Merrimack, where they were eye to eye, face to face; and the cannon exploded within eight feet of where the shot struck. If ever hereafter two maritime nations are engaged in war, the great battles on the sea will not be at the distance of a mile, like the battles of the Nile and Trafalgar, but they will be wrapped together face to face, more like the battle of Lake Erie, under the gallant Perry. Sir, we shall hereafter rely for the defense of our ports upon the iron-clads. Iron supersedes stone. This is the age of iron; no longer the age of stone. Earthworks which may be improvised in a month will disappear, and iron-clad turrets and monitors, and all the numerous progeny that will spring from the inventive race of which we are a part, will supply us with ample coast defense in case we have a foreign war. These can be made within a year. These can be made within one-tenth of the time that a single field-work or fortification can be built. We must rely upon them, and therefore I am opposed to this constant expenditure upon an old system of fortifications.

Mr. MORRILL obtained the floor.

Mr. WILSON. Will the Senator now allow me to offer an amendment? I propose to amend the bill by reducing the amount appropriated in the original bill for each of the fortifications.

Mr. JOHNSON. That does not affect this question.

The PRESIDING OFFICER. Such an amendment is not now in order, but it will be in order when the bill shall have been reported to the Senate.

Mr. MORRILL. I am sure the Senate will agree with me that this debate has assumed an importance which it had not on the bare statement of the proposition at first. It is not a question now of the appropriation of two or three millions, or of the difference between \$1,500,000 and \$3,000,000, but it is a question of the abandonment or the prosecution of the defenses of the country. That is the proposition. It is avowed in the speech of the honorable chairman of the Committee on Finance that the whole system of defenses planned for the defense of this country is to be abandoned. I submit to that honorable Senator that when that proposition is to be presented to the Senate and considered it is not fit, with all due respect to that committee, it is not becoming that it should be proposed to the Senate of the United States by the Committee on Finance. It is not a subject-matter which has

been committed to their care or over which they have any special control. Has it come to this, that the defenses of the country are to be suspended in this hour of public peril both from within and from without? Who has advised it? Who tells the Senate of the United States that these defenses are no longer necessary? The War Department of the Government? What Department of War has told the American people that the prosecution and completion of the public defenses of this country are useless and that they are no longer to be relied upon? Nobody. No Department of the Government. It is an unauthorized suggestion of the Committee on Finance, on a mere question of finance submitted to them; that is all. I say "unauthorized" in no offensive sense, of course, but I say "unauthorized" because it is not a subject over which the Finance Committee have any control, or which in the ordinary course of legislation, is at all submitted to them.

We have it from the honorable Senator from Iowa that you are to rely for your coast defense upon the Navy. I can understand why a remark of that sort should be expected from the honorable Senator from Iowa, whose great preference for the Navy has led him to believe that all can be accomplished by the Navy; but has it entered into the heart of any sensible man to suppose that three thousand miles of coast can be defended by the Navy without a fortification at any point? The proposition is absurd; in the nature of the case it is absurd. All the fleets of the globe on this coast cannot defend it against a foreign enemy, at all points I mean, of course; and I dismiss that assumption.

The honorable chairman of the Committee on Finance falls into the same error, and he tells us in the close of his argument that we are to rely for the defense of the coast, this wide, extended coast on the Atlantic and on the Pacific, upon the Navy; that the hundred and fifty millions of money which have been expended for the defenses of your coast has been a useless expenditure of money; those works have profited us nothing, and since they have been in the possession of the rebels they have profited them nothing. Is that the history of the war? Mr. President, what do you say of Fortress Monroe? Has that been of no advantage to the Government of this country? How were we able to hold that portion of Virginia but for that? What do you say of Fort Sumter? The whole power of your Navy was brought to bear on Fort Sumter, and for twelve months it stood out in bold defiance against all of your assaults. No benefit to anybody? It has been of infinite mischief to us. With the whole power of your Navy concentrated upon Charleston, the fortifications constructed by the rebels principally have been able to hold you in check and hold you at bay. And with these facts staring us in the face, patent to everybody, we are to be told by the chairman of the Committee on Finance that hereafter for the defense of the coast we are to rely upon the Navy, and that the works for which one hundred and fifty millions of money have been appropriated for the defense of the country are to be abandoned as useless, and that further appropriations are not to be made to complete those forts. I understand that a bill has already been passed here and has become a law, having passed both branches, appropriating (I do not know how much) perhaps three millions of money to make guns to put upon these forts, and now the forts are to be abandoned!

If I understand the motion made by the Senator from Massachusetts for the reduction of the amounts specifically appropriated, that is a proposition which can reasonably be entertained, because that does not propose the abandonment of the fortifications. I can understand that. But I submit to the honorable Senator from Massachusetts that these appropriations have all been recommended by that Department which has these forts particularly under its care. These estimates have been made with reference to the demands of that Department, and it is to be presumed that a better knowledge of what is required than the honorable Senator who makes this proposition; and unless some gentleman has information which can furnish the Senate with the reasonable supposition that these sums are too large I should hope the amendments of the committee would be rejected, and also that which is proposed by the

Senator from Massachusetts; but I will wait for that and see what it is.

The bill was reported to the Senate as amended. The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. WILSON. I propose now to amend the part of the bill proposed to be stricken out by reducing the appropriation for Fort Wayne, near Detroit, from \$125,000 to \$75,000; that for Fort Niagara, near Youngstown, New York, from \$50,000 to \$25,000; that for Fort Ontario, Oswego, New York, from \$100,000 to \$50,000; that for Fort Montgomery, at the outlet of Lake Champlain, New York, from \$100,000 to \$50,000; for Fort Knox, at the narrows of Penobscot river, Maine, from \$150,000 to \$75,000; for Fort Popham, Kennebec river, Maine, from \$150,000 to \$75,000; for Fort Preble, Portland, Maine, from \$150,000 to \$75,000; for Fort Scammel, Portland, Maine, from \$100,000 to \$50,000; for Fort Georges, on Hog Island Ledge, Portland, from \$150,000 to \$75,000; for Fort Constitution, Portsmouth, New Hampshire, from \$50,000 to \$25,000; for Fort McClary, Portsmouth, New Hampshire, from \$100,000 to \$50,000; for Fort Winthrop, Boston harbor, from \$20,000 to \$10,000; for Fort Independence, Boston harbor, from \$10,000 to \$5,000; for Fort Warren, Boston harbor, from \$20,000 to \$10,000; for the sea-wall of Great Brewster's Island, Boston harbor, from \$30,000 to \$20,000; for the repair of the sea-walls on Deer and on Lovell's Islands, Boston harbor, from \$5,000 to \$3,000; for permanent forts at New Bedford harbor, Massachusetts, from \$100,000 to \$50,000; for Fort Adams, Newport, Rhode Island, from \$100,000 to \$50,000; for Fort Hale, New Haven, Connecticut, from \$95,000 to \$50,000; for Fort Schuyler, East river, New York, from \$50,000 to \$25,000; for the fort at Willett's Point, opposite Fort Schuyler, from \$100,000 to \$50,000; for repairs of Fort Hamilton, New York, from \$50,000 to \$25,000; for the fort on the site of Fort Tompkins, Staten Island, New York, from \$100,000 to \$50,000; for the fort at Sandy Hook, New Jersey, from \$100,000 to \$50,000; for the repairs of Fort Mifflin, near Philadelphia, from \$35,000 to \$20,000; for the repairs of Fort Washington, on the Potomac river, from \$50,000 to \$25,000; for Fort Monroe, Hampton Roads, Virginia, from \$50,000 to \$25,000; for Fort Clinch, Florida, from \$100,000 to \$50,000; for Fort Taylor, Key West, Florida, from \$400,000 to \$200,000; for Fort Jefferson, Garden Key, Florida, from \$200,000 to \$100,000; for the fort on Ship Island, coast of Mississippi, from \$100,000 to \$50,000; for the fort at Fort Point, San Francisco bay, California, from \$400,000 to \$150,000; for the fort at Alcatraz Island, San Francisco bay, California, from \$330,000 to \$150,000; for additional defenses at San Francisco, from \$100,000 to \$50,000; for the defenses of Washington city, from \$500,000 to \$300,000.

I do not, Mr. President, feel like abandoning the fortifications along our coasts either on the Atlantic or Pacific, but I feel the force of the argument of the Senator from Ohio in regard to the condition of the Treasury. I have therefore moved this amendment, which appropriates just about one half of what is appropriated in the original bill, and I think if it be adopted it will answer substantially the purposes of the Government during the coming year.

Mr. CLARK. I agree with the Senator from Massachusetts in his amendment, but I suggest to him that in regard to the items for Fort Winthrop, Fort Independence, Fort Warren, the sea-wall at Great Brewster's Island, and the repair of the sea-walls on Deer and Lovell's Islands in Boston harbor, he should make an appropriation of a sum in gross for those works. The sum that he proposes to appropriate for them is small, about forty-eight thousand dollars, and I suggest to him that he put that portion of his amendment in this shape:

For Fort Winthrop, Fort Independence, Fort Warren, for the sea-wall on Great Brewster's Island, and for repair of sea-walls on Deer and Lovell's Islands in Boston harbor, \$43,000.

So that the engineer department can have the money and use it as they may find occasion in that harbor, as these sums are so small. I have no choice about it.

Mr. JOHNSON. I wish to suggest to the Senator from Massachusetts that his plan of reducing

the appropriation, as seems to have been his purpose, one half perhaps, would be wrong in relation to some of these appropriations. For example, the item of \$5,000 for sea-walls on Deer and Lovell's Islands, Boston, he proposes to make \$3,000. That much might not answer the purpose.

Mr. CLARK. That was the reason I made my suggestion.

Mr. JOHNSON. So in relation to the several appropriations for Fort Winthrop, and Fort Independence, which he proposes to reduce. The sums which he appropriates might be so much money thrown away.

Mr. WILSON. I have no objection to taking the suggestion of the Senator from New Hampshire and the Senator from Maryland, and appropriating a gross sum for the works in Boston harbor, as proposed.

Mr. JOHNSON. That mode of appropriating, though, renders the bill, so far as that appropriation is concerned, liable to the objection of the Senator from New Hampshire that it leaves the President to say where the expenditure shall be made.

I feel as anxious as the chairman of the Committee on Finance or as the member from Massachusetts can be that these appropriations shall not exceed the necessities of the country at this time; but I suppose, without knowing absolutely, that these several appropriations have been recommended as necessary by the proper department of the Government, the engineer department. I so understand. Now, it seems to me, that as we have a department of that description in which we have every confidence, and as they have advised that these several appropriations should be made, we ought to act on that advice without cutting down the appropriations, by the rule adopted by the Senator from Massachusetts, just one half.

Mr. President, while I am up, permit me to say a word as to the amendment proposed by the Committee on Finance. That amendment is to strike out all the appropriations and to place in the hands of the President \$1,500,000, to be used by him as he in his opinion shall think is needed for the present war. He cannot spend a dollar of that \$1,500,000 for any other purpose, except such purpose as he may think the present war requires. If I understand that provision, it means that he is to spend the money only as he may think proper in the present contest between the authority of the United States and the citizens of the United States who are in rebellion. I am far from believing that there is any certainty that we shall be involved in a foreign war, but it is by no means certain that we shall not be so involved. If we could tell when this civil war of ours would terminate, we should be able to tell with some approximation to certainty whether we should be involved in a foreign war or not. If this war is to go on for a year or two more, it is by no means certain that we shall not be involved in a foreign war. The information received from Europe from time to time, not official, but received from individual citizens who are there, and who profess to be acquainted with the purposes especially of the French Government, gives some reason to believe that the time will come, unless this war is soon terminated successfully on the part of the United States, when France may interpose. We adopted the other day, in the consular and diplomatic appropriation bill, a provision which puts it out of the power of the President of the United States, and it was so designed, to send a minister to any other Government in Mexico than the republic of Mexico. The bill came from the House of Representatives in a different form, but it was amended in that particular by the Senate, and as far as I am advised there was no expressed dissent on the subject. That amendment has created some dissatisfaction in France, unreasonably I admit, but still in fact it exists, and it may in the end, if we refuse, as I have no doubt we shall, refuse to acknowledge the government of Maximilian, at least for some years to come, it may involve us in a difficulty with France, and if we shall be involved in a difficulty with France I think these fortifications will be needed.

The honorable Senator from California of course knows better than I do the actual condition of the harbor of San Francisco, but I know it sufficiently well to know that it is not protected now, and that it will require a very large expend-

iture to make it completely guarded as against a foreign foe; and instead of appropriating \$300,000 or \$400,000, which is the amount of this appropriation for the two forts in that harbor, the one on Fort Point and the other on the island of Alcatraz, if the harbor should get into the hands of a foreign foe, it would have been better for us to have prevented it by an expenditure of millions upon millions; for the possession of San Francisco by a foreign foe would be pretty much the possession of California. I do not mean it would be conquered, but for all practical purposes the State would be lost to the United States; and if a fleet consisting of iron-clads should get into that harbor, and they be as invulnerable as the chairman of the Committee on Naval Affairs supposes them to be, all the force of this Government could not get them out.

It is true as he says, and as he proves, so far as we have a right to rely upon the testimony of the gentleman whose letter he read, and I have no doubt he is perfectly well skilled in such matters—it is true that iron-clads, with the armament they have on board, will be more than a match for any fixed fort with the armament our forts have now; but it is by no means true, as I think, and certainly it has not been demonstrated to be true, that artillery may not exist, or be brought into existence, that will have power enough to pierce those iron sides. The honorable member tells us that Fort Fisher was unable to resist the iron-clads that we brought against it. In one sense that is true, but in another sense it is not true. Fort Fisher was not taken by the Navy, and the Navy does not claim to have taken it. The guns of Fort Fisher were silenced, but the fort itself was not taken by the Navy. If the honorable member was here now, I would suggest to him what I suggest to the Senate: suppose that instead of its being Fort Fisher against which the six hundred or seven hundred guns of the American Navy poured such an incessant and destructive fire, there had been three or four or five iron-clads, equal to any that the British or French Governments have, how long do you think they would have withstood that fire? The Atlanta was supposed to be as strong as any iron-clad belonging to the American Navy, stronger, as our officers think, than any like vessel belonging either to the French or English navy, but two of our shot destroyed her; and the same missiles that were used against Fort Fisher, if used against iron-clads such as England or France has, or perhaps such as our iron-clads are, would have destroyed them. There never was such a bombardment as Fort Fisher was subjected to. In the history of naval warfare there never was such an instance before.

Mr. SHERMAN. It was an earthwork.

Mr. JOHNSON. It was an earthwork, I admit, but how long were we in taking Fort Sumter? That was not an earthwork. Half a dozen times it was reported as entirely destroyed, but it seemed to be stronger after it was destroyed than it was before. The received opinion in times past—I do not know how it is now—of engineers was that one gun on shore was equal to four guns afloat; and the difference between the capacity of our forts to meet the power of our iron-clads is not in the fact that the one is a fort and the other is a ship, but in the fact that the ship carries guns infinitely superior to any guns to be found now on our forts.

This bill appropriates I do not know how much for the harbor of New York. I think General Delafield will tell you, and no one is more skilled, that if this appropriation is used upon the forts in New York as it is proposed to be used, and guns of the caliber which we have, and which are now on board our iron-clads, are mounted there, no fleet could go by. The honorable chairman of the Committee on Naval Affairs says that Fort Morgan did not stand the attack of Farragut. It did. Farragut did not take Fort Morgan. Fort Morgan was hardly hurt by his fire. He ran by with a gallantry never before excelled, and with a skill and a bravery never before equaled, but he did not take the fort; and if he had staid in front of the fort his whole fleet in all probability would have gone to the bottom; and nobody was more conscious of that, I am sure, than the gallant and never to be too much praised admiral. He did not take Fort Gaines. He could not take it. I heard the officer who led in the Brooklyn say—he

said it to me—that they held a council of war before they made the attack, and the admiral proposed to him in the Brooklyn to lead the attack, to which he joyfully assented; but they were all under the impression that his vessel would be sunk. They intended to sacrifice her in order to make the attack successful; but there was not an officer on board the fleet who did not look to the sacrifice of the leading vessel as absolutely certain; and, as he says, nothing but the greatest good luck (for fortune seems to be with us in this war) prevented that catastrophe. The fort was hardly hurt.

In the Crimean war—I happened to be in England at that time—when Sir Charles Napier took the command of the fleet, it was said everywhere that he would take Cronstadt and get up to St. Petersburg; that it was impossible that those forts could stand against the power which the English fleet would bring to bear upon them; and there was great dissatisfaction with him—ever before gallant and daring; rashly gallant, rashly daring—because, when he came to see the danger before him, and the certainty of failure, he, acting in accordance with the advice of all his captains, decided that it would be madness to make the effort. He suffered for a time in reputation, but there was not a skillful engineer who did not believe that he came to the right conclusion, and that by so doing he saved the British fleet.

Mr. President, if we should have a war with England or with France, and the port of New York should only have the protection which it now has of the forts there in their present condition, I am by no means certain that a fleet could not run by the forts and lay the city under contribution; and to guard against the possibility of such a result, I would in any state of the Treasury vote any sum of money that the engineers deemed necessary to protect that city effectually. There may be, perhaps there are in this bill, appropriations for some forts that might well be postponed for a time; but keep our large cities against the hazard of disaster. New York in the possession of an enemy, and that enemy combined with the civil enemy against whom we are now warring, and the civil war would be a failure. A reduction then of the South to their allegiance would not be possible.

Therefore, sir, with every respect to the judgment of the Finance Committee, and my friend the chairman of that committee, I shall be compelled to vote against the amendment of the committee, and also against the amendment proposed by the honorable member from Massachusetts, in relation at least to some of these appropriations.

Mr. WILSON. I desire simply to say in regard to the recommendation of General Delafield, that I think the records of Congress will show that during the last ten sessions Congress has not appropriated more than forty or fifty per cent. of the recommendations of the engineer department for fortifications. There is always a strong disposition on the part of the engineers to ask for large appropriations for fortifications, but at every Congress during the last ten years our appropriations have been much much less than the estimates of the department. I know that in some cases where they have been under consideration we have voted but a very small portion of the estimates. The question is for us to settle. I pay great deference to the opinion of General Delafield; I have a very high opinion of his skill and ability and devotion to the country; but in the present condition of the finances, I feel very much as the Senator from Ohio does, that we ought to spend as small a sum as we can possibly get along with and keep our fortifications in a fair condition. I have therefore moved this amendment which appropriates about fifty per cent. of the sums named in the original bill, and I shall vote for it, whether it meets the approbation of the Senate or not. I think that if the original bill had appropriated the sums now proposed by my amendment it would have been very cheerfully taken, without any attempt to enlarge it by the Senate. I have not a doubt upon that point.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts.

Mr. WILSON called for the yeas and nays; and they were ordered.

Mr. VAN WINKLE. Let the amendment be read.

Mr. WILSON. I will say to the Senator from West Virginia that my amendment is to reduce the appropriation for each one of these fortifications about fifty per cent. from the amount named in the original bill, and it is not necessary, therefore, to read all the details.

Mr. VAN WINKLE. Very well.

The question being taken by yeas and nays, resulted—yeas 25, nays 14; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Davis, Farwell, Foster, Hale, Harlan, Henderson, Howe, Lane of Indiana, Lane of Kansas, Powell, Ramsey, Sausbury, Sherman, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Willey, and Wilson—25.

NAYS—Messrs. Conness, Dixon, Harris, Howard, Johnson, Morgan, Nye, Pomeroy, Richardson, Riddle, Sprague, Stewart, Ten Eyck, and Wright—14.

ABSENT—Messrs. Cardie, Collamer, Cowan, Doolittle, Foot, Grimes, Harding, Hendricks, McDougall, Morrill, and Nesmith—11.

So the amendment was agreed to.

Mr. SHERMAN. As I understand the state of the question now, it is on substituting the amendment of the Committee on Finance for the bill as amended on the motion of the Senator from Massachusetts. That amendment has reduced the amount appropriated in the original bill to about one half of what it proposed as it came from the House of Representatives. The amendment of the committee is based upon a different principle and contains a still further reduction. I do not wish to extend the discussion, but I will say that the bill as it now stands will appropriate about two million dollars, \$1,500,000 of which is for fortifications on the northern line of defenses, leaving about four hundred thousand dollars for the southern line of defense; in other words, about four hundred thousand dollars of the appropriations contained in the bill as it now stands will be for the present war and about a million and a half for some future war, and the question recurs whether we ought now to expend \$1,500,000 for repairing fortifications that may be needed in some future war. My honorable friend from Maryland imagines that we may have a war with France. I submit to the Senate whether we ought, in the present condition of the public finances, to vote \$1,500,000 for the repair of fortifications not needed in the present war. As to the possibility of our being involved in a war with France or with England, I think it is a contingency so remote that we ought not now, when we have so much else to do, to provide for it. The attempt to do so reminds me very much of Mrs. Toodles, who was very fond of attending auctions. She attended one and bought a door-plate with the name of Thompson engraved on it, and when she came home she was called to task by her husband for the useless expenditure. She said that some day she might have a daughter, and that daughter might grow up, and might marry a man by the name of Thompson, and then it would be very handy to have the door-plate in the house. [Laughter.] I think in the midst of our present exigencies it is idle for us to incur expenditures in view of so remote a contingency as a foreign war. But even if we were involved in a foreign war, these fortifications in their present condition, or in any condition in which they are likely to be put for the next three or four years, are not probably the character of defense we shall rely upon. I have sufficiently discussed that matter already, and I only wish now to submit a single point.

The proposition of the Finance Committee has been carefully matured; it is not a novel one; the same provision precisely is contained in several appropriation bills for a number of years. For four years continuously we appropriated a small sum to keep our fortifications in repair. I think, from the beginning of our financial troubles in 1857, to 1860, no appropriations were made for these forts, and it was a very fortunate thing that it was so. If money had been expended on them it would have been money thrown away, because it is admitted that the present armament of those fortifications is insufficient and inefficient.

Under the circumstances, it is my duty to adhere to the amendment of the Finance Committee, although the amount in the original bill has been very much reduced by the amendment already adopted. The honorable Senator from Maine, [Mr. MORRILL,] in his very excited argument, insisted that I was striking at the system of fortifications, and discontinuing them entirely, abandoning our whole system of defense. I say to him that it is not so. We can suspend our forti-

fications, suspend our work upon them, without abandoning the whole system. I think at this time, especially, and for two or three years to come, there will be no occasion for continuing these works. They may without any great expense be put in a state of preservation. They are not in their nature perishable; they may be covered and protected from the weather, and work may be suspended on them without any material injury, and I think it is wise to do so. Without prolonging the debate, I am willing to take the vote upon the amendment of the Committee on Finance.

Mr. CLARK. I wish to make one suggestion to the Senate in answer to the appeal of the Senator from Ohio, who says that if this bill pass as amended, we shall have but \$300,000 at the control of the President for fortifications.

Mr. SHERMAN. In the South.

Mr. CLARK. If the Senator will turn his attention to page 5, he will find "for contingencies of fortifications, including field-works and field operations, \$1,000,000" in addition.

Mr. SHERMAN. That is left in at any rate.

Mr. CLARK. That is left in, but it gives him a million more.

Mr. SHERMAN. Let me explain to the Senator. It will be necessary, in my judgment, to repair Fort Sumter and to repair Fort Pulaski. If any money is to be expended on fortifications I would expend it on the fortifications at the mouth of the Mississippi, on Fort Pulaski, on Sumter, and on the forts at Mobile. There are no specific appropriations in this bill for those places, where money is needed and where money is indispensable for the present war. The words "field-works and field operations" do not include fortifications, and the words "contingencies of fortifications" constitute a specific term applicable only to a certain class of incidental expenses connected with fortifications, for instance, the payment of civil engineers; and unless the particular expenditure was covered by the term "contingencies" that appropriation would not enable the department to spend any portion of the \$1,000,000 for building fortifications in the southern States. "Contingencies," as here used, is a technical term understood by the accounting officers of the Treasury Department, and that money cannot be expended for building fortifications. In my judgment, the amendment of the Committee on Finance, which has been carefully matured, and which will confine the operations of the Government to keeping the present fortifications in repair, and will place in its control a large sum to rebuild or build such fortifications as are needed down South for the present, is the wiser course.

Mr. CLARK. The Senator says he would rebuild Fort Sumter. I ask him what for.

Mr. SHERMAN. My own impression is that it may be necessary there, and may be the most convenient way to stop blockade runners going up.

Mr. CLARK. Is it any more necessary for that rebel city than the fortifications at the mouth of Portland harbor?

Mr. SHERMAN. I think the works at Fort Sumter may be necessary for the protection of Charleston harbor, for defense even against the internal enemy. For instance, suppose it should be necessary to withdraw all our land forces from Charleston, as may perhaps be the case; we should then want some point within that harbor for the purpose of maintaining our hold there, and the point which can be manned with the least number of men; and therefore our military authorities might deem it very proper to fortify Fort Sumter, and hold it against the rebels.

Mr. CLARK. The Senator would also rebuild Fort Pulaski. What for, when we hold Savannah?

Mr. SHERMAN. For the same reasons.

Mr. CLARK. I would build an earthwork over Charleston, and put the city under it. That is the kind of fortification I would have. There is a chance for the Senator's earthworks.

The VICE PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole, as amended.

Mr. CONNESS. I call for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. CONNESS. I understand the vote is to



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be now taken between the report made by the Finance Committee and the bill as amended on motion of the Senator from Massachusetts.

**THE VICE PRESIDENT.** That is the question. **Mr. COLLAMER.** I may be very dull about it, but I do not understand the question. It is stated to be on the amendment as amended. I do not understand that the amendment has been amended.

**THE VICE PRESIDENT.** The Chair will state what he understands to be the precise position of the question. The Committee on Finance proposed to strike out certain items of appropriation in the bill as it stood when it came from the House of Representatives, and to insert other words. The words proposed to be stricken out were subject to amendment before the question was taken on striking them out, and they have been amended by reducing the various appropriations; and now the question returns on striking out the bill as amended, and inserting what the committee propose.

**Mr. SHERMAN.** Those in favor of the amendment of the Finance Committee will vote "yea," and those who are in favor of the amendment of the Senator from Massachusetts will vote "nay."

**Mr. FARWELL.** I wish to say a single word in regard to this bill. I appreciate the action of the Committee on Finance in proposing to reduce the appropriations. I believe it is now a time when the utmost care should be exercised in the appropriation of public money. I believe that every man who is capable of doing any labor should, so far as possibly can be done consistent with the interest of the country, be employed in those industries which will yield revenue, instead of in building works for future defense. I shall vote for the amendment offered by the Senator from Massachusetts in preference to the recommendation of the Finance Committee, for the reason that the difference in the appropriation is very small. If I have made the calculation aright the difference between the appropriations is but about four hundred thousand dollars, as between the proposition submitted by the Senator from Massachusetts and that proposed by the Finance Committee. The sum proposed to be appropriated here in my judgment is sufficient. I think it is as much as can be economically and properly expended upon these fortifications during the present fiscal year; but I prefer that Congress itself should make the specifications of where the appropriations shall be used, and where the expenditures shall be made, rather than to leave it in the hands of the Executive, who has so much business upon his hands that he will have little opportunity to examine in regard to those matters. For this reason I shall vote for the amendment of the Senator from Massachusetts, rather than the recommendation of the committee.

The question being taken by yeas and nays, resulted—yeas 17, nays 21; as follows:

**YEAS**—Messrs. Brown, Buckalew, Carlile, Chandler, Cowan, Dixon, Henderson, Hendricks, Howe, Lane of Indiana, Pomeroy, Powell, Ramsey, Sherman, Van Winkle, Wade, and Wiley—17.

**NAYS**—Messrs. Anthony, Clark, Collamer, Conness, Farwell, Foster, Hale, Harris, Johnson, McDougall, Morgan, Morrill, Nye, Riddle, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Wilson, and Wright—21.

**ABSENT**—Messrs. Davis, Doolittle, Foot, Grimes, Harding, Harlan, Howard, Lane of Kansas, Nesmith, Richardson, Saulsbury, and Wilkinson—12.

So the amendment made as in Committee of the Whole was rejected.

**THE VICE PRESIDENT.** There was also an amendment made as in Committee of the Whole to strike out in line three the words, "the following sums be and they are," and to insert "there is," and to strike out in line five and six the words "for the construction, preservation, and repairs of certain fortifications, and other works of defense."

The amendment was rejected.

**THE VICE PRESIDENT.** Another amendment was made as in Committee of the Whole, striking out in line eighty-three the words "contingencies of fortifications, including."

The amendment was rejected.

**THE VICE PRESIDENT.** There was one other amendment agreed to as in Committee of the Whole, to strike out the item:

For repairing, equipping, and enlarging Fort Porter, at Buffalo, \$100,000.

The amendment was rejected.

**Mr. HARRIS.** In accordance with the principle that has been adopted on the motion of the Senator from Massachusetts, I move to amend the item just acted on by reducing the sum for Fort Porter to \$50,000.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the joint resolution (S. R. No. 112) for the relief of James B. Royce; and had passed with amendments, in which it requested the concurrence of the Senate, the bill (S. No. 347) for the relief of Rebecca S. Harrison; and the joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities.

The message also announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill of the House (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, and had agreed to other amendments of the Senate with amendments; asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. J. S. MORRILL of Vermont, Mr. F. A. PIKE of Maine, and Mr. S. S. COX of Ohio, managers at the same on its part.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 746) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes;

A bill (H. R. No. 788) for the relief of William Nicholls;

A bill (H. R. No. 790) for the relief of Henrietta O. Gardner; and

A joint resolution (H. R. No. 168) to refer the claim of Armisted T. M. Filler to the Court of Claims.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

A bill (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris;

A bill (H. R. No. 389) for the relief of Mary Shircliff;

A bill (H. R. No. 543) to increase the efficiency of the medical corps of the Army;

A bill (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector, to reside at Jersey City; and

A joint resolution (H. R. No. 171) in relation to the matter of Sergeant Daniel Collett, junior, deceased.

## REBECCA S. HARRISON.

**Mr. FOSTER.** I move that the Senate concur in the amendment of the House of Representatives to the bill (S. No. 347) for the relief of Rebecca S. Harrison. The amendment diminishes the amount of pension to this widow a small sum, and I think it better to concur in the amendment than to lose the bill.

The amendment was concurred in.

## HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their title, and referred as indicated:

A bill (H. R. No. 788) for the relief of William Nicholls—to the Committee on Public Lands;

A bill (H. R. No. 790) for the relief of Henrietta O. Gardner—to the Committee on Pensions.

A bill (H. R. No. 746) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes—to the Committee on Agriculture.

A joint resolution (H. R. No. 168) to refer the claim of Armisted T. M. Filler to the Court of Claims—to the Committee on Claims.

## COURTS IN NEVADA.

**Mr. JOHNSON,** from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, have met, and after full and free conference they have agreed to recommend and do recommend to their respective Houses as follows:

That the House of Representatives do recede from its disagreement to the amendment of the Senate striking out sections five and nine of the House bill.

That the Senate do recede from its amendment proposed in section five of the bill as amended, and in lieu thereof adopt sections six, seven, and eight of the House bill.

That the House do recede from its disagreement to the amendment of the Senate in section six of the bill as amended, with an amendment, as follows: Add at the end of the section the words "Provided, That said appeals shall be prosecuted, and said writs of error sued out at any time before the last day of July, 1866."

That the Senate concur in the above amendment.

That the House do recede from its disagreement to the amendment of the Senate in section seven of the bill as amended with an amendment, as follows: After the words "possessory action" in the second line insert the words "between individuals."

That the Senate do concur in the above amendment.

REVERDY JOHNSON,  
WILLIAM M. STEWART,  
Managers on the part of the Senate.  
WILLIAM HIGBY,  
H. G. WORTHINGTON,  
FRANCIS KERNAN,  
Managers on the part of the House.

The report was agreed to.

**THE VICE PRESIDENT.** The special order of the day is—

**Mr. FOSTER.** I wish to say in regard to the report of the committee of conference just made, that I disagreed to it. I do not propose taking up the time of the Senate. I think it is wrong, and ought not to pass in the form in which it now is.

**THE VICE PRESIDENT.** That report has been agreed to, and passed from the Senate. The special order is now before the body.

**Mr. TRUMBULL.** What is the special order?

**THE VICE PRESIDENT.** The joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana, and upon that question the Senator from Kentucky [Mr. POWELL] is entitled to the floor.

**Mr. WILSON.** Will the Senator yield me the floor for a few minutes?

**Mr. POWELL.** It is now so near the hour for a recess that I prefer not addressing the Senate at this time. I give way.

## CANAL SURVEYS.

**Mr. WILSON.** I desire to take up now the joint resolution providing for surveys of the ship-canal, which was up last night, to which the Senator from Illinois then made objection, and I allowed it to go over until to-day. I do not think there will now be any objection to the passage of that joint resolution.

Mr. TRUMBULL. I have no objection to its passage now.

Mr. WILSON. I move to take it up.

Mr. TRUMBULL. Let the special order be laid aside informally.

By unanimous consent, the special order was laid aside, and the consideration of the joint resolution (S. R. No. 118) to authorize surveys to be made with a view to the construction of a ship canal around the falls of Niagara, to deepen and enlarge the Illinois and Michigan canal and improve the navigation of the Illinois river, to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river, and to improve the navigation of the Fox and Wisconsin rivers, was resumed as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment.

Mr. SHERMAN. I should like to have the resolution read. I have not heard it yet.

The Secretary read the resolution.

Mr. SHERMAN. I desire to offer an amendment which I have not got here now, and I ask that the resolution be laid aside for a few moments that I may get the amendment.

#### ORDER OF BUSINESS.

Mr. LANE, of Kansas. While the Senator from Ohio is preparing his amendment, I move that the joint resolution in relation to Louisiana be postponed to and made the special order for to-morrow at one o'clock.

Mr. TRUMBULL. I hope not. The Senator from Kentucky is entitled to the floor on that question, and I presume he is ready to go on this evening.

Mr. LANE, of Kansas. I make the motion with the consent of the Senator from Kentucky. There is a special order in which we feel a great deal of interest for seven o'clock this evening, made so yesterday, and I hope this postponement will be had.

Mr. POWELL. I have been ready to go on all day, but there is not time between now and the hour fixed for the recess, and the Senator from Kansas has a special order for seven o'clock this evening. I am willing that the question upon which I have the floor shall be laid over until to-morrow at one o'clock, so as not to interfere with the special order for this evening.

Mr. TRUMBULL. What is that special order?

Mr. LANE, of Kansas. The special order for this evening is the bill to organize a territorial government for the Indian Territory south of Kansas, a very important bill.

Mr. TRUMBULL. I should be very sorry to have this resolution lose its place. The Senator from Kansas certainly knows its importance, and I am a little surprised that he should make a motion to put it over. I presume the Senator from Kentucky is quite ready to go on this evening, not at this hour, perhaps, but at seven o'clock.

Mr. POWELL. Certainly; I shall be ready at seven o'clock this evening, or to-morrow, or at any other time.

Mr. TRUMBULL. If the Senator from Kansas thinks this resolution had better go over until to-morrow, I am not disposed to contest about the order of business, and antagonize it with every measure that comes up here; but it seems to me that he must feel the importance of this Louisiana matter as much as I. I think we had better go on with it to-night.

Mr. DOOLITTLE. Allow me to make a suggestion, and that is, that we now informally take up the Indian bill, and perhaps we can dispose of it before the recess, and let the Louisiana resolution be the special order for seven o'clock.

Mr. TRUMBULL. I have no objection to that.

Mr. CONNESS. Do I understand the Senator from Wisconsin to propose to act on the Indian bill now?

Mr. DOOLITTLE. If there be no objection. Mr. CONNESS. Since it is so near the time for the recess, I hope that will not be taken up now. I wish to call up a bill that was partly acted upon last evening. Having arrived with the chairman of the Committee on Public Lands at a conclusion in regard to the necessary amendments to it, it will not occupy any time now; and if it can be taken up I shall regard it as a great accommodation. I have labored for two weeks

to get it up, and I hope the Senator from Wisconsin will allow me to call it up at this time.

Mr. DOOLITTLE. I will aid the Senator in calling it up to-morrow morning in the morning hour; but I think the Indian bill has been pretty well perfected. Two or three amendments have been suggested to me to the bill, and I have consulted with Senators on the subject, and I think it can be disposed of before the recess.

Mr. POMEROY. I think there will be no difficulty in disposing of it.

Mr. STEWART. I hope the Senator from Wisconsin will give way on this occasion to the Senator from California.

Mr. FOSTER. The Indian bill to which reference is made is a very important bill, and can hardly be disposed of in fifteen minutes. It is a bill which changes our whole Indian policy. It violates the plighted faith of the United States in various particulars. It is a bill which, in regard to the Indian tribes within the country that it proposes to organize as a new Territory, will do great injustice, and, it seems to me, will cast great dishonor on the United States if we pass it. It certainly ought not to be hurried through in ten or fifteen minutes. It is a bill that was introduced into this body on the 20th day of February, reported on the 22d, and printed and laid on our tables yesterday; a bill containing some fourteen sections and some fourteen pages. I submit that fifteen minutes is a little too short a time in which to put a bill of that sort through the Senate.

Mr. CONNESS. I ask the Senator from Wisconsin if he will give way at present that I may call up the bill to which I have alluded.

Mr. DOOLITTLE. I shall not attempt to call up my bill if there is opposition.

The VICE PRESIDENT. It would require unanimous consent at this stage of business.

Mr. CONNESS. I move to postpone all prior orders and take up the Senate bill No. 380; it will occupy but a few minutes.

Mr. LANE, of Kansas. I have a motion pending, and I desire to make a suggestion to the Senator from Illinois. The result will be that the Senator from Kentucky will make his speech to-night, and the yeas and nays will be called, and we shall find ourselves without a quorum. I propose to make the resolution the special order for one o'clock to-morrow, and then he can go on with his speech, and we can take a vote and pass this resolution.

Mr. WILSON. There will be several speeches on that.

The VICE PRESIDENT. The question is on postponing the further consideration of this joint resolution until one o'clock to-morrow, and making it the special order for that time.

Mr. SHERMAN. I am now prepared to submit my amendment to the joint resolution which was under consideration a few moments ago, and was laid aside at my suggestion.

The VICE PRESIDENT. That is not up; the question before the Senate is on the joint resolution in regard to the recognition of the State government of Louisiana.

Mr. FOSTER. If the resolution in regard to the State of Louisiana is postponed, I hope the bankrupt bill will take its place. It is a bill which for a long time I have been watching for a reasonable opportunity to bring to the notice of the Senate; and if the joint resolution in relation to Louisiana is postponed, I shall certainly take the risk, at all events, of antagonizing it with any question that I know of which can be brought up against it, and I hope that if the Louisiana question is postponed, it will be for the purpose of taking up the bankrupt bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas to postpone Senate joint resolution No. 117 until to-morrow at one o'clock, and make it the special order for that hour.

Mr. CHANDLER. I hope that motion will not prevail. The Senator from Illinois is totally opposed to it. He says he is opposed to all special orders; he has told us so over and over again; and I am sure the Senate will not offend the Senator from Illinois by adopting this motion. I hope that the resolution will be postponed until to-morrow, or the day after to-morrow, or next week, or next year, but without making it a special order.

Mr. TRUMBULL. I shall be very happy to

agree with my friend from Michigan. I shall vote with him against postponing this resolution until to-morrow and making it the special order at that time. I think it very important to have action upon this Louisiana matter. I have so stated several times to the Senate. If it shall go over until to-morrow, I am apprehensive that something then will interfere with it and we shall get no action. We have been crowded out of to-day, and I think now that we have got it up we had best hold to it. I have been spoken to by members of the Senate who have said to me that if it goes by we shall never get action in the Louisiana case. We are drawing toward the close of the session, and I think it best when it is in order, as it is now before us, to hold on to it. I am willing to let it be informally laid aside and proceed to the joint resolution referred to by the Senator from Ohio; but I am not willing that it shall lose its place; and I hope the Senate will not agree to the motion of the Senator from Kansas.

Mr. SUMNER. If we are to make any special order for to-morrow I think it should be the bill which the Senate has most maturely considered, and on which it is most prepared to vote. That is the bill known as the railroad bill, in charge of my friend from Michigan. The Senator from Illinois came forward with his measure—

Mr. CONNESS. Will my friend permit me—I know he will—to appeal to him not to waste the fifteen minutes we have left in discussing the order of business, but let us take a vote? I have been ground out between harder substances than I am composed of here a dozen times, and I am trying to call up a bill of great consequence to my people which will not occupy five minutes.

Several SENATORS, (to Mr. SUMNER.) Give up.

Mr. SUMNER. Senators say "Give up." That is not my habit.

Mr. CONNESS. We know that. [Laughter.]

Mr. LANE, of Kansas. Will the Senator from Massachusetts permit me to withdraw my motion?

Mr. SUMNER. I understand the Indian bill is the special order for this evening.

Mr. LANE, of Kansas. Yes, sir.

Mr. SUMNER. I merely wish to understand the order of business. I dare say there are many Senators who would be interested in the Indian bill—

Mr. CONNESS. I appeal to my friend not to consume our time in this way.

Mr. SUMNER. If the motion is withdrawn, I have nothing further to say.

Mr. LANE, of Kansas. I withdraw the motion.

The VICE PRESIDENT. The motion is withdrawn.

Mr. CONNESS. I now move to proceed to the consideration of Senate bill No. 380.

Mr. TRUMBULL. Let it be taken up by unanimous consent, so as not to displace the regular order.

Mr. CONNESS. I ask unanimous consent.

Mr. SHERMAN. Let us finish the matter we have in hand. I delayed the Senate by sending for an amendment.

Mr. WILSON. To accommodate the Senator from California, I will let the resolution referred to by the Senator from Ohio go over until after dinner.

Mr. CONNESS. I am very much obliged to the Senator.

The VICE PRESIDENT. The Senator from California asks unanimous consent to take up informally the bill he has indicated. The Chair hears no objection.

#### TOWN LOTS IN CALIFORNIA.

The Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 380) to give title to the occupants of lots in cities and towns in the State of California.

The VICE PRESIDENT. The Chair understands the question pending to be on an amendment of the Senator from Iowa [Mr. HARLAN] to the amendment reported by the Committee on Public Lands.

Mr. HARLAN. I ask leave to withdraw my amendment. I am content with one which will be proposed by the Senator from California.

Mr. HENDRICKS. I believe I had the honor of submitting an amendment.

The VICE PRESIDENT. That fell with the

withdrawal of the amendment of the Senator from Iowa.

Mr. HENDRICKS. I supposed the question would come up on my amendment when he withdrew his.

Mr. CONNESS. Let me state to the Senator from Indiana that the amendment I am now about to offer is one prepared by the Senator from Iowa, which will, in all probability, meet the whole case that the Senator from Indiana wants to provide for. I move to insert, after the word "interior" in the twelfth line of the second section of the amendment of the committee, the words:

*Provided, That the minimum price of each of said lots, in any such town, which may contain a greater number of square feet than the maximum named in the act to which this is an amendment, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish.*

The amendment to the amendment was agreed to.

Mr. CONNESS. I move, further, to amend the amendment by inserting the word "further" after "provided," in line twelve of section two. It is a mere verbal amendment.

The VICE PRESIDENT. That amendment will be made without a vote.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended to read: "A bill supplemental to the act approved July 1, 1864, for the disposal of coal lands and of town property in the public domain."

#### CANAL SURVEYS.

Mr. FOSTER. I now move that the Senate proceed to the consideration of the bankrupt bill. We can just read it through before the recess.

Mr. WILSON. I desire now to take up the joint resolution which I consented to lay over.

Mr. FOSTER. My motion is to proceed with the bankrupt bill.

The VICE PRESIDENT. That cannot be done without the consent of the Senator from Kentucky, who is entitled to the floor on the question before the Senate.

Mr. POWELL. I object.

Mr. WILSON. I should like to pass the resolution which was taken up on my motion.

The VICE PRESIDENT. The joint resolution in relation to Louisiana is properly before the Senate, and upon that the Senator from Kentucky is entitled to the floor, and no Senator can move to postpone it without his consent.

Mr. WILSON. I ask the consent of the Senator from Kentucky to put this joint resolution on its passage.

Mr. POWELL. I yield for that purpose.

By unanimous consent, the Senate resumed the consideration of the joint resolution (S. R. No. 133) to authorize surveys to be made with a view to the construction of a ship canal around the falls of Niagara, to deepen and enlarge the Illinois and Michigan canal, and improve the navigation of the Illinois river, to improve the Upper rapids and Lower or Des Moines rapids of the Mississippi river, and to improve the navigation of the Fox and Wisconsin rivers.

Mr. SHERMAN. Now I offer my amendment as an additional section:

*And he it further resolved, That the President be, and he is hereby, authorized to appoint a commission, consisting of three competent officers of the Navy and two competent officers of the Engineer corps of the Army, to examine the different ports and harbors of the northern and northwestern lakes, and upon the navigable rivers connecting the same, with a view to the establishment of one or more navy-yards or naval depots on said lakes and waters, according to the public exigencies; and that said commissioners report to the Congress on the first Monday in December next.*

Mr. HOWARD. I hope the Senate will adopt that amendment of my friend from Ohio. I think the time has come when there should be an attempt made to establish a naval depot on those western waters.

Mr. HENDRICKS. I think that question has been before the Committee on Naval Affairs, and my impression is, though I am not sure about it, that the chairman of that committee is not favorable to the proposition. I do not see him in the Senate, and I would desire that he should be present when it is acted upon. The amendment is not necessarily connected with the joint resolution. The resolution is in relation to surveys for ship-

canals; the amendment is in regard to a navy-yard or naval depot.

Mr. SHERMAN. It all involves the same general question as to naval defenses on the lakes. I have no interest in the matter, and really do not know how I shall vote on the resolution itself; but I am willing to get full information on the whole subject. I do not think the Senator from Iowa can be opposed to a simple inquiry by a commission. The proposition which I have offered has already passed the House of Representatives, I think unanimously, without objection, as a separate measure. I see no objection to it. It costs nothing because the officers of the Navy are already in the public service, and they will simply be detailed to make this examination.

Mr. HENDRICKS. But the question belongs to the Naval Committee. However, I have suggested all that I desire on this subject; it is for the Senate to decide.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended by adding the words "and for other purposes."

#### ARMY PAY DEPARTMENT.

Mr. SPRAGUE. The Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 419) for the better organization of the pay department of the United States Army, have directed me to report it back and recommend its passage, and I ask for its consideration now.

Mr. TRUMBULL. We have no time to pass that now before half past four o'clock, and at seven o'clock the Senator from Kentucky will be entitled to the floor on the Louisiana question, as I understand, notwithstanding the recess.

The VICE PRESIDENT. He will be, because that resolution is the unfinished business before the Senate.

Mr. TRUMBULL. Very well.

The VICE PRESIDENT. The Chair hears no objection to the consideration of the bill reported by the Senator from Rhode Island.

The Secretary proceeded to read the bill, but before concluding the reading, (the hour of half past four o'clock having arrived,) the Senate took a recess until seven o'clock, p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

#### PETITIONS.

Mr. DIXON presented a petition of citizens of Washington city, District of Columbia, praying for the establishment of a house of refuge or reform school for juvenile offenders; which was referred to the Committee on the District of Columbia.

Mr. TEN EYCK presented a memorial of Joel Parker, Governor of New Jersey, and others, appointed commissioners to sell scrip donated by Congress for the establishment of an agricultural college in New Jersey, praying that the restriction on the location of said scrip may be removed; which was referred to the Committee on Public Lands.

#### ORDER OF BUSINESS.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) At the time the Senate took a recess the Secretary was reading a bill which had been taken up on motion of the Senator from Rhode Island, [Mr. SPRAGUE,] and he will continue the reading of that bill unless there be objection.

Mr. GRIMES. I move, with the consent of the Senator from Kentucky, [Mr. POWELL,] who is entitled to the floor on the regular order of business, to take up the Senate bill No. 465, which is simply to create the office of Solicitor and Judge Advocate General of the Navy Department, to which there will be no objection.

Mr. SPRAGUE. I ask the indulgence of the Senate to complete the consideration of the bill which was taken up on my motion just before the recess. It will take no time of the Senate, and there will be no opposition to it.

The PRESIDING OFFICER. The joint resolution (S. R. No. 117) to recognize the State government of Louisiana is the business regularly before the Senate, and upon that question the Senator from Kentucky [Mr. POWELL] is entitled to the floor, and no other business can be enter-

tained except by unanimous consent and with his permission.

Mr. POWELL. I will give way.

Mr. SPRAGUE. The Senator from Kentucky gives way for this bill.

Mr. GRIMES. Does the Senator refer to the paymasters' bill which was up before the recess?

Mr. SPRAGUE. Yes, sir.

Mr. GRIMES. That will be debated.

Mr. SPRAGUE. I think not.

Mr. GRIMES. I know it will be.

Mr. SPRAGUE. I think there will be no objection to it with an amendment that I intend to propose to it.

Mr. HARLAN. I thought there was a special order fixed for seven o'clock this evening.

The PRESIDING OFFICER. The unfinished business of the session takes precedence of the special order; and the unfinished business is Senate joint resolution No. 117, upon which the Senator from Kentucky is entitled to the floor; and anything done must be done with his consent.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to submit a report from the Committee on Indian Affairs.

The PRESIDING OFFICER. The Chair will receive the report, if there be no objection.

#### RIGHT OF WAY TO PACIFIC RAILROAD.

Mr. LANE, of Kansas. I am directed by the Committee on Indian Affairs, to whom was referred the joint resolution (S. No. 120) to authorize the Union Pacific Railroad Company, eastern division, to acquire certain right of way and land from the incompetent Wyandotte Indians, to report it without amendment, and I ask for its present consideration. It will provoke no discussion.

Mr. SPRAGUE. I object.

The PRESIDING OFFICER. Objection being made, the joint resolution cannot be considered.

Mr. SPRAGUE. I will withdraw my objection to the consideration of the resolution of the Senator from Kansas, provided it will not take precedence of my bill.

Mr. LANE, of Kansas. It will take but a minute to dispose of it.

The PRESIDING OFFICER. This whole proceeding is irregular and out of order, and no business can be done except the regular order, unless by unanimous consent.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to consider the joint resolution which I have reported.

Mr. SPRAGUE. I shall object, if it takes precedence of the bill that was before the Senate when the recess was taken.

The PRESIDING OFFICER. It will take the place of it.

Mr. SPRAGUE. Then I object, and I trust we shall go on with that bill.

#### COMMERCE AMONG THE STATES.

Mr. SUMNER. I wish to ask the Senate to be good enough to take up the House bill No. 307, to regulate commerce among the States, and make it the special order for to-morrow evening at seven o'clock. There are two Senators who desire to address the Senate upon it.

Mr. SPRAGUE. Make it eleven o'clock; and I will agree to it.

Mr. SUMNER. I prefer seven.

The PRESIDING OFFICER. The motion of the Senator from Massachusetts can only be entertained by unanimous consent.

Mr. TRUMBULL. I shall object to it.

Mr. SUMNER. I propose to make it the special order for to-morrow evening.

Mr. TRUMBULL. We cannot tell what our situation to-morrow evening will be. Let us wait until to-morrow evening comes.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

#### NAVAL APPROPRIATION BILL.

On motion of Mr. SHERMAN, the Senate proceeded to consider the action of the House of Representatives on the amendment of the Senate to the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th June, 1866, and insisted on the amendments disagreed to by the House, and non-concurred in the amendments of the House to other amendments of the Senate, and agree to the conference asked by the



House of Representatives on the disagreeing votes of the two Houses.

The VICE PRESIDENT was authorized to appoint the committee of conference on the part of the Senate, and Messrs. SHERMAN, GRIMES, and HENDRICKS, were appointed.

#### INTERNAL REVENUE.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, reported it with amendments; and on his motion the bill was made the special order for Monday next at one o'clock.

#### ARMY PAY DEPARTMENT.

Mr. SPRAGUE. I now ask for the continuation of Senate bill No. 419.

The PRESIDING OFFICER. The reading of that bill will be proceeded with, unless there be objection. The Chair hears none.

The Secretary resumed the reading of the bill (S. No. 419) for the better organization of the pay department of the United States Army. It provides that the Paymaster General of the United States Army shall hereafter have the rank, pay, and emoluments of a brigadier general.

It further provides that there shall be added to the pay department of the United States Army, as now organized, two assistant paymaster generals, who shall be *ex officio* inspector generals of the department, with the rank, pay, and emoluments of colonels of infantry. In addition to the two deputy paymaster generals now authorized, there are to be added ten others, subject to the same conditions and provisions as by existing laws provided for deputy paymaster generals.

The appointments to the offices herein created are to be made by selection from the officers of the pay department of the United States Army, including the additional paymasters and the chief clerk, and who have had at least two years' service and experience in the duties of the pay department. After such appointments have been once filled, all vacancies occurring are to be supplied as now by law prescribed for the other staff departments of the Army.

The assistant and deputy paymaster generals are to give bond in the manner now required of deputy paymaster generals, and to be subject to any duty in the pay department to which they may be assigned by the Secretary of War.

Whenever a pay district is established, for the charge, superintendence, and command of which no assistant or deputy paymaster general is available as chief, the Secretary of War may detail any paymaster or additional paymaster of the Army to do the duties of such chief; and during the continuance of such detail and duties, and no longer, the officer so detailed is to have the rank, pay, and emoluments of a deputy paymaster general; but the total number of such acting deputies is not at any one time to exceed ten.

The Secretary of War is to have authority to detail officers of the pay department for duty as inspectors of such department, not exceeding four at any one time, who, during the continuance of such detail and duties, are to have the rank, pay, and emoluments of deputy paymaster generals; and they, together with the inspector generals herein provided for, are to have the powers and authority within their own department now by law and regulations conferred upon inspector generals of the Army.

Mr. SPRAGUE. I move to amend the bill by inserting in section three, line six, after the word "department," the following:

*Provided*, That at least two thirds of such appointments shall be made from the additional or volunteer paymasters; and.

So that the section will read:

That the appointments to the offices herein created shall be made by selection from the officers of the pay department of the United States Army, including the additional paymasters and the chief clerk, and who shall have had at least two years' service and experience in the duties of the pay department: *Provided*, That at least two thirds of such appointments shall be made from the additional or volunteer paymasters; and after such appointments have been once filled, all vacancies occurring shall be supplied as now by law prescribed for the other staff departments of the Army.

The amendment was agreed to.

Mr. SPRAGUE. I move further to amend the

bill by adding the following as an additional section:

SEC. 7. *And be it further enacted*, That the provisions of this act shall continue and be in force during the continuance of the present rebellion, and one year thereafter, and no longer: *Provided, however*, That when this act shall expire all officers who have been promoted from the pay staff of the Army under this act shall retain their respective rank in the Army, with such promotion as they would have been entitled to.

The amendment was agreed to.

Mr. SPRAGUE. Mr. President, this bill has had the consideration of the Committee on Military Affairs. They have reported it to the Senate unanimously. The amendment has the concurrence of the chairman and every member of that committee. The bill has received the sanction of the War Department. The Secretary of War is anxious that it shall pass. There is no objection to it anywhere. The increase of pay is very slight and very small. All that is desired for this department is a superior organization. It has become necessary from its increased duties, owing to the increased number of officers in the department and the immense amount of Government disbursements. All that is called for by this department, and granted by this bill, is to cease immediately after this war, or one year thereafter, simply giving them sufficient time to enable the accounts to be adjusted and to be made up properly. There cannot be the slightest objection to it. The quartermaster's department, the commissary department, the medical department, all the departments of the Army, have been reorganized, except the paymaster's department. This bill has received the sanction of the War Department, and of the paymaster's department; and they ask it in order to enable them to carry on the department successfully. As I have said, the chairman of the committee favored it; the whole Military Committee favored it; the War Department asks for it. There can be no objection to it. The increase of the number of officers and the increase of pay is all to end with the war. I really hope that there will be no objection from my friend the Senator from Iowa.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GRIMES. I ask for the yeas and nays on the passage of the bill.

Mr. TRUMBULL. If the yeas and nays are to be called, I am apprehensive it may interfere with the transaction of business; and I trust that they will either not be called, or else the bill will now be laid aside and the Senate take up the regular order of business.

Mr. SPRAGUE. Let us have a division.

Mr. TRUMBULL. I apprehend there is not a quorum.

Mr. GRIMES. I am not content with a division. I want to record my name on a ye and nay vote against these continual attempts to build up grand, stupendous military establishments.

Mr. TRUMBULL. I suggest to the Senator from Rhode Island that we take the yeas and nays upon the bill at some future time.

Mr. SPRAGUE. Let us pass the bill now.

Mr. TRUMBULL. You have not a quorum and cannot pass it, and the only effect will be merely to stop the business of the Senate.

The PRESIDING OFFICER. This bill was taken up by unanimous consent, and cannot be proceeded with if there be objections.

Mr. TRUMBULL. I call for the order of the day.

The PRESIDING OFFICER. The order of the day is called for, and upon that question the Senator from Kentucky [Mr. POWELL] is entitled to the floor.

Mr. SPRAGUE. I move to postpone the further consideration of the bill until to-morrow.

The PRESIDING OFFICER. That cannot be done while the Senator from Kentucky is entitled to the floor. It was by unanimous consent that this paymaster's bill was called up.

Mr. SPRAGUE. My motion is to postpone the consideration of this bill for the paymaster's department, and I believe I have the floor on that question. I move that it be postponed until to-morrow.

Mr. TRUMBULL. Let it be laid aside informally until there is a quorum, and then we can take the yeas and nays upon it.

The PRESIDING OFFICER. The Senator from Rhode Island moves that the further consideration of the bill in relation to the paymaster's department be postponed until to-morrow. The motion was agreed to.

#### RIGHT OF WAY TO PACIFIC RAILROAD.

Mr. LANE, of Kansas. I ask the consent of the Senate to take up the joint resolution which I reported a short time ago from the Committee on Indian Affairs.

Mr. TRUMBULL. I hope not. I hope the Senator from Kentucky will go on with his remarks on the special order.

Mr. LANE, of Kansas. This resolution will provoke no discussion at all, and it is a matter of importance, which should go to the other House as soon as possible.

Mr. TRUMBULL. We are having this difficulty all the time, and if we are content to give way to these bills we shall never finish the business of the session.

The PRESIDING OFFICER. Is there any objection to the present consideration of the resolution indicated by the Senator from Kansas?

Mr. TRUMBULL. Yes, sir; I object.

Mr. LANE, of Kansas. I would like to say to the Senator from Illinois that it is merely a resolution to allow the Pacific railroad to procure the right of way through a piece of land.

Mr. TRUMBULL. I do not suppose there is any objection to the resolution itself; but if we are to keep giving way to allow bills to be interpolated, we shall never get through with the measure that is properly before the Senate.

Mr. LANE, of Kansas. This resolution will provoke no discussion, and I should like to have it passed. I hope the Senator from Illinois will give his consent to allow it to be taken up and passed.

The PRESIDING OFFICER. Does the Senator from Illinois withdraw his objection?

Mr. TRUMBULL. The Senator from Kentucky is entitled to the floor, and I will not interpose if he does not; but I do not like to have bills interposed in this way.

Mr. LANE, of Kansas. I have the permission of the Senator from Kentucky.

Mr. POWELL. It will take but a moment, I am informed, and with that understanding I will give way.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 120) to authorize the Pacific Railroad Company, eastern division, to acquire certain right of way and land from the incompetent Wyandotte Indians. It proposes to authorize the Pacific Railroad Company, eastern division, to purchase of the incompetent Wyandotte Indians, upon such terms as shall be approved by the President, the right of way for the railroad, and such other grounds and materials as such incompetents may possess, which shall be necessary to the company in the construction and operation of its road, not exceeding one hundred acres.

Mr. FOSTER. I do not want to be troublesome inquisitive; but I should like to know the difference between a competent and an incompetent Wyandotte Indian? [Laughter.]

Mr. LANE, of Kansas. I will ask that the letter of Secretary Usher on this subject be read.

The Secretary read the following letter:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., February 16, 1865.

SIR: It having become important, in the construction of their road and its branches, that the Union Pacific Railway Company occupy a portion of the lands of the Wyandotte Indians in Kansas; and as I meet with some difficulty in view of existing treaty stipulations in approving any conveyance of their land, I have prepared and herewith present the draft of a joint resolution to remove all difficulty in the matter and have the honor to request that it be put upon its passage.

Very respectfully, your obedient servant,

J. P. USHER.

HON. J. H. LANE, United States Senator.

Mr. FOSTER. That throws no light whatever upon the inquiry I made.

Mr. LANE, of Kansas. The treaty with the Wyandotte Indians gives to certain of them who follow a certain track the power to possess themselves of the right to convey their lands. A portion of these Indians, who have not yet gone through that ceremony, own a portion of the land through which the road desires to pass; and it is to enable the Secretary of the Interior to carry

out the contract they have made that this joint resolution is offered. They, however, I desire to say to the Senator from Connecticut, are as well qualified to transact their own business as he or I.

Mr. FOSTER. The "incompetent Wyandotte Indians" then, as I understand, are perfectly competent. [Laughter.]

Mr. LANE, of Kansas. Except in this legal, technical sense.

Mr. FOSTER. Mr. President, I certainly do not wish to treat this matter with any levity. I suppose that these Indians are destined to lose all their lands, and to be exterminated; but it did seem to me that there was at least a little decency to be observed in pursuing these Indians to their last ditch. If we are to take away the rights of those who are deemed incompetent by a resolution here that is read and really unnoticed by anybody, it seems that I was mistaken in my apprehension. I certainly do not wish to stand in the way of this legislation if it is deemed proper. If it is satisfactory to other Senators I certainly will not oppose it.

The joint resolution was reported to the Senate without amendment.

Mr. GRIMES. Is there a report from the committee in this case?

The PRESIDING OFFICER. The Chair is informed that there is no report accompanying the resolution.

Mr. HARLAN. I am not willing that this resolution shall pass after the statements that have been made by the Senator from Connecticut, without looking into it personally, as I am a member of the committee that usually has charge of that business. I suppose the Senator from Kansas has satisfied himself that it is all right; but it has not been considered in the committee formally. I know the Senator from Kansas has the consent of the members of the committee to report it to the Senate; but the Senator from Connecticut doubtless has looked into the subject somewhat, or he would not make the grave statements that he has made here to-night; and therefore I ask that the resolution lie over until to-morrow.

Mr. FOSTER. I have not looked at it, and it was because I knew nothing about it that I made the inquiry.

Mr. LANE, of Kansas. I have no objection to its going over; but I desire to say that this road passes through the lands of the Wyandotte Indians, and this joint resolution is intended to cover the right of way and depot grounds that they have already deduced. That is all there is in it. Instead of being a disadvantage to the Indians, it will be a very great advantage to them.

Mr. COWAN. Are these Indians within the State of Kansas and within her jurisdiction?

Mr. LANE, of Kansas. Yes, sir.

Mr. COWAN. Are there no courts to protect them in the exercise of their rights in dealing with this company? Cannot they convey the land through the medium of the courts there?

Mr. LANE, of Kansas. No, sir; that is what I undertook to state to the Senator from Connecticut.

Mr. COWAN. Does this resolution confer the power on the courts, or does it confer it absolutely from here?

Mr. LANE, of Kansas. The Secretary of the Interior is to grant the patent.

Mr. COWAN. I would rather that it should be given to the courts.

Mr. DOOLITTLE. I hope the resolution will go over until to-morrow, in order to explain this matter to the Senator from Connecticut and the Senator from Iowa, as to who are competent or incompetent Indians under the treaty.

The PRESIDING OFFICER. This resolution was considered by unanimous consent, and objection being made, it will lie over until to-morrow.

#### STATE GOVERNMENT OF LOUISIANA.

The Senate resumed the consideration of the joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana.

Mr. POWELL. I will ask for the reading of the resolution.

The Secretary read it, as follows:

*Resolved, &c., That the United States do hereby recognize the government of the State of Louisiana, inaugurated under and by the convention which assembled on the 6th day of April, A.D. 1864, at the city of New Orleans, as the*

legitimate government of said State, entitled to the guarantee and all other rights of a State government under the Constitution of the United States.

Mr. POWELL. Mr. President, at all times I regret to differ with my colleagues of the Committee on the Judiciary, and particularly do I regret it when I differ from them upon a question of such grave importance as the one now under consideration. Being the only member of the committee that was opposed to the resolution, I feel it my duty in a very brief manner to state to the Senate the reasons why I cannot support it. The chief object in recognizing the State government of Louisiana at this time is to allow that State to vote for the proposed amendment to the Constitution of the United States, and to do that effectually the friends of the resolution desire first to admit Senators and Representatives from that State. The admission of Senators and Representatives from Louisiana will be the immediate result of the passage of the resolution.

The resolution under consideration proposes to recognize as the legitimate State government of Louisiana the government formed by the convention that assembled in New Orleans on the 6th day of April, 1864. In order to come to a just and correct conclusion upon the question at issue we must be informed of the action of the people of Louisiana, of the President of the United States, and of the military, in connection with this subject. I have no hesitancy in saying there is no Senator in this Chamber who would be more rejoiced than myself if the people of Louisiana were to cease their hostility to the Government and return to the Union and elect members to this body and the other House, and ask for their admission. But, sir, believing as I do that the government that is proposed to be recognized by this resolution is not a government formed by the people of Louisiana, I oppose it. It may be, and I dare say it is true, that some gentlemen who oppose this resolution do it for reasons that do not animate me. There are some, I dare say, who believe that Louisiana is out of the Union. I am not one of those. With the permission of the Senate I will read a very brief extract from a speech I made on the 2d day of this month, in which I alluded to that subject:

"I believe that the States in revolt are still States of the Union. I believe they are not out of the Union. I believe, furthermore, that when they choose to lay down their arms and to elect officers of their State governments who acknowledge this Government, and to send members to the House of Representatives, and Senators to this Chamber, they have the right to do so, and I believe that they ought to be permitted to do so. While I say that, I know of course that each House is the judge of the qualifications of its members, and each House is to judge for itself whether the resistance to the Government in any State has sufficiently ceased to entitle it to representation here, and hence it is that each case must stand upon its own merits as it is presented here. For myself, I would vote to-morrow to receive Senators in this Hall from every State that is in revolt, provided I believed that a majority of the people of those States, unawed by the military power, uninfluenced by any outward force, of their own good will, in the exercise of their own volition, had in good faith elected those men in the way prescribed by their constitution and laws."

Something approximating a majority of the people of the State should indicate a willingness to return to the Union, and should participate in the movement of reorganization.

And further, I remarked:

"Believing that these States are States in the Union, that they are not out of the Union, whenever a majority of the people in either one of these States shall of their own free will cease to resist the authorities and Government of the United States, and shall elect of their own free will Senators and Representatives to Congress, I will only inquire as to the fact whether they have ceased their resistance, and whether a majority of the people have determined to be loyal to the Constitution and Government of the United States; and that fact being established so as to leave no doubt upon my mind, I would then be ready to admit their Representatives as our equals here."

I still adhere to the position taken then. It would afford me great pleasure to admit upon this floor Representatives from Louisiana and to recognize in every way in which it was possible for me to do so the organization of the State government of Louisiana, provided I believed the loyal people there of their own free will had formed the government and had elected their Representatives. But, Mr. President, as I have before stated, I do not believe that the loyal people of Louisiana, of their own free will, uninfluenced by the military power, formed the government which it is now proposed to recognize. I believe that the formation of that government was controlled and influenced by others; and that those

persons who exercised absolute control in this matter were not citizens of Louisiana. It is a government formed really and virtually by the military power of the United States, using as instruments delegates who were elected under and by force of the bayonet.

Senators, before they can vote for this resolution, must maintain the doctrine contained in the President's proclamation of the 8th of December, 1863, when he proposed that one-tenth of the loyal voters of a State who would comply with the conditions set forth in his proclamation should form a State government. They must further maintain that the President of the United States of his own volition has power by decretal order to alter the constitution of a State. They must maintain further that the President of the United States has the power to prescribe the qualifications of voters and the qualifications of candidates for office in the States. They must further believe not only that the President possesses those powers, but that Major General Banks possessed those powers in the State of Louisiana by virtue of his office as major general of the army commanding in that district. I will show you, sir, beyond the possibility of a doubt that the people of Louisiana who cooperated in forming this State government did not act of their own free volition, but they were coerced to do what they did. I will show you that the constitution formed and presented here, and which, it is said, is the fundamental law of the State of Louisiana, was not a constitution made by the free suffrages of the people of that State.

The creation of a State government is a purely civil act, and has no connection with military or martial law. The people must act without restraint. I suppose there is no Senator here who will deny that proposition. All those who admit that the formation of a State government is a purely civil act, and that the military authorities have no right to control it in any way whatever, must if they are consistent vote to reject the resolution proposed by the Judiciary Committee.

I have heard the proclamation that accompanied the President's annual message on the 8th of December, 1863, commented on in this Chamber by numerous Senators, and I have heard no Senator maintain that the President could legitimately exercise the power he has assumed in that proclamation. The President in that proclamation, the Senate will remember, proposes if one tenth of the qualified voters of a State in revolt shall take the oath prescribed in the proclamation, and shall proceed to form a State government, to recognize that State government. 'Sir, what is that oath? Let us look at it for a moment. It is in these words:

"I, ———, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court. So help me God."

The taking of that oath was a condition precedent to becoming a qualified elector in one of these revolted States. The first part of that oath is not objectionable; but that portion of it which provides that a man shall swear to support all the proclamations of the President of the United States on the subject of slavery, and all the proclamations that he may hereafter make on that subject, is certainly a most odious feature; it is certainly most degrading to any man who takes it. I hold that no man who is a free man and understands all of his civil and political rights would so prostitute himself as to take that oath. The President not only requires him to swear that he will support the proclamations that have been made on the subject of slavery, but that he will support those hereafter to be made. What man who has proper self-respect will swear that he will support all the proclamations that any Executive may make in the future upon any given subject? Why, sir, the President may proclaim that the negro shall be the master and the white man the slave; that the negro shall be the voter and the white man deprived of the right of suffrage; and yet this oath requires the man taking it to swear in advance that he would support

even such a measure as that. I suppose there is no Senator that ever has defended, or ever will defend, that odious feature of this oath, which, sir, the President prescribes as a condition precedent to becoming a qualified voter in any one of these revolted States under his system of reconstruction. I hope the Senate will bear in mind that the government in Louisiana which is now proposed to be recognized is the first-fruits of the proclamation of the President. The government presented here is formed upon that proclamation.

Now, sir, let us look a little further at this proclamation:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State; and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.'"

You will observe that the President here lays down as a fundamental principle that one tenth of the number of voters that voted in 1860, if they submit themselves to this humiliating oath, shall form a State government. That is much less than one tenth of the voters of the State, because I suppose there never was an election in which all the voters of a State went to the polls and cast their votes. At the very threshold, then, you repudiate the great principle of republican government, that majorities shall rule. Here you propose to say not that majorities, but that less than one tenth shall rule. The President then proceeds to intimate very clearly, in his proclamation, that when they form a constitution it must not recognize African slavery. General Banks, carrying out the suggestion of the President and what he had distinctly stated in a letter to General Steele in relation to Arkansas, took it upon himself to alter the constitution of Louisiana in that respect.

Mr. President, I ask those who are in favor of this resolution to tell me from whence the President of the United States derives the power to prescribe the qualifications of voters for the people of Louisiana. Whence does he derive the power to prescribe the qualifications for office? And yet all these things he does. Why, sir, he tells you plainly and distinctly in that proclamation that none shall be qualified voters except those who take the oath prescribed in that proclamation. I can recognize no government as legitimate that has such a rotten foundation. Senators who vote for it must admit that the President possesses these high powers of sovereignty. I have heretofore thought and now maintain that there is no power on earth that can lawfully form a constitution for the people of any State in this Union save and except the sovereign people themselves. It is one of the highest acts of the sovereignty of the people to proclaim their fundamental law; but here in this pretended government of Louisiana the Chief Executive of the United States undertakes to prescribe the qualification of voters and to amend the constitution of Louisiana. When he prescribes the qualification of voters he amends the constitution of the State; for under the constitution of that State as it existed before the rebellion the qualification of voters was prescribed in that instrument. The President's proclamation is the basis of the whole proceeding, and those who vote for this resolution indorse that proclamation. There is no escape from it. I will show you that the whole proceeding was conducted under and by virtue of that proclamation, and with a purpose to carry it out.

Let us see what Major General Banks did. In order to carry out the proclamation of the President, applying it practically to Louisiana, Major General Banks, in obedience to instructions from the President, undertook to reorganize a State government in Louisiana. On the 11th day of January, 1864, he issued his proclamation calling upon the people of Louisiana to elect a Governor, Lieutenant Governor, secretary of State,

treasurer, attorney general, superintendent of public instruction, and auditor of public accounts. I will read that proclamation:

HEADQUARTERS DEPARTMENT OF THE GULF,  
NEW ORLEANS, January 11, 1864.

To the people of Louisiana:

I. In pursuance of authority vested in me by the President of the United States, and upon consultation with many representative men of different interests, being fully assured that more than a tenth of the population desire the earliest possible restoration of Louisiana to the Union, I invite the loyal citizens of the State qualified to vote in public affairs, as hereinafter prescribed, to assemble in the election precincts designated by law, or at such places as may hereafter be established, on the 22d day of February, 1864, to cast their votes for the election of State officers herein named, namely:—

They are the officers I have just named.

"who shall, when elected, for the time being, and until others are appointed by competent authority, constitute the civil government of the State, under the constitution and laws of Louisiana, except so much of the said constitution and laws as recognize, regulate, or relate to slavery, which, being inconsistent with the present condition of public affairs, and plainly inapplicable to any class of persons now existing within its limits, must be suspended, and they are therefore, and hereby declared to be, inoperative and void."

Major General Banks tells you that the part of the constitution of Louisiana referred to in the extract just read from his proclamation is not applicable to any class of persons in the State, and then declares it inoperative and void. If not applicable to any class of persons in the State, why the necessity of declaring it inoperative and void. He must have done it to let the people of Louisiana know that he was a usurper, a tyrant, and a ruthless and wanton violator of the Constitution of his country and every principle of civil and republican liberty, and to let them know that they had a master whose will they must obey. Who clothed Nathaniel P. Banks, major general of the Army of the United States, with the power to amend the constitution of the State of Louisiana? N. P. Banks, in his capacity as major general of the Army of the United States, had no more legal power to proclaim an amendment of the constitution of Louisiana than he had to annul or amend the fiat of Almighty God. That is a power that the sovereign people of Louisiana alone possess. And yet, sir, this major general, in obedience to the edict of his master, the President, with one dash of his pen alters, or attempts to alter, the constitution of the State of Louisiana. I put it to you, Senators, you who acknowledge the sovereignty of the people to be the cornerstone, the foundation, upon which must be reared all the institutions of all the States of this Union, to say whether you will sanction such an outrage upon every principle of republican government. Major General Banks, who had no authority on the face of the earth to speak in this matter in the State of Louisiana, who was not a citizen of Louisiana, but a citizen of Massachusetts, assumes to amend the constitution of the State. Was there ever such an audacious usurpation? I will venture to say you may search the history of major generals from time immemorial to the present moment, and you will find in no Government where it is pretended that liberty is regulated by law such a monstrous usurpation as that of General Banks in Louisiana.

But, sir, let me read a little further from this proclamation:

"II. The oath of allegiance prescribed by the President's proclamation, with the condition affixed to the elective franchise by the constitution of Louisiana, will constitute the qualification of voters in this election. Officers elected by them will be duly installed in their offices on the 4th day of March, 1864."

He says that the qualification of the voter is such as is prescribed in the proclamation of the President in addition to the qualifications prescribed by the constitution of Louisiana. Here this major general recognizes the existence of the constitution of the State of Louisiana. The President of the United States himself recognized the existence of those State constitutions in his proclamation. Major General Banks recognizes the constitution of the State as being the fundamental law, for he allows it to stand, except so far as he shall proclaim it modified. Now, sir, can you deny that there was a constitution in the State of Louisiana? Had the rebellion overthrown that constitution, he could, with some consistency, have gone on to make a constitution from his stand-point, he believing, as he said, that martial law was the fundamental law of Loui-

siana, and martial law being the will of the Commander-in-Chief.

But he recognizes the constitution of Louisiana and then proceeds solemnly to decree the amendment that I have read.

But that is not all that this major general does. He says, further:

"IV. In order that the organic law of the State may be made to conform to the will of the people, and harmonize with the spirit of the age, as well as to maintain and preserve the ancient landmarks of civil and religious liberty, an election of delegates to a convention for the revision of the constitution will be held on the first Monday of April, 1864. The basis of representation, the number of delegates, and the details of election, will be announced in subsequent orders."

Senators, what think you of that? "In order to maintain and preserve the ancient landmarks of civil and religious liberty" Major General Banks orders delegates to be elected to form a constitution for the State of Louisiana! I ask the friends of this resolution who it was that conferred upon Major General Banks the power to call together a convention to remodel the constitution of the State of Louisiana. The constitution of the State of Louisiana can only, lawfully, be amended in the mode pointed out in the instrument itself. I am sure there is no clause in the constitution of Louisiana that authorizes a major general of the United States to order the people to elect delegates to remodel their constitution. And yet, sir, we are to sanction all these usurpations before we can vote for the resolution now under consideration.

This major general proclaims that the qualifications of the voter is such as is prescribed in the constitution of Louisiana as altered by the amnesty proclamation of the President. That he declares on the 11th day of January, 1864. On the 13th day of February, 1864, only a month afterward, he issues another ukase in which he adds other qualifications to voters. I beg Senators to listen to this. He not only adds the qualifications prescribed by the President, but he, General Banks, adds other qualifications to voters. There were a certain class of people in Louisiana who were forbidden by the constitution of that State to vote. They were those engaged in the Army and Navy. The President does not in his proclamation allow those persons to vote, notwithstanding they take the amnesty oath, because they were not legal voters under the constitution of Louisiana. General Banks, on the 11th of January, issued his proclamation prescribing the qualifications of a voter as they were indicated in the proclamation of the President; but, sir, he could not even stand to that, because before the election came on he issued an order in which he speaks further on that subject. I will read a portion of his order of the 13th of February:

"III. Citizens of the State who have volunteered for the defense of the country in the Army or Navy, and who are otherwise qualified voters, will be allowed to vote in the election precincts in which they may be found on the day of election; and if the exigencies of the public service be such as to prevent their attendance at any established precinct, then commissioners fairly representing the interests involved in the election will be appointed to receive their votes wherever they may be stationed on that day, and to make due returns thereof, as well as of their own votes, to the military governor of the State, as provided for other commissioners of election."

There you observe that General Banks allows persons that were not qualified voters under the President's amnesty proclamation, to vote. He allows those in the Army and Navy, who are forbidden by the constitution of Louisiana from voting, to vote. Under the President's amnesty proclamation those persons were not qualified voters, because the President allowed all to vote who had taken that oath who were qualified by the constitution of the State of Louisiana. Certain persons were not allowed the privilege of the amnesty oath at all. That applied to officers of high grade in the army, and others whom I will not specify. General Banks was not content with carrying out what the President indicated, but he must enlarge the right of voting in this particular, and thus violating upon his own account, not in obedience to the order of the President, the constitution of Louisiana.

I am aware that General Banks in his statement, which I will review presently, tells you that the military made no interference in the election in Louisiana—much less, perhaps, than in any other State in the Union. I ask Senators to



look at this paragraph of the order of February 13, 1864:

"VI. The sheriffs of the several parishes, and in their absence the provost marshals, will take especial care that the polls are promptly opened, and that suitable judges of election and other officers are appointed."

What is that provost marshal doing there? "The sheriffs and the provost marshals." Why, sir, you see the military all through the matter. Is the provost marshal an officer known to the constitution and laws of Louisiana to supervise elections? No, sir; no.

These State officers were elected; and how many votes were cast in that election? I find upon examination that there was then within the Federal lines less than one third of the territory of Louisiana. I find that at that election there were cast 11,414 votes, 898 of which were soldiers' votes; who, under the President's proclamation, were not legal voters, leaving 10,606 votes. Eleven thousand four hundred and fourteen votes, all told, were cast at that election. There must be about 60,000 voters in Louisiana. That State sometimes cast as high as 51,000 votes; and I suppose there never was and never will be an election where all the qualified voters go to the polls.

What does General Banks do after this election? Does he turn over affairs to the civil authorities? Michael Hahn, I find, was elected Governor of the State of Louisiana. I find here a proclamation signed by that individual as Governor on the 16th day of March. He was inaugurated, I think, early in March, perhaps on the 4th day of March. General Banks, in his first order, from which I have read, ordered a convention to form a constitution. After Hahn was elected Governor, and after he was inaugurated as Governor, one might suppose, if the military were not interfering, that then Major General Banks would allow the civil functionary to exercise the functions of issuing proclamations to the people upon subjects purely civil. We find here that General Banks makes a proclamation on the 11th day of March, in which he clearly and distinctly states how many delegates to that convention shall come from each parish in Louisiana, and he prescribes the qualification of the voters. Then we find on the 16th day of that month Governor Hahn also issues a proclamation. Here we find that this major general, even after what he calls a civil government is elected and inaugurated, goes on proclaiming to the people of Louisiana what they shall do in a civil capacity; just as he did before the election of Governor Hahn. So it is very clear that from the beginning to the end the civil authorities were controlled by the military.

How many votes were cast when the delegates to form the constitution were elected? Only 6,184. The constitution was submitted to the people of Louisiana for their ratification, and 6,836 votes were cast for it, 1,566 against it. A constitution formed by the coercion of the military power for the free people of Louisiana was ratified by only 6,836 voters in the State! Will any Senator tell me that a constitution ratified by only that number of voters was made by the free will of the people of Louisiana? Certainly it was not. I find in a document published by the House of Representatives in an election case from Louisiana, some meager account of the number of votes cast in some of those parishes that elected delegates to the constitutional convention. General Banks ordered the election of those delegates without authority, as everybody must know, in violation of the constitution of Louisiana, as we all know. Let me read a little from this document, published by the House of Representatives:

"This convention was composed of ninety-five delegates, of which number the parish of Orleans was represented by sixty-three, leaving to the country parishes the residue of thirty-two. The undersigned have no definite information of the number of votes polled in each parish, either at the election of delegates or on the question of ratification, nor the number cast for the constitution, nor, if any, against it, but they are enabled to furnish some indication of the vote outside of New Orleans by the sparse returns which they gather from the journal of the convention."

"It appears that the parish of Ascension, within our lines, and neighboring to New Orleans, and which in 1860 had a white population of 3,940, elected her delegates by 61 votes; that Plaquemine, with a white population in 1860 of 2,529, cast 246; and in the parish of Madison, the witness Montague was elected by a vote of 28."

"It is admitted that elections were held only in the parishes included within our lines, and that these lines were the Tchéné on the one side and the Amites on the other, com-

prehending the parish or city of Orleans, and the neighboring parishes on the Mississippi. To a question propounded to General Banks as to what portion of the State voted, his reply was:

"All as far up as Point Coupee, and there were some men from the Red river who voted at Vidalia."

"And in his statement he announces that 'The city of New Orleans is really the State of Louisiana.'"

"In 1860 there were 357,629 whites in the State, of whom 149,063, or much less than one half, were in New Orleans, so that in no legitimate sense can it be said that it constitutes the State. It is incredible that there are not many loyal men, the test of loyalty being the willingness to take an oath of allegiance, who were entitled to suffrage upon the question of the formation of their government; but who, from the control of the public enemy, had no opportunity to vote. But assume the statement to be true, it is in evidence that there are not less than 13,000 registered and qualified voters in the city of New Orleans alone who have taken the oath prescribed by the proclamation of the President, and the vote cast at the ratification and the election for members of Congress demonstrates that not more than one half the number of those entitled to vote in that city voted at that election, to say nothing of the residue of the State."

Those are certainly very meager votes.

Major General Banks, after he issued the order directing this election and prescribing the qualification for voters, desiring very much, I have no doubt, as he had won no honors in the field—disgrace, disaster, and defeat having attended our arms wherever he faced the rebels in arms—to win some reputation by bringing this State back into the Union, was determined, as he had assured the President in letters that the people of Louisiana desired to form this government, to bring it back upon the President's one tenth principle. He issued his proclamation prescribing the qualifications of voters, altering the constitution of the State of Louisiana, and fixing the 22d day of February for the election. He seemed to have some little misgiving that the people would not distinctly understand that the military power desired them to do the work, and thereupon this major general issued another proclamation to the free voters of Louisiana. I regret that I have not that proclamation. And right here allow me to state that when General Banks made his statement before the Judiciary Committee, which he did with a great flourish of trumpets, and seemed to be animated with that kind of zeal which would entitle him to be called, in the language of lawyers, "a swift witness," he was requested to lay before us all his proclamations and orders on this subject; but, sir, the order to which I now refer was never presented to us. I had a resolution passed by the Senate the other day asking the President to send it to us. That resolution has not been answered. But, sir, I remember having read the order soon after it was issued, and in this report, made by a committee in the House of Representatives in a Louisiana election case, I find an extract from that order, which was issued a little before the election. Senators, mark you what this man says to these people, and then say if he ought not to blush for very shame when he said the military did not interfere with the election:

"Those who have exercised or are entitled to the rights of citizens of the United States will be required to participate in the measures necessary for the reestablishment of civil government." "It is therefore a solemn duty resting upon all persons to assist in the earliest possible restoration of civil government. Let them participate in the measures suggested for this purpose. Opinion is free and candidates are numerous. Open hostility cannot be permitted. Indifference will be treated as crime, and faction as treason."

After he had issued his proclamation altering the constitution, prescribing the qualification of voters, and ordering them to elect a Governor and other State officers, a few days before the election he issues an order in which he tells them they shall participate in that election, and that indifference is criminal. And yet the man who issued that order on the eve of that election had the audacious impudence to write and have it printed, and laid before the Judiciary Committee, that perhaps no election in any State in the Union was so little interfered with by the governmental authorities as this in Louisiana. I am astonished that Major General Banks should have made that statement. No wonder, after making that statement, that he never brought to our view that odious order in which he threatens these people with punishment if they do not come up and vote; for that is the plain English of it. He says:

"Those who have exercised the privilege, or are entitled to the rights of citizens of the United States will be required to participate in the election."

And then he goes on to tell them:

"Opinion is free and candidates are numerous. Open hostility cannot be permitted. Indifference will be treated as crime."

He tells them that opinion is free and candidates are numerous, but if they are so indifferent as not to go to the polls it will be treated as a crime. Talk to me of freedom of election under such military orders! Why, sir, there was but one free man, in my opinion, in all Louisiana at that time, and that was Major General Banks; and I do not know that he was free, for he was serving his master at the White House. But he was certainly the only free man there; for in one of the proclamations to which I have referred he tells them that the fundamental law is martial law. What is martial law? It is the will of the commander-in-chief. That, as General Banks tells you, was the fundamental law of Louisiana, and the word of General Banks then was the law, and not the constitution or the statutes of the State of Louisiana. No, Senators, there was no freedom of election there. When I take into consideration these documents, these proclamations and orders, and the whole history of the matter as I have produced it from the records, I am astonished that any gentleman should say there was any freedom of election there. The elections were carried at the point of the bayonet. Why, sir, when General Banks tells these people if they do not go and vote he will regard them as criminals, how much freedom do you think there is there; when he tells them in one of his proclamations, I, Major General Banks, declare that martial law is the fundamental law of Louisiana? Martial law is no law at all, but the will of the commander-in-chief, and under that fundamental law he could have beheaded them had they refused to vote. The declaration that martial law was the fundamental law was an odious and unconstitutional assumption. And yet this man tells you the election was fair and free, and Senators here tell me that this is the kind of government we should recognize in this Chamber as the legitimate State government of Louisiana. For one, sir, I will never recognize any government formed in the mode that this was as a government for one of the States of this Union—never, never.

It was my purpose, Mr. President, to be very brief, and merely to present in a very plain manner the official records to show that this government was not made by the people of Louisiana on their own volition, that they did not form it unawed and uninfluenced by the military power, but that the coercive finger of the military was in it from the beginning to the end. I will now notice for a few moments the statement made by Major General Banks. I know it has been a subject of comment here before. The honorable Senator from Wisconsin [Mr. DOOLITTLE] the other day, alluding to this case incidentally, read from this paper. I desire to review some portions of it very briefly, and I think the Senate will see that this witness is wholly unworthy of confidence when he testifies concerning this matter, and is utterly mistaken in what he says. Let me read a few brief extracts from it, and see how they compare with what I have read. Here is a most remarkable statement:

"I desire to state, in the most unqualified terms, that no effort whatever was made on the part of the military authorities to influence the citizens of the State either in the selection of candidates or in the election of officers, and that the direct influence of the Government of the United States was less in Louisiana than in the election probably of any other State of the Union, and that the officers representing the Government, both civil and military, were divided so far as they entertained or expressed opinion upon the question of candidates, and upon the policy pursued in the organization of the government."

Now, after the proclamations I have read prescribing the qualification of voters, overturning the constitution of Louisiana in many respects, and after hearing the extract of an order of General Banks issued immediately preceding the election, in which he declares that those persons who are indifferent will be treated as criminals, and that they must coöperate in this election, will any Senator tell me how Major General Banks could have made that statement? Senators, it is wholly irreconcilable with the facts. Major General Banks was utterly and wholly mistaken when he made that statement.

It is said that all the loyal people of Louisiana within the Union lines had the privilege of voting; such is not the fact. Under the President's and

Major General Banks's proclamations none could vote. None, says Major General Banks, did vote except such as had taken the oath prescribed in the President's proclamation. The loyal men of Louisiana, those who had maintained and acknowledged the old Union from the beginning, unless they would submit to the humiliating condition of swearing that they would abide and support the proclamations of the President heretofore made and those hereafter to be issued upon the subject of slavery—there are a large class of loyal men in Louisiana who refuse to take this oath—all such were excluded from voting under the military rule of Louisiana, and I have no doubt but that a large number of true Union men in Louisiana were excluded from voting by the illegal and unconstitutional orders of Major General Banks.

It is also said that the Government proposed to be recognized as the legitimate government of Louisiana is favored by all the loyal men of that State. Such is not the fact; we had before the Judiciary Committee of the Senate an earnest protest, signed by Thomas J. Durant and thirty-one others, influential Union men of Louisiana against the admission of Senators and Representatives from the State of Louisiana, and against the electoral vote of that State being counted.

I cannot conceive how those, who a few days ago voted for the resolution which provided that the electoral vote of Louisiana should not be counted, can consistently vote for the resolution under consideration. The resolution before the Senate recognizes the government formed by the convention that assembled on the 6th of April, 1864, as the legitimate government of Louisiana. The same authority that elected the Senators who ask admission here elected the presidential electors whose votes were excluded by the joint resolution passed during this session of Congress. If the Senators are admitted, the electoral vote of Louisiana should have been counted.

I have hastily, Mr. President, reviewed the official records in this matter, and that was what I proposed to do, for I intended to be very brief in what I had to say. The sole object I had in view when I rose to address the Senate was to show, not from any outside testimony, but from the proclamations of the President, from the proclamations and orders of General Banks, and from the records before us, that this government was not formed by the free will of the people of Louisiana, that not one tenth of the voters even voted for the ratification of this constitution, but that it was a government formed by coercion, under the influence of the military authorities there.

After this convention had been in session several weeks, Major General Banks made them a visit, was received with an address, and graciously told the convention that he was pleased with what they had done so far. The power and influence of the military authorities are seen in this movement from the beginning to the end of the work. Major General Banks is here urging with great assiduity and zeal the ratification of his actings and doings in Louisiana. He is here, as he was in Louisiana, the most prominent actor; he has been before the committees of the two Houses, urging with hot zeal the ratification of his work. I hope and trust that he will not find the Senate and House of Representatives as obedient to his will as he found less than one tenth of the down-trodden people of Louisiana.

Now, sir, I am of the opinion that a government formed in that way will be of no service to the people of Louisiana or to the Union; I believe it will be absolutely detrimental and injurious. If the people of Louisiana are prepared to return to their allegiance to the United States, there certainly will be enough of them there un-awed and uninfluenced by military power to reorganize their State government; but if at the point of the bayonet you force and coerce a small and insignificant minority to do it, you will inflict great injury on the people of that State. You should wait until enough of them see their way and have sufficient numbers at least to make a respectable show in the community, and you should then let them proceed of their own volition to form their State government, and then it will be a matter of service to the State and of glory and honor to the Union. But if you allow one tenth or perhaps one twentieth of the people, and that one tenth or that one twentieth influenced

at the point of the bayonet, to form a government, do you not know it will breed dissatisfaction, discontent, and heart-burnings, among all the other people? That will be the necessary result; there will be no harmonious action in their State affairs; it will be a matter of eternal turmoil and vexation, and why? Because you depart from every principle that should govern a free people in the formation of their government; you take it out of their hands and put it in the hands of others, of the few not animated of their own volition by a desire to return to the Union, and to form a State government for that purpose, but being driven by coercion and by threat. You see at once the interminable confusion and hatred and heart-burnings which will exist there among those people when the few are allowed to govern by military force the majority.

I for one cannot consent to admit the representatives of any State upon this floor who come here with the taint of military coercion upon them. No, sir, they must pass through the ordeal of reorganization and send representation here as the three Hebrew children passed through the fiery furnace seven times heated without the smell of fire upon their garments; they must not have the smell of military force upon their skirts; if they have, I for one will be for rejecting them, but I will rejoice when the day shall come when the people of Louisiana, when the people of Arkansas, or when the people of any other State that has attempted to go out of the Union shall lay down their arms and of their own volition reorganize their State government and send representatives to this floor and to the other end of the Capitol. It will be a glorious and a proud day when they shall do it; but until they do it un-awed and uninfluenced by military power, I for one will never consent to receive their representatives here. It must be a matter of their own volition and they must not be coerced by Major General Banks or any other major general whatever.

Mr. HOWARD obtained the floor.

Mr. CHANDLER. I ask my colleague to give way that I may move to take up House bill No. 307, so that my colleague may speak to-morrow morning.

Mr. TRUMBULL. I trust that will not be done. If the Senator from Michigan is not prepared to go on to-night probably there may be others in the Senate who desire to say something on this subject. I think we had better progress with it. It is early in the evening and if the Senator from Michigan, who has taken the floor, is not prepared to go on, let him give way and let some one who is prepared to proceed go on to-night.

Mr. CHANDLER. I ask for a vote on my motion, and I hope it will prevail. I think we can get a vote on that bill to-night, and then give my colleague an opportunity to be heard in the morning at one o'clock.

Mr. SUMNER. I like the expression that fell from the Senator from Illinois. He thought that we could progress, I think he said, with the resolution that he had in charge. There is another measure that the Senator from Michigan [Mr. CHANDLER] has in charge that I think the Senate can progress with also, and to much more advantage. The measure that the Senator from Michigan has in charge is a reality. The measure that the Senator from Illinois has in charge is a shadow.

Mr. DAVIS. Mr. President, with the permission of the honorable Senator from Massachusetts, I express my happiest gratitude to him when he says the measure of the Senator from Illinois is but a shadow. I agree with him.

Mr. SUMNER. Of course it is but a shadow, and I am astonished that the Senator from Illinois can seek to occupy the time of the Senate and the country at this moment with a shadow, and set up such a shadow against the reality which my friend from Michigan is seeking to press upon the attention of the Senate. I am glad the Senator from Michigan has made his motion. I hope he will press it to a vote.

Mr. DOOLITTLE. Mr. President, I hardly know whether the Senator from Massachusetts is in earnest or in jest. The honorable Senator from Illinois sits about midway between the Senator from Massachusetts and the Senator from Kentucky; he sits between the upper and the nether millstone of this opposition to the free State of

Louisiana, a State which my friend from Massachusetts, as well as the Senator from Kentucky, will find the people of these United States will not regard as a shadow. They are in earnest, and the admission of the free State of Louisiana and its recognition is a thing they will demand as an earnest reality. And, sir, it is not for the Senator from Massachusetts, with all his boastful friendship for freedom and free States, to join hands with the Senator from Kentucky and undertake to prevent the recognition of the free State of Louisiana. And then he says this affair over here in New Jersey, this affair of undertaking by act of Congress to change the charter of the corporations of New Jersey, is a grand operation.

Mr. SUMNER. That is your language, and not mine.

Mr. DOOLITTLE. That is the substance of what the Senator said, by way of contrast, between the admission of that State which sits at the mouth of the Mississippi river and controls the outlet of that great river that binds this Union together now and forever—that free State in which a large majority of its free and loyal inhabitants have voted for this constitution, and have organized again and seek to be admitted and recognized—that State, too, whose vote is necessary (and the Senator will so find it in the end) to the adoption of the great measure of this Congress, the constitutional amendment, that is to secure freedom to the whole land—the recognition of that free State of Louisiana whose constitution knocks off the shackles from ninety thousand slaves that the emancipation proclamation did not reach—

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair must remind Senators that discussion on the merits of the bill is not in order. The pending question is a motion to take up.

Mr. DOOLITTLE. I am simply comparing shadows [laughter] with realities; and the affair over here in New Jersey—we are to come to that again! In the whole history of the Government I believe Congress has never assumed to change the charters of railroad or of canal companies which are established by the laws of the States. And now, Mr. President, I desire to say that as this Louisiana measure is in hand, we had better dispose of it. We can just as well come to a vote to-night as at any other time, and if the Senator from Michigan desires to speak we can hear him to-night, or any other Senator, and finish the question, take the sense of the Senate, and then take the sense of the Senate on the other measure.

Mr. SUMNER. Mr. President, "and then take the sense of the Senate on the other measure," says the Senator from Wisconsin. I say, sir, take the sense of the Senate on the other measure first, and for two good reasons: the Senate commenced the consideration of the other measure first, and has proceeded further in its discussion; and for the second reason, because the other measure is a reality calculated to produce fruits of good to the country. This measure, I say, sir, is a shadow. So far as it is calculated to exercise any influence, it is to bring upon this country disaster. Sir, I do not wish to stand here as a prophet, and I will not at this moment, on this merely incidental question, be carried into discussion; but I do warn the Senator from Wisconsin, as he loves human freedom, ay, sir, as he represents a State dedicated to freedom, to hesitate before he throws his influence on the side of such a proposition, which is to open the way to an unknown future.

Sir, I am disposed to stop here, and yet there is one other remark of the Senator to which I must reply. The Senator insists constantly upon foisting his unconstitutional idea in the way of establishing emancipation throughout this country. He says the vote of Louisiana is needed. Sir, the vote of Louisiana is not needed; and when the Senator makes that assertion it is interposing an obstacle to the adoption of the constitutional amendment. Is he a friend to the constitutional amendment? Why, then, does he interpose an obstacle to it by foisting an untenable and erroneous interpretation on the Constitution of the United States? The Constitution declares that a constitutional amendment shall become to all intents and purposes a part of the Constitution when it shall be ratified by the Legislatures of three fourths of the States.

Mr. DOOLITTLE. "When ratified by the

Legislatures of three fourths of the several States."

Mr. SUMNER. Very well, "when ratified by the Legislatures of three fourths of the several States;" but if no Legislatures exist in States, is the Senator going to make that an excuse for avoiding the establishment of that constitutional amendment? Sir, I will not recognize the rebellion to that extent; I will not recognize the independence of the rebel States as the Senator from Wisconsin does. I insist, sir, that these rebel States shall not control the national Government at this moment, in this great period of our history, and thwart the establishment of human freedom throughout the land.

The PRESIDING OFFICER. The Chair must insist that all debate of this character is out of order.

Mr. SUMNER. Very well; I am done.

Mr. DAVIS. The honorable Senator from Wisconsin—

The PRESIDING OFFICER. The question before the Senate is on postponing the joint resolution now pending, and proceeding to the consideration of the bill indicated by the Senator from Michigan.

Mr. DAVIS. I comprehend the question very clearly. [Laughter.] I am much obliged to the Chair for giving me the information, but I assure the able Presiding Officer of this body that I fully understood it before his explanation. I am going to make but a single remark, Mr. President. The honorable Senator from Wisconsin is discussing shadows, he says. Now, I understand that one of the greatest realities of the American system of government is that the majority rules, and that nothing less than a majority can either build up or pull down a Government. I understand that there were at the commencement of the rebellion about sixty thousand voters or upward in the State of Louisiana.

Mr. DOOLITTLE. I will correct the honorable Senator on that subject. Fifty-one thousand was the highest vote ever polled in Louisiana.

Mr. DAVIS. I suppose that an excess of actual vote of nine thousand in a State giving fifty-one thousand votes at the polls is not an unreasonable estimate, and that I may safely assume that the voting population of the State of Louisiana at the beginning of the rebellion was at least sixty thousand. Now, sir, by what majority, by what popular vote, was this magnificent government which the Senator from Wisconsin wants to bring into this Hall organized? My colleague gave the facts of the case to the Senate. There were only about nine thousand votes cast in the election when members of the convention were elected to form a new constitution. The old constitution was not superseded. When the power opposed to the existing government of a State rises, and by violence overbears it, that government is prostrate like a reed that bends to the storm; but when the storm has blown over in its fury the reed rises in its erect position. So of a constitution and a government of a State. There were over fifty thousand votes against secession in the State of Tennessee, and there never has been a day when amidst all the population of Tennessee there was not a great and controlling majority for the old constitution. It was a minority clothed with military power, when the great mass of the people were disarmed, and were at the mercy of the armed but otherwise insignificant minority, that was able to subvert and to overthrow for the time the constitution of Tennessee; and whenever the Federal Government by its armies swept that usurping minority from the State of Tennessee, the government and laws of that State arose again in all their majesty, and validity, and power, and it was only necessary for a majority of the loyal people to take possession of the government again, and to elect members to the Senate and to the House of Representatives, and the State would be back legitimately and constitutionally in the Union.

But, Mr. President, the Senator's favorite constitution was made by a small and insignificant minority of the people of Louisiana in the representation which they had in the convention that formed it, and when that constitution was submitted to the people only about six thousand voters ratified it as their system of government. It is doubtful whether it had even the requisite one tenth which the President's unauthorized

proclamation assumed to allow to organize a State government. Sir, against the great universal American principle that lies at the bottom of the State governments and of the United States Government, that the majority rules, what magistrate, what imperial despot, what autocrat, what power in this land, has the right to proclaim that one tenth of the people may pull down an existing, legitimate, constitutional government, and rear upon its ruins a new government? It is only necessary to state the proposition that its monstrous absurdity, its shocking untruth, its mischievous and evil results, revolutionary, utterly violent and revolutionary, may strike every mind.

Now, Mr. President, when the honorable Senator from Wisconsin is comparing shadows, and his government is sustained by only six thousand of the people of the State of Louisiana, probably less than one tenth of its population, I assume that his government is the shade of a shadow.

Mr. HENDERSON. The question I believe is on the motion of the Senator from Michigan.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan to postpone the pending question and all prior orders and proceed to the consideration of the bill indicated by him, and upon that question the Chair has intimated that no extended debate can be allowed.

Mr. TRUMBULL. I trust the Senator from Michigan [Mr. CHANDLER] will not persist in his motion. The Senator from Missouri [Mr. HENDERSON] is ready to proceed on the resolution under consideration, and I understand the Senator from Michigan [Mr. HOWARD] is quite willing to yield his right to the floor.

Mr. SUMNER. No; we had better have the other question up.

Mr. TRUMBULL. Do gentlemen wish to take the floor away from the Senator from Missouri, when he is ready to go on?

Mr. CHANDLER. Certainly; the Senator from Illinois did the same thing yesterday to the Senator from Maine, [Mr. MORRILL] who had the floor on the bill which I have moved to take up. I am ready to reciprocate all favors of that kind.

Mr. TRUMBULL. I trust the Senate will not agree to the proposition of the Senator from Michigan, if he persists in taking the floor from a Senator who is prepared and ready to proceed with the discussion of the subject before the Senate.

Mr. HENDERSON. I desire to say that I do not wish to occupy much of the time of the Senate. In fact, I think the Senate is not in a condition now to listen to a very extended discussion upon any subject. I have been engaged in committee very arduously for a long period, and I have had very little time to devote to the consideration of the question before the Senate, but I feel considerably interested in it. My State, and so does your State, sir, [Mr. POMEROY in the chair] occupies a position that demands, at our hands, as early a restoration to the Union of the States lying on the Mississippi river as we can possibly secure, and this is too important a matter to be treated as it has been treated here this evening.

Mr. President, are we going to restore the Union or not? It is needless for us to speak of the oppressions and the wrongs of military men in the seceded States. We must get those States back into the Union in some way, and the sooner we go about it the better, provided we can do it without violating the principles of the Constitution of the United States, and without overturning the republican system upon which all our institutions are founded. If these States are here in such a condition, if they have been brought here with such system and with such order that without a violation of the principles of the Constitution we can admit them, we ought to do it. Sir, this Union will never be restored except through the agency of State governments in the seceded States. It is an utter impossibility to do it otherwise. I shudder as much as any gentleman at what is called military oppression, but I desire to impress it upon Senators that it is important to consider the manner in which these States are ultimately to be returned to the Union.

Mr. CHANDLER. I rise to a question of order. I ask whether this debate is in accordance with the rules of the Senate upon the order of business.

The PRESIDING OFFICER. The Chair has suggested that it is not strictly in order.

Mr. HENDERSON. I ask the Senator's pardon; I understood him to have withdrawn his motion.

Mr. CHANDLER. Not at all.

Mr. HENDERSON. I beg pardon; I will not violate the rules of the Senate.

Mr. BROWN. I trust my colleague will give way and let us have a vote on the motion of the Senator from Michigan and vote it down.

Mr. JOHNSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HENDERSON. While I am on the floor I will make a statement that is legitimate and proper, and it is that it is important to consider this subject now. We ought to vote on it one way or the other. Let us determine it. Let us either recognize the State government or declare that a State cannot be brought back to the Union with the recognition of Congress in any such way as this. Let us have some understanding on the subject, because, if I am not much mistaken, this rebellion totters to its fall, and these States must be returned to the Union or kept in military subjection during the next twelve months. We shall adjourn in the course of a few days, and the States ought to know and the people of the seceded States ought to know how we intend to treat them. The loyal men in the seceded States ought to understand distinctly whether we are to govern them by military control, or whether we are going to permit them to establish organized governments and send members again to Congress. It is an important question. I voted the other day, in regard to the electoral vote, with gentlemen who are now opposing the recognition of these State governments. I did not think it was right that we should admit those votes to affect the presidential election; but I do hold now that, provided these State governments have been established in accordance with the principles of our Government, we should admit their representatives in this body and in the lower House. That is the question to be considered, and I hope we shall determine it while it is before us. As the representative of a State lying upon the Mississippi, I feel a deep interest in having these State governments reorganized as soon as possible. I would not insist that they should be reorganized unless it could be done in perfect consonance with our system of Government.

Now, sir, I hope that we shall not postpone the question, but that we shall keep it before the Senate and come to a vote on it to-morrow. When it is regularly before us, I shall have a few remarks to make, and I promise not to detain the Senate more than twenty minutes.

The question being taken by yeas and nays, resulted—yeas 10, nays 25; as follows:

YEAS—Messrs. Chandler, Conness, Davis, Grimes, Hendricks, Howard, Nye, Ramsey, Sumner, and Wade—10.

NAYS—Messrs. Brown, Bucklewell, Carlile, Clark, Cowan, Dixon, Doolittle, Farwell, Foster, Harlan, Henderson, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Powell, Riddle, Sherman, Stewart, Ten Eyck, Trumbull, Willard, Wilson, and Wright—25.

ABSENT—Messrs. Anthony, Collamer, Foot, Hale, Harding, Harris, Lane of Kansas, McDougall, Nesmith, Pomerooy, Richardson, Saulsbury, Sprague, Van Winkle, and Wilkinson—15.

So the motion was not agreed to.

Mr. HENDERSON. Mr. President, I stated that I would not occupy much of the time of the Senate. I feel some interest in this question. I am not willing, however, to discuss the facts of the case. I shall devote no time whatever to the facts connected with the reorganization of the State government of Louisiana, or that of Arkansas. I leave them to others who know them better. The only thing I shall endeavor to do is to show that according to the principles of our Government we may very properly admit the members from Louisiana and Arkansas upon this floor; and if I can succeed in that, I shall be satisfied. I say that it is a matter entirely for the Senate to decide, whether it will admit the Senators elected from the State of Louisiana, and also for the House of Representatives to decide whether it will admit on its floor the Representatives elected, each body acting without consulting the other. That is the proposition that I lay down. I do not want to make a speech, but I desire to submit a short argument on that subject, and if



Senators will give me their attention I shall soon get through. I approach the real question before us at once.

What are we aiming to do? If I understand our purpose it is to restore the Union. We find eleven States without representation in Congress. We want them again represented in the Senate and in the House of Representatives. We find in those States officials exercising power who are not bound by oaths to support the Constitution of the United States. We want a set of authorities there who will take the oath and administer the Government, subject to that Constitution. We find in them officials who are prostituting the civil power of the States to the purposes of rebellion. We want officials there who will use the civil power in upholding the Union. Until we accomplish these things we can never restore the Union. That we cannot accomplish all of them at once and in their perfect fullness, constitutes no reason why we should not begin and accomplish them in part.

I will treat Arkansas and Louisiana as both presenting themselves here. Arkansas and Louisiana men present themselves as the representatives of loyal governments, and ask us to admit them. They show they have governments whose officials are sworn to support the Constitution of the United States, who will use the civil power of their respective States to compel obedience to the laws of the United States. They do not claim that they are yet strong enough to maintain their governments without the military aid of the nation, but with that aid they hope soon to become so. Is their condition, in this respect, different from that of Maryland, Missouri, West Virginia, and Kentucky, all of which are now represented here? Without the military arm of the nation neither Ohio, Indiana, nor Illinois could maintain its State organization against the rebel armies for sixty days. I do not mean that they would not be able to support themselves against an uprising in their own States, but against the rebel armies. We could not have maintained ourselves in the State of Missouri, though we had a large majority of the voting population and of the people of the State; and why? Because we not only had to defend ourselves against the uprising in our own State, but against the legions of Texas, Arkansas, and other States south of us.

If we would restore the Union in its constitutional integrity, when it is done, we must have State governments. If we would have State governments we must begin somewhere and at some time. It is nonsensical to talk of restoring the Union and then say that we can keep the loyal people in the southern States for all time to come under military domination. I say we must restore the Union by the reacknowledgment of State governments in the seceded States. We must declare the right in Congress to make and establish these governments for the States, or permit the President, under military law, to set them up, or we must recognize such as the loyal people may set up for themselves. If, as Mr. Madison thought, the Congress cannot make them, but can only guaranty such as may already be made and found to be republican in form, it must be left with the President, under his power as the head of the Army, or to the people of the respective States. If left entirely with the President he might by military force impose upon the State a constitution against the wishes of both loyal and disloyal. In such case I frankly admit that neither branch of Congress would be under any obligation to admit representatives from such State.

But if the people—the loyal masses, whether a majority or a minority of the whole voting population as formerly known—participated in its creation and acquiesce in the revival of the State government, the case though inaugurated by the President in my judgment would be very different. According to the theory of our Government, and its practice in all its past time in analogous cases, it would seem that whether Congress or the President inaugurated the proceeding, the Constitution can only receive its validity and authority from the approval or acquiescence of the people to be affected; and that brings me to consider how the people in the seceded States shall revive their governments, and who are the legally qualified voters for that purpose in these States.

At the threshold of the inquiry we are met with the objection that the States are now without offi-

cers of any kind legally elected, and that of themselves they are powerless to inaugurate any movement to set up a loyal government. It is said they have no officials to superintend the election, to count the votes, and grant certificates of election. However desirable these formalities may be, it has not been the uniform practice of Congress to require them. In the case of California, one of the most loyal and prosperous of our States, the first election was called by the military order of a subordinate officer of the Army, a convention of delegates chosen, and a constitution framed by them and submitted to Congress. That constitution was accepted by Congress as republican in form, and under it a State government was inaugurated that for fifteen years has been administered with the greatest success. The territory had just been conquered from a foreign Power, and was wholly without civil authorities recognized by the United States. Congress had passed no enabling act, had prescribed no forms of proceeding, had done nothing to fix the qualifications of voters, had appointed no judges of election or other officers to count and certify the votes; yet the act, however informal, was ratified because the constitution on its face was unobjectionable in form, and it was believed that the people interested acquiesced in the government it established.

There is no doubt that if the old government of Rhode Island had abandoned its functions after the revolutionary party under Governor Dorr had established the new constitution and set up a government under it, Congress and the Executive, presuming an acquiescence by the people of the State in the new order of things, would have recognized Dorr's government as legitimate. Why not? The Dorr constitution was a better instrument than the old charter. If the charter was republican in form, surely the new constitution was, and if no contest had sprung up between the two governments Congress would have properly acquiesced in it as a revolution accomplished. Was it not a revolution afterward when the new constitution of Rhode Island was adopted? Was there any authority in the old charter of Charles II to call a convention in the State of Rhode Island? But after the Dorr rebellion was suppressed, according to my recollection, a new constitution was made by a convention of delegates, and there was an acquiescence in it.

Now, we are told by the Senator from Kentucky that although a majority of the legal and qualified voters of Louisiana—and I shall show before I conclude that they are only the loyal men—shall acquiesce in this constitution, we cannot admit the State. The proposition is a strange one to me.

But, sir, I will continue my argument. The State government of Missouri to-day is the offspring of a movement purely revolutionary, and almost as irregular as the proceedings of any of these States. How was it? I will state to the Senate.

The General Assembly of 1860-61 adopted an act calling a convention of delegates really to consider of secession. They did not so declare, but that was the real object. The bill of rights attached to our State constitution declares the inherent right of the people at any time to alter or amend their institutions, but no forms for the exercise of this sovereign and inherent power were prescribed. Another and altogether different mode for amending the constitution had been prescribed. But the people met and elected delegates. A large majority of the voters acquiesced in the call made by the Legislature, and participated in the election. The convention, when elected, vacated the offices held under the old State government, and proceeded to fill some of them by appointment and to provide for the election of others under an amended constitution. If these proceedings possessed any legal validity it was because of the acquiescence of the people, and not because of the act of the Legislature. The old government would not call on the United States to protect it against invasion and domestic violence, or to interpose against these revolutionary measures. The old government was disloyal, and did not want the aid of the United States. If it had asked for such aid the General Government could not have given it without lending a helping hand to its own destruction.

In the cases before us, the States are in the

Union. I hold that these States are yet in the Union. If they are not in the Union you had better withdraw your armies as soon as possible, for in that case this is an unholy war. The inauguration of an effort on our part to put down the rebellion claims that these States are in the Union, and you cannot justify this war upon any other ground. We must maintain the doctrine that they are in the Union. Now, the only question is, how can you get their representatives back here? In the cases before us I assume the States are in the Union. There is but the one government in either State asking for recognition. It is admitted to be republican in form. It may be called a revolutionary government, but if the revolution be on the side of loyalty and the restoration of the Union, why should we object? The secession government was clearly revolutionary. Senators say that that revolution in the interests of treason broke the regular chain of authority and transferred the allegiance of the State to another power. If loyal governments could be thus set aside by revolutionary rebel governments why cannot the rule be reversed? We have accepted revolutionary governments in times of peace—governments springing up in the midst of anarchy, without the sanctions of regularity; why should we now reject them when they are needed to protect the loyal inhabitants of the respective States and to aid the nation in vindicating its lost authority?

Each of these governments is admitted, I believe, to be republican in form. Will any gentleman say that, on the face of these constitutions, they are not republican in form? Does the Senator from Kentucky say so? Does the Senator from Massachusetts say so? The Senator from Kentucky thinks the constitution of Louisiana is the offspring of military usurpation, but he does not say that the constitution itself is anti-republican.

Mr. SUMNER. I do.

Mr. HENDERSON. You do?

Mr. SUMNER. Certainly.

Mr. HENDERSON. In what particular? Mr. President, I have been in the Senate for nearly four years, and I believe now candidly that the rebellion is about at an end, and if there were no other evidence of it, that evidence would be presented to-night in the close alliance and affiliation of my friend from Massachusetts and my friend from Kentucky. Truly, the lion and the lamb have laid down together.

Mr. JOHNSON. Who is the lion, and who is the lamb?

Mr. HENDERSON. That is for the gentlemen themselves to settle. [Laughter.] The Senator from Massachusetts says that these State constitutions are not republican in form. Will he tell me in what respect?

Mr. SUMNER. Because they do not follow out the principles of the Constitution of the United States.

Mr. HENDERSON. I should like to know in what particular. The answer is a very general one, indeed. He refuses, then, to specify. The Senator can answer more particularly hereafter, if he chooses. He says these constitutions do not follow the Constitution of the United States. I have looked over them, and I find no objection to them. I can tell the Senator that if the constitution of Massachusetts is republican in form, so are the constitutions of these two States. I do not claim that these governments are all they should be. The only question with me is, how am I best to get these States, performing their legitimate functions, in the Union again? The government established in them may be called a revolutionary government; but if the revolution be on the side of loyalty and the restoration of the Union, why should we object? The Senator from Massachusetts says the act of secession took the States out. In the name of sense cannot the act of the loyal men bring them back? If secession is potent enough to take a State out, and that was mere revolution, why cannot the loyal men perfect a revolution on the side of the Government as well as rebels perfect a revolution on the side of secession, outrage, and wrong?

Mr. SUMNER. Does the Senator refer to me as having ever said that the act of secession took a State out?

Mr. HENDERSON. I understand the Senator to claim that these States are in a territorial condition; that they are not States; that by losing

their State governments in the act of secession, they lose their specific identity as States.

Mr. SUMNER. I would rather the Senator should use my language than his own, when he undertakes to state my position. I have never stated that any act of secession took a State out. I have always said just the contrary. No act of secession can take a State out of this Union, but the State continues under the Constitution of the United States, subject to all its requirements and behests. The government of the State is subverted by secession; the Senator does not recognize it as legal or constitutional; I believe, any more than I do. Where, then, is the difference between us? There is no government which he or I recognize, but we do hold that the whole region, the whole territory, is under the Constitution of the United States, to be protected and governed by it.

Mr. HENDERSON. The Senator then admits that the States are in the Union. Now, I ask him if we can restore the Union without restoring State governments in the seceded States?

Mr. SUMNER. That is the desire I have most at heart, to restore State governments in those States.

Mr. HENDERSON. Then I desire to ask the Senator, if the loyal men in one of those States acquiesce in the constitution presented here, are they not entitled to govern the State under it?

Mr. SUMNER. If the loyal men, white and black, recognize it, then it will be Republican in form. Unless that is done, it will not be.

Mr. HENDERSON. Now, Mr. President, I desire to ask the Senator if the Congress of the United States can interfere with the right of suffrage in one of the American States of this Union? I put the question to him as a constitutional lawyer.

Mr. SUMNER. I answer at once as a constitutional lawyer that at the present time, under the words of the Constitution of the United States declaring that the United States shall guaranty to every State a republican form of government, it is the bounden duty of the United States by act of Congress to guaranty complete freedom to every citizen, and immunity from all oppression, and absolute equality before the law. No government that does not guaranty these things can be recognized as republican in form according to the theory of the Constitution of the United States, if the United States are called to enforce the constitutional guarantee.

Mr. HENDERSON. I ask the Senator now in all candor, as he believes the Government of the United States can thus interfere with the right of suffrage in one of the States, does he not also believe that the Congress of the United States may to-day declare that a State constitution is not republican in form because it denies the electoral franchise to women, because it prohibits intermarriage between whites and blacks, because it declares that one man shall be entitled to hold more property in the State than another? Can it so declare? The cases are analogous, and I appeal to the Senator to answer my question. If Congress has the power to regulate suffrage under the clause of the Constitution requiring the United States to guaranty to each State a republican form of government, I submit to him whether there is any limitation except the mere discretion of Congress. Let me refer on this point to James Madison, who was supposed to know something about the Constitution of the United States, but I do not know that he would be of the least authority now. [Laughter.]

The Senator admits that these two States are in the Union. If so, their constitutions were adjudged to be republican when they were admitted. A State being once in the Union, the form of its government being an adjudicated fact, no power on earth can change the constitution except the people of the State to be affected. It is to this point that I invoke the authority mentioned.

Mr. Madison, in the forty-third number of the Federalist, when asking the people of the old thirteen States to adopt the Constitution, speaking of this power, used these words:

"It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the State governments, without the concurrence of the States themselves."

Omitting the answer to the first, he says:

"To the second question it may be answered that if the

General Government should interfere by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no farther than to a guaranty of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed."

It is rather late now to present objections to the mere forms of constitution of the eleven seceding States as they stood even before the rebellion. Four of the eleven were of the original thirteen. No objection to their republicanism was presented when the Constitution was adopted, and none, I believe, has since been seriously urged. The constitutions of the remaining seven were solemnly adjudged by Congress to be republican on their admission into the Union. But Mr. Madison on this subject says further:

"As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so, and to claim the Federal guarantee for the latter."

The constitutions of the original thirteen were all admitted to be republican in form, although many of them tolerated slavery, although they all prohibited the intermarriage of whites and blacks, although nearly all prohibited negroes from voting, as a large number of the northern States still do. Connecticut does not permit negroes to vote. Why not then turn the State of Connecticut out of the Union and send home our good friends who sit in this Chamber representing that glorious little State? Missouri does not allow it, and would you turn as good a man as myself out of the Senate? [Laughter.] Maryland does not allow it. Would you turn out the Senator from Maryland? New York does not allow it, nor New Jersey, nor Pennsylvania, nor Indiana, nor Illinois. Would you turn out the Senators from those States? If the doctrine of my friend from Massachusetts were carried out he would have but very few Senators left to sit with him. It would be a Union in which there would be perfect harmony, for none would be left to oppose him. Now, I want to say to the Senator from Massachusetts that there is no use in sending us all home. He had better let us remain here. We may all be harmonious yet. If he can make peace with my friend from Kentucky, he can to-morrow make peace perhaps with us all.

But to return to the thread of my argument when I was interrupted.

The reception of these States is objected to because the method pursued was revolutionary. And I now repeat, why should we object when the revolution is on the side of loyalty? The secession government was clearly revolutionary. Senators say that that revolution in the interests of treason broke the regular chain of authority and transferred the allegiance of the State to another power. If loyal governments, I have already said, could be thus set aside by revolutionary rebel governments, why cannot the rule be reversed? I have already shown that in times past we have accepted revolutionary governments, and they have discharged all their duties as States. Why should we now object to mere methods of proceeding when State governments are needed by the loyal inhabitants of the seceded States for their own safety as well as to aid the nation in resuming its authority and restoring the Union as our fathers made it?

Another objection urged against the admission of States coming in this way, is, that it establishes a precedent for others to ask for and demand recognition, even with the institution of slavery, bringing back the germs of future rebellion against the Government. This objection does not properly lie in the case before us. In both of the constitutions presented, slavery is abolished. The real difficulties in the way of restoration are numerous enough. Let us not refuse to take a step in the right direction through fear that other difficulties may arise hereafter. Sufficient unto the day is the evil thereof. I am satisfied that no such apprehended difficulty can ever arise.

It must long since have become apparent to every reflecting man that slavery and rebellion, by an inflexible law of events, have become synonymous. They are as Siamese twins; when one dies the other cannot long survive. It will be utterly useless, I admit, to patch up any restoration with slavery remaining. Such a restoration would be deceptive, and a peace based thereon would prove to be the most illusory of dreams.

It was a firm conviction on this subject that induced me to urge upon the country an amendment of the Constitution abolishing slavery throughout the land. It was only in this way that an end could be peacefully and constitutionally attained that must in some way be reached before we could have peace. If not attained under the forms of law the people would have marched through new scenes of blood to accomplish it. The masses of the American people believe as I believe, that to retain slavery—the right to exact another's labor without reward—in any scheme of reunion would not give us permanent peace. It might temporarily smother the fires of the volcano, to burst forth after awhile with renewed violence.

In the first place, then, this fancied difficulty will be removed by the adoption of this constitutional amendment, if in no other way. Indeed, as was properly said by the Senator from Wisconsin, the admission of these very States may be necessary to settle that question in all other cases and place it beyond cavil and dispute in the future. The recognition of these governments now struggling for existence may prove to be the means through which all men will be brought to confess that slavery no longer exists in the United States. This amendment being adopted, the contests in the States over the perpetuation of slavery at once cease. No one will then claim for himself the fruits of another's labor. Instead, therefore, of opposing their acknowledgment, the friends of emancipation should insist upon their return as the best, the surest, perhaps the only lawful means of giving freedom to the entire country. Their votes are needed to carry the proposition.

But there is another reason why the opponents of slavery should anticipate no danger from this action. I have already said that in the seceded States slavery has been the shibboleth of rebellion. In the beginning many loyal men would have preserved slavery and the Union together. But the rebels have long since driven them from that position. The rebels to preserve slavery would destroy the Union. Loyal men in the South to preserve the Union have sworn to destroy slavery. They cannot otherwise maintain themselves. Both parties in the seceded States clearly understand this thing, and the issue there is more distinctly marked than it can be in the loyal States. In this connection I frankly express a sentiment which will be unpopular in the loyal States, but will meet a most hearty response in the bosoms of loyalists in the South. That sentiment is, that rather than retain the institution of slavery after the restoration of the Union, let the Union be at once dissolved, putting slavery on the one side and freedom on the other. Whatever the inconveniences to arise from such division, I do not think they would compare with the evils of renewed strife springing from an effort to reconcile such an incongruity. It would be an attempt to heal a malignant and incurable cancer, rather than lose the limb on which it had fastened. After the sufferings of this war, the public sentiment would give slavery no rest.

If, then, I am not mistaken in regard to the loyal sentiment of the South on the subject of slavery, Senators will see that it is an utter impossibility that this question can stand in the way of restoring any one of the seceded States. The rebels will not come to ask admission. It is against union with us that they have taken up arms. It is against restoration that they now use them. In that struggle they will use every material and moral force, including the slave himself, stimulated by the boon of freedom, to resist the return of their States.

The loyal men there are no less determined on their side. They know their success depends on the removal of slavery, and they will never ask Congress to recognize any but an anti-slavery government. I predict now, that whatever the future may bring in our efforts to restore peace and prosperity to our distracted country, it will fail to bring to the doors of Congress, seeking admission, a State constitution without a positive interdict of slavery. This would have been the case even without the constitutional amendment; but the adoption of that amendment is important because it removes obstacles in the pathway of loyal men in those States not yet reorganized. It settles the question forever and prevents the fierce local contests that would spring up about its existence or non-existence in the reorganization.

The chief advantage in the constitutional amendment consists in the fact that when once the supreme law it precludes forever the claim formerly set up, that any one of the States may, in its discretion, adopt slavery as an institution. It not only secures freedom in the present slave States, should the people themselves fail to abolish it, but it forever prevents the possibility of its adoption anywhere in the nation hereafter.

The chief objection, however, that I have heard urged against the recognition of these States, at least the one most earnestly urged, is that a majority of their people are in rebellion, and these constitutions reflect the will only of the loyal men, who are in the minority. It is argued that our State governments are founded on the principle that a majority of the legal voters of a State shall determine its institutions, and to permit a minority to govern is to subvert the whole republican system.

I read the remarks of the distinguished Senator from Michigan, [Mr. HOWARD,] and also some remarks made by the distinguished Senator from Ohio, [Mr. WADE,] when a subject kindred to this was under discussion in this body. I allude to the measure excluding the electoral votes of Louisiana and Tennessee.

The Senator from Michigan said:

"For one, I am prepared to say, and I take this occasion to say it, that I shall never consciously give my vote for the readmission, directly or indirectly, of one of these rebellious States back into the Union, either by way of admitting her Senators here or in any other form, until I am perfectly satisfied, upon due evidence, that the decided majority of the voting population of such State has become loyal to the Government of the United States, is friendly to that Government, and willing and anxious to proceed in the discharge of the functions of a State of the Union, honestly and fairly, as required by the Constitution of the United States."

The Senator from Ohio [Mr. WADE] used similar language:

"In my judgment, the only sensible plan is to leave these communities until in some way we can have at least reasonable evidence to show that a majority of them are loyal, and in a condition to maintain a free republican government of their own."

That Senator even went further, and said that he would never consent to admit a State into the Union which had been reorganized in the presence of military power.

The Senator from Michigan insists that no State shall return until "the decided majority of the voting population of such State has become loyal to the Government of the United States." The Senator from Ohio thinks "the only sensible plan is to leave these communities until in some way we can have at least reasonable evidence to show that a majority are loyal, and in a condition to maintain a free republican government of their own." What does the Senator from Michigan mean by the voting population of one of the seceded States? Does he mean those authorized to vote under the constitution and laws of the State as they existed before the rebellion, or does he require a majority of the voting population as qualified under the revolutionary government? If he means the latter, the rebels may continue to change the qualifications of voters, excluding men from the polls as they become loyal, leaving only rebels to vote, and in this way we shall never get a majority. If the Senator means to refer to the voting population as qualified under the old loyal government, he thereby admits the State to be in the Union, with its old constitution and laws complete, and that a majority of its voting population, having a right to keep the State away, have also the right to bring it to Congress and demand its recognition. If this majority be obtained the Senator could not reject the State without flying in the teeth of his declaration, made in the same speech, that "we may not discard the principle that republican government, as understood on this continent, rests upon the willing assent of a majority of the people of the particular community." He had already said that in using the word "people" in this connection, he meant the "voting population," for in them rests the political power. The Senator further says, "that if we abandon this great principle, that a majority not only shall but must govern, we have thrown the leading principle upon which all our governments, State and Federal, are organized, to the winds; we have given up the great experiment of republican government."

If the Senator should insist upon this principle

of government in its broadest sense, it would justify secession. If it be strictly true that a majority in a State, or, as he terms it, a "particular community," "not only shall but must govern," then a majority of legal voters in a State desiring to secede will have the undoubted right to do so. But such cannot be the Senator's meaning; for surely no principle of our Government will authorize a majority of voters, or a majority of the civil society, that is, the entire people of a State, to secede. Indeed such majority, added to a majority of the people of all the States, and a majority of the States themselves, will give no legal sanction to secession. It is not, then, true that a majority of voters in a State can govern themselves except in strict obedience to the Constitution of the United States. If that majority rebel against the United States, we cannot longer recognize it as constituting the political power of the State. If a majority of the people of a State resist the national Government, they cease to be the State, and their acts cannot be recognized in its government. But the Senator's own argument admits that a State, with boundaries fixed and powers and duties defined, yet remains. Of what, then, does the State consist? However this may be answered, its political power, at the least, must rest in the hands of its loyal voters. When we speak of a State, we mean a State in the Union, a State whose officials are willing to be sworn to support the Constitution, and who acknowledge its supremacy. If a majority prove delinquent, and undertake to destroy the very Government of which the State is a part, I assert it is right that the minority, who sustain the Government in its entirety, State and national, should govern. When a majority of the people of a State pass an ordinance of secession, one of three things must be true. First, the act of secession is valid, as a rightful exercise of the republican principle; or second, the loyal minority—the majority having withdrawn their allegiance—have the right to govern according to the Constitution, and for that purpose are authorized to institute government for their protection; or third, a State having been driven by force or fraud to pass an act of secession, is outlawed, and Congress may proceed to govern it as a province for all time to come, with the hard and oppressive hand of military rule.

The second of these conclusions is that which commends itself to me; and in the case of Louisiana, the mere fact that General Banks provided a way, a means, for the loyal men of Louisiana to express their sentiments, does not invalidate their action. I agree with the Senator from Kentucky that General Banks had no legal authority to do a great many things that he did, but the question here is, is this the will of the loyal men of Louisiana? If it is, their representatives have a right to seats on this floor.

The last of the three propositions I have just stated is that which is sustained by the Senator from Ohio and the Senator from Michigan. The Senator from Michigan says he would keep them five, ten, twenty years in a state of tutelage.

Mr. HOWARD. I suppose the honorable Senator from Missouri does not intend to do me any wrong in stating what I said. He should therefore have added, "if that length of time should be necessary to reproduce loyalty in a seceded State, and thus to restore them to the Union as a loyal people."

Mr. HENDERSON. I never do a Senator injustice. I have the Senator's remarks before me, and I will read what he said:

"I never will consent to admit into this Union a State, a majority of whose people are hostile and unfriendly to the Government of my country. I prefer to hold them in tutelage (for that is really the word) one year, five years, ten years, even twenty years, rather than run the risk of a repetition of this rebellion, which has cost us so much blood and treasure."

Those are the Senator's precise words as reported in the Globe of February 3. I was astounded at the proposition when he stated it. I have said, Mr. President, that we must get these State governments back. We must restore the Union in its integrity, and to do that we must not only have a national Government in its purity and power, but we must have State governments also. Unfortunately, however, the whole tendency of the legislation of Congress to-day is in the direction of destroying State governments. When we have done that we have not restored

the Union of our fathers. The people of this country did not rush to arms in 1861 with the most distant idea that we should come out of this rebellion with the State governments destroyed and with a strong, consolidated, central Government. If Senators believe this Government will be stronger and better when they have thus strengthened and consolidated the powers of Congress they are sadly mistaken. Our forefathers did not think so, and I cannot now be mistaken that no single consolidated Government can so legislate as to give satisfaction and peace throughout this broad expanse, stretching from ocean to ocean, and from the Gulf to the frozen regions of the North. And when I say that State governments must yet exist if civil liberty is to exist in this country, I do not mean State governments that are mere shadows, "airy nothings," whose powers shall have been usurped by a central despotism, but those strong, vigorous, and healthy political communities that the framers of the Constitution intended they should be—governments whose authority shall be exercised fearlessly, but strictly within the limits of their reserved powers, and with a view to maintain the power and dignity of the Federal Government as a part of themselves and a participant in their own glory. I would have each State loyal to the Federal Government. I would have each citizen of the State not only loyal but sufficiently intelligent to know the meaning of loyalty. I would have the State to be composed of—

"Men who their duties know,  
But know their rights, and knowing, dare maintain."

I fully appreciate that just indignation excited in the bosoms of loyal men against the pretense that State rights can justify secession, whatever may be the cause of grievance. No one, having a proper view of our Government, can fail to condemn the wicked and unfounded claim that the present rebellion, causeless and flagitious as it is, can find a mantle for the least of its crimes in the sacred name of State rights. The rights of the States are such as exist in the unawakened exercise of their reserved powers, and also such as the States may claim at the hands of the General Government in the wise and prudent exercise of its delegated authority.

Why, sir, gentlemen are urging the so-called New Jersey bill, and antagonizing it against the very proposition to restore the Union of our forefathers. What is that bill? There was not a statesman in the first quarter of a century of our Government, yea in the first half century, that ever claimed the power which that bill asserts. We have marched far beyond what they ever imagined, and the power now is claimed on every hand to walk into a State and tear down its institutions merely because it has seen fit in the creation of a local corporation within its own limits to impose a tax upon it in another way from that which suits us. In my own State for the franchises of corporations we levy a tax on their capital, additional to the tax levied upon property generally, and why? Because it is a privilege given not conferred on others. The State of New Jersey, instead of levying a tax upon the capital of the railroad company, simply declares that the company shall pay so much upon every pound of freight and every passenger carried on the road. She has the right so to declare. What is the difference in substance between that legislation and the legislation of my own State?

On examination it will be found that each State in the Union has invariably claimed and exercised the exclusive right to incorporate railroad companies, and in return for the franchise they have imposed burdens which must in the end fall upon those who have business with the corporation. The company, to pay the extra tax, and compete with other avocations in the profits of business, has only to levy a little more on its passengers and its freight. The moment we enter on such a system of legislation and tear down the States of this Union, that moment we have built up a consolidated Government that will end in despotism.

Mr. SUMNER. May I ask the Senator if he remembers the words of George Washington when he transmitted the Constitution of the United States to Congress?

Mr. HENDERSON. I do, perfectly well.

Mr. SUMNER. In which he undertook to declare the desire which the Federal Convention had



nearest its heart, to see these States consolidated into one.

Mr. HENDERSON. No, sir; not the States consolidated into one State, but the Union consolidated. Of that sort of consolidation spoken of by General Washington I am as much in favor as the Senator from Massachusetts. I want to get rid of the rebel majorities in the seceded States to which he attaches so much importance, not because they recognize State governments, but because they refuse to recognize the authority of the national Government, to which they owe allegiance. I say that each State must govern itself, subject to the Constitution of the United States. When General Washington spoke of "the consolidation of our Union," he meant simply that the Convention had formed a national Government, and not a Government which was a mere league or confederation of States, as had been the case under the old Articles of Confederation. He meant that they had changed the nature of the Government, that they had made it a national Government, in which the laws operated on the citizens, and not on the States. Since the national Government of which General Washington spoke was adopted, when Congress levies a tax you send your collector to every citizen to collect it. Prior to that time you only notified each State of the amount due by that State, and if the amount was not paid, as was frequently the case in the revolutionary war, the Federal Government was without the means of collection. The State could stand in open defiance of Congress. If troops were needed, each State had its quota assigned; but if the State neglected or refused to furnish them, Congress could not seize, as now, the citizen under your enrollment laws. And this is what General Washington meant by the consolidation of the Union. I well remember the letter, and accord to his words all the force and all the power intended by him in the use of them.

Mr. President, do you suppose you will ever have loyalty in the southern States if you undertake to govern them by generals and provost marshals for all time to come? Do you want to put down the rebellion? I will tell you how to do it. Establish loyal governments there, a nucleus around which the loyal men can flock, and they can put the rebellion down much better than we can. They know the haunts of rebellion; they know where it is strong and where it is weak. Sir, I have lived in the midst of it; I have grown up for the last four or five years to a knowledge of its instincts and purposes, and I have learned something of the means best adapted to its overthrow. I think I know how only it can be put down. It can only be done by the agency of loyal State governments; you must let the loyal men establish governments, and Congress must protect them against "invasion and domestic violence." You must recognize these State governments and uphold them, as a duty enjoined by the Constitution. If this be done, when the rebel armies are broken, your military power will no longer be needed. Your soldiers may be discharged and your Treasury relieved. Law and order will at once resume their sway. The beautiful harmony of our political system will be restored. Each government will move in its appropriate sphere. Each will revolve in its own orbit. Peace and happiness will return because the government is restored and not overthrown. If this be not done, anarchy will reign supreme for many years hence, and outlaws and guerrillas, rejoicing in the anarchy and inefficiency of military rule, will mock your vain efforts to reestablish national authority. To secure national supremacy you must have the aid of State authority. For legitimate State authority you must rely upon the loyal voters.

Mr. SUMNER. There is where I agree precisely with the Senator, and I should like to hold him to that. He says the loyal men must form the government, and we should recognize that government; and yet he insists upon a mere oligarchy forming it, and an oligarchy of a skin.

Mr. HENDERSON. The Senator says he agrees with me in my position, but insists that I am in favor of an oligarchy. If I am in favor of an oligarchy, and he agrees with me, then he also wants an oligarchy. [Laughter.]

Mr. SUMNER. The Senator plays upon words.

Mr. HENDERSON. I have already explained my positions on these subjects. I am in favor of

the loyal men governing the State. If that be the government of the few, it results from the voluntary disloyalty of the many. They, of their own will, relinquish the right to govern themselves under the Constitution, and as they have no legal right to govern otherwise they cannot govern at all. I can no more compel them to govern themselves according to the Constitution than I can compel a loyal man to vote who refuses to do so. As to the oligarchy of skin or color, I can tell the Senator again that the question of suffrage is with the States. If they confer the franchise on the negro, I surely do not object.

Mr. President, I say that the only way to crush out disloyalty and bring back peace in this country is to let the loyal men of the seceded States form State governments, and let us uphold them. That is the means upon which we must sooner or later rely to reestablish peace and restore Union.

Let me say a word upon this alleged right of a rebel majority to keep Union men from the enjoyment of the privileges of a State government.

A citizen of one of the States removes to Mexico, abjures allegiance to the United States, and assumes citizenship there. We have never denied the right of a citizen to expatriate himself. He has elected to transfer his allegiance to another Power. His Government consents. The tie is broken. He becomes a citizen of another Power, and the Government of the United States abandons all claim to his allegiance. After assuming the rights of citizenship under a foreign Government it is not pretended that our Government should recognize him as a citizen or extend to him the rights and privileges belonging to a citizen.

In the case of this rebellion the disloyal inhabitants of the seceded States did not expatriate themselves, it is true, for they did not leave the country, but they have voluntarily withdrawn their allegiance from this Government and transferred it to a *de facto* government of their own making. So far as they can effect it, the tie that bound them to this Government is as completely severed as if they had expatriated themselves by removal and oath of allegiance to a foreign *de jure* Government. It is the *animus*, the intention of the citizen, that settles his rights and fixes the duties of the Government to him. The declaratory statement of Martin Koszta was considered sufficient by our Government to impose on it the duty of protecting him against the claims of citizenship set up by his former Government.

A few days since the Senate passed a bill denationalizing or decitizenizing, if I may use the term, all those who shall desert from our armies and those who, having deserted, fail to return in sixty days to their commands. The power to do so was not disputed. The act to punish treason and its allied offenses, of July 17, 1862, provides that the guilty parties shall not again hold office under the Government.

If it be said that Congress has not given its assent to this withdrawal of allegiance by the rebels, I answer that I am willing to express that consent now, so far as my vote can go, by admitting these two States, if they are not in already; I do not care how gentlemen consider it.

If it be said that one may be a citizen of a State and not of the United States, or a citizen of the United States and not of a State, I admit it. But if it be therefore insisted that rebels are recognized as citizens in the seceded States by their respective State governments, and that they are entitled to vote by State law, notwithstanding they are deprived of United States citizenship by Congress, I answer that the constitutions of nearly all the seceded States, at the beginning of the war, required that a voter therein should be a citizen of the United States.

I repeat, that in nearly all of the eleven seceded States United States citizenship was a necessary qualification of suffrage. The whole question of United States citizenship is under the control of Congress. If the national Government has the right to claim the allegiance of each citizen, it follows that when the citizen withdraws his allegiance and elects to alienate himself, the Government may withdraw the privileges of United States citizenship from him. The moment that is done he ceases to be a voter in any State whose constitution makes this a test of qualification.

I have already said that any change of constitution made in furtherance of rebellion is void. If the test existed at the inception of the rebellion

it exists yet. Therefore the failure of the rebels to vote did no harm to the great principle of republicanism, let me tell the Senator from Michigan.

Mr. SUMNER. It was the failure of loyal citizens to vote that did the damage.

Mr. HENDERSON. I answer that by asking, what loyal men did General Banks prevent from voting?

Mr. SUMNER. All the colored race.

Mr. HOWARD. I trust the Senator from Missouri does not impute to me the strange notion of allowing disloyal citizens to vote.

Mr. HENDERSON. I did not.

Mr. HOWARD. From the remark the Senator made I supposed he had drawn such an inference.

Mr. HENDERSON. No, Mr. President, I know the Senator from Michigan too well to suppose for an instant that he would make an argument which he himself supposed for a moment would lead to such a conclusion. I am only trying to correct the impression which would be made on a disinterested listener.

Mr. HOWARD. It was not my conclusion, but the inference which the Senator seemed absurdly—I must say it—to draw from my reasoning, that troubled me.

Mr. HENDERSON. I wanted to relieve from the mind of the Senator difficulties of a constitutional character that seemed to keep him back and prevent him from voting for the recognition of these States. The conclusion would not be absurd from his argument. I only failed to draw it because of my knowledge of himself, and not because his argument does not justify it. I am aiming to get the Senator from Massachusetts and the Senator from Michigan, and also the Senator from Kentucky to join hands and go for it.

But the Senator from Kentucky [Mr. POWELL] insists that General Banks, in the Louisiana case particularly, fixed the qualifications of voters regardless of the State constitution, and thereby permitted many to vote who were not rightfully entitled. I will agree with him that such is the fact. I will not justify General Banks in that, but that fact of itself does not in my judgment vitiate the constitution. The more important inquiry is, did he exclude from the polls any who were entitled to vote? If he did so, the constitution may not be the will of the loyal people of that State. We might at least be left in doubt. But the mere admission to the ballot-box of a few loyal men, not entitled to vote, should not deprive the State of representation here; if we believe the constitution, as presented, embodies the will of those legally entitled to exercise the functions of the State government. If the casting of illegal votes vitiated elections but few elections would be valid.

A strong argument in favor of admitting these States consists in the fact that when admitted they can at once settle all questions of suffrage for themselves, and Congress will be relieved of the difficulty in the future. In this very case the Senator from Kentucky objects to the constitution because negroes bearing arms were permitted to vote. The Senator from Massachusetts objects because the negroes at home did not vote. But the exclusion of so many persons formerly entitled to vote materially decreases the voting population in each of the seceded States. As it is decreased persons are too apt to conclude that its representation in Congress should in the same proportion be diminished. It should be remembered that representation among the States is not to be apportioned according to their voting population, but upon their entire numbers, including all free persons, and apprentices bound for a term of years, white and black, male and female, whether citizen or inhabitant, and three fifths of all other persons, except Indians not taxed, who are entirely excluded. Under the Constitution it is no concern of ours how many or how few men can vote for State officers. Indeed the General Government in recognizing the old State government of Rhode Island against the Dorr party gave preference to a constitution of restricted suffrage. Our business is to ascertain the number of people, as before stated, and thereupon to apportion representation. If those persons disqualified to vote still remain in the State I see no way to exclude them from the estimate. If they have left the State I can see no reason why Congress may not

at any time, even before 1870, cause an enumeration to be made upon which representation may be readjusted.

Mr. President, on this subject I will take the privilege of reading the views of one of the ablest jurists of this country, which were furnished to me at my solicitation in a private letter now before me. Though not intended to be used here, I am satisfied he will excuse the liberty taken if it will remove the least obstacle in the way of a nearly restoration. He says:

"Here it must be observed that the civil society, and the political society so to speak, of a State need not necessarily do the same. In other words the basis of representation may be the whole population, but the basis of suffrage be property, adult years, &c. The power to choose rulers is lodged in the voters, and they may not exceed one tenth of the population. Under our complex system, each State has its quota of representation in the United States House of Representatives, according to its prescribed population, and in the Electoral College, according to such population with two added, irrespective of population, corresponding to the Senators. It is left to the Legislatures of the States, respectively, to prescribe the manner of choosing presidential electors, and all except South Carolina choose by popular suffrage. The political society, so to speak, or that portion of the population in which political power is lodged, determines who shall fill the respective offices, make laws, &c. Although the members of that society may have possessed every requisite therefor, yet the moment they ceased to be citizens of the United States they ceased to belong thereto.

"That rule holds good with respect to every member, and the political society may, by death, disqualification of members, &c., be reduced to a very few persons. To state an extreme case, for illustration of the principle, Massachusetts formerly had a property qualification, and although her population entitled her to, say, thirteen Representatives in the United States House, her voters may not have exceeded fifty thousand. Suppose while that qualification remained, by some financial or other disaster, only one thousand or one hundred citizens retained the necessary income or property, would not the persons chosen to Congress by the few and only remaining voters be duly elected? So with regard to any other element of suffrage, as United States citizenship, if by its loss the voters are reduced to very few in number, do not those few constitute the political or voting power? As to the policy or impolicy of restricted suffrage, we are not now concerned, but are endeavoring to reach a constitutional and legal analysis of our governmental system.

But here is encountered the startling and practical difficulty, 'Shall a few persons be permitted to govern a State, despite the wishes of its inhabitants, and without giving them all a voice? Is that republican?'

"But it must be remembered that the few voters, say one seventh, or one tenth of the whole population, have always been intrusted with that power. Wisdom has fixed the basis of suffrage, without regard to relative numbers; that is, it has endeavored, under our popular system, to give the right or privilege to as many citizens as were supposed competent to exercise it intelligently. The rules prescribed as to age, sex, citizenship, &c., were deemed essential, right, and proper. Whether many or few come within the rules does not affect their validity. Although the women, children, and unnaturalized persons in a State might outnumber the voters twenty to one, or fifty to one, yet it would not be considered wise, or compatible with the success of a free Government that its destinies should be intrusted to those owing it no allegiance, or unfit to administer its affairs. Theoretically, there is no difficulty here. If persons heretofore entitled to a vote chose to commit a felony, and incur thereby, as a penalty, the deprivation of their former right of suffrage, it is not supposed that the loss of such votes is anti-republican. If, then, a majority chose to perpetrate treason, or to expatriate themselves, or in any other way become disqualified, how does that action vitiate the rule? If they, after becoming disqualified, remain in the State, are they not bound to submit to its rulers and laws? If their rulers are chosen without their voice, is it not in consequence of their own voluntary action? Indeed, it often happens that the persons elected to office receive only a meager minority of the votes which could have been lawfully polled, yet that fact has no influence upon the legal result. So a person is often chosen by a minority of the votes actually cast, and is not the majority bound to submit?

"The rightfulness of an election, and the right of suffrage, depend not on the relation of numbers in a State. Political power is lodged where it is deemed wisest, safest, and best for all. Still it must be admitted that according to our wishes and popular expectation a very few persons ought not to be permitted to outweigh the many. Although Tennessee, Massachusetts, Rhode Island, or South Carolina, may choose to lodge the power to vote in a few hands, the question is solely an internal one for those States respectively. The weight of each State in the Electoral College or in the United States House of Representatives does not depend on the number of voters in such State, but on its representative population; and consequently the other States are not injured or lessened in power or influence, whether such State adopts property or other restrictions, or whether its mere voters are few or many. Such is our constitutional system."

Now, Mr. President, at this late hour I will not detain the Senate longer. There are many other questions connected with this subject that I would consider if time permitted. But I content myself at present with laying down the following propositions as true, and if true the States should be admitted. If untrue, I desire to know in what what particular and why they are untrue.

1. I hold that the seceded States are still in the

Union and cannot get out of it except through an amendment of the Constitution permitting it.

2. The seceded States being still in the Union are entitled to claim all the rights accorded to other States.

3. That each State now in the Union has the right to stand upon the form of its constitution as it existed at the time of its admission. The people of such State may change its constitution, provided they retain a republican form of government; but neither the President nor Congress can reform, alter, or amend such constitution, nor prescribe any alteration or amendment as a condition of association with the other States of the Union. The General Government may properly lend its aid to enable the people to express their will; but any attempt to exercise power constitutionally reserved to the State, beyond what may be demanded by the immediate exigencies of war, will not tend to restore the Union, but rather to destroy our whole system of government.

4. When citizens of a State rebel and take up arms against the General Government they lose their rights as citizens of the United States, and they necessarily forfeit those rights and franchises in their respective States which depend on United States citizenship.

5. If a seceded State be still in the Union, entitled to recognition as a State, and a majority of the people have voluntarily withdrawn their allegiance, the loyal minority constitute the State and should govern it.

6. Congress should not reject the governments presented because of mere irregularity in the proceedings leading to their reorganization.

7. If Congress has no right to make and impose a constitution upon the people of any State; if its power extends no further than to guaranty preëxisting republican forms of government; if the State still exists, and the loyal men are entitled to exercise the functions of its government, it follows that the only questions to be examined here are, first, is the constitution the will of the loyal men qualified to act? and, second, is it republican in form?

8. The constitutions of Louisiana and Arkansas are thought to be republican in form, and it is admitted that the loyal men of those States respectively acquiesce in them. Hence the duty of Congress to recognize them, and the duty of each House to admit their representatives.

Mr. JOHNSON. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 24, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THURSH, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

### ENCOURAGEMENT OF IMMIGRATION.

Mr. WASHBURN, of Illinois. I ask unanimous consent to have put upon its passage House bill No. 746, being "A bill to amend the act entitled 'An act to encourage immigration, approved July 4, 1864,' and the act entitled 'An act to regulate the carriage of passengers in steamships and other vessels, approved March 3, 1855,' and for other purposes."

The question was upon ordering the bill to be engrossed and read a third time.

Mr. WASHBURN, of Illinois, called the previous question.

The previous question was seconded, and the main question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

### CONDITION OF INDIAN TRIBES.

Mr. HUBBARD, of Iowa. I ask unanimous consent to take from the Speaker's table Senate joint resolution No. 89, directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities.

No objection was made.

The joint resolution was then taken up and read a first and second time.

It provides for the appointment of a joint committee, consisting of three members of the Senate, and four members of the House of Representatives, to be appointed by the presiding officers of the respective bodies, to inquire into the present condition of the Indian tribes, and especially into the manner in which they are treated by the civil and military authorities of the United States, with power to sit during the recess of Congress, and send for persons and papers, employ a clerk, &c., and report at the next session of Congress such legislation as may be necessary for the better administration of Indian affairs, and appropriating \$15,000 for that purpose.

Mr. WASHBURN, of Illinois. If I heard correctly the joint resolution as it was read, I think there ought to be an amendment to it. I approve entirely of the general scope of this joint resolution; but I am not certain but it needs some amendment to make it more perfect.

The SPEAKER. The Chair would state that the House has already raised a committee of its own members for this purpose, but the Senate prefer a joint committee for this purpose.

Mr. HUBBARD, of Iowa. I propose to amend the joint resolution so as to provide for four members on the part of the Senate and five members on the part of the House.

Mr. WASHBURN, of Illinois. I think the joint resolution now says "four members of the present House." I think it should have the following words inserted, "who shall be members-elect to the next Congress."

Mr. HUBBARD, of Iowa. I have no objection.

Mr. STEVENS. I suggest to gentlemen the query whether we can sit in this manner after we are dead. It looks to me like an unusual thing.

Mr. HUBBARD, of Iowa. I move to increase the committee on the part of the Senate to four members, and on the part of the House to five members.

Mr. J. C. ALLEN. I desire to say that I think the proposition embraces members of a commission; and while upon the floor, I desire to say that my connection with the Committee on Indian Affairs has satisfied me fully of the necessity of some measure of this sort being taken by the Government and the country, in order that the next Congress may know the condition of the various Indian tribes upon our frontier. The debate that sprang up here last night upon the Indian appropriation bill evinced a great want of knowledge on the part of members of this House of the condition of the Indian tribes on our frontiers, and I know of no better way than this to get correct information upon that subject; not only as to their particular condition, the number of tribes, their particular locations, but also to ascertain the further fact as to what is necessary to be done by the Government to maintain peace, protect the inhabitants of our frontiers, and promote not only the interests of our own people in the new Territories and new States, but to promote the welfare and interest of the Indian tribes. It strikes me that in reference to this question of dealing with the Indian tribes of this country no measure of so much importance to them and to us has been introduced into this Congress or into any former House. I hope, therefore, that this joint resolution will be passed by the House; but I do not see the necessity for raising so large a committee as is proposed by the gentleman from Iowa.

Mr. HUBBARD, of Iowa. I propose this amendment in the absence of the chairman of the Committee on Indian Affairs, [Mr. WINNOM,] and at his request. We are now approaching the close of the session, and unless this proposition be acted upon promptly, undoubtedly it cannot pass both Houses at this session. For this reason I have called up the resolution for action this morning. If there are serious objections to increasing the number of the committee I will withdraw my amendment.

Mr. J. C. ALLEN. I have no serious objection to the amendment; but it struck me that the number proposed by the Senate was sufficient.

Mr. HUBBARD, of Iowa. I call for the previous question on my amendment.

Mr. MORRIS, of Ohio. Will the gentleman withdraw that call for a moment, that I may make a single remark?

Mr. HUBBARD, of Iowa. Certainly.

Mr. MORRIS, of Ohio. I desire simply to say that I think one person appointed for this purpose by the President of the United States, by and with the advice of the Senate, would be able to accomplish all that a joint committee of the two Houses of Congress would accomplish.

Several MEMBERS. Oh, no.

Mr. MORRIS, of Ohio. I move, as an amendment to the amendment, to strike out all after the words "consist of" to the word "Representatives" inclusive, and to insert in lieu thereof the words "one person, to be appointed by the President, by and with the advice and consent of the Senate."

Mr. STEVENS. I would like to have this joint resolution again read. I admit the right of Congress to create a commission for the purpose of making this examination; but I do not admit the right of this Congress, now about to expire, to appoint a committee whose power shall continue during the recess. If this proposition be put into such a shape as to provide for the creation of a commission, I shall have no objection to it; but I do object to appointing members of this House as such.

Mr. HUBBARD, of Iowa. I think the legal effect of the resolution will be the creation of a commission.

The joint resolution was again read.

Mr. STEVENS. I would suggest to the gentleman from Iowa whether it is not better to let this matter go over until to-morrow so that a bill providing for the appointment of a commission can be prepared. This Congress being about to expire, I think it is not competent for this House and the Senate to appoint a committee as a committee. I am very willing to join in the creation of a commission to be properly appointed for this purpose.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] can move to amend this joint resolution so as to provide for a commission instead of a joint committee.

Mr. WASHBURN, of Illinois. I was about to make that suggestion to the gentleman. He can accomplish his purpose in that way.

Mr. STEVENS. But then the Speaker, as I understand, is to be the appointing power.

Mr. HUBBARD, of Iowa. I am not willing to consent to a postponement of this matter until to-morrow, because the delay may preclude any action on the subject at this session of Congress. I desire action upon the resolution this morning, in order that we may amend it, and that our amendments may be concurred in by the Senate.

I demand the previous question upon my amendment and the amendment to the amendment.

Mr. MORRIS, of Ohio. I move that the bill, with the pending amendments, be laid on the table. On the motion there were, on a division—ayes 21, noes 46; no quorum voting.

The SPEAKER. The Chair will order tellers. Mr. PRUYN. Before tellers are ordered, I would suggest that this matter be allowed to go over until to-morrow, immediately after the reading of the Journal. That, I think, will meet the objections of gentlemen on the other side.

The SPEAKER. Is there unanimous consent that this matter shall go over until to-morrow morning, immediately after the reading of the Journal?

Mr. HUBBARD, of Iowa. I object.

The SPEAKER appointed as tellers Mr. HUBBARD, of Iowa, and Mr. MORRIS, of Ohio.

The House divided, and the tellers reported—ayes 18, noes 64; no quorum voting.

Mr. MORRIS, of Ohio. I withdraw the call for a division.

The motion to lay the bill and amendments on the table was not agreed to.

Mr. KASSON. I ask my colleague to withdraw the demand for the previous question for a moment, in order that I may make a suggestion.

Mr. HUBBARD, of Iowa. I withdraw it for that purpose.

Mr. KASSON. It is this: the Committee of Ways and Means has had a great desire to have a careful report touching the best mode of deriving a revenue from the mineral resources of the country, and a commission might be constituted to embrace an inquiry into that as well as into the condition of the Indian tribes. It would be

an economical measure to embrace both in one commission.

Mr. DAWES. I understand that this bill purposes to confer upon the Speaker of the House and the President of the Senate the power to appoint such a commission. I suggest that this provision of the Constitution is in the way: that Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments. I know of no provision of the Constitution which authorizes Congress to clothe the Speaker of this House and the President of the Senate with power to make the appointment of any officer created by law.

Mr. J. C. ALLEN. That provision of the Constitution does not affect this question at all. The resolution does not propose the appointment of officers.

Mr. DAWES. What does it do?

Mr. J. C. ALLEN. The raising of a committee to furnish to the Senate and the House of Representatives at the next session of Congress information in reference to the condition of Indian tribes upon the frontier.

Mr. DAWES. My friend cannot get around the Constitution by calling this a committee instead of an office. I take it that it does not make any difference.

Mr. J. C. ALLEN. I do not propose to get around it.

Mr. HUBBARD, of Iowa. I renew the demand for the previous question.

Mr. BALDWIN, of Massachusetts. If we refuse to second the demand for the previous question will not amendment be in order?

The SPEAKER. It will when the pending amendments are disposed of.

Mr. MORRILL. Will it be in order to move to make it one commissioner to be appointed by the President of the United States?

The SPEAKER. That amendment is now pending.

The previous question was seconded, and the main question ordered.

The House divided on the amendment of Mr. MORRIS, of Ohio; and there were—ayes 24, noes 53; no quorum voting.

Mr. MORRIS, of Ohio. I ask unanimous consent to withdraw my amendment and make it three.

Mr. J. C. ALLEN. I object.

The SPEAKER ordered tellers, and appointed Messrs. J. C. ALLEN and MORRILL.

The House again divided; and the tellers reported—ayes 34, noes 58.

So the amendment was rejected.

The amendment of Mr. HUBBARD, of Iowa, was then disagreed to.

Mr. WASHBURN, of Illinois. I move to strike out the words "of the present House" and in lieu thereof to insert "who shall be members of the next Congress."

The amendment was agreed to.

Mr. BALDWIN, of Massachusetts. I move to strike out that part which refers to members of the Senate and the House, and to provide that the commission shall consist of three, to be appointed by the President of the United States, by and with the advice and consent of the Senate.

Mr. WASHBURN, of Illinois. I hope that will not be done. It is proposed that this shall be a committee to inform the House at the next session in reference to legislation for the benefit of the Indians. I believe that the bill as it is will secure the object we desire better than any commission appointed by the President.

Mr. BALDWIN, of Massachusetts. This House will expire at twelve o'clock meridian on the next 4th of March, and no House of Representatives will meet again until the first Monday of December, unless sooner convened by the President. Therefore I think that the best method would be as I propose, by a commission.

Mr. JOHNSON, of Pennsylvania. I do not see why we cannot get this information as well by a commission as by a committee appointed by the Houses of Congress. I see an insurmountable difficulty to the appointment of a committee by this House, because this House expires on the 4th of March next, and you cannot appoint members of the next Congress, because they are not members until they are sworn in. They are not, therefore, a committee of the Congress of the Uni-

ted States. They become commissioners appointed by the Congress of the United States, and hold their offices by virtue of their appointment, independent of their election as members of this House or of the Senate. Then they become officers under the United States Government, the holding of which is incompatible with the office of a member of Congress. To my friends upon this side of the House I desire to say a word. I came into the Hall at the time they were dividing, and I protested at once against this proposition. Gentlemen opened their eyes and seemed to be astonished that I opposed it, because they thought it came partly from their own friends. So far as that view is concerned I would go with them; but I remember that two years ago, when by a joint resolution of Congress the committee on the conduct of the war had its existence prolonged beyond the term of office of the members thereof, which expired on the 4th of March, the Democratic party throughout the whole country raised their voice against it, and said they were unauthorized persons, and their report not legally authorized by law. I saw that these two cases were exactly parallel, and I did not see how the Congress of the United States could appoint a committee of its own body whose offices expired on the 4th of March, or of those who expected to come into office at some future time. Therefore I favor the proposition to let the authority be put into the hands of the President of the United States, to be exercised according to his judgment.

Mr. SHANNON. I said—

Mr. BALDWIN, of Massachusetts. I believe I have the floor. I propose to call the previous question.

The SPEAKER. The Chair understood the gentleman to yield the floor.

Mr. BALDWIN, of Massachusetts. I did not.

Mr. SHANNON. Will the gentleman yield to me a moment?

Mr. BALDWIN, of Massachusetts. I will.

Mr. SHANNON. I submit that the proposition of the gentleman from Massachusetts is the proper one. It is utterly impossible for any committee appointed now to report at the first session of the next Congress. It would take a man one whole year to travel West through those mountainous regions and investigate the Indian department of the three States there. If you cut down the time the report will amount to nothing, and the whole thing will amount to a farce. If you appoint three competent and well-qualified men for the discharge of this duty, and give them time enough, you may get something tangible to act upon. But if you undertake to appoint a committee of three members of Congress and send them out, requiring them to report at the next session of Congress, I submit that the whole thing will result in a perfect farce.

Mr. HUBBARD, of Iowa. If the commission proposed by the gentleman from Massachusetts shall take the place of the committee proposed by the Senate resolution, I am satisfied that the result of the investigation will be worthless. The great object of the investigation is to enable the Senate and the House of Representatives to obtain correct information; and they propose that their committee shall go and make the investigation and obtain facts upon the subject of their inquiry, and present those facts to the House and Senate in order that they may considerately and advisedly act upon the facts presented. But it is not proposed that their report shall have any binding effect. They are simply to obtain facts to be placed in possession of Congress to enable Congress to act upon them.

Mr. GANSON. I would like to ask the gentleman if there is not already a Department to which this Indian business is intrusted, and whose officers can give reliable information upon the subject?

Mr. HUBBARD, of Iowa. I will answer the gentleman in this way: we have a Department called the Indian Department, but the gentleman from New York, and other gentlemen upon the floor of this House and of the Senate, are constantly making charges and imputations against that Department; and it is due to the Government and to the Senate, and due to the House of Representatives, that these charges should be investigated and their truth or falsity verified.

Mr. HALE. I call for the regular order of business.



The SPEAKER. This is the regular order of business, as it was taken up by unanimous consent.

Mr. WASHBURN, of Illinois. If there is serious objection to this amendment making the resolution applicable to members of the next Congress, I will withdraw it. I do not want to put on any amendment which shall embarrass this proposition, as I deem it one of the most important that has come before Congress; and I hope it will be passed in some shape. I withdraw my amendment.

Mr. BALDWIN, of Massachusetts. I renew it.

Mr. HUBBARD, of Iowa. I demand the previous question.

Mr. STEVENS called for tellers upon seconding the previous question.

Tellers were ordered; and Messrs. STEVENS and ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes seventy-four, noes not counted.

So the previous question was seconded, and the main question was ordered.

The first question was upon the amendment of Mr. BALDWIN, of Massachusetts, to amend so as to provide for three commissioners to be appointed by the President, with and with the advice and consent of the Senate, instead of a joint committee of the two Houses of Congress.

Upon that question the House divided; and there were—ayes 65, noes 41.

Mr. COFFROTH called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was voted in the affirmative—yeas 78, nays 54, not voting 50; as follows:

YEAS—Messrs. Ames, Anderson, Ashley, Bailly, John D. Baldwin, Baxter, Benham, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Cole, Thomas T. Davis, Daves, Deming, Dixon, Donnelly, Driggs, Eliot, English, Garfield, Holman, Hooper, John H. Hubbard, Jencks, Philip Johnson, Kelley, King, Knox, Long, Longyear, Marcy, Marvin, McBride, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Pomeroy, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Smith, Starr, Stevens, Stuart, Thomas, Tracy, Upson, Van Valkenburgh, Wadsworth, William B. Washburn, Whaley, Wheeler, Williams, Woodbridge, Worthington, and Yeaman—76.

NAYS—Messrs. James C. Allen, Allison, Ancona, Augustus C. Baldwin, Blaine, Bliss, James S. Brown, Chandler, Coffroth, Cox, Dawson, Denison, Dumont, Eckley, Eden, Edgerston, Eldridge, Finck, Ganson, Goehs, Grider, Grinnell, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Asahel W. Hubbard, Ingersoll, Kernan, Knapp, Law, Le Blond, Mallory, Moorhead, James R. Morris, Nelson, Noble, Pike, Price, Ross, Sloan, Smithers, John B. Steele, Sules, Strouse, Thayer, Townsend, Elihu B. Washburne, Webster, Wilson, Winfield, and Fernando Wood—54.

NOT VOTING—Messrs. William J. Allen, Alley, Arnold, Brooks, Cobb, Cravens, Creswell, Henry Winter Davis, Farnsworth, Frank, Griswold, Hale, Harrington, Higby, Hotchkiss, Hubard, Hutchins, William Johnson, Julian, Kaufheiss, Kasson, Francis W. Kellogg, Orlando Kellogg, Luzan, Littlejohn, Loan, McAllister, McClurg, McDowell, McIndoo, McKinney, Middleton, Morrison, Pendleton, Perry, Pruyn, Samuel J. Randall, William H. Randall, Robinson, Rogers, James S. Rollins, Spaulding, William G. Steele, Sweet, Voorhees, Ward, Chilton A. White, Joseph W. White, Wilder, Windom, and Benjamin Wood—50.

So the amendment of Mr. BALDWIN, of Massachusetts, was adopted.

The joint resolution, as amended, was then read the third time.

The question was upon the passage of the joint resolution as amended.

Upon that question, Mr. HUBBARD, of Iowa, called the previous question.

Mr. WASHBURN, of Illinois. I would ask permission to move to amend by striking out the words "to sit during the recess of Congress" and inserting after the words "United States," in the previous line, the words "to examine fully into the conduct of Indian agents and superintendents, and also into the management of the Bureau of Indian Affairs in the Department of the Interior." I desire to say merely that, after the debate here last night, I think it proper that this Bureau of Indian Affairs should be examined into. It is but just to the occupants of the bureau and to the country.

Mr. J. C. ALLEN. I think it is intended to kill this joint resolution by amendments. I therefore move to lay the joint resolution on the table.

The motion to lay on the table was not agreed to.

The SPEAKER. It requires unanimous con-

sent to offer an amendment pending the call for the previous question.

Mr. WASHBURN, of Illinois. I trust there will be no objection.

No objection being made, the amendment of Mr. WASHBURN, of Illinois, was adopted.

The previous question was then seconded, and the main question ordered; and under the operation thereof, the joint resolution, as amended, was passed.

Mr. SHANNON moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 664) for changing the time for holding the circuit court in the district of Virginia;

An act (H. R. No. 692) in reference to prosecutions for libels in the District of Columbia; and

Joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to British schooners Minnie Williams and E. M. Baxter.

#### ORDER OF BUSINESS.

Mr. HALE and Mr. SCHENCK called for the regular order of business.

Mr. MORRILL. I move to rescind, for this morning only, so much of the order of the House which requires a morning hour for private business from committees.

The SPEAKER. That motion is not in order. The resolution for a morning hour each day is imperative, and was made by unanimous consent. It cannot be rescinded the same as a resolution for a night session, or for the time of the day's session. The gentleman from Pennsylvania [Mr. HALE] and the gentleman from Ohio [Mr. SCHENCK] have both called for the regular order.

Mr. MORRILL. I ask leave to take up the naval appropriation bill.

Mr. HALE. It can be taken up after the morning hour. I cannot yield now.

The SPEAKER. The regular order of business is reports of a private nature from committees. Reports are now in order from the Committee on Commerce.

Mr. WASHBURN, of Illinois. I have no objection to give way to the gentleman from Vermont [Mr. MORRILL] to call up the naval appropriation bill.

Mr. HALE. I object.

Mr. MORRILL. It is a long bill, and if it is crowded into the last days of the session it will be utterly impossible for the engrossing clerks to properly engross the bill.

Mr. HALE. If I am allowed a morning hour after the bill is passed, then I will not object.

The SPEAKER. That will require unanimous consent.

Mr. RICE, of Massachusetts. Is it not in order to move to dispense with the consideration of private bills for to-day?

The SPEAKER. The Chair will direct the Clerk to read the rule on that subject.

The Clerk read, as follows:

"Friday and Saturday of every week shall be set apart for the consideration of private bills and private business in preference to any other, unless otherwise determined by the House."

Mr. RICE, of Massachusetts. It seems to me that the state of the public business is such that, at this late day of the session, unless the consideration of private bills be passed over for to-day, it will be impossible to go on with the calls of the regular committees and to get in legislation that is indispensable for carrying on the Government. I therefore move that the consideration of private business be dispensed with for to-day.

The SPEAKER. A majority of the House is competent, under the rules, to adopt that motion.

Mr. HALE. I hope that the motion will not be adopted. We have given very little time during this session to the consideration of private business. There are a number of very meritorious private claims, which I hope will be considered.

I hope that the gentleman from Massachusetts will not insist upon his motion. So far as I am concerned, I am willing that fifteen minutes shall be allowed for the consideration of the naval appropriation bill before proceeding to private business.

The motion of Mr. RICE, of Massachusetts, was agreed to, there being, on a division—ayes 56, noes 54.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL. The gentleman from Pennsylvania, [Mr. HALE,] is willing that fifteen minutes shall be given to the consideration of the Senate amendments to the naval appropriation bill. I think that it will not take longer than that to dispose of them. I therefore ask unanimous consent that Senate amendments to the naval appropriation bill be taken from the Speaker's table and considered by the House as in Committee of the Whole on the state of the Union.

There was no objection.

Mr. MORRILL. Before the amendments are read I desire to say a word in explanation of the report which has been made upon them by the Committee of Ways and Means.

All the amendments down to and including the fifteenth, are mainly mere amendments of form. The House struck out the appropriation for the building of officers' quarters, and also for the commencement of new works, but omitted to strike out some words connected with the appropriation. These words have been stricken out by the Senate. We recommend concurrence in that amendment.

Among the amendments in which we recommend non-concurrence is one striking out an appropriation for the Atlantic Gulf squadron. We learn by a communication from the Navy Department that that Department deems that appropriation indispensable for the proper conduct of our naval system. It has also been ascertained that in accordance with bids received on the 1st of December it will require about eighty-eight thousand dollars more than was estimated to buy clothing for the Marine corps. In relation to the appointment of midshipmen, the Committee of Ways and Means recommend non-concurrence in the Senate amendment.

The first, fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth amendments, formal in their nature, were read.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

The second amendment of the Senate was read, as follows:

On page 5, lines one and two, strike out "\$323,512" and insert in lieu thereof "\$237,688."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

To the third amendment of the Senate, the Committee of Ways and Means recommended an amendment, to insert in lieu of the words stricken out by the Senate the words "two building slips."

The amendment proposed by the Committee of Ways and Means was agreed to; and the Senate amendment, as amended, was concurred in.

To the sixth amendment of the Senate, the Committee of Ways and Means recommended an amendment, to insert in lieu of the words stricken out by the Senate the words "complete one half of storehouse."

The amendment proposed by the Committee of Ways and Means was agreed to; and the Senate amendment, as amended, was concurred in.

Sixteenth amendment:

Strike out "\$33,605," and, in lieu thereof, insert "\$25,850;" so that it will read:

For preparing for publication the American Nautical Almanac, \$25,850.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Seventeenth amendment:

Strike out the following: To meet emergencies at the Atlantic, East and West Gulf, and Mississippi stations, \$1,000,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2d Session.

MONDAY, FEBRUARY 27, 1865.

NEW SERIES... No. 68.

## Eighteenth amendment:

Strike out the following:

For pay of clerks in the ordnance department at the several navy-yards, in lieu of the present per diem pay, viz.:

For salary of one clerk at Portsmouth, New Hampshire, navy-yard, \$1,200.

For salary of one clerk at \$1,200, and one at \$1,000 per annum, at Boston navy-yard, \$2,200.

For salary of one clerk at \$1,200 per annum, and one clerk at \$1,000 per annum, at the New York navy-yard, \$2,200.

For salary of one clerk at the Philadelphia navy-yard, \$1,200.

For salary of one clerk at \$1,400, one clerk at \$1,000, one draughtsman at \$1,600, one analytical chemist at \$2,500 per annum, one assistant pyrotechnist at \$1,400, and one keeper of magazine at \$480 per annum, at the Washington navy-yard, \$8,380.

SEC. 2. *And be it further enacted*, That one midshipman, in addition to those now allowed by law, shall be appointed for each congressional district and Territory, to be appointed on the nomination of the present members of Congress or Delegates from said districts or Territories respectively, but no midshipman shall be appointed for any district not represented in Congress.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Nineteenth amendment:

Add:

*And be it further enacted*, That so much of the second section of the act entitled "An act to increase and regulate the pay of the Navy of the United States," approved June 1, 1860, as provided that the officer charged with experiments in gunnery at the navy-yard at Washington shall receive the sea-service pay of the grade next above him, be, and the same is hereby, repealed.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

## Twentieth amendment:

Add:

*And be it further enacted*, That to defray the necessary expenses of the commission to select the most approved site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries, the sum of \$2,590 is hereby appropriated.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

Mr. PIKE. I move to reconsider the vote by which the eighteenth amendment was non-concurred in. I hope that will be done, so that we may have a vote on striking out the provision in reference to the midshipmen. I want to concur with the Senate in striking it out. There is no more room for midshipmen at Newport, although there will be when the Naval School has returned to Annapolis.

Mr. MORRILL. The gentleman can reach this point in the committee of conference.

Mr. PIKE. I want to have an expression of the House on the subject.

Mr. MORRILL. I hope that the motion to reconsider will not be agreed to. I move that the motion to reconsider be laid on the table.

The motion was agreed to.

## Twenty-first amendment:

Add:

*And be it further enacted*, That the sum of \$100,000 is hereby appropriated to enlarge the accommodations for sick, wounded, &c., at the Naval Asylum at Philadelphia, authorized by act of Congress of March 14, 1864.

The Committee of Ways and Means recommended concurrence with an amendment to strike out "&c."

The amendment was agreed to; and the Senate amendment, as amended, was concurred in.

## Twenty-second amendment:

Add:

That the Secretary of the Navy be, and is hereby, authorized to purchase the balance of square numbered nine hundred and forty-eight, in the city of Washington, District of Columbia, some fourteen thousand feet, upon which a naval hospital is now in course of erection.

The Committee of Ways and Means recommended concurrence, with the following amendment:

*Provided*, That the same can be obtained, in the judgment of the Secretary, on terms deemed just and reasonable.

The amendment was agreed to; and the Senate amendment, as amended, was concurred in.

## Twenty-third amendment:

Add:

*And be it further enacted*, That so much of the proviso of the act of March 3, 1843, entitled "An act making appropriations for the naval service for the half calendar year beginning the 1st of January, and ending the 30th of June, 1844," as requires that provisions and all materials of every name and nature for the use of the Navy be furnished by contract with the lowest bidder after advertisement, shall be and the same is hereby so far modified that it shall not apply to bunting delivered for the use of the Army and Navy, and that it shall be lawful for the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury, to enter into contract for bunting as their respective services require, for a period not exceeding one year, and at a price not exceeding that at which an article of equal quality can be imported.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Twenty-fourth amendment:

Add:

*And be it further enacted*, That hereafter in all appointments of midshipmen to the Naval Academy the selections for such appointments in the several districts shall be made from the candidates according to their respective merits and qualifications, to be determined under such rules and regulations as the Secretary of the Navy shall from time to time prescribe.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Mr. MORRILL. I move to insist on the disagreement to the amendments of the Senate non-concurred in, and ask for a committee of conference.

The motion was agreed to.

Mr. MORRILL moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## GEORGE H. CHORPENNING.

On motion by Mr. COFFROTH, by unanimous consent, the Committee of the Whole House was discharged from the further consideration of an act (H. R. No. 113) for the relief of George H. Chorpennig, and the same was recommitted to the Committee on Indian Affairs.

## UTAH AND ARIZONA.

Mr. KINNEY, by unanimous consent, presented a memorial of the Legislature of Utah Territory on the annexation of a portion of the Territory of Arizona to Utah; which was referred to the Committee on Territories and ordered to be printed.

## RAILROAD GRANT TO MICHIGAN.

Mr. SLOAN. I ask unanimous consent that the bill of the Senate (No. 414) making a grant of lands to the State of Michigan to aid in the construction of a railroad in that State may be taken from the Speaker's table and referred to the Committee on Public Lands.

Mr. SWEAT. I object.

Mr. HIGBY. I presume the gentleman would not object if he understood the bill. It does not appropriate any land whatever, but only extends the time, and places restrictions on the road.

Mr. SWEAT. I understand the whole subject-matter. It has been before another committee.

Mr. HALE. I call for the regular order of business.

Mr. ANCONA. Will the gentleman yield to me a moment?

Mr. HALE. All my time is being taken up in this way.

Mr. ANCONA. I only desire to introduce and refer a bill.

Mr. HALE. I yield.

## GEORGE W. KNOBB.

Mr. ANCONA, thereupon, by unanimous consent, introduced a bill granting a pension to Captain George W. Knobb; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. HALE. I demand the regular order of business.

## ARMISTED T. M. FILLER.

The SPEAKER announced as the business first in order the joint resolution of the House (H. R. No. 168) to refer the claim of Armisted T. M. Filler to the Court of Claims, the pending question being on its passage, upon which the previous question was moved on Friday last.

The previous question was seconded, and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. HALE moved that the vote by which the resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CIVIL APPROPRIATION BILL.

Mr. STEVENS, by unanimous consent, from the Committee of Ways and Means, reported a bill making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1866, and for other purposes; which was read a first and second time, committed to the Committee of the Whole on the state of the Union, ordered to be printed, and made a special order for to-morrow after the morning hour, and from day to day thereafter until disposed of.

## HARMONY CEMETERY COMPANY.

The SPEAKER having, as the regular order of business, proceeded to call the committees for reports of a private nature,

Mr. TRACY, from the Committee for the District of Columbia, reported a bill to incorporate the Harmony Cemetery Company (of colored persons) in the District of Columbia; which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TRACY moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SOLOMON WADSWORTH.

Mr. THAYER. I am instructed by the Committee on Private Land Claims, to which was referred the bill of the Senate (No. 288) to amend an act for the relief of Solomon Wadsworth, to report the same back with a recommendation that it do not pass, as another bill of a similar purport has already passed Congress and become a law. The bill was laid on the table.

## WILLIAM NICHOLLS.

Mr. THAYER, from the same committee, reported a bill for the relief of William Nicholls; which was read a first and second time by its title.

The bill, which was read, authorizes William Nicholls, of the State of Ohio, to locate warrant No. 23,727, for one hundred and sixty acres of lands, upon any of the public lands of the United States open to entry and location; and directs the Commissioner of the General Land Office to issue a patent to said Nicholls for the one hundred and sixty acres of land so located.

Mr. THAYER. I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THAYER moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PRIVATE LAND CLAIMS IN ARIZONA.

Mr. THAYER, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 751) to provide for the

settlement of private land claims in the Territory of Arizona and for the survey thereof.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THAYER moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARY ROBINSON AND OTHERS.

Mr. HARRINGTON, from the Committee on Private Land Claims, reported a bill for the relief of Mary Robinson and others, which was read a first and second time, referred to a Committee of the Whole House on the Private Calendar, and ordered to be printed.

#### CHARLES COLBURN.

Mr. MOORHEAD, from the Committee on Naval Affairs, reported back adversely the petition of Charles Colburn for back pay; which was laid on the table.

#### E. S. BRADY.

Mr. MOORHEAD also, from the same committee, reported back adversely the petition of E. S. Brady for relief; which was laid on the table.

#### HENRIETTA O. GARDINER.

Mr. WASHBURN, of Massachusetts, from the Committee on Invalid Pensions, reported a bill for the relief Henrietta O. Gardiner; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place the name of Henrietta O. Gardiner, widow of the late Lieutenant D. G. Farragut Gardiner, of the United States revenue service, on the pension rolls, at the rate of seventeen dollars a month, from the date of the passage of this act, to continue for and during the period of her widowhood, and in the event of her death or marriage, to be paid to her child till it shall arrive at the age of sixteen years.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### JAMES B. ROYCE.

Mr. WHALEY, from the Committee on Invalid Pensions, reported back, with a recommendation that it do pass, joint resolution (S. No. 112) for the relief of James B. Royce; the question being on its third reading.

The joint resolution recites that James B. Royce, of the town of Shrewsbury, Vermont, entered the service as a private in company I, seventh Vermont volunteers, in February, 1862, and continued to serve in that company and regiment till February, 1863, when, at Fort Barancas, Florida, by the premature discharge of a cannon at which he was engaged at target practice, he received injuries that resulted in the loss of his left arm and left eye, by reason of which disability he was discharged from service in December, 1863, having served twenty-one months and twenty-two days; and that he is not entitled to the pension provided under the act approved March 3, 1863. It therefore resolves that James B. Royce is declared entitled to the benefits of that act the same as if he had been discharged for wounds received in battle, or had served the full period of his enlistment.

The joint resolution was read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REBECCA S. HARRISON.

Mr. WHALEY also, from the same committee, reported back with amendments, and with a recommendation that it do pass, a bill (S. No. 347) for the relief of Rebecca S. Harrison.

The bill authorizes and directs the Secretary of the Interior to place on the naval pension roll the name of Rebecca S. Harrison, widow of the

late Lieutenant Horace N. Harrison, at the rate of twenty-five dollars per month, to commence 1st April, 1864, and to continue during her widowhood.

The first amendment reported by the committee was to strike out twenty-five dollars and insert seventeen dollars.

The amendment was agreed to.

The next amendment was to add after the words "to continue during her widowhood" the words "and in case of her death or marriage the same to be continued to her children until the youngest shall have reached the age of sixteen years."

The amendment was agreed to.

The bill, as amended, was read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SOPHIA BROOK TAYLOR.

Mr. WHALEY, from the same committee, also reported a bill granting a pension to Sophia Brook Taylor, widow of the late Major Francis Taylor; which was read a first and second time.

The bill authorizes and directs the Secretary of the Interior to place the name of Sophia Brook Taylor, widow of the late Major Francis Taylor, of the first United States artillery, who died of yellow fever while in command of the post at Fort Brown, Texas, in October, 1858, on the pension roll at the same rate as if he had been totally disabled.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### REUBEN CLOUGH.

Mr. WHALEY also, from the same committee, reported back adversely a bill (S. No. 316) for the relief of Reuben Clough; which was laid on the table.

#### H. O. READ.

Mr. PERHAM, from the same committee, reported back adversely the memorial of H. O. Read; which was laid on the table.

#### HENRY KARSTENS.

Mr. PERHAM also, from the same committee, reported a bill for the relief of Henry Karstens; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Henry Karstens, corporal company K, sixteenth Iowa volunteers, on the pension roll from 8th April, 1861, at the rate of eight dollars per month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. MILLER, of Pennsylvania, made adverse reports from the Committee on Invalid Pensions upon the petition of James McMurray, the petition of Caroline L. Wright, and the petition of Charles Lawrence; which were severally laid on the table.

He also reported back Senate bill No. 365, being an act in relation to pensions, with a recommendation that it be laid on the table, another bill upon the same subject having been already passed.

The bill was laid on the table.

Mr. L. MYERS, from the Committee on Patents, made adverse reports in the following cases:

The petition of Joseph Nock, praying for the renewal of a patent for an improved lock; the petition of John P. Sherwood, praying for an extension of patent; the petition of Francis N. Smith, for an extension of his patent for an improvement in corn-shellers; the petition of W. W. Woodworth, praying for a renewal and extension of a patent for planing machines; and they were severally laid on the table.

#### JOSIAH COPELAND.

Mr. L. MYERS. I am instructed by the Committee on Patents to report a bill authorizing the Commissioner of Patents to hear and determine the application of Josiah Copeland for an extension of his patent for a new and useful improvement in boot crimps.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read the third time.

Mr. WASHBURN, of Illinois. I would like to hear some explanation of this bill.

Mr. L. MYERS. I am sure the reasons I shall give will be satisfactory to the gentleman from Illinois [Mr. WASHBURN] and to the House. The committee are unanimous in recommending this extension. The invention is one of great simplicity and of great utility. It is now universally used, has superseded all other crimps used in the manufacturing and crimping of boots, and, as was fully shown to the committee, effects a considerable saving in this manufacture, both in time and leather. We have had petitions from numerous manufacturers of boots, and boot-crimpers, for this extension, and no one has opposed it. Owing to its simplicity of manufacture, and the ease with which it is counterfeited, there have been a number of infringements upon it, and a number of injunctions and judgments had to be obtained by the patentee. So that, excluding even his own labor, all he has gained from the invention does not exceed the sum of \$5,000. Before the war, a dozen pair of these crimps were made for four dollars, each crimp including an iron block, clasp, and screw. Now, notwithstanding the great increase of the price of materials, a dozen pair of these crimps are made for \$5 50, leaving a profit upon that number of but two dollars. The inventor has now got machinery, patterns, &c., at considerable expense, and deserves the remuneration which an extension of his patent alone will give him. This is the first request for a re-extension of patent that the Committee on Patents have voted favorably upon. They have reported adversely on almost every application, and I trust this bill will be passed at once. I now call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was read the third time.

The question was upon the passage of the bill.

The SPEAKER announced that the morning hour had expired.

#### ENROLLMENT BILL.

The House proceeded to consider, as the regular order, the bill (H. R. No. 676) to amend the act entitled "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft.

The pending question was upon the motion to amend by inserting after the word "enrollment" in the eighth line of the second section the following words:

*Provided*, That persons not liable to enrollment or draft, who may hereafter volunteer, shall be credited to such sub-district as they may elect at the time of their enlistment.

The amendment was not agreed to.

Mr. BLAINE. Objection was made yesterday to the proviso inserted upon my motion, on the ground that it might be retroactive and cut off credits already made. At the suggestion of some gentlemen on the opposite side of the Chamber, I move to amend by inserting after the word "troops" the word "hereafter;" so that the clause will read, "in any call for troops hereafter."

The amendment was agreed to.

Mr. STEVENS. I do not see the propriety of this section. I believe that, if adopted, it will retard volunteering. I believe that General Hancock, who has been endeavoring to form a corps of twenty thousand men, would long ago have succeeded had not the War Department adopted a regulation similar to the provisions of this section. I know that at least two regiments from my county would have gone into that corps had they been permitted to take bounty from the highest bidder. When they found that they could not go where they could obtain the most favorable



allowance as to bounty, they refused to enlist. I do not know, but I imagine that General Hancock, notwithstanding his ability as an officer, has signally failed in his efforts to raise that corps. I can see no reason why the poor soldier, who is willing to volunteer, should not get the highest bounty that he can. If one is willing to pay \$500, and another refuses to pay anything, why should not these poor men be permitted to go and take the \$500 for the benefit of their families? In that way you will fill the Army with volunteers instead of drafted men. I think that the soldier is entitled to all he can get, and therefore I am opposed to the whole section.

Mr. GARFIELD. Mr. Speaker, I rise to oppose the motion. It is a little singular that the gentleman from Pennsylvania, who is so strongly opposed to free trade in gold, is in favor of free trade in substitutes, in the bodies and lives of men to fill the ranks of the Army. I believe that the Committee on Military Affairs has offered no proposition this session of such vital importance to the country in reference to raising soldiers for the Army as the section now before the House. I will endeavor to state briefly some of the reasons why it should be retained. As the law stands at present, citizens may enlist wherever they can get the highest bounty. The consequence is that in the rich districts, in the cities, in places where money is more plenty than men, high bounties will be offered, and the poorer districts will lose the men who go off and enlist in the rich districts, and thus the poor districts will be compelled to make up their quotas on the basis of the enrolled lists of the districts. It may be that in a township only one hundred men are enrolled; forty go off and enlist as substitutes in the rich districts; and while that township must make up its quota from the sixty who remain, the whole of the one hundred were reckoned as the basis on which the draft proceeds. The substitute brokerage system has grown out of this practice.

What is a substitute broker? A man who establishes an office and offers to furnish substitutes for different localities. He pays bounties and gathers men in gangs for sale, and when the committees of any town are hard pressed to fill up their quotas they send to the substitute broker and buy his wares at exorbitant rates. He gets men for comparatively a small bounty and sells them at enormous prices to the districts that are otherwise unable to provide to fill their quotas. The result has been that men in all parts of the United States have been compelled to see their sons bought and sold by these infamous substitute brokers. It is, sir, only a little less infamous than was the domestic slave trade in this country ten years ago. Now, in view of the great and sacred cause in which we are engaged, it does not become us to suffer the existence of a practice as nefarious as the slave trade. How shall we strike a blow at the evil? How shall we get at it? We do not in this section legislate against substitute brokers *eo nomine*, but we say that every district shall furnish its own complement of troops, and that wherever a man may have enlisted, wherever he may have gone as a substitute, he shall be credited to his own place of residence. That being done the occupation of a substitute broker is gone. There is then nothing for him to do, and he cannot set up an office in New York or Washington to buy substitutes for any other place, for when a substitute is obtained he is to be credited where he has been enrolled.

The learned gentleman [Mr. STEVENS] is right when he says that his county in Pennsylvania can raise its quota if permitted to go out into the poorer districts and buy substitutes. I grant that special localities will be favored, but it will be at the expense of the poorer districts. The effect of the substitute system on the Army is deplorable. Men who consent to sell themselves to the highest bidder will not be unwilling to desert the flag and under another name obtain a second bounty. It is a fact notorious in the Army that a large majority of the substitutes desert, and in many cases before they reach the field. For the credit of the Army, as well as to fill its ranks, I hope we shall enact this section into a law, and at one blow strike down the bounty jumping, substitute brokerage, and desertion consequent upon the present system. It is a crying evil all over the land, which has found expression in the Committee on Military Affairs, through petitions and let-

ters, and demands the attention of Congress more than any other question which has been before the House this winter. Whatever else may be done to this bill, I hope the second section will be left intact, unless it be improved in detail. I know of no measure more important than this, and I hope the amendment will not prevail.

Mr. J. C. ALLEN. Is it in order to amend the original bill?

The SPEAKER. It is.

Mr. J. C. ALLEN. I move to amend the second section by striking out the word "hereafter" in the first line. I move the amendment to enable me to add a word or two to what has been so well said by the gentleman from Ohio, the chairman of the Committee on Military Affairs. The only regret I have in relation to this matter is, that the Committee on Military Affairs did not feel the force and necessity of a provision of this character at the last session of Congress. In the rural districts of the West we have suffered severely in consequence of that oversight. Our people have been taken away by substitute brokers into the market and sold to fill up the quota of States which were much more able to fill their quotas than we were.

But not only have we suffered from that oversight, but it will be recollected that Congress passed an act authorizing agents to go into other States to make up their quotas. What has been the effect? It has enabled certain States, that had wealth, to fill their quotas with negroes from the plantations of the South, while we have been compelled to fill our quotas from among our own citizens. The complaint we have now to make is, that this remedy comes too late. Having filled their ranks with negroes from the plantations of the South, they propose now to repeal that provision of the bill, and shut us out from availing ourselves of the same benefits.

This provision ought not only to pass, but before it is passed it ought to be made still stronger. We ought to be entitled to go back and have credit for the men that other States have taken away from us. Let me give you an instance of the operation of this law: within the last three months, in my own precinct—a district which has heretofore kept its quota full by volunteering—and during the month of December, thirty-nine recruits were furnished by that precinct to another State. We are not only charged with our own quota, but we fail to get credit for these thirty-nine additional men—enough to fill our quota under this call.

I repeat that we ought not only to have a provision which shall hereafter prevent one State or one district from going into another State or district to get recruits, but we ought to be allowed to go back and give those districts which have furnished more than their quotas heretofore credit for the men they have furnished to other States and localities. That would be approximating to something like justice in the case.

I have therefore moved to amend by striking out the word "hereafter" in the first line, so as to allow the proper officers to adjust the credits which belong to each locality.

Mr. SCHENCK. I hope no such amendment as that will prevail. I think myself, with the gentleman from Illinois, that it is greatly to be regretted that the policy proposed by this second section did not prevail from the beginning. I have always been of opinion that the whole bounty and substitute system was wrong, and if the war were to continue all would at length come to that conclusion. This section, however, cures one very great evil in the country, and prevents that very thing which commends itself to the gentleman from Pennsylvania [Mr. STEVENS]—the bidding of rich districts and cities against each other, and the drawing from the rural districts all their fighting population, so as to render them unable to fill their own quotas when the draft comes.

But if we should admit the amendment which the gentleman now proposes there is a practical difficulty in carrying it into effect at all. There has been no such record kept from the beginning of the war by which it would be possible to credit each district and sub-district with the number of troops they have furnished. It is a matter of notoriety that a very large proportion of the first five or seven volunteer infantry regiments which West Virginia raised for this war were actually raised on the other side of the river Ohio.

Mr. BLAIR. The State of Ohio also got men on our side of the river.

Mr. SCHENCK. Perhaps so; but not so many as she gave to West Virginia.

Mr. BLAIR. She paid larger bounties.

Mr. SCHENCK. I do not mean any disrespect to the people of West Virginia. They are very good soldiers on either side of the river. I know something about the good services rendered by them. A large proportion of these West Virginia regiments came from the Ohio side of the river, and partly from Pennsylvania. Why was that? Because, at the commencement of the war, it was felt that to defend the border was as much the work of the people on one side the river as of the people on the other side; and that when they went into these regiments they were defending Ohio, Pennsylvania, and the whole country. Ohio has never undertaken to claim credits for her citizens who went into West Virginia regiments.

Mr. WHALEY. The people of West Virginia have furnished as many men to Ohio regiments as Ohio has furnished to the West Virginia regiments.

Mr. SCHENCK. It may be so. I will not dispute it. But it is not according to my recollection, or understanding, or knowledge of the facts, and I happened to command some of those regiments. But let that all go. I did not intend any slur on the gallantry of either of the gentlemen representing West Virginia, or of her troops; nor any imputation on the readiness of West Virginia to give her best blood to the cause of the country. It was only an illustration, which has stirred the bile of these gentlemen, used to show the impracticability of carrying out the suggestion of the gentleman from Illinois, [Mr. J. C. ALLEN.]

The amendment adopted on the motion of the gentleman from Maine, [Mr. BLAINE,] which will prevent all bogus credits hereafter, taken together with the text of this section, will cure the evil for all time to come, and for at least the present and preceding draft. I hope, therefore, that the section will be permitted to remain as it is, and that the amendment offered by the gentleman from Illinois will not be adopted, but that this wholesome provision will be carried out in its present form, with the amendments already adopted.

The question was taken on Mr. J. C. ALLEN's amendment, and it was rejected.

Mr. MILLER, of New York. I move to amend the second section by striking out the following:

That hereafter all persons mustered into the military or naval service, whether as volunteers, substitutes, representative or otherwise, shall be credited to the State and to the ward, township, precinct, or other enrollment sub-district where such persons belong by actual residence, (if such persons have an actual residence,) and where such persons were or shall be enrolled, (if liable to enrollment.)

And inserting in lieu thereof the following:

That hereafter all persons liable to a draft mustered into the military or naval service shall be credited to the State and to the ward, township, precinct, or other enrollment sub-district where such persons were or shall be enrolled.

The effect of this amendment, Mr. Speaker, would be that all persons who are enrolled and who are hereafter mustered into service would be credited to the towns where they are enrolled. But it would leave men who have already served two years, and who are not liable to enrollment or to draft, to enlist to the credit of whatever town, county, or State they may choose. The law should certainly secure to each township all the men enrolled in it. But why should we go further than that? Why should we say that a man who goes as a substitute for another, when he is not liable to draft, should be credited only to the locality from which he came originally? I do not see why.

Now what would be the effect of making this the law? The large cities, that are full of emigrants, full of persons not liable to the draft, can raise their quotas easily by substitutes, and thus avoid the draft altogether. But in the rural districts there is no such class to draw from for the purpose of substitutes. If you save to the towns the men enrolled there, that is all that justice requires. To go further than that would be dealing unjustly with individuals, and would be really conferring no benefit on any town except the large cities that have a monopoly of foreign emigrants.

Mr. SCHENCK. I suppose the gentleman is aware that persons who have served for two years during this rebellion are exempted from enroll-

ment and draft. Inasmuch as his amendment provides for the benefit only of those places to which the person belongs and where he has his actual residence, and where such persons were or shall be enrolled, it does not alter the effect of the section at all.

Mr. MILLER, of New York. But the substitute must be credited where he resides.

Mr. SCHENCK. The two things must go together, the residence and enrollment. These exemptions are not liable to enrollment anywhere.

The question was upon the amendment of Mr. MILLER, of New York.

The amendment was not agreed to.

Mr. JOHNSON, of Pennsylvania. I move to amend the section by inserting after the words "if liable to enrollment" the following:

"And hereafter, whenever a call for troops shall have been made by the President, and the quotas of the several sub-districts shall have been fixed, the same, with the ratio or percentage of the quota upon the enrollment, shall be published and made known; and thereafter it shall be lawful for any number of persons residing in any sub-district to put in an acceptable substitute in their several names, and thereupon the names of those persons putting in such substitutes shall not be held liable to the then pending draft: *Provided*, That the number of persons putting in such substitutes shall not exceed the number of persons required by the ratio to furnish one man of the quota drafted.

I am opposed to the section as it now stands, because I am opposed to changing the system of credits after the people have gone into it now and understand it. I cannot see that the objection is sound which has been taken here, on the ground, as they say, that certain sub-districts or districts have been exhausted of their population liable to draft by the more wealthy districts which offer large bounties. In the event of a new enrollment these districts which have been exhausted of their able-bodied population will not be called upon to furnish more than their quota upon their enrollment as it shall stand when the enrollment is made.

Now, if this section must stand as it now is, and parties are not permitted to go out of their respective sub-districts for the purpose of obtaining substitutes, then what will be done in many of the sub-districts, townships, and boroughs where the authorities refuse to appropriate money or levy a tax upon the people of the district or borough for the purpose of obtaining volunteers to fill their quotas? The persons there are willing to do everything in their power to fill their quotas, and yet, because they have not the authority from the authorities of their respective districts, they are put off from putting in substitutes. Under the existing law any man can put in a substitute for three years, and thereby becomes exempt for that length of time.

Now, my proposition is that any number of persons residing in any sub-district shall have the privilege, under regulations prescribed by the Provost Marshal General, to put in acceptable substitutes in their names, and thereupon their names shall not be put in the then pending draft; provided that the number of persons so putting in substitutes shall not exceed the number of persons who under the apportionment of the quota are required to furnish one man each. This will operate fairly, and will allow parties who are willing to furnish substitutes for the pending draft when the authorities of the districts under the laws of Pennsylvania, and I believe in other States of the Union, refuse to act. I think the proposition is entirely fair. It is extending the privilege of putting in personal substitutes beyond that of one man putting in a substitute for himself, and allowing parties to associate themselves together and put in substitutes for that one draft.

Mr. CHANLER. I think this amendment is injudicious, and will not effect the object the gentleman has in view. I believe from the organization of the bureau having charge of this whole matter of enrollment, and from all the facts connected with this matter of quotas, it is utterly useless to endeavor to amend this section until we strike out all after the eighth line. By this section you give power to the Provost Marshal General to make such rules and give such instructions to the assistant provost marshals, the boards of enrollment, and mustering officers, as shall be necessary for the faithful enforcement of the provisions of this section, to the end that fair and just credit shall be given to every section of the country. You surrender to that officer full power with regard to the adjustment of this whole matter, in the face of existing evils, in the face of this

disordered system in which confusion worse confounded glares through military bureaus like a monster of crime caged in an arsenal of deadly weapons, threatening to break his bonds and destroy his keeper and his prison. You surrender power through the Provost Marshal General to the Executive, whose authority is already too great, and is becoming dangerous.

Sir, in authorizing the Provost Marshal General to make such rules and regulations as he may see fit, we have no guarantee that those rules and regulations will be such as a proper sense of duty should induce this body to provide for. There is no section of the country which has not been harassed by the intolerable outrages committed by these bounty swindlers, who are the natural offspring of this system of drafting. The Provost Marshal has thus far produced a great deal of confusion and misunderstanding. When the gentlemen of the Military Committee say that this system is as bad as the slave trade, I say yes; indeed it is the sum of all villainies. But the gentleman from Ohio, [Mr. GARFIELD,] a member of that committee, says that, *eo nomine*, he will not assail the bounty swindlers. Why not? Because he is afraid to interfere in this trade. He dare not assail this class of wealthy scoundrels whom he and his colleagues have called into being under this system of conscription. He and his friends, who have been howling about the horrors of slavery, and the abominations of that trade in human flesh, who have succeeded by such appeals in exciting this country to civil war, now refuse in the face of an acknowledged evil created by themselves to assail that evil by its name on this floor.

Sir, I am not astonished that the gentlemen on the Military Committee are desirous to give to the Provost Marshal General full power to make a fair adjustment of the credits of each district. They know that any adjustment which he may make cannot be a fair adjustment. They know that this conscription system teems with crime and bristles with horrid abuses. They know that for an honest man to undertake to regulate this matter of drafting is to mix himself with crime and brand himself with infamy. Since the conscription law became the basis of our military code, every citizen who could bought a substitute; every township vied with its neighbor in raising the price of blood, until the market for human beings became like the famous slave pens of which gentlemen on the other side talk so long and loud. A new trade is springing up among us, with its ramifications reaching to the remote regions of northern and western Europe. Soon Asia, and perhaps Africa, may be honored by the emissaries of modern philanthropists on the other side of the House, with an invitation to furnish substitutes to fill the quotas of certain States, under the repeated calls for more men to carry out the indefinite policy of this Administration. No man knows to-day whether we may not in a year from this be forced to import coolies from China, or a body-guard from the sable army of the King of Dahomey; nor is it unreasonable to suppose from our past conduct that, so long as the carnage can be fatal to others than ourselves, we will care to stop its progress, or turn the policy of the Administration back to the original sources of power fixed by the Constitution.

This whole scheme for raising an army seems not only the most tyrannical measure ever passed by the Legislature of a free people, but it is abhorrent to any sentiment of justice and civilization. It cannot be urged any longer under the specious plea of military necessity. Our armies are victorious. The rebellion is crushed, if not utterly overthrown. Peace must soon follow victory. Our victorious troops are now achieving the catastrophe which overtakes traitors in arms. The coming spring will bring with it the renewed vigor of our veterans in the field, and every regiment may be filled by a proper appeal to the patriotism of the people to fight for the cause of their country in the future as in the past; then as at the beginning of the war. But this new call is a threat, a scandal, and an injustice. It puts a new and keener edge upon the blood-hound instincts of the bounty swindler, raises the price of human flesh in the shambles of our military bureau, and brands a zealous and brave people with insult and ignominy. If our forces need replenishing, use the legitimate means furnished by the Constitution. Rely on the States for support.

If the national existence is threatened, call out the whole white male population without distinction, between the proper and usual military ages fixed by custom and experience. But do not confirm by a continuance of this law the dangerous, unnecessary, unconstitutional precedent which hangs about the neck of this bill, and would, but for the strong arm of the Executive and the audacity of his Cabinet, strangle it in this or any Congress of a free people. This measure reeks with useless blood and bristles with horrid abuses.

The bounty is a medium for filling the ranks with lunatics, convicted criminals, and drunken dupes, who no one but he who escapes conscription by their aid will deny make turbulent and bad soldiers. The madhouse and the jail are fished to save sane and capable citizens from a positive duty. The strictest law to prevent enlisting unfit persons cannot remedy the evil. Evading of such hard, and unfair, and narrow enactments as conscription in this country is connived at and encouraged by popular opinion; and until the violator of the law be "actually in the land or naval forces, or in the militia, when in actual service in time of war or public danger," there is no constitutional power which can deprive him of a trial by jury, the consequences of which may easily be foreseen, namely, he would be almost certain to escape final conviction by the local civil courts; or the whole country must be put under martial law by the enlarged powers of a military commission created for these special evils and to correct a wrong inseparable from the draft and bounty.

The bounty system as now established is the means of filling quotas of States on paper, but does not fill the Army with soldiers, and induces men to desert, to reenlist for a new bounty. Veterans, the main stay of every army, are seduced from their old regiments to enlist in those being newly organized. The organization of the Army is thereby impaired. It offers a premium to vagabonds and thieves to sell themselves as substitutes to the substitute broker, enlist and demoralize the character of the Army.

Great injustice is done to certain States by the bribe offered through local and State bounties. The less wealthy State, being thereby deprived of her legitimate means of filling her quota by substitutes, is finally compelled to resort to a draft, while her rich neighbor saves her citizens from that scourge at the expense of a few dollars, and recruits her regiments with men not her citizens. The bounty system permits the citizen to evade military duty, one of the most important that rests upon him, while it creates a mercenary army and puts the existence of the Union in jeopardy. To enforce the draft in each congressional district the right of trial by jury must be superseded by a military commission, which is a most dangerous precedent, if not utterly unconstitutional. It produces a conflict between the court of law and the military tribunals.

The bad management, vacillation, and incompetency of the officers of the Government having charge of the draft, the inherent defects of the system, have stopped volunteering, and made high bounties necessary, although the country has, according to the best authority, more men in it fit for duty to-day than when the war began.

There is no want of men to fill the Army; but there is no sympathy in the hearts of the people with the reckless and wicked system by which the enlistments are made and the war conducted. The apathy of the people is a rebuke to the Administration. It is a political Nemesis pursuing a party which has insulted a devoted and eager nation by fastening on it a conscript law in violation of every instinct of a free representative Government. The curse which ever follows cruelty and tyranny is close upon this Administration. The thousands of brave men butchered in the Wilderness are now needed to take the field for an onward march. The Wilderness refuses to give up its dead; the living are loth to perish in the Wilderness; each man would sacrifice his neighbor as a scape-goat in this tribute of blood. The people of the North who protested so often and so vainly against the violations of the Constitution by the party in power; the Democratic masses who dared to rebuke the mad career of the majority by sending a strong Opposition to Congress, are now soon to be forced into the Army to sustain those who never ceased reviling them as traitors.

tors and as sympathizers with the enemy they are invited to fight. Why do you trust your cause to men you deem traitors? Why do you call on the people of New York city to sustain this Administration by its quota? Is there not danger that the Army made up of such men as you say they are will turn on you? Why does the United States recruit among men whom their whole policy has exasperated and insulted, and who have been robbed, kidnapped, and imprisoned at will by taxation, conscription, and arbitrary arrests? Are you afraid to take the field yourselves, that you intrust the cause of emancipation and the honor of your country to men whom you daily accuse of treason?

Can this Administration complain that the people do not enlist as volunteers? Certainly not. When they offered their services to the country they were ordered back with a threat that a draft would supply the soldiers needed for this war by this Administration. The draft is the result of our policy; bounty-swindling is the result of the draft. It rests like a pestilential cloud over the whole nation, foreboding corruption, usurpation, and crime—corruption of the people, usurpation by the Executive, crime by the despicable tools who hunt for substitutes and trade in the lives of their fellow-men. Fellow-men! No, sir; such creatures have no fellows save fiends and vipers. The pirate who scuttles a ship at sea, steals the cargo, and kills the crew, or sends them to the bottom with the ship; the murderer who calmly plans his crime while enjoying the hospitality of his victim; the wretch who fires the house of the unwary citizen whose doors were opened in a spirit of charity to a seeming wanderer; the false friend who lures a confiding soul to ruin, are the fit companions of those who live by this trade in human flesh—"the sum of all villainies."

Sir, in view of the depraved, dangerous, and unjust character of this system, the natural result of the enrollment acts passed by this House, it is not unreasonable to suppose that some broad, sound and patriotic reason would have been advanced, in extenuation of this amendment to the existing law. Perhaps the chairman of the Committee on Military Affairs has some most excellent argument in reserve. Up to this date Congress and the country have been kept in the dark as to the course to be followed in regard to the new call of the President. Up to a few days since it was officially announced that the quota for the city of New York would amount to four thousand four hundred and thirty-three men as originally called for. Now, by a juggle in the War Office and a ukase from the Provost Marshal General, we have been ordered to furnish twenty-one thousand men in a few weeks from this date. Since then, without due explanation, but on the "ipse dixit" of the Secretary of War, another change has been made. To-morrow we may have another decree fixing another quota, and that, after the large and repeated calls for troops from that devoted city during this war.

The speculators in human flesh throng to New York city from all sections to outbid one another in the market furnished by immigration and created by conscription. In self-defense, to meet the exigencies of the case, and if possible make good out of evil, our local board of supervisors, made up equally of both political parties, have organized a committee who regulate the matter as far as lies in their power, at once protecting the poor victim of this law and regulating the nefarious traffic by a reasonable standard. The plague has been introduced by the party in power here, who should have protected us, and from whom there is no appeal; in despair from its ravages we have inoculated those in our midst, willing to suffer, that the whole body-politic may not be corrupted and then sacrificed in their defenseless ignorance.

The same evil exists in every congressional district, in every town and city of the country. The memorial of the mayor of Philadelphia and others, members of the Loyal League of that city, is a complete and forcible appeal in behalf of decency, humanity, and justice, against this system. The Legislature of Rhode Island has petitioned for a delay of the new draft. A commission from the Legislature of Pennsylvania has asked for mercy from the Executive under this cruel law. The whole nation will soon raise a hue and cry against the perpetrators, aiders, abettors, and originators of the nefarious scheme,

or sink itself under the odium of its complicity with crimes Christianity forbids and virtue detests, and live on demoralized and disgraced before the world. The military system of the State is rotten, and if borne with longer threatens to convert the whole country into one mass of moral and political decay. It would be unjust to the military system which has grown so big and dangerous to its supporters under the enrollment act were we to dismiss this subject without alluding to a change which has come over the spirit of its dream since the rebellion first broke out. I refer to those who reap the profit which war bestows; not to the honest and brave soldiers in the ranks, nor to the skillful and pure-minded officers who have led them over hard-won fields to final victory.

The object of this war has, in the minds of a certain class of soldiers, apparently undergone a thorough revolution, a revolution within a revolution, a wheel within a wheel. To their minds the war has been perverted from the direction given it by the pure principles of patriotism which first moved the people to rescue our flag from threatened dishonor. Speculation, political ambition, party rivalry, and personal jealousy have wrought a baneful and wide-spread influence in our councils and in our camps. The maddest fanatics have become fat nabobs, princely scions of the royal tree of cotton. Battles have been won and lost around the sacred precincts where lies in state the silver-haired King Cotton, who is torn piecemeal like another Priam in another Troy wrapped in flames, and perishes amid his lieges at the altar of Mammon. His baleful influence extends through the thick padding of a well-stuffed uniform and penetrates to the inner chords of the heart of these commercial heroes who pass within gunshot of a plantation. Sugar, too, has shed its sweet influence over the stern usages of war; and generals who were blind to the blandishments and deaf to the prayers of their captives, and fierce in denunciation of traitors, have quelled the spirit of strife in obedience to the law of trade. Gold, the love of which is a root, has met with deep sympathy from the radicals, as its yellow face grinned through the bars of iron-proof safes with such winsomeness that the severest virtue has been induced to jeopardize honor, fame, and military rank, not in covetousness; oh, no! nor with intent of felony, but for the bare satisfaction of fingering the precious stuff to soothe an itching palm for a year or so, in trust.

The war necessity which once existed for the draft, according to the case made up by this Administration, sleeps, and no longer rings its steel chime as a knell to our suspended Constitution, the first and noblest victim to its rage. Commercial necessity and financial necessity now chant a requiem over the fallen currency and crippled credit of the country, both "in extremis," moribund of superficial fanaticism and internal corruption. The plea—cruel, tyrannical, overwhelming—of military necessity is gone as an argument from this Administration, and I hope this place will know it no more. With it should disappear the whole superstructure of draft, confiscation, arbitrary arrests, and the executive nebulae of proclamations which have so streaked the sky that the stars and stripes can scarcely be distinguished. It is now time to set the military system of the country free forever from this plea of necessity. Limit the exploits of our generals to the legitimate trade of war and we will not need the repeated calls for drafts. Limit our military expeditions to conquering the armies and taking the forts—Fisher and others like it; forbid and punish wild-goose chases almost to the sources of the Red river after cotton, and we will not need cruel laws to enforce enrollment. We then may dispense with the bounty swindler together with the cotton speculator, the gold robber, and the dealer in permits to trade with the rebels, all at one fell swoop. Stop supplying the enemy with the sinews of war by the million, and then we may listen patiently to the President's call for three hundred thousand more loyal hearts to be plucked from the bosom of society by the ruthless hand of an irresponsible provost marshal through an order from the War Department under the pretext of military necessity.

Yet the gentleman from Ohio says that while he gives all these powers to the Provost Marshal

General, and makes him superintendent of bounty swindling in this country, *eo nomine*, he will not assail this organized system of crime, this outrage against humanity! Yet day by day the majority in this House confiscate property; they trample upon the rights of citizens of both sections of the country under the miserable plea of false philanthropy. Such philanthropy is a falsehood on its face.

Mr. SCHENCK. I move that debate be closed on this section.

The motion was agreed to.

The amendment of Mr. JOHNSON, of Pennsylvania, was disagreed to.

Mr. BALDWIN, of Massachusetts, submitted the following amendment:

*Provided further*, That aliens and others not permanently residing in any duly organized enrollment district may be credited to the town or sub-district whose authorized agents procure their enlistment without the intervention of substitute brokers, and under such regulations as may be provided by the War Department.

The amendment was disagreed to.

The question recurred on Mr. STEVENS's motion to strike out the section; and it was disagreed to.

Mr. MILLER, of New York, moved to strike out the words "if liable to enrollment."

The amendment was disagreed to.

Mr. ROSS moved to add the following:

*Provided*, That all persons mustered into the military service of the United States under this act, or the several acts to which this is an amendment, and all persons now in said service, shall be paid at the rate of twenty dollars per month for such service from and after the 1st day of March next.

Mr. GARFIELD. I make the point that the amendment is not germane, and therefore not in order.

The SPEAKER. The Chair sustains the point of order.

Mr. HOLMAN. I submit the following amendment as a new section:

That in every case where any regiment, battalion, or company has been mustered out of the service of the United States by reason of the expiration of the term for which such organization had been accepted, the Secretary of War is authorized and directed to cause immediately to be mustered out all those non-commissioned officers and privates who, during the years 1862 and 1863 were enlisted with the assurance and understanding that they were to serve only for the unexpired term of any such organization; and in cases where regiments, battalions, and companies have not yet been mustered out, then such non-commissioned officers and privates as are above described he shall cause to be mustered out whenever the term of such organization shall expire: *Provided*, That before any such enlisted man is mustered out he shall sign a statement under oath that he enlisted with the distinct assurance and understanding that he engaged to serve only for the unexpired term of the organization into which he was mustered, such statement to be verified by the recruiting officer by whom he was enlisted, or by some commissioned officer having actual and personal knowledge of the facts in the case.

Mr. Speaker, it will be seen that this is the same proposition reported to the House by the gentleman from Ohio [Mr. GARFIELD] in pursuance of a resolution submitted by me and referred to the Committee on Military Affairs on the 15th day of December last. It passed the House, but it is now manifest by the action of the Senate that this measure must, to secure ultimate action, be ingrafted on some general bill.

The SPEAKER. Debate is not in order, as the House closed debate on the second section, and this is in the nature of an amendment.

Mr. HOLMAN. I regret that debate is not in order, but I ask that the report made by the gentleman from Ohio [Mr. GARFIELD] may be read.

The Clerk read, as follows:

The Committee on Military Affairs, to whom was referred H. R. 433, also memorials of the Governor and Legislature of the State of Indiana, together with sundry petitions in reference to the discharge of certain soldiers enlisted into the military service in the years 1862 and 1863, have had the same under consideration, and beg leave respectfully to report:

That during the years 1862 and 1863 a considerable number of persons volunteered into the military service, enlisting in regiments or companies already organized and in the field, with the understanding that they would be mustered out with their regiments or companies.

The terms of enlistment of many such regiments have now expired, and others will soon expire, but the persons who enlisted subsequent to the organization of the regiments or companies are held to serve three years from the date of their enlistment. In the petitions before the committee nearly all the loyal States west of the Hudson river are represented.

The petitioners set forth that they enlisted with the positive assurance that they were to be held only for the unexpired term of their regiments; that notices to that effect were given in handbills and the public papers; that this



short term of service was offered by recruiting officers as an inducement to them to enlist, and that the United States mustering officers in some instances confirmed the statements of recruiting officers by telling the recruits that though, as a necessary technical form, the muster-in rolls fixed the term of enlistment at three years, they would be held only till their regiments or companies were mustered out.

It is alleged in the evidence before the committee that, in many instances, recruits declined to sign the muster-in rolls till this assurance was given. Your committee find that a large number of regiments have recently gone out of the service, leaving squads of from twenty to one hundred men to be distributed among other regiments to serve out the remainder of their three years, and that the men thus left feel greatly aggrieved, and believe that the Government has not treated them in good faith. With a single exception, the rolls in the War Department show no evidence that these men were mustered for any term less than three years.

The justice of their claim to be mustered out with their organizations depends mainly on the question whether the Government authorized or allowed assurances to that effect to be given them. The following documents show what the action of the War Department has been at various times:

[General Orders, No. 108.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, April 23, 1864.

1. Whenever volunteer troops are mustered out of service, the entire regiment or other organization will be considered as mustered out at one time and place, except prisoners of war, who will be considered as in service until their arrival in a loyal State, with an allowance of time necessary for them to return to their respective places of enrollment.

By order of the Secretary of War:

E. D. TOWNSEND,  
Assistant Adjutant General.

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, September 26, 1862.

Sir: In reply to yours of the 21st instant, stating the number of regiments raised and to be raised in your State, and also making suggestions in reference to filling old regiments, I am directed to say that recruits for old regiments of volunteers for three years or during the war will be discharged at the expiration of the term for which the regiment was originally enlisted.

By order of the Secretary of War:

C. P. BUCKINGHAM,  
Brigadier General and Acting Adjutant General.  
His Excellency Governor KIRKWOOD, of Iowa.

The following papers relating to enlistments in Massachusetts, and purporting to be copies of the letters called for from the Secretary of War in House resolution of December 15, 1864, were referred to the committee:

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., December 21, 1863.

Recruits for Massachusetts regiments, enlisted with conditions that they should be discharged when their regiments should be mustered out of service, as per General Order No. 23, headquarters, State of Massachusetts, series 1863, will be permitted to reenlist as veterans under the same conditions as other men in the regiments.

This permission is applicable only to the men in question, and cannot be extended to other States. The authority to enlist men with condition that they should be discharged with their regiments was special and peculiar, and given only to the Governor of Massachusetts. It must be distinctly understood, however, that the men so enlisting cannot get the \$100 bounty provided by section six of the act of July 22, 1861, General Order 49, same year, unless they serve two years under original enlistment.

The foregoing is the decision of the War Department.

THOMAS M. VINCENT,  
Assistant Adjutant General.

Brigadier General S. WILLIAMS,  
Assistant Adjutant General.

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., December 22, 1863.

Sir: I am directed by the Secretary of War to inform you that recruits from Massachusetts regiments, enlisted under provisions of General Order 23, headquarters State of Massachusetts, July 22, 1862, will be discharged when the term of service of the regiment expires.

All recruits so enlisted will be entitled to reenlist as veteran volunteers so soon as they have been in the service two years.

I have the honor to remain, sir, very respectfully, your obedient servant,

THOMAS M. VINCENT,  
Assistant Adjutant General.

His Excellency GOVERNOR OF MASSACHUSETTS, Boston, Massachusetts.

In the letter of the Secretary of War of January 28, 1865, in response to House resolutions of December 15, 1864, calling for copies of the above letters, the following are copied from the files of the Department:

WASHINGTON, July 21, 1862—4.15 p.m.

Governor ANDREW, Boston:

You are authorized to say that new recruits for old regiments will be mustered with the regiment.

EDWIN M. STANTON,  
Secretary of War.

The foregoing telegram is given as it was written and transmitted, but Governor Andrew claimed, and no doubt correctly, that the word "out" was designed to follow the word "mustered," but had been inadvertently omitted, and

that he had so understood and acted upon it. This view has been assented to by the Department, so that it should read as follows:

WASHINGTON, July 21, 1862—4.15 p. m.

Governor ANDREW, Boston:

You are authorized to say that new recruits for old regiments will be mustered out with the regiment.

EDWIN M. STANTON,  
Secretary of War.

ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., December 23, 1864.

Sir: The Secretary of War directs me to inform you that all men enlisted in volunteer organizations from Massachusetts for the unexpired term of service of regiments, pursuant to his telegram of July 21, 1862, will be mustered out of service and discharged with the regiments to which they belong. It is, of course, unnecessary to add that this rule is not now in force.

I am, sir, very respectfully, your obedient servant,  
SAMUEL BRECK,  
Assistant Adjutant General.

His Excellency JOHN A. ANDREW,  
Governor of Massachusetts, Boston.

Two days after the receipt of the telegram of July 31, 1863, as given above, the following general order was issued by the Governor of Massachusetts, and enlistments into all regiments of that State were made accordingly:

[General Orders, No. 25.]

EXECUTIVE DEPARTMENT,  
BOSTON, MASSACHUSETTS, July 23, 1862.

1. By authority from the honorable the Secretary of War, it is hereby declared by the Governor that all soldiers who may enlist in any of the regiments of three years' volunteers will be discharged whenever their regiments are mustered out of service, in the same manner as those soldiers who enlisted at the time when those regiments were organized.

By order of his Excellency,

JOHN A. ANDREW,  
Governor and Commander-in-Chief.  
WILLIAM SCHOULER,  
Adjutant General.

From these documents it is manifest that at least two of the States were in 1862 expressly permitted, by authority of the War Department, to enlist men for the unexpired term of regiments then in the field, and the language, both of the letter to the Governor of Iowa and the telegram to the Governor of Massachusetts, would create a fair presumption that the rule of enlistment was general. There is nothing in these communications which would lead the people to suppose that the permission granted was "special and peculiar, and granted only to the Governor of Massachusetts."

It is, therefore, not difficult to understand how Governors, military committees, recruiting officers, and citizens in other States, were led to suppose that their soldiers would be enlisted on the same terms as those from Massachusetts and Iowa. That they did proceed on that supposition, and that the ranks of old regiments, thinned by from six to twelve months of battle and disease, were filled by volunteers to serve for the unexpired term of the regiment, and that, too, when in several States a draft for nine months' men was impending, is beyond question.

In view of these facts and considerations the duty of Congress is plain. The War Department has no authority to go behind the official record contained in the muster-roll. The remedy is in Congress. Your committee are very reluctant to recommend any measure which may tend to weaken or diminish our armies in the field. It is always a calamity to lose a veteran soldier from the service, and the passage of the accompanying resolution will authorize the discharge of a considerable number of valuable soldiers from the ranks; but your committee, believing it of still greater consequence that the Government deal justly and keep faith with its faithful soldiers, are not willing that the petitioners, now on duty in the field, shall be compelled to serve under a contract which they believe to be fraudulent on the part of the Government.

Your committee, therefore, recommend the passage of the accompanying joint resolution.

Mr. SCHENCK. We have already acted on that matter in a separate bill which has gone to the Senate. I do not think that we can compel the Senate to act on it any sooner by putting it here.

Mr. HOLMAN. The importance of this is manifest, and it will have a better chance in this bill.

Mr. SCHENCK. I do not object.

The amendment was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Clerk read the third section, as follows:

Sec. 3. And be it further enacted, That in computing quotas hereafter credit shall be given to the several States, districts, and sub-districts, for all men furnished from them respectively, and not heretofore credited during the present rebellion, for any period of service of not less than three months, calculating the number of days for which such service was furnished, and reducing the same to years: *Provided*, That such credits shall not be applied to the call for additional troops made by the President on the 21st day of December, 1864.

Mr. NOBLE. I move to strike out the proviso, for the simple reason that it will only do exact justice to those States which have furnished

a large amount of service in 1864. I trust there is on the part of the House a disposition to do justice to those States which furnished this service. I will say that the State of Ohio furnished in 1864 thirty-six thousand men for one hundred days. Those men were really taken from their employment for almost a whole year. They did not return within the one hundred days, nor were they immediately mustered in after the call. They were taken mostly from the agricultural districts during the very period of the year when they could be employed in their particular vocation. I think that we should have credit for those men.

Mr. SCHENCK. I will state why that proviso was inserted and why the Committee on Military Affairs have thought it best to insert it as a part of this section. The whole section is to cover precisely the cases referred to by my colleague.

Since the commencement of this war a great many troops have been furnished for periods of three months; and during the last summer something near sixty thousand troops were furnished by different States for the period of one hundred days. It seems to me that no man can overestimate, in their effect upon the war, and upon the campaign of the last season, the services rendered by those troops. The people and soldiers of those States responded to the call made upon them, and made their arrangements to furnish those hundred days' troops. Like my colleague who makes this motion, I am proud, at any rate, of the share Ohio took in that matter. Finding that in the campaign of last summer Grant absolutely required to be reinforced by the troops that were scattered along our railroads as guards, and that were garrisoning the different fortifications of the country, it became necessary to know how upon a sudden, without waiting for a draft, or the slow process of recruiting, a body of men could be obtained to put into garisons and on guard in the place of those old troops. In this contingency the Governors of Ohio, Illinois, Iowa, Indiana, and Michigan tendered to the Government eighty thousand men. The share of Ohio was to be thirty thousand. Within about fourteen days Ohio furnished not only thirty thousand, but, owing to the organized state of her militia, she furnished thirty-six thousand, being nearly forty full regiments. All the other States, behindhand in their militia organizations, finally succeeded in getting and furnishing twenty-six thousand troops. The eighty thousand were never furnished; but out of the sixty thousand Ohio gave upward of thirty-six thousand. Nobody can appreciate justly the value of the services of those men. They not only guarded our railroads and garrisoned our fortifications, but many of them asked to be sent to the field. Many of them did go, and they fell upon the field; were taken prisoners, and many of them are now lingering in southern prisons. They did what other soldiers did. The arrival of the first seventeen thousand from Ohio released forty-two thousand veteran troops around this city, who hurried to the relief and reinforcement of Grant.

But the difficulty of this matter is here. In the first place there was an absolute agreement, when these troops were furnished, that they should not be credited upon any call. Now the Committee on Military Affairs, looking back upon the subject, and upon the efficiency of those troops and upon what services they performed, thought that the States should not be held to a strict fulfillment of the agreement, but that they ought to have credit for those troops, calculating the number of days for which such service was rendered, and reducing the same to years. But while the committee propose to give credit for such troops who have served over a hundred days, they have thought proper to provide that they shall not be credited upon the draft now going on, for the reason that it would interfere with all the arrangements which have been made for this draft.

Mr. NOBLE. Is it not true that the people of Ohio and the other States who furnished these troops had no knowledge of any such arrangement as that spoken of by the gentleman from Ohio; and is it not true that the knowledge never came to the minds of the people until this winter?

Mr. SCHENCK. I knew it, and it was published in the papers at the time. Such an agreement was made, but the people were not a party to it, except through their Governors. I think with my friend from Ohio, my colleague, that

there is no question about the equity of making this allowance. It is a question of expediency whether we will do it upon this draft and thereby disturb all the calculations of the quotas of the States.

Mr. NOBLE. I know that at least one hundred of my constituents, one hundred days' men, fell in the engagement around this city, and their bones lie bleaching around Washington, or have been carried to their homes. I think it very unjust to Ohio unless the Ohio men be credited now. It cannot be presumed that we are going to have a dozen drafts, or many more, if any; and a credit proposed to be applied hereafter is not such a credit as the equity of the case demands. I think we ought to have the credit now, because I do not apprehend that we shall have many more opportunities to have the credit applied.

Mr. SCHENCK. The gentleman cannot be ahead of my own disposition to credit my State, and all other States and sub-districts, with their proper number of men, but I have suggested the reason why we propose not to do it now. It all lies in a question of expediency, the almost utter inability of getting at it now without unsettling everything which has been done in preparing for the draft. If we could have got at this subject at an early day, and could have legislated on it before the draft, as I would have preferred to do, then it might have been well enough to have taken the view of it which my colleague [Mr. NOBLE] takes.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles, when the Speaker signed the same: An act (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris;

Joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased;

An act (H. R. No. 389) for the relief of Mary Shircliff;

An act (H. R. No. 543) to increase the efficiency of the medical corps of the Army; and

An act (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City."

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. COBB, one of its Clerks, announced that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 160) for the relief of Chapin Hall; and

An act (H. R. No. 728) to pay to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension roll, \$300 annually, as a gratuity, in addition to the pension now paid them.

Also, that the Senate had passed bills and joint resolutions of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 387) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts, approved March 3, 1863;"

An act (S. No. 295) making additional grants of lands to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State;

Joint resolution (S. No. 114) authorizing additional copies of public documents to be printed for the Department of State;

Joint resolution (S. No. 122) relating to international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865; and

Joint resolution (S. No. 121) to purchase mail pouches or boxes, of Marshall Smith's patent, for the postal service, and for other purposes.

#### ENROLLMENT BILL—AGAIN.

Mr. J. C. ALLEN. I move to amend the amendment by striking out the last line. This question of allowing credit for the hundred-day men furnished by the States of Ohio, Indiana, Illinois, Wisconsin, and Michigan, is a very important one. I feel the force of the argument made by the gentleman from Ohio, [Mr. SCHENCK,] that the call was made under agreement with the Governors of those States that no credit would be asked for them. Still, sir, these men were

furnished. Many of them went into the battlefield, and all of them were stationed at some important military post, where their services were supposed to be most profitable to the Government. They were called out at a time when the climate of the South was most unhealthy, and many of them contracted disease from which they have not recovered. In a word, they endured all the hardships and performed all the duties incumbent upon any soldier in our armies during their term of service. They were furnished by those States, out of an anxiety to aid the Government in its exigency.

It does seem to me, Mr. Speaker, that the fact of this having been tendered as a free-will offering is no reason why these States should not now be credited with the men furnished. We are told that we had better not strike out the proviso, for the reason that, if we do, it will cause some difficulty in adjusting the quotas of these States. That is an argument which ought not to obtain here. These northwestern States that furnished the hundred-day men are responding promptly to the last call of the President; and I am rejoiced to learn from the adjutant general of our State that no draft will be necessary. Still it is but a matter of justice that the State should get credit for these hundred-day men, and let that credit go to the next call, if we are unfortunate enough to have another. I hope, therefore, that this proviso will be struck out. The War Department can afford to undergo the difficulty and trouble of adjusting the quotas. It can certainly afford it better than these States can afford to lose the benefit of that credit. I withdraw my amendment.

Mr. COFFROTH. I desire to move to amend this section by striking out the word "hereafter," in the first clause of the section.

The SPEAKER. That motion is not now in order. The question is upon the motion of the gentleman from Ohio, [Mr. NOBLE,] to strike out the following proviso:

*Provided, That such credits shall not be applied to the call for additional troops made by the President on the 21st day of December, 1864.*

Mr. J. C. ALLEN called for the yeas and nays upon that question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 72, not voting 49; as follows:

YEAS—Messrs. James C. Allen, Ancona, Arnold, Bally, Augustus C. Baldwin, John D. Baldwin, Brandegee, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Edger-ton, Eldridge, Finck, Grider, Hall, Harding, Harrington, Charles M. Harris, Herriek, Holman, Hutchins, Ingersoll, Philip Johnson, Kalbfleisch, King, Knapp, Law, Lee, Blond, Long, Marcy, James B. Morris, Morrison, Nelson, Noble, Norton, John O'Neill, Perry, Pruyn, Radford, William H. Randall, Ross, Scott, John B. Steele, Stevens, Stiles, Strouse, Stuart, Thomas, Townsend, Voorhees, Wadsworth, E. Washburne, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—61.

NAYS—Messrs. Allison, Ames, Anderson, Ashley, Baxter, Beaman, Blaine, Blair, Boutwell, Boyd, Broomall, William G. Brown, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Dawes, Denning, Donnelly, Briggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Grinnell, Benjamin G. Hardis, Higby, Asahel W. Hubbard, John H. Hubbard, Hulbard, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Charles O'Neill, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Edward H. Rollins, Schenck, Seefeld, Shannon, Sloan, Smith, Smithers, Starr, Sweat, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburn, Wheeler, Williams, Wilson, Woodbridge, Worthington, and Yeaman—72.

NOT VOTING—Messrs. William J. Allen, Alley, Bliss, Blow, Brooks, James S. Brown, Freeman Clarke, Cresswell, Thomas T. Davis, Dixon, Dumont, Eden, English, Ganson, Gooch, Griswold, Hale, Hooper, Hotchkiss, Jenckes, William Johnson, Julian, Kasson, Francis W. Kellogg, Kernan, Lazear, Mallory, McDowell, McIndoe, McKevy, Middleton, William H. Miller, Leonard Myers, Odell, Orth, Patterson, Pendleton, Samuel J. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Spalding, William G. Steele, Ward, Webster, Whaley, Wilder, Windom, and Benjamin Wood—49.

So the amendment was rejected.

Mr. INGERSOLL. I move to amend the section by adding to it the following:

*And provided further, That the period of actual service rendered up to the date of the call for troops shall alone be taken into account in making up the credits due States.*

Mr. GARFIELD. That is the law now.

Mr. INGERSOLL. I understand that the Attorney General has rendered a decision to-day contrary to the opinion the gentleman has expressed here. I understand the Attorney General of the United States has construed the law as meaning that the term of enlistment shall be

taken as the basis, instead of the term of service actually rendered. Now, I desire to have the law so amended that it shall be so explicit that it will not admit of such a construction as that which I understand the Attorney General to have given.

Mr. GARFIELD. In the very section before his eyes the gentleman from Illinois [Mr. INGERSOLL] can see these words: "during the present rebellion for any period of service of not less than three months."

Mr. INGERSOLL. That is the language of the old law, which has been construed, as I have said, by the Attorney General. It can do no harm to make the law explicit.

Mr. STEVENS. I would ask the gentleman from Illinois [Mr. INGERSOLL] if the purpose of his amendment is to have a three years' man count no more than a one year's man.

Mr. INGERSOLL. I propose to have him count for three times as much, for the actual service he has rendered. If he has served three years, then he will count as much as three one year's men.

Mr. WILSON. Suppose he has served but one year?

Mr. INGERSOLL. Then there will be a credit for one year's service.

Mr. THAYER. Suppose he has been killed? Mr. INGERSOLL. He cannot serve after he is dead.

Mr. THAYER. If he enlisted for three years, and has fallen in battle, he should be credited as a three years' man.

Mr. JOHNSON, of Pennsylvania. I move *pro forma* to strike out the last words of the amendment. It strikes me that the amendment is proper and just. I am opposed to the calculation of credits based upon a service to be rendered two or three years hence, unless this Government will satisfy me that the war is to last so long, and the parties are to render that service. I am opposed to the calculation upon which the present draft has been ordered, for the reason that I say it is unjust to give credit to a locality for a man who has merely promised to render service two years hence. Upon the present calculation of Provost Marshal General Fry, a man who entered the service yesterday for three years is to be counted as three men who have served one whole year each; thus putting their actual service in the field against the promises of men who may run away to-morrow. I am opposed to that basis of calculation.

I withdraw my amendment.

Mr. SCHENCK. I doubt whether the gentleman from Illinois [Mr. INGERSOLL] will accomplish the object he has in view. In all future computations he says that the period of service shall be considered. If he means the period of enlistment then I see how it can be arrived at; but it will require in the case of every one wounded, every one killed, every one dismissed, and every one discharged, that you shall find the exact number of days in order to enter into a computation. The thing is impracticable. It would take about a year to make the calculation in reference to any sub-district draft from the Adjutant General's Office.

I suggest to the gentleman from Illinois that his amendment probably does not indicate what he really intends. If that is what he wants I must vote against the amendment, no matter what principle is involved.

I withdraw my amendment to the amendment.

Mr. INGERSOLL's amendment was disagreed to.

Mr. SMITHERS. I move to insert the following:

Sec. 4. *And he it further enacted, That hereafter it shall be the duty of the provost marshal in each enrollment district to cause copies of the enrollment of each ward, township, election precinct, or other sub-district thereof, to be posted in at least three public places therein for thirty days before the time fixed for any draft; and thereupon it shall be the duty of every person whose name is not on the list posted in the ward, township, election precinct, or other sub-district in which he resides and who is liable to enrollment therein, under the provisions of the several acts to which this is an amendment, to report himself, in person or by writing, for enrollment to the enrolling board of the district where he resides; and any such person who, for twenty days after the posting of such lists, shall willfully neglect to report for enrollment, shall be deemed guilty of a misdemeanor, and upon indictment and conviction thereof by any court of the United States of competent jurisdiction, shall pay a fine of \$100, and in default of payment thereof shall be imprisoned for thirty days. It shall be the duty of the provost marshal of the district to report such cases of delinquency to the district attorney of the*

United States for the judicial district in which the delinquent is liable to enrollment.

Mr. Speaker, this amendment is offered with the concurrence of the Committee on Military Affairs, and it is to carry out what I presume they intended by the first section. This, I think, is in a more acceptable form. My objection to the first section was that it compelled every person to report to the enrolling officer under rigid rules; and in the second place it directed that no notice should be given to the persons not enrolled. This provides that the provost marshal shall, thirty days before the time fixed for the draft, post in three public places lists of those enrolled, so as to give notice to persons in the enrollment districts whether they are or are not enrolled, and that then, on such publication, it shall be the duty of every person not enrolled to report in person, and in case of willful neglect to do so within twenty days, he shall be guilty of a misdemeanor. It seems to me that this protects the citizens on the one hand, while on the other hand it protects the Government.

Mr. THAYER. I rise to oppose the amendment. It contains the very principle which has been already emphatically condemned by the House—a principle which I undertake to say would be more obnoxious to the people of this country than any provision contained in the enrollment law.

Sir, there are many things a man will submit to be done to him which he does not like to do to himself. I cannot conceive of any proposition which would be more unpopular or dissatisfactory, or which would make the present enrollment law more distasteful to the people, than that principle which this House has already condemned, and which the committee sought to incorporate into the law, namely, the principle that every man shall be compelled to go to the enrolling officer and report himself as liable to enrollment. I see no material difference between what was proposed by the Military Committee and what is now proposed by the gentleman from Delaware. It simply postpones the duty, which by the section as originally reported was imposed upon the party, to a later period of time. The principle itself is there; the very principle which this House condemned, and which only postpones the obligation which was sought to be imposed until after the enrolling officer shall have made this publication.

There is no public necessity which requires us to ingraft upon this law any feature which will make it more offensive to the people than it is already. It is at all events and under any circumstances a bitter law, a law which nothing but the exigency of public affairs would sanction.

Let us not push the provisions of that law one jot further than the necessities of the case require. Let us strive to soften, if it be possible, its features so long as we may preserve its efficiency. I believe that no public necessity exists for the addition to that feature which is now proposed. I know of no district in which any considerable numbers of people have escaped the vigilant eyes of the enrolling officer. I have heard of no district in which any such complaints exist. These officers have discharged their duties everywhere, so far as I know or have been able to learn, with great thoroughness and great fidelity. There has been no complaint I ever heard of that these officers have passed over those who are liable to military service; and there is therefore no necessity for that stringent feature which is now attempted to be ingrafted on this law, and which will make it odious in the eyes of the people.

Mr. PRICE. I move to amend the amendment by striking out "thirty" and inserting "twenty-nine." I move the amendment for the purpose of enabling me to correct a wrong impression which the gentleman from Pennsylvania [Mr. THAYER] evidently labors under. Now, sir, it is well known to every gentleman in this House that there are persons who attempt to evade the draft. There are persons in almost every election precinct in every loyal State of the Union who by every dishonorable means endeavor to evade it. That they do evade it is a matter of fact and of history; and the amendment offered by the gentleman from Delaware seeks to remedy this evil, but in some legitimate and fair manner. If it is made the duty of the provost marshal to place the lists of each sub-district, township, and election precinct where

the parties interested can have an opportunity to examine them, they can learn whether their names are on the lists; and if they are honest men, and their names are not on the lists, they will report themselves to the provost marshal. And now objection to that is made by the gentleman from Pennsylvania, and with worse grace than from almost any other State. No voter in the State of Pennsylvania can exercise the elective franchise unless his name be on a list furnished by the commissioner of the county a certain number of days before the election.

Mr. THAYER. I have been a voter a great many years in Pennsylvania, and I know of no law which declares that a man shall not vote whose name is not upon such a list. On the contrary, the daily practice is for persons to vote whose names are not on the list, provided they have the proof that they possess the necessary qualifications.

Mr. PRICE. If the gentleman had heard me through he would have ascertained that I know something of the laws of Pennsylvania, and that I would do neither him nor his State any injustice. I have no intention of disparaging the gentleman or his State; but I merely wished to state that the same rules prevail there in relation to the elective franchise, as nearly as they can be made to apply, as are sought to be applied to the draft by the gentleman from Delaware. If the voter's name is not returned by the county commissioner a certain number of days before election, it is made the duty of the elector to place his name upon the list, and if he fails to do that he cannot vote.

Mr. THAYER. There is no such law in Pennsylvania.

Mr. PRICE. He cannot vote at the election unless he proves his residence in the district by a resident of the district. Such was the law in Pennsylvania when I lived and voted there, and I think it is the law now.

No injustice will be done to any class by this amendment. If a man does not wish to avoid the draft, and he is an honest and honorable citizen, if he finds that his name is not upon the list of persons subject to draft, he will have it placed there. But if he willfully and deliberately attempts to defraud the Government of the proper use of his name, a penalty should be inflicted upon him for the purpose of protecting honest and honorable men who have their names upon the lists. It is the intention of the amendment to protect the honorable, the fair-minded, and the patriotic citizens of the country, against the dishonorable, the unpatriotic, and the traitorous members of the country.

Mr. STEVENS. Does the gentleman suppose that the names are put upon the list by the citizens themselves? Are they not enrolled in the ordinary way?

Mr. PRICE. By the amendment it is made the duty of every man who, upon examining the lists, finds his name is not there, to go and make return of it to the provost marshal. If he does not do that, the penalty of the law should be inflicted upon him.

This is no mere theory, sir. It is a matter of fact and history. The experience of the last four years has proved, to demonstration, that there are men who shirk the draft, and by every means in their power seek to evade it, making the loyal and patriotic part of the community bear the burden which they themselves should share. I hope the amendment of the gentleman from Delaware will prevail, and that this burden will fall alike on all men, whether they are willing to bear it or not. I withdraw the amendment to the amendment.

Mr. GARFIELD. I move to close debate on the section and on all amendments thereto.

The motion was agreed to.

The question was taken on Mr. SMITHERS'S amendment, and it was rejected.

Mr. SCHENCK. I move to amend the fourth section by striking out the words "and whose father is subject to enrollment and draft;" so that the section will read:

SEC. 4. And be it further enacted, That no person of foreign birth who has resided in the United States for three years preceding his arriving at the age of twenty-one years, shall be exempt from enrollment and draft on account of being an alien, but shall be subject thereto.

In offering this amendment, Mr. Speaker, I am enabled to explain the object of this section, and

at the same time to show that the amendment which I propose is consistent with that object. By the present enrollment law all persons who have declared their intention to become citizens are made liable to enrollment and draft. They are considered as owing allegiance to the Government. They are considered as coming under the principle of that decision which made the difficulty in the Koszta case—as having so far broken off their character of aliens and come within the character of American citizens as to be liable to be called for to assist in defending the country. That principle being settled by the statute covering the subject of enrollment and draft, it is proposed now by the amendment to extend it to a class of persons who stand in precisely the same relation to the Government. A minor who has been in the country for three years next before arriving at the age of twenty-one is held to occupy the same relation to the Government on the question of citizenship as the foreigner who has declared his intention to become a citizen, for after two years more he can become naturalized without any previous declaration of intention. It is proposed, therefore, that while you make liable to enrollment and draft those aliens who have declared their intention, you shall extend the same rule to those who, having resided here three years before attaining the age of twenty-one years, have done that which is equivalent to a declaration of intention. It is an amendment which will greatly benefit the State of Wisconsin and several other of the northwestern States, by bringing a class of persons within the enrollment act who now evade the draft, while enjoying all the privileges of citizenship, even to voting, in those States.

Mr. KERNAN. Will the gentleman from Ohio permit me to ask him a question?

Mr. SCHENCK. Certainly, sir.

Mr. KERNAN. Can you compel an alien who has lived here three years to serve in the Army?

Mr. SCHENCK. We are doing it now.

Mr. KERNAN. I have seen instances where such persons have been discharged by the courts. What is the practice?

Mr. SCHENCK. The gentleman will recollect the angry correspondence that took place with the Government of Austria in reference to the Koszta case. He had declared his intention, and it was held to be consistent with international law that we should treat, as entitled to all the protection of citizens, those who had declared their intention to become citizens. That being the case, the Government has gone further, and has already extended to that class of people the obligation of serving in the Army. This amendment is carrying out the principle. I do not say that I ever agreed to the principle originally.

Mr. KERNAN. There is this difference in the two cases, that where the one has signified his intention to become a citizen, the other may have had no such desire.

Mr. SCHENCK. I suppose the gentleman means to put his objection on the ground that, being minors, such persons are incapable of declaring their intentions on any subject.

Mr. KERNAN. No, no; I do not.

Mr. SCHENCK. If the gentleman does not make that technical objection, then I hold that they come within the scope of the laws of the United States, which treat them as doing that which is equivalent to declaring their intention to become citizens, if they are here for the three years next preceding the age of twenty-one years.

Mr. KERNAN. A man who declares his intention to become a citizen, as soon as he can do so under the law, has elected to throw off all allegiance to his former Government and to become a citizen of our country. But a man who comes here and lives three years, and has never signified any intention to throw off his former allegiance and become a subject of our Government, is in a very different condition.

Mr. SCHENCK. I think the gentleman does not understand my proposition. This bill does not propose to hold every man subject to draft who has been here three years as an alien, but only those who have resided here for three years next preceding becoming twenty-one years of age; which, by our law, is held to be equivalent to a declaration of intention to become a citizen of this country.

Mr. KERNAN. Suppose the father comes here and the son lives with him for three years



before he is twenty-one; the son may not wish to become a citizen and does not intend to throw off his allegiance to the Government of the country in which he was born. Can we justly compel that son to serve in our military service the same as though he had declared his intention to become a citizen?

Mr. JOHNSON, of Pennsylvania. The argument in favor of holding a man liable to draft because he has been in this country for three years prior to his becoming twenty-one years of age seems to me to be very unreasonable. Why not hold a man liable who has been in the country for three years after he was twenty-one years of age? Why seize upon the party who has been in the country contrary to his own will, and because his father brought him here, and make him liable to the draft? Why take a man who has done no act and taken no step to throw off his allegiance to his native country and to take upon himself allegiance to this as his adopted country? It makes responsible and liable to draft a party who has no will of his own, one who was under twenty-one years of age when brought into this country, merely because he has lived here three years before he arrived at the age of twenty-one years. And if you do that, why not extend the provision to the man who, without declaring his intentions, has been in this country for three years after he was twenty-one years of age? If you can do the one rightfully you can just as well do the other.

This proposition is based upon the fact that a man who has been in the country for three years before he is twenty-one years of age, is permitted, under our present statutes, when he has remained here two years after he has become twenty-one years old, to go into court, declare his intention to become a citizen, and at once become naturalized and be made a citizen of the United States. But even he must have been here five years altogether before he makes his declaration of intention and becomes a citizen. This proposes to hold the party as doing an act, when in contemplation of law he is unable and has not the will to do it. It would be operating manifest injustice upon the class of persons whom it is thus proposed to make subject to a draft.

And more than that, it would be going beyond our power, and would most probably involve us in difficulties with foreign Powers. We have no right to seize upon foreigners, whether minors or adults, whether under the age of twenty-one years or above it, unless they have in some way signified their intention to throw off their allegiance to their native country, and to take upon themselves the obligations of allegiance to this Government. The mere lapse of time cannot raise a presumption as to what a man intends to do in regard to his citizenship. The statute as it stands merely extends to parties a privilege of which they may avail themselves if they see proper to do so. We have no right, because the statute has extended this privilege to them, to assume that it is made compulsory upon them to assume the obligations of citizenship.

Mr. CHANLER. I move to amend the amendment by striking out the last words "and draft."

Mr. SCHENCK. I raise a point of order. I have moved to strike out certain words in this section. Is it in order to move as an amendment to my motion, to strike out a portion only of what I propose to strike out?

The SPEAKER. It is in the nature of an amendment to an amendment, and is in order.

Mr. SCHENCK. Very well. I will only say that I think the gentleman from New York [Mr. CHANLER] has already made six ten-minute speeches, and he only threatened us with an hour's speech at first.

Mr. CHANLER. That is but another specimen of the small bullying which is characteristic of the gentleman from Ohio, [Mr. SCHENCK.] This effort on the part of that gentleman to cramp debate is evidently merely for the purpose of gratifying his own peculiar way of wriggling out of a difficulty, and shows remarkable ingenuity, perhaps, but very little moral courage.

This section is, probably, beyond all others, the most positive proof of the utter failure of this system as a means of enrolling and calling out the armies of the United States. Is there anything that could show a stronger conviction of the utter unwillingness of the American citizen to fight for

the institutions of his country and to die for the cause in which he has so often and so well fought, as to go forth throughout the length and breadth of the land to capture minors who are not yet citizens, not yet entitled, under the law of this country, to bear the burdens and discharge the duties of citizenship; men who, as has been shown by my colleague [Mr. KERNAN] and the gentleman from Pennsylvania, [Mr. JOHNSON,] owe allegiance elsewhere? By the system which you have inaugurated, you have, under the plea of "necessity," exhausted all the elements which should form a strong and patriotic Army. You have sought the slave as a substitute for the soldier. By degrading the position of the soldier you have failed to fill the armies by enlisting the citizens of the country. And it is now proposed to seize upon those who, from political necessity or the spirit of enterprise, have come from foreign lands to seek the shelter of our flag and Constitution, embracing the invitation which we ourselves have extended. This is a most effective way of writing down the American citizen as afraid to meet the dangers which surround his country at this epoch.

Let this Government rely upon the constitutional provisions for the raising of our armies and the calling out of the citizens by the States, and we shall need no such provisions as these. Let the Government rely upon the spirit of the people; let it rely upon the volunteers of the country. We have relied upon them heretofore. The armies in the field to-day embrace many veterans who rushed to the front to serve the country. The heroes of General Sherman's army are not the conscripts; they are not the emancipated slaves; they are not the aliens, whom gentlemen would hereafter draft to form into an army for the carrying out of tyrannical purposes. No, sir, the victories won at the South are won by American citizens who have voluntarily, from motives of patriotism, gone into the service. They are not hirelings from every quarter of the globe, brought here by the captivating bounties which this system of draft has caused to be offered. They are not the miserable wretches who, having fled from slavery, have found a refuge beneath the flag of the United States because they wear the uniform of soldiers. No, sir, they are the men who have remained in the field, and, spite of trials and discomforts, have fought their way through to victory. They demand from us proper companions in the conflict. They demand from us a proper estimate of their services and their virtues. Let us no longer depreciate the American soldier to that contemptible standard to which all systems like the draft must reduce him. The Constitution of our country, the character of our people, the whole tenor of our institutions are in favor of that system by which the citizen brings his free-will offerings to the temple of liberty. Yet gentlemen in this House seek to pervert that principle and set at naught the Constitution by advocating measures like this.

Sir, the military necessity under which this system of draft began has ceased; but the necessities of trade still exist. Stop the trade of your generals in the field in cotton; prevent them from falling victims to the sweet influence of sugar; stop their yearnings to finger the glittering metal as it gleams upon them through the open door of a fire-proof safe; teach them that to covet is crime. Sir, rely upon the people. Rely upon the military character which they have shown in the past. You cannot get by importation better soldiers than the natives of your own soil. Do not go begging from country to country to fill up the ranks of American armies. Do not rely upon the "American citizen of African descent;" but rely upon the white citizen, the man whose hopes and aspirations are all wrapped up in the liberty and glory of his country and the maintenance of his flag.

[Here the hammer fell.]

Mr. JOHNSON, of Pennsylvania. Is it in order to move to strike out the section?

The SPEAKER. It is.

Mr. JOHNSON, of Pennsylvania. I make that motion.

The SPEAKER. The motion will be reserved till the amendments designed to perfect the section have been acted upon.

Mr. GARFIELD. I move to close debate upon the section and pending amendments.

The motion was agreed to.

Mr. CHANLER. I withdraw my amendment to the amendment.

The amendment of Mr. SCHENCK was agreed to. Mr. SCHENCK. I move further to amend by inserting before the word "preceding," in the third line, the word "next."

The amendment was agreed to.

The question then recurred upon the motion of Mr. JOHNSON, of Pennsylvania, to strike out the section.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 81, not voting 51; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Chanler, Clay, Coffroth, Cox, Dawson, Denison, Eden, Elderton, Eldridge, English, Finck, Ganson, Charles M. Harris, Herrick, Philip Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Bond, Long, Mallory, Marcy, McKinney, William H. Miller, Nelson, Noble, John O'Neill, Perry, Pruyn, Radford, Samuel J. Randall, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Thomas, Townsend, Voorhees, Wadsworth, Joseph W. White, Winfield, and Fernando Wood—50.

NAYS—Messrs. Allison, Ames, Bally, John D. Baldwin, Baxter, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Jencks, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pomeroy, Price, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Sloan, Smith, Smithers, Starr, Stevens, Thayer, Tracy, Upton, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Williams, Wilder, Wilson, Woodbridge, Worthington, and Yeaman—81.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Ashley, Beaman, Blaine, Blair, Bliss, Blow, Brooks, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Dixon, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Hotchkiss, Hutchins, Ingersoll, William Johnson, Julian, Kasson, Francis W. Kellogg, McDowell, McIndoe, Middleton, James R. Morris, Odell, Patterson, Pendleton, Pike, William H. Randall, John H. Rice, Robinson, Rogers, Shannon, Spalding, William G. Steele, Swear, Ward, Wheeler, Chilton A. White, Windom, and Benjamin Wood—51.

So the House refused to strike out the section.

The third section was read, as follows:

And be it further enacted, That hereafter, in every case of actual desertion by a substitute, if such person so deserting shall have been, since the passage of this act, mustered into the service as a substitute for a person liable to draft and not actually drafted, the name of such person so liable to draft, and who furnished such substitute, shall be again placed upon the list, and he shall be liable to be drafted for the unexpired term of service of such substitute so deserting. And if such substitute, so deserting, shall have been, since the passage of this act, mustered into the service as a substitute for a person actually drafted, then the Provost Marshal General shall direct the provost marshal of the proper district immediately to notify the person who furnished such substitute that he is held to service in the place of such substitute for the unexpired term of his service, and he shall stand in the same relation and be subject to the same liability that he was after he was drafted and before he furnished such substitute. And it is hereafter made the duty of the Provost Marshal General to cause to be charged to the several wards, townships, precincts, or other enrollment sub-districts, and added to their several quotas, the number of desertions of persons who have been furnished by such wards, townships, precincts, or other sub-districts, in the filling of their several quotas of troops. But nothing in this section shall be construed to relieve any soldier guilty of desertion from trial, conviction, or punishment for his crime: *Provided, nevertheless*, That it shall be lawful for the person, district, or corporation that shall have put in such substitute, to arrest the deserter, or cause him to be arrested and returned to his proper company, or to some officer designated by the Provost Marshal General, without cost to the Government; and upon his being so returned to service, and remaining therein until the expiration of his term, the principal shall be relieved from other liability for his service.

Mr. RANDALL, of Pennsylvania. I move to amend by striking out the last word. I desire to inquire of the chairman of the Committee on Military Affairs what necessity of the military service requires the insertion of this section?

I desire to look at the equity of the section. Let me suppose a case. Suppose I am drafted, and in good faith, in the interest of the Government, furnish a substitute for which I have either to pay money or involve myself in debt. Of course the Government takes charge of that substitute—I have by no possibility any charge of this person; and yet if he is induced to desert, by no fault of mine, the Government comes back on me. Then I will have to go in his place although I have had no charge of the substitute and no control over him from the moment that he was accepted and mustered into the service of the United States.

I should like to know, sir, from the chairman of the Committee on Military Affairs the reasons which induced them to incorporate that provision into this bill. You might as well ask me to hunt a thief and become a detective as to do this thing; to make me responsible for the substitute after he has been mustered in. I think that it is so plain a case that even the chairman, with his military experience, will hardly claim that it ought to pass.

Mr. SCHENCK. Mr. Speaker, in opposing the amendment I shall be able to answer the question why such a section was deemed necessary by the Military Committee. There is certainly misapprehension on the part of gentlemen in this Hall on both sides in reference to the relation which the members of the Military Committee bear to this subject of raising armies by enrollment and draft. Gentlemen on the one side and the other seem occasionally to feel themselves called upon not only to suppose, but to express the opinion that there is a disposition on the part of the committee to tyrannize over the people of this country, to make harsh laws. It may be considered that we of the committee stand here the Representatives of the people, for the people, and of the people, as much as other gentlemen in the House.

What are the provisions that we have inserted in this bill? The conclusion in reference to the provisions submitted on the part of the committee has been reached after such investigation as we could give, deriving information on the several points involved from whatever legitimate and authentic source we could. We have framed this bill, and the various sections of it, after consultation with the authorities here, with the Provost Marshal General and the head of the War Department, after consultation and correspondence with enrolling officers all over the land, after looking into correspondence which we have had with Governors of States, after looking into innumerable communications made to us by members themselves, and communications coming from citizens throughout the country; and we have endeavored from this information, derived from all sources, to ascertain what were the defects of the present law and what would be the best remedy for them. Among these defects is one which arises from the present loose method of permitting substitutes to be put in. I do not know whether I will have time to have read some extracts from the report of General Hinks, who has had charge of the rendezvous camp at New York; but I know that it would be profitable information to this House. He shows what has been his experience and observation at that rendezvous camp for recruits and substitutes at New York. It is a paper which has been ably prepared. It presents the whole subject fully. It shows how it is that our best regiments in the Army have been running down under the present substitute system.

The SPEAKER. Does the gentleman desire the whole of it read?

Mr. SCHENCK. No; only the parts I have marked. But I want first to respond to the gentleman from Pennsylvania. I will illustrate one of the best regiments in the service, made up of men entirely from one of the States, when thinned by battle and disease was, under the substitute system, filled up with substitutes from Canada and everywhere else, and now, by desertions of these substitutes to the enemy and elsewhere, it stands as one of the most inefficient. And the history of that regiment is but the history of a great many regiments that have been filled up by the class of persons obtained by substitution all over the land, with little or no reference upon the part of those obtaining the substitute, and no care upon the part of the substitute broker, to the character and good promise of the individuals thus put in.

One word now in regard to the principle involved in this whole thing. I look at it from a stand-point different from that which many gentlemen take, when they say the Government enters into a contract with the man who furnishes the substitute that when he has furnished the substitute the contract is executed upon his part; and he must be released forever thereafter. I deny all that. I say that every individual, instead of making a contract, is but discharging a duty; one imposed on him and on all other citizens liable

to military service. I hold that every man, at least within the proper age, owes personal military service to the Government in its time of trial and trouble, in order to protect and preserve it; and that when called upon to yield that service, under the forms of law, the Government deals with him liberally when it says, "You are bound to serve one year, for instance, unless by the act of God prevented; but we agree that you may do that service by another. But the service we must have; and you may give it by yourself or by proxy; but you must be answerable for your proxy; not if he dies, not if he is sick, not if he becomes disabled in the service; but you shall not plead his crime—for desertion is a crime—any more than you could by your own ill deserts get rid of giving this year's service."

The mistake of gentlemen consists in treating this as a matter of contract. It is a matter of personal obligation resting upon every man when called upon to help and defend the Government, to give his time and service to that end; and it is a matter of liberality upon the part of the Government to say he may do it by another; but the Government ought not to go so far as to say he need not do it at all if he who is substituted fails to yield this service. The Government should say that the principal shall be held responsible for the agent, and that he or his agent shall perform the service.

I know a plausible argument may be drawn from this: that when the substitute is turned over to the Government, and comes under the charge of the military authorities, he may desert because he is badly treated, or from laxity of discipline, and that the fault is with the Government and not with the individual who furnishes the substitute. I answer that by saying that you shall not be permitted to plead the crime of this desertion of your substitute as a ground of release. If there be laxity of discipline, or severity of discipline, or other fault on the part of the Government authorities in carrying out the military laws, that cannot excuse a party for committing the crime of desertion either by himself or his representative.

[Here the hammer fell.]

Mr. RANDALL, of Pennsylvania, withdrew his amendment.

Mr. J. C. ALLEN. I move to amend this section by striking out the following:

That hereafter, in every case of actual desertion by a substitute, if such person so deserting shall have been, since the passage of this act, mustered into the service as a substitute for a person liable to draft and not actually drafted, the name of such person so liable to draft, and who furnished such substitute, shall be again placed upon the list, and he shall be liable to be drafted for the unexpired term of service of such substitute so deserting.

I move this amendment in order to express my views with reference to this provision. It will not be contended that this law, or any other conscript law that we can have in a republican Government, is not repugnant to the feelings of our people; and this feature ingrafted upon this bill by the Committee on Military Affairs, in my judgment, is the most repugnant provision that has been submitted to the House or country. I am not at all astonished that the gentleman from Ohio [Mr. SCHENCK] should insist upon this provision, for time and again has he announced to this House that in his opinion the substitute clause ought to have been stricken out of all bills for conscription. Congress, however, has seen fit to adopt a different policy, and the House time and again has expressed its views upon this question; and now, near the close of the session, when a heavy call for men is pending, the Military Committee, through its chairman, presents this bill with a provision in it not only making every man responsible for his own sins against the Government, but responsible for other people's sins. Such a provision in a law of this kind cannot be found upon the statute-books of any country. It is unjust and wrong, and cannot be defended upon the theory of the gentleman from Ohio that every man owes service to his Government. I admit that every man owes allegiance and service to the Government of the country. But where the legislation of the country prescribes how he may discharge that allegiance and service I insist that it would be a violent wrong to make him responsible after he has complied with the law and furnished his substitute.

I have no doubt, Mr. Speaker, that in many

instances parties have been put in as substitutes who have deserted from the service. But is that any reason why you should compel those who have furnished substitutes to become personally responsible for the failure of their substitutes to perform their duties as required by the regulations of the War Department and by the law of the land? We had better at once strike out of the conscription law every provision looking to the employment of substitutes, than adopt this section. It may be that men do desert. Doubtless there are thousands of instances in which they have deserted. But that is not the fault of the citizens who employ them and put them into the service. They are not in default. They have complied with the provisions of law. They have done what the gentleman from Ohio [Mr. SCHENCK] or any other member of the House would do—discharge faithfully every obligation and duty which he owes to the Government by complying with the law. After the substitute has passed beyond the control of the principal, after he has put himself under the command, direction, and supervision of the military officers, should we still exact another important obligation from him, that is, to make him responsible for the good conduct of the substitute?

Why, Mr. Speaker, if the gentleman from Ohio can maintain that principle he may as well go a step further and insist that there shall be inserted in these conscription laws a provision making the principal responsible for the substitute not only in case of desertion, but also in case of cowardice in battle. In my view open cowardice on the field of battle is as great a crime as desertion; and if the principal be held responsible for his substitute in the one case, he should be so held in the other case also.

It does seem to me, Mr. Speaker, that if the gentleman from Ohio had sought to make his bill odious in the last degree to the people he could not have done so better than by embodying in it this provision. I am in favor of filling up the ranks of the Army, and I repeat a sentiment that I uttered a moment ago on another question—that I am proud of belonging to a State that has not had to resort, in any considerable measure, to conscription laws to fill up its quotas of men required for the defense of the Government. I may be permitted to say further, that if we had pursued a different policy, and relied upon the patriotism of the people to defend the country, I believe we could have prosecuted this war with more success than it has been prosecuted under the pet scheme of the gentleman from Ohio [Mr. SCHENCK] of forcing men into our armies. I do not believe in resorting to these extreme methods of filling our armies. The law has too many odious features in it already to meet my approbation. I do not intend that the people whom I represent shall be insulted in this way. I withdraw my amendment.

Mr. STEVENS. I move to amend by striking out all in the section after the words "be enacted" and inserting in lieu thereof the following:

That whenever, under the provisions of this or any previous act for the enrollment and calling out of the national forces, a substitute has been or shall be accepted and mustered into the service, the person furnishing such substitute shall be exempted from draft and from the performance of all duty for which such person was or shall be liable to draft, for the period for which such person was liable to draft, or for which such substitute was not liable to draft. Such acceptance and mustering in of the substitute shall be conclusive in favor of the principal.

I do not think it worth while to say much about this, because I do not believe anybody is in favor of this section except my gallant friend, the chairman of the Military Committee. If he had made it consistent by putting in it that when the substitute deserted the principal should be shot, or if the substitute committed larceny the principal should be sent to the penitentiary, then the section might have had more of vigor in it than it now presents.

Mr. WADSWORTH. Will the gentleman from Pennsylvania [Mr. STEVENS] yield to me a moment to offer an amendment which I think will be found in accordance with the suggestion he has made?

Mr. STEVENS. I have but a few words to say; I will be through in a moment, and then the gentleman will have an opportunity to offer his amendment.

Mr. WADSWORTH. It seems to me that

this is the proper place for it. I do not wish to say anything; merely to offer the amendment.

Mr. STEVENS. Very well; I will yield a moment for that purpose.

Mr. WADSWORTH. I move to add the following to the section:

Every person furnishing a substitute shall be answerable for his conduct; if the substitute deserts, the principal shall be shot; if the substitute runs away in battle, the principal shall be imprisoned at hard labor during the war, at the Dry Tortugas; if the substitute robs a hen-roost, the principal shall carry a rail on his shoulder for two hours.

Mr. STEVENS. I have to say in regard to that amendment, that the gentleman from Kentucky [Mr. WADSWORTH] has made a very creditable attempt to carry out the line of my argument.

The substitute which I have offered in place of this section I suppose is what the present law was meant to be. But the Department does not so construe the law. Last week I received a letter from a highly respectable person in my district, in which he stated that some months ago he furnished a substitute for three years, who was examined, accepted, and mustered in the service. About a month ago it was found that the substitute was subject to epileptic fits, and the principal was called upon to furnish another man in his place, although the Government after due examination had accepted the man he first offered. I therefore think the proposition I have submitted is absolutely necessary; although I should not have thought so if I had not heard of the decision made upon this subject. However, I do not wish to take up the time of the House upon this subject, and therefore will say no more upon it.

Mr. JOHNSON, of Pennsylvania. Before the vote is taken upon the amendment of the gentleman from Kentucky, [Mr. WADSWORTH,] I desire to offer an amendment to the substitute proposed by my colleague, [Mr. STEVENS.] I move to add to his substitute the following:

And in all cases where heretofore persons drawn under supplementary drafts to fill quotas shall have furnished their principals, and both are held in actual service, those drawn as supplemental shall be discharged from such service.

The supposable cases which have been stated to the House as cases which would probably arise under the law under consideration, have created some merriment because of their ridiculous character. The gentleman from Ohio, the chairman of the Committee on Military Affairs, [Mr. SCHENCK,] remarked that from his stand-point he did not see the law in the light in which some gentlemen seem to see it. I have no doubt that such is the fact. Under the administration of the law as it now exists, so much is left to the discretion of the district provost marshals, as well as to the Provost Marshal General, that the operation of the law is felt to be very materially different in different sections of the country.

My amendment proposes simply that where a man has been drawn in a sub-district as supplemental to fill the place of one who was drawn before but did not report, and both are now in the service, the man who was drawn as supplemental shall be discharged. I would laugh at the idea of offering such an amendment as this, if I did not know that it was necessary. I know of two cases in my district where a supplemental draft was had to fill the place of one who had been drafted before but did not report. When the party heard that his name was drawn at this supplemental draft he started off and on his own responsibility caught the delinquent and took him to the office of the provost marshal. The provost marshal ordered the uniform to be put upon both of them, and they are both to-day in service at the front. I know of two cases like that which occurred in my own district. They have applied for redress; I do not know what course their applications have taken; probably pitched away one side in the Department, and in the multiplicity of business pressing upon the officers in that Department they have not been able to get a hearing.

Now this does seem to be most monstrous injustice. In the first place, it is unjust, simply because a party is delinquent, that a draft be made upon a district and the neighbor taken while the delinquent is allowed to go. But it is still worse where the party drafted at the supplemental draft comes forward, catches the man whose place he was drawn to fill, and takes him to the office of the provost marshal, who seizes both and puts

them both in the service. It is, however, in harmony with the spirit of this section; and therefore my amendment, ridiculous as it may seem upon its face, becomes absolutely necessary and is germane.

I will not undertake to discuss the proposition of the section under consideration. It seems to me that the judgment of the House is against it. It is hard to tell, however, what this House is going to do. I have been surprised at some of its votes, as I would be surprised if it should fail to strike out this section. I have, therefore, felt it my duty to offer this amendment now, so as to perfect the bill as far as possible in the event that the section shall not be stricken out.

Mr. FARNSWORTH. The amendment offered by the gentleman from Pennsylvania embraces substantially a section which was proposed at the last session of Congress, and which was voted down, to the effect that the principal should be exempted from all further draft or call during the time for which his substitute was accepted. The law at present is, as I understand it, that the principal shall be exempted from the impending draft.

Mr. STEVENS. No, sir.

Mr. FARNSWORTH. That is my recollection. At any rate, as the amendment proposed by the gentleman from Pennsylvania emasculates this entire section, changes its whole character, I am opposed to the amendment for the reason that I am in favor of the section.

Mr. STEVENS. The provision of the present law is this:

"If such substitute is not liable to draft, the person furnishing him shall be exempt from draft during the time for which such substitute is not liable to draft, not exceeding the term for which he was drafted."

Mr. FARNSWORTH. It appears, then, that I was a little mistaken as to the provisions of the present law. The gentleman from Pennsylvania was equally mistaken in saying that the law now corresponds with his amendment.

As I was remarking, Mr. Speaker, I am in favor of this section. The principle embraced in it is one to the consideration of which I have given a good deal of attention. There is not a soldier to whom I have shown this section, or to whom I have explained it, who has not said that it is right. Nor have I conversed with any loyal, patriotic citizen, since this subject has been under consideration, who has not also said that this section is right—that the principal ought to be responsible for the substitute in case the latter deserts.

My friend from Pennsylvania says that we might with equal propriety require that the principal should be shot in case the substitute deserts, or that if the substitute steals the principal should be punished for the larceny. Now, sir, no burlesquing, no satire, of the gentleman from Pennsylvania, (and I acknowledge that his satire is very keen,) can convince me, or the country, or the Army, that it is best to go on as we have been doing—putting bounty jumpers into the Army as substitutes, to desert from time to time, leaving their regiments as small as when they went in. Why, sir, if a man employs a substitute to steal, and that substitute does steal, the principal ought to be punished. If he employs a substitute to serve the Government in his stead for three years, and the substitute serves but six months, the principal ought to be required to serve in person or by substitute for the remainder of the term.

This section will operate prospectively; it will not operate retrospectively. If it should be adopted every man who may furnish a substitute hereafter will do so with his eyes open, knowing what the law is. The law will become a part of the contract under which he puts his substitute into the Army.

The principal owes, we will say, three years' service to the Government. That is a debt; it is an obligation resting upon him which he ought to discharge, and discharge faithfully and honestly. The Government says to him, "If it is not convenient for you to go, you may send in your place a man who is not liable to the draft." He puts a man into the service for three years as his agent, as his substitute, and before he gets to the Army that substitute jumps from the cars and deserts. Now, I ask any fair man whether it not proper and just to require that the principal shall serve out the time for which he put in that substitute?

I am in favor of this clause for another reason—not only because it will fill our armies with good soldiers, but I am in favor of it because it will put an end to bounty jumping and to the vocation of the substitute brokers, who have been a curse to the Army. Adopt this and their vocation is gone. You will have no more substitute brokers. You will have no more men running over to Canada and to the enemy—men who came as substitutes originally from Canada. I recollect the case of a gallant regiment—as fine a regiment as I ever saw put into the service, stalwart, patriotic men—that was reduced by battle and exposure in the field, and some three or four hundred substitutes were put into it in order to fill it up, and in the course of a few weeks they disgraced the regiment, some running off to the enemy. Some of the substitutes actually were men who had left the seceding States, gone to Canada, come over the lines, and been hired as substitutes; and when they were put into the Army they went over to the enemy with their greenbacks in their pockets.

Adopt this section and you put an end to this at once. A man puts his substitute into the Army knowing what the law is. He knows if his substitute is not a good man, and if he has not engaged to serve in good faith, that in case of his desertion he will have to take his place or furnish another substitute.

I have never heard a loyal citizen who complained of this; and you will not find a faithful soldier in the Army who will not tell you that this is proper and just. Substitute brokers and substitutes have been the curse of the Army. Regiments have been filled up by these men, and they fondly hoped they would continue to win laurels as they had done before, but instead they found themselves reduced to a low standard by desertions.

Mr. SCHENCK. My colleague on the Military Committee has opposed the amendment, and I propose to oppose the amendment to the amendment. I want to have read, as a portion of my speech, some extracts for the information of the House.

The Clerk read, as follows:

"DRAFTED SOLDIERS, QUOTAS, FRAUDS, AND DESERTIONS.—Brigadier General Edward W. Hinks, now in command of the draft rendezvous at Hart island, New York harbor, has addressed a letter to the Adjutant General of the United States on the subject of the frauds committed upon the Government, the Army, and the country, by the enlistment of persons totally unfit for service—the enlistment of deserters and criminals, and by desertions, which evils have so increased in magnitude as to demand the serious attention of those who are vested with the power, and whose duty it is to preserve the armies from depletion and disgrace, and the people from utter demoralization. General Hinks says:

"Whole communities are exerting themselves, and contending with others to their utmost capacity, and lavishing their wealth in untimely measure, to secure the filling of quotas with men whom they can obtain by any means of bargain, deception, or fraud, with which to liquidate upon paper their old obligations to the Government, regardless alike as to whether the men so obtained are fit for soldiers, or whether they contribute to the increase of our armies or those of the enemy, so long as the quota of the district is filled and themselves exempted from the draft.

"The people being but too willing to evade the service due from themselves to the country, at any cost of money or sacrifice of principle, and ever ready to avail themselves of defects in the laws to satisfy their own moral obligations to contribute to the increase of the Army and the actual support of the Government, have delegated the duties of filling quotas and obtaining substitutes to brokers and others, usually the vilest men of the community, who are governed by no principle, and frequently collude with the recruit himself to perpetrate the intended fraud, to prevent the consummation of which the community at large interpose no objection, because it would render the filling of quotas more difficult, and hence the result.

"Felony is compounded and crime pardoned by magistrates, that criminals may be sent into the Army to stain its fair name, imperil its success, and dishonor its faithful soldiers, or desert its banners to join the enemy, enlist again in some other locality, consummating a double fraud—all to fill the quotas.

"Drunkards, useless for any purposes of life, are suborned to defraud the Government and country, by enlisting as soldiers—to fill the quotas.

Rebel spies, refugees, and fugitives from justice are assisted to enlist in our armies, from which they pass with well-filled pockets directly into the confederacy—but it fills the quotas.

"Imbeciles and lunatics are enjoined to enlist, and defrauded of their bounty by designing knaves, but no one appears to object—for it fills the quotas.

"Men are coerced up, drugged, or stupefied with intoxicating liquors, and coerced to enlist under assumed names, which oftentimes they themselves are unable to remember, and no one detects the fraud until they become sobered at the general rendezvous, because every one is entirely engrossed—in filling the quotas.

"Soldiers from our own armies are assisted, if not per-



sued, to desert, and are concealed until they can be conducted to some remote locality to enlist again, by the extensive combination of runners and brokers whose connections ramify the whole country to such an extent that a regular system is created of depleting our armies—to fill the quotas.

"Boys, whose immaturity, and old men whose senility unfit them for all the duties of a soldier; cripples and invalids, unable to perform the slightest degree of manual labor, are openly persuaded or deceived into enlisting, by representing to them that they can be credited to a sub-district, get the local bounty, and will be rejected when they arrive at the general rendezvous; and in many cases the town or county agent, broker, runner, and recruit combine in the employment of every artifice to conceal the defects and incapacity of the recruit before enlistment; and after the credit has been obtained, and the bounty divided, assist him to magnify his disabilities and wrongs, that he may be discharged, and they permitted to use him again—to fill the quotas."

"General Hinks says his experience in the general rendezvous and the field has convinced him that fully three-fourths of all the enormous contributions of States, counties, and towns for local bounties, &c., goes directly into the hands of the agent, broker, middle-man, runner, or deserter, and not more than one-fourth is ever received by soldiers who render *bona fide* service in the armies of the nation; and from practical tests in the localities where he has had experience, it is evident that scarcely more than fifty per cent. of the number of recruits credited to districts become effective soldiers in the Army. He adds that the suspicion and proper restraint put on recruits of the common class, and the humiliation and confinement of necessity imposed upon all who enter the service, because of the difficulty of distinguishing the honest soldier from the dishonest, and the gathering of criminals and drunkards into the ranks, has already wrought its deleterious results upon our service by preventing our young men of pride, ambition and character, of which the Army has been and always ought to be composed, from entering its ranks in company with disreputable characters, and voluntarily subjecting themselves to the humiliating process and mortifying restraints now required.

"General Hinks proposes the following remedial system: "To remedy this enormous and increasing evil, no severity of punishment of delinquents, no rigor of administration of the laws, no strictness of enforcement of rules by enlisting, mustering, and forwarding officers, is adequate. The evil is of too great a magnitude to be pruned; it lies in the system, which can only be improved by the adoption of such measures as shall secure the interest, the pecuniary and personal interest, of the people in obtaining recruits for the Army, rather than to fill quotas merely.

"Whenever a recruit is discharged for disability existing before enlistment, or shall desert the service, or shall prove to be a deserter from the service, the term of service yet due from such recruit should be added to the amount of service due from the district to which he was credited, and to be filled up by draft, and if such recruit be a substitute, his principal should be held for the term of service yet due from such discharged or deserted recruit.

"If this rule could be adopted the whole system of brokerage and fraud would be at once broken up. The drafted man would make certain of the character and honesty of his substitute before he enlisted him, and hence would do his business himself, and secure some worthy person whom he knew, rather than purchase a stranger of some knave, without seeing him and without knowing or caring whether he was fit for a soldier or not, as at present. Town and country authorities would labor to induce their own trustworthy citizens to enlist and receive their munificent bounties, rather than flock, as they do at present, to the metropolis to purchase a sufficient number of worthless men to fill the quotas, from the brokers and runners whose facilities for inducing men to desert, obtaining deserters, criminals, and rebels are the greatest.

"By the adoption of this rule every person in the community would become directly or indirectly interested in detecting deserters and bringing them to justice. Criminals would no longer be in demand for recruits, and the young men of the land would no longer feel it a personal degradation to enter the ranks of the Army, whose *morale* and character would be restored and improved, and a stronger and better reinforcement of our victorious armies in the field would soon be obtained from the best blood of the land."

Mr. ODELL. Mr. Speaker, I move that the whole section be stricken out. I was much surprised at the statement made by the gentleman from Illinois, [Mr. Farnsworth,] that he had never met with one loyal, patriotic man who opposed this section. I profess to be a loyal, patriotic man, and the gentleman from Illinois as well as the chairman of the Military Committee knows that I was opposed to this section in that committee as I now am in the House. So also were some of my colleagues on the committee opposed to it, and I believe a large majority of the members of this House on both sides are as much opposed to it as I am. Now, the law of the land authorizes a party drafted to put a substitute in his place. He has the privilege of doing that under the law. He takes his choice; but the object of this section is to throw upon him not only the responsibility of putting in a substitute, but of following him along for three years; and, if during that time he deserts, the responsibility is thrown back upon the principal, who is to serve the Government during the remainder of the time.

It is a matter of simple justice, and existing law guarantees exemption to a man who puts in a

substitute; and this proposed provision is a matter of injustice to the man who shall put a substitute in his stead. Every member of the House knows that when a man is drafted and he furnishes a substitute the Government takes possession of the substitute, who has to be examined under the provisions of existing laws. If he passes, and is accepted, he takes all the responsibility of the drafted man. If he passes the examination of the surgeon and proper officers, he is put into the Army, and the person furnishing such substitute has henceforth no control over him whatever. He is placed in the ranks, when all responsibility ends, as it should, on the part of the man furnishing a substitute in accordance with the laws upon this subject.

It is well known to every man upon this floor that many men have paid their last dollar to put in a substitute in their place, and many have even had to obtain assistance from their friends to aid them in doing so. And now, Mr. Speaker, shall these men have the burden thrown upon them during the whole period of the enlistment of the soldier, causing anxiety and apprehension to the men and their families? that would be intolerable. And through the fault alone of the Government, in the employment of incompetent or dishonest agents, perhaps the substitutes have deserted, such desertion have taken place. I do not believe that the sense of justice of the members upon this floor will for a moment entertain such a proposition as is now before the House. The section is all wrong and should not pass.

I think perhaps all has been said upon both sides of this question that is necessary; and I believe the House is entirely ready for a vote on the question, and I have no doubt what the result of the vote will be.

Mr. SCHENCK. I move that all debate on this section and all amendments thereto be closed.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their Clerks, announced to the House that the Senate had agreed to the report of the committee of conference upon the bill of the House No. 640, providing for a district and circuit court of the United States for the district of Nevada, and for other purposes.

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 347) for the relief of Rebecca S. Harrison.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled, bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 728) to pay to each of the surviving soldiers of the Revolution, five in number, whose names are on the pension rolls, \$300 annually, as a gratuity, in addition to the pension now paid them; and

An act (H. R. No. 160) for the relief of Chapin Hall.

#### ENROLLMENT BILL—AGAIN.

Mr. STEVENS. Will not the vote be first taken on the motion to strike out after disposing of the amendment to the amendment?

The SPEAKER. There have been different decisions upon the point, but the Chair will hold that the motion to strike out takes precedence of a motion to strike out and insert, for the reason that it does not preclude the motion to strike out and insert.

Mr. WADSWORTH. I withdraw my amendment to the amendment.

Mr. NOBLE. Before the vote is taken on the motion to strike out I desire to perfect the section. I move to amend by striking out of line thirty-two the words "and remaining therein until the expiration of his time."

The amendment was agreed to.

Mr. WILSON. I move to amend by adding to the section the words "during the time such substitute shall remain in the service."

Mr. SCHENCK. Upon that I demand tellers. Tellers were ordered; and Messrs. WILSON and STILES were appointed.

The House divided; and the tellers reported—ayes 40, noes 68.

So the amendment was not agreed to.

Mr. ODELL. Is it competent for me to with-

draw my motion to strike out and allow the question to be taken upon the motion of the gentleman from Pennsylvania?

The SPEAKER. It is.

Mr. ODELL. I withdraw my motion.

Mr. PRICE. I renew it.

Mr. SCHENCK. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 105, nays 34, not voting 43; as follows:

YEAS—Messrs. James C. Allen, Ames, Ancona, Baily, Augustus C. Baldwin, John D. Baldwin, James S. Brown, Chanler, Freeman Clarke, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eden, Edgerton, Eldridge, Eliot, English, Finck, Ganson, Gooch, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Jenckes, Philip Johnson, Kabbfleisch, Kelley, Kernan, King, Knapp, Law, Lazear, Loan, Long, Marcy, McAllister, McKinney, Samuel F. Miller, William H. Miller, James K. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Peudleton, Perry, Pike, Price, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ross, Scofield, Scott, Smithers, John B. Steele, Starr, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Townsend, Tracy, Van Valkenburgh, Wadsworth, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, Winfield, Fernando Wood, Woodbridge, and Yeaman—105.

NAYS—Messrs. Allison, Ashley, Baxter, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Farnsworth, Frank, Garfield, Grinnell, Higby, Kasson, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McClurg, Moorhead, Morrill, Daniel Morris, Patterson, Perham, Pomeroy, John H. Rice, Edward H. Rollins, Schenck, Shannon, Elihu B. Washburne, and Worthington—34.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Beaman, Blaine, Blair, Bliss, Blow, Boutwell, Boyd, Brandegee, Brooks, William G. Brown, Creswell, Dawes, Harrington, Hotchkiss, William Johnson, Julian, Francis W. Kellogg, Le Bond, Mallory, McBride, McDowell, McIndoe, Middleton, Orth, Robinson, Rogers, James S. Rollins, Sloan, Smith, Spalding, William G. Steele, Sweat, Upson, Voorhees, Ward, William B. Washburn, Whaley, Windom, and Benjamin Wood—43.

So the section was stricken out.

Mr. ODELL moved to reconsider the vote by which the section was struck out; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### UNITED STATES COURTS IN NEVADA.

Mr. HIGBY, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes, reported that the committee had agreed to recommend to their respective Houses as follows:

That the House of Representatives recede from its disagreement to the amendment of the Senate striking out sections five and nine of the bill;

That the Senate recede from its amendment to section five of the bill; and, in lieu thereof, adopt sections six, seven, and eight, of the bill;

That the House recede from its disagreement to the amendment of the Senate in section six, with an amendment, as follows: Add, at the end of the section, the words "Provided, That said appeals shall be prosecuted and said writs of error sued out at any time before the 1st of January, 1866," and that the Senate concur in that amendment;

That the House recede from its disagreement to the amendment of the Senate to section seven, with an amendment, as follows: After the words "possessory action," in the second line, insert the words "between individuals," and that the Senate concur in that amendment.

The report was agreed to.

Mr. HIGBY moved to reconsider the vote by which the conference report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLMENT BILL—AGAIN.

The House proceeded to the consideration of the next section of the bill, as follows:

Sec. 6. *And be it further enacted,* That the sixteenth section of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, is hereby so amended as to allow to the provost marshals appointed under the provisions of that act the same commutation for fuel and quarters as is allowed to other officers ranking as captains of cavalry; but the provost marshal, surgeon, and commissioner constituting the enrolling board, shall not, in any case, be allowed mileage, but only transportation in kind, or the actual cost of their traveling on duty from their respective places of residence to the district headquarters, and returning therefrom, or to and from such other points as they may be by law required to attend at officially within the limits of the district. There shall also be paid by the order of the Secretary of War, on proper vouchers, all actual, necessary, and reasonable expenses of office rent, postage, stationery, and clerk hire.

Mr. STEVENS. I move to amend by adding as a new section, between sections six and seven, the following:

*And be it further enacted,* That whenever, under the provisions of this or any previous act for the enrollment and calling out of the national forces, a substitute has been or shall be accepted and mustered into the service, the person furnishing such substitute shall be exempted from draft and from the performance of all duty for which such person was or shall be liable to draft, for the period for which such person was liable to draft or for which such substitute was not liable to draft. Such acceptance and mustering in of the substitute shall be conclusive in favor of the principal.

I think, Mr. Speaker, that the law is now according to my amendment; but, as I stated before, the Department has made a construction of it in one or two instances which renders it doubtful—which is that the Government, after having accepted the substitute and after the substitute has gone into the service and served some time, shall, if the substitute be found unfit for the service, be at liberty to call on the principal himself to serve. My amendment is to avoid that construction. It is to provide that after the constituted authorities of the Government have made their examination and accepted the substitute, the principal shall be held to no further responsibility.

Mr. SCHENCK. Mr. Speaker, I will, in a few brief remarks, assign the objections that I have to the amendment proposed by the gentleman from Pennsylvania. It proposes that the action of the Government in accepting a substitute shall be conclusive upon it. Very often the Government officers are themselves parties to the fraud. The Government ought not to object, therefore, on that ground. But, on the other hand, the Government officers are very often defrauded. Now, suppose a party offers a substitute, knowing that substitute to be insane, as has been done, knowing him to be a convict, knowing him to be a penitentiary bird, knowing him to be subject to epileptic fits, knowing him to be on any other account ineligible for the service, that principal, according to the gentleman's proposition, could march off perfectly triumphant, himself having been the infernal scoundrel who perpetrated the fraud.

And, Mr. Speaker, that is not a supposititious case for which a man has to draw on his imagination. Such cases have actually occurred, and have frequently occurred. There have been cases where persons subject to epileptic fits, and persons escaped from the penitentiary, have been put into the service, the principal knowing the fact. And yet the Government is to be, by the acceptance of such persons, concluded in its rights over the principals.

Mr. KERNAN. This section provides that the provost marshals shall receive "the same commutation for fuel and quarters as is allowed to other officers ranking as captains of cavalry." It also provides that they shall be paid "all actual, necessary, and reasonable expenses of office rent, postage, stationery, and clerk hire." Now, sir, I desire to move to strike out this section. I think that we should not increase the pay of these officers; and if we do increase it, I am opposed to this indefinite sort of increase, which declares that they shall receive "the same commutation for fuel and quarters as is now allowed to other officers ranking as captains of cavalry."

Mr. SCHENCK. These provost marshals now rank by law as captains of cavalry.

Mr. KERNAN. But I do not understand that they are now allowed commutation for fuel and quarters.

Mr. SCHENCK. They are not. But something must be done for these men. They are now very inadequately paid; and inasmuch as they rank by law as captains of cavalry we propose to give them the allowances of that rank.

Mr. KERNAN. There is no difficulty in getting men to fill these offices; there is a great struggle to obtain these positions. But if the pay of these officers is to be increased, I am in favor of doing it in specific terms, by providing, for instance, that they shall receive so much per month.

Mr. SCHENCK. Then you will have to change the whole system.

Mr. KERNAN. These men are not in the Army to such an extent that we might not keep them on a footing which we can understand. I am in favor of striking out the section. I think

there is no reason for increasing the pay of these provost marshals.

The section provides also for allowing these officers "all actual, necessary, and reasonable expenses of office rent, postage, stationery, and clerk hire." Yet we do not know what will be the amount of these expenses. These officers are now better paid than the men who are fighting in the field; and there is a great struggle to get these positions. I am opposed to increasing the pay of the provost marshals while we refuse to increase the pay of officers and soldiers in the field.

Mr. JOHNSON, of Pennsylvania. I move to amend the amendment of my colleague by adding thereto the following:

And in all cases where heretofore persons drawn under supplemental drafts to fill quotas shall have furnished their principals, and both are held in actual service, those drawn as supplemental shall be discharged from such service.

Mr. STEVENS. I move that all debate upon the section and pending amendments be closed.

The motion was agreed to.

The amendment to the amendment was agreed to.

Mr. DAVIS, of New York. I move to amend the amendment by adding thereto the following:

*Provided,* That this proviso shall not apply to any person who shall knowingly have enlisted any minor under the age of sixteen years, or any minor between the ages of sixteen and eighteen years where the consent of the parent or guardian has not been given as provided by law.

The amendment to the amendment was agreed to.

The question recurring on the amendment of Mr. STEVENS, as amended,

Mr. GARFIELD demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 45, not voting 60; as follows:

YEAS.—Messrs. James C. Allen, Ames, Ancona, Bailly, Augustus C. Baldwin, John D. Baldwin, Brooks, James S. Brown, Chanler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, English, Fluck, Ganson, Grider, Griswold, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Ingersoll, Philip Johnson, Kalbfleisch, Kelley, Kernan, Knapp, Law, Lazear, Long, Marcy, McKinney, William H. Miller, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, John O'Neill, Pendleton, Perry, Pomeroy, Pruyn, Radford, Samuel J. Randall, William H. Randall, Edward H. Rollins, James S. Rollins, Ross, Scott, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Townsend, Wadsworth, Webster, Wislley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—77.

NAYS.—Messrs. Allison, Ashley, Baxter, Blaine, Broomall, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Garfield, Gooch, Grinnell, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburd, Kasson, Orlando Kellogg, Littlejohn, Longyear, Marvin, McClurg, Samuel F. Miller, Daniel Morris, Perlman, Pike, John H. Rice, Schenck, Scofield, Shannon, Smithers, Starr, Tracy, Van Valkenburgh, Elihu B. Washburne, Williams, Wilson, Woodbridge, and Worthington—45.

NOT VOTING.—Messrs. William J. Allen, Alley, Anderson, Arnold, Beaman, Blair, Bliss, Blow, Boutwell, Boyd, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cresswell, Dawes, Deming, Eldridge, Farnsworth, Frank, Harrington, Hooper, Hotchkiss, Jenckes, William Johnson, Julian, Francis W. Kellogg, King, Knox, Le Blond, Loan, Mallory, McAllister, McBride, McDowell, McIndoe, Middleton, Moorhead, Morrill, Norton, Orth, Patterson, Price, Alexander H. Rice, Robinson, Rogers, Sloan, Smith, Spalding, John B. Steele, William G. Steele, Sweat, Upson, Voorhees, Ward, William B. Washburn, Wheeler, Wilder, Windom, and Benjamin Wood—60.

So the amendment was agreed to.

#### OSAGE INDIANS IN KANSAS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting estimates of appropriations to carry into effect the provisions of the treaty made with the Great and Little Osages in Kansas, August 29, 1863; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### POST OFFICE DEPARTMENT EMPLOYEES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting a statement of the clerks and other persons employed in the Post Office Department during the year ending June 30, 1864; which was laid on the table, and ordered to be printed.

The hour of half past five o'clock, p. m., having arrived,

The SPEAKER adjourned the House until to-morrow.

#### IN SENATE.

SATURDAY, February 25, 1865.

Prayer by the Chaplain, Rev. THOMAS BOWMAN, D. D.

On motion of Mr. HALE, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

#### CREDENTIALS PRESENTED.

Mr. VAN WINKLE presented the credentials of Hon. WAITMAN T. WILLEY, chosen by the Legislature of West Virginia a Senator from that State for the term of six years, commencing on the 4th day of March, 1865, which were read and ordered to be filed.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a memorial of the Legislature of Minnesota in favor of the establishment of a mail route from New Ulm to Red Wood Falls, which was referred to the Committee on Post Offices and Post Roads.

Mr. BROWN presented a memorial of the Legislature of Missouri, in favor of the establishment of a post or garrison at some point in the southwest corner of that State; which was ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Missouri, in favor of granting a bounty to the soldiers, and their legal representatives, of the Missouri State militia; of recruits belonging to the various regiments of Missouri volunteers being mustered out of service at the expiration of the term of the regiments; of the adoption of the severest retaliatory measures to compel a more humane treatment of our prisoners of war in the hands of the rebel authorities; of the completion of the southern branch of the Pacific railroad, and remonstrating against any tax on leaf tobacco; which were ordered to lie on the table, and be printed.

Mr. CLARK presented a petition of William Cook, a colored man, praying compensation for the use of a certain lot of ground by the Government in the city of Washington, which was referred to the Committee on Claims.

Mr. SPRAGUE presented the petition of David Sherman, administrator of the estate of Captain Joseph Sherman, deceased, late of the town of Portsmouth, Rhode Island, praying for compensation for loss of property during the revolutionary war; which was referred to the Committee on Claims.

Mr. HALE presented a paper containing a table prepared by the Chief Clerk of the Senate, (in continuation of that contained in Hickey's Constitution,) of the Senators of the United States from the 4th of March, 1845, to the termination of the Thirty-Eighth Congress, 3d of March, 1865, exhibiting their names and the commencement and termination of their service respectively; the States represented by them and the classes into which they are divided, under the second clause, third section, first article of the Constitution of the United States; the regular succession in each class being shown from the commencement; which was ordered to be printed; and a motion of Mr. HALE's that three thousand additional copies be printed was referred to the Committee on Printing.

#### TERRITORIAL WAGON ROADS.

Mr. WADE. I move to postpone all other orders and take up the bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska.

Mr. COLLAMER. Does that postpone the making of our reports?

The VICE PRESIDENT. That will be the effect of the motion if adopted.

The motion was agreed to; and the bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska, was considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Interior to survey, locate, and construct a wagon road; first, from Niobrara to the mouth of the Turtle Hill river, and thence, upon the most direct practicable route, to Virginia City, in Montana Territory, with a branch from the mouth of Turtle Hill river, or such other point as may be selected, to Omaha; second, from a point at or

near the mouth of the Big Sioux river, via Yanton, Dakota Territory, to a point at or near the mouth of the Big Sheyenne river, thence up that river to its main forks, thence up the north fork to a point of intersection with the road from Niobrara; third, from a point on the western boundary of Minnesota, to be determined by the Secretary of the Interior, to a point at or near the mouth of the Big Sheyenne river; fourth, from Virginia City, in Montana, upon the most practicable route, to Lewiston, in Idaho.

For these purposes it is proposed to appropriate \$140,000, \$50,000 of which to be applied to the construction of the road from Virginia City to Lewiston; \$50,000 to the construction of the road from Niobrara and branch to Omaha; \$20,000 to the construction of the road from the mouth of the Big Sheyenne to its intersection with the Niobrara road; \$10,000 to the construction of a bridge over the Big Sioux river, or so much of this sum as may be necessary, and any balance remaining to be applied to continuing and improving the road from Sioux City, Iowa, to the Big Sheyenne, Dakota Territory, and the remainder to be applied to the construction of the road from the western boundary of Minnesota to the Big Sheyenne river; and any unexpended money now in the Treasury, appropriated for the construction of a road from Sioux City to Fort Randall, Dakota Territory, is to be transferred from the War Department to the Department of the Interior.

The bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 751) to provide for the settlement of private land claims in the Territory of Arizona, and for the survey thereof;

A bill (H. R. No. 787) to incorporate the Harmony Cemetery Company (of colored persons) in the District of Columbia;

A bill (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;

A bill (H. R. No. 792) for the relief of Henry Karstens; and

A bill (H. R. No. 793) to authorize the Commissioner of Patents to extend the patent of Josiah Copeland, for a new and useful improvement in boot-crimps.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

A bill (H. R. No. 160) for the relief of Chapin Hall;

A bill (S. No. 347) for the relief of Rebecca S. Harrison;

A joint resolution (S. R. No. 112) for the relief of James B. Royce; and

A bill (H. R. No. 780) to pay each of the surviving soldiers of the Revolution, five in number, whose names are on the pension roll, \$300 annually, as a gratuity, in addition to the pension now paid them.

#### REPORTS OF COMMITTEES.

Mr. COLLAMER, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 774) to establish certain post roads, reported it with amendments.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 756) supplementary to the several acts relating to pensions, reported it without amendment.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print two thousand copies of the addresses made in the Senate and House of Representatives on the death of Hon. Thomas Holliday Hicks, reported it without amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 764) to incorporate the Continental Hotel Company, of the city of Washington, reported it without amendment.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S.

No. 425) to revive for a certain time the provisions of the act of 1846 relative to suspended entries of public land, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred resolutions of the Legislature of Michigan, and a petition of citizens of Michigan in favor of a grant of land to aid in the construction of a ship-canal from Portage Lake to Lake Superior, asked to be discharged from their further consideration; which was agreed to.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of the Amoskeag Manufacturing Company praying compensation for certain Army cook-wagons, submitted a report accompanied by a bill (S. No. 475) for the relief of the Amoskeag Manufacturing Company. The bill was read and passed to a second reading; and the report was ordered to be printed.

#### NAVAL JUDGE ADVOCATE GENERAL.

Mr. GRIMES. I move to take up Senate bill No. 465. It is a little bill of only one section, creating a law officer in the Navy Department.

The motion was agreed to; and the bill (S. No. 465) to create the office of Solicitor and Naval Judge Advocate General was considered as in Committee of the Whole. It proposes to authorize the President to appoint, by and with the advice and consent of the Senate, an officer in the Navy Department, to be called the Solicitor and Naval Judge Advocate General, at an annual salary of \$4,000.

The bill was reported to the Senate.

Mr. TRUMBULL. I have been trying this whole session to get reports from the various heads of Departments stating how much money has been paid for counsel and attorney fees by the different Departments. We have had responses to the resolution of inquiry from all the heads of Departments but the Attorney General, and those reports have been ordered to be printed. We have established as one Department of the Government the office of Attorney General, and we have district attorneys all over the United States paid by the Government; and yet nearly every Department of the Government is now having its separate attorneys to attend to the business of the particular Department. If this practice is to go on, I think we had better abolish the Attorney General's office. They have Solicitors and Assistant Solicitors in the Treasury Department. My friend from Massachusetts [Mr. WILSON] at the last Congress got through a bill for a Solicitor in the War Department, and they have also in that Department a Judge Advocate General, and I do not know how many attorneys. Now the Naval Committee come in and want an Attorney General's office for the Navy Department practically, but I believe they call him a Judge Advocate General. I suppose his duties will be to attend to courts-martial, and to prize cases, and to advise the Secretary of the Navy generally, and I suppose that instead of the Navy Department calling on the Attorney General for the construction of the laws which ought to be settled by him for all the Departments of the Government, this counsel of the Secretary of the Navy will lay down the law for that Department, and the counsel of the Secretary of War will lay it down for that Department, and so on.

Really, I do not think there is any necessity for the creation of such an office. So far as general legal questions are concerned, they ought to be referred to the Attorney General, and his decision should be binding upon all the Departments. So far as courts-martials are concerned, let them detail some officer to act as judge advocate, as has been the practice heretofore, and will have to be after this office is created, as my friend from New Hampshire [Mr. HALE] suggests. I think we have gone far enough in creating these different law offices in the separate Departments of the Government.

Mr. GRIMES. This is a matter in which I have no greater interest than the Senator from Illinois or any other member of this body. The bill was sent to the Committee on Naval Affairs by the Secretary of the Navy, with a letter accompanying it, which I send to the desk to be read. I will state in this connection that it is utterly impossible for the Attorney General to attend to the legal business that is required to

be attended to by the Navy Department. The only result of the defeat of the bill will be that the Navy Department will be obliged to employ counsel occasionally instead of having a regular counsel whose merits and qualifications we pass upon when we confirm him as Solicitor.

The Secretary read the following letter:

NAVY DEPARTMENT,  
WASHINGTON, February 20, 1865.

SIR: Many, and some of them very important, legal questions and suits, growing out of the transactions of this Department, are constantly arising. Some of them involve large pecuniary amounts and frequently embrace great variety of detail. The cases of courts-martial are numerous, and require scrutiny and careful preparation and revision. The forms and execution of contracts under the provisions of law demand deliberate and attentive care and consideration. Frauds and abuses on the part of contractors and employes call for investigation and prosecution, and the miscellaneous legal questions which arise are innumerable, involving often a vast extent and variety of detail.

For these important duties the Department has no law officer. I would, therefore, respectfully suggest that the interest of the Government would be greatly promoted were Congress to create the office of "Solicitor and Naval Judge Advocate General," to be attached to this Department. The officer to fill this position should be selected by the President, by and with the advice and consent of the Senate, whose duty it shall be to attend to the matters herein indicated, and to any special duties that may be assigned to him by the Secretary of the Navy.

Very respectfully,  
GIDEON WELLES,  
Secretary of the Navy.

HON. J. W. GRIMES,  
Chairman Naval Committee United States Senate.

Mr. TRUMBULL. I had no doubt that the Secretary of the Navy was in favor of having an Attorney General's office under his control. It is very convenient to have solicitors for each head of a Department, to throw upon them the responsibility of construing the laws; and I suppose each bureau will want one by and by if this practice is to go on. Here it is proposed to create the office of Solicitor for the Navy Department, at a salary of \$4,000. I think the creation of such an office is entirely unnecessary, but I do not mean to take up the time of the Senate in discussing it. I have called attention to it. I do not believe it is in harmony with the organization of our system of Government to have an Attorney General's office—for that is what it amounts to—in each Department of the Government. If that is to be done I think we might as well abolish the Attorney General's Department which we have.

I know that counsel are being employed all over the United States by these different Departments. I tried at the last session of Congress to secure the adoption, and I supposed Congress had adopted, the suggestion and put a limit upon the fees that were to be paid to district attorneys of the United States. We passed a law making the maximum sum that any attorney should receive \$6,000, but it seems that three days afterward we passed a law allowing them a percentage, as I am now informed by a letter in my possession, received within a day or two from the Secretary of the Interior. He states in the letter that the amount of money appropriated in the proper bill by the House of Representatives for the judiciary fund is \$500,000, and in this letter he asks that \$200,000 be added to that appropriation, so as to make it \$700,000; and why? I do not know but that it would be as well in this connection to have his letter read. He says that the money which is paid to district attorneys and special counsel in prize cases is so large that it will require next year \$200,000 more than it has been usual to appropriate for the judiciary fund. I think it is about time we stopped this practice. I will read a few sentences from the letter of the Secretary of the Interior:

"In this connection the attention of the Committees of Ways and Means and on the Judiciary is respectfully invited to the provisions of the fourteenth, twenty-third, and twenty-fourth sections of the act to regulate prize proceedings and the distribution of prize money, and for other purposes, approved June 30, 1854, (Acts of the first session of the Thirty-Eighth Congress, page 306.)

The fourteenth section makes, in a certain contingency, the costs or charges allowed by the court in prize proceedings a charge upon and payable out of that fund. The order of the court would seem to be conclusive both as to the amount of the charges and the fund liable therefor. Within the last few weeks two accounts have been presented by a firm in the city of New York, one amounting to \$7,615 63, and the other to \$9,343 57. They have been allowed by the proper court, and declared by an order thereof to be a charge upon the fund in question.

The other sections above referred to make the fees of special counsel in prize cases, or for the defense of captors against demands for damages, &c., &c., a charge under certain circumstances upon that fund. When such fees



are audited and allowed by the Department incurring them, and the Solicitor of the Treasury, nothing remains for the Secretary of the Interior but to draw his requisition for the amount.

"I have no means of information which will enable me to determine the amount of the costs and charges which will constitute a claim upon that fund. The fund, too, is diminished by allowing district attorneys an additional maximum in prize cases by the twenty-first section of that act, although Congress by the second section of an act approved but three days before the passage of the act in question had, except in cases mentioned in the proviso, limited their annual maximum compensation to \$6,000. (*Id.*, pp. 195, 196.)"

I call the attention of Senators to this, and I should like to know how many members of the Senate were aware of the section increasing the allowances of these fees when we had had a controversy on the subject, and only three days before passed a law fixing their maximum compensation. Perhaps it got in through some conference committee, and none others understood it.

Mr. GRIMES. I am happy to inform the Senator that that prize law, when it came from the House of Representatives, was referred to the very eminent committee of this body known as the Judiciary Committee, and was reported back by them unanimously to the Senate, and was passed by the Senate. I was present when it passed, and remember all about it. It did not come in through any conference committee, but was passed by the Senate on the recommendation of the committee of which the Senator from Illinois is chairman.

Mr. TRUMBULL. I have not had time to look into the laws nor to see the history of the law referred to, but I can assure the Senator from Iowa that if any bill went through the Judiciary Committee which allowed district attorneys an additional compensation over \$6,000, I never understood it, and I think I must not have been present when that bill was passed if that provision was in it. I am quite sure that no such bill, with my knowledge, ever went through the Judiciary Committee. I will not undertake to say that it may not have been reported by the committee, but I know I was not apprised of it. I may have been absent at the time; I was absent during part of the last session, as is well known to the Senator and perhaps to others. I think it very remarkable, after the controversy we had, if such a bill could have passed that committee without observation. The Secretary of the Interior says further:

"A further charge upon this fund is imposed by the third section of the act of July 2, 1864. (*Id.*, p. 373.) The expenses of persons found upon captured vessels, when not chargeable to the prize or other fund, and the expenses of prisoners sentenced to confinement in the penitentiary by naval court-martial are defrayed from that fund.

"I have no doubt that the sum provided by the Senate amendment—the same as given for the present fiscal year—would be sufficient but for the provision rendering it liable to the costs in prize causes, although it is impracticable to make an exact estimate of the amount which they will reach. I conceive it to be my duty to recommend that the appropriation be increased to the sum of \$700,000."

That is in consequence of this legislation. I hope that it may be appropriate upon some bill that is now pending to enact a clause that no district attorney shall have, from any fund whatever, more than \$6,000 in a year as his compensation from the Government, and I hope to have the support of the Senator from Iowa in putting it on, and I trust he will see the propriety of not building up a solicitor's office in the Navy Department. All I want now is to ask that when the vote shall be taken on the passage of this bill it be taken by yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I have nothing to say in regard to the compensation that the district attorneys of the United States in the several districts have received, or are now receiving, or ought to receive. Probably I shall agree with the Senator from Illinois, and vote with him whenever he shall propose an amendment to the present law such as he has suggested. I think if there are so many evils from the passage of this little law it is exceedingly to be regretted that the watchfulness of the Senator from Illinois was not aroused at an earlier day, when we had under consideration here in the Senate not only the appointment of a Solicitor for the War Department, but the appointment of a Judge Advocate General, with the rank, pay, and emoluments of a brigadier general, and an Assistant Judge Advocate General with the rank, pay, and emoluments, I think,

of a colonel of cavalry. Here it is proposed to establish in the Navy Department an officer who is to be styled the Solicitor and Judge Advocate General of the Navy Department, who is to perform all the duties that are required of these various officers in the War Department, and I have proposed it and I advocate its passage here today because I am satisfied that it will save a great deal of money to the Treasury, and not take money out, as the Senator from Illinois seems to apprehend.

Your Secretary of the Navy has already informed you that there are thousands of different legal questions being raised every day in the Navy Department, which the Department is called upon to decide. It is impossible to get a legal opinion from the Attorney General or the Assistant Attorney General, because they are nearly all the time during the session of Congress engaged in arguing cases before the Supreme Court. The Secretary of the Navy has no authority to call to his aid the Solicitor of the War Department or the Solicitor of the Treasury. He is compelled to go outside and employ other attorneys, and when he employs one man in one place and another man in another, it necessarily follows that the aggregate amount paid to those various lawyers far exceeds the salary that it is proposed to give to this officer.

If we pass this bill I have no doubt that a good man will be selected, an eminent lawyer. If such a man is not selected, the Senate of course will refuse to confirm the appointee; and we shall then have somebody who will be responsible to the Navy Department and the country for the legal opinions that shall be given, and for the conduct of the Navy Department in that regard; and I think that in the future a great many of the faults that have been attributed to the Navy Department will be obviated, if we have some regular attorney who is to advise that Department upon legal questions. I have nothing further to say on the subject.

Mr. SHERMAN. I am rather disposed to vote for this bill, for the simple reason that if we do not make such a provision the Secretary of the Navy will, under the head of special attorneys, expend twice or three times the sum. I saw in the document laid on our tables this morning that he has already paid to one man more than the salary provided for by this bill. There are some very curious items exhibited by this document to which I wish to call the attention of the Senate. I am always rather in favor of good large fees to the profession, and disposed to see them charged in proper and reasonable cases; but I think, on the whole, the exhibit made by this document is remarkably liberal to the profession. I see that the revenue service paid to one lawyer, from July 1, 1864, to January 1, 1865—and a gentleman, too, of not the most eminent character, although a very respectable and creditable lawyer in New York—\$5,900 for six months' service in revenue cases.

Mr. GRIMES. That was not for naval purposes.

Mr. SHERMAN. I will refer to the Navy Department presently. That Department has been pretty liberal in allowing fees also. I see that the amount allowed to one gentleman in New York for the fiscal year ending June 30, 1864, was \$2,550, and for the six months from July 1, 1864, to January 1, 1865, \$5,900, as "retainers and services in revenue cases." I see that there was also allowed to the district attorney of New York, for extra services in revenue cases for the same six months, \$6,085, and there are various allowances of very large amounts. The late Assistant Attorney General, whose salary was \$3,000 a year, has done a great deal better by resigning; for since he resigned last summer, he has been paid \$5,000 for services in two classes of cases. This document shows that there was paid to T. J. Coffey, as "special counsel in California land claims," \$2,000, and to T. J. Coffey, as "special counsel in prize cases," \$3,000. He has made, then, at least \$2,000 by resigning. It seems to me these allowances are rather unreasonable.

The Secretary of the Navy has been very liberal also. The Navy Department allowed to Nathaniel Wilson, for services and expenses from March 15 to August 1, 1864, in the preparation of certain cases for trial by court-martial, \$2,500; and to the same gentleman, for services and ex-

penses in the examination of the accounts of Isaac Henderson, \$750; and to the same gentleman, for services and expenses in the preparation of the case of Joseph L. Savage, \$300—making over thirty-five hundred dollars to a single lawyer for a few months' service. It seems to me we had better allow the Secretary of the Navy one attorney, and forbid him to employ others. In my judgment the power granted to heads of Departments to employ special attorneys has been abused, and I am not disposed to continue it. I think it would be better to give to each Department a solicitor whose legal opinion it should take, and give him time to examine cases, and then I would restrict or take away entirely the authority to employ special attorneys. I am disposed to vote for this bill, and I think we ought to go a little further and take away from the Secretary of the Navy the power to employ special attorneys unless in very peculiar cases.

Mr. HALE. The Senator from Ohio, if he will look at the table in the document to which he has referred, will find that the remedy he proposes will be entirely nugatory, because the War Department has a Solicitor now, and that does not obviate the employment of these men or the payment of these fees by that Department. The only thing you will gain by the appointment of this Solicitor in the Navy Department will be that you will create a new office with a salary of \$4,000, but you will not obviate the necessity of allowing these special fees. That officer will have his office here in Washington; his salary will be \$4,000, and I suppose he will have the rank, pay, and emoluments of a brigadier general. [Laughter.] But the necessity for the employment of special attorneys, if it exists at all, will exist just as much after you have made this Solicitor as it does now. If you look at the return made by the Navy Department you will see, I think, that there is not one of those cases where the duty could have been performed by this bureau officer if he was here. For instance, Mr. Sleeper was employed at New York, and Mr. Wilson was liberally paid nearly four thousand dollars, but that was at New York, and the same thing would have been done, probably, if there had been a Solicitor of the Navy Department here.

I do not blame the Secretary of the Navy for asking authority to create this office, and I expect the bill will pass. When I heard it read I had the same opinion of it that the Senator from Illinois had; but I had had such poor luck in opposing the creation of new offices, and the increase of salaries, and the advancement of rank, that I had pretty much made up my mind to let the thing go, because opposition seemed to be of no use. I suppose this bill will pass. It will make a new place; this officer's salary will be paid, and special fees will be allowed by the Navy Department just as is now done by the War Department. The bill will be no sort of remedy for the evil that is complained of. The Senator from Ohio is altogether mistaken in his notion in regard to that.

There is another thing that I should like to know, but I am not aware that we can get at it, and I do not know that it is exactly pertinent to this inquiry. I should like to know, however, how much these gentlemen have been paid by virtue of these appointments, beside what they have got out of the Treasury. I do not know how the fact is, but I wish somebody that does know would tell me whether, in regard to some of these gentlemen that have been paid for investigations, in New York and Washington for instance, in prize cases, the captors who were entitled to a share of the proceeds of the prize have not been taxed a percentage on the amount they received, which percentage has gone to pay these special attorneys. That of course does not appear in the sum sent here from the Navy Department as paid by the Department. I am told that is the case. I do not know it, and therefore I will not affirm it; but I should like to know how the fact is before I vote.

Now, sir, I hope that all those who think the rebellion is to come to a close, and the country is to be saved from the burdens of taxation under which it labors by the creation of new officers with large salaries, will vote for this bill; but it is a little singular, it is very singular, that this Department, which has had the administration of the naval affairs of the country for four years,

should never have seen the necessity of this office until about fifteen days before its head is going out. There has been no such recommendation from the Secretary of the Navy until the 20th of February, if I caught correctly the date of the letter which was read. This Administration will go out of office on the 4th of March—at least a portion of them will—and it is not impossible that the Secretary of the Navy may go; but whether he does or not the Administration ends; and it is a little curious, if the experience of the Navy Department has shown the necessity for such an officer, that it should not have been found out until about fifteen days before the Secretary is going out of office. Sir, it is a device to create a new officer and give him a large salary.

Mr. SAULSBURY. I am glad, Mr. President, that opposition has been made to this measure by the honorable chairman of the Committee on the Judiciary. An opposition coming to it from this side of the Chamber might be considered outrageous. I shall vote against the bill for two reasons. The first is, that it is to be presumed that a Cabinet officer is capable of understanding and expounding the law applicable to his Department. Another reason is, that I believe the law was better expounded when the Departments had no Solicitors than it has been since; and if the law is to be murdered by any new Solicitors of Departments, as it has already been murdered by existing Solicitors, I think we had better have no more.

Mr. HENDRICKS. When this bill first came before the Committee on Naval Affairs, I doubted whether it ought to be adopted; but upon a more careful examination of it I decided to give it my support, not that I think it will very materially reduce the expenditures of money paid to lawyers in particular cases, for as one looks over this report that comes from the Departments, he is impressed with the notion that these payments are made to particular individuals for political services rather than for services in the courts. I do not believe that there has been a condition of affairs in the courts in which the interests of the Government in the courts justified anything like such an expenditure as this exhibit shows. But I believe that a Solicitor in a Department is a very useful officer, and in that respect I am compelled to differ from my friend from Delaware. When I was connected with the General Land Office, in several instances I discovered the very great importance of the office of the Solicitor of the Treasury in the preparation of causes. It is not expected that the Solicitor will leave the Department and try the cause in court, but it is expected that the Solicitor will prepare the cause for trial in court; that he will supervise every step up to the time of trial, and then that the cause will go to the district attorney and be easily disposed of in his hands.

Every Senator is aware of the fact that legal questions of a new sort are springing up every day in the Navy Department. I suppose there are a hundred contracts now made by that Department where, heretofore, there were but a few. There has been a very great increase in the contracts out of which litigation is likely to arise. I think, therefore, it is proper that there should be a law officer for that Department, quite as important as for the War Department. Perhaps the business will not be so large, but it is of the same class. I shall therefore vote for this bill, not that I think it is going to reduce the expenditure of money to lawyers outside, for I do not believe that expenditure has been made with reference to the public interest in very many cases. Anybody running his eye over this list of attorneys who have been employed will be satisfied of that, I think. But let us give the Department the proper officer, a law officer, to prepare the cases for the courts, and then hold the Department to an honest discharge of its duties.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TRUMBULL. Before the bill is passed I want to say a word as to the report to which reference has been made. If it were not so late in the session I should move, on the information I have, that some committee be charged with the duty of inquiring into the matters stated in the report. Some complaint has been made of the amounts of money that appear to have been paid out. I have been informed this very morning by

an officer of the Government that \$15,000 was paid to one attorney for fees by an officer in one of the Departments, but it does not appear in this report.

Mr. WILKINSON. Yes; it is here.

Mr. CARLILE. The Senator will find it on page 3.

Mr. TRUMBULL. Yes, I see it now. I was informed that there was another payment which does not appear here. I will not make a motion for a committee now; there is no time to investigate it this session; but by some construction or other of the resolution which the Senate passed I think we have not got out all the facts in reference to the payment of fees to attorneys by the different Departments.

Mr. DAVIS. I shall, under the remarks of the Senator from Iowa and of the Senator from Ohio, vote for this bill, but at the same time I will make a single remark upon the great abuse which in my opinion is exhibited by the facts that have been disclosed in this debate. There are various legal officers that are authorized or that assume the authority to employ assistant counsel. Why is that practice adopted? It is in the first place because of the flagrant incompetence of the men appointed to those offices to fill them and to discharge their duties. In relation to the first legal officer of the Government, who I believe has an assistant with a large array of clerks and other officers in his office, I have never met a solitary man in the Senate or out of the Senate who did not concede his incompetence to fill that office. When that is the fact, when these high and responsible legal offices are filled with incompetent men, and when legal ability and general intellect do not regulate the appointment or are scarcely taken into consideration in making the appointment, and men flagrantly incompetent to perform the duties of the office are put in, it necessarily involves one or the other of these consequences: the public interest must be neglected, or there must be men appointed to assist them in the performance of their duties who are equal to the performance of those duties.

I think the Senate itself is responsible in a great degree for the numerous employment of counsel to assist officers in the execution of the appropriate duties of these officials, because of their incompetence; and the Senate is responsible, for it confirms men admittedly incompetent to discharge the duties of these high legal offices. I hope that the honorable and vigilant Senator from Illinois, who presides with so much ability and fidelity over the Committee on the Judiciary, will at the next session—there is no time at the present—get up a bill regulating the whole subject of the employment of counsel to assist the officers of the Government, and restricting the amount of compensation that these officers and the assistants employed by them should receive.

There is no small abuse of the Government more pernicious and more lavishly indulged in than this. It is a convenient and a safe mode of enriching favorites, giving them plunder, buying up men of easy virtue to prostitute former political opinions, and to enlist as mercenaries in a new cause and a new party. Sir, I do not believe in any such changes of opinion. I should like to see this practice cut up by the roots. I do not believe, either, in the employment of incompetent men, from political favoritism and other considerations, to perform the duties of offices to which they are wholly inadequate, and I trust that the honorable Senator from Illinois will bring up this subject, and have it regulated by a proper bill. I think it is very probable, though, that the duties and interests of the Navy Department, so far as they are of a legal character, would be more aptly and ably and economically attended to by this Solicitor if we can get a competent man to fill the office, and under the assurance of the Senator from Iowa, I hope if the bill passes we shall get such a competent man.

The question being taken by yeas and nays, resulted—yeas 26, nays 11; as follows:

YEAS—Messrs. Anthony, Brown, Clark, Collamer, Conness, Cowan, Davis, Dixon, Foot, Foster, Grimes, Harris, Hendricks, Howe, Morrill, Nesmith, Pomeroy, Powell, Richardson, Riddle, Sherman, Sprague, Stewart, Van Winkle, Wiley, and Wright—26.

NAYS—Messrs. Buckalew, Carlile, Chandler, Hale, Howard, Morgan, Saulsbury, Ten Eyck, Trumbull, Wade, and Wilson—11.

ABSENT—Messrs. Doolittle, Farwell, Harding, Harlan, Henderson, Johnson, Lane of Indiana, Lane of Kansas, McDougal, Nye, Ramsey, Sumner, and Wilkinson—13.

So the bill was passed.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated:

A bill (H. R. No. 751) to provide for the settlement of private land claims in the Territory of Arizona, and for the survey thereof—to the Committee on Private Land Claims.

A bill (H. R. No. 787) to incorporate the Harmony Cemetery Company (of colored persons) in the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor—to the Committee on Pensions.

A bill (H. R. No. 792) for the relief of Henry Karstens—to the Committee on Pensions.

A bill (H. R. No. 793) to authorize the Commissioner of Patents to extend the patent of Josiah Copeland for a new and useful improvement in boot-crimps—to the Committee on Patents and the Patent Office.

#### MILITARY ACADEMY BILL.

Mr. HOWE, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same.

That the Senate recede from the second amendment.

T. O. HOWE,  
THOMAS A. HENDRICKS,  
*Managers on the part of the Senate.*  
J. G. BLAINE,  
R. MALLORY,  
G. S. ORTH,  
*Managers on the part of the House.*

#### SOUTHERN INDIAN SUPERINTENDENCY.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to furnish the Senate copies of all orders, permits, licenses, and correspondence in any way relating to licensed traders in the southern superintendency, or any information in his office connected with the subject of trade in said superintendency.

PICTURE BY W. H. POWELL.

Mr. COLLAMER. I ask the Senate to take up the joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol. I seldom ask the Senate to take up a bill in this way; but I now make this motion.

Mr. SUMNER. There will be some debate on that.

Mr. COLLAMER. Only a few minutes, I think.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole. It proposes to direct the Joint Committee on the Library to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory; the particular subject of the painting to be agreed on by the committee and the artist. The entire expense of the picture is not to exceed \$25,000, and \$2,000 are to be paid to Mr. Powell, in advance, to enable him to prepare for the work, the remainder in installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

Mr. SUMNER. I am sorry that this resolution has been called up, and I am sorry to feel obliged to say anything upon it. The patronage of art is always beautiful, but there is a time for all things; there is a time to weep, and there is a time to laugh, and there is a time for the patronage of art; but permit me to say that this is not

# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2d Session.

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the time. Now, sir, when our debt is accumulating at the rate of more than a million a day, when our soldiers are still unpaid, this is not the time to appropriate \$25,000 for a picture to adorn the national Capitol—

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana, upon which the Senator from Michigan [Mr. HOWARD] is entitled to the floor.

Mr. COLLAMER. Let that be informally laid aside that the resolution which was taken up on my motion may be disposed of.

Mr. HOWARD. I will yield for the purpose of allowing that to be acted upon.

The VICE PRESIDENT. The unfinished business of yesterday will be informally laid aside if there be no objection.

Mr. HALE. There is objection.

The VICE PRESIDENT. If there be objection, the unfinished business must be proceeded with, unless a motion is made to postpone it.

Mr. COLLAMER. I move that it be postponed for the purpose of disposing of the joint resolution which has been taken up.

Mr. TRUMBULL. I hope it will not be postponed; but the other matter can be continued informally.

The VICE PRESIDENT. To do that requires unanimous consent.

Mr. TRUMBULL. The Senator from Vermont, I trust, will not ask the Senate to displace the regular order.

Mr. COLLAMER. How shall I ever have this resolution acted on? Some one is sure to object.

The VICE PRESIDENT. Senators will allow the Chair to suggest that the resolution which was taken up on the motion of the Senator from Vermont, if it now goes over, will stand as the unfinished business of the morning hour, and will have that place on Monday morning.

Mr. COLLAMER. That will do.

Mr. HALE. On that point I desire to make a suggestion. If I am not mistaken—and I hope that I shall get the ear of my colleague—one of the gentlemen who have occupied the chair has held that there is no such thing as the unfinished business of the morning hour taking precedence.

The VICE PRESIDENT. The present occupant of the chair cannot be responsible for the decisions made by any other individual. He decides as he has now decided and has always decided, and such has been the practice of the Senate all the time he has been in the chair.

Mr. CHANDLER. Before my colleague proceeds, I ask his indulgence to allow me to report three or four bills from the Committee on Commerce and have them acted upon. They are of great importance, and I have been trying all the morning to get them in, and I am sure they will not lead to debate and will not occupy long.

Mr. HOWARD. I will yield for that purpose if I do not thereby lose my privilege to the floor.

The VICE PRESIDENT. The reports of the Senator from Michigan can be received by unanimous consent.

Mr. CHANDLER. I ask unanimous consent.

The VICE PRESIDENT. The Chair hears no objection; the reports will be received.

## ADMEASUREMENT OF TONNAGE.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of ships and vessels of the United States," have directed me to report it back and recommend its passage, and as it is very short and there can be no objection to it, I desire to have it put on its passage now.

There being no objection, the bill was considered as in Committee of the Whole. It provides that the act to regulate the admeasurement of tonnage of ships and vessels of the United States, approved May 6, 1864, shall be so construed that

no part of any ship or vessel shall be admeasured or registered for tonnage that is used for cabins or state-rooms, and constructed entirely above the first deck, which is not a deck to the hull.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## MICHIGAN CITY HARBOR.

Mr. CHANDLER. The same committee, to whom was referred the bill (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor, report it back and recommend its passage; and I ask unanimous consent to pass it now.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to grant to the Michigan City Harbor Company, at Michigan City, in the State of Indiana, the privilege of using the foundations of the old Government piers now in that harbor for the purpose of improving and protecting the harbor; and no expense made by the Harbor Company for this purpose is to be considered a charge against the Government. It also proposes to constitute Michigan City, in the State of Indiana, a port of delivery, subject to the same regulations and restrictions as other ports of delivery of the United States, and it is to be annexed to and made part of the collection district of Chicago. A surveyor of the customs, to reside at the port, is to be appointed, who shall receive an annual compensation of \$350 per annum.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## ENROLLMENT AND LICENSE OF VESSELS.

Mr. CHANDLER. The same committee, to whom was referred the bill (H. R. No. 738) relating to the enrollment and license of certain vessels, have directed me to report it back and to ask for its passage now.

By unanimous consent the bill was considered as in Committee of the Whole. It provides whenever it shall become necessary for the owner or owners of any vessel of the United States navigating the western rivers and the waters on the northern, northeastern, and northwestern frontiers of the United States, otherwise than by sea, and being in a district other than that to which the vessel belongs, to procure her enrollment and license, or license, or renewal thereof, the same proceedings may be had in the district in which the vessel then shall be as are now or shall then be required by law, on application for such enrollment and license, or license, or renewal thereof, as the case may be, in the district to which the vessel may belong, excepting the giving of bond and the enrollment and issuance of license; and the officer before whom such proceedings shall be had shall certify them to the collector of the district to which the vessel belongs, who shall thereupon, on the owner or owners giving bond as required in other cases, duly enroll the vessel and issue license in the same form as if the application had originally been made in his office, and either deliver the license to the owner or owners, or forward it by mail to the officer who certified to him the preliminary proceedings, and who shall, in such case, deliver the license to the owner or owners or master of the vessel. The act is not, however, to be construed so as in any respect to change existing laws, excepting in so far as it enables such owner or owners to procure enrollment or license, or renewal thereof, without returning their vessels to their home ports or districts.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## PREVENTION OF SMUGGLING.

Mr. CHANDLER. The same committee, to whom was referred the bill (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes, report it back and recommend its passage, and I ask that it be acted on now.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to revive and reenact the first sentence of the second section of the act further to provide for the collection of duties on imports and tonnage, approved March 3, 1815, to wit:

"That it shall be lawful for any collector, naval officer, surveyor, or inspector of the customs, as well in any adjoining district as that to which he belongs, to stop, search, and examine any carriage or vehicle of any kind whatsoever, and to stop any person traveling on foot or beast of burden on which he shall suspect there are goods, wares, or merchandise which are subject to duty, or which shall have been introduced into the United States in any manner contrary to law; and if such officer shall stop any goods, wares, or merchandise on any such carriage, vehicle, or person traveling on foot, or beast of burden, which he shall have probable cause to believe are subject to duty or have been unlawfully introduced into the United States, he shall seize and secure the same for trial."

And every such beast of burden, carriage, or vehicle, together with the teams or other motive power, and all the appurtenances used in conveying such goods, wares, or merchandise, are to be subject to seizure and forfeiture in like manner as is by law now provided in regard to such goods, wares, or merchandise. All fines, penalties, and forfeitures recovered in consequence of such seizures are to be disposed of as is provided in other cases by the ninety-first section of the act to regulate the collection of duties on imports and tonnage, approved March 2, 1799, and the last proviso of that ninety-first section is hereby repealed.

By the second section the power and authority given to collectors, naval officers, and surveyors, by the sixty-eighth section of the act of March 2, 1799, are extended to inspectors of the customs, and any officer or other person entitled to or interested in a part or share of any fine, penalty, or forfeiture incurred under this or any other law of the United States, may be examined as a witness in any of the proceedings for the recovery of such fine, penalty, or forfeiture by either of the parties thereto, and such examination shall not deprive the witness of his or her share or interest in such fine, penalty, or forfeiture.

The third section provides that in case any store, warehouse, or other building, shall be upon or near the boundary line between the United States and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein or carried through or into the same without payment of duties, and in violation of law, and the collector, deputy collector, naval officer, or surveyor of customs, shall make oath before any magistrate competent to administer the same, that he has reason to believe, and does believe, that such offense has been therein committed, such officer shall have the right to search such building and the premises belonging thereto; and if any such goods shall be found therein, the same, together with such building, shall be seized, forfeited, and disposed of according to law, and the building shall be forthwith taken down or removed. Any person or persons who shall have received or deposited in such building or carried through the same any such goods, or shall have aided therein, in violation of law, shall, upon conviction before any court of competent jurisdiction, be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or by both such fine and imprisonment.

It is further provided that the first section of the act of April 2, 1844, entitled "An act directing the disposition of certain unclaimed goods, wares, or merchandise, seized for being illegally imported into the United States," shall be so amended that in place of the word "one," where ever the same may be found in that section, the word "five" shall be inserted.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## DISTRICT OF SALEM AND BEVERLY.

Mr. CHANDLER. I also report back from the same committee the bill (H. R. No. 783) concerning the collection district of Salem and Beverly, Massachusetts, and ask for its present consideration.



There being no objection, the bill was considered in Committee of the Whole. It proposes to abolish the office of naval officer for the district of Salem and Beverly, in the State of Massachusetts, and to abolish the office of surveyor for the district, to reside at Beverly, and also to provide that the salary of surveyor of the district shall hereafter be \$400 per annum.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes; and had receded from its disagreement to the first amendment of the Senate to that bill (not considered by the committee of conference) and agreed to the same.

The message also announced that the House had passed a bill (H. R. No. 463) for the relief of Ambrose Morrison, of Nashville, Tennessee, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 640) providing for a district and circuit court of the United States for the district of Nevada, and for other purposes; and it was signed by the Vice President.

#### RECESS—BANKRUPT BILL.

Mr. FOSTER. Before the Senator from Michigan [Mr. HOWARD] proceeds, I move that at the hour of half past four o'clock to-day the Senate take a recess until seven o'clock, for the purpose of then proceeding to the consideration of the bankrupt bill.

Mr. TRUMBULL. I object to that.

Mr. FOSTER. It is the only time when there will be any possibility of considering the bankrupt bill, and I appeal to the friends of that bill, if it have any, that they will at least endeavor to secure an opportunity for bringing it to the consideration of the Senate and get a vote, as I think we can, after a very short discussion. I would appeal also to those who are opposed to the bill, that, as a matter of justice, we should at least have an opportunity of taking the sense of the Senate upon it. To those who are charged with important bills which they are desirous of pressing upon the Senate for consideration, and have been pressing for days past, I submit that it is but fair to give an hour or two—I shall ask no more—to the consideration of this bill; and if in the course of an hour or two the Senate can be brought to a vote upon it, I think great good will be done to the country; and if within that time a vote cannot be had upon it I shall certainly not ask that it be taken up at another time to interfere with any other business of the Senate. I believe that between seven and nine o'clock this evening we can get a vote upon that bill, for I do not think there are many amendments to be proposed to it, and the Senate will be prepared to act and vote upon those which may be offered. If we cannot do it before nine o'clock this evening I give my word to the Senate that I shall not again press it on their consideration during the session. I ask this, and I submit that it is but fair to those who desire that this bill should receive the action of the Senate.

Mr. TRUMBULL. I object to this motion.

Mr. FOSTER. Let a vote be taken on it.

Mr. TRUMBULL. I will not allow a vote to be taken which shall supersede the pending measure until we get through with it, if I can help it. The Senator from Michigan is entitled to the floor. He has given it away for nearly half an hour, and now the Senator from Connecticut takes the floor to seek to get up another bill.

The VICE PRESIDENT. The motion cannot be entertained except by the consent of the Senator from Michigan.

Mr. HOWARD. I give my consent cheerfully if I do not thereby lose the floor.

Mr. TRUMBULL. I submit that the motion is not in order except by unanimous consent.

Mr. FOSTER. It does not interfere with the Senator from Michigan, and if his speech should

not be concluded by the time at which I propose to take up the bankrupt bill I shall not ask that he be interfered with.

The VICE PRESIDENT. The Senator from Michigan has a right to yield the floor to any Senator to make any motion. He has yielded to the Senator from Connecticut, and the question now is on agreeing to the motion submitted by the Senator from Connecticut.

Mr. GRIMES. Is the question on taking a recess, or on making the bankrupt bill the special order?

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut to take a recess from half past four to seven o'clock for the purpose of acting on the bankrupt bill at seven o'clock, and the Chair will understand that, if that motion be agreed to by the requisite vote, and will rule, if the Senate shall come together at seven o'clock under that order, that the bankrupt bill would be the special assignment for that hour and would therefore necessarily come up.

Mr. TRUMBULL. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. TRUMBULL. I wish to make a few remarks on this motion, and the manner in which it has got before the Senate. It is known, perhaps, from remarks which have already fallen from the Senator from Michigan, that he is opposed to the joint resolution he is about to discuss. Being opposed to it, and being entitled to the floor, he gives way for the purpose of having other motions interposed to delay that resolution. He is quite willing that the resolution should be delayed. I presume he will vote to postpone it at any time. Being entitled to the floor as he is, the Chair has ruled properly, I have no doubt, that he has a right to give way for any of these motions. The Senator from Connecticut, however, is not opposed to the pending measure. It is manifest, I apprehend, to the Senator from Connecticut, as it is to all of us, that if we are to have any action upon the Louisiana question, we must hold on to it, and probably have a night session for that purpose. The Senator from Michigan is not the only Senator who desires the floor on that question. I know of some other Senators who desire to speak on it, and are prepared to do so, and there is no sort of probability of our ending the discussion on the Louisiana question between now and the adjournment at half past four o'clock. I have no objection to that part of the motion of the Senator which proposes a recess from half past four until seven o'clock, but I do object to that part of it which makes the bankrupt bill the special order for seven o'clock. And I do not think it exactly fair on the part of my friend from Michigan to take the floor upon a question, whatever his views may be about it, and then having control of it to yield the floor for motions to displace it. Now, sir, with these remarks I leave the question. I trust the Senate will not vote to supersede the question now pending by the bankrupt bill.

Mr. FOSTER. One word only. The Senator from Michigan certainly ought not to be censured by the Senator from Illinois, for I am to blame if anybody is, because I asked the Senator from Michigan to give way. Respecting the subject to which the Senator from Illinois alludes, I believe I agree with him as to its importance, and that it is desirable to pass the resolution. I go with him heartily in believing that it is most important and most desirable to pass it; but I did not suppose that the Senate intended to consider that question to-night; I have no idea that that was in the minds of the Senators; and I asked to-night for the bankrupt bill, not believing that it would interfere with this measure. But I will not take up time. I only ask for a vote on the motion.

Mr. DOOLITTLE. I desire to ask a question for information. I understood the Chair to state that in case a recess was ordered for the purpose of taking up the bankrupt bill this evening, that bill would be the special order after the recess. What I desire to know is this: would the unfinished business, when we adjourn at the recess, be displaced so that it would not come up regularly on Monday at one o'clock?

Mr. SHERMAN. There is a special order for that hour.

The VICE PRESIDENT. The Chair is of

opinion that if two thirds of the Senate shall concur in this motion, it will override the unfinished business. If a bare majority agree to this motion it will not override the unfinished business. It requires a two-thirds vote to make a special order. The present motion is equivalent to a motion to make the bankrupt bill a special order, and if carried by a two-thirds vote will have that effect, but if the motion be agreed to by less than a two-thirds vote it will simply amount to a recess, and the unfinished business will not be superseded.

Mr. DOOLITTLE. In relation to this matter, my own feeling is that if it does not displace the unfinished business, I am for giving the evening to the consideration of the bankrupt bill. I have no objection to its coming up for the evening, with the understanding that that business and none else be discussed this evening.

Mr. SUMNER. I am very glad the Senator from Connecticut has made the motion he has. Indeed I have regretted that there has been such a delay in the consideration of the bankrupt bill. It is a very important practical question, with regard to which there are numerous petitions now on our table from all parts of the country. The business of the country is interested in it to an extent perhaps that it is not in any other question, unless it be the tax bill. It ought to be considered, and the Senate ought to have an opportunity of hearing the Senator from Connecticut on the subject. I wish to hear him on the subject, and as at present advised I wish to vote for that bill or for a bankrupt bill when it shall have been matured in this Chamber. I hope therefore that his motion will prevail.

Mr. TRUMBULL. I ask for a division of the question, first on a recess and then on making the bankrupt bill a special order.

The VICE PRESIDENT. It is a divisible question in the opinion of the Chair. The first question is on taking a recess from four and a half o'clock until seven o'clock this evening. On that question the yeas and nays have been ordered.

Mr. TRUMBULL. I did not mean to have the yeas and nays on that branch of the motion.

The VICE PRESIDENT. The Chair will so regard it if there be no objection. The yeas and nays will be taken on the other branch of the motion.

Mr. FOSTER. I submit whether this motion is divisible; whether it is not one and indivisible, being to take a recess for a specific purpose. It is not a motion generally for a recess. I submit whether, after the yeas and nays have been ordered on the motion, the party making the motion is not entitled to a vote upon the motion as made.

Mr. CLARK. I suggest that the motion must be divisible, because its two branches require a different vote. A majority can determine the question of recess, while to make a special order requires a two-thirds vote.

The VICE PRESIDENT. The Chair has no doubt on the subject. The motion is one which embraces two distinct propositions. The parliamentary law, in the opinion of the Chair, is, that any question may be divided into as many distinct propositions as would stand distinctly and separately by themselves. Here the motion embraces two distinct propositions, first to take a recess, and second to make a particular bill a special assignment. The question now is on taking a recess from four and a half o'clock to seven o'clock.

The proposition was agreed to; there being, on a division—yeas 18, nays 13.

The VICE PRESIDENT. The next question is on assigning the hour of seven o'clock for the consideration of the bankrupt bill, and on that the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 24; as follows:

YEAS—Messrs. Anthony, Brown, Cardie, Chandler, Collamer, Davis, Dixon, Foot, Foster, Harris, Morgan, Nye, Saulsbury, Stewart, Sumner, Van Winkle, and Wade—17.

NAYS—Messrs. Buckalew, Clark, Conness, Cowan, Doolittle, Farwell, Grimes, Hale, Henderson, Howard, Howe, Johnson, Lane of Kansas, Morrill, Nesmith, Powell, Richardson, Sherman, Sprague, Ten Eyck, Trumbull, Willey, Wilson, and Wright—24.

ABSENT—Messrs. Harding, Harlan, Hendricks, Lane of Indiana, McDougall, Pomeroy, Ramsey, Riddle, and Wilkinson—9.

So the Senate refused to make the bankrupt bill the special order for seven o'clock.

## COURTS IN NEVADA.

Mr. STEWART. Before the Senator from Michigan, who is entitled to the floor on the special order, proceeds, I desire to move for the printing of one hundred copies of the bill (H. R. No. 640) to provide for a district and a circuit court for the district of Nevada and for other purposes, as it has been passed by Congress, in order to have a number for distribution in Nevada. The people there will be anxious to know what the law is, and I move that one hundred copies of it be printed.

The VICE PRESIDENT. That motion will go to the Committee on Printing, under the rules.

Mr. TRUMBULL. I think the Senator's motion is unnecessary. We have now a standing order by which all laws that are passed are printed immediately, and he can get copies in a few days.

Mr. CONNESS. The law will be printed in a few days in the Chronicle, and the Senator can send any number. The publication of the laws is not much behind in the Daily Chronicle.

Mr. STEWART. I withdraw the motion.

## STATE GOVERNMENT OF LOUISIANA.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana.

Mr. SUMNER. I wish, with the consent of my friend from Michigan, to send to the Chairman an amendment that I propose to offer at the proper time to the pending resolution. It is to strike out all after the enacting clause, and to insert this as a substitute:

That it is the duty of the United States at the earliest practicable moment, consistent with the common defense and the general welfare, to reestablish by act of Congress republican governments in those States where loyal governments have been vacated by the existing rebellion, and thus, to the full extent of their power, fulfill the requirement of the Constitution, that "the United States shall guaranty to every State in this Union a republican form of government."

Sec. 2. *And be it further resolved*, That this important duty is imposed by the Constitution in express terms on "the United States," and not on individuals or classes of individuals, or on any military commander or executive officer, and cannot be intrusted to any such persons, acting, it may be, for an oligarchical class, and in disregard of large numbers of loyal people; but it must be performed by the United States, represented by the President and both Houses of Congress, acting for the whole people thereof.

Sec. 3. *And be it further resolved*, That, in determining the extent of this duty, and in the absence of any precise definition of the term "republican form of government," we cannot err, if, when called to perform this guarantee under the Constitution, we adopt the self-evident truths of the Declaration of Independence as an authoritative rule, and insist that in every reestablished State the consent of the governed shall be the only just foundation of government, and all men shall be equal before the law.

Sec. 4. *And be it further resolved*, That, independent of the Declaration of Independence, it is plain that any duty imposed by the Constitution must be performed in conformity with justice and reason, and in the light of existing facts; that, therefore, in the performance of this guarantee, there can be no power under the Constitution to disfranchise loyal people, or to recognize any such disfranchisement, especially when it may band over the loyal majority to the government of the disloyal minority; nor can there be any power under the Constitution to discriminate in favor of the rebellion by admitting to the electoral franchise rebels who have forfeited all rights and by excluding loyal persons who have never forfeited any right.

Sec. 5. *And be it further resolved*, That the United States, now called at a crisis of history to perform this guarantee, will fail in duty under the Constitution, should they allow the reestablishment of any State without proper safeguards for the rights of all the citizens, and especially without making it impossible for rebels now in arms against the national Government to trample upon the rights of those who are now fighting the battles of the Union.

Sec. 6. *And be it further resolved*, That the path of justice is also the path of peace, and that for the sake of peace it is better to obey the Constitution, and, in conformity with its requirements in the performance of the guarantee, to reestablish State governments on the consent of the governed and the equality of all persons before the law, to the end that the foundations thereof may be permanent, and that no loyal majorities may be again overthrown or ruled by any oligarchical class.

Sec. 7. *And be it further resolved*, That a government founded on military power, or having its origin in military orders, cannot be a "republican form of government" according to the requirement of the Constitution; and that its recognition will be contrary not only to the Constitution, but also to that essential principle of our Government which, in the language of Jefferson, establishes "the supremacy of the civil over the military authority."

Sec. 8. *And be it further resolved*, That in the States whose governments have already been vacated, a government founded on an oligarchical class, even if erroneously recognized as a "republican form of government" under the guarantee of the Constitution, cannot sustain itself securely without national support; that such an oligarchical government is not competent at this moment to discharge the duties and execute the powers of a State; and that its recognition as a legitimate government will tend to en-

feeble the Union, to postpone the day of reconciliation, and to endanger the national tranquility.

Sec. 9. *And be it further resolved*, That considerations of expediency are in harmony with the requirements of the Constitution and the dictates of justice and reason, especially now, when colored soldiers have shown their military value; that as their muskets are needed for the national defense against rebels in the field, so are their ballots yet more needed against the subtle enemies of the Union at home; and that without their support at the ballot-box the cause of human rights and of the Union itself will be in constant peril.

I ask to have this amendment printed.

The motion was agreed to.

Mr. HOWARD. Mr. President, by the official census of 1860, the number of white persons in the then peaceful and loyal State of Louisiana was 357,629. By the proper election returns in the same State, of the presidential election of that year, it appears that the number of persons who voted in Louisiana at that presidential election was 50,510. On the 26th of January, 1861, a popular convention of that State was held in the city of New Orleans, and that convention, after what they regarded as due deliberation, passed the following ordinance:

"We do further declare and ordain that the State of Louisiana hereby resumes all rights and powers heretofore delegated to the Government of the United States of America, that her citizens are absolved from all allegiance to said Government, and that she is in full possession and exercise of all those rights of sovereignty which pertain to a free and independent State."

It was the declaration of the national independence of the people of Louisiana. Immediately upon the adoption of that treasonable ordinance the State, like other States, became the theater of an insurrection against the authority of the Government of the United States. On the 16th of August, 1861, the President of the United States, acting under and in pursuance of an existing statute, declared the State of Louisiana and several other States of the Union to be in insurrection, armed insurrection against the Government of the United States. This fixed the political status of that State; at least from the date of the proclamation of the 16th of August the people of that State, as a political community, were and have remained and still are in a state of armed, bloody insurrection against the authority of this Government. The President of the United States, in his proclamation of the 1st of July, 1862, nearly one year after his first proclamation, again pronounces the State of Louisiana to be in insurrection against the lawful authority of the Government under which we live. On a third occasion, and by his proclamation of the 1st of January, 1863, commonly known as the emancipation proclamation, he again solemnly proclaimed to the world that that State was still in insurrection against the authority of this Government. It is still by law and in fact in a state of insurrection; its people are to-day as a community hostile to the Government of the United States, and its territory is hostile territory so far as the statutes of the United States and the proclamations of the President of the United States, in pursuance of those statutes, are evidence of that fact. The State has not yet been reclaimed by conquest; a very small portion of it is now within even the military grasp of the Government, and even as late as the amnesty proclamation of the President, dated the 8th of December, 1863, the fact that that State and its people are in insurrection against the authority of the United States is again recognized by the President. I find in that proclamation the following language:

"And I do further proclaim, declare, and make known, that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Virginia, Florida, South Carolina, and North Carolina, a number of persons not less than one tenth in number of the votes cast in such State at the presidential election in the year of our Lord 1860, each having taken the oath aforesaid and not having since violated it, and being a qualified voter by the election laws of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican, and in no wise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that 'the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or the Executive, (when the Legislature cannot be convened,) against domestic violence.'"

There is an assertion of authority on the part of the Executive of the United States—made, I confess with pleasure, with the best of motives

and intentions, and for patriotic ends—an assertion that the President of the United States, whenever one tenth part of the people constituting the population of any one of the eleven rebellious States shall see fit to constitute a government for the State, will recognize of his own accord such government as being the legitimate government of the State, entitled to all the guarantees contained in the Constitution of the United States to a State peaceful and in the Union. And, sir, he gives this assurance at a time when all these States were engaged, by his own confession, the admissions of his own solemn proclamation, in a wicked, bloody, and wanton insurrection against the Government itself over which he is presiding as Chief Magistrate. Sir, I cannot recognize the authority of the President of the United States without the subsidiary aid of an act of Congress to give any such assurance to a community in insurrection against the United States. I ask the friends of this measure, I ask those gentlemen in this body who are so anxious for the passage of this resolution, which is, or will be, a recognition of this assertion on the part of the President of the United States, where in the Constitution do they find an authority given to him authorizing him to assure one tenth part of the people of an insurrectionary State that they, to the exclusion of all other portions of the population of that State, shall be recognized as the State, and be entitled to all the benefits of the guarantee contained in the Constitution? Sir, it seems to me, without imputing or intending to impute any wrongful intention to the excellent President of the United States, that here is an attempt to stretch the executive authority beyond anything which the country has thus far witnessed, and I think it is time Congress, in whom, according to my ideas, rests, and rests solely, the authority of readmitting and reconstructing the rebellious States, should lay hold of this subject, assert their power, and provide by some statute of uniform application for the reconstruction, as it is called, and readmission, of the insurrectionary States. That is their right and their duty; that is not the right, it is not the duty, of the President of the United States, in my opinion.

Mr. President, in order to determine what extent of power Congress possesses over a State once in rebellion, and now subdued by the national arms, we must look into the nature of the State governments, and the relations they bear to the national Government. The Senator from Missouri, [Mr. HENDERSON,] in the discussion of yesterday, seemed to be very much perplexed in his mind to determine what is a State. He put the question with a great deal of earnestness and emphasis, and, as I thought, with an earnest disposition to have it answered. I was in hopes the Senator would himself have furnished an answer which should at least have indicated clearly what his own opinion is on that very important question; but I regret to say he left my mind still in the dark as to what his real opinion was upon the point.

What, then, is a State? A vague idea seems to prevail in some quarters that mere territorial extent defined by certain geographical boundaries composes a State; that as this superficial extent of country is included within the jurisdictional limits of the Federal Government, and cannot by any physical possibility be put or got out of those limits, the State is always and necessarily in the Union; that the State remains the same, however treasonable may be the conduct of its inhabitants toward the national Government; that as Congress has no power, without the consent of a State, to alter its boundaries, the rights of the State, as a State, are beyond our reach under the Constitution; and that although its people may have rebelled against our authority, and crimsoned their soil with the blood of loyal men, yet the moment we have subdued them by our arms, the State, the land, the geographical superficies, is endowed with original State rights—rights which shield its inhabitants against any exertion of the national authority except in the reestablishment of Federal courts of justice, post offices, custom-houses, and other machinery for the enforcement of the acts of Congress; but that over the domestic affairs of the inhabitants, those affairs which in the absence of insurrection would confessedly have pertained to the State alone, we have no power whatever, and that the inhabitants residing on the

tract of land known as the State are at once re-mitted to all the rights of State sovereignty, as it is called, and Congress excluded from all interference and rights of interference in their domestic affairs.

I aim to state the objection fully and fairly, and as favorably as is possible to its advocates. This is due to them and to the gravity of the question itself; a question it must be confessed which transcends in magnitude any that has ever been forced upon Congress.

And it is of the highest importance that at the outset we should have clear ideas of the subject and understand perfectly the antagonist proposition.

I repeat, I understand the ground taken to be that whenever we have subdued and overcome the insurrectionary forces in a disloyal State, and so far disarmed the insurgent inhabitants of their hostile power as to leave no reasonable ground to apprehend danger of future armed resistance, there supervenes, *ipso facto*, from the time of such overthrow of their military force, the right of the inhabitants of the State again to enter upon their career as a State; to organize or resume a State government, according to their own notions and preferences; to enact all such laws as they may see fit to enact, and to be and remain a State of the Union with all the powers and immunities of a State of the Union; and that they may do this in spite of the will of Congress or of the Executive, and independently of both. This I understand to be the view of the learned Senator from Maryland, [Mr. JOHNSON.]

And this proposition, in a thousand varying forms, has been pressed upon the consideration of the country, both in and out of Congress. It has been and still is the great Democratic argument against the apprehended consummation of the policy of emancipation and the consequent destruction, forever, of the old coalition between the southern slave-owner and the northern Democrat, that ancient and cherished alliance which in truth and in fact occasioned this civil war and all its woes!

Let us bring the objection to the test of argument; and if we find it fallacious, especially if we find in it an element of danger to our future peace, let us not be afraid to expose the fallacy and to take security against the danger. This is no time for timid counsels or hesitating policy. We are called upon by every consideration of patriotism, of duty to our country, of duty to the present and to future generations, to the cause of free government and popular liberty, now intrusted to our sole keeping, to put aside fear and hesitation, and, in fortifying ourselves against future outbreaks and rebellions, to be animated by the same heroic firmness which has given victory to our arms in the field and on the waves.

What, then, is a State? What are its essential attributes, without which it is no State?

A State is a moral person, a political community, possessing the faculty of political government. Its being does not consist of geographical extent, but of the united will of the persons who have their domicile within its limits. To attribute to the mere land the qualities of a State would be to mistake the cradle for the child, the vessel for the crew, the dress we behold moving before us for the immortal spirit within.

The land is, of course, indispensable as affording room for the working of this will, but is incapable of exercising or receiving any political faculty or right; as much so as is the tombstone of indicating the present thoughts of the departed. It is nothing, absolutely nothing, but the theater on which the political community moves and acts, but is endowed with no thought, no right, no duty.

It is not, therefore, in the argument of this question, entitled to any weight or consideration whatever, except as being the unconscious theater and footstool of the thinking beings residing upon it; and we must, therefore, confine our attention to them. They constitute the State. They alone are the subjects we are to consider. If rights exist they alone possess them; if our powers are to be exerted it must be upon them only, and with a view to influence their action, with a view to bring their will into unison with our own.

However captious and trifling may seem the objection founded on the inquiry, what is a State of the Union, it is fortunate that even this query was fully solved by the Supreme Court of the

United States at an early day, and within a period of only seven years after the present Constitution went into operation.

The court says:

"Every particle of authority which originally resided in Congress, or in any branch of the State governments, was derived from the people who were permanent inhabitants of each province in the first instance, and afterward became citizens of each State; that this authority was conveyed by each body-politic separately, and not by all the people in the several provinces or States jointly; and, of course, that no authority could be conveyed to the whole but that which was previously possessed by the several parts; that the distinction between a State and the people of a State has in this respect no foundation, each expression in substance meaning the same thing."

I refer to Penhallow's case, 3 Dallas's Reports, page 94. If my friend from Missouri will look at that decision he will find a clear exposition of what was understood by the Supreme Court at that early day to be a State of the Union.

A State of the Union or a State in the Union is, therefore, a people yielding obedience to the laws of the Union, that is, the acts of Congress and the national treaties. It is a people who willingly perform the duties of a State required to be performed by the Constitution; a people who have a State government which is republican in form; a people who were one of the original thirteen States which formed the United States, or a people who have, since the adoption of the Constitution, been, in the language of that Constitution, "admitted by the Congress into this Union" as States upon an equal footing with the original States; for this equality of rights and powers as States is plainly implied by the language and the manifest intention of the instrument; and no other people except such original State or admitted State; none but a State which permits the laws of the Union to have full scope and force within its limits; none but a State which sends Senators and Representatives to Congress friendly to the Government itself, willing to vote men and money to support and uphold it, who believe that a person forcibly resisting its authority is a traitor and deserving of death; none but a State which is willing to bring to trial, to convict such a traitor, and to punish him for his treason; none but a State whose population is capable of furnishing both the grand jury to indict and the traverse jury to convict such a traitor; none but a State whose population and whose authorities are in favor not only of permitting the laws of the United States relating to civil rights to be executed, but who are willing that the punitive code of the nation, the code of vengeance against its enemies, shall be carried out; none but such are States of the Union. A State, being a moral person, must have a will; it must, in accordance with the reasoning of the same high tribunal in the same case, "be a complete body of persons, united together for their common benefit to enjoy peacefully what is their own, and to do justice to others."

To be in fact a State of the Union and in the Union, this will or consent of the people must be in harmony with the Constitution, and its movements subsidiary to it. It must regard the Constitution as its highest political good; its injunctions as the highest human law, its commands as the infallible and final measure of civil duty. In short, to be in the Union is to be actively and willingly coöperating with other States in the performance of all those acts and things without which the Federal Government cannot act or move, cannot perform the functions required of it by the Constitution; it is to elect Senators and Representatives to the Congress of the United States; to permit the courts of the United States to be held within their limits, and its citizens to act as jurors and officers of the court; to permit the judgments and sentences of the court to be executed against its citizens; to permit the United States mail to be carried through the State and its contents distributed according to law; to permit the officers of the United States to collect the Federal revenue whether derived from foreign or domestic products; to permit the United States to manage and control their own property, whether consisting of forts, dock-yards, arsenals, mints, or public lands; to make such elections of Senators and Representatives freely and as the means of maintaining itself as a State in the Union; and to permit all these things willingly and freely as rights belonging to the Federal Government with which neither the State government nor the people

of the State have any right whatever to interfere. In short, to be a State in the Union is to use all those powers of the State which have a relation to the Federal Government in a manner friendly to that Government friendly to its existence and continuance, in a manner promotive of the objects of that Government; and to permit without hindrance the exercise within the State of all the powers of the Federal Government.

Whether a State which should merely omit to send Senators and Representatives to Congress would for that reason cease to be a State of the Union, it is not, perhaps, worth while now to inquire, though my opinion would be that such a State delinquency would not be followed by that consequence. But surely, if the State has gone further; if it has gone the length, as a political community, of not only refusing to participate in our legislation, but of making war upon us, concerted, open war, war evidenced by the employment of armies and navies against us, it would be folly, madness, to say that the State was not our enemy in every sense in which that term can be employed to describe hostile relations between independent communities. The State, in that case, becomes our enemy, and becomes such for the same reason that any other community becomes such, whose actual Government for the time being wields the military forces of that community against us. By the law of civilized war, an organized community, and an organized or recognized war on the part of that community, are all that are requisite to constitute its Government a hostile Government as to us, and its citizens or subjects our enemies. No one will pretend that such a community is in the Union in fact, for that would be to make an admission and in the same breath to contradict it. *De facto*, such a community, and, if it be bounded by State lines, such a State, is as completely out of the Union as is Canada or Mexico, from the moment it assumes the attitude of hostility until it is subdued and conquered by our arms, or until it voluntarily lays down its arms, ejects its hostile government, and returns *in fact* to its once friendly sentiments and friendly relations to the Federal Government.

Friendship for the Federal Government, in other words, loyalty, thus becomes the final test in solving the question, what is a State in the Union? If a State by its overt acts has shown a want of this friendship, it is no longer in the Union *de facto*, and cannot be treated as if it were. The Supreme Court, acting upon the soundest principles of public law, have decided the waging of war by a State, although acting under an illegitimate and revolutionary government, renders her territory enemy's territory, and the people there resident enemies of the United States, in the sense of the laws of war. And their decision could not have been different.

Well, then, the State is in fact, though wrongfully, out of the Union—out of the Union because its actual, present government is disloyal and treasonable. It is out of the Union in the same sense in which Ireland or Scotland, if actually in arms against the authority of the British Parliament, would be out of the United Kingdom; in the same sense in which Ireland was out of her union with England when her people, at the instigation of the expelled James II, took up arms against the Prince of Orange, the actual reigning sovereign; in the same sense in which La Vendée was out of the French republic when, following the lead of George Cadoudal and other royalist chiefs, the people of that province took up arms against the then Government of France; out of it in the same sense in which an insurgent county of a State would, during its unsubdued hostility to the State, be out of the State; out of it, because unsubdued rebellion makes it for the time being an independent though unrecognized nation on the earth's surface, throwing off its allegiance to its paramount Government, and assuming by the sword to assert its separate nationality.

I shall not stop here to enter into the curious historical theme, what is the origin of nations, but suggest that the student will, to the possible discredit of human nature, discover that in at least nine cases out of ten that origin will be found in the application of successful military force; that in a general sense, and in historical truth, the sword of the conqueror has been the origin of nations, and that compacts social, compacts political, compacts religious, have all been trodden in



the dust, and have disappeared beyond the power of invocation or appeal, beneath the iron heel of the warrior. Thus crushed and obliterated, statutes, treaties, constitutions cease; and the impartial muse of history seizes upon the moment of victory as the beginning of the conquering nation, and no longer heeds the parchment scrolls which record the injustice of the war or the perfidy of the successful party. Such has been the melancholy record left us by the past, a record in which our own country and continent cannot claim exemption from the general rule.

But we are at war with the rebel States, and are told by those whose mouths are full of complaints and criticisms as to the mode in which this war is waged, and as to the imputed objects to be obtained by it, that the Government, so far at least as the rebel States are concerned, is under some peculiar constitutional restraint by which its hands are tied; that we are prohibited from "subjugating" those States; that all we can do, under the Constitution, is to break up the military array of the rebels, disperse their armed bands, take away their arms, and do that very indefinite duty, *restore order*; that thereupon our task is ended and the rebel States have a constitutional right to come back into the Union and participate in the enactment of Federal laws and the conduct of the Federal Government. And we are menaced both in Congress and out with terrible retributions if we conquer or attempt to conquer, if we subjugate or attempt to subjugate, the rebel States. It is admitted by these our critics that in an international war, a war in which the United States are one party belligerent and some other independent Power of the earth is the other, we should have all the rights and powers of other independent nations, and might rightfully conquer our adversary, subdue our adversary, subjugate our adversary; that is, that we might make a complete conquest of his people and his territory, as complete as that of Great Britain over Canada in 1762, when, as Mr. Bancroft tells us, the conquest of the province by Great Britain was complete; complete and perfect in all respects as is recognized by the modern code of war.

Now, I need not tell the Senate that even under such a complete conquest the usages of war and the laws of nations allow the conqueror only to substitute his political authority for that of the former sovereign, and forbid him to disturb the titles of the peaceable and submissive subjects of that sovereign to their property, real or personal, or to inflict any hardship upon them beyond the ordinary war contributions required for the support of the victorious army. The municipal laws of the conquered country remain unchanged, save in so far as they are inconsistent with the change of sovereignty, and the property of individuals is protected by the conqueror on their submission to his authority. Now, it is lawful to wage such a foreign war for the purpose of effectuating such a complete conquest, and of course lawful to attain it; lawful to substitute the authority of the conqueror for that of his adversary; lawful to substitute the political authority of the United States for that of a hostile foreign nation in the case of an international war, (for otherwise the war cannot be a successful one,) and for that of the hostile State in the case of a war between the United States and a State. There is, because there can be, no difference between the two cases; for in each, the former actual hostile government must be supplanted by the Federal Government. In the case of foreign territory no one would or could doubt that it is the exclusive right of that Government to take the place of the former sovereign and to erect its own ensigns of power. In the case of a rebel State subdued by the arms of that Government, is not such State equally at its feet, or rather under the shield of its conquering protection? Who but that Government has then the right to give the law? Has any other State or people? No. Has the rebel government that right? No; for that government is abolished and its agents dispersed. Have the conquered rebel people that right? No; for that would be to allow them at once to expel their conquerors by a popular decree, and to deny the supremacy of the Federal Government that has subdued them. Has the old State government, the once loyal government, the right to govern the conquered people? No; there is no such government. It has long since ceased to exist. Its functionaries have all

forsworn and abandoned the old State government. They are gone; some driven into exile, many dead, but by far the largest part of them open traitors, hostile to the conquerors, and utterly opposed to reestablishing any State government acknowledging allegiance or friendship to the United States. In fact, there is no government there, none at all, which can for a moment be recognized or permitted by the United States, as the party now holding the actual mastery of the country; and like every other case where the possession of a country has arisen from the use of superior force, the will of the conqueror is the law—that is, the will of the United States expressed, in the absence of acts of Congress, by the Commander-in-Chief of the Army, but by the acts of Congress after Congress has spoken.

I can see no escape from this conclusion, that the United States, as the other hostile party, the party who, in suppressing the rebellion by military power has conquered the rebel country, and who holds it, as it must necessarily hold it, in the iron gripe of war; that the United States have the right, as the conqueror, to rule and govern the State as conquered country, subject for a time at least to their sole will. If this be not the case, then the State is without any government, and is exposed to all the horrors of anarchy, to murder, and private rapine. No one will deny that we have a right to subdue by arms and to reduce to quietude and submission a rebel State, that is, the people of a State in insurrection. But how absurd to make this concession, and at the same time to deny to us the constitutional power to occupy and hold the territory and its people in our military grasp—an occupation just as necessary to the end in view as the firing of cannon, the charging of cavalry, or any other operation in the field.

But the question forces itself upon us, has the Government of the United States the same rights of conquest, the same ample powers of control and disposition of a conquered State as of a conquered foreign territory? In case of a foreign war we acquire what was before not ours, whether it be person or territory; and the conquest has then no claim whatever to the rights and privileges of a State of the Union, but must beyond all doubt be treated as a territorial dependency of the United States, to be dealt with just as Congress shall see fit. But the State which is subdued was never rightfully foreign to the United States, was ever *de jure* part and parcel of the nation, and endowed with the powers and privileges the Constitution leaves in the States. The true objects of the war, therefore, the ultimate objects to be attained by it, are the suppression of the rebellion, the reestablishment of the original Federal authority within the State, and the revival of the loyalty of the people of the State as the sole foundation and condition of all its civil rights as a State of the Union and of the right of its people to be treated as friends and not as enemies. Although the United States have the full and complete right which conquest gives, for the purpose of subjecting these domestic enemies to the exercise of the powers granted by the Constitution to Congress, and for the purpose of restoring to the body-politic its vital blood, loyalty to the Government, yet those purposes, those distinct ends, are without doubt limits beyond which we cannot go. We are restrained by the manifest objects for which the national Government was formed; but restrained by no particular clause of the Constitution. The instrument contains no such clause, and the limitation and restraint are of precisely the same nature as those which any other Government is under in subduing an insurrection of its own subjects or citizens; the plain object of the war in both cases being the restoration of legitimate authority and the revival of allegiance. And until this revival of allegiance there must be the same need of military occupation and repression in both cases.

It is not to be denied that the Government of the United States, as organized under the Constitution, depends for its formal and legal existence upon the existence of the States. The Senators and Representatives from the States in the Union are alone the law-makers. The electors chosen by their people under their laws make the President of the United States for four years only. An abstinence of a majority of the States for more than four years to choose electors, more than two

years to choose Representatives, or more than six years to elect Senators, puts a formal end to the Government of the United States under the present Constitution; and as the existence of the States is indispensable to that of the Federal Government, it is not permissible by mere interpretation to clothe that Government with a power permanently to abolish the State government by way of punishing or suppressing the rebellion; or to convert the States into mere Territories of the United States, that is, public domain, to be divided up afterward by lines different from those of the States, and again admitted into the Union like matured Territories, with such new geographical limits as Congress may see fit to establish. It seems to me that such a proceeding would be in very direct violation of that clause of the Constitution which declares that no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress. It appears to me that this express prohibition indicates that the Government of the United States was to be forever disabled to change the boundaries of any State once in the Union without its consent; its consent in its capacity as a State, freely given by its own Legislature. And in this respect I regret to differ from what would seem to be the President's opinions as expressed in his amnesty proclamation. He observes:

"And I do further proclaim, declare, and make known that any provision which may be adopted by such State government in relation to the freed people of such State, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent, as a laboring, landless, and homeless class, will not be objected to by the national Executive. And it is suggested as not improper, that, in constructing a loyal State government in any State, the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new State government."

What, then, are the powers of the United States over the rebellious States? I reject the idea that they can be converted into Territories. Plainly, under our system, a Territory of the United States implies land never lying in any State, land ceded to the United States either by the old States, or purchased or conquered from foreign nations. The term never has been used to describe a State, or any part of a State; and it implies not only the ownership of the soil and right of disposition, but full and complete political jurisdiction in the Federal Government over the people resident there. On a question of such magnitude we ought to avoid inappropriate language and terms of equivocal meaning.

The objects of the conquest being such as I have stated, it follows that it is the duty of Congress, on taking military possession, to endeavor by all reasonable means to effect those objects, and that in its very nature such forcible occupancy is temporary, and ought to cease the moment those objects are attained. This cannot be done without establishing a government to preserve order, life, and property—a provisional government, for that is the true historic name to be applied in this as in all cases where an old government has been overthrown; a provisional government instituted by the conqueror, and to be continued just so long as Congress may find it necessary to continue it for the attainment, and while attaining, those high objects. The occupancy, that is, the possession of all the reins of local government by the Federal authorities, (for I do not wish to be misunderstood or to mislead by mere generality of phrase,) is but temporary, provisional, fiduciary. It must necessarily last until the Federal Government has done its duty in the reestablishment of order and the revival of loyalty. Until then it is, and must be, the omnipotent sovereign of the State, holding actually by right of conquest, though for a particular purpose, and being itself necessarily the final judge to determine when its tutelary mission has been accomplished.

I thus steer clear of the question whether a State can commit suicide, that is, extinguish its own being, by waging a rebellious war against the Federal Government; and I show that instead of presenting any such abstract question of polit-

ical dialectics the case merely presents the usual question, presented whenever and wherever there has been a forcible revolution. What is the duty of the paramount and lawful Government in its treatment of insurgent communities? And is not the Government doing its whole duty in punishing the ring-leaders in the revolt and restoring the old and constitutional Government over those districts?

I have said the Government must be the final judge how long this military occupation shall last. Its duty in this respect is plain. It is bound by the plain terms of the Constitution not only to suppress the insurrection, which it has done the moment it has obtained firm possession of the hostile territory and not less than the whole of it, but to guaranty to the once loyal but now conquered State a republican form of government. To perform this high and sacred trust, time of course is necessary, and not only the employment of means and instruments, but of which the Government of the United States must, because it has no superior, no equal in the matter, be the sole and final judge. These means may embrace acts of provisional legislation, creating private rights and duties not previously in existence, but existing by law and of a permanent nature, paramount to all subsequent State legislation because arising under the supreme authority of the nation, as for instance the giving freedom to slaves; or they may undoubtedly embrace conditions to be performed by the subdued States on taking their places again in the Union, such as would be an ordinance forever abolishing slavery in the State. And I cannot by any means admit as the true interpretation of this clause the narrow view taken of it in yesterday's debate by the Senator from Missouri, that it applies only to a pre-existing republican form of government. It is, sir, in my view, a broad and beneficial power given to Congress for the safety not merely of each of the States, but of the nation; the great mass of Americans, who each and all, at home or abroad, have the deepest interest in the faithful exercise of this guardian power.

Such, Mr. President, it seems to me is the unavoidable and invincible logic of military occupation. If you admit the rightfulness of the fact, if you admit that we may conquer and occupy, you must admit the conclusions I have thus drawn from that right; you must admit the rebel communities are in our power, not for evil, not for destruction and desolation, not to make a desert that we may call it peace; but for good, for the high purposes announced in the Constitution, "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the general welfare, and to secure the blessings of liberty to ourselves and our posterity."

Yet while thus in our military power, awaiting our action, looking to their restoration, nothing is clearer than that the citizens of the rebel States, though owing obedience to all the laws of the United States, possess no political rights under the Constitution except protection. They are not free to act, because their freedom to act would, if indulged, lead them again to draw the sword against the United States. They are subject, and necessarily subject, to military repression, and must so remain until the Government of the United States shall see fit to relieve them from it. They have no right to send members to this body or to the House of Representatives, much less to participate in the election of President and Vice President. They are the ward-provinces of the United States, progressing toward the maturity of revived loyalty, but not yet entitled to exercise the elective franchise or to participate in the enactment of laws.

If I am asked what I mean by the Government of the United States, and whether I mean that the President as Commander-in-Chief has the exclusive power to establish these provisional governments, I answer, I do not. He has the right to regulate military occupation until Congress has acted upon the subject; because by the usages of war the victorious general in the field has a right to regulate it until controlled by his government at home. But the establishment of provisional governments, the quieting of the rebellious province and the reestablishment of legitimate authority over it, pertains to the sovereign power, that is, the law-giving power of the nation. With us that power is lodged in Congress and not in

the President; and in my opinion it is the business of Congress, and Congress alone, to establish and uphold these provisional governments; to make provision for the reestablishment of the national authority and the revival of State loyalty; to make good the guarantee of a republican form of government to each insurgent State. In short, not only to enact laws but to provide for the putting in execution of all laws necessary to carry into effect the powers granted. And hence I hold it to be the duty of Congress to provide for the pacification of the rebel States and their readmission into the Union, and not to leave this most important and delicate matter floating in the public mind in the haze of doubt and uncertainty between the supposed claims of the President and those of Congress. We need not doubt that whatever we see fit to enact will be approved and carried out by the President. We cannot be more truly anxious than he to fix upon a stable, firm policy for restoring peace and union; but we ought not to shut our eyes to the necessities he will continually be under, to the almost irresistible importunities he will encounter, to provide some sort of civil government for the subdued States or districts; or to the consequences of leaving such mighty questions for him to decide. It is our plain duty to establish a uniform rule on the subject, so that all may be treated alike and the same remedy be applied with a paternal but firm and resolute hand to each delinquent State.

If I am asked whether I favor the scheme of allowing one-tenth or any other minor part of the male citizens of a State to organize a State government and assume to act as a State, I answer no; and for two reasons: first, because as against the will of an actual majority the government of such a minority must necessarily come to a speedy end and thus invite a renewal of the civil war, in that locality at least; and second, because government by a minority is of evil example and inconsistent with the genius of American liberty. Whatever may befall, whatever may be the result of the present great struggle, we cannot, we must not abandon the principle of civil government by a majority. It is the vital principle of republicanism. To renounce it is to stoop our necks to the yoke of a one-man tyranny, or, what is far worse, far more intolerable, the tyranny of a many-headed but individually irresponsible oligarchy. On this question let us proudly and forever adhere to the principles of the highest judicial tribunal of the nation, announced as from the very cradle of American law—from the sacred *aditus* of the public faith—that "the great distinction between monarchies and republics (at least our republics) in general is that in the former the monarch is considered the sovereign and each individual of his nation as subject to him; but in a republic all the citizens as such are equal, and no citizen can rightfully exercise any authority over another but in virtue of a power constitutionally given him by the whole community; and such authority when exercised is in effect an act of the whole community which forms such body-politic," and that "mankind have long practiced upon the principle that a majority shall bind the whole." I refer to the weighty words of Judge Iredell, pronounced in 1795. As a Republican I would sooner hazard ten slaveholders' rebellions than risk liberty in a government by a minority.

I do not, because I cannot, attach too much importance to this principle. The will of the majority is the soul of the Government in a republic. This is a postulate. But when we speak of government by a majority we speak of a community made up of persons loyal and faithful to it. Traitors and aliens are always excluded from the category. Their hostility or indifference to the Government is universally admitted to be a sufficient cause for their exclusion. But where, as in some of the rebel States, there is an actual majority of the unfriendly, or where, as in others, the numbers of the friendly and the unfriendly are so evenly balanced as to leave a contest between them of doubtful result, we are in fact dealing not with a loyal but a hostile community, and the necessity of adhering firmly to the principle becomes still more manifest. In both cases the prevalence of the will of the friendly can be secured only by military force employed to restrain the will of the unfriendly. Such a government, if intended as a civil government, is not repub-

lican in the sense of the Constitution. It is a government, not of free will, but of force. It is not the Roman senate, but Caesar's legions, that govern—or, rather Caesar's sole will, supported by the lances of his veterans, that gives the law.

I do not condemn the employment of force to suppress rebellion, disorder, or anarchy. It is the only means of defeating the unfriendly projects of a party so strong and dangerous. But it is perfectly certain that such a party, comprising within itself the physical strength and the numbers of the State, will, the moment your military repression is taken off, leap forth with an energy irritated by its former subjection, and dash in pieces a government sustained only by a minority. The withdrawal of the military arm would be but the signal for the renewal of that reign of terror which once brooded over the seceded States, that dark night of tyranny and blood, beneath whose thick clouds, tinged with the lurid light of fratricidal war, the stoutest heart quailed, and the strongest lover of the Union grew pale. It would be but an invitation to the guerrilla and the freebooter to recommence his work. It would be to let loose upon the peaceable minority all the pent-up evil passions which produced and sustained the war. It would be to fling open the door of the dwelling of the once expelled but now restored Unionist—ay, the door of the humble dwelling of the widow and the orphan, made such by the rebellion—and to invite the ruffian to enter with knife in one hand and torch in the other to reek his vengeance upon the defenseless inmates. It would be indeed to provoke a realization in our own republic of the frightful visions of Catiline, who, cursing his country which he could not destroy, and defying the senate whose timidity still tolerated him in his seat, exclaimed of the future of Rome—

"Look to your hearths, my lords; for there  
Thenceforth shall sit, instead of household gods,  
All shames and crimes;  
War, treachery, with his thirsty dagger drawn,  
Suspicion poisoning his brother's cup,  
Naked rebellion, with torch and axe  
Making his wild sport of your blazing homes,  
Till anarchy come down on you like night!"

Who that has a heart throbbing with sympathy for the sufferings of southern Unionists will thus expose them to the vengeance of their enemies? What friend of the honor of this nation, an honor that should be eternally as bright and spotless as burnished gold, on which neither time nor chance can fix a stain, can willingly subject them to another reign of terror or to the chance of such an exposure? The measure now before you proposes to acknowledge eight thousand citizens of Louisiana as the State, and to give them the rights and privileges exercised by a voting population of more than fifty thousand in 1860. Eight thousand are thus to give the law or assume to give it to forty-two thousand—more than five times their number. This they may do so long as their decrees are sustained by the presence and consent of a competent military force; but we all know, both parties there know, the world knows, and, sir, posterity will know, that it is not the eight thousand who govern the State, but the fear of the bayonet, and the fear is inspired solely by the President of the United States, as Commander-in-Chief of the Army and Navy! Disguise it, or attempt to disguise it, as we may, to this complexion doth it come at last. Yes, sir, both the eight thousand and the forty-two thousand voters are governed not by themselves, but by the bayonet! And this is at present the only government in Louisiana. The object of the present measure is to continue this hybrid, unnatural government there. It allows the meager and almost contemptible proportion of less than one sixth of the voting population to govern the whole State, and to have the influence of the whole State in our legislation here, while we know that if the military forces were withdrawn that privileged one sixth part would be swept away like chaff before the hurricane breath of the enraged majority. Sir, such a government is the merest bubble, especially if unsustained by military power. This is too obvious to need further comment.

To preserve order, therefore, and to prevent anarchy and crime, to avert the direst of calamities, a social war, that devastates and murders all before it, from the hearth-stone to the altar of God, and yells in horrid concert with the genius of

desolation, to do this a military force must be kept up as the protecting guardian of this feeble and limping State governments that cannot move a step without the crutch of military aid, and which, if left to itself but for a moment, topples over and expires of inanition, of the incurable disease of being in a minority.

But all this we might possibly endure as being but a harmless pageant were it not that the measure before us clothes this mockery of a government; this king of shreds and patches, this mistletoe State régime that falls to the earth the moment it ceases to cling around the flag-staff of the national forces, with the high attribute of voting upon and determining questions of legislation, questions of war or peace, questions of prosecuting or ceasing to prosecute the present war, in this Hall and in the Hall of the House of Representatives. This measure introduces here Senators and Representatives whose immediate friends and relatives at home have deliberately aided and assisted to put to death myriads of Union soldiers from the North, and in swelling up that vast debt of more than two thousand million dollars which now rests upon the country. Think you that such Senators and Representatives, whose constituents have already been stripped of their property by the rebel government, and brought down to the depths of poverty; a community without the habits of labor among the intelligent classes; naked, hungry, despondent, and sullen; think you that their Representatives would at the present time be safe depositories of the power to tax their constituents to pay this debt? Is it not, on the other hand, the part of prudence to guard against the contingency of having that debt repudiated by such legislators and the still more disgraceful contingency of being, by their votes, aided by a northern party, finally compelled to pay the rebel debt of \$4,000,000,000? And tell me, what right has Louisiana, the majority of whose population is to-day, wherever they are, hostile to this Government and anxious for its overthrow; what right has she, upon any recognized principle of public law or justice, to be represented in Congress? Her skirts are still dripping with the blood of the defenders of the Government. The crime of treason still rests like a blight upon the majority of her people. The cries of the widow and the fatherless still rise to heaven from thousands of northern hearths in attestation of her unexpiated guilt. And can we as patriots, can we as prudent men, take the criminal again to our bosom while a majority of her people are our sworn enemies, and by far the larger part of her territory is now in the hands of our armed foes? Sir, it is weakness to talk of the right of such a fragment of the State to be treated as the State, and something worse than weakness to extend, in violation of all principle, the rights of a loyal State to such a community.

Again, this is to stand as a precedent for the ten remaining rebel States. We are to be at the expense of holding them all in our military occupation, to bolster up each State government, each being destitute of loyalty enough to support it among the citizens, while the State as a political community is, to the incalculable injury of the faithful States, to be admitted to all the rights of a faithful State here in Congress. Sir, I cannot by voting for such a measure tell the people of my State that although the blood of their sons has enriched every cornfield from the Ohio to the Gulf of Mexico, and they have generously consented to pay their share of the cost of the war, yet that they are entitled to no greater privileges here than are the people of Louisiana, whom they have just grappled and overthrown in deadly combat. I cannot commit so great an outrage upon their feelings—so great a dishonor to their just pride and well-earned renown.

I think the project of readmitting Louisiana premature, and I fear it as a precedent. There is no sufficient foundation of loyalty for its government to stand upon. Better far to establish for it, and for all other rebellious States as they shall be reconquered to the nation, provisional governments for the regulation of their domestic affairs, but without representation here to endure until the mass of their people shall plainly see their error in attempting to overthrow their old Government, and shall be really and truly converted to fidelity to that Government by contrast with it the wretched abortion of a government

established over them by the narrow bigot and petty tyrant, Jefferson Davis. I do not believe that government by a minority, in Louisiana or elsewhere, upheld by bayonets will tend to hasten that most desirable change in the southern mind, but that it will on the other hand retard it, and keep up an unnecessary and dangerous irritation against us. A brave people, fairly subdued, will yield obedience to the sway of the naked sword of a generous conqueror, while they would chafe with contempt and scorn under the rule of a feeble minority of themselves. In attempting the work of reconciliation and readmission let us remember we are republicans, and that we are laboring for posterity. Let us adhere with undeviating steadiness to the principle that, the community being loyal, the majority shall govern, which is the pole-star principle of our system—between which and despotism, either single-headed or many-headed—there is but one step, and that a short one.

Congress ought, in my opinion, to take the subject of readmission into their own hands. It is for them and not for the Executive to execute the important guarantee to each State of a republican government, and this duty presses upon us more and more as our victorious arms advance toward the close of hostilities. And in making good this guarantee, the great, the indispensable necessity is loyalty. To establish it, to give it a firm rock on which to rest, the Government must first show to its enemies and to those of hesitating loyalty that its physical power is as irresistible as its motives are benevolent. Its enemies must learn to feel a respect deep and abiding, for the arrows it carries in its quiver as well as for the shelter which its shield affords. This, in my opinion, can be done effectually only by the enactment of a proper statute, which shall present uniform inducements and means to the people of the disloyal States to return to duty, to preserve order among themselves, and to resume their position among the orbs that circle the center of the system.

Our duty is to reinstate the authority of the Federal Government in the rebellious States and to replace disloyal States with loyal States. It is to assure our friends abroad that the crisis is passed, the virulence of the disease broken, and the healing process fully commenced; and to tell our enemies that the cause of free government has triumphed, that the great American Union is safe, in spite of the sneers, the hopes, and the malignant croakings of old iron-hearted legitimacy with its Janus face and harpy fingers; safe from a gigantic rebellion, founded in hostility to the rights of man; safe from the deep humiliation of being the subject of the world-resounding scoffs of tyrants, had it faltered or failed; safe from the guilt of having filled with eternal despair the hearts of the lovers of liberty, had its defenders shrunk from the conflict or compromised, and to assure both friends and foes that the genius of that Union, standing side by side with the goddess of Liberty upon these western shores, exultant, defiant, still brandishes the flaming sword of her power in the face of all despots and intruders who would question her Heaven-given rights on this hemisphere.

Let us meet this great demand with a firmness and a faith that shall soar above all party feeling—above all profitless disputation as to the constitutional rights of an insurgent State, whether they are extinguished or only suspended; whether the State is in the Union or out of the Union; whether a State *de facto* out of the Union, and waging barbarous war against it, is a State *de jure* in the Union, and entitled to send traitors or the representatives of traitors here to sit in our legislative halls. Let us perform the plain duty of providing provisional governments for States occupied by our armies, rescue the harassed people from the tempestuous night of anarchy and blood, and once more unfolding over them the ensign of our national power and protection, say to them: "Return to the ways of peace, revere the Government of your fathers, the Government of Washington, now grown more resistible by your opposition to it; retire to your homes; renew your oath to your old Government, and commence with us a reinvigorated national life."

Let us pass such a measure. It will in my opinion be the sure and happy augury of the return of peace. All along on the agitated border

where the tempest of war has left its track of desolation, woes, and tears, and far into the interior of the insurgent dominions, it will send the prophetic sensation that the old Government is coming, not in wrath to unsubmitive children, but with visage beaming with kindness and radiant with smiles of encouragement, inspiring confidence and hope; coming to bid war cease its devastations and crimes, to restore the exile to his deserted hearth, or if that be gone, to his charred threshold or some other sacred object which reminds him that the spot was once his home.

Mr. JOHNSON. I have no desire, Mr. President, to state now the reasons which will influence my vote upon the resolution on the table of the Senate, but I am willing to go on if the Senate are willing to hear, or to seem to hear. I have personally no objection to going on.

Mr. WILKINSON. If the Senator from Maryland will give me the floor, I should like to make a motion.

Mr. JOHNSON. Certainly.

Mr. WILKINSON. I think it is rather late for the honorable Senator to go on this afternoon, and I move that the further consideration of this question for this evening be dispensed with, and that the Senate proceed to the consideration—

Mr. TRUMBULL. Of course I shall object to having this matter laid aside. I am sorry the Senator from Maryland should give up the floor.

Mr. JOHNSON. I did not yield the floor under the expectation that such a motion was about to be made. I supposed it was some motion in reference to ordinary business which the honorable Senator was anxious to present now.

The PRESIDING OFFICER. The Senator from Maryland is entitled to the floor.

Mr. JOHNSON. Mr. President, I propose in as few words as I can to state the reasons which will influence the vote I propose to give on the resolution now under discussion; but before I proceed to that duty I will state what I believe to be the facts out of which the question arises.

The State of Louisiana was said to be in rebellion by the President's proclamation issued under the authority of the act of Congress of July 13, 1861, but a portion of the State was afterward recovered to the United States, and the authority of the United States over that portion of the State was reinstated. From the time when the city of New Orleans and the surrounding country were taken possession of and subjected to the authority of the United States up to the present time that possession has never been disturbed or that authority practically denied. Until the 22d of February, 1864, the United States authority existed only as a military authority. On that day an election was held of officers under the constitution existing at the time, that is to say, the constitution of Louisiana as it existed at the time of the rebellion, and as it theoretically existed on the 22d of February, 1864. An election was held of officers whose offices were created by that constitution, and for whose election it provided. At that election there were polled 11,414 votes. Of those 11,414 voters 808 were in the military service of the United States. By the then constitution of Louisiana citizens of Louisiana entitled otherwise to vote who were in the military service of the United States were not authorized during the period of their continuance in that military service to exercise the right of suffrage. These 808 soldiers and sailors, for there were some sailors among them, would have been entitled to vote, and were entitled to vote if any citizen of Louisiana was so entitled, except for the fact that they were in the military service. They had all the qualifications required by the constitution of the State to give the right of suffrage except that.

After that election a convention was provided for on the 28th of March, 1864. That convention met on the 6th of the succeeding month, and remained deliberating upon the business which brought them together until the 23d of July, 1864, I think, when what is now called the constitution of the State was adopted. It was submitted to the people and by the people was ratified in September, 1864, by a vote of 6,836 in the affirmative, and 1,566 in the negative, and the government for which that constitution provides was organized on the 3d of October, 1864.

These, sir, are the facts. The Committee on



the Judiciary—and in the conclusion to which they came I concurred—were of opinion that under the circumstances in which the State was at the period when these proceedings were had, she could not be recognized as a State of the United States under that constitution adopted in 1864, except by an act of Congress. The committee were of opinion that it was not in the power of the Executive under the circumstances to bring the State back under that constitution. They were of opinion, however, that it was competent for Congress to do so, and the only question before the committee was, whether, under the circumstances in which the State was at the time, it was not the duty of Congress to bring the State back so as to have her represented in the Union.

The objection to the conclusion of the committee—an objection which had great weight with me in the beginning—was that the proceedings which led to the adoption of the constitution were instituted at the instance and under the power of the military authorities of the United States. The precedent was apparently a bad one, it was really a bad one; and the proposition upon which we were called to decide was whether, if we were satisfied that the number of votes said to have been cast were in fact cast, and the persons voting were loyal citizens, we should deny to them the privilege of being represented in the councils of the nation, and on the contrary should subject them to a continuance of the military power. My impression is that, no matter how the proceedings were instituted, whether it was by the military authority, or by the coming together of the people of the State, if in point of fact the people of the State did act voluntarily and were competent to act under the original constitution, and were authorized to act by being loyal at the time they did act, it is the duty of the Government of the United States to receive them back.

Another objection was that, however true it might be that it would be in the power of all the voters of the State to adopt a constitution for themselves, or to claim the right of coming back to the Union under the constitution existing at the time of the rebellion, it was not true that it was in the power of fourteen thousand four hundred and fourteen voters, when the entire voting population of the State was fifty-one thousand, to take that course. As it seemed to me then, and seems now, there is no evidence to show that a single citizen of Louisiana was excluded from the right of voting. It by no means follows that there was an exclusion either in point of fact, or if in point of fact, that the exclusion was a legal one, because the vote of eleven thousand is much less than the vote that could have been cast before the rebellion commenced. First, as to the fact, where are the fifty-one thousand voters less the eleven thousand? This war commenced in 1861, and these proceedings were had in 1864. Do we not know that the greater proportion of the fighting, and therefore, in a great measure, the voting population of Louisiana entered into the military service of the confederate government? Do we not know that the result of their entering into that service is that nine tenths of them have forfeited their lives upon the battle-field; and do we not know also that those who were beyond the age of military service or under the age of military service have gone elsewhere, or if they remain in the State, that they have remained in the State not as loyal citizens of the United States, but as disloyal citizens? So then it by no means follows that the number of votes cast is not a large majority of the actual number of voters to be now found in the State of Louisiana, or however doubtful that may be, it is not only not certain, but the opposite fact would seem to be much more probable, that there was a single person excluded from the privilege of voting who should have been entitled to vote, if it be true that those who have been in the military and naval service of the confederates, or who have been in any way instrumental in bringing about or assisting the rebellion, should not be entitled to vote; and I understand the Senators on the other side who object to the admission of Louisiana into the Union are of that opinion.

That being the case, Mr. President, another thing is to be considered. What was the condition of the loyal citizens of Louisiana, in the relation in which they stand to the Government of the United States, by the act of secession? Did

they cease to be citizens of the United States? Nobody pretends that. If loyal, were they not entitled to be protected by the power of the United States? If loyal, is it to be said of them that they have forfeited any of the rights which belong to them before the rebellion commenced? I suppose nobody will say that. None of the laws of the United States have been violated by them; no obligation imposed upon them by the Constitution of the United States has been violated, but on the contrary observed. They have been kept from expressing their opinion by the power of the rebellion. They have had no voice by which they could ask to be admitted into the Union, because to speak such a desire was to subject themselves to punishment. They remained, however, loyal in point of fact; they remained entitled to the protection of the United States, and when the protection of the United States was afforded them and they saw that they could speak their sentiments without hazard, they met at their several election polls, organized their government under the existing constitution, and then, wishing to change it, met in convention and adopted the constitution which is now before us. Why should we not receive it?

I suppose no one will deny that it is just as much in the power of the people of Louisiana, or of any one of the seceded States, when they are entitled to vote, either before they come back or after they are received into the Union, to change their existing constitution. They have exercised an inherent right belonging to the American citizen; and he who questions the right of the eleven thousand men who have met together and adopted this constitution, questions it upon the ground, not that it is not a right which they originally held, but because there are others who have not joined in asserting it; and who are those others? Those who are in arms against the United States, men whom you would not receive if they were elected as members of the other House or appointed as Senators to this body, men who could not be received because they would be unable to comply with the provisions of a statute which you say, no doubt correctly, you had the authority to pass.

Now, if it be true that the secession ordinance had no operation to carry the State out, and that I understand even the Senator from Massachusetts [Mr. SUMNER] admitted last night; if it be true that the State is in the Union notwithstanding the ordinance, then the only question to be considered is, who are the people of Louisiana that are to exercise the sovereign authority belonging to the State of Louisiana? Are they the loyal or the disloyal? There can be but one answer to that inquiry. It must only be the loyal.

If the State is not to be brought back in the way provided for by this joint resolution, in what way can the State come back? The honorable Senator from Michigan, [Mr. HOWARD,] in his speech this morning admitted that it is not in the power of the United States to change the territorial limits of the States that have gone out, because the Constitution prohibits it. If he had thought for a moment he would have seen that the Constitution equally prohibits any interference on the part of the General Government with the exercise of the right of suffrage in a State. He and the member from Massachusetts who intimated his opinion last night, seem to suppose that under the Constitution of the United States Congress has the authority to interfere for some general undefined purpose with the exercise of the right of suffrage. I never heard it intimated before. The provision of the Constitution on that subject is, I submit, with due deference to the honorable members who entertain a different opinion, too clear for serious question. The fourth section of the first article says that:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may, at any time, by law, make or alter such regulations except as to the places of choosing Senators."

That is to say, the whole power of Congress over the subject of the time, the place, and the manner of holding these elections is to alter the regulations of the State; but how the election is to be held with reference to those who are to vote is not only not given to Congress by what I have just read, is not only, according to my interpretation of it, evidently excluded, but if there was any doubt on that question it would be solved by

reference to the second section of the same article, which provides that:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Does the Constitution in any portion of it say what those qualifications are? If the Constitution does not give to Congress the authority to prescribe the qualifications for electors of the most numerous branch of the State Legislatures, and if the Constitution itself does not prescribe those qualifications, it necessarily follows that the only authority in relation to the qualifications of electors is the authority possessed by the States. That is obvious, if there could be any doubt on the subject, by another consideration. What were the States before the Constitution was adopted? Had anybody a right to say who were to vote for Representatives or Senators of the State Legislatures except the State? That is very clear; and when they agreed to go into convention, and the people of the States to whom the adoption of the Constitution was submitted determined upon ratifying the Constitution, and by so doing made it a Constitution of Government for the United States, they not only in terms excluded any authority to interfere with the qualifications of electors for members of the State Legislatures, but guarded more effectually against it by providing in one of the amendments that the powers not delegated were to be considered as reserved to the States or the people of the States respectively.

Then, if it be true that the qualification which an elector is to have to choose the most numerous branch of the State Legislature is to be prescribed by the State, what authority has Congress to interfere with it, and what has been the practical operation? I never heard it intimated, until the intimation fell from the honorable member from Massachusetts, that any authority under the Government of the United States existed to that extent. What have the western States done? Many of them have admitted to the right of suffrage other than citizens; they have given it to male inhabitants. All of them almost—and that statement is equally applicable to some of the original States—have given it exclusively only to persons of a particular race, the white race, excluding the black. New York does it; Vermont does it; Connecticut does it; Michigan does it; Illinois does it; Ohio does it; Nevada does it; California does it; Maryland does it; and nearly all the States; and nobody ever supposed that they had not the power to exclude the black race, or any portion of the white race that they might think proper in the exercise of their sovereign power to exclude. In other words, the entire authority is in the people of the State, and it is for the people of the State to say who shall exercise the right of suffrage; and it would be monstrous to hold that, because they admitted or excluded any portion of the people of their State into or from the exercise of the right of suffrage, their government was not republican in point of form.

Mr. POWELL. I should like to ask the Senator a question if he will allow me.

Mr. JOHNSON. With pleasure.

Mr. POWELL. I fully concur with the honorable Senator from Maryland when he asserts that the people of a State, in the exercise of their sovereignty, and they alone, have the right to prescribe the qualifications of voters. I now wish to know by what authority General Banks and the President undertook to prescribe the qualifications of voters in Louisiana.

Mr. JOHNSON. I thought I had anticipated that in the beginning. I did not put it on the ground of General Banks's proceeding. What I mean to say is that these 11,414 voters were, according to the proof before us, all loyal men and entitled to vote by the original constitution of Louisiana, no matter how they were brought together; whether they were brought together under the authority of the President's amnesty proclamation, or whether they were brought together at the instance and authority of General Banks, in my view, makes no difference. If, coming together, they did an act which they would have been authorized to do if they had come together voluntarily, we ought to receive them.

Mr. POWELL. Allow me to ask the Senator, what right have we to presume that there may not have been twelve thousand loyal voters in the

State of Louisiana who were deprived of the right of suffrage because of this order of General Banks? As I understand it, no person could vote in Louisiana, no matter how loyal, although he might have borne arms for the Union and been opposed to the confederate government all the time and always been for the old flag and the old Union, unless he would go forward and take the oath prescribed by the President and swear to support and sustain all proclamations in regard to African slavery already issued and all that might afterward be issued.

Mr. JOHNSON. That is a difficulty, I admit; I have always felt it; but we have had the same difficulty in Maryland, and a very much stronger one, and I should be very sorry to think Maryland is not in the Union.

Mr. POWELL. Maryland is in the Union.

Mr. JOHNSON. How is? The constitution which now makes her a State in the Union was adopted the other day; I mean the one which governs her. She has manumitted her slaves by force of that constitution. No man in Maryland seriously contests the obligation of that constitution in that particular or any other. But it was adopted, in fact, by the exclusion of a good many men who were entitled to vote. But we must stop somewhere; there must be an end to controversy at some time. We are not to be in a state of war forever; and I say in relation to Louisiana what I have said in relation to my own State, that it is better to let them in than to continue or to inaugurate a state of civil war by keeping them out, or by denying the authority of the constitution which they have thought proper to adopt.

Mr. President, the honorable member from Michigan has asked, what is a State? It has several meanings. It may mean the authority which composes the State; it may mean its peculiar organization of government; but there is one meaning which nobody has ever controverted to be a legitimate meaning, and that is, that it means the people of the State; and when we are called upon to decide whether a constitution has been adopted by the people of a State, and it becomes necessary to ascertain which of the people of a State should be permitted to adopt a constitution under the circumstances, and we are satisfied that it has been adopted by such a vote as this, I am not for excluding them on the ground that there was a much larger vote in 1860 than the one cast in 1864; first, because it by no means follows that because the vote was larger in 1860 than this, it is larger now; and secondly, and mainly, because all the evidence before the committee leads to the conclusion that almost every vote cast was a loyal vote, and that the votes not cast either did not exist in point of fact or included persons who ought not to vote on a question like that, being at war with the United States.

Again, Mr. President, are these States to be governed as provinces? That is the idea of the honorable member from Massachusetts. If so there is no limitation to the power of Congress. If they are to be considered as conquered provinces, or as provinces about to be conquered, and to be dealt with by the conqueror as he thinks proper, what is to become of the loyal citizens? What is to be their fate? Where are all the limitations thrown around the power of Congress? All gone. Are they to be governed as Territories in the sense in which the Territories of the United States are governed? Are you to give them territorial governments? Suppose you do, is that to take from the people the right to meet in convention and establish a constitution for themselves without a law of Congress authorizing it? Certainly not. It is the American doctrine that the people have a right, as against the Government, to meet and establish a government for themselves. Whether it complies with the requisitions of the Constitution when they afterward apply for admission into the Union as a State, Congress is to decide; but Congress when it does decide admits them into the Union on an equality with all the other States, and that equality does not exist unless you leave to them the right to change their State constitution from time to time as they may think the necessities of the State require.

The honorable member from Massachusetts has laid upon the table this morning an amendment consisting of nine sections, which I have read hastily, but I believe I understand their re-

sult; the first is, that Congress alone has the power to say who shall be permitted to reorganize the State governments; the second is, that in the exertion of that power it is to see that the constitution be republican in point of form; the third is, that it is not republican in point of form, either because of the truths declared in the Declaration of Independence or upon principles of justice independent of those truths, unless the blacks and the whites are given equally the right of suffrage. That is a most extraordinary doctrine, and where would it lead if true? Suppose the honorable member got the State of Louisiana back under the authority of an act of Congress such as he would draw, saying to that people, "You are authorized to frame a constitution for yourselves provided you will insert in it a clause that the right of suffrage shall be exercised by the black as well as the white," and they are admitted, does he think it would not be in the power of the people of Louisiana to change that afterward? What is Massachusetts authorized to do now? Will the honorable member deny that it would be in the power of Massachusetts now to exclude the black? I suppose not; and yet, if by an act of Congress you place it out of the power of the seceded States when they come back, under the authority of that act, to change the qualifications of electors, they will not come back as the equals of Massachusetts. And yet nothing is more plain than that the theory of our Constitution is (no matter whether you consider it as a national Government, a consolidated Government, or a consolidated Union) that the States, with reference to the powers that the original States possessed, are all equal. With just as much propriety could you deny to either of these States the authority to come back unless they would surrender every other sovereign right belonging to a State.

Mr. SUMNER. Allow me to ask the Senator whether, in his opinion, the Ordinance governing the Northwest Territory, prohibiting slavery everywhere throughout that Territory, and which was declared to be a perpetual compact, could be set aside by any one of the States in the territory now.

Mr. JOHNSON. I certainly think they can, except so far as rights are vested.

Mr. SUMNER. The Senator then thinks Ohio can enslave a fellow-man?

Mr. JOHNSON. Just as much as Massachusetts can.

Mr. SUMNER. Massachusetts cannot.

Mr. JOHNSON. Why not?

Mr. SUMNER. Massachusetts cannot do an act of injustice.

Mr. JOHNSON. Oh, indeed! I did not know that. [Laughter.]

Mr. SUMNER. The Senator ought to know it.

Mr. JOHNSON. I do not think that is in the Constitution.

Mr. SUMNER. I beg the Senator's pardon; it is in the constitution.

Mr. JOHNSON. The United States Constitution, or your State constitution?

Mr. SUMNER. Yes, sir; in our State constitution.

Mr. JOHNSON. But it is not in the constitution of your people. You sometimes do, or have done, acts of injustice. What I mean to say is this, and I am sure the honorable member will not be able successfully to controvert it, certainly not by authority—that there is no difference between the State of Massachusetts and any other State in the Union with reference to its State powers. That is what I mean to say.

Mr. SUMNER. I mean to say that the State of Massachusetts has no power to do an act of wrong—no power constitutionally, morally, politically, or in any way.

Mr. JOHNSON. What is an act of wrong? Who is to judge of it?

Mr. SUMNER. To enslave a fellow-man.

Mr. JOHNSON. You had them there.

Mr. SUMNER. Not since the constitution.

Mr. JOHNSON. It was not abolished by force of the constitution, by any manner of means. But there are other acts that Massachusetts has done—and I am the last man in the world to find fault with the moral or political status of Massachusetts—she has done a great many things that perhaps would not stand the test of very strict morality. She has in former times stood by and

not prohibited the slave trade. She gave the vote which denied to Congress the authority to prohibit the slave trade for twenty years, united in that particular with the State of South Carolina. Was that right?

Mr. SUMNER. No.

Mr. JOHNSON. I think so, too; but still it was legal. I am speaking of the existence of the power. It was power improperly exerted; but the men by whom that Constitution was established, Washington at their head, and southern men, too, for the most part, although violently opposed to the existence of that privilege for twenty years, yielded their opposition for the purpose of bringing about the Union. The man who spoke oftenest against it was Mr. Madison; and yet his advice was overruled, and South Carolina and Massachusetts are answerable mainly for the existence of that provision.

Mr. HENDERSON. I do not wish to interfere between the Senators, but upon this point, with the permission of the Senator of Maryland, I desire to show, from the constitution of Massachusetts, that it would be utterly impossible to get many votes among the Louisiana negroes at the present time, if the provisions of that constitution were applicable to them. I read an amendment to the constitution of Massachusetts now in force:

ART. 20. No person shall have the right to vote, or to be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language and write his name: *Provided, however,* That the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upward at the time this amendment shall take effect.

Mr. JOHNSON. That would exclude a good many.

Mr. HENDERSON. It would exclude nearly every negro in Louisiana.

Mr. JOHNSON. Now, Mr. President, the result to which I come is, that if a State was brought back under such a law as is suggested by the honorable member from Massachusetts, it would not accomplish his purpose; it could be changed the next day. It is a very easy thing for the honorable member from Massachusetts to say, and for the State of Massachusetts to say, that the negroes who are there, and who can read and write, shall vote, because there are very few there. It does not make a pin's difference whether they vote or not, so far as the result of their elections are concerned; but if they had thrown upon them the negro population of Louisiana, lost in ignorance, divested more or less of moral sense, because of the horrid condition in which they have been kept, knowing not what the laws of God require, because they have been kept in a state of ignorance—if they were all assembled within the limits of Massachusetts, does not everybody know that there is no State in the Union that would exclude them more certainly than Massachusetts?

Why, sir, look at the State of Maryland. Maryland, by the constitution which she has just adopted, emancipates all her slaves, and without compensation; but she does not admit them to vote. They are excluded; and what would be the result if they were not excluded? There were seventy or eighty thousand free negroes in the State when the Constitution was adopted, and over seventy thousand slaves; altogether one hundred and forty or one hundred and fifty thousand Africans; about one third of the whole population of the State. To suffer them to vote would be to control absolutely the intelligence of the State; to place us in the hands of an ignorant population; ignorant not because, perhaps, of any natural defect; ignorant not because of any fault of their own; ignorant because of the unhappy condition in which they have been placed. But that gives them no right to vote; because it would subject the State itself to very serious embarrassment, and perhaps to destruction.

But when the honorable member says that all these blacks should be entitled to vote he ought to consider for a moment. They are about organizing some two hundred thousand negro soldiers in the army of the rebellion. They are now being drilled preparatory to the authority to bring them into the service. One of the houses of that supposed congress has adopted it by a vote approaching almost unanimity. The Senate rejected it in the first instance by a majority of more than

two thirds. It was defeated only a few days ago by a majority of one; and everybody knows that they are about to authorize it. They will have from two to three hundred thousand in the rebel service. The honorable member thinks not. That is a difference of opinion between him and those by whom the negroes are better known, perhaps. I doubt it; that is to say, I doubt whether they will be true to that flag; but they may hold out temptations to them which will make them true.

Mr. SUMNER. Does the Senator think they can organize two hundred thousand negroes?

Mr. JOHNSON. I think so, because they think so. Why not?

Mr. SUMNER. I do not think as they do.

Mr. JOHNSON. I know you do not, and I do not think you have ever done so; but that does not necessarily show that they are wrong. But suppose it is done, what are you going to do with those negroes when they come back? Would you let them vote? or will you treat them just as you treat the disloyal whites? Will you not treat them as traitors? They are traitors. I have endeavored to satisfy the Senate, and I believe the Senate are generally of the opinion, that they do owe allegiance to the United States, and may be made soldiers of to protect the United States; but if they raise their arms against the United States they are as much guilty of treason as the white man. They will stand in need of the President's amnesty proclamation; and if the President shall, and no doubt he would, protect them by pardoning them, I want to know from the honorable member whether he would let them vote.

Mr. President, the idea that under the Constitution of the United States you can interfere with any of the rights of the States is an idea first started in the last two or three years. The consolidation to which the honorable member referred last night, to be found mentioned in the letter of General Washington presenting the proceedings of the Convention to the several Legislatures, was not the consolidation that is in the mind of the honorable member. All that he meant was that the Union existing under the Articles of Confederation was made a stronger and more consolidated Union than it was under those Articles.

Mr. SUMNER. Has the Senator the text before him?

Mr. JOHNSON. No, I have not.

Mr. SUMNER. I have it, and if the Senator has no objection, I will read it.

Mr. JOHNSON. Not the slightest.

Mr. SUMNER. The language of Washington is as follows. It is in his letter bearing date September 17, 1787, addressed to the Congress of the United States, and covering the Constitution as adopted by the Convention. He says:

"It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained."

He then goes on, toward the close, as follows:

"In all our deliberations on this subject we kept steadily in view that which appears to us the greatest interest of every true American—the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence."

Mr. JOHNSON. • That is to say, to strengthen the Union; to render its destruction almost impossible.

Mr. SUMNER. Absolutely impossible.

Mr. JOHNSON. No; it is not impossible. It has been tried, and we are now trying to preserve it. But does the honorable member mean to say that General Washington, by that letter, intended to announce as the true doctrine of the Constitution that the Government was a consolidated Government in the ordinary acceptance of the term, and invested with all the powers which belong to one single Government? I am sure he does not mean that.

Mr. SUMNER. I rather think that the first time this word was used in our country was by Washington, and therefore whatever meaning it has must be found in his text. He uses the term, "the consolidation of our Union." I am not aware that it was used before, and so far as it has been used since it has been a quotation from Washington.

Mr. JOHNSON. If the honorable member is sincere (and I have no right to doubt his sincerity) in supposing that Washington intended by

that expression to announce as the true theory of the Constitution that the Government of the Union was one Government, possessed with all the powers of Government, belonging to one single Government, he is at war with the acts of General Washington. When the first act of incorporation from the United States was projected by Hamilton and was finally passed by Congress he called for the opinion of his several Cabinet advisers. He had but ten days. He received Mr. Jefferson's letter upon the subject advising against its approval upon the want of Constitutional authority to pass it, and it so startled him that he was about to affix his negative, and but the day before—I speak from what I have heard, and what I am sure is true from the manner in which the fact has come to me—but the day before he announced to Mr. Hamilton his very great apprehension that if he approved that bill he would violate the Constitution of the United States, and Mr. Hamilton on the preceding evening of his approval sat down in his own house in Philadelphia at eight o'clock in the afternoon, and there he remained upon his seat until the sunlight came in writing the report which satisfied Washington that Congress had the authority to establish a corporation. It is obvious he could not have doubted upon that question at all if he had considered that the Government of the United States was a consolidated Government in the sense in which the honorable member understands it.

Mr. SUMNER. I beg the Senator's pardon; I understand it only in the sense of Washington, that is all.

Mr. JOHNSON. That is begging the question. I do not know that the honorable member knows how Washington understood it better than anybody else; and what did he mean is the question. What I mean to say is this: that he could not have meant what the honorable member seems to suppose he did mean, because, if he did, he never would have hesitated about the authority of Congress to charter a corporation.

Mr. HENDERSON. If the Senator from Maryland will permit me, I will read a former part of the letter of Washington which the Senator from Massachusetts failed to read, showing what General Washington meant when he used the term "consolidation of our Union:"

"The friends of our country have long seen and desired that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the General Government of the Union; but the impropriety of delegating such extensive trusts to one body of men."

As was done under the Articles of Confederation—

"is evident: hence results the necessity of a different organization."

Meaning the Government now formed by the Constitution.

"It is obviously impracticable, in the Federal Government of these States"—

Says General Washington—

"to secure the rights of independent sovereignty to each, and yet provide for the interest and safety of all."

Alluding to the old Articles of Confederation:

"Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to situation, extent, habits, and particular interests."

Then it is that he says:

"In all our deliberations on this subject we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety, perhaps our national existence."

Mr. JOHNSON. Mr. President, the debates in the Convention, and the debates in the several State conventions to which the Constitution was submitted, all show that they considered it a mere delegated Government with certain limited powers, though to the extent of the delegation the supremacy of the United States existed. Here is what Mr. Madison says upon the effect of consolidation:

"That the obvious tendency and inevitable result of a consolidation of the States into one sovereignty would be to transform the republican system of the United States into a monarchy, is a point that seems to have been sufficiently attested by the general sentiment of America."

One word more, sir, and I have done. If Congress passes this resolution, and the State is admitted, no court will hereafter be able to decide that she is not a State in the Union, and no court therefore can call in question the validity or effect of any provision to be found in her constitution. One of the provisions of this constitution is that all the slaves of Louisiana are emancipated. Pass this resolution, admit the State, and that provision is effectual at once. The courts will decide that whether the State has a constitution republican in form or not, and should be admitted, is a political question, and as Congress in the case supposed has decided it by admitting the State under this constitution, the courts will hold that emancipation in Louisiana is effectual. How will it be otherwise, if you keep the State out? Then whether those negroes are emancipated or not will depend upon the President's proclamation; and very few lawyers, as far as I know, very few judges—certainly the President thought it would not have that effect—are of opinion that that proclamation has any effect at all as a mere proclamation. It operates to the extent that our forces have got possession of the territory and the negroes have come within the lines; but its operation beyond the lines is much more than doubtful. My own individual opinion is that the courts will all decide that the proclamation to that extent is a nullity, or, in the language of the President, as futile as the bull against the comet.

Mr. CARLILE. I will ask the Senator how much further beyond our military lines will this constitution of Louisiana operate than the President's proclamation?

Mr. JOHNSON. It operates in point of law. If you admit the State under this constitution you say that this is the law of Louisiana, and nobody can contest it. The judiciary are bound to act in obedience to the political department of the Government after that department shall have acted; and the moment you admit Louisiana into this Union you give as much effect to the emancipating clause to be found in that constitution as has the emancipation clause to be found in the recent constitution of Maryland. It operates *proprio vigore*, and the courts will not permit you to go beyond it for the purpose of ascertaining whether the constitution was adopted or not. They will say that was a matter for Congress, and Congress has decided it.

Mr. SUMNER. Does the Senator from Maryland, who now calls in question the validity of the proclamation of emancipation, question that the Supreme Court of the United States, with its present Chief Justice, would affirm the complete validity of that proclamation everywhere within the rebel States strictly according to its letter?

Mr. JOHNSON. If I am perfectly satisfied, as I am, that the Chief Justice is abundantly capable of filling the high office he has, I do not think he would; but whether he would or not does not settle the question what the court would do. He is but one of ten. Does the honorable member suppose there is anything so towering in the genius and learning of the Chief Justice (and I value them just as much as he does) that he can bring a controlling influence upon the other nine members of the tribunal and cause them to forget what they have said from time to time analogically? I believe as firmly as I believe in my existence, that if the question of the effect of that proclamation was brought up in a legitimate case before the Supreme Court to-morrow, the court would be unanimous in deciding that it has no operation. If there could be any dissent, it could only be in the opinion of the Chief Justice; and I only assume that because the honorable member from Massachusetts, who is very intimate with him, seems to think that he might perhaps be relied upon to hold such a doctrine.

Mr. President, southern man as I am, and unwilling to interfere with the rights of the South, as I have ever been, anxious to-day to have the Union preserved just as it existed, believing that the time would come when the institution of slavery would cease to exist by State operation, that the people could be brought to the conviction that it was not only a high moral duty, but that in a pecuniary sense it was to their advantage, and in a political sense to their advantage, I am now anxious, and have been almost from the beginning of the rebellion, certainly for the last year or two, that this terrible topic of discussion



should be removed at once and forever by a measure the constitutionality and effect of which nobody can question. Sir, I think I see that if Louisiana or any of these States were brought back with slavery the scenes we have had in this Chamber before would be witnessed again. We should have no peace, in the general acceptance of that term; no such quiet as exists now in a great measure in this Chamber; we would be quarreling upon this subject; the public mind would continue to be excited to the last, until sooner or later another rebellion would spring forth. I believe as firmly as I believe in my existence, that with slavery gone, and the authority of the Union reinstated all over the land, that authority will never hereafter be questioned; and it will go on in a career of prosperity which even our own example will be seen to fall far short of. But the honorable member from Massachusetts by his course, as I think—of course he does not intend it—keeps the topic before us everlastingly. First he is for abolishing slavery by presidential proclamation. But he is not satisfied with relying upon that: he is for abolishing it by congressional legislation. He is not satisfied with that: he is for providing that these States shall not be brought back into the Union unless they will agree not only at the time they are brought back, but forever, to give to the black race the right of suffrage. I say to the honorable Senator, if he expects to keep the agitation up, and the Union broken as it is, until that is accomplished, he will not live to see the day when the Union is restored.

It was not my purpose, Mr. President, to submit more than the very desultory remarks with which I have troubled the Senate; but I shall rely upon them as justifying the vote which I propose to give in favor of this resolution.

Mr. SUMNER. I have an amendment to offer, to insert the following proviso at the end of the resolution:

*Provided, That this shall not take effect except upon the fundamental condition that within the State there shall be no denial of the electoral franchise, or of any other rights on account of color or race, but all persons shall be equal before the law. And the Legislature of the State, by a solemn public act, shall declare the assent of the State to this fundamental condition, and shall transmit to the President of the United States an authentic copy of such assent whenever the same shall be adopted, upon the receipt whereof he shall, by proclamation, announce the fact; whereupon, without any further proceedings on the part of Congress, this joint resolution shall take effect.*

This amendment will explain itself. If Senators have listened to it they will be able to act upon it without any debate or any further suggestion from me. But I desire to call attention simply to the precedent on which it is founded, and I am induced to do so the more from the very elaborate way in which the Senator from Maryland has seemed to anticipate it. He has announced that any such proposition would be perfectly futile. Sir, those who preceded us in these Chambers in some of the good days of the Republic did not think so. I have before me the third volume of the Statutes at Large, page 645, where you will find a resolution, adopted March 2, 1821, which I believe was introduced by Henry Clay, and which was the final ground of reconciliation between conflicting opinions in these two Chambers, as follows:

Resolution providing for the admission of the State of Missouri into the Union, on a certain condition.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete.**

I have modeled the proviso which I have sent to the Chair on this identical resolution, following as near as possible its precise language.

Mr. POWELL. I should like to correct a mistake into which the Senator from Massachu-

setts has fallen. He speaks of that resolution as introduced by Mr. Clay. Mr. Clay never introduced it.

Mr. DAVIS. I was just going to set the Senator from Massachusetts right on that point.

Mr. POWELL. I am not sure who it was, but I think it was introduced by a gentleman from Illinois. I know it has been imputed to Mr. Clay.

Mr. DAVIS. That resolution was introduced by Jesse D. Thomas, a Senator from Illinois. It was voted for, however, by Mr. Clay.

Mr. SUMNER. Very well, sir; it is not of much importance who introduced it. Suffice it to say that this resolution is in the statutes of the country, and it was adopted at the time by a large vote. This was not, you will understand, the bill which so agitated these two Chambers, and which was the subject of such extensive discussion. It was the final resolution under which Missouri at last took her place in the Congress of the United States, and by that resolution there was affixed to her reception a fundamental condition. Mark the energy of the expression—"a fundamental condition." Missouri accepted the resolution, and by what was called "a solemn public act" declared her acceptance; and then it was that the President of the United States, by his proclamation, declared that Missouri was a State in the Union. Now, sir, I propose to append to this joint resolution a proviso which is founded on that resolution, and on that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. I move to amend the amendment by inserting after the word "race," the words "or sex."

Mr. TRUMBULL. The first question, I presume, will be on the amendment of the Senator from Massachusetts.

The VICE PRESIDENT. The first question is on agreeing to the amendment to the amendment by inserting the words "or sex."

Mr. SUMNER. Let us have the yeas and nays on that.

The yeas and nays were ordered.

Mr. TRUMBULL. I apprehend there will be scarcely time to call the yeas and nays before the time arrives for taking a recess; but I wish to say to the Senate before the recess is taken that I trust we may be able to conclude this matter to-night, and I hope that Senators will return and let us stay this evening and hear all that the Senator from Massachusetts has to say, and vote upon all his amendments. I think there is no other way to dispose of this matter than to hold on to it, and as we shall probably have to have a night session at some time I trust Senators will attend this evening, and that we may finally dispose of it. I desire to submit a few remarks on the subject before it finally passes from the attention of the Senate. However, I shall be governed very much by the condition of the resolution. I think that the facts upon which the report of the committee has been made have not been properly understood, or, if understood, have not been properly represented to the Senate. When the facts are properly before the Senate, I for one, certainly, shall have no feeling as to what disposition may be made of the resolution.

The VICE PRESIDENT. The hour fixed by the Senate having arrived, the Senate will take a recess until seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven o'clock, p. m.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 463) for the relief of Ambrose Morrison, of Nashville, Tennessee, was read twice by its title, and referred to the Committee on Claims.

#### PETITION.

Mr. WILSON presented a petition of citizens of Massachusetts, praying for an amendment to the Constitution of the United States recognizing the obligations of the Christian religion; which was ordered to lie on the table.

#### BILL INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 476) to provide for a chief of staff to the Lieutenant General commanding the Armies of the

United States; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### J. AND O. P. COBB AND COMPANY.

Mr. HENDRICKS. I wish to ask the Senator from New Hampshire, the chairman of the Committee on Claims, to call up the joint resolution (H. R. No. 80) for the relief of J. & O. P. Cobb & Co., of Indiana.

Mr. CLARK. I am entirely agreed, if it will give rise to no debate.

Mr. HENDRICKS. I do not think it will.

Mr. TRUMBULL. All this, I take it, is done by unanimous consent.

The VICE PRESIDENT. The Chair so understands. The Senator from New Hampshire asks the unanimous consent of the Senate to proceed to the consideration of House joint resolution No. 80.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 80) for the adjustment of the claim of J. & O. P. Cobb & Co., of Indiana.

Mr. HENDRICKS. I desire merely to say this: the Committee agreed to the right and propriety of the resolution as it came from the House, but thought it best to divide the claim. It seems to me that is unnecessary, and I hope the Senate will not do so, but will pass the resolution as it came from the House.

The VICE PRESIDENT. The question before the Senate is on agreeing to the amendment reported by the Committee on Claims, which will be read.

The Secretary read the amendment, which was to strike out all of the resolution after the word "order" in the eighth line, in the following words:

Of their barges and other vessels employed in the shipment of hay to Memphis, Tennessee, under a contract with the Government of the United States, and the hay on board of said vessels, which was being shipped by said firm in the fulfillment of said contract, and other property connected with and being used in the fulfillment of said contract, the said property having been burned and destroyed by the United States gunboat No. 33; and that he allow the said claimants the value of said property, not exceeding \$11,000, to be paid out of any money heretofore or hereafter appropriated, applicable to the payment of claims against the quartermaster's bureau.

And to insert in lieu thereof:

Of a certain quantity of hay loaded by them on certain barges and flatboats, on the Ohio river, to be delivered at Memphis, Tennessee, under a contract with the Government of the United States; and that he allow the said claimants the contract price of said hay so destroyed, less the expense of transportation from the place where destroyed to the place of delivery, to be paid out of any money heretofore or hereafter appropriated, applicable to the payment of claims against the quartermaster's bureau.

So that the resolution will read:

That the Quartermaster General be, and he is hereby, authorized and directed to examine and adjust the claim of J. & O. P. Cobb & Co., of Indiana, for the loss sustained by them on the 11th and 12th days of July, 1863, of the destruction, by military order, of a certain quantity of hay loaded by them on certain barges, &c.

Mr. HENDRICKS. I suppose most Senators recollect the point. It is whether the boats that carried the hay shall be excluded, or whether they shall be included in the claim. The House included the boats that carried the hay as well as the hay, and the Senate Committee on Claims divided it so as to present the question to the Senate. I hope the resolution as it passed the House will pass here.

The amendment was not agreed to.

The joint resolution was reported to the Senate without amendment.

Mr. TRUMBULL. If I remember the case, it is to pay for property that was destroyed before the Government of the United States received it.

Mr. CLARK. The Government destroyed it themselves.

Mr. TRUMBULL. Well, there are thousands and millions of dollars' worth of property that has been destroyed by the Government, and if we commence paying for that class of cases we shall have very large claims here.

Mr. CLARK. We have got to pay for some of them.

Mr. TRUMBULL. If there is any obligation of contract to pay for this claim, I should like to know why it does not go to the Court of Claims. The Court of Claims would have jurisdiction of it.

Mr. CLARK. I doubt whether the Court of Claims could take jurisdiction of it, or whether

they could adjudicate upon it, from the fact that the hay was not delivered; the Government destroyed it before it could be delivered at the place of contract. There is no question as to the justice of the claim at all.

Mr. TRUMBULL. Is there any question as to the justice of any of these claims for property belonging to loyal citizens of the United States which has been destroyed? And yet we have abstained from passing any law thus far to pay for that property. Right across the Potomac here hundreds of thousands of dollars' worth, and I suppose millions, of property in sight of this Capitol, has been destroyed by the Union Army, some of it belonging to Union people, and yet we have not paid for that property. If you are going to commence the principle now on this little claim, they will all come in.

Mr. CLARK. It is very true this is the first case of the kind; it is very true there may be a great many claims of this kind; but that should not deter the Government, in the judgment of the committee, from commencing at some time and being just to these claimants. We cannot refuse them all. The committee, so far, have delayed action to know what might be the sense of the Senate, and they presented this claim in the way that they did, proposing to strike out a portion of it, in order to bring the question directly before the Senate. The Senate seem to think by rejecting the amendment that the whole of the claim should be paid; or, at least, that one part of it does not stand on better ground than the other. I think so myself, if the Senate choose to enter upon this class of cases. They must enter upon them at some time, and I do not see why we may not begin in those cases that are very meritorious and urgent, and where the evidence is entirely clear. There are many cases that may be rejected for want of evidence or want of merit, but a great many have merit. There is one other case that the committee have reported at this session to which I wish to ask their attention when I have the opportunity.

Mr. TRUMBULL. I desire to call the attention of the chairman of the Committee on Finance to this class of cases. He is the guardian of the Treasury here. I wish to say to him that we shall have to raise \$1,000,000,000 more than is provided for if the principle laid down in this resolution is to be adopted. The Senator from New Hampshire now avows that this is the first case of the kind to establish the principle; and the principle is this, that the Government of the United States is to pay for all the property that its armies have destroyed. If the Government of the United States is to pay for the property that its armies have taken and destroyed in the State of Missouri, in the State of Kentucky, in the State of Tennessee, and all these States, there will be no end to the amount of damages and claims that will be presented against this Government.

Mr. COWAN. Are not the Court of Claims paying for them now?

Mr. TRUMBULL. No, sir; the Court of Claims are paying for no property of this kind.

Mr. COWAN. I think they are.

Mr. TRUMBULL. Not at all. The law prohibits their paying for any case of damages for property destroyed by the Union armies. They only have jurisdiction of cases arising out of contracts.

Mr. COWAN. This arises out of a contract.

Mr. TRUMBULL. Then it belongs to the Court of Claims, and has no business here. If there is any contract on the part of the Government to pay for this property, let it go to the Court of Claims, where it can be investigated and both sides in the case can be heard, and not bring it here and establish the principle upon this little claim that the Government of the United States will pay for all the property that has been destroyed by the Union armies during this rebellion. There is no end to it if we commence.

Mr. CLARK. I do not quite like to be misstated, as I am by the Senator from Illinois, unintentionally, I have no doubt; but I have avowed no purpose of asking the Government to pay for all the property destroyed by the Union Army. There is a great portion destroyed in such a way that there would be no pretense for recovering payment for it; but when our Government take the property in such a way as to make them liable

for it under the claim of property taken for the public use of the Government, they are bound to pay for it. That is what the Government have always held; what we held in the last war; what we have held ever since—that when property has been taken by the Government for public use; when it has been taken by military necessity, and destroyed to preserve our armies or advance our cause, then the Government must pay for it. Here was a necessity, as the military authorities thought, of destroying this property in order to catch John Morgan, who had gone over into the State of Ohio, to prevent his recrossing into Kentucky, and doing a vast deal of damage. In the judgment of the committee it may have been well that that property should be destroyed; it was an act of precaution, at any rate; and on every principle that has been adopted by the Government heretofore the Government are bound to pay for it.

Mr. TRUMBULL. Our armies thought it advisable to destroy Atlanta, and I have no doubt there will be parties there who will prove their loyalty. Our armies thought it advisable to fire shells into Charleston, and a great part of the city has been destroyed, destroyed for military purposes. Must we pay for this property or establish a principle that will require that we should pay for it? I think this bill had better be passed in a fuller Senate than this, and on the yeas and nays, if it is to pass at all. I desire to record my vote against it.

Mr. LANE, of Indiana. I am perfectly satisfied that the Senator from Illinois does not understand the merits of this claim. Cobb & Co. contracted to deliver a certain amount of hay at Vicksburg at a certain compensation per ton. They started to deliver that hay; and upon the river, before they reached the destination, it was seized by the military authorities of Kentucky and destroyed, the boats as well as the hay. They were in the completion of a contract with the Government, and before they reached the point of destination the Government seized it; and that was to all intents and purposes a delivery to the Government, for they placed it out of the power of the contractors to go further. They seized the boats, and seized the hay, and burned it up. It was a regular contract at a certain price per ton; and if there is a debt due upon earth, it is this contract of Cobb & Co. It does not depend upon the principle of general compensation for property destroyed at all. It was under a contract, and they were in transit. No part of it depends upon this principle of general compensation.

Mr. TRUMBULL. Then why not send it to the Court of Claims?

Mr. LANE, of Indiana. Because the Government seized it under a contract before it reached its destination; and the question is, whether it was delivered or not. That is the whole of it. It does not raise the question as to general compensation for property destroyed by the Government. It stands upon its own grounds so far as the hay is concerned. So far as the boats are concerned, if the Senate believe they should not pay for the boats, well and good; but there is no doubt but what the Government ought to pay for the hay that they had contracted for, and Cobb & Co. were trying to deliver and were prevented from delivering at Vicksburg, because the military authorities seized it and burned it up, so that the boats should not be used by John Morgan for the purpose of passing over the Ohio river. It does not depend upon any such principle of general compensation.

The VICE PRESIDENT. The question is on ordering the resolution to a third reading.

Mr. DAVIS. I move an amendment in the form of a substitute, to strike out all of the resolution after the enacting clause and in lieu thereof to insert the following:

That J. & O. P. Cobb, and all other loyal persons, natural or artificial, or any loyal State of the United States, who have or may hereafter have any debt, claim, or demand against the United States, originating out of any contract, express or implied, for the possession, occupation, appropriation, or conversion of any property, real or personal, or mixed, by, under, or for the use or service of the United States, by the contract or act of any of its officers, agents, or employees, in the performance of their duties, may institute suit therefor against the United States in the proper district or circuit court thereof; and all such suits shall be heard, adjudged, and determined by the same principles, rules, and modes of proceedings as would be applicable to suits between private citizens in such courts.

Mr. President, I propose by this amendment to make the United States liable to individual citizens precisely as individual citizens are liable to each other, to the extent of a suit and a judgment. Why should it not be so? Why should not the United States pay all its debts originating in contract or in quasi contract, or for the destruction of the property of the citizen? Should the United States be less just than the individual citizen? Does not the United States owe to every loyal citizen thereof protection? Does not that term "protection" necessarily carry with it an obligation upon the part of the United States that such money as it may owe to any citizen, growing out of any of the class of cases specified in that amendment, should be paid by the United States? If there is any power in the land; if there is anybody, natural or artificial, in the land that ought to be entirely just, and that ought to be answerable by the law and the courts to all citizens for all such debts and liabilities as are specified in this amendment, the United States is precisely that artificial body that ought to meet this liability.

Sir, in my judgment, it has been a reproach, a crying injustice, a grievous oppression upon the part of the United States, from the foundation of the Government to the present time, that it has never allowed the citizen to bring suit against it, and to make the Government of the United States responsible just as one citizen is responsible to another. I have heard it said in past years, and I have no doubt it will be repeated, that the United States is not able to pay; that if the Government is allowed to be suable in the district courts, fictitious claims will be brought against it, and will be sustained by false testimony, and in that way the public Treasury will be plundered. My experience and conclusions are altogether different. I believe that if Congress was to pass a law authorizing the United States to be sued just as any other individual, and competent legal officers were appointed by the Government to protect its interests, and to make defense against unjust claims, a much smaller amount in the aggregate would be recovered against the Government than is now obtained by petitions and by bills passed by Congress.

Mr. HENDRICKS. I wish to appeal to my friend from Kentucky not to bury this little private claim by a general proposition which it is impossible for the Senate now to consider. I do not think it is just thus to destroy the prospects of the passage of a single claim that has undergone the forms of legislation up to this point by the introduction of a general proposition that it is impossible for the Senate now properly to consider. I do not think the Senator wishes to defeat a claim that he sees plainly is so obviously just and right. I appeal to him not to destroy it.

Mr. DAVIS. If I were at all convinced that the claim would pass the Senate I should not have proposed this amendment.

Mr. CLARK. Suppose the Senator lets it be tried, and see whether it will be passed or not.

Mr. DAVIS. Are we not now in Committee of the Whole?

The VICE PRESIDENT. The joint resolution is now in the Senate.

Mr. CLARK. Besides, it is a House resolution.

Mr. DAVIS. I suppose this is the only opportunity I shall have of presenting the amendment during the session.

Mr. HOWE. No, sir; there is another bill that has been reported from the Committee on Claims.

Mr. DAVIS. However, at the instance of the Senator from Indiana, I will withdraw my amendment.

Mr. HENDRICKS. I am very much obliged to the Senator.

Mr. SHERMAN. I listened to the debate the other day upon the subject of this claim, and did not intend to say a word, but simply to record my vote upon it. My vote will be based entirely upon this proposition: that there is no equitable or legal distinction between this case and a thousand others that I might give you that occurred in the States of Ohio and Indiana in the Morgan raid. In the State of Ohio horses were taken and appropriated, not only to the use of John Morgan and his thieves, but to the use of the Government of the United States. A commission was appointed by our State authorities to collect

together all the various cases of property appropriated in the course of the Morgan raid, and they have sent us a statement exhibiting a loss of some four or five hundred thousand dollars. Every one of those cases presents just as strong and just as equitable a claim on this Government as the case now presented. I have declined, and have advised the State authorities not to present this claim against the national Government at this time; that Ohio is strong and able enough to carry forward this indebtedness, if it is an indebtedness against the Government, which I very much doubt, and that she ought not to present the claim; and the matter has been suspended ever since.

Here is the case of the property of private persons seized by the Government, and destroyed for what purpose? To keep it from being destroyed by the public enemy.

Mr. HOWE and Mr. CLARK. Not at all. Mr. SHERMAN. To keep it from being seized by the public enemy.

Mr. HOWE and Mr. CLARK. Not at all. Mr. SHERMAN. Or to keep the boats from being used by the public enemy to cross the Ohio river. Perhaps that is a statement which Senators will admit. At any rate, it is property destroyed to keep it out of the possession of the public enemy.

Mr. CLARK and Mr. HOWE. Not at all. Mr. SHERMAN. There is no other purpose, no other object. I have heard this statement made several times by Senators in advocating the claim. The military authorities were afraid that John Morgan would seize these boats and with them would cross the river and thus invade the State of Ohio and the State of Indiana.

Mr. CLARK. No; they were afraid he would take them and get back again.

Mr. SHERMAN. It is the same thing. This property was seized to prevent it from falling into the hands of John Morgan. That is the long and the short of it. Now, suppose this hay had been shipped to some private individual, and had been destroyed by the Government in the course of that shipment, could these parties claim it? I think, according to the well-recognized principles of international law, they could not, and I do not see that the case is any stronger by the fact that this property was on its way to be delivered to the national Government. Suppose this property was to have been delivered to some private individual at Vicksburg, and the Government had found it necessary to seize that property and destroy it to prevent it from falling into the hands of a public enemy, would the Government be responsible in such a case? Look at the books on international law, and you will find that they are full of declarations that the Government is not responsible for property seized under those circumstances. If the Government seizes the property and applies it for the use of its troops, such as munitions of war, food, and the like, they are bound to pay for it; but if they destroy property of the private citizen, even of their own loyal citizens, for the purpose of preventing it from falling into the hands of the public enemy, the Government is not responsible; and that is on the ground, not that it is not just to pay for it, but on the ground that no Government can pay for it.

Mr. COWAN. The doctrine is the very reverse of that.

Mr. CLARK. The Senator from Ohio will find case after case, and case after case—the books are full of them—the very reverse of what he states.

Mr. DAVIS. The last case was decided by the Court of Claims at its last session.

Mr. SHERMAN. Then I am very much in error about it.

Mr. CLARK. Certainly you are.

Mr. SHERMAN. I think Senators will find that I lay down the principle correctly.

But, sir, I think it improper and unjust for the Government of the United States to take up individual cases and pay them as they are presented, without any general system. I am disposed to postpone all these claims, to postpone the claim of my own State, many of the damages and losses of which occurred almost under my own eye; to postpone them all until some future period. I know that this is a very hard case on the contractors who were endeavoring to perform their con-

tract, taking the hay down to Vicksburg; but it was no harder than thousands of others that occurred during the Morgan raid, and are occurring now every day in Kentucky, and other States of the Union, where property is seized by the Government of the United States and destroyed for military purposes, for military defense, or to prevent it from being seized and destroyed by the public enemy.

Mr. FOSTER. I move that this resolution and case be referred to the Court of Claims.

Mr. CLARK. I hope that will not be done, because at the last session of Congress, I think, Congress passed a law by which it was declared expressly that this class of cases should not go to the Court of Claims, desiring to retain them in their own hands. Unless Congress desire to set the example and let this class of cases go to the Court of Claims, this had better not be done; but if they intend to set the example, and to let all this class of cases go there, and thus furnish a tribunal to which this class of cases can go, I have no objection.

Mr. TRUMBULL. This is taking up so much time that I must call for the order of the evening. This resolution was taken up by unanimous consent.

The VICE PRESIDENT. The order of the day being called for, the unfinished business must be taken up.

#### STATE GOVERNMENT OF LOUISIANA.

The Senate resumed the consideration of the joint resolution (S. No. 117) to recognize the State government of Louisiana, the pending question being on the amendment of Mr. HENDERSON to the amendment proposed by Mr. SUMNER.

The VICE PRESIDENT. At the time the Senate took a recess the Senator from Illinois [Mr. TRUMBULL] was upon the floor, and the Chair does not know whether the Senator intended to continue his remarks or not.

Mr. TRUMBULL. I intended to say something upon this question at some time, but not at this time if any one else is prepared to go on. Having reported the resolution to the Senate, it was my intention to say a few words in the conclusion of the debate. If any other Senator desires to say anything I hope he will proceed; if not, I will make the few remarks I desire to make, and then I hope we shall get a vote.

Mr. CLARK. With the assent of the Senator from Illinois I will submit the reason which will govern my own vote to the Senate at this time and on this question, and I shall be very brief, because I desire, as well as the Senator from Illinois, and I do not doubt other Senators, that we should have action on this resolution to-night. The question is upon the amendment offered by the Senator from Massachusetts, [Mr. SUMNER.] I desire to say in regard to that amendment, that I approve of its general features; that is, I approve of the extension of the elective franchise to people who are qualified for it otherwise, without regard to color. I like the provision of the constitution of Massachusetts, that the men who are qualified by their intelligence shall be the voters.

Mr. POMEROY. I will inquire of the Senator if he intends to convey the idea that it is a crime not to be able to read and write.

Mr. CLARK. I did not say that it was.

Mr. POMEROY. But you will not permit a man to enjoy the elective franchise unless he can read and write; and the man who is so unfortunate as not to have had opportunity to learn to read and write at an early day is to be deprived of the right of voting for all time to come.

Mr. CLARK. Then from the necessity of the case I would give him every opportunity to learn to read and write.

Mr. POMEROY. There are thousands of good and loyal men who cannot read and write.

Mr. CLARK. I have not any doubt of it, and they are the men who have been deceived by the men who had an interest to deceive them. I say I approve that principle.

Mr. POMEROY. I do not.

Mr. CLARK. I am not saying I would adopt it; but I say to the Senator from Kansas, and I say here in the Senate, that if that principle were adopted, it would be a grand inducement to all these men to learn to read and write who now neglect it.

Mr. POMEROY. It is a wrong principle to discriminate against a man who has been unfortunate.

Mr. CLARK. I do not propose to discriminate against a man who has been unfortunate. I merely say I like the principle of having voters qualified in that sense. I should like to have them qualified in the sense that the justice of the peace was going to be qualified in my country. When he got his commission and one of his neighbors asked him if he was qualified, he said no, he did not suppose he was, but he was going to get a book, and should be soon. [Laughter.]

But, Mr. President, I am against this amendment as it now stands, because it is an amendment to this resolution which proposes to recognize the government in the State of Louisiana, which is a State in my judgment, still a State in the Union, having its constitution overthrown, but desiring and attempting to establish a new constitution; and I hold that we have no power to amend that constitution; and that is the reason why I shall be obliged to vote against it here.

Having said this much in regard to the amendment, desiring to be brief, I will submit a remark or two in regard to the general question, and then have done, that I may not occupy the attention of the Senate but once.

I suppose that everybody in the Senate will agree with me that the rebels ought not to be allowed to vote; that the man who has rebelled against the Government and made war upon it should not exercise the elective franchise. I think my friend from Kentucky [Mr. DAVIS] would agree to that. I think my other friend from Kentucky [Mr. POWELL] would agree that they ought not to vote. We know that there were a great many rebels in the State of Louisiana. We will all be agreed, then, that they ought not to vote. But the fact shows that there were Union men, too, in the State of Louisiana. They ought not to be deprived of the right of voting because the rebels did wrong, and if the rebels in the State cannot vote I hold that the Union people may vote, and the management and control of the government of that State belongs to the Union people. I am not aware that there is any distinct number of people required to constitute a State. We admit States with a population of sixty thousand, seventy thousand, eighty thousand, and when once admitted, so long as there are people enough in the State to hold and exercise the government, it is still a State.

Mr. BUCKALEW. And to elect two members of Congress?

Mr. CLARK. The Constitution provides that they shall have one, at least. I am not arguing now or attempting to show that they are entitled to one, two, or three members of Congress. I am arguing upon the point that they are entitled to exercise the right of suffrage in the State of Louisiana, notwithstanding a certain proportion of the people may have gone into rebellion. If the rebels cannot vote, it will remain to the Union people to exercise the rights of State sovereignty in that State.

As I was saying, if the population should be reduced in a State, say from one hundred thousand to five thousand, it would still be a State. So if the population of a State be reduced by rebels who have forfeited their right to vote, it will still be a State for the Union people remaining in it, and the question then will be whether a majority of the Union people have exercised the right; and that is the question here as I understand it. I do not understand, as the Senator from Michigan does, that because a majority of the people of Louisiana have gone into rebellion, that therefore they have taken away the rights of the minority who were Union people. That cannot be. I contend, on the other hand, that it is so much the more our duty to protect that minority.

And here I desire to meet the argument that has been suggested, that this government of Louisiana is a very feeble power, a shadowy government, as some call it. Why, sir, as I understand it, the provision of the Constitution that the United States shall guaranty a republican form of government to every State was made to meet just such a case; where the people themselves could not maintain and control, or were not disposed to maintain and control, a form of republican government, that there the United States should guaranty it. There is another provision of the Con-



stitution, that upon the call of the Legislature of a State, or of the Executive when the Legislature is not in session, the General Government shall protect a State against domestic violence; and that was meant to protect a State so feeble that it could not protect itself. The very supposition that upon the call of the Legislature or the Executive of the State the United States Government should protect it, presupposes that it is a weak government and cannot protect itself. I hold that if this republican government in the State of Louisiana is a small one, or is a feeble one, it is the duty of the Government so much the more to sustain and protect it as the nucleus of loyal feeling and loyal sentiment in that country.

Sir, I am not afraid to recognize that government for fear that it will be overborne, if the Government of the United States protect it and stand by it. It is no more likely to be overborne in that case than it would be if the Government did not stand by it, and you had to hold that country by the military power, so far as to keep the rebels off the Union people; and it is a duty you owe the Union people. I hold that the Union people of Louisiana have a right to appeal to the force of the General Government and ask protection; and I hold that you do not render them your full duty unless you do protect them. It is not only a question of policy, but it is a question of duty for us—a duty we owe to that loyal people, or to the remains of the people in the State who are loyal, to protect them there; and therefore, Mr. President, not to be tedious, I shall give my vote for the measure before the Senate.

Mr. POMEROY. I appear to have been entirely misunderstood in the remark I made, by the Senator from New Hampshire. I only intended to reply in a single word that what he admired so much in that article that was read as being a portion of the constitution of Massachusetts did not as cordially commend itself to my mind as it did to his. That article provides that before a man can vote he must be able to read and write the Constitution of the United States in English. There are thousands of men who can read and write very well, but not a word of English.

Mr. CLARK. I did not say to the Senate that I admired the provision of the Massachusetts constitution. I like the feature of it in this, that a man shall read and write and understand what he is about. That is all I mean to say.

Mr. POMEROY. It is very desirable for everybody to read and write, but there are other languages beside the English that can be learned, in which a man can read and write and be very well educated. The point I make is this: that in all the States, and especially in the new States on the border, many men have not had an opportunity to learn to read and write the English language, or perhaps any language, and I do not believe that, because they have not had the opportunity, and are unable to read and write in the English language, therefore they should be disfranchised. It is a misfortune that they feel; but it is nothing for which they should be punished; it is nothing for which they should be driven away from the ballot-box or the jury-box. Many of them are business men, men of good standing and character, patriotic and loyal. I have been surprised in looking over the pay-rolls of the Army to see how many soldiers we had that could not sign the pay-rolls, and not only soldiers, but officers; and yet, sir, I would be very slow in passing a law that should disfranchise them, and should prevent them, after they had fought and bled for their country, from enjoying all the rights of citizens.

Mr. President, I am opposed to this amendment. I usually vote for everything that the Senator from Massachusetts brings forward on the anti-slavery question; but I am opposed to this amendment, in the first place, because I do not suppose that we have the right to say what shall be the qualifications of voters in any State in the Union. The people of my own State are supposed to be loyal. They are as radical as are the citizens of Massachusetts, but they are not loyal enough to allow Congress to dictate to them what kind of qualifications for voting they shall have.

Mr. SUMNER. The people of Kansas have never rebelled.

Mr. POMEROY. I believe they have never rebelled, although many of us, and I for one, have been indicted for treason and sentenced in a

United States court. We were supposed to be in rebellion at one time; but yet Congress never undertook to dictate to us what should be the qualifications of our voting when we did have the right to vote. There were some years when we could not vote. For one, sir, I am for leaving this question of suffrage to the citizens of the States, and I claim it as their right to admit whoever they choose to the ballot-box. I am not loyal enough myself to allow my own rights as a citizen of a State to be trampled upon in that way. I would not be dictated to, as a citizen of a sovereign State, by Congress or any other power as to what kind of citizens of my State should be allowed to vote. If they choose to let all the citizens, including the women, vote, it is not a matter for Congress to interfere with. The citizens of a State are not confined to its male citizens, either white or black, and the right of voting does not follow the right of citizenship. The States have their own way about that. Some States let one class of persons vote, and some another, and I want that course continued.

I do not desire to continue this discussion. I would rather come to a vote. But so far as I am concerned, I shall vote against all amendments that look like dictation on the part of Congress to any State whether they will let the right of suffrage be enjoyed by a whole or a part of the people.

Mr. SAULSBURY. Before my honorable friend from Kansas takes his seat I wish to propound a question to him. I understood him to say that he, as a citizen of a State, would not allow dictation from Congress, or any other power, as to his right of voting, or the right of any citizen of his State.

Mr. POMEROY. Yes, sir, that is it.

Mr. SAULSBURY. Then the question I wish to propound to the honorable Senator is this: if he had lived in my State a year ago last fall, and he had seen the armed soldiery sent by the President of the United States or his Secretary of War, and with a test oath, what would he have done? Would he have done as the Democrats in that State did, peaceably keep away from the polls, have no disturbance on the day of election, or would he have rallied his followers to assert their rights? I ask the Senator again, whether, if at a general election the year before, he, a Senator of the Congress of the United States, had been compelled to do as I had to do, walk under crossed bayonets to the polls, had seen his neighbors and friends driven away from the polls, run into the swamps, compelled to lay out in the night in the snow; what would he have done? Would he have rallied his friends in vindication of their rights, or would he have done as the Democrats of the State of Delaware did, let oppression take its course, and rely upon a solemn appeal to the judgment of the country for the vindication of their rights?

Mr. POMEROY. I have had considerable experience under this Democratic rule of making qualifications for voting, and my experience has not been very much dissimilar to the experience of the Senator from Delaware. When the Democrats undertook to prescribe the qualifications for voting in Kansas, when it was a Territory, they provided, in the first place, that before a man could vote he should pay a dollar to the sheriff, and, in the second place, that he should take an oath to support the Constitution of the United States and the organic act of the Territory, including the Kansas-Nebraska bill; and after all that, that he should be deprived of the right of voting if he should write, publish, or circulate anything in the Territory declaring that slavery did not exist there, and did not have the right to exist there. They also provided that no man should be permitted to enter the jury-box who believed that slavery did not exist in the Territory, or who should write or publish or circulate anything declaring that it had no legal status in the Territory. And finally they provided that we should swear, not only to support the organic act and the Constitution of the United States, but the fugitive slave law of 1850. It has been, I confess, a little amusing to me to hear men in this Senate remonstrate against the test oaths required by General Banks at New Orleans, when they were loud and long here in upholding the Kansas-Nebraska policy, and required of us, by law—not simply by the command of a general, but by statute—to take the most infamous and oppressive oaths, or else not to vote at all.

Mr. LANE, of Kansas. We had to swear to support all the laws of the Missouri Legislature, passed and to be passed.

Mr. POMEROY. I cannot tell, and do not know, what has been the experience of my friend from Delaware. I do not know what difficulties he had in approaching the ballot-box last fall. I only know that when the Democratic party ruled in the Territory of Kansas they surrounded the ballot-box with difficulties, and sometimes we could not get near enough to it to shoot a ballot into it with a revolver. [Laughter.] But I hope these experiences have gone by, and that to-day and now Congress and the country are ready to allow the loyal and patriotic men of every State to manage their own matters in regard to voting.

I do not think that rebels should vote. I do not know that they have any rights that white men are bound to respect. [Laughter.] I know the Senator from Michigan said that the State of Louisiana had at the presidential election of 1860 fifty thousand voters, and that now they were able to poll but eight thousand, leaving the inference that there were at least some forty thousand voters in the State who did not participate in the election. That Senator cannot have forgotten the fact that more than thirty thousand, perhaps forty thousand men from that State, have gone into the rebel army, a majority of whom were voters. If you deduct that thirty thousand out of fifty thousand, there are but twenty thousand left. Out of that twenty thousand, it must be supposed that there were at least four or five thousand who live in those portions of the State where no ballot-box could be opened, perhaps eight thousand, leaving it a very fair conclusion that if eight thousand loyal men voted for this constitution, it embraced a majority of the loyal men in the State. I contend that when the majority of the loyal men of any State meet and organize a State constitution they should be respected. I leave the disloyal entirely out of the question. This constitution is an expression of the will of the loyal men of Louisiana. They are united in it. They intend to stand by it. It is the nucleus around which they intend to rally. They intend to maintain that constitution and their government, and I think it is the duty of this Congress to come to their aid. It is the duty of the Government and the country to do it.

I do not know as much about Louisiana as I do of Arkansas, but I have made myself thoroughly familiar with the facts in regard to Arkansas, and I am only sorry that it is not before the Senate. There are two reasons in favor of Arkansas where there is only one for Louisiana.

Mr. SAULSBURY. I do not think the honorable Senator from Kansas answered fairly the question I propounded to him. He speaks of disability incurred, or imposed, by reason of the legislation of the Territory or of the incipient State in which he lived. I will say to the honorable Senator, however, if any such impositions were practiced upon the people of the Territory of Kansas I would not at that time, and would not now, justify them; and although I was not then in public life, I will take this occasion to say that had I been I should have been in favor of the submission of the constitution of Kansas to the people of the Territory of Kansas.

But I called the attention of the honorable Senator to foreign interposition in reference to the right of citizens of a State to vote, and I asked him for his opinion. Had he lived in a State in which this foreign interposition had been practiced, what would he have done? Would he have done as the Democrats of the State of Delaware did—kept away from the polls, avoided excitement, avoided bloodshed; or would he have summoned his followers to stand up to their rights?

Mr. President, I am glad to observe this change that I think has come over the spirit of some of my Republican friends. I think they begin to scent the danger in the distance, that they begin to see that if a Government of law is to be destroyed, and power is to be concentrated in executive hands, or in the hands of executive agents, there is an end of liberty in this country. I hail the dawn, therefore, of a better day. I was delighted the other day to hear the honorable chairman of the Committee on the Judiciary avow his opposition to any other form of government but that of a government regulated by law, and to protest against what he considered infractions of

the fundamental law of the land. I welcome, now, the honorable Senator from Kansas into the number of those who intend in future, judging from his remarks on this occasion, to resist by all the powers that they possess as legislators, any further continuance of this practice of interfering with the freedom of elections in the States.

It was for this purpose, and for this only, and not to continue this debate, that I rose and made the remarks that I did, and tried to obtain a direct answer from the honorable Senator from Kansas.

Mr. HENDERSON. The Senator from Massachusetts [Mr. SUMNER] when he was on the floor last alluded to the admission of Missouri, and left the impression, no doubt, that this was a similar case; in fact he said it was a case in point. The proposition of the Senator is to add the following:

That this act shall not take effect except upon the fundamental condition that within the State of Louisiana there shall be no denial of the electoral franchise, or of any other rights, on account of color or race, but all persons shall be equal before the law.

The Senator from Maryland cited him to the constitutional provision which leaves this question of suffrage entirely to the States:

"And the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

The Senator, in reply to that, said that there was a compact made with the State of Missouri of the same character upon the entrance of that State into the Union.

Mr. SUMNER. I said a compact imposing a condition upon Missouri.

Mr. HENDERSON. A fundamental condition upon the admission of the State into the Union that was similar in character.

Mr. SUMNER. I think I said, a compact imposing a condition, precisely as I now propose to impose a condition upon Louisiana, and to that extent it was similar.

Mr. HENDERSON. The difference between the case and the one under consideration is this: the Senator and myself both agree that the State of Louisiana is now in the Union. The Senator said so last night. Then we agree upon that proposition.

Mr. SUMNER. It is in and it is not. [Laughter.] The territory is in; but as yet there is no State government that is in.

Mr. HENDERSON. I cannot answer that proposition. When I insist that it is in he says it is; but when I attempt to show that it is not in the position of a Territory asking permission into the Union, then he says it is not in.

Mr. President, I have looked back to the record in the case of Missouri to see if my impression was correct. My impression was that the convention that adopted a constitution for the State of Missouri, in one of its provisions, in the belief of Congress, had run directly counter to a constitutional provision. The Senate will see that one provision of the constitution as adopted by the State of Missouri read in this way:

"It shall be the duty of the General Assembly, as soon as may be, to pass such laws as may be necessary, first, to prevent free negroes and mulattoes from coming into and settling in this State under any pretext whatever."

That was the shape in which the constitution stood when it was sent to Congress in 1820. Congress objected to the admission of the State because of that provision. It was not in consequence of the difficulty that originated in regard to the existence of slavery in the State, for that was settled by the act of March 6, 1820; but when the constitution of Missouri came here, and this subject came to be considered, Congress said that it contravened this provision of the Constitution of the United States:

"The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States."

Congress said that the provision in the State constitution of Missouri was in contravention of that provision of the Constitution of the United States. Then the law of 1821, referred to by the Senator, was passed, in these words:

"That Missouri shall be admitted into this Union on an equal footing with the original States, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the

privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."

The Legislature of Missouri, then being in session, took this question up and added this proviso to the provision that I have read:

"*Provided*, That nothing in this constitution shall be construed to conflict with the provisions of the first clause of the second section of the fourth article of the Constitution of the United States."

After the adoption of this proviso added to this section, so as to show that the constitution of Missouri could be no longer considered as contravening this provision of the Constitution of the United States, Mr. Monroe issued his proclamation, and the State was admitted. I say it is not an analogous case. It is not analogous, in the first place, because Missouri was then a Territory, and Louisiana is now a State. In the second place, it is not an analogous case because the provision in the constitution of the State of Missouri was in direct contravention of the Constitution of the United States, and it required this explanation; and I say it was perfectly right that Congress should require of the State of Missouri an amendment to that provision. The State had no right to say that free negroes entitled to the rights of citizenship in other States should be excluded from that State. That is my belief. I do not say that upon removing into the State of Missouri they were entitled at once to all the rights that they enjoyed in other States, but the meaning of that provision of the Constitution of the United States is that no citizen of a State shall be treated as an alien in any other State. But in this case the proposition is not to reconcile a provision of the constitution of Louisiana with the Constitution of the United States; but if this provision of the Constitution in regard to suffrage leaves to the States the right to settle that question for themselves, then the amendment of the Senator from Massachusetts contravenes the Constitution itself.

Mr. SUMNER. I do not propose now to go into the general debate; possibly before it closes I may say something; but what I have to say now is simply to correct errors. I see the Senator from Maryland reading a newspaper.

Mr. JOHNSON. That is not unconstitutional, I hope. [Laughter.]

Mr. SUMNER. The Senator says he hopes it is not unconstitutional. With his latitudinarianism in the construction of the Constitution, certainly it is not. But just before the recess, it will be remembered that the Senator, with more than his usual loudness of voice and earnestness, crossing over the avenue, I believe, as if for some kind of demonstration, undertook to correct me on at least two different matters of history. I shall take them up in their order.

The first was with regard to the opinions of George Washington on consolidation; and there he had also the backing of his friend, the Senator from Missouri. I had ventured to quote, in my simplicity, what I always understood to be the sentiment of Washington; and I had referred to his very authoritative words in that remarkable letter to the Congress of the United States, addressed by him, as President of the National Convention that framed the Constitution, concluding as follows:

"In all our deliberations on this subject we kept steadily in view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety, perhaps our national existence."

Sensors cannot have forgotten how the Senator from Maryland sought to argue that away. He insisted that Washington did not mean what he said; that he did not mean consolidation, though he used the word; and he charged me with proposing something absolutely unimagined, the actual bringing of all these States into one united republic. That, according to him, was not Washington's idea. His idea was simply the consolidation of the Union; though perhaps it will require all the legal acumen of the learned Senator to show any difference between the two ideas.

But, sir, Washington spoke on that subject more than once, and on one other occasion he spoke, if possible, with more distinctness than on the occasion to which I have already referred. I have now before me his letter to John Jay, written late in the summer of 1787, just before the adoption of the Federal Constitution, in which he alludes to the crying evils of the Confederation in this very particular, namely, that there was in it no consolidation, and he says:

"We have errors to correct. We have probably had too good an opinion of human nature in forming our Confederation. Experience has taught us that men will not adopt and carry into execution measures the best calculated for their own good without the intervention of coercive power. I do not conceive we can exist long as a nation without lodging somewhere a power which will pervade the whole Union in as energetic a manner as the authority of the State governments extends over the several States."

There, sir, are the words of Washington. I will read the last sentence again:

"I do not conceive we can exist long as a nation without lodging somewhere a power which will pervade the whole Union in as energetic a manner as the authority of the State governments extends over the several States."

And he then proceeds:

"Do be fearful of investing Congress, constituted as that body is, with ample authorities for national purposes, appears to me the very climax of popular absurdity and madness."

There, sir, you have Washington's idea of consolidation.

But the Senator from Maryland, not content with correcting me when I undertook to quote the opinions of Washington, also corrected me when I referred to the origin of the resolution for the admission of Missouri into the Union. I stated that it came from Mr. Clay. The Senator from Maryland very promptly and earnestly said I was mistaken; it did not come from Mr. Clay; and the Senator from Kentucky [Mr. DAVIS] rose and said the same thing. Now, sir, I have before me a book which we all recognize in this Chamber as of authority—Hickey's edition of the Constitution, with historical illustrations. There, under the head of "Missouri," you will find this note:

"On February 26, Mr. Clay"—

I believe there was only one Mr. Clay at that time—

"from the joint committee, reported a resolution providing for the admission of the State of Missouri into the Union, on a certain condition," which resolution was passed and approved March 2, 1821. The said condition was accepted by the Legislature of Missouri by a solemn act declaring the assent of this State to the fundamental condition contained in a resolution passed by the Congress of the United States, providing for the admission of the State of Missouri into the Union, on a certain condition, which was approved by the Governor on June 23, 1821."

Mr. DAVIS. Will the honorable Senator allow me a word?

Mr. SUMNER. I shall be done in a moment.

Mr. DAVIS. Only a moment. It is very probable that Mr. Clay from the committee, as its chairman, reported the Missouri Compromise.

Mr. SUMNER. This is not the compromise.

Mr. DAVIS. I had referred to that.

Mr. SUMNER. I thought the Senator was in error at the time from confounding the two different stages of that remarkable session.

Mr. DAVIS. One was at one session, and the other at another.

Mr. SHERMAN. I happened to know Senator Thomas of Illinois in the later years of his life, and he always boasted that he was the author of the famous division line of 36° 30'; but that was passed the year before the resolution now alluded to by the honorable Senator.

Mr. SUMNER. I think that was the occasion of the mistake, and I merely now, as some of our predecessors here have been in the habit of saying, make this correction for the truth of history; and this is my answer to the two criticisms which the Senator from Maryland at the close of his very earnest remarks chose to make. And that brings me to the resolution itself.

The Senator from Missouri has now introduced another element. He says that it is not a case in point on the present occasion. He will pardon me if I say I differ from him. It is a case precisely in point. As the lawyers say, the two cases run on all fours. There is a resolution now pending, reported by the Senator from Illinois, for the recognition of Louisiana as a State in this Union, precisely as on that other occasion there was a resolution pending, or indeed an act of

Congress that had already passed, for the admission of Missouri as a State of this Union. Congress, at that day, on the motion of Henry Clay, felt authorized to impose upon Missouri a certain fundamental condition, without which Missouri should not take a place in the Union. All that I propose by the amendment which I have had the honor to send to the Chair is, that Congress now imitating the example of our fathers, when it is proposed to recognize (for that is the phrase employed) the State government of Louisiana, shall impose a certain fundamental condition upon the performance of which the recognition shall be consummated.

Mr. HENDERSON. With consent of the Senator I will remark that in that case, as I have stated, the constitution of Missouri conferred upon the Legislature of Missouri a power to contravene the Constitution of the United States, by legislation prohibiting free negroes having the right of citizenship in other States from coming into the State. Surely he does not pretend to say there is any provision in the constitution of the State of Louisiana directly contravening the Constitution of the United States. If so, I would like to hear it.

Mr. SUMNER. I will not now be drawn into that point of the discussion, whether there is in the Louisiana constitution anything contravening the Constitution of the United States or not, because it is immaterial. "Sufficient unto the day is the evil thereof." I like to take things one by one, one question at a time, and the question now is as to the power of Congress at this moment, when it is asked to recognize a certain State government, to impose a condition precedent to such recognition.

Mr. HENDERSON. I wish to ask the Senator if, in his opinion, the question of suffrage under the Constitution is not left to the respective States.

Mr. SUMNER. In answer to that question, I say it has nothing to do with this case.

Mr. HENDERSON. With the permission of the Senator, I desire to state that if the question of suffrage be left to the respective States, the very compact that he wants to make with the State of Louisiana contravenes the Constitution of the United States. In the case of Missouri, it was to square the action of the State convention with the Constitution of the United States, because surely Congress at the time of the admission of a State has a right to say whether its constitution is republican or not; and in determining that question, Congress must determine it with a view to the Constitution of the United States. Then if, under the Constitution of the United States, the citizens of each State are to be entitled to the rights, privileges, and immunities of citizens in other States, and the convention of a State undertakes to confer upon the Legislature the power to say that that shall not be the case, Congress has the perfect right, before admitting the State, to make it republican. To make it how republican? To make it square with the Constitution of the United States. But, I say, if the Senator admits that the question of suffrage is left to the States, then his condition tears down the Constitution instead of building it up.

Mr. SUMNER. I yielded of course very gladly to the Senator from Missouri. I was simply observing, and I tried to bring home to the attention of the Senate, that at this moment it is proposed to recognize a certain government, and I have moved to recognize it on a certain condition. The Senator from Missouri thinks we cannot impose any such condition. I think we can. I had the honor at the close of the last session, in company I think with my friend from Kansas, [Mr. POMEROY,] to vote for what is known as the reconstruction bill, which did undertake to impose conditions with reference to the electoral franchise upon what are called States. Did anybody at that time say that it was unconstitutional? Did even the Senator from Missouri rise then and protest against that bill as unconstitutional on that ground?

Mr. HENDERSON. I will state that the proposition that I voted for was merely to exclude the electoral votes of those States.

Mr. SUMNER. I am speaking of the action of last summer.

Mr. HENDERSON. I know that very well. My colleague offered an amendment excluding

the electoral votes of those States, and that was adopted in this body. There was no vote upon the original proposition for reconstruction as it came from the House, according to my recollection.

Mr. SUMNER. I beg the Senator's pardon. It passed on the yeas and nays.

Mr. HENDERSON. Then I did not vote for it.

Mr. SUMNER. Very well.

Mr. POMEROY. There was nothing in the reconstruction bill as to what the qualifications for voting should be definitely. There was a general expression that the rights of all men should be respected, or something of that kind. There was nothing in the reconstruction bill (which the President did not sign after it had passed both Houses) that prescribed definite qualifications for voting, such as to give the elective franchise to colored men, in so many words.

Mr. SUMNER. Now I must beg my honorable friend's pardon. The bill had two forms. In one form there was the word "white," and in one the word "white" was out, as the basis of the electoral franchise. The bill, as it finally passed, did have the word "white" as the basis of the electoral franchise, thus undertaking to determine the electoral franchise; but the bill which my friend from Ohio [Mr. WADE] had in charge was without the word "white," so that the electoral franchise, according to his bill, was open to both white and black; and I was not aware that at that time any person supposed that we were exercising an unconstitutional power when we undertook in passing a reconstruction bill to say that the electoral franchise should be exercised by all without distinction of color. Certainly that is a new idea to come from the very patriotic and humane and philanthropic mind of my friend from Kansas, that Congress, when reconstructing rebel States, cannot stamp upon them freedom in all respects, and remove absolutely all disabilities on account of color. I cannot doubt that, at this moment and under existing exigencies, Congress has rights and duties there hardly less than in the District of Columbia.

Mr. POMEROY. I do not understand that Congress is now reconstructing rebel States. The people of Louisiana themselves have undertaken to reconstruct and reorganize their government, and the question here is whether we will recognize what they have done. I dissent from the doctrine that Congress can reconstruct the rebel States. I do not believe in it.

Mr. JOHNSON. The honorable member from Massachusetts seems to suppose that he has corrected me most successfully. It is not the first time in which his inferences have not been justified by the fact.

Mr. SUMNER. I do not hear the Senator.

Mr. JOHNSON. I thought you objected to my speaking so loud that you heard too much.

I said that General Washington by his letter communicating the proceedings of the Convention by whom the Constitution of the United States was framed, did not mean to say that that Constitution was establishing a Government with plenary, absolute power. All that he meant in the use of the term "consolidation" was that the Union (for he spoke of it in connection with the Union) would be a stronger Union than the Union which existed under the Articles of Confederation.

The honorable member supposes that he finds his interpretation of that letter to be warranted by the other letter to which he has referred, written by Washington to Mr. Jay in 1787, before the Constitution was adopted. Now, what is that letter? It is nothing more than Mr. Madison said, and Mr. Hamilton said, and all the men who were engaged in framing it said. All that they meant was, that the Government, as it existed under the Articles of Confederation, was not strong enough; it had no power to act upon the individual citizen. All the powers with which it was endowed were powers to be exercised, so far as compulsion was concerned, by compulsory proceeding as against the State. That was found to be mischievous, to be impracticable. They wanted to lay a tariff of duties; but its provisions could not be carried out without the consent of the States. Some States would consent and some would not consent. They wanted to lay taxes. Money was to be raised to carry on the Government. The State of Massachusetts was to pay so much, Rhode Island so much, and so throughout the other States. Some

States paid and some would not pay. Mr. Jefferson supposed that even under the Articles of Confederation Congress had the authority by force of arms to compel the several States to pay the amount of the requisitions to meet the expenses of the Government; but it never was exercised. The great difficulty was that there did not exist in that form of Government a power to proceed against the individual citizen.

The honorable member will find, and has found, because his reading is full upon all these subjects—I am only finding fault with the effect of his prejudices upon his reason; it is not because he does not know, but because from some cause he does not correctly interpret—he will find that Mr. Madison and all the others said (and such is the fact) that there was very little difference between the powers conferred upon the General Government by the Articles of Confederation and those conferred upon the General Government by the Constitution, so far as the mere powers were concerned; that is to say, the subjects which the powers were intended to embrace. The difficulty was the want of an authority under the Confederation to make those powers efficient, and that difficulty consisted in the absence of any authority to proceed as against the individual citizens. General Washington in his letter to Mr. Jay says that what he wants, and what is necessary, and unquestionably he was right in that, is that the Government itself should, for all national purposes, have the means to carry out its own powers. If the honorable member will consult the opinion of Marshall, in the case of *McCulloch* and the State of Maryland, and the opinion of Marshall in the case of *Lewis*, to which he referred the other day, he will find in those two cases, and in every case in which the question has arisen, that the Supreme Court of the United States, when Marshall stood at its head, recognized the existence of the State as sovereign over all subjects of power not intrusted to the Government of the United States; that in relation to subjects intrusted to the Government of the United States, that Government is just as sovereign as were the States before the Constitution was adopted in relation to all matters belonging to the State governments; and that in relation to all matters belonging to the State governments antecedently, not delegated by the Constitution to the Government of the United States, the States remain sovereign. The whole difficulty, therefore, is, not whether the States are not sovereign over some subjects, and the United States Government is not sovereign over other subjects, but whether either is exclusively sovereign over the whole; and I have never heard that question raised by anybody except by the honorable member.

Now, as to the other matter of fact in which he supposes he has corrected me, I did not contradict the honorable member, and I am little surprised, as I speak so loud, that he was not aware that I did not contradict him. I did not say to the honorable member that Mr. Clay was not the author of that condition. I do not know that he was, except so far as I collect it from the fact that he reported it from the committee, but I did not know that he was not; and I therefore did not contradict the honorable member. The contradiction came from the Senator from Kentucky [Mr. POWELL.] Mr. Clay has heretofore, up to a comparatively recent period, been supposed to be the author of what is called the "Missouri Compromise," by which it was provided that slavery should not exist on one side of a certain line, and nothing being said in relation to slavery upon the other side, it was supposed that, impliedly, it was authorized south of the Missouri line; but he was not the author of that. The author of that, I think, was Mr. Thomas, of Illinois.

The honorable member seems to suppose that he finds in that precedent an authority for what he proposes to do in this case. There never was, I think, (and I speak it with all the respect I feel for the honorable member's opinion,) a greater misapprehension. Does the honorable member mean to say that a State may be brought into the Union upon any condition from which, when it is in, it will not be at liberty to escape? He does not mean that. What is the right of a State under the Constitution? I endeavored to show this morning, and I shall not repeat it, that it is the right of a State under the Constitution to regulate



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the right of suffrage. I cannot make it any plainer than to refer, as I did this morning, to the two provisions of the Constitution. The Constitution provides, so far as representation in Congress is concerned, that the party elected shall be of a certain age—that is all; but as to the qualifications of the elector who is to elect him in the State, it leaves that to the State by providing that those qualifications are to be the same as those that are required by the constitution of the State to elect members to the most numerous branch of their State Legislature. If I am right as to that, the amendment of the honorable member says that the State, if admitted, is to be admitted upon the express condition, or rather that the admission is not to take effect, to use the very words of his amendment—

Except upon the fundamental condition that within the State there shall be no denial of the electoral franchise, or of any other rights, on account of color or race; but all persons shall be equal before the law.

It is bad enough with regard to the right of suffrage; but there are other rights beside the right of suffrage. Does the honorable member mean to say that the State cannot by law provide that no black man shall be married to a white woman; or that no black woman shall be married to a white man, and that it will be penal upon the part of the magistrate, or the clergyman, when a clergyman is used, to administer the rite of marriage in that way? Does he mean to say that it shall not be in the power of the State to provide that no black man shall be a witness, or how he shall be a witness? Does he mean to say that a State may not provide that a white man where he is a party to a controversy may be a witness in his own case, and that they cannot say that a black man may not be a witness in his own case? Does he mean to say that they cannot provide anything into which a white man may enter which a black man shall not be at liberty to enter? Does he mean to say that they may not extend the right of going to the courts to the white, and not extend it to the black, or to the black and not extend it to the white? If he means that, he takes from the State all the authority that everybody, from the time the Constitution was adopted to the present hour, has supposed to be the especial right of the State.

But that is not all. The Constitution provides not only that the right of suffrage shall be decided by the State, but it provides that each State shall have two Senators. Does the honorable member suppose that by attaching a fundamental condition to this law, he can take from Louisiana the right to send any Senators, or only one Senator? The Constitution gives to the State the right to send the same number of Representatives, in proportion to population, that the other States send. Does he mean to say that Congress can, by fixing a fundamental condition to the law receiving Louisiana into the Union, deprive her of the right of sending a like number of Representatives with every other State according to her population? If so, we should have a State that is no State; and instead of being a Union of equals, it would be a Union of unequals. Instead of sitting here as the representatives of States entitled precisely to the same rank in the galaxy of States—I am afraid I am speaking too loud for the very tender ears of the honorable member from Massachusetts—we should be here, some of us, particularly he who came from Louisiana, bound to bow in implicit deference to the majesty of Massachusetts. She can regulate the right of suffrage. She can deny it to any man who does not read or write, black or white—

Mr. SUMNER. Without distinction of color. Mr. JOHNSON. Then the difference is only that distinction of color. We have had before us, and I do not know whether it has passed or not, but I suggest it to the honorable member because this subject always seems to be in his mind—we have before us a bill to incorporate a hotel company in this city. I hope he will put in it a provision that the guests are not to be excluded on account of color.

Mr. SUMNER. Will you vote for it?

Mr. JOHNSON. No; but you ought to offer it, and if it was voted for, and voted in, I doubt whether the honorable member would be one of the guests. Certainly he would not, if he is so fortunate as to bring Mrs. Sumner with him one of these days. [Laughter.] According to my view it is monstrous.

But, sir, if the Constitution gives to Congress the power, in order to preserve the Government, of attaching such a condition to the admission of Louisiana, why not say that Ohio shall not regulate in the future the right of suffrage? These persons are not permitted to vote in Ohio. I believe they get around the provision partially, the provision being that none but white persons shall exercise the right of suffrage, by saying that when they have a certain portion of white blood in them, though black they may be, they are to be considered as white.

Mr. WADE. If they are more white than black, they are considered white.

Mr. JOHNSON. That is your law; but if they happen to be more black than white, then they are black, and they are not permitted to vote. Why, it is a horrid provision! I wonder how the State has got on! I do not believe they have got any liberty there. I think they are all a set of serfs; or what is still worse, if anything can be worse, they are a set of tyrants. How does my friend from Ohio reconcile it to his conscience to live in a State which strikes at the very foundation of the Government, according to the idea of the Senator from Massachusetts? And yet he seems to be very easy in his conscience. The State certainly has prospered very much, and nobody has questioned the validity of that provision; and that is to be found in nearly all the States.

Now, Mr. President, if Congress has a right to affix this as a condition (provided I am right in supposing that the States alone can provide for the exercise of the right of franchise) there is nothing which a State has, no power which a State has which may not be taken from her by doing it in the form of a fundamental condition.

The honorable member is entirely mistaken in supposing, if he does suppose it, that I have any hostility to the black race. I have not the slightest hostility to them. I do not think they ought to vote, at any rate now. I mean those who are to be brought in by sudden emancipation. What will be the effect? Has the honorable member ever thought of the effect upon his own State and other States?

Mr. SUMNER. They vote in Massachusetts.

Mr. JOHNSON. I know that; but I am speaking of what you propose to do now by congressional action, to provide that all the blacks shall be admitted to the right of suffrage. Has he thought for a moment what will be the effect on his own State and similar States? How many Representatives does Massachusetts send, founded upon her voting population? There are very few blacks there. It is almost entirely a white population. How many does Louisiana send? Less by a great deal than she would be entitled to if these provisions are made. Let all her negroes in, and you increase the number of her Representatives.

Mr. SUMNER. Representation is founded on population.

Mr. JOHNSON. Of course. What sort of a population? Do you not mean to do away with the three-fifths clause? Certainly you will let all in. If the South comes in to-morrow there are four million negroes whom you will permit to vote; and they will be entitled to vote for a representation to be graduated by that number. Do you not see how largely the representation of the South will be increased in the other Chamber?

Mr. SUMNER. I beg the Senator's pardon. It is graduated now by population absolutely.

Mr. JOHNSON. No, it is not; but three fifths of a certain class of population is included in the enumeration.

Mr. SUMNER. But three fifths, assuming

that there are slaves; but when slaves cease to exist, and slaves have ceased now unless in the imagination of some Senators—

Mr. JOHNSON. No, I have not said that slavery has ceased unless you adopt the amendment. I do not think it has ceased, nor will it cease until the amendment has been ratified.

Mr. SUMNER. As soon as nineteen States ratify it.

Mr. JOHNSON. That is according to your view.

Mr. SUMNER. According to the constitutional view.

Mr. JOHNSON. If your view is always the constitutional view that is the constitutional view; but I suppose that may admit of some difference of opinion. But I am not speaking merely of the number of Representatives and the increase the South is going to have, but how do you suppose they will be influenced? The honorable member is greatly mistaken if he supposes that the whole of that vote will not for years be in the hands of a few white men. You will have what I have heard often described here as the cart-hip of the South. I do not think they will try that again, but we may have it.

In a word, Mr. President, so far as the particular proposition before the Senate is concerned, I say to the honorable member from Massachusetts, and all those who wish that slavery should be so abolished as to be placed beyond the reach of doubt, let these States in, then get a ratification of the constitutional amendment by such a number of States as will place it beyond all question that it is a part of the organic law. My reading of the Constitution is, that there must be three fourths of the States; whether they have Legislatures or not in existence makes no difference. If they have not Legislatures you cannot get it confirmed. If they have them, they will affirm or reject it. Let in Louisiana, let in Arkansas, and let in either of the other seceded States who adopt a free constitution as this constitution has been adopted, and then the ratification of the amendment is certain, and this terrible source of evil—how it has become a source of evil I do not stop to inquire, I look only to the fact—this existing cause of evil, will be removed now and forever.

The PRESIDING OFFICER. (Mr. Foot.) The question is on the amendment moved by the Senator from Missouri to the amendment moved by the Senator from Massachusetts, to insert the words "or sex."

Mr. CARLILE addressed the Senate. His remarks are withheld for revision.

Mr. WADE. Mr. President, it has got now to be pretty late in the evening. This question is considered by all as being an exceedingly important one; and I move that the resolution be postponed until the first Monday in December next; on which motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. The Senator from West Virginia [Mr. VAN WINKLE] is detained from the Senate this evening by sickness; at least he is so indisposed as that he thought he ought not to be here, and I have agreed to pair off with him on all material votes on this question, he being in favor of the resolution as reported by the committee and I being opposed to it, but we both being opposed, as I understand him, to the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. WILSON. I move that the Senate do now adjourn.

The motion to adjourn was not agreed to—ayes eleven, noes not counted.

Mr. POWELL. Before the motion to postpone is put I wish to make a few minutes' reply to my friend from Missouri, [Mr. HENDERSON.] The Senator from Missouri in his argument seemed to think it exceedingly strange that the Senator from Massachusetts [Mr. SUMNER] and I should have agreed on this matter. He spoke of extremes meeting and all that kind of thing. I think it is a little strange that the Senator from

Massachusetts and I should agree upon a grave question like this. The truth is that I can hardly tell why the Senator from Missouri and the Senator from Wisconsin, [Mr. DOOLITTLE,] who are the peculiar advocates of this measure here, have parted company with the Senator from Massachusetts on this occasion. The Senator from Missouri I have regarded as grazing in the abolition field for the last two years, and it is a little singular that these abolition brethren should part company. I am more astonished at the Senator from Missouri than I have been at the Senator from Massachusetts, because the Senator from Missouri has still some old Democratic instincts of State rights; he is very sound in theory on that point, but in this particular case I think very unsound in practice. In a measure of this kind, that I consider so destructive to the Constitution of my country, I am delighted that the Senator from Massachusetts should give me his aid and that we should vote together. I know that the Senator from Massachusetts—at least in my esteem—is seldom right on issues of this kind, but because that Senator so far exhibits a lucid interval as to come to a correct conclusion, notwithstanding I reject all his premises, I see no reason why I should not go against the resolution even in company with the Senator from Massachusetts. I here congratulate the country that the Senator from Massachusetts has come to a correct conclusion on this great and important question. I and others might not come to the same conclusion starting from the premises he does. I do not concur in the premises the Senator from Massachusetts has indicated here. I am opposed to negro suffrage; I am opposed to this equality of negroes with white men, and I am opposed to all the kindred heresies of the Senator from Massachusetts, but I can say to the Senator from Missouri that I am equally opposed to his disunion negroisms. That Senator announced in this Chamber last night, the first time that I have heard it, that he would prefer dissolution to union with slave States.

Mr. HENDERSON. No, Mr. President, I made no such announcement.

Mr. POWELL. I so understood.

Mr. HENDERSON. The Senator is mistaken. I stated that this controversy upon the slavery question had gone to such an extent that slave States and free States could not live together, and that I believed that the inconveniences to-day to arise from a dissolution of the Union would be less than to undertake to cover up the slavery question and to reunite the country, and smother it, the slavery issue, for only a short time, to break out again with renewed violence.

Mr. POWELL. I understood the Senator to declare that he preferred disunion to a union of slave States and free States.

Mr. HENDERSON. I stated what I believed would come of an attempted recognition of slave and free States, and I stated further that it would be better in my opinion to make a division than to undertake to patch up a reunion in that way, because it would be attended with another war, and it was only in consequence of that fact that I made the assertion.

Mr. POWELL. The Senator's explanation is not different from my understanding of his language. Now, I am opposed to that sentiment of the Senator from Missouri. I am for the old Union, under the old Constitution, and under the old flag. I am willing to take it as it was given to us by Washington and Madison, with the States as they are, if they choose to come back. I desire each State in this Union to form its own domestic institutions in its own way, subject alone to the Constitution of the United States, and I should rejoice to-day if every one of the States in arms against the Government would lay down their arms, come back, and acknowledge their allegiance to the Government of the United States. I think the Senator from Massachusetts entertains the same view on that subject that the Senator from Missouri has uttered, but he has heretofore not uttered it.

But, sir, it seems to me that the Senator from Missouri and the Senator from Wisconsin desire the passage of this resolution to admit Senators and Representatives from Louisiana and to recognize that State government adopted there, for the purpose, and almost for the sole purpose, of allowing that State to vote on the constitutional amend-

ment, for they press that argument on all occasions, and that seems to be the thought uppermost in their minds. I believe the Senator from Missouri claims the paternity of the constitutional amendment. It is a kind of bantling with him. It seems to be his first-born since he joined the abolition phalanx, and I do not wonder that he should feel some little interest in this child of his. It is, however, strange to me that the Senator from Missouri, while indicating as he did that he agreed with me as to the usurpations of the military, should come to the conclusion to vote for this resolution. I did not discuss the question on any outside or collateral point. I based my opposition solely on the ground that the loyal men in the State of Louisiana did not have the opportunity to form this government of their own free will, unawed and uninfluenced by military power, but that it was a government made by military force at the point of the bayonet, and that those who voted for this resolution would vote to recognize the doctrine contained in the President's amnesty proclamation, would vote to recognize the doctrine that a United States major general had a right to trample upon State constitutions and prescribe the qualifications of voters. All those who vote for it will have to acknowledge these premises. I for one cannot and will not do it.

The Senator from Missouri asks what loyal men were prevented from voting by General Banks's orders. I will say to the Senator that all the loyal Union men in the State of Louisiana who refused, like supple menials and slaves, to crouch beneath the iron military power of General Banks, and take that oath, were excluded from voting, and I believe to-day there are more men of that description in Louisiana than voted to ratify this constitution. That oath required that those who took it should swear that they would not only support and abide by all the proclamations of the President in regard to the institution of slavery already issued, but those thereafter to be issued; and I do hold, as I asserted last night, that no true man, no man who had the honest instincts of a manly nature, would so degrade himself as to take that humiliating oath at the dictation of any usurper or any tyrant on the face of the earth; and I believe there were many more loyal true Union men in Louisiana who declined to take that oath than voted to ratify the Banks' constitution. That is the fact, I am sure, if it can ever be ascertained distinctly.

Mr. HENDERSON. Have you heard of any objection to it on the part of the loyal men of Louisiana?

Mr. POWELL. Yes, sir, I have. Thomas J. Durant and thirty-one others, distinguished, leading, loyal men of Louisiana, as I asserted last night, have made earnest and powerful protest against this organization, and protested against Congress admitting Representatives either into the other House or this. They protest against the vote of Louisiana being counted. Mr. Durant, I believe, was the first district attorney appointed by the present Executive in Louisiana.

Mr. HENDERSON. I desire to ask if Mr. Durant was not a candidate for office at that election, and whether he himself did not take the oath prescribed, whether he did not participate in the election.

Mr. POWELL. I do not know whether Mr. Durant was a candidate for office or not, neither do I know whether he took the oath. But allow me to ask my friend from Missouri would he, under the circumstances, have bowed before Nathaniel P. Banks and taken that oath? I do not believe the Senator, under such circumstances, would have taken it.

Mr. HENDERSON. I was not in Louisiana.

Mr. POWELL. Whether you were there or not, I do not believe you would take it anywhere on the face of the earth, for I have great regard for the Senator from Missouri. I believe he is a man. I believe he possesses all the high and noble attributes that form a man. I do not believe the honorable Senator from Missouri would, for all the offices in the gift of all the men on the face of the earth, at the dictation of a major general, take that humiliating and degrading oath. Neither do I believe my friend from Maryland would have taken it. He, full of years as he is of honors, would have scorned to have so degraded his manhood as to come up and acknowledge

himself to be the supple menial of this major general. I believe that every good and loyal man will take every oath prescribed by the Constitution and laws of his country; but I believe he will take no oath at the dictation of usurpers and tyrants. That there are thousands of men in Louisiana who are noble specimens of manhood, I do not doubt; and that class of Union men, if they refused to take this humiliating oath under the order of General Banks, could not vote. If a Union man there adored the old Union and the old flag, and fought in the ranks of the Union Army from the firing of the first gun at Fort Sumter up to the day the election was held, he could not have voted unless he took this oath; and yet we are told that is a government of the people. Not so, Mr. President. It is a government not of the people of Louisiana, formed by their own volition, but it is a government coerced upon them by the military authority of this Government, and I never will agree by any vote of mine to overthrow every principle of civil, republican, and constitutional liberty by recognizing a government formed in such a way. Let the people of Louisiana, of their own volition, meet and form a State government; let all the loyal men of Louisiana cooperate in the formation of that government; do not interdict a large portion of them who fail to take unconstitutional and unlawful oaths. Let them come here and present their government, formed unawed and uninfluenced by the military power, and I will rejoice to welcome them. But a government formed in any other way is destructive of the very principles of liberty.

My friend from Missouri says there is no Union when you abolish State rights. In that I agree. The rights of the States must be preserved and protected, and he says if you depart from this doctrine of State rights you have a consolidated despotism. In that I concur, but how the honorable Senator can from that premise support this government of Louisiana in violation and destruction of every principle of State rights he himself maintains, I am at a loss to know. What power, I ask again, has a major general to go into Louisiana or any State and dictate to the people who shall vote; to take upon himself to amend their constitution in more particulars than one? He amended it when he prescribed the qualification of voters; he amended it when he said that slavery should not exist there.

The Senator from Wisconsin declares that admitting this free State of Louisiana will knock the shackles off from ninety thousand slaves. General Banks, in the statement he made before the Judiciary Committee of the Senate, declares that there were no people in Louisiana to which that provision of the constitution will apply. Who is right or wrong? I am rather inclined to believe that Banks was wrong, because in that whole statement General Banks was acting evidently the part of a swift witness, to make a case that he thought would cause Louisiana to be admitted.

By giving a vote to recognize the government as formed under this Banks administration as the legitimate government of Louisiana, you acknowledge despotism in its worst and vilest form; you then have consolidation that I had supposed would revolt even the stomach of the Senator from Missouri; you admit the principle that a major general of the Army could do all the things I have indicated.

Mr. President, I cannot see how the Senators who a few days ago voted for the resolution declaring that the electoral vote of Louisiana should not be counted can consistently vote for this resolution. I hope that some Senator on the other side will explain that point; so far they have not attempted it. This constitution was formed in Louisiana; it was proclaimed, it was ratified by the six thousand and some odd votes. The Legislature made under and by virtue of it elected the Senators here who demand admission, and this resolution is but a forerunner of the admission of members here and Representatives in the other end of this Capitol. Senators voted the other day that the electoral vote of the State of Louisiana should not be counted. If Louisiana was then a legitimate government, why was she not entitled to cast her electoral vote? I believed then, as I now believe, that this is not a legitimate government of the loyal people of the State of Louisiana, but a government forced upon them at the

point of the bayonet; and hence it was, believing that, that I cast my vote for the resolution forbidding the counting of the electoral vote of Louisiana. But many of those very gentlemen who voted with me for that resolution come up here now and strongly and persistently urge the adoption of this resolution, among them my friends from Maryland and Missouri. Why, sir, the very same governmental authority that appointed the Senators who demand admission here appointed the electors to cast the votes of Louisiana; they emanated from the very same authority. You tell me that a State has a legitimate government when you vote that its electoral vote shall not be counted, and then rise up here and say that the government is legitimate and their Senators shall be admitted! I cannot reconcile that inconsistency.

This resolution does not adopt or ratify the constitution of Louisiana at all. This Congress has no power to do such a thing, and I suppose no Senator has contended or will contend for that proposition. This resolution merely recognizes the government then formed as a legitimate government. The passage of this resolution does not make it legitimate. You merely state the fact that it is the legitimate government of the loyal people of Louisiana. If it is, they had a right to be represented in the Electoral College and to cast their votes, and those Senators who voted against counting the electoral vote of Louisiana cannot in my judgment vote for this resolution without inconsistency.

Mr. President, it was not my purpose to enter further into this debate, but for the fact that my friend from Missouri seemed to think it exceedingly strange that I should stray off with the Senator from Massachusetts, and he tried to make some capital on that ground; and hence I thought I would say a few words. I think the Senator from Missouri, after the sentiment he expressed in reference to Union with slaveholders, is rather ahead of the Senator from Massachusetts. I think the Senator from Massachusetts has believed it all the time, but he is too discreet to utter it just yet. The Senator from Missouri having taken the lead on that point, I have no doubt will soon catch up with the Senator from Massachusetts on the suffrage question. The Senator's colleague, the other distinguished Senator from Missouri, [Mr. BROWN,] is now out openly for negro suffrage, and I do not believe from the rapid progress made by my friend from Missouri [Mr. HENDERSON] that he will be long behind. For myself I have never been and never expect to be for negro suffrage or negro equality, or any of those kindred heresies, and I will never give a vote which will indicate that I believe that any other power than the sovereign people of a State of this Union has the right to make a State constitution.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on the motion of the Senator from Ohio [Mr. WADE] to postpone the further consideration of the joint resolution until the first Monday of December next.

Mr. SAULSBURY. I have paired off with the Senator from Oregon [Mr. NESMITH] on the passage of the joint resolution, and therefore do not feel at liberty to vote on this question.

Mr. JOHNSON. I agreed with the Senator from Iowa [Mr. GRIMES] to pair off on the passage of the resolution. I do not know whether that will be considered as including this motion or not.

Several SENATORS. Of course it does.

Mr. JOHNSON. If there is any doubt about it, I decline to vote. I should vote in the negative if I was at liberty to do so.

The question being taken by yeas and nays resulted—yeas 12, nays 17; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Davis, Hendricks, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright—12.

NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—17.

ABSENT—Messrs. Anthony, Collamer, Conness, Cowan, Farwell, Grimes, Hale, Harding, Harris, Johnson, McDougall, Morrill, Nesmith, Nye, Richardson, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, and Wilkinson—21.

So the motion was not agreed to.

The PRESIDING OFFICER. The question returns on the amendment to the amendment.

Mr. HOWARD. I move that the Senate do now adjourn.

Mr. TRUMBULL and Mr. FOSTER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 19; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Davis, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright—12.

NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—19.

ABSENT—Messrs. Anthony, Collamer, Conness, Cowan, Farwell, Grimes, Hale, Harding, Harris, Morrill, Nesmith, Nye, Richardson, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, and Wilkinson—19.

So the Senate refused to adjourn.

Mr. HOWARD. It is quite obvious that we can hardly get to a final vote this evening.

Mr. FOSTER. Why not?

Mr. HOWARD. I will tell the Senator why not if he will be a little patient.

Mr. FOSTER. It is not quite obvious, though.

Mr. HOWARD. Mr. President, it is now a quarter past ten o'clock on Saturday night. There is a bare quorum of the Senate present, and simply a quorum. This is the most important measure that has been before this Senate for years, in my opinion; one which will agitate the country more than any measure we have had before us. Is it not fair at least that the lean majority which is now present in this Chamber should permit the question to go over until Monday, until the absentees may be called in, and have an opportunity to record their votes upon the question? I move that the whole subject be laid upon the table.

Mr. CHANDLER. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 18; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Chandler, Davis, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright—12.

NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—18.

ABSENT—Messrs. Anthony, Collamer, Conness, Cowan, Farwell, Grimes, Hale, Harding, Harris, Hendricks, Morrill, Nesmith, Nye, Richardson, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, and Wilkinson—20.

So the motion was not agreed to.

Mr. SUMNER. I agree with the Senator from Michigan in the impropriety of pressing a measure of this importance. Perhaps it is the most important measure, as he says, that we have had before us. I shall regard its passage as a national calamity. It will be the political Bull Run of this Administration, sacrificing, as it will, a great cause, and the great destinies of this Republic. But, sir, I will not go into the debate at this time. I think the Senate is not now in a condition to vote finally upon it. There are many who would unquestionably like to record their votes upon it who are not now here. We ought to give them an opportunity. We ought also to give an opportunity for further discussion. It never has been the habit of the Senate, except in those days which we ought not to imitate—

Mr. FOSTER. Will the honorable Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. FOSTER. I will ask the honorable Senator if he is not fully prepared to vote on the questions?

Mr. SUMNER. I certainly am prepared to vote on it.

Mr. FOSTER. I will merely say I am.

Mr. SUMNER. I think the honorable Senator is not prepared to vote.

Mr. FOSTER. I think the honorable Senator is.

Mr. SUMNER. I know I am prepared to vote upon it; but when the Senator from Connecticut speaks as he does, after voting as he has, I cannot but think that a little more study of the question, and a little more examination of its consequences, would enable him to vote with more intelligence. I think, on his account, it would be well that the question should be postponed for another day, to give him an opportunity of a little more reflection on this important matter. It is never too late to mend; and I think it not impossible that even that Senator, coming as he does from New England, representing, as I doubt not he does, liberal ideas, devoted as he ought to be to the cause of human freedom

and of his country, may think there is something in this question which will justify the most mature consideration; something on which the Senate ought not to rush precipitously to a vote. Sir, this question ought not to be closed to-night; and I therefore move an adjournment; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. I rise for a personal explanation. I am paired off with the Senator from Oregon, [Mr. NESMITH.] I do not know how he would vote on these motions; but the pair was to last until this evening, and therefore I have declined to vote upon any of these side questions.

The question being taken by yeas and nays, resulted—yeas 11, nays 18; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Davis, Howard, Powell, Riddle, Sumner, Wade, Wilson, and Wright—11.

NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Henderson, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Willey—18.

ABSENT—Messrs. Anthony, Chandler, Collamer, Conness, Cowan, Farwell, Grimes, Hale, Harding, Harris, Hendricks, Morrill, Nesmith, Nye, Richardson, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, and Wilkinson—21.

So the Senate refused to adjourn.

Mr. TRUMBULL. It is manifest now by the course being pursued by the Senator from Massachusetts, who takes upon himself to lecture other Senators, telling them they do not know how to vote, that he is in a combination here of a fraction of the Senate to delay the important business of the country. We find him now, near the closing days of the session, uniting with a very few persons acting with him, associating himself with those whom he so often denounces, for the purpose of calling the yeas and nays and making dilatory motions to postpone the action of this body upon what he says is a very great public measure, when he knows that next week other public measures are to be pressed upon the attention of the Senate; when he knows—

Mr. WADE. Mr. President—

Mr. TRUMBULL. I shall be through in a moment.

Mr. WADE. I wish to ask what is the question before the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri to the amendment of the Senator from Massachusetts.

Mr. WADE. That is all I wanted to know. [Laughter.]

Mr. TRUMBULL. The Senator from Massachusetts gets up here and says absent members wish to vote, when he knows they were advertised here to-day that this matter was to be pressed to-night; when he knows that in full Senate they were told the intention was to press this bill, if possible, to-night; and yet we find the Senator from Massachusetts here declaring to the Senate that no vote shall be taken. Does he hold in his hand the Senate of the United States, that, in his omnipotence, he is to say when votes shall be taken and public measures shall be passed? Has it come to this? Is he charged with the administration of the Government, as he is at the head of one of the leading committees of the Senate, undertaking to carry on and maintain this great Government in this time of war; is he setting the example here of delaying public business by dilatory motions, refusing either to discuss the measure or allow it to be voted upon? And then he appeals to the Senate that they shall put this measure over for somebody else to get ready. If Senators are absent they are absent on their own responsibility. They knew this measure was up. The Senator from Massachusetts has fought it day after day to prevent it coming up; and when a large majority of the Senate has overruled him time and again, and decided that it should come up, he stands here at half after ten o'clock on Saturday night making dilatory motions to prevent the action of the body upon what he denominates "this great, important measure." Sir, there can be no excuse for such action.

I have refrained from taking up any time on this joint resolution. I did intend to say something upon it, and I would have done so to-night if the discussion had been continued, and there was a probability of coming to a vote. I have no disposition to press unreasonably a vote on



this question. It is a matter that has been before the Senate of the United States for a number of weeks. It was discussed to some extent before it was referred to the Committee on the Judiciary. It was reported to this body a week ago. It has been debated for several days. I should have been glad, if it must go over until next week, that it could have gone over without these manifestations of a determination to browbeat the Senate on the part of a minority. I shall be very glad if we can come to a vote to-night. If there was any reason given for postponing it until Monday, and we could come to a vote then, I should not attempt, for one, to force the Senate unreasonably. I desired to have a vote to-night; I desire to finish the resolution now to-night; but, sir, above all things I desire not to see such a course resorted to as is being attempted here to put off this great public measure.

Mr. SUMNER. The Senator from Illinois draws upon his imagination, which, on this occasion is peculiarly lively. I know not that anybody has undertaken to browbeat unless it be himself. Certainly nobody on the side with which I am associated has done any such thing, or I believe imagined doing such a thing.

Mr. TRUMBULL. I heard it said that there should be no vote to-night.

Mr. SUMNER. Well, sir, is that browbeating?

Mr. TRUMBULL. I think it is undertaking to decide for the Senate.

Mr. SUMNER. Is that browbeating? No, sir; it is only undertaking to decide the conduct of an individual Senator with regard to an important public measure. The question between the Senator from Illinois and myself is simply this: he wishes to pass the measure, and I do not wish to pass it. He thinks the measure innocent; I think it dangerous; and thinking it dangerous, I am justified in opposing it, and justified, too, in employing all the instruments that I can find in the arsenal of parliamentary warfare. But, sir, I mean to employ them properly and in a parliamentary way. In no other way can I act in this Chamber.

The Senator from Illinois is entirely mistaken if he supposes that this measure can be passed to-night. I tell him it cannot. Parliamentary law is against him; and the importance of the measure justifies a resort to every instrument that parliamentary law supplies. The Senator knows it well. I need not even suggest it.

And now, sir, I have to counsel the Senator—perhaps he would say that I am taking too great a liberty, and even dictating—but I would counsel the Senator, first, to look at the clock. He will see that it is twenty-five minutes of eleven; that it is approaching Sunday morning. Then let him think that we have been here all day; and then I would counsel him to ask himself whether, all things considered, it is advisable to press this revolutionary measure after this protracted session, and at this late hour. I think his better judgment will come to the conclusion that it is not. At any rate, should he not come to that conclusion, I think he will make a mistake, and that all his efforts will be fruitless. There is a certain character of antiquity who was found sowing salt in the sand by the sea-shore, and plowing it in; and the Senator will be engaged in an occupation just about as profitable.

Mr. McDUGALL. It is now late in the evening, as has been remarked by the Senator from Massachusetts. It is my opinion that he has caused it to be late in the evening for us. He challenges the hour. He has done much to make the hour. If volubility and wisdom are one, he is the wisest man in the world. [Laughter.] It is the desire of the Senate, who are desirous to vote on this subject, to get to a conclusion. I came here for that purpose. I desire to vote. My opinions have been matured, and I think the opinions of every Senator here on this floor have been matured on this present subject, and this prolonged conversation, or discourse, or elocution, or whatever you may call it, is not valuable to the business of our Government or the conduct of the Senate. I hope that we may have a vote.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. DAVIS. The Senate is very thin, and I move a call of the Senate; and on that motion I ask for the yeas and nays.

Mr. FOSTER. No such motion can be entertained.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Kentucky that a motion of that kind has never been entertained by the Senate.

Mr. SUMNER. Then I move that the Senate adjourn.

Mr. CHANDLER. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 19; as follows:

YEAS—Messrs. Brown, Buckalew, Carlile, Davis, Powell, Riddle, Wilson, and Wright—8.

NAYS—Messrs. Clark, Dixon, Doolittle, Foot, Foster, Harlan, Hendricks, Hendricks, Howry, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Pomeroy, Ramsey, Ten Eyck, Trumbull, and Wiley—19.

ABSENT—Messrs. Anthony, Chandler, Collamer, Conness, Cowan, Farwell, Grimes, Hale, Harding, Harris, Howard, Morrill, Nesmith, Nye, Richardson, Saulsbury, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wade, and Wilkinson—23.

So the Senate refused to adjourn.

Mr. HENDRICKS. I desire to submit a very few remarks to the Senate upon this question, and if we are to come to a vote to-night I will do so now. I am opposed to this resolution, but have voted on every occasion to come to a vote. I have voted against adjournments and all delays. I was opposed to bringing this resolution up to the exclusion of other business; but now that it is before us I think we ought to dispose of it. If it is a pleasure to the Senate to take a vote to-night I appeal to the gentlemen who are opposed to the measure to satisfy their responsibility by giving a vote against it, leaving to the Senators who are not present the responsibility for their absence. I shall detain the Senate but a few minutes in what I have got to say upon it; but if further motions to adjourn are made of course I do not care about speaking.

Mr. CHANDLER. I move that the further consideration of this subject be postponed until next Saturday at twelve o'clock, and be made the special order for that hour; and on that motion I ask for the yeas and nays.

Mr. FOSTER. I rise to a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. FOSTER. It is this: that the Senator from Michigan is not present. [Laughter.] His name was called a few moments since, and the vote showed that he was not present, and he has not since come into the Chamber. I object, therefore, that he is not in the Chamber.

Mr. CHANDLER. I have got back.

Mr. FOSTER. The Senator has not left the Chamber. He refused to answer by his name, when, by the rules of the Senate, if a Senator is present he is required to vote, and that, of course, shows that he has seceded, and is, therefore, out of the body. [Laughter.] Having seceded from the body, and not yet returned to it, he ought not, as I submit to the Chair, to be recognized to make a motion. [Laughter.]

The PRESIDING OFFICER. The Senator from Michigan moves that the further consideration of the subject be postponed until Saturday next.

Mr. CHANDLER. At twelve o'clock, and be made the special order for that hour.

Mr. WADE. Let us have the yeas and nays on that motion.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will suggest to the Senator that his motion cannot be made in the form in which he submits it. A special order cannot be made for the next Congress.

Mr. CHANDLER. Then I will leave off the special order.

The PRESIDING OFFICER. It is moved that the further consideration of the bill be postponed until Saturday next.

Mr. SAULSBURY. I, like the Senator from Indiana, wish to submit some remarks to the Senate upon this subject, although I do not wish to trouble the Senate with such crude remarks as I can make except to explain my own position with reference to it. I am left to-night in this situation: a member of this body, differing with me in opinion in reference to this measure, he being in favor of it and I being opposed to it, asked me to pair off with him. I considered it a

pair upon the final passage of the resolution; but as delay may defeat the measure, I have felt a sense of delicacy constraining me not to vote upon motions of adjournment or anything else. I feel the embarrassment of the charge that an attempt is being made to be factious and of leaving the Senate without a quorum, which under no circumstances I could do; which I have declined to do heretofore. But, sir, I wish an opportunity to say a few words upon this subject, and as the pair will last for to-night and will terminate with to-night, if the subject can be postponed I will join with my friend from Indiana in offering no opposition to a vote being taken at any reasonable hour.

Mr. HENDRICKS. No Senator, of course, is desirous of remaining here unnecessarily and accomplishing nothing. We may as well come to some practical conclusion; and for that purpose I move that this resolution be postponed until Monday evening at eight o'clock, and be made the special order for that hour.

Mr. WADE. There is a motion pending which is undecided.

The PRESIDING OFFICER. There is a motion already before the Senate to postpone the further consideration of this resolution until Saturday next at twelve o'clock.

Mr. HENDRICKS. I suppose the Senator from Michigan merely interposed that motion so as to prevent a vote to-night.

The PRESIDING OFFICER. On that question the yeas and nays have been ordered, and the call will proceed.

Mr. SAULSBURY. Upon that question I have one word to say. The remark has been made that the Senator from Massachusetts, whose champion certainly I am not, and with whom I very seldom, perhaps never, act, is uniting himself with a portion of the members of this Senate with whom he does not usually act, to delay the action of the body, and to defeat definite action on this measure. It is true I find myself in the position to-night of cooperation with the Senator from Massachusetts, perhaps for the first time in my life; but believing the position he has taken, and those Senators who act with him, is the true position, I will have the manhood, in the face of the Senate of the United States, to declare that I am ready to cooperate with them in opposition to this measure. Though it may be charged, as it has been privately, that the extremes are acting together, and that the radicals are acting together, I avow that upon all such questions I am a radical. I will not give any vote nor do any act that shall countenance for one moment the power of the Executive of the United States, or of any military subaltern, to force a government upon the people of this country. I have seen enough in the history of my own little State of military power and the attempt to override organized law and fundamental constitutions, to withhold my approbation on this, and on every occasion, from the act of any Administration or any military power that shall attempt it.

Sir, I meet the accusation of acting with the radicals on the other side, if such there be, in the spirit of defiant manhood. When my judgment approves the course of radicals, I would rather be with radicals than with conservatives whose opinions I do not approve. I admire the men who nobly stand by their principles and carry them out to their ultimate conclusions. I disapprove of the principles with which the radicals of the Republican party started out four years ago in this contest; but when they nobly and manfully stand up to them, I am not the man to rise in the Senate of the United States and either by word or vote to condemn their action. I am a radical myself, a radical Democrat, believing that in the spirit of Democracy our institutions and our Government were founded, and believing that if ever you preserve that Government and those institutions you have got to come back and listen to the teachings of the Democratic founders of the country. It is not for me, who profess to be honest in my own convictions, to say that other gentlemen, however widely they may differ from me, are not honest in theirs.

I wish to say to the honorable chairman of the Committee on the Judiciary that I accept it as no imputation upon my consistency as a Democrat, that upon questions of this kind I am found cooperating with men so radically opposed to me

as the members with whom I am now acting are opposed; and if this discussion is to be continued I wish now to advertise the Senate that military government, and government established by military power cannot be recognized in the Senate of the United States in one night of this session; and if forced to the mental encounter, I will enter into it and discuss somewhat the fundamental principles which lie at the very foundation of this bill.

**Mr. TRUMBULL.** If the Senator from Delaware will allow me, I was going to make a suggestion, and I will now make it to the Senate. I do not know whether it will meet with any favor or not. I have no disposition to keep the Senate here, or to force a vote unreasonably, if I have the power to do so, which I have not. A majority of the Senate control. But if we could go on with this resolution on Monday, take it up at one o'clock, and proceed with it without dilatory motions to adjourn and postpone, and, of course, let everybody discuss it who desires to do so—we cannot prevent that in the Senate until we come to a vote—if the Senate will agree to that, or could have an understanding that that should be the course pursued, I would not resist the adjournment. I think the Senator from Massachusetts ought to be satisfied, at any rate, with that course. If it can be understood that we will go on with this resolution on Monday, and continue with it until we finish it, of course allowing everybody to speak as long as he pleases, and that dilatory motions shall not be interposed, I will not object further to an adjournment.

**Mr. SUMNER.** The Senator from Illinois—

**Mr. SAULSBURY.** I do not know that I have lost the floor.

**Mr. SUMNER.** I beg the Senator's pardon.

**The PRESIDING OFFICER.** The Senator from Delaware is entitled to the floor, unless he yields to the Senator from Massachusetts.

**Mr. SAULSBURY.** I can say to-night, although without preparation, what I propose to say on this subject as well, perhaps, as I can say it after a week's preparation; and if it be the pleasure of the Senate to sit here until Sunday morning, I am perfectly willing to go on.

**Mr. SUMNER.** I think we had better adjourn.

**Mr. RIDDLE.** I move that the Senate do now adjourn.

**Mr. TRUMBULL.** Let me appeal to the Senator from Delaware to withdraw that motion, because, of course, if we are going to adjourn with an understanding that this sort of thing is to be continued, we gain nothing. Cannot we come to an understanding that we shall continue and dispose of this resolution on Monday, before we adjourn now?

**Mr. RIDDLE.** I will withdraw the motion to enable the Senator to make that proposition.

**Mr. TRUMBULL.** I have made that proposition.

**Mr. POMEROY.** Let us adjourn, and that will leave this resolution as the unfinished business.

**Mr. SUMNER.** The Senator from Illinois made, in a certain sense, an appeal to me. When he made it I said to myself, "There was a Senator from Illinois once in this Chamber. His name was Douglas. He, too, brought forward a proposition calculated to bring discord upon the country." You know it as the Kansas-Nebraska bill. I had the honor of a seat here at the time. He brought that proposition in precisely as my friend from Illinois now brings this in, proudly, confidently, almost menacingly, saying that he was to pass it—was it not in twenty-four hours?

**Mr. WADE.** Yes.

**Mr. SUMNER.** Right off, precisely as the Senator from Illinois now speaks. The Senator from Illinois tears a leaf out of that hateful book; and now with another question, kindred in character to that which was once introduced by the other Senator from Illinois, he undertakes to press it upon the Senate. He takes a copy from that English officer who, in the time of the stamp act, said he would cram the stamps down the throats of the American people with the hilt of his sword, if need be. He is going to cram his resolution down the throats of the Senate, and he appeals to us to enter into some compact or understanding that we will allow the operation to proceed without the least resistance; that we will quietly consent to the cramming process. To be sure

there is no hilt of a sword which he threatens to employ, like the British officer, but he wishes to cram his measure down the throats of the Senate.

Now, sir, I think it better that the Senate should proceed with this as it does with other matters, according to the regular order of business. There is the bankrupt bill, a practical measure, interesting to the whole commerce of this country, to every business man that there is from the east to the west and the north to the south. It is in charge of the Senator from Connecticut, who is taking time now on a measure destructive, as I solemnly believe, to the interests of his country, time which ought to be given to that other measure in which the commerce of the land is so largely involved.

**Mr. FOSTER.** I ask the honorable Senator what he means by my taking time on this measure. I certainly have taken no time to-night.

**Mr. SUMNER.** I understand the Senator to be insisting upon giving the time to Louisiana.

**Mr. FOSTER.** The gentleman's memory is wonderfully short. It is not six hours since I moved that the Senate fix the consideration of the bankrupt bill for seven o'clock this evening, and proceed with it during the evening.

**Mr. SUMNER.** That is true.

**Mr. FOSTER.** I pressed it upon the Senate against the opposition of the Senator from Illinois, although I said I agreed with the Senator from Illinois in the importance of his resolution; but I was desirous of getting the bill which the honorable Senator speaks of as having been delayed, before the Senate, not having an opportunity heretofore, unless I brought it in contact with the bill which the Senator has pressed here, and so familiarly known as the Camden and Amboy bill, which he has not had the charge of regularly, but one which he has exercised a kind of paternity over, and has asserted over and over that it must not give way to any bill. I saw the facility of antagonizing the bankrupt bill with that, and did not, but I did with this, hoping to get its consideration to-night. I failed; but I am not to be charged with it when I did all I could to succeed.

**Mr. SUMNER.** I am grateful to the Senator for the effort he made. My only regret is that he has not continued the effort, and that now, for I do not know how many votes, he has insisted upon keeping this other question before the Senate.

**Mr. FOSTER.** If the honorable Senator will allow me, it is not my habit to continue to oppose the expressed will of a majority of the Senate of the United States of which I am a member. When the sense of the majority is deliberately and clearly expressed, I, perhaps very timidly and improperly, submit to it.

**Mr. SUMNER.** Mr. President, let me be frank. I intend no criticism of the course of the Senator.

**Mr. FOSTER.** I certainly am perfectly willing to be the subject of the Senator's criticism. I only want the fact and the criticism to go together.

**Mr. SUMNER.** The Senator wishes the fact and the criticism to go together. Well, sir, I wish the fact and the criticism to go together. If the question is to be one of controversy, I wish it to be known that the Senator, after having failed to have the bankrupt bill taken up, has cooperated lustily with those who are disposed to keep the Senate occupied by this other measure to the exclusion of the bankrupt bill.

I was presenting, or trying to present, to the Senate some of the important measures which are not yet acted upon, and which the Senator from Illinois and the Senator from Connecticut unite in postponing in order to press this ill-omened measure. I said there was the bankrupt bill. The Senator from Connecticut has reminded me also of a bill in which I take an interest, known as the bill to regulate commerce among the States; a most important measure, of vital interest, I think, to every patriot in the land. That is a bill which has been steadfastly opposed by certain Senators by dilatory motions and by antagonizing other business. Though it was introduced at the last session, we have not yet been allowed to get a vote upon it; and the Senator from Illinois is partly responsible for that. He has opposed our getting a vote. And now, sir, here is his bantling, not a week old, that he is pressing upon the attention of the Senate. I think it would be better if the Senator would unite with us in passing

that earlier measure that undertakes to regulate the internal commerce of the States; to pass the bill in charge of the Senator from Connecticut; to pass the tax bill; to pass the useful, beneficent measures that are before us; and forgetting that leaf from the earlier Senator from Illinois, cease to press an obnoxious measure and try to cram it down our throats. Sir, we all remember the fate of those efforts of the other Senator from Illinois: that notwithstanding his efforts and his boasts, his measure did not come to a vote for many long weeks. It was to be voted on the first twenty-four hours, then in forty-eight hours; we had solemn notice given us day by day, very much as the Senator from Illinois gives us notice on this other question; but they did not reach the vote for weeks, because the question was important, and there was in those days a certain liberty in the Senate, and it was exercised by Senators.

**Mr. DOOLITTLE** obtained the floor.

**Mr. TRUMBULL.** Mr. President—

**Mr. DOOLITTLE.** I desire to say a single word to my honorable friend from Massachusetts, and then I will give way to my friend from Illinois.

**Mr. President,** I have not been an indifferent spectator to the scenes we have witnessed here to-night. They are scenes which I wish the whole country could look in upon. I wish they could analyze these proceedings, and read over the names of the men who have been voting on these dilatory motions to prevent the Senate from coming to a vote upon what all regard as a very important measure. Men differ in their opinions; it is true, as to this measure, whether it should or should not pass; but all concede that it is an important measure. Now, sir, not to speak of those gentlemen who usually vote with the Opposition, but to confine myself entirely to those gentlemen who usually vote with the friends of the Administration, what do we see? There are but five who usually act with the Administration who are making and voting for these dilatory motions, and there are eighteen of the friends of the Administration opposed to them. These five, a small minority, not a third of the friends of the Administration on this floor, are making these dilatory motions and complaining because my friend from Illinois, who stands here in charge of this measure, and as we may say the representative of the friends of this measure, who when he speaks upon it speaks the voice of this Senate by a majority of almost two to one, desires to obtain a vote upon it. These men are presenting themselves here in this attitude. They say in substance, there shall be no vote to-night. The Senator from Massachusetts says that he will draw upon the whole arsenal of parliamentary opposition; that there can be no vote to-night; that the Senator from Illinois, in asking a vote to-night, is but sowing salt upon the sand and plowing it in; that it is of no consequence.

This is the attitude in which they stand; and at the same time they tell us they will not agree upon any time when a vote may be had. If these gentlemen are willing that the Senate should express its opinion, and will name the hour, or the evening, or the day when the vote may be taken; if they say they will desire to discuss it; that they think they can convince the Senate that its opinion is wrong, there will certainly be no opposition to postponing it, if it is desired, until Monday or Monday evening. There is no disposition to crowd men so that they shall not be permitted to speak. But, sir, here we have five men claiming to usurp an authority over the action of the friends of the Administration when there are eighteen voting against them on these motions solid; to say nothing of those honorable gentlemen who usually act with the opposition, and from whom of course we have no right to claim their support in relation to measures of this kind. They have not exhibited anything like faction. Many of them have voted steadily against these propositions to adjourn and these dilatory motions, because they believed it was right that the voice of the Senate should be taken upon the proposition, if it is ready to vote.

But the honorable Senator from Massachusetts, though he says he is prepared to vote, because other Senators differ with him, presumes they are not prepared to vote. What arrogance, what assumed superiority on the part of one man over his equals and his peers on this floor to say that he is prepared to vote, but that other

Senators are not prepared because they do not agree with him! Sir, I would to God the whole American people could look in upon this scene and upon the Senator from Massachusetts. That Senator more than once, because I have urged the admission of the free State of Louisiana, with a constitution which has been adopted by the vote of a large majority of her loyal people; a constitution which is loyal to the Union, and sets free in the districts which were excepted from the President's proclamation almost ninety thousand slaves, has charged me with standing in the march of human freedom; and yet he here, in season and out of season, is against the recognition of the free State of Louisiana and against a constitution which gives freedom to ninety thousand slaves and to all the slaves of Louisiana, whether the emancipation proclamation reached them or not, because, as he avowed last evening on the floor of the Senate, the constitution of Louisiana is not republican in form, inasmuch as that constitution does not guaranty suffrage to all the colored inhabitants of Louisiana.

He avowed also that it was the duty of Congress to guaranty a republican form of Government to every State in this Union; and therefore, as a necessary consequence of his doctrine, Congress ought to pass a law which should declare that the law of New York, which requires a qualification upon negro suffrage, should be abolished; that the law of New Jersey, the law of Pennsylvania, the law of Indiana, the law of Ohio, the law of Illinois, the law of almost every State in this Union, must be changed by a law of Congress, in order to guaranty to all the citizens of the several States a republican form of Government. This is the reason why he is opposed to this constitution and this State of Louisiana. He would break down the right of every State to judge upon its own suffrage. I would to Heaven the whole country could look in upon this scene. They would then see what has become of all this boastful pretense in favor of the real advancement of the freedom of the African, when the Senator is repeating these charges again and again against me, that I am standing in the way of the march of freedom. We have seen this factious performance here, and understand it all. We know what it means.

Mr. President, so far as any effort on my part, for one, is concerned, to undertake to prevent any gentleman from expressing his opinion just when he pleases, and just as long as he pleases, upon any measure pending, I demur to the charge altogether. I am perfectly willing that the honorable Senator from Ohio [Mr. WADE] should go on to-night, or on Monday, or any other time, provided it may be understood that the majority of this Senate shall have the privilege of recording their votes on this question. That is all I ask, and all that the majority have a right to ask.

Mr. SUMNER. Mr. President, I do not like controversy. I am sorry always when I am engaged in it. I differ in that respect from the Senator from Wisconsin. He does like it. He is never so happy as when he is attacking somebody, and he is especially happy when he is attacking me. Senators will bear me witness that I never allude to that Senator unless in reply to him. He is perpetually alluding to me, and in an odious, I might say, almost a vindictive spirit. I say, sir, I do not like controversy; but I am ready to meet the Senator at any time.

The Senator—I wish to be parliamentary—has a monomania. Part of it is shown, as I have already said, in attacking me. He has another monomania, which he has shown too often during the last few years, which leads him to throw himself in the way of the march of human liberty. You have not forgotten how, when we were seeking to establish emancipation in this District, he resisted upon foisting an irrational scheme of colonization upon that beneficent measure; that he extorted from the good nature of the Senate an appropriation which ought never to have been made.

Mr. DOOLITTLE. The Senator will allow me to call his attention to the fact that the Senator from Kentucky [Mr. DAVIS] moved an amendment to that bill to make a forcible colonization of the negroes of this District that should be emancipated. I moved to amend it so that it should only be by their free and voluntary consent. I have already been misrepresented enough

upon that subject by those newspapers that peculiarly sympathize with the Senator from Massachusetts; and I wish now to call the Senator's attention to that fact, that that was my amendment; and it was an amendment to the proposition of the Senator from Kentucky.

Mr. SUMNER. We all know that he was wedded to the irrational policy of colonization; wedded to an odious measure; and that under his lead we were induced to make an appropriation which afterward we were obliged to cancel.

You have not forgotten also how that Senator flung himself in the path of every proposition made during the last session against slavery; how he flung himself forward desperately in order to save the last relics of that atrocious fugitive slave bill; how he seemed to throw himself on the side of the slave hunter. And now, sir, during the present session, you have seen him, while declaring his support of the constitutional amendment, most zealously and sedulously advocating an interpretation of the Constitution which is to postpone the consummation of that amendment.

I do not doubt the sincerity of the Senator. I merely allude to these things to show the *animus* under which he acts. And now the Senator comes forward here to arraign me, and he sets up the fact that I cannot accept his ill-omened constitution from Louisiana; and he then, forthwith, goes off into a rhapsody on what that constitution has accomplished. Sir, that constitution was not necessary to the consummation which he indicates. Slavery in Louisiana had already ceased. It is not necessary that we should recognize this constitution in order to complete the work.

But the Senator has copied and repeated the speech of the Senator from Missouri, [Mr. HENDERSON,] with regard to the guarantee in the Constitution of the United States. He says that I have assumed a position here which, if carried out, would require us to disfranchise New York, and perhaps Wisconsin, and other States. The Senator has not understood my position. The Senator from Missouri did not understand it last night; and the Senator from Wisconsin has simply imitated the Senator from Missouri. I tell him that the position which I took, and which at the proper time will be vindicated, leads to no such result. I will not go into the discussion of that question now. That is collateral; and I only allude to it now simply as another illustration of the disposition which seems to actuate the Senator from Wisconsin. If the guarantee of the Constitution is to be enforced, then I insist that we must look to the Declaration of Independence for the essential principles of a republican government.

Sir, I have always tried to cultivate friendly relations with that Senator. I have never said anything on earth that was unkind of him. I do not understand the animosity with which he seems to pursue me. I can only account for it as a part of that monomania which made him link himself with the slave power.

Mr. DOOLITTLE. If the honorable Senator from Massachusetts supposes that I have the slightest animosity toward him personally he is the most mistaken man that ever lived. I never had in my heart a thought or feeling of animosity toward that Senator. But in relation to some of his positions, I have attacked them with severity. I shall continue to do so as long as I believe them to be as dangerous as I think they are.

Mr. SUMNER. Anything for freedom is dangerous to the Senator from Wisconsin.

Mr. DOOLITTLE. In relation to myself, personally, I have never spoken of nor arraigned the Senator, except in reply to him, when he has arraigned me in his speeches as being opposed to freedom; that the *animus* which governs me is in opposition to freedom, and in sympathy with slavery and slaveholders. Of that the Senate can judge; the people who know me can judge; and my whole life and history on this subject is, perhaps, known to some of my friends and to the country.

Mr. President, I do say this: that, in my opinion, nine tenths of all the judges and all the lawyers and all the men of common sense in the United States this day will maintain that in order to adopt a constitutional amendment which shall be binding upon all the States of this Union the Constitution requires the assent of the States. The idea of the Senator that three fourths of all you can get to vote for the amendment will carry

it and make it operative upon those you cannot get to vote for it, and the very States that are interested in the question and whose interests and rights are to be controlled by it, is, to my mind, a monstrous proposition.

I believe, and therefore say, that the Senator from Massachusetts, in bringing the weight of his name and all his influence to bear to prevent a free State from being recognized, to prevent its representatives being brought into the two Houses of Congress, and the State recognized in every form necessary to give validity to its action and vote on the constitutional amendment, is taking a position in opposition to freedom. Therefore, it is without any animosity toward the Senator from Massachusetts or the slightest unkind feeling in the world, I undertake to say that the position which he takes and maintains here is in opposition to the advance of freedom; that it stands in its march; that it stands in the way of the adoption of the constitutional amendment.

Mr. SUMNER. No.  
Mr. DOOLITTLE. The Senator shakes his head and says no. Suppose his opinion is right, that the constitutional amendment might be adopted by less than three fourths of all the States of the Union—

Mr. SUMNER. Nineteen States.  
Mr. DOOLITTLE. By nineteen States, instead of twenty-seven. Suppose he believes that, and suppose by possibility he were correct in that opinion, still, in order to have it placed beyond doubt or cavil, so that the question cannot be raised in a court or anywhere else, so that there shall be no doubt on the subject, is it not of consequence to obtain the votes and the consent of twenty-seven States?

Mr. SUMNER. I would obtain the consent of all.

Mr. DOOLITTLE. Mr. President, there will be no misunderstanding between the Senator from Massachusetts and myself. He has never provoked in me any personal animosity. I have never given utterance to the least expression of personal animosity toward that Senator. I have attacked his positions; and when the Senator has sometimes undertaken, in his attack on my position, to charge me with being in sympathy with slavery and that I am opposed to freedom, I have replied and arraigned his positions, and have attacked them, and it was right to do so. It was just as much my right to arraign his positions as for him to arraign mine. I do not assert any superiority over that Senator. I have no right to do so; and everybody would know that it would be a miserable assumption on my part to attempt it.

But I am not willing to be arraigned by the Senator as being in sympathy with slaveholding and against freedom; and I tell that Senator now that on this very subject of colonization he has persistently, by what he has said, misrepresented—I do not say willfully—my position. I never sought by word or deed to give force to any law whatever which would in the slightest degree, against the will and the free voluntary consent of any person, cause his emigration, or his colonization, or his deportation anywhere. I would open to the free colored men just as free emigration to go from this country as I would open up to persons from Europe to come here. The Senator cannot oppose the positions which I have taken on that subject and at the same time state them correctly as I make them.

But, Mr. President, I have said all that I desire to say. I do not want that Senator to understand that I have any animosity toward him. I have not the slightest in the world toward him or toward any Senator on this floor. I do not love controversy for the sake of controversy. That I advocate measures, that I take positions, that I am earnest in what I do, and earnest in what I say and in what I feel, I do not deny; but there is no hostility toward individuals and no personal feeling intermixed, none whatever.

Mr. TRUMBULL. I tried to get the floor to say a word in reply to the Senator from Massachusetts; but I feel very little inclination to do it now. I think enough has been said. The Senator certainly, in his cooler moments, would not consider it just to impute to me a disposition to cram a measure and force it, when the suggestion I made was that we should take it up at the next meeting of the Senate and proceed with it, not



checking anybody in debate, but simply that he and those acting with him should not make a factious opposition, should not make dilatory motions. When I asked him if he was willing to let it go over, and let us take it up and proceed with it on another day until we finish it, each person taking as much time as he pleased, but simply with an understanding that he should not resort to the artillery of parliamentary motions to defeat it, he called that "cramping!"

Now, sir, it is manifest, from the disposition which has exhibited itself here on the part of a few, and which looks to me a little like factious opposition, that we can get no vote to-night.

Mr. SUMNER. I told you so some hours ago.

Mr. TRUMBULL. Yes, sir. If there is a faction standing here to defeat the will of the Senate I think the Senate will not be disposed to weary itself with an opposition of that kind, but would rather take another day to endeavor to pass the resolution which a few will stand in the way of action upon to-night. I shall not resist a motion to adjourn when I see this disposition of the Senate.

Mr. HENDRICKS. Mr. President, like the Senator from Wisconsin, I have not been an inattentive observer of the proceedings of this night's session. The discordant elements of the Republican party are exhibiting themselves here; and I venture the prophecy that a like exhibition will be witnessed over the country within a very few years. But four years ago, at the Chicago convention, when Mr. Lincoln was nominated for the Presidency, a solemn pledge was made to the people of this country that that party, when it came into power, would not undertake to interfere with the institutions of the States. As soon as the disturbed condition of the country gave the pretext for it, the undertaking was commenced; and now, when, in the judgment of some, it has been accomplished, there comes up the grave question, what is to be done, and what is to be the political condition of the four million negroes when they are set free? And upon that question the real strife of to-night has been witnessed. That is the subject, and it need not be disguised. It is growing out of the discordant elements of the party that now governs the country.

The Democracy here to-night have favored the consideration of the resolution that is before the body. We have not sought to defeat legislation. And how does it come that in the harmonious majority we see this clash of arms in the hands of its magnates, not with us? We are content to be the quiet observers of the controversy. I welcome the strife as a harbinger of a return to those principles that will yet save this country.

I am ready to go on to-night in the discussion of this measure, and am ready to vote against it to-night; or rather to abstain from voting, if the gentleman from West Virginia [Mr. VAN WINKLE] does not get here. If he is here on Monday I shall be ready to give my vote after a very few remarks upon the resolution.

But, sir, the lessons of to-night have been instructive. There is a strife here; and it is not a strife between gentlemen. Senators are too honorable to have a personal controversy. It is a strife of principle; and the question is, what is to be done with the four million negroes when they are set free? There are Senators upon the Republican side who feel that it is a very troublesome question. That is the trouble here to-night. It is not whether a particular measure shall be considered; but that very thing; and I think the Democracy will eventually have some gains from gentlemen who will not go the extreme doctrine. The Senator from Massachusetts [Mr. SUMNER] is determined that none of these States shall ever be heard in the Halls of Congress until the men who speak from those States speak the voice of the negroes as well as of the white men. Other Senators say that shall not be. We Democrats are a unit upon that question. We believe in the sentiment of the illustrious Senator formerly occupying a seat in this body from Illinois, that this Government was made by white men for white men, and we expect to stand by that idea. Let the controversy go on. The Senators and the Republicans over the country who wish to elevate the negro to an equality, political and social, and civil and legal, with the white man, will have their controversy with Senators and Republicans who

entertain sentiments with the Senator from Wisconsin, who do not believe that the condition of the negro in the South is such as entitles him to control the legislation and policy of this great country.

Now, Mr. President, if it is in order, I will renew the motion I proposed a while ago, that this resolution be made the order of the day for Monday evening at eight o'clock, and then I hope we can come together to dispose of it.

Mr. TRUMBULL. We had better adjourn.

Mr. HENDRICKS. I understand the bill that has come from the House increasing the taxes is the order of the day for one o'clock on Monday, and of course that cannot be displaced by this measure.

Mr. TRUMBULL. If the Senator from Indiana will allow me, this resolution will supersede it if we adjourn now, because it will be the unfinished business.

Mr. HENDRICKS. I am not willing to submit a motion that will supersede that bill. I do not know whether that bill has got any merits. It is a bill we will all feel when it comes. It is a bill that claims attention, either for passage or defeat; and I do not know which. It is doubtful whether I shall vote for it; but we shall see when it is considered and discussed. It is very clear, I think, that the Senate will not consent that that bill shall lose its position for this, because this measure will hardly become a law at this session at any rate. It is a Senate measure, and the House of Representatives will hardly pass it at this session.

Mr. TRUMBULL. I think they will.

Mr. HENDRICKS. I do not think it will be passed through that body without some conversation. I think there are some gentlemen over there who will have some remarks to make about it. I have heard some of them say so. As it has taken this body, a small body, some time to come to anything like a conclusion, it will take that body, being a larger one, a good deal longer time. I think it is a very liberal proposition now that this measure shall be the order of the day for eight o'clock on Monday evening, and I think the Senator from Illinois ought to consent to that proposition. I have voted with him to secure a vote to-night, and I believe every Democrat here almost has voted so as to have the question taken to-night if possible. Now, I propose as a compromise that we make it the order of the day for eight o'clock on Monday evening, and we can have the hour between seven and eight for private bills and little matters that Senators wish to bring up.

Mr. LANE, of Kansas. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, February 25, 1865.

The House met at eleven o'clock, a. m. Prayer by Rev. JOHN THURSH, of Washington, District of Columbia.

The Journal of yesterday was read and approved.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, its Clerk, announced to the House that the Senate had passed a bill and a joint resolution, of the following titles; in which he was directed to ask the concurrence of the House:

An act (S. No. 380) supplemental to the act approved 1st July, 1864, for the disposal of coal lands and of town property in the public domain; and

Joint resolution (S. No. 118) to authorize surveys to be made with a view to the construction of a ship-canal around the falls of Niagara; to deepen and enlarge the Illinois and Michigan canal, and improve the navigation of the Illinois river; to improve the upper rapids and lower of Des Moines rapids of the Mississippi river; and to improve the navigation of the Fox and Wisconsin rivers, and for other purposes.

The message further announced that the Senate had passed the following House bill, with amendments; in which he was directed to ask the concurrence of the House:

An act (H. R. No. 688) making appropriations for the construction, preservation, and re-

pairs of certain fortifications and other works of defense, for the year ending the 30th June, 1866.

## EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, recommending the payment of \$6,818 30 to certain Indian tribes, out of the sales of their lands; which was referred to the Committee of Ways and Means, and ordered to be printed.

## AMBROSE MORRISON.

Mr. HOLMAN. I ask unanimous consent to have the Committee of the Whole on the Private Calendar discharged from the consideration of a very meritorious bill for the relief of Ambrose Morrison, of Nashville, Tennessee. It is House bill No. 463. It is a very peculiar case, and one which commends itself very strongly to the favor of the House. I ask that it be taken up and disposed of now. It comes here at the very urgent solicitation of Governor Johnson, of Tennessee.

The bill was read for information.

It provides for the appropriation of \$15,000 to pay Ambrose Morrison for his house and lot, in the city of Nashville, Tennessee, the same having been taken and used by the military authorities of the United States for the erection of permanent fortifications, provided, that before the money is paid, a good title to the lot shall be conveyed to the United States.

Mr. WASHBURN, of Illinois. I desire to say to the gentleman from Indiana [Mr. HOLMAN] that this is one of a very large class of cases, involving, I think, one of the most important principles which we are called upon to consider.

Mr. HOLMAN. There is not a parallel case to this before the House.

Mr. WASHBURN, of Illinois. I will not object to the bringing the bill before the House, if I am permitted to offer an amendment, providing that this case shall not be considered a precedent for future action.

Mr. HOLMAN. Let the bill come before the House, and I will not object to an amendment being offered.

No objection being made, the Committee of the Whole on the Private Calendar were discharged from the consideration of the bill (H. R. No. 463) for the relief of Ambrose Morrison, of Nashville, Tennessee; and the House proceeded to the consideration of the same.

Mr. HOLMAN. I desire to make no further argument than to ask that the Clerk read the following very brief report, made by the gentleman from Minnesota [Mr. WINDOW] at the last session:

The Clerk read, as follows:

The Committee of Claims, to whom was referred the memorial and accompanying papers of Ambrose Morrison, of Nashville, Tennessee, report:

That the memorialist presents a claim for the value of a house and lot taken possession of by the military authorities of Nashville, Tennessee, for the purpose of erecting permanent fortifications thereon.

It appears that, in order to defend Nashville against the rebel army, it was deemed necessary to erect fortifications, and on the 4th day of May, 1863, the memorialist was notified by "George Burroughs, lieutenant of engineers," to vacate his house, when it was taken down and his grounds occupied by the fortifications.

A board of appraisers was duly appointed by the commanding officer, Brigadier General J. D. Morgan, consisting of Colonel A. C. Gillen, first Tennessee infantry; Edward H. East, secretary of State; and A. V. S. Lindsey, for the purpose of estimating the damages, and whose award is made a part of this report.

Among the many claims before your committee this is one of the few so well established by indisputable testimony that they have no doubt of its merit.

The agents of the Government, deeming it a military necessity, deliberately take possession of his property and appoint commissioners of their own choosing to place a value upon it. There would seem but little left for Congress to do in the premises but to appropriate the requisite amount of money to pay the award of the appraisers. Aside from the justice of this claim, it is one of those cases that appeal directly to the sympathies of those having the power to relieve the distressed.

The most prominent loyal men of Nashville, including Governor Andrew Johnson, represent that Mr. Morrison is an invalid of several years' standing, being paralyzed and unable to walk or stand erect. That he has a wife and five children, the oldest only sixteen years of age, entirely dependent upon him for their support and education, and that the property taken by the Government was his sole dependence, and they earnestly urge immediate measures for his relief.

The whole sum found due to Mr. Morrison by said board of appraisers is \$10,349 90. Your committee are of the opinion that the general depreciation of property in that section of the country requires some deduction from the amount thus allowed by said board, and believing that

\$15,000 would be no more than a just compensation for the property so taken, report a bill for that sum; and respectfully recommend its passage.

Mr. WASHBURN, of Illinois. I move to amend this bill by adding thereto the following:

*And provided further,* That this act shall not be regarded as establishing a precedent for paying claims of a character involving the payment of claims growing out of the casualties of war.

Mr. HOLMAN. I call the previous question upon the bill and amendment.

The previous question was seconded, and the main question was ordered.

The amendment of Mr. WASHBURN, of Illinois, was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. STEVENS. I desire to move that the order establishing a morning hour, to the exclusion of regular business, shall be rescinded, so as to leave us in the condition of a regular morning hour.

The SPEAKER. The order having been made by unanimous consent, it would require a motion to suspend the rules, if any objection is made.

Mr. HALE. I object.

Mr. STEVENS. Then I move to suspend the rules for that purpose. We cannot get through our business unless we use the morning hour as a general thing. Of course it does not inevitably give the Committee of Ways and Means the morning hour, but it gives us the power hereafter to use it, if necessary.

Mr. HALE. We want to use this morning hour.

Mr. STEVENS. I do not propose to use this morning hour, but to rescind the order after to-day.

Mr. HALE. Then I think we better dispose of that question when the morning arrives.

Mr. STEVENS. If we do that, we will not know how to regulate our business. I move to suspend the rules, so as to rescind the order for the morning hour.

The motion was agreed to; and the rules were suspended.

Mr. STEVENS. I now move to rescind the order by which a morning hour was made imperative every day.

The motion was agreed to.

Mr. BLOW. I ask unanimous consent to report from the Committee of Ways and Means Senate bill No. 359, to reimburse the State of Missouri for moneys advanced to the United States.

Mr. HALE. I must object. I demand the regular order of business.

#### JOSIAH COPELAND.

The SPEAKER announced the first business in order to be the consideration of a bill (H. R. No. 793) authorizing the Commissioner of Patents to extend the patent of Josiah Copeland for a new and useful improvement in boot-crimps, which was read the third time on yesterday.

Mr. L. MYERS called the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

Mr. KALBFLEISCH. I hope that the yeas and nays will be ordered, as I think that the principle of the bill is wrong.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 56, nays 38, not voting 88; as follows:

YEAS—Messrs. Allison, Ashley, Bailey, John D. Baldwin, Baxter, Blow, Brandegee, Broomall, Ambrose W. Clark, Coffroth, Beming, Dixon, Donnelly, Driggs, Dumont, Eden, Eldridge, Eliot, Hale, Harding, Herrick, Hooper, Hutchkiss, Asahel W. Hubbard, John H. Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, Knox, McBride, McClurg, Moolthead, Daniel Morris, Amos Myers, Leonard Myers, Noble, Norton, Orth, Price, Prayn, Radford, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Smith, Stevens, Strouse, Thayer, Tracy, Webster, Wheeler, Williams, Wilder, and Worthington—56.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Bea-

man, Boutwell, Cobb, Cole, Denison, Eckley, Edgerton, Grider, Higby, Holman, Hutchins, Kalbfleisch, Kernan, Law, Long, Marcy, McKinney, Middleton, Samuel F. Miller, William H. Miller, Morrill, Pendleton, Perham, Ross, Sloan, Thomas, Townsend, Upton, Wadsworth, Elihu B. Washburne, William B. Washburn, Chilton A. White, Joseph W. White, Wilson, Winfield, and Fernando Wood—38.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Ames, Anderson, Arnold, Blaine, Blair, Bliss, Boyd, Brooks, James S. Brown, William G. Brown, Chandler, Freeman Clarke, Clay, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, English, Farnsworth, Finck, Frank, Ganson, Garfield, Gooch, Grinnell, Griswold, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hulburd, Ingersoll, Philip Johnson, William Johnson, Julian, Orlando Kellogg, King, Knapp, Lazear, Le Blond, Littlejohn, Loan, Longyear, Mallory, Marvin, McAllister, McDowell, McIndoe, James R. Morris, Morrison, Nelson, Odell, Charles O'Neill, John O'Neill, Patterson, Perry, Pike, Pomeroy, Samuel J. Randall, William H. Randall, John H. Rice, Robinson, Rogers, James S. Rollins, Scott, Shannon, Smith, Spalding, Starr, John B. Steele, William G. Steele, Stiles, Stuart, Sweat, Van Valkenburgh, Voorhees, Ward, Whaley, Windom, Benjamin Wood, Woodbridge, and Yeaman—88.

So the bill was passed.

During the vote,

Mr. WILLIAMS stated that Mr. STARR was absent on account of illness.

The vote was then announced as above recorded.

Mr. L. MYERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 347) for the relief of Rebecca S. Harrison; and

A joint resolution (S. No. 112) for the relief of James B. Royce.

#### DELIA JACOBS.

Mr. CHANLER. I am directed by the Committee on Patents to report a bill to refer to the Commissioner of Patents the application of Delia Jacobs for the renewal of a patent for dressing treenails. This patent has only run for fourteen years, and it is entitled to run seven years more under the law; but on account of a mistake on the part of the memorialist the Commissioner refused to grant the extension.

The SPEAKER. The gentleman will send the bill up.

The bill was read a first and second time.

Mr. CHANLER. A treenail is a boat-nail made of locust wood, for the purpose of fastening the timbers of ships. The patent was originally granted in 1849, and expired in 1856. If required, I will have the memorial read. She failed to show by affidavit to the Commissioner of Patents that she was administratrix of the patentee, and under the law, failing to make that affidavit, the Commissioner refused to make the extension. The patent has not run twenty-one years yet, to which it is entitled to run. I have seen the Commissioner of Patents on the subject, and he says that he remembers the facts of the case, and that the allegations of the memorialist are true. I demand the previous question.

Mr. WASHBURN, of Illinois. I hope that we will not be called upon to vote for the extension of all the patents in the country without discussion.

Mr. CHANLER. I withdraw the demand for the previous question. I am willing to answer any question, or to furnish all the information desired by gentlemen in regard to this case.

Mr. WASHBURN, of Illinois. Let the memorial be read.

The memorial was read for information.

Mr. WASHBURN, of Illinois. I think I understand from the memorial that this case is about this: this patent was issued in 1849, the party to whom it was issued died, and the widow sold out all her right, title, and interest, and got about a thousand dollars for it.

Mr. CHANLER. No, sir.

Mr. WADSWORTH. Seventeen hundred dollars net.

Mr. WASHBURN, of Illinois. Seventeen hundred dollars net the gentleman from Kentucky says. No application was made for a renewal of the patent, and now the widow comes

here, apparently with the collusion of the party to whom the patent was assigned, to speculate out of Congress by getting a renewal.

Mr. CHANLER. The memorial sets forth that an application for a renewal was filed, and that everything was done that could be done by the party to secure an extension.

Mr. WASHBURN, of Illinois. Why did they wait eight years? Now they come here and say the invention is of great value, and ask us to impose a tax upon our constituents and place the avails in the hands of the assignee. I am opposed to this class kind of legislation. Let us legislate on such matters by a general law and not by these special acts.

And again, according to the statement of the gentleman from New York he has seen the Commissioner of Patents on this matter, who has prejudged it, and if we pass this bill the patent will be renewed anyhow.

Mr. JENCKES. This is a bill to correct an error in the office of the Commissioner of Patents. The proper evidence was on file, but it was overlooked by the Commissioner of Patents in his decision on the case; and without the action of Congress this petitioner will be without remedy.

Mr. DAWES. I would inquire of the gentleman from New York whether the patent is still in force.

Mr. CHANLER. No, sir.

Mr. DAWES. How long since it expired?

Mr. CHANLER. In 1863.

Mr. DAWES. I understand the patent expired in 1856, and I would inquire of the gentleman what has been the condition of the manufacture of the article since that time. Have not parties, availing themselves of the freedom of this invention from a patent, gone into the manufacture of the article?

Mr. CHANLER. I know nothing in reference to that matter. I only know this case as presented in the memorial. I have no knowledge of the manufacture or of the trade in this article.

Mr. DAWES. I would inquire if this bill in any way protects those who may have gone into the manufacture of the article recently, and since the patent expired?

Mr. CHANLER. I am not aware that it does.

Mr. DAWES. I do not know what the facts are, but men may have invested their property in the manufacture of this article, free and open to everybody; and does the gentleman think it right to spring a patent upon them now?

Mr. CHANLER. I should think it was not right, and it was not my object to do that.

Mr. DAWES. I should infer, if this was a valuable invention and worthy of a patent, that its manufacture must have been gone into during the last eight years; and if it has gone into general use, the gentleman ought, at least, to protect those now manufacturing the article.

Mr. CHANLER. It might be well to do so. My object was to do my duty in making a report according to the instructions of the committee; and I have reported the bill in the form usual in such cases. It can be amended.

Mr. WADSWORTH. I feel some regret in being compelled to state my objection to this system of extending patents upon this little bill. It is a widow's bill, apparently, and a very little bill at that. Her whole interest in it is \$300, which her assignees have agreed to give her if we shall extend the monopoly seven years longer. But the bill illustrates the system. I am prepared now to exhibit the generosity of a great people toward any meritorious inventor, and to the family of any meritorious inventor, who have not reaped a reward from an invention important to mankind, sufficient to place them beyond the reach of want.

Let the meritorious inventor come to Congress, and show a proper exceptional case for our action, and I will not object to voting for his relief. But I will in no instance vote to extend a monopoly over thirty million people simply to fill the pockets of vendors and assignees and traders who have reaped the benefits of that invention. In nine cases out of ten, as in this case, the persons really interested in the extension of the patent are the assignees of the patentee; those persons who have had in their hands and reaped the benefit of the patent during the greater part of the fourteen years for which these monopolies run, while the inventor and his family have received com-

paratively nothing. These assignees appeal to the sympathies of members of Congress in order to procure an extension of the monopoly for seven years, and in the sacred name of widow and orphan.

Now, it is with the profoundest regret that I have seen the members of this House so generally indifferent to this thing. I am prepared to concede that the inventor ought to have a monopoly in the first instance, for some sufficient, fixed term; let it be so. But I do most cordially indorse the policy of the act of 1861, which declared that hereafter patents should be granted for seventeen years, and that there should be no extension of such patents. That is a sound policy, and now will this Congress break down the policy established by the act of 1861? I am very sorry that the Committee on Patents do not look at it in that way. I am sorry they do not discourage these applications, and do not propose to confine the action of Congress to the policy of 1861, denying severely the extension of patents in all cases.

Mr. CHANLER. Is the gentleman opposed to granting patents, and if not, for how long would he have them granted?

Mr. WADSWORTH. For fourteen years, under the old law; for seventeen years, under the act of 1861.

Mr. CHANLER. This patent has run only fourteen years, and the party, under the old law, is entitled to an extension of seven years. But by no fault of his the application was delayed too long. This is not an application to extend a patent beyond the time allowed by the law. It simply allows the lawful extension of the patent, which failed through the omission on the part of the paid attorney to do his duty. And the argument of the gentleman from Kentucky [Mr. WADSWORTH] amounts to this: that for the purpose of making an argument, which covers thirty-one million people, he insists that a just law shall not be carried out.

Mr. WADSWORTH. I differ with the gentleman about the law. We have no statute, and never had a statute, which, as a matter of right, gives an extension for seven years. We have simply a statute which confers on the Commissioner of Patents a discretion to extend a patent for seven years, when it shall be shown, among other things, that the inventor has not reaped a sufficient reward for his invention, by no fault of his, during the fourteen years for which the patent was originally granted.

Mr. CHANLER. This is exactly just such a case.

Mr. WADSWORTH. The Commissioner is to extend the patent when it shall appear, among other things, that the invention is novel, useful, and important, and that the inventor has not derived a sufficient reward for his time, talents, and expenditures, in perfecting the invention. It simply vests a discretion in the Commissioner, the presumption being always that the inventor has received his reward, and that his monopoly should cease. He must make out a case, and show that he has not received it, and by no fault of his. The act of 1861 is a step in advance, which I do not think the House should recede from. That act renounced the policy of extension, and made the term of the patent seventeen instead of fourteen years.

I was remarking, when interrupted by the gentleman from New York, [Mr. CHANLER,] that this policy of renewing patents is altogether vicious. Suppose the patent is a valuable one, worth millions. The Goodyear patent, for instance, in which there are millions of dollars involved. It opens a door to every sort of fraud and rascality to allow such vast private interests to haunt the rooms of the Patent Office, or cumber the lobby of Congress, invade even the rooms of members, and subsidize the press, taking the names of widow and orphans in vain to procure a new lease of power over mankind.

A patent worth several million dollars can fight its way through the Department and through Congress in the face of the vital interests of the public; and as a general thing nobody wants an extension of a patent unless it is in such common use as to lay under contribution millions of people. The greater the utility of the invention the greater the slavery to which the monopoly subjects the mass of the people. I do not know but that, in the progress of invention, some man may invent

something which, if he be allowed a monopoly of it for fourteen years even may give him for that period a controlling power over mankind too great for the public safety. Suppose that a man should invent something that would wonderfully cheapen the means of subsistence beyond all hitherto achieved, that would put within the reach of everybody elegant and refined but cheap means of subsistence, what a vast power over mankind could be wielded by that inventor, under his monopoly, for fourteen years! What desperate and dangerous expedients aimed at the administrative officers and the legislative body in such cases does this thoughtless policy of extensions invite!

As is most frequently the case, the inventor, exalted or lost in the rapture of invention, becomes the victim of some scheming trader, who reaps the millions that the invention produces. At the end of the term for which the patent was granted, an application is made for an extension. The poverty of the inventor, contrasted with the benefactions his genius has added to the sum of good, is pleaded before the Department and before Congress. An extension is granted, and that extension inures to the benefit, not of the inventor or his widow or children, but of some person or persons who have already grown fat by turning into commodity the necessities of mankind. The principle is wrong. It is the most wasteful and oppressive of modes for removing the poverty of the inventor. To give his widow a pittance we put mankind into circumscription, and levy millions from their necessities. Rather let us double the pittance and set free the business of mankind.

The extension of the patent in this case will probably give to the widow of the inventor about three hundred dollars. Now, sir, if this invention is meritorious, and a proper remuneration for it has never been received by the inventor, but his widow and children are in poverty, let us vote the widow \$1,000 and liberate from restriction the ship-building of this country. I think it much better that we should do this than grant an extension of the patent, from which the widow would derive \$300, while the profits of the extension levied off the people of the country, to a large amount perhaps, will go into the hands of some, it may be, mercenary assignee. In no case would I grant an extension of a patent after the expiration of the term of fourteen years. Yet to the benefactor of the race, or his family, destitute, notwithstanding the blessings his devotion and genius had dispensed, I would manifest, by a fitting testimonial from the Treasury, the gratitude of the people.

Mr. JENCKES. Mr. Speaker, I wish to say a few words in reply to the position taken by the gentleman from Kentucky, [Mr. WADSWORTH.] He has, as I understand, stated distinctly in his last remarks that, under no circumstances would he agree that a patent should be extended after the expiration of the original term of fourteen years. Yet he admits that there may be made an invention for the value of which to the community the inventor cannot be remunerated by the use of that invention for fifty years.

Now, sir, let me submit a case, for which I ask the consideration of the gentleman from Kentucky, and all who are to act upon this question, and who may be called upon to act on the proposed amendment to the patent laws. Suppose that a valuable invention is patented; that at the expiration of the original term of fourteen years the inventor makes application for a renewal of the patent, under the laws that existed prior to 1861; that he makes out a perfectly just case for extension, showing that he has failed to receive proper remuneration for his invention. There are cases in which the inventor is obliged to part with his interest in the invention during the original term for a very small consideration. There may be, and there are, as we know, cases in which the inventor is unable to introduce an invention during the original term, and even during the extended term. There may be cases in which the inventor has been defrauded out of his patent for the original term. Yet he may be unable to make out at the Patent Office a case entitling him to an extension, under the law of 1836.

Gentlemen will remember that under that law the application for an extension must be made during the original term. Frequently applications have been made very near the expiration of the original term. There was, too, a very stringent

provision in reference to the time within which the decision of the Commissioner should be made.

The case here presented is this: a perfect case was made before the Commissioner of Patents, the only officer under this Government having the right to grant an extension of patents. He overlooked a portion of the evidence actually on file. He has since certified that if he had had knowledge of the existence of that evidence his decision would have been different. The fact that he overlooked it is presumptive evidence that his action worked injustice. In the present state of the law there is no power, no officer under the Government, who can correct a mistake of that kind. It comes here just as a motion for a new trial would come before a court. We are the court of correction for this kind of errors. We ought to have another and a different kind, I agree, but we are that court as the law stands.

Mr. DAWES. Mr. Speaker, I desire to put a case to the gentleman from Rhode Island to ascertain the precise position which the Commissioner of Patents takes on this point. Suppose a man parts with his property in a patent voluntarily for a consideration less than it has proved to be worth, either because he did not himself comprehend its true value, or from necessity he was compelled to part with it for a small sum, and that his assignees, deriving title from his voluntary act, have made immense fortunes out of it, I ask whether he stands in any other position than any other man who parts with his property for a less sum than that property is worth. I ask whether the Commissioner on Patents proposes to extend to the original patentee the further use and monopoly of his patent upon the ground that the patentee himself has been unable to realize a remuneration sufficient to him compared with the vast benefits to the Government, while the assignees, by his voluntary act, have reaped a rich harvest.

Mr. CHANLER. I must renew the demand for the previous question.

Mr. JENCKES. I wish to say that the question of the gentleman from Massachusetts is based on a misapprehension of the law under which a patent can be extended.

Mr. CHANLER. I renew the demand for the previous question.

Mr. MORRILL moved that the bill be laid on the table.

The House divided; and there were—ayes 58, noes 38.

Mr. BRANDEGEE demanded tellers.

Tellers were not ordered.

So the bill was laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CORRECTION.

Mr. HIGBY. I ask unanimous consent of the House to introduce a resolution to correct an error in the report of a committee of conference.

There was no objection.

Mr. HIGBY. The object of the resolution is to dispose of the first amendment made to the bill in reference to the United States courts in Nevada. The conference committee were unanimous in retaining that amendment, and intended that it should be a part of their report, but it was unintentionally omitted in the written report. The adoption of this resolution will supply that omission.

Mr. KERNAN. The amendment is merely one of phraseology, and I hope that the resolution will be adopted, as a mistake was made.

The resolution was adopted.

#### AGRICULTURAL REPORT.

Mr. A. W. CLARK. I am directed by the Committee, on Printing to report the following resolution; and on its adoption I demand the previous question:

*Resolved*, That there be printed one hundred and twenty thousand copies of the report of the Commissioner of Agriculture for 1864 for the use of the House, and twenty thousand copies for the use of the Commissioner of Agriculture; twenty thousand of them to be printed on fifty-pound paper, and the engravings to be inter-spersed through the volume in their proper places.

Mr. HOLMAN. I hope that the gentleman will yield to me to move to reduce the number for the Commissioner of Agriculture to fifteen thousand.



Mr. A. W. CLARK. I cannot yield for that purpose.

The House divided; and there were—ayes 43, noes 17; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. A. W. CLARK and HOLMAN.

Mr. A. W. CLARK. I withdraw the demand for the previous question.

Mr. HOLMAN. I move to reduce the number for the Commissioner of Agriculture to fifteen thousand, and to add five thousand to the other number.

Mr. BALDWIN, of Massachusetts. I am satisfied that the Commissioner, in the proper conduct of his Department, will need all that we have reported to give him, and I therefore hope that the amendment will not be agreed to. If there were a proposition to abolish the Department of Agriculture that would present another question, and what is said against voting copies of the report for the use of the Department might be pertinent in the speeches of those gentlemen who might favor that proposition; but we have now before us merely the question of carrying on the Department in a proper manner; and I insist that we ought to do what the case requires, what our self-respect requires, and what the interest of the Department requires.

Mr. A. W. CLARK. I renew my demand for the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment was adopted, and the resolution, as amended, was agreed to.

Mr. A. W. CLARK moved that the vote by which the resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EULOGIES ON SENATOR HICKS.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That five thousand copies of the eulogies on Senator Hicks, delivered in the Senate and House of Representatives, be printed for the use of the members of this House.

The SPEAKER. The morning hour has expired, and the business next in order is the enrollment bill, which comes up as unfinished business from yesterday.

#### BOUNDARY OF NEVADA.

Mr. WORTHINGTON, by unanimous consent, presented the joint resolution of the Legislature of the State of Nevada in reference to the eastern boundary of said State; which was referred to the Committee on Territories, and ordered to be printed.

#### CLAIMS OF MISSOURI.

Mr. BLOW. I ask unanimous consent to make a report from the Committee of Ways and Means.

Mr. SCHENCK. If it is to consume any time or evoke discussion I must object, and insist upon the regular order.

Mr. BLOW. I wish to report back Senate bill No. 359, to reimburse the State of Missouri for moneys expended for the United States. I wish it printed and made a special order for next Tuesday.

Mr. SCHENCK. That subject is before the Committee on Military Affairs, who have some considerable information in regard to it, and I suppose the committee are about ready to report.

Mr. STEVENS. We only ask that we may report this bill and refer it to the Committee of the Whole on the state of the Union.

Mr. SCHENCK. I do not understand how the subject got before that committee. It seems to me it is one of these side blows against the Committee on Military Affairs.

Mr. BLOW. It is a Senate bill unanimously reported from the Military Committee of the Senate, and passed by the Senate unanimously. It came to this House, and was referred to the Committee of Ways and Means. All I ask is that it may be reported, made the special order for next Tuesday, and ordered to be printed.

Mr. SCHENCK. How much money does it appropriate?

Mr. BLOW. Four million dollars.

Mr. HOLMAN. I object to its being made a special order.

No further objection being made, the bill was reported, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

#### ARMY APPROPRIATION BILL.

On motion of Mr. MORRILL, and by unanimous consent, the Army appropriation bill, with Senate amendments thereto, was taken from the Speaker's table, and referred to the Committee of Ways and Means.

#### ENLISTMENT OF REBEL PRISONERS.

Mr. PIKE, by unanimous consent, introduced the following resolution:

*Resolved*, That the Secretary of War be directed to inform this House whether rebel prisoners at Rock Island, Illinois, have been enlisted into our service, and credited to one or more States; and if so, how many have been so enlisted and credited, and when, and to what States; and also whether any of said persons so credited are still under guard at Rock Island.

Mr. WILSON. I suggest to the gentleman that he modify his resolution, and make the inquiry general.

Mr. PIKE. I will do so. The Clerk can make the necessary modification.

Mr. GANSON. I suggest also that he include an inquiry whether bounties have been paid.

Mr. PIKE. I have no objection to that. I understand bounties have been paid, and that the prisoners so credited are still under guard. I modify my amendment so as to include that inquiry.

The resolution, as modified, was agreed to.

#### RIGHTS OF COLORED PERSONS.

Mr. SCHENCK. As I have given way to so many persons to introduce resolutions, I will now give way to myself, [laughter,] and ask unanimous consent to introduce the following resolution:

*Resolved*, That the Secretary of War be directed to inform this House whether any military order or regulation has been issued prohibiting negroes or colored persons from leaving the city of Washington or the District of Columbia without a pass; and if so, whether such order or regulation is still in force; and that he furnish in that case a copy or copies of any such order or regulation, with an explanation of the reason for making such distinction on account of color.

Mr. ROSS. I object.

Mr. WILSON. I move to suspend the rules for the purpose of considering the resolution at this time.

The motion was agreed to; there being, on a division—ayes 85, noes 9.

So, two-thirds voting in favor thereof—the rules were suspended.

Mr. SCHENCK moved the previous question on the resolution.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced that the Senate insisted on its amendments disagreed to by the House, disagreed to the amendments of the House to other amendments of the Senate to the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. SHERMAN, GRIMES, and HENDRICKS the committee on the part of the Senate.

#### ENROLLMENT BILL.

Mr. PRUYN. I ask permission of the House for the Committee of Ways and Means to present a matter which will take but a moment, at the special request of the Secretary of the Treasury.

Mr. SCHENCK. And I am pressing the enrollment bill at the special request of the Secretary of War. [Laughter.]

The SPEAKER. The Chair understands the gentleman from Ohio as declining to yield.

Mr. SCHENCK. Yes, sir.

The House then proceeded to the consideration of the bill (H. R. No. 678) to amend the act entitled "An act further to regulate and provide for the enrolling and calling out of the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft; the question being on the amendment offered

by the gentleman from New York, [Mr. KERNAN,] to strike out the sixth section, as follows:

Sec. 6. *And be it further enacted*, That the sixteenth section of the "Act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863, is hereby so amended as to allow to the provost marshals appointed under the provisions of that act the same commutation for fuel and quarters as is allowed to other officers ranking as captains of cavalry; but the provost marshal, surgeon, and commissioner, constituting the enrolling board, shall not, in any case, be allowed mileage, but only transportation in kind, or the actual cost of their traveling on duty from their respective places of residence to the district headquarters and returning therefrom, or to and from such other points as they may be by law required to attend at officially within the limits of the district. There shall also be paid by the order of the Secretary of War, on proper vouchers, all actual, necessary, and reasonable expenses of office rent, postage, stationery, and clerk-hire.

Mr. KERNAN. I desire the House to observe the character of that section. It is simply to increase the pay of provost marshals of districts.

The SPEAKER. The Chair will state to the gentleman from New York that debate is exhausted on the proposition.

The question being on the amendment, the Speaker ordered tellers; and appointed Messrs. SCHENCK and KERNAN.

The House divided; and the tellers reported—ayes 45, noes 57.

Mr. KERNAN. I call for the yeas and nays.

If we are going to increase the pay of these officers, I want to know who is in favor of it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 78, not voting 53; as follows:

YEAS—Messrs. James C. Allen, Ames, Ancona, Bally, John D. Baldwin, Blair, Bliss, Boutwell, Brandegee, Brooks, Chanter, Ambrose W. Clark, Clay, Dawson, Eden, Edgerton, Eldridge, Finck, Ganson, Harding, Herrick, John H. Hubbard, Hutchins, Philip Johnson, Kalbfleisch, Orlando Kellogg, Kernan, Knapp, Law, Long, Mallory, McKinney, Morrison, Nelson, Noble, John O'Neill, Perry, Pike, Price, Pruyn, Ratford, Scofield, Scott, John B. Steele, Thomas, Townsend, Wadsworth, Joseph W. White, Wilson, Winfield, and Fernando Wood—51.

NAYS—Messrs. Allison, Anderson, Arnold, Baxter, Blaine, Blow, Boyd, Broomall, Cobb, Coffroth, Cole, Cravens, Denison, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Frank, Garfield, Gooch, Grider, Griswold, Hale, Holman, Hooper, Hotchkiss, Hulburd, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, King, Knox, Littlejohn, Loan, Longyear, Marey, Marvin, McAllister, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, James K. Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Schenck, Shannon, Smith, Smithers, Stevens, Stiles, Strouse, Sweat, Thayer, Upson, Van Valkenburgh, William B. Washburn, Webster, Wheeler, Williams, Wilder, and Worthington—78.

NOT VOTING—Messrs. William J. Allen, Alley, Ashley, Augustus C. Baldwin, Beaman, James S. Brown, William G. Brown, Freeman Clarke, Cox, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Eckley, English, Grinnell, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Higby, Asahel W. Hubbard, William Johnson, Julian, Kasson, Lazarus, LeBlond, McBride, McDowell, Melndoe, Middleton, Morrill, Patterson, Pendleton, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Sloan, Spaulding, Starr, William G. Steele, Stuart, Tracy, Voorhees, Ward, Elihu B. Washburne, Whaley, Chilton A. White, Windom, Benjamin Wood, Woodbridge, and Yeaman—53.

So the House refused to strike out the sixth section of the bill.

Mr. COBB. I move to amend the section by adding to it the following:

*Provided*, That surgeons of the boards of enrollment shall be entitled to the pay and allowances, including commutations for quarters and fuel, now allowed by law to assistant surgeons in the Army; and that the commissioners of such boards shall be entitled to the pay, allowances, and commutations allowed to first lieutenants of cavalry.

I desire to say, Mr. Speaker—

The SPEAKER. The amendment is not debatable. Debate is closed on the section and on all amendments thereto.

The amendment was agreed to.

The House proceeded to the consideration of the seventh section, as follows:

Sec. 7. *And be it further enacted*, That there shall be appointed by the President an assistant provost marshal general for each State, who shall have the rank, pay, and emoluments of a lieutenant colonel of cavalry, or an officer in service may be detailed for that position whose rank is not less than major or above a colonel. Such assistant provost marshal generals shall be under the direction and subject to the orders of the Provost Marshal General, and shall be charged with the duties intermediate between the Provost Marshal General and the district provost marshals: *Provided, however*, That when a State comprises but one congressional district there shall be no assistant provost marshal general for such State, but the duties shall be performed by the provost marshal of the district.

Mr. KERNAN. I move to amend by insert

ing the following as a new section, to come in between sections seven and eight:

*And be it further enacted,* That when hereafter calls shall be made for men for the military service of the United States, the quotas of the several States shall be, as nearly as possible, in proportion to the population, excluding Indians, of the States respectively.

As the law now stands, Mr. Speaker, quotas are determined by the number of men between the ages of twenty and forty-five able to bear arms. I believe that it is just that the quotas should be assigned to the States in proportion to their population. Population gives representation in the Federal Government. The war is waged for the defense of this Government, and I think that it is just that the men required for military service should be in the same proportion. If gentlemen will look at the population of the States and ascertain the quotas assigned to each under the calls for men which have been made by the President, they will see a result that is palpably unjust. Some of the new States, where the population is largely of young laboring men, furnish two and three times as many men in proportion to their population as some of the old States do. I wished to state to the House exactly the quota assigned to each State under the calls which have heretofore been made; and with a view of being able to do so, I this morning went to the War Department, and requested to be furnished the aggregate quota of each State under each of these calls. The information was refused. I was told that one or both Houses of Congress had called for that information, and that it had been refused. I stated that I desired the information with a view to legislation pending; nevertheless, it was refused. It seems, therefore, we must act without it.

I therefore can only call to the minds of gentlemen what they can remember of the quotas, and cannot state them with accuracy. Take Massachusetts, with a population of 1,231,000, and the State of Iowa, with a population of 674,000, and look at their respective quotas, and say whether those quotas are just or not. Should these burdens be thus apportioned? New York has a population of 3,800,000, about three times the population of Massachusetts, yet in the assignment of the last call for troops the quota of New York was some sixty-six thousand, while gentlemen will remember how small was the quota of Massachusetts. It was nothing like in proportion to its population. This is unjust, and the law which produces such results should be changed. The fair way is to assign the quota to each State according to its population.

Mr. BALDWIN, of Massachusetts. Suppose that in any one State there are twice as many women as men, and in another State twice as many men as women; and that this disproportion has been caused by the emigration of men from the former State to the latter; would the gentleman still insist that the quota to each State should be in proportion to the population?

Mr. KERNAN. This raising of men has become a mere matter of taxation, a mere matter of raising money, and if a State is wealthy from its manufactures, from the employment of women and children in its factories, it should be taxed to raise men in proportion to its population and wealth; the burden of furnishing men should not be cast mainly upon new States, where every man almost has a family dependent upon his labor for support, and where they cannot raise money to purchase substitutes, as in the old and wealthy States. The States have representation and influence in the affairs of Government according to their population; I believe it is but right that they should bear the burdens which are imposed upon the country in defense of the Government in proportion to their representation. Their representation in the Army should be in proportion to their representation in Congress and other branches of the Government, particularly when it is only a question of raising money to give bounties to volunteers.

I regret that I am not able to lay before the House the exact quotas of the several States under each call, that gentlemen might see them. I have a recollection, from reading the statement in the newspapers, that they seemed to me to be very unequal and unjust. But it seems the majority will not insist that we shall have such information when called for by resolution of the House,

and when a member goes to the Department and asks for it he is told that it will not be furnished to him, although he states that he wants to use it in the House in relation to a bill then under consideration. That was the reply I received at the Department this morning when I applied for this information.

Mr. GANSON. Why will not the gentleman join with me and others to bring up the bill and pass it, to bring the heads of Departments upon the floor, so that we can compel them to give us the information we want?

Mr. KERNAN. I very much desire that in the mode suggested or by some other means we may be able to get information from the Departments on subjects upon which we are required to legislate; we are not able, it seems, to do so now. No evil can come from the people or their Representatives having accurate information as to the system now in force. But gentlemen will remember the quotas of the States sufficiently to enable them to judge of the injustice of the law in force, and the propriety of the proposed change in the law. I submit that it is just and right under our Government that the quotas of the several States should be in proportion to their population.

Again, the present system gives opportunities for fraud and favoritism. The enrollment is made in each district by the enrolling officers. If for any reason they wish to make the quota of a district small they can greatly diminish the number of men enrolled, and the quota will be diminished. In another district, where they desire to make it high, they can make it so. It seems to have been so, because in New York, in one congressional district, we have seen the quota running up as high as four thousand, while in another district it has been as low as eleven or twelve hundred; and I believe that this arose from the fact that there was an effort to increase the enrollment list in one district and to diminish it in another. Base the quotas on population, and we can have them fairly assigned. Do not base them on enrollments made up by officers having oftentimes a desire in one case to make the quota larger than it ought to be, and in another to make it smaller.

It seems to me, therefore, first, that this proposition is just as between the States; and secondly that it will prevent favoritism, fraud, or any unfairness whatever in getting at the quota which each portion of the country shall contribute to the Army.

[Here the hammer fell.]

Mr. SCHENCK. The amendment proposed by the gentleman from New York is radical in its nature. It presents an entirely new basis for representation in the military service of the country. Instead of taking our soldiers from among the able-bodied men within certain ages, liable to military duty, in proportion to their number, the gentleman proposes that they shall be taken in a proportion having reference to the whole population of the district. This being an altogether novel proposition, contemplating a serious innovation, it is entitled to respectful consideration. Now, sir, the nation is in many respects like a family. If a house be attacked, although the women and children might perhaps do some little in the way of defense, yet I believe it is generally conceded that the defense of that household ought to fall upon the able-bodied men of the family. I think it is much the same with regard to the nation when attacked in its integrity, that those who muster to its defense ought to be expected to be drawn from the able-bodied male population. And surely, if the gentleman's amendment should prevail, he cannot object to my proposing, as I shall certainly do, an amendment that hereafter all able-bodied women between the ages of sixteen and forty shall be subject to enrollment and draft.

It occurs to me that the gentleman cannot well have considered his proposition. I know that if such a proposition should become the law of the land, we in the western States, where the males hold a greater proportion to the entire population than in the eastern States and in New England, would profit by such a change in the law. But, as a Representative of a western and interior State, I am not to be bribed to favor such a proposition because it would benefit us and operate against the eastern States. I oppose the amendment because, although it might help us, it is in

conflict with the general principle which, I think, lies at the root of this whole matter, and which ought to be considered, that the able-bodied male population shall be the defenders of the families separately considered, and in like manner, carrying out the parallel, shall be liable to be called upon as the defenders of the nation, which is the great family.

In regard to obtaining information, I have nothing to say in reply to the gentleman. There are many matters in regard to which I wish we had fuller information. But it is easy to ascertain by the census the number of the population, the proportion of the sexes, and the proportion of the different ages; so that there is no serious difficulty in that respect.

Mr. KERNAN. I move, *pro forma*, to enable me to say a few words, to amend the amendment by striking out the last word.

Now, Mr. Speaker, I offered this amendment seriously; and I do not feel at all intimidated from supporting it by the fear that my gallant friend [Mr. SCHENCK] will attempt to enroll the ladies if it be adopted; although I may say to him that we might as well, so far as obtaining soldiers is concerned, enroll the women as a good many very "loyal" men, who, when drafted, only send substitutes. It is, in this respect, a question of money.

What I maintain (and I think that every reflecting man must concur with me) is, that among the States of this Union there should be an assignment of quotas according to the principle which controls in representation. Each should be required to furnish men for the Army in proportion to its population. This is just in principle, and will conduce to fairness in practice. We will then have a fair basis easily ascertained, and not one liable to be made under the influence of partisan feeling or interested motives.

My friend from Illinois tells me that under the call for 500,000 men Illinois, with a population of 1,711,951, was called upon for 52,000, while Massachusetts, with a population of 1,231,000, had a quota of only about 21,000. The population of Illinois is not one third more than Massachusetts, but her quota of men to be furnished for the war is a great deal more than double. Massachusetts, with all of her wealth, although she is prospering during the war, when other States are impoverished by it, is not required, under the present system, to furnish men for the Army in proportion to her wealth or population. Under the last call for 300,000 she was required to furnish but a small quota, while that of Illinois was 32,000.

Mr. BALDWIN, of Massachusetts. I beg the gentleman's pardon. He is wrong.

Mr. KERNAN. Then state what your quota under the last call for 300,000 was. I have tried in vain to get the authentic information.

Mr. BALDWIN, of Massachusetts. Under what call?

Mr. KERNAN. The last one for 300,000. Have you ever had a quota of over about 20,000?

Mr. BALDWIN, of Massachusetts. I cannot state exactly the number under the last call. Our quotas under the calls for 300,000 men have varied. Under a call for 300,000, in 1862, our quota, as first published, was over 20,000, and after a correction it was 19,080, and this number of men was raised by volunteer enlistments.

Mr. KERNAN. When? Was it under the call for 300,000? What was the quota assigned to Massachusetts under the last call? The papers state it to be less than 17,000. I have not been able to obtain the information from the War Department. I want to know what it is. I will take the figures of my friend from Illinois. Under the last call her quota was 32,000, and that of Massachusetts less than 17,000. Illinois, with a population not one third more than Massachusetts, under the call for 500,000 was assigned a quota of 52,000 men, while Massachusetts was assigned but about 20,000. It has attracted the attention of the whole country. States of great wealth, States having large representation, when the quotas come to be assigned, do not have anything like the quotas of the western and middle States of the same population.

Mr. ELIOT. Will the gentleman be good enough to repeat what he said was the quota of Illinois?

Mr. KERNAN. My friend from Illinois states it to have been 52,000 under the call for 500,000.

Mr. ELIOT. What does he state to be the quota of Massachusetts?

Mr. KERNAN. We cannot find out. We cannot learn from the War Department. We understand that it was not above 20,000.

Mr. ELIOT. Does the gentleman want to know what it is?

Mr. KERNAN. I do.

Mr. ELIOT. Under the call of July 18, 1864, it was 21,670.

Mr. KERNAN. That is what I want to get. Illinois had a quota of 52,000 assigned to her, more than double that of Massachusetts, when there is very little difference in the number of the population.

Mr. ELIOT. A large proportion of the population of Massachusetts is composed of women.

Mr. KERNAN. It is a population that claims and has representation; a population which is making money during the war. The present is a system to raise money with which to send men into the field. It is for raising money in the rich States, and compelling the poor States to send their men.

Mr. ELIOT. Will the gentleman say how many of the 52,000 men from Illinois were young men who came from Massachusetts?

Mr. KERNAN. I said that the reason why the new States had so large a quota was, that the quota was assigned according to the young men between twenty and forty-five. I say that it should be according to population. There are young men enough in each of the States to fill its quota based upon its population, and each State should contribute them.

I have proposed this amendment in good faith. I believe it is the just mode of requiring men to be furnished by the States, and that it is the way to prevent frauds and favoritism, and will be unjust to no State or its population.

Mr. GARFIELD. I rise to oppose the amendment, and I wish to submit a statement to illustrate the impolicy and injustice of the proposition the gentleman has laid before the House. The amendment proposes entirely to change the basis upon which our Army is to be raised, by letting it rest upon the whole population, including men, women, and children of all ages, without regard to their ability to bear arms. To illustrate that I will read three items from the population report of the census of 1860. In all the eastern States it will be observed that the ratio between the number of males and females preponderates on the side of females; while, as you go westward, the males are in excess. The census shows that Massachusetts, in 1860, had a population of 1,221,464, of whom 629,220 were females, showing an excess of 36,976 females. In California, in the same year, there was a population of 323,177, of which 227,774 were males and only 96,406 females. But I find a still stronger case in the State of Nevada, which was a Territory in 1860. In her population of 6,857, there were 6,137 males and only 720 females; that is, there were nearly ten men to one woman. The proposed basis would make it vastly more difficult for Massachusetts to fill her quota than for California or Nevada. Every man can see at a glance that it would weigh very heavily upon those States having an excess of females, and render it comparatively easy for the new and growing States, to which the arms-bearing population of the eastern States have emigrated, to furnish their quotas.

Mr. GANSON. If that statement is correct, why is there the same relative increase of voters in Massachusetts as in other States?

Mr. GARFIELD. I take it that old men vote as well as young men. But I doubt the correctness of the statement of the gentleman as a matter of fact.

Mr. STEVENS. I would like to have the gentleman explain one fact. Under the call for 500,000 men my district was assigned 2,270, and it furnished them all. Under the call of 300,000 men the quota of the same district was 3,209. I would like to have the gentleman explain that.

Mr. GARFIELD. I may say that I am not responsible for the mathematics of the Provost Marshal General's department, nor is the question pertinent to the point now in discussion.

Mr. STEVENS. I did not know but the gentleman could explain it.

Mr. GARFIELD. I have only to say that this proposition totally changes the basis of our

Army by taking the entire population, and it would be a gross injustice and a hardship upon the States from which the arms-bearing population has emigrated.

Mr. SCHENCK. Perhaps some explanation of the difficulty in the district of my friend from Pennsylvania [Mr. STEVENS] may be found in the fact of the calculations made as to three-years and one-year men. The gentleman from Pennsylvania in his count makes a three-years man and a one-year man count the same; but the rule prevails that the enlistment of three men for one year each counts the same as the enlistment of one man for three years.

Mr. GARFIELD. That might account for part of the difference.

Mr. STEVENS. Then I understand that every time a draft is made for a three-years man it counts three times.

Mr. GARFIELD. A three-years man is equal to three one-year men.

Mr. STEVENS. Then when you kill a three-years man you kill three men.

Mr. GARFIELD. Mr. Speaker, I have only one word more to say, and I wish to say it before I leave this point. The gentleman from New York [Mr. KERNAN] asserts that these States raise their quotas by money, and that therefore the wealth of a State, rather than the men of a State, are to be taken into account. I answer the gentleman that the second section of this bill cuts off entirely the substitute system excepting so far as men may find substitutes in their own townships or wards, and therefore his money argument falls to the ground. Massachusetts will hereafter be obliged now to get her substitutes from her own districts, or from foreign countries.

I hope this radical change in our system will not be made. I move to close debate on the section, and on all amendments thereto.

Mr. KERNAN. I withdraw my amendment.

Mr. ELIOT. I renew it, and ask the gentleman from Ohio to withdraw the motion to close debate.

Mr. GARFIELD. I withdraw the motion.

Mr. SMITH. I hope the gentleman from Ohio will allow me to say a word on this subject.

Mr. GARFIELD. I yield to the gentleman from Massachusetts, [Mr. ELIOT.]

Mr. ELIOT. Mr. Speaker, I desire to state two or three facts in connection with the quota of Massachusetts which may as well be stated now as at any other time. During the whole period of this war there have been called for from Massachusetts 117,624 men. In the early period of the rebellion the government of Massachusetts used every exertion in its power to induce the War Department at Washington to receive more men than were called for from the Commonwealth. The number of men who have been furnished by Massachusetts is 125,437, making a surplus over all calls of 7,813 men.

But, sir, that does not state the whole facts. The number of men credited to Massachusetts up to October, 1863, was 75,608; but, reduced to the standard of three-years men, it was 58,898.

Mr. GANSON. I would like to inquire of the gentleman from Massachusetts how many of these men were negroes of the South?

Mr. ELIOT. Colored people from the South?

Mr. GANSON. Yes; and from other States than Massachusetts.

Mr. ELIOT. Massachusetts has furnished 125,437 men. All of the colored men credited to Massachusetts and all foreign recruits credited to her, including about 5,000 men enlisted to her credit in the Veteran Reserve corps and regular Army, fall short of 10,700 men.

Mr. NOBLE. I ask the gentleman from Massachusetts if he does not know that the fifty-fourth and fifty-fifth regiments of Massachusetts colored troops are from Ohio and other western States.

Mr. ELIOT. No, sir; I know no such thing. I state what the record authorizes me to state.

Mr. NOBLE. Well, I know it.

Mr. ELIOT. I cannot be interrupted now.

I repeat, if the gentleman will permit me, that there have been, including all foreigners and including all colored persons, and including 5,000 veteran reserves and men in the regular Army, less than 11,000 men enlisted in her regiments, out of between one hundred and twenty-five and one hundred and twenty-six thousand, and many of

the veteran reserves are citizens of our State. And let me say here that there have not been a thousand men put into the Army from Massachusetts, but very little over nine hundred, who were foreigners brought here for that purpose.

And I will state one more fact. There has not been one man brought from any part of the world whom the government of Massachusetts has had any agency in bringing here. Whatever has been done has been done by individual action. The applications that have been made to Massachusetts from abroad have been invariably refused. The Governor of Massachusetts has had no connection whatever with it. If I had time I could state more particularly than it is necessary to do now the precise manner in which these men have been brought into the country. But the State of Massachusetts has had no connection with it. Without allowing for the reenlistments Massachusetts has sent more men into the service than can be found now within her boundaries between the ages of eighteen and forty-five. She has sent 20,000 more men than are now in the State liable to do military duty.

If the gentlemen desire to ask me any other questions in connection with the Commonwealth of Massachusetts, I am ready to answer.

Mr. EDEN. I wish to ask the gentleman from Massachusetts [Mr. ELIOT] to state the number of men that Massachusetts has been required to furnish under the recent call.

Mr. ELIOT. When the call was made there was but a very small number of men which the State could be called upon to furnish, because of the surplus that she had before furnished. There were several thousands of surplus. But it so happened, because of the manner in which the men are called for, that there are in Massachusetts two districts where they are deficient some 805 men. But the State as a State stands far ahead of the call.

Mr. EDEN. Will the gentleman inform the House what was the quota assigned to Massachusetts under the recent call?

Mr. ELIOT. Under the call of July, 1864, it was 21,670 men.

Mr. EDEN. What was it under the call of December 19, 1864?

Mr. ELIOT. I do not think I can give that to the gentleman accurately. I have not the data here from which to give it.

Mr. SMITH. I think this is a very important subject. I wish to take up the idea suggested by the gentleman from Pennsylvania [Mr. STEVENS] and make some inquiries in regard to it. The distribution of the quotas, in the first instance, under the call for 500,000, and then under the last call, seems to be very strange, and one for which I cannot account. I know the idea has prevailed, to some extent among some men, that the State which I have the honor in part to represent bears a twofold relation to this great struggle. I know that she has furnished an army to the rebellion; I know that she has furnished an army to the Union; I know that we have men there who sympathize with the rebellion on the one side, and men whose sympathies are all with the Union on the other side. I know that under every call which has been made upon the State of Kentucky by the Government for troops to fill up the ranks of the Union Army, my State has uniformly come forward and furnished whatever quota was demanded of her. Under the call for 500,000 men Kentucky was called upon to furnish twenty-odd thousand men. I do not know what were the circumstances under which that quota was filled in other sections of the State, but I do know that in my own district our people came forward, and outside of the draft, regardless of the draft, with their own means and by their own exertions, with a determined patriotism and purpose to assist the Government in putting down this rebellion, they filled up the quota they were then called upon to fill. In my own county, the county of Kenton, we were called upon for 248 men under the call for 500,000 men. Under the call for 300,000 men we were called upon to furnish 315 men.

Now, I cannot for my life understand how that can be explained. I would like to have some member of the Military Committee, or some gentleman who understands the rules that apply to the apportionment of the draft, who has access to the Provost Marshal General, or who can obtain a private conversation with the Secretary of War,



or with those who distribute the draft throughout the country, to explain to the House how this is. I have felt a strong interest in this matter. I have felt a desire that my own people should be represented in the Army; that every man who is called upon to go should go, in order that the ranks of our armies should be filled. I have been in the provost marshal's office from day to day, and from week to week; I have gone over the county urging our people to come forward and fill up our quota by volunteering; and I know, by personal observation, that under the call for 500,000 men, of the hundreds who came in and claimed exemption, according to rules laid down by the board, not more than three or four men out of every twenty were deemed fit for military duty, according to the rules prescribed by the War Department. Every man within the ages prescribed by the law had been enrolled. Every man who was drafted was notified to come up to the office of the provost marshal and present himself for examination, to see whether he was physically and mentally qualified to go into the Army, and I say that upon that examination, throughout my whole district, and I believe within the State of Kentucky, fifteen out of twenty were found to be disqualified.

Now, if that was found to be so upon a quota of 258 men under the call for 500,000, what are we to do under the call for 300,000 men, when they demand of us 315 men? You may go into my district and you will find there hundreds and thousands of people moving about attending to their business, upon their farms, in their stores, offices, &c., and out of that number you have called, and you call again for men until you have taken almost every man who is able to bear arms in defense of his country.

Now, men seem to forget that we in the State of Kentucky occupy a peculiar position. Men upon this floor seem to forget that we stand upon the border; that the State of Kentucky is the great barrier between the southern confederacy and the North. Men seem to forget that the State of Kentucky, lying upon the Ohio river, has a border of seven hundred miles between the southern confederacy and the North. Men of Ohio, men of Indiana, men of Illinois, men of States further east, men of the New England States, all seem to forget that the loyalty of Kentucky has saved them from depredation, from waste, from war, bloodshed, and ruin. They seem to ignore in all their legislation the loyalty of the people who have stood as a mighty bulwark between the wrong and the right.

Mr. Speaker, however much it may be to me a source of keen regret that hundreds and thousands of our people have gone into rebellion, have fought against this Government, have trampled beneath their feet the glorious emblem of our liberties, there is, notwithstanding all that, a feeling that wells up in the bosom of every loyal man in that State, and makes him feel thankful to God that we have had seventy thousand gallant and noble men in the field who have spilt their blood on many a battle-field, from Bull Run to Atlanta, and from Atlanta to Charleston and Wilmington. They have stood side by side with Illinoisans, Indianians, Ohioans, New Englanders, New Yorkers, everywhere giving testimony of their bravery and their patriotism. Yet there is, I am sorry to say, a disposition on the part of some Representatives here to sneer at and degrade the proud old Commonwealth that I have the honor in part to represent. Let men say what they please, while I love my country I love also my State, and he who is an enemy of my State is my enemy, politically and personally.

[Here the hammer fell.]

Mr. ELIOT. I was asked just now how many colored troops have been credited to Massachusetts. I desire to say that the colored troops credited to Massachusetts during this war, including the fifty-fourth and fifty-fifth infantry, the fifth cavalry and their recruits, amount, all told, at home and abroad, to 4,371.

Mr. STEELE, of New York. Mr. Speaker, I move to amend the amendment of my colleague [Mr. KERNAN] by inserting after the word "State" in the next to the last line, the words "and congressional district."

I make this motion for the purpose of being able to say a few words in support of the amend-

ment presented by my colleague, which, in my judgment, is eminently sound and proper. It is true that I have not favored this system of conscription; and one reason why I have not favored it is because it operates, and necessarily and unavoidably must operate, unequally. As a measure for supplying our armies with reliable men by direct draft, it has proved, as many of us believed it would, a practical failure; as a measure of taxation it is notoriously and undeniably unjust, unequal, and oppressive; and I verily believe that if the system of volunteering had been continued we would have been much more successful in filling our armies, and would have secured a much better class of men, at a greatly reduced expense and a more equal distribution of the inevitable burdens of the war.

It is well known, as was stated by my colleague, that under the recent calls it has been simply a question of money and not at all a question of men, except so far as the number called for affected the amount of money to be raised. And when the distinguished gentleman from Ohio, the chairman of the Military Committee, undertakes to laugh down here a proposition which, upon the idea assumed by my colleague that conscription simply means taxation in another form, is clear to the common sense of every intelligent man as any proposition can be, I think that gentleman would much better sustain respect for himself and the dignity of this House if he would attempt to answer it by some legitimate argument. Why, sir, if the gentleman can and will tell us it was not money that filled the quotas on these last calls, then there might be some propriety in his attempt to laugh at my colleague when he proposes that they shall be filled hereafter somewhat in proportion to representation and legitimate taxation, instead of compelling poor men, where there happens to be many of them in localities of little wealth, to pay much more than is demanded of rich men in localities where not so many are liable to the draft.

The gentleman from Massachusetts complains that their young men have gone off to the West.

Mr. ELIOT. No, sir, I do not complain of it at all.

Mr. STEELE, of New York. The gentleman complained that they of Massachusetts are subjected to hardships on that account. Now, sir, I am not one of those who desire to cast any slings at Massachusetts. It is true enough that Massachusetts has been brought up here in the course of argument oftentimes, by way of illustration, without any ill-feeling toward that State or the gentlemen who represent it here. One reason, doubtless, why Massachusetts has been often alluded to in that way is, that she is a State exercising perhaps as great an influence in the councils of the nation, in this momentous crisis of our country, as any other. She is represented in both Houses of Congress entirely by men who sympathize with the Administration in their political views; and in consequence of her great wealth, in consequence of the great power of her statesmen, and undivided front of representation, she does exercise an influence in the councils of the nation which might well cause the other States to look on at least with apprehension. And since it is undeniable that the burdens she bears, particularly in reference to the draft, are in no manner commensurate with her position, influence, and continually increasing wealth, therefore it is not strange that gentlemen should refer to Massachusetts as a wonderfully favored portion of the country.

If the men of Massachusetts go to the West, who are they that go? Are they the men of wealth and capital? Are they the men who from over-filled coffers can afford to buy up substitutes to represent them in the Army? The poor young men who go to the West to seek their fortunes are of course liable to military duty, and thus Massachusetts is relieved from the draft to that extent. So long as the volunteer system was in vogue the young men of the country, without regard to location, sprang forward to enter as a matter of patriotism into the service of the country. When this system of draft was established the spirit which prompted volunteering was substantially extinguished, and then it became a question of dollars and cents. While the volunteering system was continued, the necessity of paying proper respect to the popular will in order

to fill our armies operated as a check upon the unwise and visionary schemes of extreme men, and no doubt that was the prompting reason why they desired to abandon volunteering and resort to conscription.

I know it was said that the volunteering was also unequal, as the more patriotic sections furnished an undue proportion of men. That difficulty, however, could have been obviated by demanding of each State its due proportion in accordance with certain suggestions I had the honor to urge upon the consideration of this House while the first conscription bill was under discussion. There is no justice and no reason why a poor State, which has a great many poor men, should be called upon to pay large sums of money, or compel her citizens to abandon their families to the tender mercies of common charity, or even more degrading pauperism, while a rich State, with men of overgrown fortunes, can skulk behind the women and children, and by claiming inferiority of numbers of such as are liable to draft, throw the burden upon the poor men of the poor States.

I withdraw my amendment, and yield the floor, according to agreement, to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK moved that debate be closed.

The motion was agreed to.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 91, not voting 40; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Coffroth, Cox, Dawson, Denison, Donnelly, Eden, Edgerton, Eldridge, Finck, Ganson, Harding, Horrick, Hutches, Kabisch, Kernan, Knapp, Law, Long, Marcy, McAllister, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Putney, Radford, Samuel J. Randall, James S. Rollins, Ross, John B. Steele, Stiles, Strouse, Stuart, Townsend, Voorhees, Clifton A. White, Winfield, and Fernando Wood—51.

NAYS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, Bailey, John D. Baldwin, Bennett, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Ambrose W. Clark, Clay, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Dixon, Driggs, Dumont, Eckley, Elliot, English, Farnsworth, Frank, Garfield, Gooch, Grider, Griswold, Higby, Hotchkiss, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Lazear, Littlejohn, Loan, Longyear, Mallory, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomerooy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Smith, Smithers, Stevens, Thayer, Thomas, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, Wheeler, Williams, Wilder, Wilson, Woodbridge, Worthington, and Yeaman—91.

NOT VOTING—Messrs. William J. Allen, Alley, Baxter, Freeman Clarke, Cravens, Cresswell, Dawes, Grinnell, Hale, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hooper, Asahel W. Hubbard, Philip Johnson, William Johnson, Julian, Kason, Knox, Le Blond, McDowell, McIndoe, Amos Myers, Nelson, Alexander H. Rice, Robinson, Rogers, Spalding, Starr, William G. Steele, Sweat, Upson, Wadsworth, Ward, Webster, Joseph W. White, Windom, and Benjamin Wood—40.

So the amendment was rejected.

The Clerk read the eighth section, as follows:

Sec. 8. And be it further enacted, That it shall not be lawful for any person, either by himself or in partnership or connection with others, to engage in the business of procuring recruits or substitutes, as an agent, substitute broker, or otherwise, for money or profit, without having first obtained from the Secretary of War authority in writing; and such authority shall in no case be granted except upon personal application of the party seeking to be so authorized, and on his first filing, to the satisfaction of the Secretary of War, proof of his loyalty and good character, and that he is a citizen of the United States, and on his giving bond to the United States, with sufficient and approved security in the sum of \$50,000, that he will faithfully observe and obey all laws and regulations in force, or that may be in force or established hereafter, governing the obtaining of recruits or substitutes; but the provisions of this section shall not apply to any person who may engage as agent or member of a committee or association in obtaining recruits or substitutes within the sub-district in which he himself resides, and to aid in filling the quota of said sub-district.

Mr. RANDALL, of Pennsylvania. I move to strike out the word "personal" before the word "application." It requires that the man shall apply in person. He may be well recommended, and I do not see any reason for requiring that he shall be personally present.

Mr. SCHENCK. It was put in with a design. Its object was to throw as many obstacles as possible in the way of substitute brokers.

Mr. RANDALL, of Pennsylvania. I would wipe them all out.

Mr. SCHENCK. They are recognized as an existing institution, and they are taxed in the tax bill. But I thought it well enough that they should come here and show what manner of men they are.

Mr. RANDALL, of Pennsylvania. That would sometimes be inconvenient; and I think the gentleman, upon consideration, will allow my amendment to come in.

Mr. SCHENCK. I have no power to accept this amendment, as this bill is a report from a committee.

Mr. RANDALL, of Pennsylvania. Then I rely upon the House to adopt it.

The amendment was not agreed to.

Mr. BLAINE. I move to amend by inserting the following, as an additional section:

*And be it further enacted*, That persons who have been, or may hereafter be drafted, under the provisions of the several acts to which this is an amendment, for a term of one year, and who have actually furnished or may actually furnish accepted substitutes not liable to draft, for a term of three years, shall be exempt from military duty during the term for which such substitutes shall not be liable to draft, not exceeding the time for which such substitute shall have been mustered into the service, anything in the fifth section of the act of February 24, 1864, to the contrary notwithstanding.

I desire to explain briefly the effect and object of this amendment. Under the fourth section of the act of last winter, any person could put in a substitute and get a certificate of exemption for the time the substitute was mustered into the service. Gentlemen were drafted for one year under the call, and without scanning the provisions of the law closely, very many men put in substitutes for three years. But a critical examination of the law revealed the fact that the provost marshal could not give them certificates of exemption beyond the term for which they were drafted. Therefore, having put in substitutes to a great extent for three years, they could not get certificates of exemption for more than one year. This amendment cures that evil for the past and the future.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its Clerks, announced that the Senate had passed bills of the House of the following titles:

An act (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes;

An act (H. R. No. 738) relating to the enrollment and license of certain vessels;

An act (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor;

An act (H. R. No. 783) concerning the collection district of Salem and Beverly, in Massachusetts; and

An act (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 472) for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; and

An act (S. No. 465) to create the office of Solicitor and Naval Judge Advocate General.

#### ENROLLMENT ACT—AGAIN.

Mr. RANDALL, of Pennsylvania. I move to amend the amendment of the gentleman from Maine [Mr. BLAINE] by striking out the word "substitutes" and inserting in lieu thereof the word "certificates."

Mr. BLAINE. That amendment would open all the evils of paper credits. My amendment deals with actual men.

Mr. RANDALL, of Pennsylvania. That is not my intention.

Mr. STEVENS. I rise to a question of order. Is not this a motion to strike out what we have already inserted?

The SPEAKER. It is not.

Mr. SMITH. I would inquire how, under his amendment, the gentleman would be able to prevent frauds.

Mr. RANDALL, of Pennsylvania. Certifi-

cates of substitutions are received under authority of law. A man may have been drafted, may have furnished a substitute, and lived up to the spirit and letter of the law; and I do not wish this Congress to be behind the spirit and letter of the law.

Mr. SMITH. I would inquire of the gentleman whether he remembers the frauds which have been perpetrated under these certificates.

Mr. RANDALL, of Pennsylvania. I have nothing to do with frauds. Perhaps they have been concocted in Kentucky.

Mr. JOHNSON, of Pennsylvania. I am opposed to the amendment of the gentleman from Maine, [Mr. BLAINE.] In regard to this matter of paper credits, I differ from the opinions of the gentleman from Kentucky, [Mr. SMITH,] as I understand them. I hold that where the party himself has had nothing to do with the frauds he is not to be held responsible. If I understand the system under which these fraudulent certificates were issued, it is this: Government officers themselves have issued them, and parties have bought them. I understand that parties have them to sell, under the regulations and authority of the Department. I do not see why the purchaser of one of these certificates, even if it have been obtained by fraud, shall be ousted of his rights.

Mr. SMITH. I ask whether the rule is not this, that when a drafted man appears at the provost marshal's and offers a substitute, and when that substitute is examined and received, but deserts before being mustered in, the drafted man or the district shall be held responsible?

Mr. JOHNSON, of Pennsylvania. Neither of them.

Mr. SMITH. Then I should like to know what good the evidence of the provost marshal's office does that the principal has furnished a substitute and that the substitute has been examined and accepted. You give a paper man where the Government should have a real man.

Mr. JOHNSON, of Pennsylvania. That is not the case I pointed to. I understand the practice to have been to permit men to put in substitutes and to give them certificates of the fact, which certificates they had a right to transfer to people in any section of the country. I heard a substitute broker say, the other day, that he had six certificates for substitutes under a former call, which he would sell at \$500 each. I understand that that has been the practice under the authority and regulations of the War Department.

Mr. SCHENCK. Do I understand the gentleman from Pennsylvania to say that it has been the practice for brokers to obtain certificates and sell them to any persons?

Mr. JOHNSON, of Pennsylvania. I understand so.

Mr. SCHENCK. Well, that is a form of fraud and rascality that I have not heard of before. Some new system of fraud turns up with these fellows every day.

Mr. JOHNSON, of Pennsylvania. Certificates under a former draft can be had, I understand, at \$500 apiece.

Mr. SCHENCK. Certificates are given as personal to the individual drafted and to nobody else. To sell them to anybody else would be a fraud all around.

Mr. SMITH. I should like to ask the gentleman from Pennsylvania where that substitute broker resides and does business.

Mr. JOHNSON, of Pennsylvania. In this city.

Mr. SMITH. What is his name?

Mr. JOHNSON, of Pennsylvania. If you want frauds connected with this thing, you may go to the provost marshal's office and discover any quantity of them. If you want frauds I will show you worse things than that. But, sir, I rose for the purpose of inquiring of the gentleman from Maine [Mr. BLAINE] whether the proposition that he now offers will not interfere with the proposition offered by my colleague, [Mr. STEVENS.]

Mr. BLAINE. It will not; and the gentleman himself will tell you so.

Mr. JOHNSON, of Pennsylvania. I understood that proposition to provide that parties putting in substitutes shall not be responsible for them.

Mr. BLAINE. This in no way interferes with it.

Mr. JOHNSON, of Pennsylvania. Then I have no objection to this amendment.

Mr. BLAINE. There is not the least objection to the amendment. The gentleman from Pennsylvania [Mr. STEVENS] has himself examined it.

Mr. SCHENCK. I move to close all debate on the section and on the amendments thereto.

The motion was agreed to.

The question was taken first on Mr. RANDALL's amendment to the amendment, and it was rejected.

The question recurred on Mr. BLAINE's amendment, and it was adopted.

The House proceeded to the consideration of the ninth section, as follows:

SEC. 9. *And be it further enacted*, That any recruiting agent, substitute broker, or other person, who, for pay or profit, shall enlist, or cause to be enlisted, as a volunteer or substitute, any insane person, or convict, or person under indictment for a felony, or who is held to bail to answer for a felony, or person in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such, or who shall defraud, or illegally deprive any volunteer or substitute of any portion of the State, local, or United States bounty to which he may be entitled, shall, upon conviction in any court of the United States having competent jurisdiction, be fined not exceeding \$1,000, nor less than \$200, or imprisoned not exceeding two years, and not less than three months, or both, in the discretion of the court aforesaid.

Mr. DAVIS, of New York. I move to amend the section by inserting after the word "service," the words "or any minor between the ages of sixteen and eighteen years, without the consent, express or implied, of his parents or guardians, or any minor under the age of sixteen years."

The amendment was adopted.

Mr. DAVIS, of New York. I move to amend the clause which now reads "knowing him to be such," by inserting after the words "knowing him," the words "in either of the cases before mentioned."

The amendment was agreed to.

Mr. JOHNSON, of Pennsylvania. For the purpose of making some inquiries, I move to strike out the whole of section nine. I would inquire of the chairman of the Committee on Military Affairs [Mr. SCHENCK] whether this section is intended to deprive or prevent the substitute broker from taking any part of the local bounty as a fee for his services; to prevent him from receiving any compensation whatever for his services?

Mr. SCHENCK. He can make what outside bargain he pleases. But he is not to finger the bounty; that is to be paid directly to the party himself. This section is precisely like a section which has already been passed by the Senate in their bill.

Mr. JOHNSON, of Pennsylvania. I would not care particularly about the language of the section if I was satisfied it would be properly construed by the small courts-martial. But I confess that, so far as my observation has gone, I have not a great deal of confidence in them. It seems to me that the language of the section as it now stands will be liable to very great abuse. It reads:

That any recruiting agent, substitute broker, or other person, who for pay or profit shall enlist, or cause to be enlisted, as a volunteer or substitute, any insane person or convict, or person under indictment for a felony, or who is held to bail to answer for a felony, or person in a condition of intoxication, or a deserter from the military or naval service, knowing him to be such, or who shall defraud, or illegally deprive any volunteer or substitute of any portion of the State, local, or United States bounty to which he may be entitled, shall, upon conviction, &c.

The question will arise, what is illegally depriving a party of any portion of the bounty to which he is entitled? The chairman of the Military Committee says that the taking any portion of it whatsoever is illegally depriving the person enlisted of that bounty, and will subject the person taking it to the penalties of this section. That would at once be an improper construction to start with.

Mr. SCHENCK. I do not see any of the difficulties of which the gentleman speaks. This section applies only to cases where they defraud or illegally deprive the substitute of his bounty. That will affect no legitimate contract made with him for the disposal of any portion of his bounty. It only prevents the broker from appropriating the bounty to his own use, without having any legitimate contract with the substitute. The truth is that in very many cases the substitute broker gets all, or nearly all, the bounty.

Mr. JOHNSON, of Pennsylvania. I am aware of that.

Mr. SCHENCK. And the recruit or substitute gets very little of it. I think the words used are safe enough.

Mr. JOHNSON, of Pennsylvania. I withdraw my motion to strike out the section.

The tenth section was then read, as follows:

Sec. 10. *And be it further enacted*, That any officer who shall muster into the military or naval service of the United States any deserter from said service, or insane person, or person in a condition of intoxication, knowing him to be such, shall, upon conviction by any court-martial, be dishonorably dismissed the service of the United States.

Mr. RANDALL, of Pennsylvania. I move to amend this section by inserting before the words "court-martial," the words "civil court or."

Mr. SCHENCK. I would suggest to the gentleman from Pennsylvania [Mr. RANDALL] that this section applies only to officers in the military service. It does not apply to the trial of civilians at all. Substitute brokers and others, not in the military service, are to be tried, under the provisions of the preceding section, before civil courts. But if any officer of the Army commits the offense described in this section, he is to be tried by court-martial.

Mr. RANDALL, of Pennsylvania. I will withdraw my amendment.

Mr. THAYER. I move to insert after the words "in a condition of intoxication" the same words inserted in the preceding section on the motion of the gentleman from New York, [Mr. DAVIS], "or any minor between the ages of sixteen and eighteen years without the consent, express or implied, of his parents or guardians, or any minor under the age of sixteen years."

Mr. SCHENCK. I hope the gentleman will strike out the words "express or implied." Let it be the actual consent of parents or guardians.

Mr. THAYER. I accept the modification.

The amendment, as modified, was adopted.

Mr. DAVIS, of New York. I desire to say that in preparing the amendment I offered to the preceding section I adhered to the language used in the existing law upon that subject. If that language is objectionable, it is the fault of the existing law. I ask unanimous consent to modify that amendment by striking out the words "express or implied."

No objection being made, the amendment of Mr. DAVIS, of New York, to section nine, was modified accordingly.

Mr. PRICE. I move to insert the following as an additional section:

*And be it further enacted*, That any person, who shall have been drafted, who shall offer as a substitute any deserter or insane person, knowing him to be such, shall, upon conviction by any court-martial, be fined in a sum not exceeding \$1,000, nor less than \$300, or be imprisoned not exceeding two years, nor less than six months, in the discretion of the court.

Mr. SCHENCK. I have a section on that subject which has been prepared with a great deal of care, which I will offer as a substitute for the section proposed by the gentleman from Iowa, [Mr. PRICE.] It is as follows:

*And be it further enacted*, That in every case where a substitute is furnished to take the place of an enrolled or drafted man, and it is shown, by evidence that shall be satisfactory to the Secretary of War, that such substitute, at the time of his enlistment, was known to the party furnishing him to be *non compos mentis*, or in a condition of intoxication, or under conviction or indictment for any offense of the grade of felony at the common law, or to have been guilty of a previous act of desertion, unsatisfied by pardon or punishment, or, by reason of any existing infirmity or ailment, physically incapable of performing the ordinary duties of a soldier in active service in the ranks, it shall be the duty of the Provost Marshal General, on advice of the fact, to report the same to the provost marshal of the proper district; and if such person so enlisted and incapable shall have been, since the passage of this act, mustered into the service as a substitute for any person liable to draft and not actually drafted, the name of the person so liable, who furnished such substitute, shall be again placed on the list, and he shall be subject to draft thereafter as though no such substitute had been furnished by him; and if such substitute, so enlisted and incapable as aforesaid, shall have been, since the passage of this act, mustered into the service as a substitute for a person actually drafted, then it shall be the duty of the Provost Marshal General to direct the provost marshal of the proper district immediately to notify the person who furnished such substitute that he is held to service in the place of such substitute, and he shall stand in the same relation, and be subject to the same liability, as before the furnishing of such substitute.

Mr. PRICE. I accept that amendment as a substitute for mine.

Mr. SCHENCK. The bill as originally reported, provided, as will be recollected, for hold-

ing principals liable for their substitutes. That provision seemed so objectionable to a majority of this House that it was voted down. What is now proposed, however, proceeds upon a different principle, takes another element into the calculation. The section which I now offer proposes to provide that if a substitute should prove to be insane, or in a condition of intoxication at the time when he is put in, or if he be a convict, or a person physically disqualified for the service, and if it be shown by proof satisfactory to the head of the Department (for there must be somebody to judge of this matter) that the principal knowingly practiced this imposition upon the Government, then the principal shall be held liable, though not in other cases. If the principal has only been enrolled he is only returned for the enrollment; if the principal has been not only enrolled but drafted, then he is held as a drafted man; but in neither case does any liability attach to the principal except upon proof of this fraud, this imposition, practiced upon the officers of the Government.

Mr. SMITHERS. The gentleman from Ohio in his remarks has not referred to the fact that the substitute might prove to have been a deserter. Is that included in the amendment?

Mr. SCHENCK. That is included. The amendment provides that the principal shall also be liable if at the time of putting in the substitute he knows him to have been guilty of a previous act of desertion not satisfied by pardon or punishment.

The gentleman from Pennsylvania [Mr. STEVENS] offered yesterday an amendment, which, to my surprise, was adopted by this House, holding the Government concluded on all occasions where a substitute is received and mustered in. The gentleman claimed that such a provision is proper because the enrolling board and the surgeon who makes the examination represent the Government, and the substitute being accepted by their sanction, with their approval, they acting as agents of the Government, the Government ought to stand entirely concluded and cut off from any further objection subsequently. Now, the obvious answer to that is that these enrolling officers are but human and are liable to be imposed upon. There is no doubt fraud enough, and too much by a great deal, among those who represent the Government; the agents of the Government are often parties to the frauds committed upon it. This does not touch such cases. But where the party furnishing the substitute practices an imposition upon the Government by furnishing a substitute knowing him to be disqualified, it is very hard to insist that the Government shall be held responsible, and that the mustering in shall not be set aside on account of the fraud.

It is a fact which has come to the knowledge of every one who has investigated this subject, as have the Committee on Military Affairs, that there are scores of cases where persons put in as substitutes have been subject to epileptic fits, totally disqualified for the service, and have been sent to the hospitals and discharged within a few weeks after entering the service. Yet at the time when they were mustered in there was no appearance of any such disqualification. As I am not a member of the medical profession it is not for me to say how a surgeon could be thus imposed upon; but I presume, from facts which have come to my knowledge, that even a well-meaning and skillful surgeon may be imposed upon in the case of an epileptic. However that may be, epileptics have been received in many cases; their unfitness for the service has been afterward discovered, although they had passed an examination; and this in cases where the proof was clear and distinct that the party who produced the substitute had known for years that the substitute was thus epileptic. Lunatics have been received during a lucid interval, and afterward, falling into their paroxysms, have necessarily been discharged.

Now, without going further into particulars, the section which I propose provides for all cases of this kind, where fraud is practiced upon the officers representing the Government. It proposes that the Government shall not, at least in these cases, be held liable, but that the penalty for this willful imposition practiced upon the Government shall be that the enrolled or the drafted man, as the case may be, shall take his place upon the

rolls or in the draft, in the same manner as if he had not furnished a substitute.

Mr. RANDALL, of Pennsylvania. I will admit the insanity when the fanaticism is admitted by the gentlemen themselves. But I do not care to find myself in such strange company. There is a proviso here which gives the right of judgment to the provost marshal as to whether a man is crazy or not.

#### ENROLLED BILL.

Mr. COBB reported that the Committee on Enrolled Bills had examined and found truly enrolled an act (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada; and for other purposes; when the Speaker signed the same.

#### ENROLLMENT BILL—AGAIN.

Mr. STEVENS. I move to strike out the last word. Mr. Speaker, this is reenacting what we struck out yesterday. It is the same in substance. The Government of the United States appoints the board of enrollment. It is composed of one military officer, one surgeon, and one intelligent citizen. Their duty is to examine all who are offered as substitutes, as well as others. They go into an examination and render a judgment, and on that judgment the substitute is accepted and the principal pays his money. After the substitute has been examined and accepted, we have decided that that shall be the end of the liability of the principal. I think that we decided rightly.

The gentleman wants a new trial. He proposes that litigation shall never end; that a man who has furnished a substitute and has paid his money, after a thorough examination, shall be again liable. There is to be no repose. They are to go before a tribunal thousands of miles away. In the case of a substitute put in at St. Louis or Portland, the tribunal to reverse it is to sit here in Washington; and the principal is required to come here, after doing all that the law required, to answer a charge of having fraudulently put in a substitute.

It seems to me that we are making this bill more odious, if possible, than it was originally. It is vexatious, perplexing, oppressive to the people, and I hope that the amendment will not be adopted. I should be sorry to be compelled to vote against the bill, for it contains some good provisions in regard to substitute brokers.

Mr. WILLIAMS. Mr. Speaker, I agree today with my friend from Ohio, and yesterday I differed with him; and I differ with my colleague to-day although I agreed with him yesterday. I think there is no analogy between the two sections. The case proposed yesterday was that the principal was held responsible where he was without default; in other words, that the soldier was under the charge of the officers of the Government, who were armed with ample power to prevent him from deserting, and bound to hold him in custody. I agreed with my friend from Pennsylvania that it would be at violence with the first principles of natural justice to hold the principal responsible when he had incurred no default whatever, and when the whole default was on the part of the Government itself. What is this case? The amendment proposes, as I understand, to cover those cases where a court of equity would interfere.

Mr. STEVENS. Will my friend allow me to ask him whether there could not be some mode of trial adopted? Is it to be the mere *ipse dixit* of the Secretary of War?

Mr. WILLIAMS. I answer the gentleman in this way: the fact of the Secretary of War being an officer of the Government does not disqualify him as a judge presiding in cases of this sort. To make them efficient they must necessarily be of a summary character. I am sure that my friend will recognize the necessity for jurisdiction of that kind in many civil cases. In controversies in our courts, where the Government is one party and an individual another, the jurisdiction must necessarily be summary. There may be errors in the administration of justice in all courts, sometimes hardships, and sometimes injustice. But I suggest, again, that the only question here is whether a party who has made a contract with the Government upon fraudulent representations shall be allowed to enjoy the advantages of that contract when no consideration has passed from him? And I ask my friend from Pennsylvania



[Mr. THAYER] whether there is a court of equity in the United States that would not adjudge a contract of that description void under the circumstances stated? Fraud violates all contracts. That is a well-settled principle and rule of law; and that is all this amendment proposes.

Mr. STEVENS withdrew his amendment to the amendment.

Mr. THAYER. I renew the amendment. There is considerable force in the suggestion of my colleague from western Pennsylvania, [Mr. WILLIAMS,] but then the difficulty, it strikes me, is this: the party who is to decide upon the facts is one of the parties interested in the question to be decided, and he is to decide it after the military fashion, in a very summary manner.

Mr. WILLIAMS. Is there any difference between this case and that of a judge sitting upon the bench in any court of the United States on a case in which the United States is a party?

Mr. THAYER. That case, I will say to the gentleman, is by no means analogous to the one which will arise under this amendment. It will be left to some military officer of the Government, and that officer, in his natural desire to prevent any dishonest evasion of the law, may feel called upon to put a very rigid construction upon the conduct of the person who put in the substitute. He may set up a rule which will subject the people of this country to very great inconvenience or oppression. He may, as has already been said, compel parties to travel hundreds of miles to this capital to prove their innocence of that which is laid to their charge.

Now, sir, I think the whole error involved in this proposition, and in the proposition of yesterday to change the law upon this subject, consists in supposing that after the Government has accepted a substitute, there remains the slightest shred of the relationship of principal and agent between the man who has furnished the substitute and the substitute himself. There is, after the examination and acceptance of the substitute, no such relationship at all. The substitute is not the agent of the man who puts him in. He is his substitute; that is, (as the word implies,) he stands in his place. The party drawn has fulfilled the requisition of the law; he has satisfied all its demands. There is, then, no relationship of principal and agent between these men.

Mr. A. MYERS. Does my colleague believe that a lunatic owes military service to the country?

Mr. THAYER. It is hardly necessary to answer that question.

Mr. A. MYERS. Then if a man puts a lunatic into the service, has he who furnished such a substitute given anything to the Government?

Mr. THAYER. The gentleman could not have listened to my remarks, or he would have understood that I do not controvert the general proposition that a man who willfully and fraudulently imposes on the Government a man unfit for military duty should be punished for it. That is not the question before the House.

Mr. DRIGGS. That is just this proposition.

Mr. THAYER. No, sir. I beg pardon. The proposition contained in the amendment of the gentleman from Ohio [Mr. SCHENCK] is that the Government shall decide upon the guilty knowledge of the citizen who furnished the substitute, not according to the forms of law provided for the punishment of criminal offenses, but in a summary and military manner. That is an authority which I will not by any vote of mine give to the military officers of the Government.

I am asked by the gentleman from Delaware near me [Mr. SMITHERS] who I propose shall decide this question. I do not propose that there shall be any one to decide it at all, because I am opposed to the incorporation of such a provision in this bill. I believe it to be unwise and unnecessary. I believe that the only proper foundation upon which the law in regard to substitutes can rest is that upon which it now stands; that is, when a man who is liable to military duty has furnished his substitute, and when the agent of the Government expressly employed and paid to examine that substitute, in order to see that his qualifications come up to the requisitions of the law, has decided upon his competency, it is unwise and impolitic to go back of that transaction, and to give to an officer of the Government the power to decide in a summary manner, and without the

usual forms of trial which shield the citizen from arbitrary authority, the question whether the drafted man knew the defects of the substitute furnished. I think it would be very unwise to make any such alteration in the enrollment law as that which is now proposed. I think it would be most distasteful to the people of this country, and perhaps very unjust and oppressive in its operations. I think that, so far from its being an improvement upon the law, it will bring reproach upon it. I therefore hope the House will vote it down as emphatically as they yesterday voted down the original proposition to make the citizen responsible for the conduct of the substitute after he is mustered into the service.

Mr. SCHENCK. Mr. Speaker, I confess to a great deal of surprise at the vehement manner—and I do not put the phrase too strong—of the gentleman from Pennsylvania.

Mr. THAYER. If my manner is not personally offensive to the chairman of the Committee on Military Affairs, I do not know that it is a proper subject of public comment.

Mr. SCHENCK. I do not know that I have said anything offensive in characterizing his manner as vehement.

Mr. THAYER. It is personally offensive.

Mr. SCHENCK. Not at all personally offensive, nor was I saying anything personally offensive to the gentleman from Pennsylvania. I was about to remark, what I shall not be prevented from remarking, when interrupted, that I was surprised at the vehement manner in which a proposition of this kind is opposed by a gentleman whom I know to be rated, and justly, I presume, as a good equity lawyer. And yet, with an earnestness which does seem to me very remarkable, he takes the position that no frauds practiced on the agents of the Government can be punished by the Government, but that the Government must submit to the consequences. I was surprised, in the first place, that a good lawyer should maintain a position of that kind. I was further surprised that he should be so earnest in that remarkable doctrine as his vehemence of manner showed him to be. Take his argument in its length and breadth, and it is nothing but this—that, so far as the Government is concerned, it shall not be relieved, even as against fraud, but shall be concluded by the acceptance, on the part of its agents, of any substitute, no matter who or what he may be; no matter how totally unfit for the service; no matter how entirely concealed that unfitness was, so that the examining officers could not detect it and thus prevent his being accepted.

Now this, permit me to say to the other gentleman from Pennsylvania, [Mr. STEVENS,] is a very different proposition from the one rejected yesterday. I am so well satisfied of the difficulties that arise out of this matter of substitutes and bounties that I was disposed to hold principals liable for their substitutes. The House, however, voted down that proposition. But the proposition now presented in the form of an amendment to take the place of a new section, is totally different from that, so far as the principle lying at the bottom of it is concerned. It proposes to limit the liability of principals to those cases, and those cases only, where the principal has been a party to a fraud practiced on the Government, and where he is shown to have been so. If these two ideas are the same, then I cannot comprehend distinctions.

Mr. STEVENS. I objected particularly because of the tribunal, thousands of miles away. A party might as well put in a new substitute as have to come here to make a defense. It is the same as making the word of the officer final and conclusive on the principal.

Mr. SCHENCK. I am well aware that the gentleman assigned that as another objection; but at the commencement of his remarks he was particular to tell the House that this was precisely the same proposition that was voted down yesterday; and to that I am now replying. His colleague [Mr. THAYER] also said that this was an equivalent proposition to that which had not only been voted down, but which, to use his own words, had been emphatically voted down. What I say is that the two propositions are totally different; and members of the House will judge between us on that point when they come to vote.

Now, as to the tribunal. It is necessary that somebody should decide these cases. It is neces-

sary, in getting men for your Army, that you shall act in a somewhat summary manner. Does the gentleman propose to organize a court in every district whenever a question of this case may arise? Does he propose that the officers of the Government shall go before some neighboring justice of the peace, before some judge of probate, before some court of common pleas, or to have a military court established? The whole thing is impossible. Somebody must determine whether the proof of fraud is sufficient or not. I was not willing to take the decision of the Provost Marshal General upon that subject. I proposed that that proof should be submitted to, and amount to what should be satisfactory to the mind and judgment of, the head of the Military Department. I know he is an officer of the Government; so are the judges of your Supreme Court. The gentleman from Pennsylvania [Mr. THAYER] might as well say that you cannot make, *quoad hoc*, a judge to decide upon this or any other matter out of the Secretary of War, or any one else, and thus extend the argument and claim that you cannot make a judge to try any case where the Government or any of its interests is in question. There must be a tribunal to administer this law, and it must be made up of some one or more persons selected from among the citizens of the United States, either by devolving the duty upon some official personage already existing, and the incumbent of an office under the law, or else by selecting some private citizen and making him the judge for the occasion. I have here selected a high official and given him the jurisdiction in the matter, because the jurisdiction must be seated somewhere, and the decision must be necessarily somewhat summary.

I am perfectly well aware of the difficulty under which the Committee on Military Affairs and others labor, who wish a vigorous law, sufficient to sustain our armies in the field, and help the Government to put down the rebellion by having armies in the field. We labor under the difficulty of having an almost united front presented to us on the other side, and having some gentlemen on this side so difficult to be satisfied, that, by voting with the opposition to the Army, the opposition to the Administration, the opposition to the Government, at least, in its efforts to put down this rebellion, a majority is very often found against that very large proportion of the friends of the Government on this side who would seek to make efficient laws for these purposes. That being the case, all legislation upon such subjects seems to be made up by the few on this side and the mass upon the other side, who—the most of them, I do not say it of all—will vote against any bill whatsoever, after the few gentlemen on this side have helped them frame and construct it; who do not intend to vote for any bill for any draft, but who are ready enough to unite with some on this side to put it in such a condition that it will be ineffective after it is passed.

Mr. STEVENS. I think the gentleman himself is combining with them to make a hateful bill.

Mr. SCHENCK. That is a matter of judgment, upon which I will leave the House to determine.

Mr. SMITHERS. I move that debate be now closed upon this section and pending amendments.

Mr. RANDALL, of Pennsylvania. I hope that will not be done. The gentleman from Ohio [Mr. SCHENCK] has cast aspersions upon this side of the House, which ought not to be allowed to pass unnoticed.

Mr. JOHNSON, of Pennsylvania. I hope the gentleman from Delaware [Mr. SMITHERS] will withdraw that motion.

Mr. SMITHERS. I think it is better to press the motion, because I see that there is some personal feeling beginning to be manifested.

The question was taken upon the question to close debate upon the pending sections and amendments; and upon a division there were—ayes 46, noes 50.

So the motion to close debate was not agreed to.

Mr. RANDALL, of Pennsylvania. I desire to say, Mr. Speaker—

The SPEAKER. Debate is exhausted upon the pending amendment to the amendment.

Mr. RANDALL, of Pennsylvania. I move to strike out the entire section.

Mr. ROSS. I desire to amend the original section.

# THE CONGRESSIONAL GLOBE.

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TUESDAY, FEBRUARY 28, 1865.

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The SPEAKER. That motion is not now in order, there being an amendment and an amendment to the amendment already pending.

The question was upon the amendment of Mr. THAYER to the amendment of Mr. SCHENCK.

The amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. SCHENCK.

Mr. RANDALL, of Pennsylvania. I move to strike out the entire section. I will say that I have listened long enough to the lecturing of the gentleman from Ohio, [Mr. SCHENCK.] I want to say to him that he cannot look me in the face and say I am not a loyal citizen.

Mr. SCHENCK. In order to narrow down this controversy to its proper limits, I say that I used no such language at all. I said that the majority on that side of the House was opposed to any draft, and would vote against any bill that provided for a draft.

Mr. RANDALL, of Pennsylvania. The gentleman has cast a reflection upon the Democratic side of this House, of which I am a part and parcel. Gentlemen may say the Democratic party is obsolete, but I have an abiding confidence that it will yet show vigor and vitality enough to save the country and preserve the Government. And let me say to the gentleman that he has no right either here or elsewhere to call the motives of gentlemen in question. Now, I have perfect confidence in the courage of the gentleman from Ohio, [Mr. SCHENCK.] I have seen evidences of it upon record. If the gentleman continues as he has begun here, he will find that there is a resistant element of which he does not conceive. I would recommend to the gentleman if he wants to fight shadows to go promptly to the front and fight the southern confederacy, for that is the only shadow left. [Laughter.] But that is where he has not been, I believe.

A MEMBER. Oh! yes, at Vienna. [Laughter.]

Mr. RANDALL, of Pennsylvania. Gentlemen may laugh; but it seems to me there is more truth than poetry in what I have said. However, as a loyal citizen, I submit promptly to the requirements of the Military Committee, not one of whose members has ever been in the ranks, [laughter,] and I do not suppose ever will be.

Mr. GARFIELD. I move to close all debate on this section and pending amendments.

Mr. JOHNSON, of Pennsylvania. I object to debate being closed. We are at a stage of the bill where I desire to offer an additional section. Let us take a vote on the amendments and dispose of them.

Mr. GARFIELD. Cannot the gentleman offer that afterward to the next section?

The SPEAKER. The Chair is of the opinion that he can.

Mr. THAYER. Will the gentleman from Ohio [Mr. GARFIELD] withdraw his motion for a few moments?

Mr. GARFIELD. I do not see the use of this continued wrangling. However, if the gentleman from Pennsylvania [Mr. THAYER] desires to make a personal explanation I will withdraw the motion if he will renew it when he has concluded.

Mr. THAYER. I will do so.

Mr. GARFIELD. Then I withdraw my motion.

Mr. THAYER. Mr. Speaker, I ought to regret, I suppose, that I cannot satisfy the expectations or nice discriminations of the gentleman from Ohio [Mr. SCHENCK] with regard to the position which I assumed when I addressed this House in opposition to his amendment either in respect to my matter or my manner. Perhaps as regards the latter I shall improve after I have had a longer opportunity to study the model which he proposes for my imitation.

But, sir, I do not choose to rest under the shadow of the gentleman's misrepresentation of my argument. That is a matter about which I desire to be understood.

Now, sir, the gentleman, by his remarks—than

which nothing could be more sophistical—would leave me in the position of having gravely presented to this House the argument that a man who has deliberately imposed upon the Government by a fraud shall be screened from punishment. I have made no such argument. What I said upon that subject was what I now repeat, that while I might agree with the gentleman from Ohio and with the advocates of the amendment before the House, that it would be proper to inflict some punishment upon a man who willfully misrepresents to the Government the qualifications of a substitute, and thus commits a willful fraud upon the Government, I do not believe in either the wisdom or the policy of enacting that wherever a substitute may prove to be disqualified, either physically, morally, or intellectually, it shall be within the power of an officer of the Government, upon his mere *ex parte* decision of the question, to send into the ranks the man who was originally drawn, and who furnished the substitute.

Now, sir, if there be any man whose intellectual perception is so obtuse that he has not been able to discriminate between the proposition which the gentleman from Ohio imputed to me and the argument which I really placed before the House, I will not take up the time of this House in endeavoring to make it clearer to his comprehension.

My objection to the measure proposed by the gentleman from Ohio was, not that you might not punish in some proper manner, and by some appropriate tribunal, a fraud upon the Government, but that the proposed amendment surrendered the decision of the fact to an improper tribunal, and that it would compel the accused party to travel hundreds of miles to take his trial, and then consign him to be tried by a military tribunal which has already convicted him. Now, sir, I am opposed to that, because I believe that its adoption would weaken the measure which the gentleman from Ohio has in charge. Mr. Speaker, when a man has two strong legs, you do not add to his powers of locomotion by giving him a wooden one in addition. You do not strengthen any good measure by adding to it unjust and odious features. You do not strengthen the enrollment law by incorporating in it provisions which, while they are of no benefit in themselves, are oppressive in their operation and odious to the public sentiment of this country.

Mr. WILLIAMS. I desire to ask a question of my colleague. He now seems to have abandoned his original position, and, along with my other colleague, [Mr. STEVENS,] surrendered his objection to the principle involved. He admits, I think, that there is an evil here that ought to be corrected, and that a contract of this sort, fraudulent in its nature, ought to be declared void. Will he now be good enough, for the benefit of this Congress and the country, to name the appropriate tribunal?

Mr. STEVENS. I have taken no different position from what I took before.

Mr. WILLIAMS. I understand the gentleman to do so.

Mr. STEVENS. No, sir; I said that when the matter had been once tried and decided, that ought to be sufficient.

Mr. THAYER. I will answer the question of my colleague.

I have not abandoned in the slightest degree the position which I originally took. On the contrary, I have endeavored to enforce the views which I originally presented to the House. I have not abandoned in any manner the position for which I originally contended. Therefore, the gentleman will not, of course, expect me to assist him in carrying this measure.

Mr. WILLIAMS. If I understand my colleague correctly, he is now prepared to admit that this is a case in which the Government ought to be relieved. I ask him, therefore, to propose the means of relief, to name what he considers the proper tribunal to pass upon this question.

Mr. THAYER. If the gentleman, or any

member of the Military Committee, will propose an adequate punishment for the willful and fraudulent putting in of a disqualified substitute, and will provide that the accused shall be tried by the ordinary tribunals of the country, I would have no objection to voting for such a measure. But that is a proposition quite different from that which the gentleman and his associates are attempting to induce this House to adopt.

Mr. STEVENS. There is provision in another section for the punishment of frauds of this kind.

Mr. ODELL. I ask the gentleman to yield to me for a moment.

Mr. GARFIELD. I yield to my colleague on the Committee on Military Affairs, and I give notice that I will yield no further.

Mr. ODELL. I move to strike out the last word.

Mr. Speaker, the gentleman from Ohio [Mr. SCHENCK] has stated that this is a distinct proposition from that which the House has voted down already; and I understand him to take exception to the statements of both gentlemen from Pennsylvania [Mr. STEVENS and Mr. THAYER] contravening his declaration that it was a new and distinct proposition. Now, while it is true that the proposition of the chairman of the Committee on Military Affairs before the House is not so wide in its scope nor so general in its provisions as the one voted down yesterday, yet I believe that the principle upon which the House voted yesterday is contravened in this very proposition before us. It shifts the responsibility which belongs to the Government to the man who is liable to be drafted, or being drafted, puts a substitute into the Army; and that is all there is of it, and just what this amendment proposes to do.

We have existing laws which exclude from the Army just the class of men the amendment proposes to provide for, and I see no reason why we should legislate further upon the subject. We have already the necessary laws to protect us in that regard. I know, and will admit, that great frauds have been perpetrated by both principals and bounty brokers in furnishing substitutes, and they should be punished. I know, in addition, that men connected with the Government have been parties to these frauds.

I know that these are men in the Old Capitol prison arrested and imprisoned for their connection with these infamous scoundrels in placing unfit men in the Army, and for their frauds upon the Government and the community. But that is no reason why the whole country should be oppressed with laws of unnecessary rigor against every man who is liable to the draft, every man liable to military duty. We need no law to make a principal who shall put a substitute in the hands and control of the Government responsible after he is mustered into the service. The burden and anxiety would be intolerable. It is for the Government to appoint men of such character and integrity as provost marshals and on the examining boards as will insure fidelity, and who will know, when men are presented, whether they are physically able for service, whether they are sound or unsound both in mind and body, and can discriminate if beyond the age, or only boys. It has come to my personal knowledge that through crime or negligence on the part of officials of the Government holding rank in its service, that old broken-down men, young boys not sixteen years of age, and lunatics, have been mustered into the service and sent to the Army only to be mustered out and sent home, totally unfit for any service. I do not believe that in the exercise of sound judgment, with integrity, such men could have found their way into the Army. The crime is not wholly confined to bounty brokers, but I fear has been too often shared by unfaithful officers.

When the provost marshal and examining officers connected with him, and the officers assigned to the duty of taking charge of and transporting substitutes to the Army, shall all be held to a just responsibility by the Secretary of War and the Provost Marshal General, under present laws, we shall have done all that is required upon the subject.

Mr. Speaker, the mode of punishment, if gentlemen of this House will look at it, is most onerous under the provisions of the proposed amendment. Men drafted who have been arrested for putting in an improper substitute, whether guilty of wrong or innocent, have to travel it may be one or two thousand miles to this city for redress. They have to present their case to the Secretary of War. I take it that the gentlemen around me know what trouble there is in getting an audience with the Secretary of War. How impossible it is for us to see him often in cases of emergency. It is not from a want of disposition on the part of the Secretary, but from the want of time. There are not hours enough in the day to meet the demands upon him. What, then, would be the condition of the men who came up here to have their cases decided? I have only to state the difficulty in order that every member may see the force of the objection, and also the great burden it will impose both upon the men charged with the offense and the War Department.

I must say one word in regard to the gentleman's criticism of the members upon this side of the Chamber. Certainly, as a member of this side of the House, I must and do most emphatically take exception to the style and manner of the remarks addressed by the chairman of the Military Committee to us. If he pretends to say that the members on this side who belong to the party with which I have the honor to be connected are not loyal, patriotic, and devoted to the welfare of the country, he says what is wrong. The country has been engaged in this struggle for its life now about four years, and there has not been a time when the Democratic party was not as steadfast to the interests of the country as the gentleman from Ohio or his party.

Mr. SCHENCK. If the gentleman from New York will allow me, I will disclaim having said any such thing as he imputes to me. I said that a large majority of the other side of the House was opposed to any draft, and I refer to the record to prove the truth of my assertion. The gentleman himself is not in that category. But I say that the records show that a majority on that side have uniformly voted against all drafting laws; and I said that the large majority there, together with others on this side of the House, made up a majority of this House. I do not believe that the gentlemen to whom I referred, constituting that majority, will vote for this bill, let us put it in what shape we will.

Mr. ELDRIDGE. Does the gentleman say that was the only imputation he cast upon this side of the House?

Mr. SCHENCK. My remarks will be reported, and I stand by them.

Mr. ODELL. I did understand the gentleman from Ohio to say distinctly that a majority of the members upon this side of the floor would vote against this draft bill; but when the gentlemen come to read the record of the reporters it will be found that he said other things in connection with that. He said that we were found arrayed against all measures for the preservation of the Government with almost a solid front.

Mr. SCHENCK. I say so yet.

Mr. KALBFLEISCH. It is not true; and when the gentleman from Ohio says that, he tells what is false, and I will tell him so here and elsewhere.

Mr. SCHENCK. These things do not disturb me at all.

Mr. ODELL. I certainly am not mistaken as to the language of the gentleman from Ohio; and it is not the first time that the manner in which the thing has been said upon that side of the House was as objectionable as it has been to every member upon this floor this morning. And, sir, I protest against this sort of language in the House of Representatives by anybody with reference to the party with which I am connected. I protest against it because it is not correct in fact; and I protest against it because it is giving aid and comfort to the enemies of our country. I would like to know how gentlemen will feel on the other side of the line when they shall read the remarks of the gentleman from Ohio. What will be their inference? Simply and only that this country is divided; and southern leaders will make, as they ever have done, a good use of such language.

Mr. SCHENCK. Not much.

Mr. ODELL. And that one portion of it, almost one half, are enemies to the Government. I want no such record to go forth to the enemies of this country, North or South, nor do I want such statements to go to foreign lands, and so far as I may be enabled to prevent it it shall not, without a denial. I have no hesitation in saying that the party with which I am connected has been, from the beginning of this war up to this present hour, earnest that the power, influence, and weight of the Government should be combined and felt to the suppression of the rebellion and the overthrow of treason; but occasionally there has come from that side of the House these strictures upon the members of the party and upon its millions of voters throughout the country, nearly one half of its voting population. And I hope the last time has come when any such thing shall be said of the Democratic party, whose interests are linked with the destinies of the nation. It is our country as well as yours. With our sanction it shall never be divided. We know but one flag; following it thousands of Democrats have fallen, and now fall a soldier's grave. Thousands are now in the field and before the enemy, ready to endure hardship, toil, suffering, and death to uphold the honor and integrity of the nation, and preserve its life. The masses of the Democratic party of the country have had and intend to have a part in the redemption of this land from the wickedness, folly, and crime of secession.

We have our differences of opinions, as we have had here this morning, upon this question of enrollment. I do not know how many of my political friends will vote for this bill or against it, but they will vote according to the dictates of their consciences, as the gentleman from Ohio will. I do not know that it is an obligation upon any man to vote as it may seem best to a majority of the Committee on Military Affairs, or according to the dictates of the chairman of it. We do, however, claim to exercise the privilege of voting as we choose, and in harmony with the dictates of our consciences, for what we believe to be right, and for the best interests of the country. After the proper expression of our views upon this floor as Representatives, and the majority shall adopt measures that we cannot approve, yet we shall steadfastly stand by our flag and the institutions it represents.

Now, sir, I regret exceedingly that this character of debate has occurred; and gentlemen will bear me witness that for four years I have not engaged in any such personal matter; but the time, in my judgment, seemed to have come when, for myself, my constituents, the Democratic party, and the country, these things should be said by way of rebuke here and now, and that the party to which I belong should be vindicated from the oft-repeated charge of disloyalty.

Mr. WOODBRIDGE. In discussing a question of this magnitude, upon which the welfare of the nation more or less depends, I deem it entirely unwise to descend to personal recrimination, or to any degree of party spirit. After the elegant wit of the gentleman from Pennsylvania on the other side, [Mr. RANDALL,] and the magnificent display of fireworks by the gentleman from Pennsylvania [Mr. THAYER] upon this side of the House, it seems to me we have lost our bearings in relation to the question now pending. Gentlemen upon the floor have the right to entertain whatever opinions they may, and cast what votes they may, and they are responsible, not to me, but to their constituents, and to those constituents they must render their account. To that body many did render their accounts at the last election, and were tried in the balance and found wanting.

Sir, I was opposed to the amendment introduced by the gentleman from Ohio [Mr. SCHENCK] yesterday, and I was also opposed to the amendment offered by my friend from Pennsylvania [Mr. STREVS] yesterday. I was opposed to the amendment of the gentleman from Ohio, because the law now provides that when a man puts into the Army a substitute, and that substitute is accepted and mustered into the service, and passes beyond the control of the principal into the control and custody of the United States, then the liability of the person sending the substitute ceases. By that amendment the principal might be subject to punishment when he had in good faith

complied with all the requirements of law. This would be unjust to the subject.

I was opposed to the amendment of the gentleman from Pennsylvania, because under its provisions a person knowingly sending a substitute into the Army who was subject to epileptic fits, was insane, was a common drunkard, a deserter, or an escaped convict, would not be amenable to a penalty for that fraud, but the acceptance of the substitute would be conclusive on the Government. This would be unjust to the Government.

The amendment proposed to-day is simply this, that if a person knowingly and fraudulently sends a substitute who is insane, or afflicted with disease which utterly unfits him for service, or of bad moral character, or an escaped convict, or a deserter, he cannot take advantage of his own wrong, but must suffer the penalty by being himself again placed on the roll. That is the point distinguishing this amendment from those offered yesterday.

I am aware that a draft in its best sense, if not an odious, is a severe measure. It is a measure only to be resorted to in case of necessity. But when that necessity comes then the law should be made the most effective that it can possibly be. Can it be said that it is a hardship on the person who sends a substitute that he shall be punished for an absolute and positive fraud? Shall it be said that when a man gets a substitute accepted and mustered into service by means of an absolute fraud he shall not suffer the consequences? As well might it be said if I owe my friend from Pennsylvania \$1,000, and pay him in money which he accepts, and which I know to be counterfeit, that I am thereby discharged both from the debt and also from all penalty for the offense.

The gentleman from Pennsylvania says that he is opposed to this amendment because of the tribunal which is to decide upon the offense of the principal, and still suggests no other or better one. It is easy to tear down. There are many modern philosophers who would tear down the fairest fabric of religion and civil law, and who are yet unable to propose anything in place thereof.

Would the gentleman take those offenders before the courts of the country? If so, then all that I can say to the gentleman is that he could get no decision on these cases before the war ends. Courts are dilatory, and the gentleman knows it as well as I do, and the penalty would never be imposed upon the man who commits the fraud.

The gentleman says he could not leave the decision of these cases to the Secretary of War, because he is a portion of the Government. Why, sir, he is the very man to pass upon them. He has control of the military Department of the Government. He has control of the mustering of armies for the field, the discharge of soldiers, and everything connected with the movement of armies, and is supposed to be the man who knows most about these matters. He will not soil his integrity as a judge, nor disregard his oath of office. I know of no tribunal, other than this, where justice can be done within a reasonable time; and I know of no tribunal where the rights of persons will be better protected under the law, and more especially as the amendment provides that there shall be no conviction except upon due proof.

Now, I hope gentlemen will consider this measure. If gentlemen are opposed to a draft in any event, then of course they will vote against the amendment. But if, on the other hand, they are in favor of a draft, then the patriotic men will vote for it, whether upon this side of the House or upon the other. Sir, in discussing this great question, and in all questions which lie at the foundation of our Government, which lie in the way of the prosecution of this war, I abjure party. I hope I am man enough to rise above the shackles and trammels of party. I go for my country and the Constitution; I go for putting down this rebellion by every lawful means in my power. And I call on my friends on the other side of the House, who disagree with me in politics, who have disagreed with me, I have no doubt, from the time I entered into political life, to abjure their party training and come up like men and patriots, sworn to support the Constitution and the Government, and lend their aid in carrying on this war to a successful issue. If we are to have a draft let us make the draft effective. I would not



put unjust or onerous burdens on the people. The draft itself is onerous enough. Still, when we are driven to have it, for the purpose of carrying on the war, let us make it effective, and say to those men who would cheat the Government: "If you do it willfully and knowingly you shall suffer the penalty."

I now move to close debate upon this section and pending amendments.

The motion was agreed to.

The first question was upon the motion of Mr. ODELL, to strike out the last two lines of the amendment of Mr. SCHENCK.

Mr. ODELL. I withdraw that amendment.

The question then recurred upon the amendment of Mr. SCHENCK, to insert an additional section.

Mr. DRIGGS. I move to amend the amendment by adding the following section:

SEC. — And be it further enacted, That in case any substitute shall desert from the Army, and it shall appear, by evidence satisfactory to the Secretary of War, that the party furnishing such substitute shall have in any way, directly or indirectly, aided or abetted such desertion, or have been privy to any intention on the part of such substitute to desert, then such person shall be immediately placed in the Army, and shall serve for the period for which he was liable to draft, such service to commence at the date of the desertion of the substitute.

The amendment to the amendment was adopted.

Mr. DAVIS, of New York. I move to amend the amendment of the gentleman from Ohio, [Mr. SCHENCK,] as amended, by inserting after the words "active service in the ranks" the following:

Or a minor between the ages of sixteen and eighteen years, without the consent of his parent or guardian, or a minor under the age of sixteen years.

The amendment to the amendment was agreed to.

The question recurred upon the amendment as amended.

Mr. SCHENCK. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 67, not voting 44; as follows:

YEAS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Griswold, Higby, Hooper, Holman, Jenckes, Kasson, Kelley, John H. Rice, Hubbard, Hulburd, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Tracy, Van Valkenburgh, Elihu B. Washburne, Williams, Wilder, Wilson, and Woodbridge—71.

NAYS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Brooks, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Loan, Mallory, Marey, Morrison, Nelson, Noble, Odell, John James R. Morris, Morrison, Nelson, Noble, Odell, John James R. Morris, Perry, Pruyn, Radford, Samuel J. Randall, O'Neill, Pendleton, Ross, Scott, John B. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thayer, Townsend, Voorhees, Wadsworth, Webster, Whaley, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—67.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blair, Bliss, Blow, Boutwell, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Grinnell, Hale, Hall, Holman, Hutchins, Ingersoll, William Johnson, Julian, King, Le Blond, Long, McAllister, McDowell, Melndoe, Samuel F. Miller, Alexander H. Rice, Robinson, Rogers, Sloan, Smith, Spalding, Starr, William Steele, Thomas, Upson, Ward, William B. Washburn, Wheeler, Windom, Benjamin Wood, and Worthington—44.

So the amendment, as amended, was agreed to.

During the roll-call,

Mr. COX said: I ask leave to vote, having been absent on a committee of conference, when my name was called.

Mr. GARFIELD. I object. I do not think that gives a member a right to have his vote recorded after his name has been called and he has not responded to the call of his name.

The SPEAKER. The Chair is of the opinion that being upon a committee of conference does not give a member the right to vote, if absent at the time his name was called. The Chair, however, will look up the authority on that subject, and announce it before the result of the vote is announced.

The call of the roll having been completed,

The SPEAKER said: The chair will read the authorities upon the subject of a member of a committee of conference voting, from Barclay's Digest, page 185:

"A member of a committee of conference, absent when his name is called, has no right to have his vote recorded. But, according to the practice, a member absent by leave of the House is usually permitted, by a vote of the House, or by unanimous consent, to have his vote recorded; but not after the result is announced, unless his vote will not change the result."

By unanimous consent, the gentleman from Ohio [Mr. Cox] will be allowed to have his vote recorded.

No objection being made,

Mr. COX voted in the negative.

The result of the vote was announced as above stated.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May 6, 1864;

An act (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor;

An act (H. R. No. 783) concerning the collection district of Salem and Beverly in Massachusetts; and

An act (H. R. No. 738) relating to the enrollment and license of certain vessels.

#### ENROLLMENT BILL—AGAIN.

Mr. STEVENS. I move to amend by adding to the first section of the amendment just adopted the following:

Provided, That no such decision shall be made by the Secretary of War, unless made on notice to the party within thirty days after the substitute shall have been mustered into the service.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs. SCHENCK and STEVENS were appointed.

The House divided; and the tellers reported—ayes 67, noes 56.

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 63, not voting 47; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Brooks, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Ganson, Garfield, Grider, Griswold, Hale, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Loan, Mallory, Marey, McAllister, McKinney, Middleton, William H. Miller, James R. Morris, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, William H. Randall, James S. Rollins, Ross, Scott, John B. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thayer, Townsend, Voorhees, Wadsworth, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—72.

NAYS—Messrs. Allison, Ames, Ashley, Baxter, Beaman, Blaine, Boyd, Brandegee, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Gooch, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Smithers, Tracy, Van Valkenburgh, Elihu B. Washburne, Williams, Wilder, Wilson, and Woodbridge—63.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, John D. Baldwin, Blair, Bliss, Blow, Boutwell, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Dawes, Deming, Finck, Grinnell, Hale, Higby, Hutchins, Ingersoll, William Johnson, Julian, Francis W. Kellogg, King, Le Blond, Long, McDowell, Melndoe, Samuel F. Miller, Morrison, Leonard Myers, Pike, Robinson, Rogers, Sloan, Smith, Spalding, Starr, William G. Steele, Thomas, Upson, Ward, William B. Washburn, Windom, Benjamin Wood, and Worthington—47.

So the amendment was agreed to.

Mr. JOHNSON, of Pennsylvania. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. SCHENCK. I move that there be a call of the House.

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in

the negative—yeas 53, nays 81, not voting 48; as follows:

YEAS—Messrs. Allison, Blaine, Boyd, Broomall, Cobb, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Dixon, Donnelly, Driggs, Dumont, Eliot, Farnsworth, Frank, Garfield, Gooch, John H. Hubbard, Hulburd, Jenckes, Kasson, Kelley, Orlando Kellogg, Kernan, Knox, Littlejohn, Longyear, Marvin, McAllister, McBride, McClurg, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pendleton, Perham, Perry, Pomeroy, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Smithers, Webster, Williams, Wilder, and Woodbridge—53.

NAYS—Messrs. James C. Allen, Ames, Ancona, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Beaman, Brooks, Chandler, Ambrose W. Clark, Clay, Coffroth, Cole, Cox, Cravens, Deulson, Eckley, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hotchkiss, Asahel W. Hubbard, Philip Johnson, Kalbfleisch, Knapp, Law, Loan, Mallory, Marey, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pike, Price, Pruyn, Radford, Samuel J. Randall, William H. Randall, John H. Rice, James S. Rollins, Ross, Scott, Shannon, John B. Steele, Stevens, Stiles, Strouse, Sweet, Thayer, Townsend, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Elihu B. Washburne, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Winfield, and Fernando Wood—81.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Baxter, Blair, Bliss, Blow, Boutwell, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Creswell, Deming, Grinnell, Higby, Holman, Hooper, Hutchins, Ingersoll, William Johnson, Julian, Francis W. Kellogg, King, Lazear, Le Blond, Long, McDowell, Melndoe, Samuel F. Miller, Moorhead, Robinson, Rogers, Sloan, Smith, Spalding, Starr, William G. Steele, Stuart, Thomas, Upson, Ward, William B. Washburn, Windom, Benjamin Wood, Worthington, and Yeaman—48.

So a call of the House was not ordered.

During the roll-call,

Mr. A. W. CLARK stated that Mr. SPALDING was absent on account of indisposition.

The result was announced as above stated.

Mr. SCHENCK moved to rescind for this day only the order fixing the adjournment at half past five o'clock, p. m.

The motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 690, to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes; when the Speaker signed the same.

And then, on motion of Mr. GARFIELD, (at ten minutes past five o'clock, p. m.) the House adjourned.

#### IN SENATE.

Monday, February 27, 1865.

Prayer by Rev. John Tonner, of Ohio.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of Saturday's proceedings was dispensed with.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 22d instant, a copy of the instructions issued by that Department relative to the enrollment of citizens of the State of Louisiana; which was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 11th instant, a copy of the report of Thomas Hood and S. W. Bostwick, special commissioners appointed to investigate and report upon the condition and treatment of colored refugees in Kentucky, Tennessee, and Alabama; which was ordered to lie on the table, and be printed.

He also laid before the Senate the following communication; which was ordered to lie on the table, and be printed:

#### WAR DEPARTMENT,

WASHINGTON CITY, February 25, 1865.

SIR: I have the honor to acknowledge the receipt of the resolution of the Senate of the 23d ultimo, calling for a statement of the "number of soldiers and sailors, stating each separately, the several States, Territories, and the District of Columbia have furnished the Army and Navy under all the calls heretofore made, setting forth the number demanded, and the number furnished under each call and the time for which the same were enlisted."

Having submitted the subject to the consideration of the President, I am directed by him not to communicate this information called for on the ground that its publication, a

the present time, would be detrimental to the public interests.

So much of this information as relates to each particular State is to be found on the records of that State, and is subject to its use and reference, settlements having been made from time to time with the authorities of the States, and satisfactory adjustments arrived at.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

The President of the Senate.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a communication of Norman Wiard, addressed to the joint committee on the conduct of the war, upon the subject of great guns; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. MORGAN presented a petition of citizens of the city of New York, praying for the passage of the bill to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

Mr. JOHNSON presented a petition of John Baker, of the city of New York, and John S. Jackson and Henry Munro, of Valparaiso, assignees of E. Mickle & Co., praying payment of drafts drawn by Adam Johnston, sub-Indian agent, for provisions for the California Indians in 1851; which was referred to the Committee on Indian Affairs.

Mr. SPRAGUE presented a petition of William P. Williams, praying that a fog whistle may be located on Beavertail; which was referred to the Committee on Commerce.

Mr. SUMNER presented a petition of colored people of the United States, praying that the elective franchise may be granted to the colored people of the United States; which was ordered to lie on the table.

Mr. BROWN presented a petition of citizens of Howard county, Missouri, praying that Dr. Comstock's system of phonetics and elocution, and the French system of weights and measures, may be taught at the Military Academy of West Point; which was ordered to lie on the table.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of the repeal of the import duty on printing paper; which was ordered to lie on the table.

Mr. COWAN presented a petition of non-commissioned officers and privates of the veteran reserve corps, who reenlisted for three years prior to the issuing of orders depriving the enlisted men of that corps of such bounties as were offered for reenlisting men at the time they reenlisted, praying an investigation into the subject; which was referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS presented a memorial of Delia A. Jacobs, praying an extension of the patent granted to her husband, Jesse Fitzgerald, on the 28th of August, 1849, for a machine for dressing tree-nails; which was referred to the Committee on Patents and the Patent Office.

Mr. POMEROY presented a petition of citizens of the United States praying an amendment to the Constitution of the United States fully recognizing the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

#### RAILROADS IN MINNESOTA.

Mr. RAMSEY. I move to postpone all prior orders and take up for consideration the bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes.

Mr. COLLAMER. There is unfinished business of the morning hour which I feel it my duty to insist upon. I find that I must do as other gentlemen do, insist upon the business which is in my charge, and as that is unfinished business of the morning hour I object to taking up anything else until it is disposed of.

Mr. RAMSEY. I hope the Senator from Vermont will allow this bill to be acted upon. It is a local bill which will not take up much time.

Mr. COLLAMER. I object to it.

The VICE PRESIDENT. The objection prevents its being taken up by unanimous consent; but the motion of the Senator from Minnesota is in order, and that is to postpone all prior orders and take up the bill named by him.

Mr. LANE, of Kansas. I hope the motion will be withdrawn, and that we shall be allowed to make our reports.

Mr. RAMSEY. It will take but a few minutes to pass the bill, and it is the only bill I think which I have asked the Senate to take up.

Mr. WILKINSON. I hope the Senate will agree to the motion of my colleague to take up this bill. An amendment has been proposed to it by the committee which makes it necessary that it should go back to the other House. We have asked but very few favors here this session.

The motion was agreed to—ayes twenty-four, noes not counted.

The Senate accordingly, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes.

Mr. RAMSEY. I presume it is unnecessary to read the original bill, the Committee on Public Lands having reported a substitute for it.

The reading of the bill was dispensed with by unanimous consent, and the Secretary read the amendment proposed to be inserted as a substitute for it, as follows:

That the quantity of lands granted to the State of Minnesota, to aid in the construction of certain railroads in said State, as indicated in the first section of an act entitled "An act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain railroad in said State," approved March 3, 1857, shall be increased to ten sections per mile for each of said railroads and branches, subject to any and all limitations contained in said act and subsequent acts and as hereinafter provided.

Sec. 2. *And be it further enacted*, That the first proviso in the first section of the act aforesaid shall be so amended as to read as follows, to wit: *Provided*, That the land to be so located shall in no case be further than twenty miles from the lines of said roads and branches, to aid in the construction of each of which said grant is made; and said lands granted shall, in all cases, be indicated by the Secretary of the Interior.

Sec. 3. *And be it further enacted*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, subject to the approval of the President of the United States: *Provided, further*, That any lands which may have been granted to the Territory or State of Minnesota for the purpose of aiding in the construction of any railroad, which lands may be located within the limits of this extension of said grant or grants, shall be deducted from the full quantity of lands hereby granted, and that any lands which may have been so granted shall be strictly applied in accordance with the terms and conditions of said act or acts, unless subsequently modified by law.

Sec. 4. *And be it further enacted*, That the sections and parts of sections of land, which by said acts and this grant shall remain to the United States, within ten miles on each side of said roads and branches, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided*, That actual bona fide settlers under the preemption laws of the United States may, after the proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the increased minimum price: *And provided, also*, That settlers under the provisions of the homestead law who comply with the terms and requirements of said act shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

Sec. 5. *And be it further enacted*, That the lands hereby granted shall be subject to the disposal of the Legislature of the State of Minnesota, for the purposes aforesaid, and no other. And the said railroads and branches shall be and remain public highways for the use of the Government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States.

Sec. 6. *And be it further enacted*, That the lands hereby and heretofore granted to said Territory or State of Minnesota shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: when the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner, as a first-class railroad, and the said Secretary shall be satisfied that said State has complied in good faith with this requirement, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and selected as aforesaid, situated opposite to and within a limit of ten miles of the line of said section of road thus completed, extending along the whole length of said completed section of ten miles of road, and no further. And when the Governor of said State shall certify to the Secretary of the Interior, and the Secretary shall be satisfied that another section of said road, ten consecutive miles in extent, connecting with the preceding section or with some other first class railroad, which may be at the time in successful operation, is completed as aforesaid, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and situated opposite to and within the limit of ten miles of the line of said completed section of road or roads, and extending the length of said section, and no further, and so, from time to time, until said roads

and branches are completed. And when the Governor of said State shall so certify, and the Secretary of the Interior shall be satisfied that the whole of any one of said roads and branches is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted for and on account of said completed road and branches in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road and branches: *Provided*, That no land shall be granted and conveyed to said State under the provisions of this act on account of the construction of any railroad or part thereof that has been constructed under the provisions of any other act at the date of the passage of this act, and adopted as a part of the line of railroad provided for in this act: *And provided further*, That said lands, granted by this or prior acts, shall not in any manner be disposed of or incumbered, except as the same are patented under the provisions of this act; and should the State fail to complete any one of said roads or branches within eight years after the passage of this act, then the said lands undisposed of as aforesaid, granted on account of said road or branches, shall revert to the United States.

Sec. 7. *And be it further enacted*, That as soon as the Governor of the said State of Minnesota shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said road and branches, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

Sec. 8. *And be it further enacted*, That the United States mail shall be transported on said road, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law the Postmaster General shall have power to fix the rate of compensation.

Sec. 9. *And be it further enacted*, That the provisions of this act shall also be construed so as to apply and extend to that portion of the line authorized to be vacated by the joint resolution approved July 12, 1862, entitled "A joint resolution authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes," notwithstanding the vacation thereof by said State, as though said joint resolution had not passed, and also to the line adopted by said State in lieu of the portion of the line so vacated.

Mr. RAMSEY. I move to amend the amendment in the sixth section by inserting after the word "aforesaid," in the twelfth line, the words "not exceeding ten sections per mile."

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend by striking out the word "ten," in line thirteen of the same section, and inserting "twenty;" so as to read "within a limit of twenty miles of the line of said section."

The amendment to the amendment was agreed to.

Mr. RAMSEY. In line twenty-four of the same section, I move to strike out "ten" and insert "twenty."

The amendment to the amendment was agreed to.

Mr. RAMSEY. In line twenty-six in that section, after the word "further," I move to insert "not exceeding ten sections of land per mile for all that part of said road thus completed under the provisions of this act and the act to which this is an amendment."

Mr. COWAN. I think this an important amendment to make here.

Mr. RAMSEY. It has been considered by the committee.

Mr. COWAN. It is widening the scope of this grant from ten miles to twenty miles. It is of considerable importance, I think.

Mr. RAMSEY. It is in keeping with the legislation of Congress up to this time, equalizing the grant made to this road with the grant made to other roads.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend the amendment in the sixth section by striking out the proviso from line thirty-six to line forty-one, and inserting in lieu of it the following:

*Provided*, That nothing herein contained shall interfere with any existing rights acquired under any law of Congress heretofore enacted making grants of land to the State of Minnesota to aid in the construction of railroads.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend the amendment by striking out in the forty-third line of the same section the words "or incumbered" after "disposed of."

The amendment to the amendment was agreed to. The amendment of the Committee on Public Lands, as amended, was agreed to.

Mr. HENDRICKS. I feel it to be my duty to call the attention of the Senate to the material feature of this bill. The grant of 1857 gave to the Territory of Minnesota the alternate sections to the extent of six miles on each side of these railroads. This bill proposes to extend it to ten

miles on each side, and to allow the deficiency to be made up within a limit, not of fifteen miles, but of twenty miles on each side of the roads. At the last session of Congress, for the northern part of Wisconsin, because of the difficulties of settling that heavily timbered country, I advocated a similar extension of the grant to the Wisconsin road, and at this session I have favored a similar extension in the northern peninsula of Michigan, because of the peculiar features and character of the country, and the difficulty in settling and improving it. But these roads, several of them at least, in Minnesota, run through as good land as the Government owns, a very desirable portion of country, and now the question to be decided by the Senate is merely whether we are willing to extend the grant from six miles to ten miles. My own judgment is that the increased cost of the construction of railroads justifies this extension, and upon that ground I am going to vote for the bill, but I have thought it my duty to call the attention of the Senate to its important feature.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HARLAN. I move to amend the bill by adding the following additional sections:

*And be it further enacted*, That the time mentioned in the act entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," for the completion of the railroads named in said act, be, and the same is hereby, extended two years.

*And be it further enacted*, That the last clause of the second section of an act entitled "An act to regulate the compensation of registers and receivers of land offices in the several States and Territories in the location of lands by States or corporations under grants from Congress, and for other purposes," be, and the same is hereby, so amended as to read "a map of the change shall be filed with the Commissioner of the General Land Office, within three months after the said change of location shall be made."

The amendment was agreed to.

The amendments were ordered to be engrossed and to be read a third time. The bill was read the third time, and passed.

On motion of Mr. HARLAN, its title was amended by inserting the words "and Iowa" after "Minnesota."

#### REPORTS OF COMMITTEES.

Mr. LANE, of Kansas, from the Committee on Agriculture, to whom was referred a communication of J. G. Knapp, in reference to the transmission of printed matter relating to agriculture and seeds through the mails to the Territories, asked to be discharged from its further consideration, and that it be referred to the Committee on Post Offices and Post Roads; which was agreed to.

He, also from the same committee, to whom was referred a bill (H. R. No. 746) to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes; reported it without amendment.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of B. F. H. Witherell, a legal representative of James Witherell, deceased, late a judge of the Territory of Michigan, praying compensation for adjusting titles to land in that Territory, reported adversely thereon.

Mr. POWELL, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 579) to repeal a portion of a joint-resolution explanatory of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," approved July 17, 1862, reported adversely thereon.

Mr. HALE, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 777) changing the name of Emil Cohen, reported it without amendment.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Finance, to whom the subject was referred, reported a bill (S. No. 477) to authorize State banks having branches to become national bank-

ing associations; which was read, and passed to a second reading.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 707) to provide for the publication of the opinions of the Attorneys General of the United States, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistant and clerks, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 778) in relation to the appropriation of private property to the public use, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 779) to regulate the taking of depositions in certain cases, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 80) directing a district or circuit court to be held at the city of Erie, in the State of Pennsylvania, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (H. R. No. 609) to prescribe the mode of designating citizens of the United States who shall serve as jurors in the circuit and district courts of the United States, reported in favor of its indefinite postponement.

Mr. GRIMES, from the Committee on Naval Affairs, reported a bill (S. No. 478) in relation to the Naval Observatory, which was read, and passed to the second reading.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill of the House (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866.

The message also announced that the House had agreed to the fifth, and disagreed to the first, second, third, and fourth amendments of the Senate to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866; and had agreed to the sixth amendment of the Senate to that bill, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the first, second, third, and fourth amendments of the Senate to the joint resolution of the House (H. R. No. 163) to provide for the publication of a full Army Register, and had disagreed to the fifth amendment of the Senate to that resolution.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were then signed by the Vice President:

A bill (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes;

A bill (H. R. No. 738) relating to the enrollment and license of certain vessels;

A bill (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor;

A bill (H. R. No. 783) concerning the collection district of Salem and Beverly, in Massachusetts; and

A bill (H. R. No. 784) to amend an act entitled "An act to regulate the measurement of tonnage of ships and vessels of the United States," approved May 6, 1864.

#### DISTRIBUTION OF BOOKS.

Mr. POWELL. The Committee on Printing, to whom was referred the joint resolution (H. R. No. 82) in relation to the distribution of books and documents, have instructed me to report it back and recommend its passage, and I ask that it be acted on now. It will take but a moment.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It provides that the undistributed portions of the books and documents heretofore printed or pur-

chased for its use by order of either House of Congress, previous to the Thirty-Seventh Congress, and now deposited in the Interior Department and elsewhere, shall be distributed to members of the present Congress, under the direction of the Joint Committee on Printing. The committee are to divide the books in question into parcels equal in number to the whole number of Senators, Representatives, and Delegates from Territories, and as nearly equal in value and importance as possible, and to distribute them to the Senators, Representatives, and Delegates, by such method as may be found most feasible and proper.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. CONNESS. I move to postpone all prior orders, and take up House bill No. 775. It is a bill that affects some five hundred people of my State in regard to their homes, and unless it be acted on soon I have no hope that we shall secure its passage. I hope that the Senate will consent to take it up now.

Mr. COLLAMER. I must again desire the Senate to dispose of the unfinished business of the morning hour. I think it will take but a very short time. I begin to find that it is not worth while to have a piece of unfinished business. It does not stand near as good a chance as does a motion to suspend all prior orders. If it was my privilege to do so, I would move to suspend the prior orders and take up the unfinished business of the morning hour. I hope gentlemen will allow it to be taken up.

Mr. SUMNER. The business to which the Senator from Vermont refers, I presume, is the resolution appropriating \$25,000 for a painting. I stated the other day that I should feel it my duty to oppose that resolution, and to some extent, perhaps, to debate it.

Mr. COLLAMER. The question is not up.

Mr. SUMNER. I am not now debating it. I am giving that as a reason why it should not be proceeded with now when the Senator from California has the floor and has moved to take up another matter.

Mr. COLLAMER. The amount of it is, then, that if any gentleman has the floor this is never to be considered. That is the Senator's argument.

Mr. SUMNER. I beg the Senator's pardon.

Mr. COLLAMER. That is the result.

Mr. CONNESS. I dislike very much to antagonize any proposition that I have charge of here against any in charge of the honorable Senator from Vermont, and I am constrained now to withdraw my motion so that he may get action on his joint resolution.

Mr. COLLAMER. I do not desire the Senator to withdraw it.

The VICE PRESIDENT. Reports of committees are still in order.

Mr. BROWN. I move that all prior orders be postponed for the purpose of taking up the bill (S. No. 377) granting lands to the State of Missouri to aid in the construction of certain railroads in said State. I will state to the Senate that I have not occupied any of its time with local bills heretofore. This bill is very similar to many that have been passed for other States. It is getting late in the session, and unless we can take it up now I fear it will not have much chance. I leave it to the courtesy of the Senate. The bill has been reported from the Committee on Public Lands, and I move now to take it up.

Mr. GRIMES. I reported a few minutes ago a bill from the Committee on Naval Affairs in relation to the Naval Observatory, which I was anxious to get the Senate to consider. There is a vacancy at this time existing in the Naval Observatory, and it is important to pass the bill for that reason.

Mr. BROWN. The Senator can always get up his naval appropriation bills, but I shall have no other chance for my bill.

Mr. GRIMES. It is not a naval appropriation bill. If there is any objection to it, I will suspend at once.

The VICE PRESIDENT. Does the Senator from Missouri withdraw his motion?

Mr. BROWN. No, sir; I should be glad if the Senate would grant me the courtesy of taking up the bill.



Mr. COLLAMER. I feel it to be my duty to object to taking it up, and to insist that the unfinished business of the morning hour be proceeded with.

The VICE PRESIDENT. The question is on the motion of the Senator from Missouri.

The motion was not agreed to.

Mr. BROWN. I give notice that I shall move to take up the bill to-night.

#### PAINTING FOR THE CAPITOL.

The VICE PRESIDENT. If there be no other business of the morning hour, the unfinished business of the last morning hour is before the Senate, and it is the joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol.

Mr. SUMNER. I am sorry that my friend from Vermont [Mr. COLLAMER] feels obliged to press this proposition. I do not like to vote against it. Still more, I am reluctant to speak against it. But satisfied as I am, after careful reflection, that it ought not to pass, I shall proceed to express briefly the grounds of my opposition.

I have already, when it was called up the other day, stated that I did not think this the time for us to enter upon the patronage of art. Of course such patronage is beautiful and most tempting. It may seem ungracious to arrest it, but I submit confidently, that at this moment, with our national debt accumulating at the rate of millions a day—with our brave soldiers still unpaid—with a drain upon our resources at every point, it is not advisable to enter upon the patronage of art, beautiful and tempting as it is.

There is much to be done in order to complete the national Capitol in all its parts. Let the work proceed until this sublime structure stands forth, worthy in all respects of the destinies which it enshrines. But I think we should hesitate at this time to enter upon any ornamentation which is not essential to the work. If you order one costly picture you will be called to order another, and where will this expenditure stop? Better wait for the days of peace, soon to come, I trust, when your means will be greater, and you will approach the question in a calmer mood.

Thus far I have said nothing of the artist. But such a vote as is now proposed is an act which selects one artist for especial honor and leaves all others unnoticed. It is like a vote of thanks to officer in the Army or Navy. Are the merits of this artist so peculiar and commanding that he should be taken and all others left? I doubt. At least I know that there are other artists in the country who deserve well of those who undertake the patronage of art. Are you ready, in this off-hand way, without any inquiry, without even hearing their names, to discriminate against them all? I put these questions in no spirit of criticism, and certainly in no unkindness to the artist whom it is proposed to honor, for whom, let me say, I have a sincere regard. There is already one picture by him in the Capitol. A second order would be more than enough.

Then again, are you sure that the subject selected for a picture at the present time would be such a maturer and more chastened taste could approve? This is a period of war. We are all under its influence. But I doubt if it be desirable to keep before us any of the pictures of war, especially of a war with our own fellow-countrymen. There are moral triumphs which are more worthy of commemoration by art. I need only refer to the proclamation of emancipation, which belongs to the great events of history.

I send to the Chair an amendment, to come in at the end of the resolution:

*Provided, That in the national Capitol, dedicated to the national Union, there shall be no picture of a victory in battle with our own fellow-citizens.*

Mr. WILSON. Mr. President, I regret very much that the Senator from Vermont has pressed this resolution this morning. I think we ought not to devote a moment to a measure of this character at this time, and, in fact, I think we ought to abandon most of the disputed questions, and act now only on those measures that are essential to the country. I shall vote against the amendment proposed by my colleague, and vote against the original resolution; and I rise more especially to say that I disagree with my colleague altogether in the proposition that no work of art shall grace the Capitol of this country that represents anything of the present war of a military or naval

character. I do not believe in that doctrine. It has been put before the Senate once before. While the world stands, I want every achievement of the Army and of the Navy for the liberty and unity and perpetuity of this country to be written if possible on every foot of our territory, and on the bending arches of the sky, so that men can read it everywhere. I do not wish to disown in art, in science, in anything worthy of preservation, the noble deeds of the heroes of the Army and Navy of this country.

Mr. COLLAMER. Honorable Senators seem to repeat over and over their regret that I have pressed this measure. I have not pressed the measure. I do not propose to press it. They complain of the time at which it is presented. I did not choose the time. This was a House joint resolution. It came here; it was reported from the committee from respect to the House themselves; and on their view of the merits of the case the committee reported the resolution. I called it up in the regular order of business with a desire to have a vote, saying not one word about it. I have occupied no time on it. Whatever time has been taken with it has been by the opposition to it. I do not propose to take much, if any, time with it now. But as gentlemen seem to think it rather strange that at this time it is asked for, I will say a word.

Mr. President, we have statues of civilians, busts of judges of the Supreme Court, pictures of our Presidents, pictures of the battles of the Revolution; but look where we may, anywhere about this Capitol, and not merely about the Capitol, but through any of the Departments in this city, and where will you find a single line of a pencil which commemorates either the actions of the members of the Navy or their persons? Not a portrait of them is to be found. Civilians, lawyers, statesmen, heroes upon land, are represented, and the battles of the Revolution are commemorated; but you will not find a single stroke of the pencil or any production of art anywhere which commemorates the action of the individual heroes of the Navy, or the naval battles of our country. It seems to me that this is slurring over and casting into oblivion and contempt that which adorns the brightest pages of our history, from the time that Burke spoke of the enterprise of American seamen to this day. While our history chronicles the glorious deeds of the Navy, they are not commemorated by art. It seems to me the time has now come when some sort of attention should be paid to them. I think we can find, somewhere in our history, from the days of Truxton down through the last war with Great Britain, when it was said our Navy fought its way into reputation and redeemed itself from prejudice, and in the events of this war, down to the most recent enterprises of Lieutenant Cushing, a proper subject for a painting which shall recognize the existence of a Navy in this country.

Then, again, as to the subject; that is to be settled upon, according to the resolution, between the committee and the artist. That is all we can ever do as to that. As respects the artist himself, gentlemen have seen specimens of his productions. They are in the Rotunda. We have all seen them. Most of us know the artist of whom the Senator from Massachusetts speaks, certainly with very great respect and justice. I think we are as competent now to judge whether he is a proper man to perform this service as we ever shall be.

As respects the time, it seems to me that during war is the very time when we should by our votes show that we have gratitude enough to remember, and that we have honor enough to perpetuate and commemorate, the actions of that branch of the public service in which so much of heroism and patriotism has been displayed.

Mr. HOWE. Before this vote is taken I beg leave to trouble the Senate long enough to say that if there were any one proposition which could make the original resolution more distasteful to me than it is in itself, it would be the proviso moved by the Senator from Massachusetts, [Mr. SUMNER.]

I regard this war as a war made upon the people by their enemies. It is not the first of the kind. I trust in God it is the last, as it is the bitterest and the most relentless. Every victory achieved by our armies in this war I regard as a victory achieved by the people over their enemies, and those victories are not the least resplen-

dent that have been known in the history of the world, and they are the very victories of all others that I will never consent shall be winked out of sight. They are the victories with which, as I understand them, God has had more to do and man has had less to do than any victories that have heretofore been achieved in the contest between those original enemies, the people and the aristocrats, if you please to call them so; and so, therefore, if we are to commemorate any victories whatever by painting, by poetry, or in any other way, let these victories be not excluded by any vote of ours. They never shall be by any vote of mine.

But, sir, I cannot consent to vote for the resolution. Glad as I would be to see this magnificent pile decorated by some work which should commemorate the gallant deeds of our Navy, I cannot vote for this now. I have known in my life spendthrifts who, having mortgaged their homestead to its full value, would still, if they had credit left, borrow money to add another decoration to it. I never thought the example worthy of the imitation of sensible men, nor could I commend it to the nation. This house of ours now is under mortgage for \$2,000,000,000. I do not want to vote for a proposition to borrow \$25,000 more to add another decoration to it. I have seen a picture commemorating an event in our naval history that I would be glad and I would be proud to see owned by the nation, and see it adorning this very building; but we do not absolutely know that we own the building. We know there is an immense army within a few miles of this Capitol disputing our title to it. I think we had better have our title quieted, and then I will agree to vote for money to decorate the building.

#### STATE GOVERNMENT OF LOUISIANA.

The VICE PRESIDENT. The morning hour having expired, the unfinished business of Saturday is now before the Senate.

Mr. COLLAMER. I desire that that be informally laid aside while the vote is taken on this question.

The VICE PRESIDENT. On the unfinished business the Senator from Kansas, not now in the Chamber, [Mr. LANE,] is entitled to the floor. The unfinished business is the joint resolution (S. R. No. 117) recognizing the government of the State of Louisiana.

Mr. SHERMAN. I submit a motion that the pending order be dispensed with with a view to take up the bill which was made the special order for to-day.

The VICE PRESIDENT. That motion cannot be interposed without the consent of the Senator entitled to the floor.

Mr. SHERMAN. The Senator [Mr. LANE, of Kansas] is not here. I did not know whether the Chair would wait for him.

The VICE PRESIDENT. The Chair thinks he must be in his place to entitle him to the benefit of the floor. The Senator from Ohio moves to postpone all prior orders for the purpose of proceeding to the consideration of the bill (H. R. No. 744) to amend the internal revenue law.

Mr. POMEROY. I am satisfied that if we can take a vote on this question at this time my colleague does not desire to make a protracted speech, and he told me this morning he would yield the floor to take a vote. If we can take a vote on the Louisiana question now my colleague will yield the floor.

Mr. SUMNER. I assure the Senator it is utterly impossible to take the vote.

Mr. SHERMAN. If there could be a vote taken on the Louisiana question within an hour or two hours I would not object, but I know from statements made to me that it is impossible to get a vote without sacrificing the day. Therefore I must insist on my motion.

Mr. COLLAMER. I have not heard any objection to taking a vote on a House joint resolution called up on my motion.

The VICE PRESIDENT. The Senator from Ohio interposed a motion which takes precedence of that matter.

Mr. SHERMAN. If there could be a vote on either of the propositions, either the picture proposition or the Louisiana proposition, without further debate, I would not interpose.

Mr. COLLAMER. I take it there will be no further debate about the picture resolution.

Mr. SUMNER. I have another amendment to move.

Mr. COLLAMER. That is for a vote, I suppose.

Mr. SUMNER. I shall want the yeas and nays.

Mr. COLLAMER. That I do not object to.

Mr. SHERMAN. I insist on my motion.

Mr. TRUMBULL. I am sorry that my friend from Ohio conceives it to be his duty to make this motion. I am satisfied that it is a waste of time to take the course he proposes. The tax bill has just been printed. It is laid upon our tables this morning for the first time. There has been no opportunity to read it. Senators have not yet read that important bill. We can act upon it, I am satisfied, much more speedily after we shall have had time to look it over.

Again, sir, the matter which has been under consideration for several days now, the recognition of the existing State government in Louisiana, has so far progressed that the Senate was ready to vote upon it on Saturday night, and a vote was only prevented by dilatory motions made—I wish not to say anything offensive, but still the truth ought to be spoken—made in a factious spirit, avowedly made for the purpose of delay. It was manifest upon that occasion that a majority of the Senate, two thirds of the body, desired action; and I ask, shall one third of this body be permitted by factious opposition to delay an important bill of this character? Its merits are not under discussion at this moment, I know. If, sir, we can hold that measure before us, if the Senate, a clear majority of which has expressed itself by vote after vote in favor of action upon the Louisiana case, will say to this factious minority, "Upon you belongs the responsibility of the public business of the country; we will continue to sit, commencing now, until you cease your factious opposition," I hope that no Senator here acting upon the responsibility he owes to the country will be willing by mere motions of delay to continue the matter much longer. The Senator from Massachusetts [Mr. SUMNER] shakes his head. I ask that Senator if he is prepared by factious opposition to delay the public measures of the Congress of the United States in a time of war, and of great peril to the public interests.

Now, sir, I hope that a majority of the Senate will stand by the proposition which is under discussion, a proposition upon which this body is ready to vote, and was ready to vote on Saturday night when it was delayed by these dilatory motions. I am sure the Senator from Ohio will make greater progress in his bill by allowing us to dispose of this measure now than by taking that up and postponing the measure which is now under consideration. He can hardly expect that on so important a question as this a majority of the Senate will agree to allow a minority to control them. The minority would be very glad to have the bill of the Senator from Ohio or any other bill taken up. But if it is of importance to lay a foundation for the restoration of this Union, for a peace that will be worth having, we must fix at some time, and now in the opinion of a majority of the Senate the time has come when we should recognize the existing government of the loyal people of Louisiana.

I trust, sir, that the motion of the Senator from Ohio will not prevail. I know that he considers it his duty to make the motion as chairman of the Finance Committee, but there is no question but that his measure will be taken up and acted upon, and I am sure that by proceeding with the regular order with the understanding that it shall be persisted in till factious opposition cease, we may get a vote before the sun goes down.

Mr. SHERMAN. Mr. President, I have made this motion from my sense of public duty, and I am satisfied that I can convince a majority of the Senate that it is indispensable to the public business that this motion should be agreed to. I shall vote from my present stand-point with great pleasure for the resolution in regard to Louisiana, but at the same time I do not regard that measure of vital importance. The same question will be presented to us on the 4th of March next, on the application of the gentlemen claiming to be elected Senators, when we shall have ample time and opportunity to discuss the whole question about the State of Louisiana.

Mr. TRUMBULL. The Senator will allow me

to interrupt him and to state that the same question cannot be presented after the 4th of March.

Mr. SHERMAN. It can be as to the admission of the Senators.

Mr. TRUMBULL. But the report of the Judiciary Committee, upon which we are acting, takes the distinct ground that Senators cannot be admitted until by the joint action of both Houses of Congress the State government is recognized, and that requires the action of the other House; there must be legislative action.

Mr. SHERMAN. However that may be, let me state the condition of the public business. At this hour we are within five days of the close of the session, and we have not acted upon a single appropriation bill finally. I have now upon my table three bills, each of which must be read and considered in detail. One is the tax bill. Everybody knows the importance of acting upon that, and that it will give rise to debate. It affects every industrial interest of this country; it covers fifty-eight printed pages, with a multitude of amendments. I regret as much as the Senator from Illinois can that this bill has been sent to us at so late a period, but the House of Representatives had the exclusive power to originate the bill, and they did not send it to us until last Monday. The Committee on Finance were in almost continuous session during the last week deliberating upon the bill, and they reported it at the earliest moment practicable. We cannot expect that the Senate will act upon it and dispose of it in less than two or three days. It must pass; it is one of those measures that demand the attention of the Senate as against all other propositions.

Then I have in my hand the Indian appropriation bill, a bill of fifty-two printed pages, and although it will not take as much time as the tax bill, it is a volume of itself, and it will take two hours to read it at the Clerk's desk. I have also in my hand another bill which must be acted on, which has not even been considered by the House of Representatives at this moment, but which will be sent to us in a day or two—the civil appropriation bill—containing all the miscellaneous appropriations, and all the appropriations for the civil service of the Government; a bill which usually occupies the Senate two or three days.

Then behind that we have the tariff bill, which must be passed in order to conform our tariff to the new internal revenue bill. I have on my table, also, the Army and Navy appropriation bills, ready to be presented to the Senate for another stage of their advanced progress.

Under these circumstances I cannot, with my sense of public duty, allow the Louisiana question to consume more time. I have nothing to say in regard to the conduct of Senators who choose to discuss that measure. They perform what they believe to be their conscientious duty. They must answer to their constituents and to their consciences for their course. I have no censures to cast on them. I know that it is now indispensably necessary to the public business that the tax bill should be taken up and considered, if we intend to pass it at this session, and any delay, in my judgment, may lead to the defeat of several of these bills. It will now take six clerks every hour from this time until the adjournment of Congress to engross and enroll these various bills, so as to pass them through their several stages. Every letter and every page of these bills has to be enrolled on parchment before the bills can be signed by the Presiding Officer and sent to the President, and all this work must be accomplished before noon of next Saturday.

Under these circumstances I appeal to Senators on their responsibility not to postpone action on these important measures which must receive the sanction of Congress before the adjournment, or else compel the necessity of an extra session. I have looked into the history of the sessions of Congress for several years, and I do not find that at any period there was such a vast accumulation of public measures demanding attention as there is during this week. I must, therefore, insist upon my motion, and I trust that it will not be voted down, and that we shall not waste this day in discussion. I know—and I assure Senators that when I say I know it, I mean what I say—that there are Senators here who deem the measure in regard to Louisiana so important that they will insist upon their right to discuss it, and therefore it will take time, and in this way, on a meas-

ure not unimportant, but of comparative unimportance, you may endanger the passage of bills that are necessary to the conduct of the public business during the next year. All that can be said, if the Louisiana question shall be postponed by the action even of a minority of the body, is that the question goes over to the next Congress, when it may be considered fully and carefully after all the discussion that any gentleman desires to give it.

Mr. WADE. Mr. President, this is not the first time that I have risen here to resist an attempt to force upon an unwilling people a constitution to which they never consented. It is an old story with me, and I have not changed my ground or my opinion upon that subject now because some of the party with whom I generally act have fallen from grace, as it were, and gone over to the old Lecompton doctrine of the party who endeavored to force upon Kansas a constitution to which the people never consented, but which they abhorred.

Mr. TRUMBULL. This is the constitution of the people of Louisiana.

Mr. WADE. The people! How long have you, sir, been of the opinion that it was the people who wanted it? Whence comes this new-born zeal of the Senator from Illinois? How long is it since he believed that it ought to be recognized as a State by the Congress of the United States? Sir, it is the most miraculous conversion that has taken place since St. Paul's time.

Mr. TRUMBULL. I have believed it ever since I investigated the facts.

Mr. WADE. Ever since you investigated the facts, and now you are in a great hurry! Why did you not investigate the facts while we were adjourning over for two and three weeks at a time and doing nothing? The question was before you then. Can you answer me that? I should like to hear the answer. Whence, I say again, this new-born zeal of the Senator from Illinois at the heel of a Congress, when we are pressed with business which is important and essential, and which we must do, to bring before this body a question going to the organization and foundation of the Republic? You have pondered over it all winter, and your mind was made up entirely adverse to what it is now. How do you know but that your first view of the subject was the true one? Why so zealous at this second thought of yours?

You and I did not differ formerly on this subject. We considered it a mockery, a miserable mockery, to undertake to recognize this Louisiana organization as a State in this Union. If I am not greatly mistaken, the Senator from Illinois himself not three weeks ago argued and voted and reported from the Judiciary Committee that it was not a State which ought to be recognized or its votes counted for President of the United States. How does he get along with conduct so palpably inconsistent, so at war with itself?

Mr. TRUMBULL. The Senator, I presume, does not mean to misstate me. He never heard me argue or report or vote or say that the State government of Louisiana should not be recognized. I voted against receiving its electoral vote, and I voted against it because it had not been recognized. Now, I propose to put it in a condition where it may cast electoral votes, and do all other acts belonging to a State.

Mr. HOWARD. Why not recognize it, then?

Mr. TRUMBULL. Why do I not recognize a Territory before it is made into a State? I will answer all these objections, but I do not want to be drawn into a discussion of the merits of the question on a motion to postpone one order of business to another. I think I could satisfy the Senator from Ohio himself that he is resisting the will of the people of Louisiana, and he is the Lecomptonite on the present occasion, and I will prove it by the record.

Mr. WADE. I do not doubt that the gentleman does not like to discuss the merits of the question now. Did he not open the way to the discussion of its merits?

Mr. TRUMBULL. No.

Mr. WADE. Did not the Senator say it was a vital and essential principle which he was advocating in this instance that could await no delay? Was that no allusion to the merits? I say to that Senator he does confess that he voted that Louisiana was no State, that its vote should not

be counted for President of the United States, the strongest test that could be applied to the question. Why did he do that? Does he undertake to draw a distinction between counting the votes of a State for President of the United States and recognizing its Senators and Representatives on this floor and in the other House? A Jesuit cannot see the distinction. There is none. The Senator did adjudge it not to be a State, and he adjudged it right. I was with him, two thirds of the whole Senate were with him, that it was not worthy to be counted as a State in this Union. And yet when the question has not been debated, for I believe there have been but two or three speeches made on the side that I maintain, the Senator undertakes to rise and say that we acted factiously, because on Saturday night, after ten o'clock, he refused to let the Senate adjourn, and insisted and was determined upon getting the question then. He had made his speech upon it.

Mr. TRUMBULL. No.

Mr. WADE. Yes; the Senator had spoken on it. At any rate he made a long report in its favor, and he wanted every Senator here to come right up on Saturday night late, a rainy night, too, and allow the question to be taken. I told him he could not have it, and he never should have had it. In olden times when rebels were here intent on their accursed measures to strike down democracy and republicanism, and thrust down the throats of an unwilling people a constitution for which they never voted, and which they abhorred in their hearts, I stood here and made a successful "factious" opposition according to the idea of the Senator from Illinois. I glory in it. I thank my God that we did make a factious opposition, if you call it factious. It had the effect to prevent a brave people from being hampered by central authority here, to prevent the President's edict being announced as the law, and the people being enslaved by a constitution to which they had never given their assent.

Sir, I shall deal with the same proposition now precisely as I did then. It will not do to tell me that because a President whom I helped to elect has taken it in hand, if he has taken it in hand, to enjoin it on this Congress, I am to recognize it. I will view it under his mandate precisely as I did under that of Mr. Buchanan or Mr. Pierce. When the rights of the people are touched, when the foundation of this Government is sought to be swept away by executive usurpation, it will not do to turn around to me and say that this comes from a President whom I helped to elect, or that the measure is supported generally by my own party. I say, sir, that this question goes to the very foundation of republican government. If the President of the United States, operating through his major generals, can initiate a State government, and can bring it here and force us, compel us, to receive as associates on this floor these mere mockeries, these men of straw who represent nobody, your Republic is at an end.

Sir, I have heard a great deal about this pretended election in Louisiana, that did not come from Major General Banks, and I pronounce the proceeding a mockery. It is not pretended that there could be drummed up from the riff-raff of New Orleans and sent into the vicinity under the mandate of a major general more than about six thousand votes, where over fifty thousand were formerly polled.

I regret as much as the Senator from Illinois or anybody else, that the people of Louisiana have not manifested their desire to come back into the Union; and until a majority of them do so it is impossible that you can make a republican government of it. What, sir, talk of organizing a republican State, a democratic community, to be one of the integral members of this Union, out of a people a great majority of whom are absolutely hostile to you and to your assertion of jurisdiction over them! We all understand that according to our fundamental principle of government nothing less than a majority can rule. If these seceded States are not willing to accept that rule, you have in them now the only government you can have in the nature of things, a military government under a military governor, and it is better for them than the mockery of the form of a free State under the shadow of military power.

Talk not to me of your ten per cent. principle. A

more absurd, monarchical, and anti-American principle was never announced on God's earth—

Mr. SHERMAN. I must interpose—

Mr. WADE. But, Mr. President, I will not go into that. I see that my colleague, who is charged with the important business of the session, that is to provide ways and means for carrying on this war and carrying on this Government, is the advocate here of substances and not of shadows and mockeries. He has shown to the Senate that it is absolutely essential that we betake ourselves to the substantial business of the session, and not play around this mere mockery any longer.

We are told that it is important to dispose of this Louisiana question. Is it not exceedingly important that we shall have here as associates for four or five days, side by side with us in this Senate Chamber, two men from Louisiana, representing nobody and nothing except the will of the Commander-in-Chief of the Army of the United States? It is important that we should have them here for four or five days to neutralize the vote of Illinois, to neutralize the vote of Ohio, to neutralize the vote of the State of New York! Sir, it is an insult to the people of those great States and of all the other States in the Union to admit these men on this floor to neutralize and to outvote us who do profess to represent the people of our States. The Senator from Illinois thinks it is all-important that these gentlemen should be here to help us out with our business for the residue of the session. I am sorry that he is an advocate of such measures.

He says I am taking a dilatory course. Am I? Why did he bring up his other important measure of building statues and garnishing the tombs of your judges, of your Jeffreys', and detain the Senate with that when he knew that we had hardly time to do our legitimate business? I hope the Judiciary Committee will betake themselves to more useful legislation than all this. But, sir, I do not propose now to argue the question; but if you will have the question up I will argue it.

Mr. TRUMBULL. The Senator from Ohio does not propose to argue the question after occupying about half an hour in denunciation of those who disagree with him, talking about usurpations and about other matters that are not before the Senate. After indulging in this strain of remark, he sits down, not proposing to argue the question! He has been arguing it, or rather I should say he has been denouncing persons who disagree with him. I do not think that will accomplish much in the Senate of the United States.

Mr. WADE. Did not the Senator denounce us as factionists?

Mr. TRUMBULL. I did not allude to the Senator from Ohio at all. I believe he made no motion on Saturday night, and made no speech.

Mr. WADE. Yes, I did; and I should have made more if necessary.

Mr. TRUMBULL. I certainly did not hear from him; and he generally speaks in such a tone that his voice is heard. I think he made no motions on Saturday night.

Mr. WADE. I did.

Mr. TRUMBULL. If he did, they were made in a quieter way than they are to-day. Now, sir, it is manifest that we are losing time by this motion which has been interposed by my friend from Ohio, [Mr. SHERMAN.] If he will let us go on with the Louisiana resolution, I am quite sure we can finish it to-day, and then it will be out of the way. I think it will be economy of time to do it.

I am not to be drawn off, although I think I should be justified in replying right here to the Senator from Ohio, [Mr. WADE,] and showing, as I think I can show, that he himself is resisting the wishes of the loyal people of Louisiana, and standing in the way of the reorganization of that State government. I think it would be very easy to show to other persons, if not to the Senator from Ohio, that there is very great propriety in not admitting Senators here or not receiving electoral votes from a State which is declared to be in insurrection before we have removed the impediment to their acting as a State government, while it would be very proper afterward to receive them; but all that would be apart from the consideration of the question now before the Senate. I assure the Senate from my experience here that it is econ-

omy of time to proceed with this matter and settle it. We have already lost half an hour in this discussion. I trust the Senate will vote against the motion of the Senator from Ohio, [Mr. SHERMAN,] and I believe he will lose nothing by it, but that the public interests will be subserved, and the public business will be expedited by taking that course.

Mr. HOWARD. I hope the Senate will vote to take up the bill suggested by the honorable Senator from Ohio, [Mr. SHERMAN.] It is a bill of great importance, as are the bills which are connected with it, upon which we are to act between this and the close of the session. I do not regard the joint resolution which is so strenuously urged upon our attention by the Senator from Illinois as a measure upon which it is necessary for the Senate to act at all, at this session, at least. The subject-matter has not been discussed before the people of the United States. Our constituents at home at this time are, in the main, very ignorant of the nature and qualities of this State government in Louisiana which it is now attempted to set up as a State of the Union. I think it is their right to be permitted to consider this question between this and the coming session of Congress, so that they will be able to express their views to their representatives here in this Chamber and in the other House. This is a Government of public opinion, and if there ever was an occasion on which it was necessary that the voice of the people should be heard, and should prevail, it is this occasion, and this is the subject.

Mr. President, I confess that these arrogant charges of the Senator from Illinois of factiousness against the minority that do not see fit to swear in his words upon this measure, grate rather harshly upon my ear. I am sincerely opposed to the passage of the measure of which he has so suddenly become the advocate. I feel it not only my privilege, but my duty, to use all honorable and fair means to prevent that measure becoming a law, and I can assure that gentleman that all the clamor he may raise here against me for factiousness will not deter me from performing this duty. I do not recognize his right to stand here and charge me with faction. Who has given him the commission to stand up and accuse his brothers in this Chamber of criminality? for factiousness is such in the eye of the public. Who has given him a commission to stalk into this Chamber and assume to call up and in a most schoolmasterly way lecture gentlemen who belong here, and who, some of them, at least, may fairly claim to be his equals and his peers? I will set up no such claim for myself. I am willing that the intellect and the political character of the Senator from Illinois may be sold at what he deems them worth, if they can be so sold, but I beg to assure him at the same time that I shall perform my duty here according to my own conscientious convictions.

The Senator from Illinois assumes the high prerogative of charging his brethren here with faction. How long ago was it that that Senator made his voice heard upon this floor in denunciation of the whole proceedings of the Executive in regard to the readmission of these two States, Louisiana and Arkansas? There has not been, and is not now, upon this floor a single Senator whose sarcasm has been so biting against the Executive, whose denunciation has been so unscrupulous, vociferous, and sweeping, as that of the Senator from Illinois in reference to these same acts of military usurpation, as he called them, and which acts he now undertakes to set up as a foundation for the establishment of the government of a State.

Mr. SHERMAN. I rise to a point of order. I never like to make a point of order. I trust Senators will allow a vote to be taken on my motion. Discussion of the merits is not in order.

Mr. HOWARD. Certainly, I will allow the vote to be taken with the utmost pleasure; but I trust my friend from Ohio will not expect me to sit here very quietly and silently under these unfounded, and I had almost said ungentlemanly, charges of the arrogant Senator from Illinois.

Mr. SHERMAN. I think enough has been said on both sides now.

Mr. HOWARD. That Senator shall at least know that there is one member of this body who will not accept such unfounded rebukes.

Mr. SPRAGUE. I desire to say one word



just here, and that is in relation to this people's government of Louisiana. If I am out of order in doing so, the Chair will remind me of my duty in that respect.

The VICE PRESIDENT. In the opinion of the Chair it is not in order to discuss the Louisiana question on this motion.

Mr. SPRAGUE. I do not mean to discuss that question, but simply to suggest the point I wish to make in voting for the motion of the Senator from Ohio, and against the consideration of the measure suggested by the Senator from Illinois. I hold in my possession a paper indicating the names of the members of the Legislature of this State that we are called upon to recognize; and it shows that twenty-five, or twenty-seven, or thirty of those gentlemen who now constitute that Legislature, are office-holders under this Government or the government of the State, which is the same thing.

Mr. SUMNER. Mr. President, I remember last summer that good fortune threw me in the path of a distinguished gentleman just returned from Louisiana. I think he had been present at the sittings of the convention whose work finds such an advocate in my friend from Illinois; at any rate he had been in New Orleans at the time in the discharge of important public duties. In reply to an inquiry with regard to that convention, he said compendiously, that it was "nothing but a stupendous hoax"—yes, sir, nothing but a stupendous hoax, and the product of that convention—

Mr. SHERMAN. I must again rise to a point of order, and I do it against the honorable Senator from Massachusetts, who is one of the oldest Senators here. We must certainly enforce the rules of order, and a question of this kind is not debatable to the latitude to which the discussion has gone.

The VICE PRESIDENT. The practice of the Senate is one way and parliamentary law is the other.

Mr. SHERMAN. I insist on the parliamentary law.

The VICE PRESIDENT. The parliamentary law does not allow the merits of a question to be discussed on a question of the priority of business. That is undoubtedly the parliamentary law; but the practice of the Senate is the other way. The Chair if called upon to decide must rule according to the law.

Mr. SUMNER. Mr. President—

The VICE PRESIDENT. The Senator from Massachusetts will understand the Chair that he is not at liberty to discuss the merits of either bill upon the question of proceeding to the consideration of one. That is the parliamentary law.

Mr. SUMNER. And yet I presume that I may allude in a general way to the character of the measures that are in question.

The VICE PRESIDENT. The Chair thinks so, because that may be a reason why the measure proposed to be taken up should be proceeded with or not.

Mr. SUMNER. I knew the Chair must think so; and it was only in that way that I was speaking when I was interrupted by my friend from Ohio. I was quoting what was said to me by a distinguished citizen with regard to the convention which produced—

Mr. JOHNSON. Will the member be kind enough to tell, if he is at liberty to tell, who the distinguished citizen is that said it was all a humbug?

Mr. SUMNER. He did not call it, humbug. He called it a stupendous hoax.

Mr. GRIMES. Mr. President—

Mr. SUMNER. I believe I have the floor.

Mr. GRIMES. I only wish to make a suggestion to the Senator from Maryland. If he is anxious to obtain the names of those who were in New Orleans when the convention was held and who do entertain the opinion stated by the Senator from Massachusetts, I can furnish him with a large number, and I will say furthermore in this connection that if the Senate will give a committee I will undertake to prove and I will prove that the voters whose votes were polled in the outlying parishes at Thibodeaux and Plaquemines, and other places, were carried in Army transports to those places where they polled the votes, being discharged soldiers and persons belonging in New Orleans, and were brought back

to New Orleans, and were not residents of the places where they purported to vote.

Mr. SUMNER. I doubt not that my friend from Iowa is right, but I understand that it is not proper to discuss the merits of the proposition on this preliminary motion, and I do not design to discuss it. I was simply characterizing it, and I was going on to say that in my opinion the proposition which the Senator from Illinois is so earnestly pressing upon the Senate, when we consider its origin and character, is in itself very little different from a stupendous hoax. I say nothing about the convention, for I was not there. I did not see it. On that point I simply cite the testimony of another. But the proposition of the Senator is before us, and we are familiar with its nature. Every moment gives us new glimpses of the violence and fraud with which it is associated. Perhaps this expression I have quoted is hardly grave enough in speaking of such a proposition, where military power and injustice to a whole race have been enlisted in forming the constitution of a State, in defiance of the self-evident truths of the Declaration of Independence. The United States are bound by the Constitution "to guaranty to every State a republican form of government." Now, when called to perform this guarantee it is proposed to recognize an oligarchy of the skin. The pretended State government in Louisiana is utterly indefensible whether you look at its origin or its character. To describe it, I must use plain language. It is a mere seven-months' abortion, begotten by the bayonet in criminal conjunction with the spirit of caste, and born before its time, rickety, unformed, unfinished—whose continued existence will be a burden, a reproach, and a wrong. That is the whole case; and yet the Senator from Illinois now presses it upon the Senate at this moment to the exclusion of the important public business of the country. For instance—

Mr. SHERMAN. Now I must insist on the order of the Senate being enforced or abandoning my motion at once and withdrawing it. If Senators are determined to discuss the proposition I shall withdraw the motion.

Mr. TRUMBULL. Let it be withdrawn.

The VICE PRESIDENT. The Chair thinks this range of debate is out of order.

Mr. SUMNER. Very well.

Mr. SHERMAN. Senators must see now that to take up this controverted question, in the face of the statements made here, is to exhaust the expiring hours of this session on a controversy in which the members of our own political party are divided. I appeal to the Senate to dispose of that which is indispensable to be disposed of, and then if we have any time to talk afterward I am perfectly willing to hear all that can be said about Louisiana.

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio.

Mr. TRUMBULL called for the yeas and nays; and they were ordered.

Mr. HENDERSON. Before the vote is taken I desire to say that I feel a deep interest in regard to the State governments of Arkansas and Louisiana, and I should like very much to see those States recognized and the members representing them admitted; but as a member of the Committee on Finance, I know the importance of taking up the measure referred to by the Senator from Ohio, and I shall therefore vote for his motion.

The question being taken by yeas and nays, resulted—yeas 34, nays 12; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Carlile, Chandler, Clark, Collamer, Conness, Cowan, Davis, Dixon, Farwell, Foster, Grimes, Harlan, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill, Nye, Powell, Riddle, Saulsbury, Sherman, Sprague, Stewart, Sumner, Wade, Wilkinson, Wilson, and Wright—34.

NAYS—Messrs. Doolittle, Harris, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Pomeroy, Ramsey, Ten Eyck, Trumbull, Van Winkle, and Willey—12.

ABSENT—Messrs. Foot, Hale, Harding, and Richardson—4.

So the motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. SHERMAN. Now, before going on with the tax bill, I move to take up the action of the House of Representatives upon the amendments of the Senate to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866.

The motion was agreed to.

On motion by Mr. SHERMAN it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, disagree to the amendment of the House to the sixth amendment of the Senate thereto, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. COWAN, Mr. WILSON, and Mr. CARLILE.

#### NAVAL APPROPRIATION BILL.

Mr. SHERMAN, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 676) making appropriations for the naval service for the year ending the 30th of June, 1866, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 676) making appropriations for the naval service for the year ending 30th of June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their second and twenty-fourth amendments.

That the House recede from their disagreement to the eighteenth amendment of the Senate and agree to the same with the following amendment: in lieu of the words stricken out by said Senate amendment insert the following: "Sec. 2. And be it further enacted, That no indispensible shall be appointed for any district not represented in Congress."

That the Senate recede from their disagreement to the amendments of the House to the third, sixth, twenty-first, and twenty-second amendments of the Senate, and agree to the same.

That the House recede from their disagreement to the seventeenth amendment of the Senate, and agree to the same with an amendment, as follows: strike out "one million" and insert in lieu thereof the words "five hundred thousand," and the Senate agree to the same.

That the House recede from their disagreement to the twenty-third amendment of the Senate and agree to the same, with an amendment, as follows: after the word "bunting," in line thirteen of said amendment insert the words "of American manufacture."

JOHN SHERMAN,  
JAMES W. GRIMES,  
THOMAS A. HENDRICKS,  
*Managers on the part of the Senate.*  
JUSTIN S. MORRILL,  
F. A. PIKE,  
SAMUEL S. COX,  
*Managers on the part of the House.*

The report was agreed to.

#### MILITARY ACADEMY BILL.

The VICE PRESIDENT presented the following report, made by Mr. Howe on Saturday last:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the first amendment of the Senate, and agree to the same.

That the Senate recede from the second amendment.  
T. O. HOWE,  
THOMAS A. HENDRICKS,  
*Managers on the part of the Senate.*  
J. G. BLAINE,  
R. MALLORY,  
G. S. ORTH,  
*Managers on the part of the House.*

The report was agreed to.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President had approved and signed the following bills and joint resolutions:

A bill (S. No. 37) to prevent officers of the Army and Navy, and other persons engaged in the military and naval service of the United States, from interfering in elections in the States;

A bill (S. No. 347) for the relief of Rebecca S. Harrison;

A bill (S. No. 393) to authorize the corporation of Georgetown to levy certain taxes;

A bill (S. No. 439) to change the name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter;

A bill (S. No. 454) supplemental to an act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City," approved February 21, 1863; and

A joint resolution (S. R. No. 112) for the relief of James B. Royce.

#### PROPOSALS FOR TRANSPORTATION.

Mr. POMEROY submitted the following reso-

lution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to furnish the Senate with an abstract of the proposals for transporting military supplies from Fort Leavenworth, westward, opened December 31, 1864, by Captain Henry C. Hodges in pursuance of published notice thereof, together with all communications received by the Secretary of War or Quartermaster General relating thereto, and their opinions or decision thereon.

J. AND O. P. COBB AND COMPANY.

Mr. HENDRICKS. I move to reconsider the vote by which the Senate disagreed to the amendment of the Committee on Claims to the joint resolution (H. R. No. 80) for the adjustment of the claim of J. & O. P. Cobb & Co., of Indiana.

The VICE PRESIDENT. The motion will be entered.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866; and it was signed by the Vice President.

#### RECESS.

On motion of Mr. JOHNSON, it was ordered that to-day, at four and a half o'clock, the Senate will take a recess till seven o'clock p. m.

Mr. SHERMAN. To avoid the repetition of the order, I move that hereafter during the present session the Senate take a recess every day from four and a half till seven o'clock p. m.

The motion was agreed to.

Mr. WILSON. I move that on and after tomorrow the Senate meet daily at eleven o'clock a. m.

Mr. TRUMBULL. I hope not. We cannot do our committee business and meet at eleven o'clock and have a night session besides.

Mr. WILSON. We have a great deal to do.

Mr. TRUMBULL. I know we have; but we must attend to committee business.

Mr. WILSON. I withdraw the motion.

#### INTERNAL REVENUE.

Mr. DAVIS. Is not the tax bill now before the Senate?

The PRESIDING OFFICER. (Mr. Foot in the chair.) The bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, is now before the Senate as in Committee of the Whole. To save time, as the amendments of the committee are reached in the reading of the bill by the Secretary each will be acted on in order.

Mr. DAVIS. Before the bill is read I move to postpone it indefinitely, and upon that motion I propose at this time to give my views generally against the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

Mr. DAVIS. Mr. President, the amount of our public debt, and the rapidity of its growth, is the wonder of the world. The number of men who have been mustered into this war, and the number who have been mustered out of it by death, in some form, and the burden of taxation which it has brought upon the people, have no parallel in all history; and still the cormorant of this war cries aloud for more men, more money, more taxes!

I deny that the people owe to the Government the last man and the last dollar, or anything; on the contrary, all that is owing between them is by the Government to the people. Our Government was made by the people themselves, and for themselves. It was made to secure to all life, liberty, property, and the pursuit of happiness, and not to aggrandize the Government or the governors. The great aim of its creation was to achieve freedom, not empire; to protect all, to oppress none. It was organized by a fundamental law, a written Constitution, which delegates to it all its powers by plain language, and then not only impliedly, but expressly, in the simplest words, withholds to the people and the States respectively all the powers which it had not delegated to the Government. The Constitution is the great power of attorney from the people to their governors, by

which and within which their agents, the governors, act for them. If the agents transcend their powers, such acts impose no obligations, legal or moral, on the principal, the people. Their power of attorney is published to and read by the world, all its delegations and restrictions of power are universally known, and the rule of law that the acts of the agent outside of his power are void, exists not only in our Constitution and the operations of our Government, but is recognized by every civilized nation in all their affairs. The people of the United States are not bound to furnish men or money to their Government to prosecute any unconstitutional military enterprise, or to execute any unconstitutional policy, or to do any unconstitutional act whatever; and if by the enforcement of usurped powers the Government has contracted debts, the people are under no obligation to pay those debts. All money borrowed, debts in any mode created by the Federal Government to destroy State governments and institutions, to subvert the liberties of the people, and to despoil them of their property, were without authority; and those who gave their services, their money, and property, to such unconstitutional purposes acted in their own wrong, and must take the consequences. But the Government had the right, and it was bound to suppress the insurrection by the exercise of all its constitutional powers; and such portion of the public debt as was created for that object, by the use of constitutional means, was properly incurred, and ought to be paid. The people may apportion the debt between what was rightfully and what was wrongfully created; the former they will pay, the latter they will not pay. They will not repudiate their own debt, they will decide in accordance with truth, principle, and justice, that debts created by their agents without their authority are not their debts, and that they will not pay them.

In the light of these principles, I will give a rapid *résumé* of the administration of the Government, and particularly in the State of Kentucky, for the last three years, to afford some means for forming a general idea what portion of the public debt has been created to effect unconstitutional purposes, and therefore should not be paid, nor any tax be imposed to pay it, or interest upon it.

The military administration in Kentucky has been a tissue of the most shocking abuses of power, and requires a thorough and searching investigation by a select committee of the two Houses of Congress; and I will proceed to state some of the facts upon which I base this assertion. During the last three years there has been no general election in that State in which military officers of the United States have not interfered in manifold and flagitious modes—by intimidating the election officers to strike the names of candidates to whom they objected from the poll-books; by prescribing oaths to voters essentially different from those provided by law, and requiring them to be taken as the condition of voting; by forcing qualified and loyal voters from the polls by armed soldiers, unless they would vote for particular candidates; by forcibly seizing upon and destroying the poll-books, and imprisoning or driving the officers from the places of holding elections; and by arrays of soldiers, and threats and acts of violence generally.

Early in that period wrong and outrage were visited upon the people of Kentucky in those and many other forms by a soldiery and their commanders whose duty it was to uphold them in the possession and enjoyment of all their rights and liberties; and during the latter part of it, in number, diversity, and enormity, those wrongs and outrages were greatly augmented. Throughout the past year, in defiance of an arrangement made by the Governor of Kentucky with the President and Secretary of War, that slaves of that State should be taken into the military service of the United States only by being regularly enrolled and drafted, or by the agreement of both master and slave, and as fast as mustered in should be taken out of the State to camps of instruction, recruiting officers to enlist negroes were sent with general license into the slaveholding counties, and their proceedings were of the most violent and disorderly character. These officers were numerous, and all from other States or foreign countries. They generally had neither the intelligence nor disposition to exercise those powers with any

propriety; on the contrary, they acted as though their business was not only to recruit slaves, but especially to insult and outrage their owners and families, and to do everything possible to demoralize slavery in the State. Enrolling was early discontinued; the recruiting officers spread over the country, under promises from superiors that when they raised a company they should have a captain's commission, and after getting two or three slaves to join them would sweep from farm to farm, making their recruits the effective agents of their work, and invading every household, workshop, or field, that promised further accessions, and beguiling, constraining, and forcibly dragging away the great mass of men slaves, without any regard to the remonstrance of owners, or the nature of their employment. It often happened that the drivers of wagons, and other vehicles, in towns, villages, and on the highways, were seized and forced away by these roving recruiting parties, and the property with which they were charged left without protection. The owners' exigencies for labor were never regarded, but whatever might be the urgency of their present demands, all men and half-grown boys were taken when any allurements, or false promises, or threats could wring from them a seeming consent, and in many instances by positive force. Large portions of the State were thus rifled of their most effective labor, and the consequence was mechanical orders were left unexecuted, fields uncultivated, and crops ungathered, causing a heavy loss to the State and ruin to many persons.

If there had been a regular enrollment of the slave military population of Kentucky, and only its fair quota taken into the service, more than half of this lost labor might have been saved to the State, and most of the great loss averted. But not only slave men of military age, but many who were over age, who were physically incompetent, who were under age, as low as ten and twelve years; young women dressed in male attire, and women and children, were carried off by these marauders. Some recruiting agents entered largely into the substitute trade, selling their negro recruits to provost marshals and other military officers, who again sold these living chattels as substitutes, both in and out of the State, making enormous profits. One provost marshal in Covington was said thus to have acquired and disposed of about eighty of these negro recruits beyond the number for which he accounted. Our Governor and some of our local military officers have been engaged in ferreting out all the negro recruits from Kentucky, as far as practicable; and I am informed they are having success to an extent that will demonstrate an enormous swindle of the Government by some of its military officers. They report to me, more than eight hundred negroes recruited from my county, and only two hundred and five credited to it.

These prowling bands of negroes, sometimes with white officers more vicious and degraded than themselves, and often without any white man, moved actively over the country, from house to house, with musket and bayonet, indulging in disorderly excesses, extorting whisky with presented arms, forcing white men, by threats of violence, to drink and tip glasses with them, and defenseless women to cook for and wait upon them at table, and shouting at and insulting white persons of both sexes who were traveling the highways saying nothing and offering them no insult. For these and other breaches of military discipline and the Articles of War, their superior officers ought to have had them and their immediate commanders arraigned before a court-martial, and some of the most guilty executed as an example to the others. But those officers were so perverted by base objects as to give a license to such revolting disorders; and those who committed them soon learned that not reprobation and punishment, but immunity and reward, awaited them for any assault upon slave property and every outrage upon its owners.

Last spring and summer, in a large portion of the State, many of its best citizens were pounced upon by military squads, and arrested without warrant, or charge, or pretext, or explanation; and it could not have been otherwise, because they had committed no crime, no offense, except to oppose the policy and measures of the party in power. The judgment of the nation would yet blast a party which would avow a difference of

political opinion to be a crime, and try and punish it by arbitrary arrests, spurious military courts, usurped power, and despotic will. To make specific charges that had no foundation in truth was too desperate and dangerous a game; but as the punishment of innocent men was resolved upon for vengeance, example, and intimidation, it was determined, as it would be without guilt, so it must be without charge. Freedom from arrest except upon a warrant charging an offense and sued out upon oath and tried by jury according to the course of the common law, is guaranteed by express provisions of the Constitution to all persons not in the military or naval service of the United States; but that common and ruthless assassin of constitutional limitations and of the rights and liberties of the people, military necessity, was the only authority to do the atrocious work, and was of course summoned to strike down those great principles.

Most of the men thus arrested were hurried off to military headquarters at Louisville, and there thrown into close prison. In vain they demanded the charges against themselves, or to know what offenses they had committed, or what law they had violated, and to be confronted with their accusers and the witnesses against them. Their cases were decided without trial, in secret places, when they were not present, and upon *ex parte* statements, and punishment by sentence of exile to distant States, or across the rebel lines, and by other modes unknown to the law, was awarded against them. Attempts were made to extort money from them generally. Some of them were discharged after being held a considerable time in prison, and others had sentences of exile to remote localities commuted to nearer and more agreeable places; but these results were almost invariably wrought by the magic power of money. General intimidation and money were the ends sought by these lawless and oppressive proceedings, and many of their victims were forced to pay from \$500 to \$1,500; and a large amount of spoils, wrung from innocent and outraged men, was said to be divided among several conspirators. Certain it is that men in the military service of the United States for no other legitimate purpose than to uphold the Constitution and laws and the rights and liberties of the people, have continuously outraged them by the false accusation, arbitrary arrest, despotic punishment, and shameless plunder of a large part to break the spirit and debase and enslave the whole.

The military authority in that State has prostrated the freedom and independence of the press within it by forbidding the newspapers to publish, not matter of a nature to give aid and comfort to the rebellion, but from even a narrative of its own administration. The Lexington Observer and Reporter, the Danville Tribune, and other papers which opposed secession and rebellion, and sustained the appropriation of men and money to put them down, it suppressed by interdicting their publishers from bringing into the State paper and other necessary material. Their only offense was opposition to the reelection of Mr. Lincoln. For the same cause, the Cincinnati Enquirer, the Columbus Crisis, the Chicago Times, and other prints, were excluded from the State by military orders, sustained by a rigorous military surveillance. These papers were contraband of war in Kentucky, but were allowed a free circulation in the other loyal States. The object was to cut off from the people of that State all the channels of information relating to public affairs that did not carry streams, clear or foul, flowing for the reelection of Mr. Lincoln.

A favorite and frequent mode of exhibiting its power in Kentucky by the military authority was to press horses for the service. This would frequently break out as an epidemic disease, and though its causes could not always be detected, they could sometimes. The approach of a general election always engendered two or three of those epidemics at short intervals between them; and when favorites of the military authorities had large contracts with the Government for the delivery of horses this epidemic would appear extensively in their localities in very active form. Frequently on court, gala, church, and other public days, when large numbers of the people, men and women, had assembled at the county towns and other public places, it would suddenly manifest itself in a very virulent form without any

premonition. About noon all the roads leading out would be picketed to prevent egress, and the press-gangs would sweep actively along every street and highway. All the horses hitched to carriages, buggies, wagons, or under saddle would be seized, which would bring up the whole multitude, male and female, men, women, and children, in a general state of excitement, confusion, and alarm; restoration would be made to the few avowed Lincolnites, and the others would be told, "You shall have a certificate for your horses, payable at the end of the war, on proving your loyalty;" or, "The forces are going on a raid, and when they return your horses will be restored to you." Then, again, the press-gang would be started out widely through the country, and they would seize horses at work in the fields, on the highways, and at the most conspicuous places, proclaiming that the disloyal were to have no compensation, but only the loyal at the close of the war, on proving their loyalty. The country would become excited and apprehensive. Then comes along the contractor or his agents, and the farmers, in the doubt and perplexity intentionally produced by this disorderly and oppressive conduct of the military authorities, would sell their horses to contractors who were favorites, if not partners, with those officers, for something like half value. There were always enough of minions of power besides the military to put in circulation that this treatment was only for the disloyal, and the sure mode to get immunity from it was to become loyal; and their standard of loyalty was, first, to support all Mr. Lincoln's measures, and afterwards to vote for his reelection. This was a part of the administrative policy in Kentucky, the Procrustes' bed to bring men to the proper political standard.

Kentucky has a large and important trade with Ohio, Pennsylvania, New York, and other north-eastern States; and it is carried on not only by merchants and traders, but, to Ohio particularly, by farmers also. The aggregate of this trade amounts to many millions annually, and there are a great number of men engaged in it. To Cincinnati alone thousands of the farmers of Kentucky carry traffic to get their own supplies. The military authorities saw the power that they might acquire by seizing upon the trade between Kentucky and other States, and they determined to pervert it to purposes of party corruption, oppression for political opinion, and enriching their friends and favorites. They made an order that no person in Kentucky should buy, sell, or barter out of the State, without a written permission, to be signed by a board of trade to be appointed by itself. They refused to appoint fair and responsible men, men of good position, property, and integrity, to these boards; and they studiously sought out extreme political partisans, many of dishonest lives or doubtful character, who never had any industry or business, or were incapable of conducting it successfully; insolvents who could make no reparation for damages resulting from their abuse of power, and whose mendacity was paralleled by their ignorance; men better fitted to be dealt with under the vagrant laws than to dispose of the high questions of loyalty and constitutional liberty, and of political economy and commerce among the States. Even foreigners, speaking diverse languages and knowing but little of ours, were upon these boards of trade. Such of them as had any solvency and respectability were often engaged in business themselves, or had relatives and friends that were; and their interests were to be promoted by withholding permits to trade from other men, and thus excluding competition. It is charged and believed that at many points certain parties, by selling these permits to trade, realized large sums of money.

The managers of railroads and the officers of boats received stringent orders to transport no goods, or other property, unless the owners had a trade permit from one of these boards; and a strict military patrol was established to seize every article that was being moved without that sanction. These boards of trade were intended to adopt, and the men appointed to them were only equal to adopt, but a single rule to guide their action: "Is the applicant for a permit in favor of Mr. Lincoln's reelection?" Their small and benighted intellects, their purchased and groveling souls could not appreciate or comprehend any other standard of loyalty. Their touchstone,

their universal question was, "Who do you support for the Presidency?" and if "McClellan" was the reply, then the rejoinder was, "You are disloyal and can get no permit to trade." Some boards inquired what State or county officers the applicant had voted for at the previous election, and if he answered for some candidate who was not a supporter of Mr. Lincoln a permit was inflexibly withheld from him. But when applicants would agree to sell out their principles and innate sense of duty and vote for the reelection of Lincoln, and thus barter away true loyalty to their country, they received therefor the largest permits to trade.

In a great many instances, before the boards of trade were inaugurated, the local provost marshals would keep watch upon the highways leading to commercial points on the Ohio river to intercept farmers who had loaded two-horse wagons with their limited surplus products to barter for their family supplies; and would arrest them in their humble, but to them important adventures. They would inform the farmer that he was engaged in a contraband trade and had forfeited his property to the Government; but would end the imbroglia by taking his loading at half value, and themselves go to market, make the sale, and pocket the produce. In other cases the provost marshals would inform farmers who wished to go on these trading expeditions that they were forbidden, without their permits, and thus by falsehood and fraud sell their spurious licenses to honest and uninformed men.

The people of Kentucky made prompt and earnest protest to the proper authorities against these oppressive and nefarious restrictions upon their legitimate commerce; but they were heeded not. Fortunately for them there were other parties nearly as deeply interested in it as themselves; the people of Ohio, and particularly of Cincinnati. Our neighbors of that free State at length rose in revolt against this great iniquity. The voice of Cincinnati came up in general and earnest protest, and the President then swept it away; but not until it had brought heavy loss to many of the best and most loyal men of our State.

But the most hardy and profligate attempt of the military authorities in Kentucky and their fellow-conspirators to oppress and plunder the people of that State, and to enrich themselves, was a scheme put on foot by them to coerce all the feeders of hogs last fall to sell to their agents at from three to four dollars per hundred less than the market price. They assumed to take the possession and control of all the slaughter and packing-houses in the State. One firm applied to them to know for what sum of money they would allow him to kill and pack; they inquired of him the number, and when he answered thirty thousand, they replied three dollars the hog. He rejoined, "That is rather steep;" to which they said, "That is the best we can do;" and the matter was dropped. These confederates divided the State into six or eight districts, appointed a principal agent for each district, and he employed sub-agents in each one to purchase all the hogs in it. They established the prices at seven dollars and fifty cents and eight dollars per hundred, according to quality, when hogs were selling at that time at Cincinnati at over eleven dollars per hundred. The conductors of railroads and boats received stringent military orders that no hogs were to be carried but upon their order. They laid an embargo upon all the packing-houses in the State, except one or two, which they took possession of, and made arrangements to operate them on their own account. They caused it to be announced all over the State that the Government wanted all the hogs in it, and that they were purchasing and intended to kill and pack for the Government. When any of these daring swindlers were told by feeders that they would not sell to them, their answer was, We will pull down your pens and drive all your hogs, except what are necessary for the consumption of your families, to our slaughter-houses, and give you a certificate to be paid for them by our prices at the close of the war, upon proving yourselves to be loyal. You have the option to take our prices in money when we get the hogs, or certificates at the same prices to be received by you when peace is made, upon proof of your loyalty. They, by this fraud and intimidation, carried out by the basest prostitution of military authority, were enabled to



purchase a great many hogs at these low rates before they could be arrested in this gigantic swindle.

The people of Kentucky remonstrated against it promptly and earnestly, though unavailing; but mutual interest again brought their neighbors of Cincinnati to the rescue before they had suffered long. One hundred thousand hogs of Kentucky were about to be diverted from their natural market, the packing-houses of Cincinnati, and their owners, and her board of trade also, assaulted this plundering conspiracy against a great interest of the two States. But the anticipated enormous profit on that number of hogs, and as many more that would be driven to Louisville, had so excited the imaginations of the conspirators with the vision of sudden wealth that they made great efforts to carry their iniquitous scheme into full effect. Major Simonds, then stationed at Louisville, was the adjutant to direct the execution of this grand piece of military strategy, and he was resolved, if possible, to secure its large fruits to himself and his fellow-conspirators. He withstood all the earnest appeals made to him to cancel it; but Colonel Killeburne, then at Cincinnati, was applied to, and issued a military order to that effect. The confederates strove hard to have this proper and just order rescinded by a still higher military authority, but without success; and though baffled in the main, they struggled desperately to make their iniquity as profitable as possible. A man of intelligence and character, who was Mr. Lincoln's supporter, and voted for him, informed me that he got a copy of Colonel Killeburne's order of rescission and carried it to Major Simonds at Louisville, and thus coerced him to annul his order organizing this grand scheme of extortion; and, procuring a copy of the annulling order, he went to the telegraph office in Louisville to have it dispatched to Cincinnati. But he found that the gallant Major Simonds, like an experienced and capable commander in that mode of warfare, had anticipated him, and laid an embargo on the wires for the transmission of any news of the overthrow of the monopoly. The trader had the ready wit to cross the river into Indiana, and sent his dispatch from Jeffersonville. So daring, wily, and potent have villains become in this day of our country's calamity, that they could not be arrested in this scheme to plunder two States without great and persevering efforts, and not until they had robbed honest and loyal men of many thousands, which they had hoped in a few days to augment to hundreds of thousands.

The day before the late presidential election, being county court day in my county, the McClellan and Lincoln parties both held meetings of their friends in Paris. Each party had in attendance their speakers. General Burbridge, with his suite, attended the Lincoln meeting. About two o'clock, when the McClellan meeting was under full operation, and the Lincoln meeting was about to organize in front of the court-house, a messenger proceeded to the hall, near a quarter of a mile off, where the McClellan meeting was being held, shouting that the rebels had just made a raid into town. At the same time the military had picketed every street leading out, and squads of soldiers were scouring the public square and the whole town, pressing every horse belonging to a McClellan man that they could lay hands upon; while if a horse belonging to a Lincolnite was seized he was restored to the owner on his declaring his loyalty to the President, and his purpose to vote for his reelection. The body of the crowd were the supporters of McClellan, and their meeting was broken up, as was intended, by these military outrages; while the Lincoln meeting proceeded without being disturbed, but receiving a large accession of spectators by the dispersion of the other. Four speeches were made in the Lincoln meeting, the last by General Burbridge, in these words:

"Fellow-citizens: I am no politician. I am no speaker. You all know me. I am a fighting man. But I can tell what I am for; I am for Lincoln if he was the worst man in the world. I would be for him because he was elected by the people. You all want pay for your negroes, horses, &c.; and I will say to you, mind how you take care of your record; and all who voted for Lincoln will be paid for them at the end of the war; but, by God! mind how you take care of your record! The vouchers will pass through my hand; not a damned cent will you get unless your record is clear. I understand there is some objection as to my manner of treating guerrillas. I will speak it out. Ah! I see before

me a citizen who was reported killed this morning; but I am happy he is alive. Had it been so, by God! I had intended to have taken four of the best citizens of the county, those who have sons in the confederate army, and have hung them to-day. And I say now, by God! [pointing and looking around over the crowd] mind how you act, or some of you will be hung before to-morrow night. I intend to take five thousand horses next week. There are but two parties to this war, one for us and the other against us; and no man shall stay in the State after the election who is against us. Mind how you make out your record!"

I have known General Burbridge from his early boyhood. I knew his parents. His father was a patriot, a man of honor, and a gentleman. His mother was a cultivated and true and noble specimen of the highest order of the American woman. From such a parentage the character of General Burbridge received its early impress. He was gentle, modest, temperate, brave, and humane, and true to friend, principle, and country. He was reared in Mr. Clay's school of politics, and was faithful to his illustrious leader and the great principles which he taught. He was an educated man and soldier; and at the beginning of the rebellion he drew his sword for his country, only to assert and maintain "the Constitution as it is and the Union as it was." This noble and true sentiment possessed and ruled him in all his conversations and actions for the first two years of his military service. In an evil hour he surrendered himself to the counsels and control of malignant and bad men. His subsequent abuse of power is his misfortune, their crime.

General John B. Houston, of Lexington, had been placed upon a McClellan electoral ticket for Kentucky. He entered actively into the canvass, and made many speeches of surpassing power. I heard several, and, as I am informed and believe, among the most extreme. In language there was no violation of decorum; and in matter, statement, and argument, nothing that transcended the truth or the freedom of speech guaranteed by the Constitution, and claimed and exercised always before this war, without question, by every American citizen, from the foundation of the Government. At the dead hour of the second night before the election his house was, by the order of General Burbridge, entered by a squad of armed soldiers, and he was aroused from what ought to have been secure slumber in his own castle, and without time to make any preparation, dragged away from his family and his home, on the general's sole order of judgment of banishment to a distant State, and forbid, on his journey of exile, to hold converse with any person under pain of instant military punishment, to be inflicted by his accompanying guard, but in what form, or to what extent, he knew not. There was no charge made against him, no explanation for this act of outrage and tyranny. The provocation was the number, ability, and effect of his speeches in favor of McClellan, and against the reelection of Mr. Lincoln. The purpose was to intimidate the supporters of McClellan and keep them away from the polls.

Such were the auspices under which Kentucky went into the presidential election. Two or three days after the election, Colonel Woolford and Lieutenant Governor Jacob were seized at their respective homes, by the order of that same military chieftain, also in the silence and gloom of the night. Both these men had commanded regiments in the United States Army, and had poured out their blood in support of the Constitution, the Union, and the enforcement of the laws. What heinous crimes had these scarred defenders of their country committed? They had committed the crime of crimes. They had made speeches against Lincoln and for McClellan. But they had moved about every day among their neighbors, in the image of their God, revealed by the light of that sun which He created, strong in their own innocence, and covered, as they thought, by the shield of the Constitution and the laws. The crime was not of their doing, but of those who planned and ordered their seizure and banishment; and therefore it was committed when darkness shrouds the world. Woolford was held for two months in ignoble imprisonment, far away from his home, and in such mystery and exclusiveness as to have produced in the minds of his friends and the public the most painful apprehensions for him. Jacob was conducted by his military escort into the mountains of Virginia, where there is a wide and wild space between the lines of the two armies, the very home of the

guerrillas of both sides, and without any provision being made for him, left upon a rock to perish or survive as his fortune and fate might decide. As to both of these men, the animus of their oppressors was malignant hate, punishment, vengeance, and beside, as to Jacob, his hoped-for murder by some chance hand.

At the previous August election the office of chief justice of the court of appeals was to be filled by popular election in a district consisting of about one fourth of the State. Judge Duvall, the incumbent, was announced as a candidate for reelection. He is a man of talent, legal learning, and spotless integrity, and had filled the office for the full term of eight years. He had performed his duties with eminent ability and with unsurpassed impartiality and rectitude. He had always in his conversations denied the constitutionality and policy of secession, but at the same time expressed his belief that peaceful counsels would be a better remedy than war with which to treat the discontents of the southern States. All conceded that his judicial opinions and conduct as a member of the court were wholly uninfluenced by his belief of the impolicy of military coercion. The question of the existence of "the confederacy of the southern States" had come twice before his court for its judgment, and that tribunal decided unanimously that it had no existence, either *de jure* or *de facto*, and was to be considered as a nonentity. He had been present at every term of the court, and had never been disturbed or questioned in the exercise of the duties and powers of his office. But he was a candidate for reelection; an ultra and active friend of the Administration had become a candidate in opposition. In the early period of the rebellion that opponent had been in strong sympathy with the rebel States, and openly opposed their military coercion. He had aided in fitting out his son for service in Jeff. Davis's army; and on hearing of the first battle of Bull Run, he drove from his residence in Covington to a suburban village, as he then expressed himself to some friends, to have room to shout his exultant joy over the discomfiture of his country's arms. But he had grown worldly wise, and to Mr. Lincoln—

"Crooks the pregnant hinges of the knee,  
That thrift may follow fawning."

To palm this man upon the people, who were known by ten to one to prefer Duvall, General Burbridge, the Saturday before the election, sent telegraphic dispatches to the sheriffs of every county in the district, there being over twenty, to have the name of Duvall stricken from every poll-book. This illegal and tyrannical order was obeyed by many of the sheriffs, but was condemned by some, as it should have been by all, and Duvall was voted for in some of the counties. The name of another man, of eminent ability, legal learning, and virtue, was, without his consent, attempted to be placed before the voters of the district within thirty-six hours before the election; and although this could be effected in but about half the district, yet so strong was its opposition to the Administration candidate that he was defeated, receiving less than one eighth of its vote. The purpose and the hope was to make no formal opposition to the people voting for Duvall until it would be too late to put another candidate before the district, and then to force the withdrawal of his name by the order of the commanding general, and thus to smuggle an unfit and obnoxious man into the highest court of the State. But upon this nefarious scheme a people still free put their veto.

Duvall, nor Houston, nor Woolford, nor Jacob, had committed no crime or offense, civil or military; they had violated no law. Against two of them there was no charge, and against the other two the pretended charges were so futile and absurd as to show the proceedings against them to be equally lawless and tyrannical. Every American citizen has a perfect constitutional right to oppose the pending and all wars in which the Government may engage; and he has the same right to examine and condemn all its war measures and policy, and all the acts of the Government, whether in peace or war. This right, this liberty, is part of the heritage which our fathers won by their swords, and endeavored to secure to themselves and their posterity by a written Constitution. The men who subvert it or obstruct it are usurpers and tyrants, and ought to receive the punishment due

to such enemies of their country. But those true patriots opposed not the war, but the policy and measures upon which it has been conducted. I do also, from the depths of my soul, and I believe that from this source has originated the most of its tremendous cost of blood and treasure, of crime and misery.

This is but an outline of the military administration of the United States Government in the State of Kentucky, a State that adhered to the Union, and supported the Government in its darkest days of peril and trial, and through all its varying fortunes; that has sent about one half of her military population to "the harvest of death," to uphold "Union and liberty" in the inviolability of the Constitution and enforcement of the laws alike everywhere in loyal and rebel States, upon the governments and armies and adherents of both Abraham Lincoln and Jeff. Davis. That is the "national life" which she entered into this war to preserve. That is her criterion of all loyalty.

For a more precise understanding of the infractions of the Constitution, and of the wrongs and oppressions of the people of Kentucky by the Federal Government, I will here group some of the principles of the instrument which creates that Government:

"All legislative powers herein granted shall be vested in a Congress of the United States."

"Congress shall have power" "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof."

"The executive power shall be vested in a President of the United States of America."

"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

"No bill of attainder or *ex post facto* law shall be passed."

"No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

"Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort."

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained."

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State," &c.

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed," &c.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

"A well-regulated militia, being necessary to the security of a free State, the right of the people, to keep and bear arms, shall not be infringed."

"No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

"This Constitution, and laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States

and of the several States, shall be bound by oath or affirmation to support this Constitution," &c.

"The President," \* \* \* "before he enter on the execution of his office, shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

These provisions are a synopsis of the Constitution, which embody its most essential principles and its sanctions. It, and the laws of Congress made in pursuance of it, are the supreme law of the United States, and of all the States. Observance of it at all times, in peace or war, is the duty, the fealty, of every citizen of the United States. All the officers of the Federal and State governments take an oath to support it, that of the President being that "he will, to the best of his ability, preserve, protect, and defend the Constitution of the United States." This Constitution, and the laws passed in pursuance of it, are "the national life," and those who infract them are destroying that national life. State constitutions and laws, national law, and all other law in conflict with the Constitution and laws of Congress, fall before their paramount authority. Their operation is perennial, and there is no power short of revolution that can subvert, impair, modify, or suspend them. This done, or attempted, with force, by any of the departments or officers, civil or military, of the United States, would be treasonable. There is not a principle comprehended in this synopsis of the Constitution that has not been violated by the officers, civil and military, of the Federal Government during this war, many of them with appalling frequency, and each time by trampling under foot some liberty of the citizen and cruelly oppressing him. A far less amount of usurpation and tyranny by those invested with powers of government has in Europe caused the oppressed people to rise in their strength and overthrow thrones and dynasties; and if at this day attempted in any country on that continent but Russia would produce another regicide and revolution.

How can it be accounted for that our people, so intelligent, lately so free and so devoted to their liberties, should look upon such strange and oppressive freaks of power with apathy, with stolidity? Several forces have operated to bring them to this condition of quiescence.

1. Their strong attachment to the Union and their resentment of a rebellion that was commenced to sunder it; and their hope, which has lived from day to day, that the rebellion would soon be suppressed, and then the disorders and oppressions inaugurated by the men in power, on the pretext of saving the "national life," would cease, and law, order, and liberty would again resume their sway.

2. The popular form of our Government, and the consequent division of our people into parties which make their great demonstration at each presidential election. The people have come to tolerate but two parties, and every man who seeks to take part in public affairs is constrained to join one of them. The candidate for the Presidency of each party is its chosen leader, and receives from those who have elected him to that position a much larger and more unscrutinizing and hearty support than a hereditary monarch can obtain from a party. They give their time, their money, their energies, all that they have, to his election. If he is elected they regard themselves as the "king-makers," and their highest obligation is to sustain him whom they have put in power, and to defend his acts and administration against all comers. The party is consolidated, and is continued from one presidential election to another, its leaders, in the mean time, planning, combining, and machinating for the next one. The party is in possession of the Government, and the President must maintain a good understanding with its leaders to command the support of its lesser rank and file. Its great purpose becomes to carry the next and succeeding presidential elections. It permeates the whole country, and absorbs not only all Federal elections, but all State and local elections, and the entire concerns, political, business, and religious, of the nation. It establishes for itself a higher law than the Constitution, and requires to itself from its followers an allegiance paramount to that which they may render to the country. It allows no question of its candidates,

purposes, or policies; no investigation, much less opposition, to its measures; no condemnation or exposure of the delinquencies of its men in power and office. Absolute obedience to its will, unfaltering support of its candidates, defense of all its officials, or if some of them are very great rogues, oblivion to their crimes, form the standard established by the all-dominating party, and the decree against all who will not live up to it is "Off with his head!" A party great in numbers, intellect, audacity, and wickedness, so schooled and disciplined, has not only sustained, but has been ceaselessly urging on this monstrous maladministration which I have sketched. It seems deluded and debauched with the idea that it is the party of permanence; or if not that, unreasoning and reckless, it seizes the occasion of its accidental possession of power to glut its selfish and frenzied passions, all unconscious that the mutations of human affairs will yet bring its hosts under the domination of another party now their victims, but when their masters that it will be stimulated to vengeance by the memory of cruel oppressions and find the amplest warrant for its indulgence in the usurped powers and diabolical precedents with which the present Administration teems from day to day.

3. Another cause of the apparent deadness of the country to its strange and fearful condition is the potency of the almost fabulous amount of patronage wielded by the President in a million civil and military offices, the incumbents all holding their places at his will, and his annual disbursement of more than one thousand million dollars. Such a vast patronage, with the enormous influence created by it, cannot be contemplated by an intelligent mind without amazement and fearful apprehension for the safety of constitutional government and popular liberty. This great fountain of honor, profit, and power, is distributed into a countless number of streams, of every size, which are carried widely over the United States, but irrigate and fertilize only for those who support the President and the party. Each recipient has more or less of friends and retainers whom he enlists in the cause of his patron. Thus a vast army of spoilsmen, who are to stand or fall with the party and its chief, are organized and paid. These are among the most unscrupulous and active supporters of the Administration, and notwithstanding its flagitious dereliction to all its high trusts, they are eternally vigilant to denounce and intimidate all opposition, and would make its power permanent if they could.

4. Another potent cause that keeps down the upheaving of the people against their oppressors is the possession and control by the Administration and its party of the whole military power of the United States, and all the States, regular Army, volunteers, and State militia, and the disarming of all the people beside.

The framers of the Constitution contemplated and provided for but two kinds of military land forces, the regular Army and the militia of the States, to be mustered into the service of the United States as occasion might require. Congress is expressly empowered "to raise and support armies." I concede that the mode may be by ordinary enlistment, or by the acceptance of organized corps of volunteers, but I controvert the position that Congress has the power to organize the whole military population of each State, and conscript, or authorize the President to conscript, the whole or such portions of it as he may will. Congress has no power to draft or conscript soldiers in executing the power to raise armies. That was one mode of detailing State militia for military service, but not of raising regular armies, when the Constitution was adopted. Congress is empowered by the Constitution—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

If it had been intended to confer on Congress the power to draft or conscript the military population of the United States at its discretion and will, a power to call forth the militia for these purposes would have been superfluous. Congress is also vested with power—

"To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

In the United States, the militia is the soldiery of the States, the regular Army and volunteers that of the Federal Government. The existence and organized continuance of this State soldiery is provided for by the Constitution; and Congress is clothed with the power to require its service "to execute the laws of the Union, to suppress insurrections, and repel invasions." It cannot be supposed that when the framers of the Constitution empowered Congress "to raise armies" without any limitation, they intended to confer a power that would enable it at will to annihilate the militia, the only military force of the States. That would be the inevitable sequence if Congress could draft or conscript men without any limitation to raise armies; but it would not be, if the modes of raising armies by Congress were restricted to receiving enlistments and volunteers. Those processes would be too slow ever to annihilate the militia of a State by exhausting its military population. Enlistments and volunteering were the only modes of raising armies practiced or known when the Constitution was adopted; and as they might sometimes prove too slow for the exigencies of the Government, the provision was introduced empowering Congress to call forth the militia of the States "to execute the laws of the Union, to suppress insurrections, and repel invasions."

But Congress has assumed, *usurped*, the power to pass a law to organize into one class the whole military population of the United States, and to authorize the President to draft from it, from time to time, such parts, or the whole, as he might will. This annihilates by congressional legislation the militia of the States and subverts their legitimate military force that duty would require and the Constitution would authorize to be used for the protection of their own government and their reserved rights, even against the Government of the United States. And to consummate the policy of overthrowing the entire reserved rights, powers, and sovereignty, of the State of Kentucky, and the border slave States, during the continuance of the war at least, all men who would not sustain the war policy and measures of the President, have had their houses to be entered by soldiers, and their arms to be taken therefrom, and also from their persons. Thus it is that this provision of the Constitution becomes a dead letter:

"A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

This is a most invaluable liberty guaranteed to every American citizen. A people in the full enjoyment of the right of trial by jury, and all armed, are free, and cannot be reduced to slavery. In our country, happily, the people are generally divided into opposing political parties of something like proximate numbers. All, whether belonging to the party in power or the opposition, alike have the constitutional right to keep and bear arms. The free exercise of this right is indispensable to the safety of those in opposition, and it is equally necessary to the preservation of the liberties of all. It is impossible that half, or any great proportion of the people of a country, should be enslaved without that soon becoming the fate of the whole. That party which preserves its own liberties necessarily achieves the same for the entire nation. If the present opposition had been fully armed it would have held in check those in power, constrained them to an observance of the Constitution and laws, and prevented those wrongs and oppressions which have made their own Government the scourge of so many of our people. It would have compelled a moderation, justice, and magnanimity in the prosecution of this war that would have brought back the rebels with the perfect conviction that the old Union and Government was far better for them than any other they could possibly obtain. Why was that opposition disarmed? A just, patriotic, and constitutional administration of the Government would never attempt to subvert the right of the opposition, of all the people, to keep and bear arms. It is a right formidable only to tyrants, usurpers, and oppressors.

Story, in his *Commentaries on the Constitution*, says:

"The right of the citizens to keep and bear arms has justly been considered as the palladium of the liberties of a republic, since it offers a strong moral check against the

usurpation and arbitrary power of rulers; and will, generally, even if these are successful in the first instance, enable the people to resist and triumph over them."

Chancellor Kent, on a large survey of the whole subject of the liberty of the press, not only as to the Government and its measures, but as to all the concerns of society, takes this strong position:

"It has become a constitutional principle in this country that every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right, and that no law can rightfully be passed to restrain or abridge the freedom of the press."

The only responsibility to which those who abuse that right can be held is by proceeding against them in court for libel upon some person. As to the measures of Government this freedom is without limit and can be held to no responsibility. By a provision of the Constitution, already quoted, all military or other arbitrary arrests are prohibited. No citizen can be deprived of his liberty except upon a warrant charging against him the commission of a crime or offense defined by law, sued out upon probable cause, from a magistrate empowered by law, and supported by oath. If any person be arrested even in this formal mode, the Constitution and the law allow him as his right to apply at once to the courts, or judges, for a writ of *habeas corpus* directed to the person detaining him, commanding him to produce before the court or judge the body of the prisoner, with the day and cause of his caption and detention, to do, submit to, and receive whatsoever the judge or court awarding the writ shall consider in that behalf. If the imprisonment is not authorized by law, the prisoner is then and there discharged, and goes forth from his prison-house a free man. If his detention is by authority of law, he is held for trial by a civil court, should a grand jury prefer an indictment or presentment against him, and is then entitled "to a speedy and public trial, by an impartial jury of the State or district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

I have sketched in part American liberty and some of the bulwarks built up by our fathers for its protection and perpetuity. They had been, centuries before, embodied by our British ancestors in Magna Charta; and ages prior to that era were born in herculean vigor as part of the Anglo-Saxon common law. They were the first inspirations of the irrepressible and indestructible principle of liberty implanted by divinity in the soul of man which had been given to the world since the republican days of Rome. If humanity should prove true to them and to itself they will never perish, but be rendered into every language to disenthral all nations and regenerate them as often as they relapse into slavery. Though these great principles, in our day and country, have been struck down by partricial hands that should have defended them, their fall is but for a time; their immortal truth and energy will sooner or later triumph over all their enemies, and vindicate the memory of the great men who commended them to the acceptance of the world by making them parts of our Constitution.

But the most important of these liberties, and without which all the others would fail, is the trial by jury in criminal cases. Justice Story says truly:

"It was from very early times insisted on by our ancestors in the parent country as the great bulwark of their civil and political liberties, and watched with unceasing jealousy and solicitude." \* \* \* "The great object of a trial by jury in criminal cases is to guard against a spirit of oppression and tyranny on the part of rulers, and against a spirit of violence and vindictiveness on the part of the people. Indeed, it is often more important to guard against the latter than the former. The sympathies of all mankind are enlisted against the revenge and fury of a single despot, and every attempt will be made to screen his victims. But how difficult is it to escape from the vengeance of an indignant people roused into hatred by unfounded calumnies, or stimulated to cruelty by bitter political enmities or unfounded jealousies. The appeal for safety can, under such circumstances, scarcely be made by innocence in any other form than by the severe control of courts of justice, and by the firm and impartial verdict of a jury sworn to do right, and guided solely by legal evidence and a sense of duty. In such a course there is a double security against the prejudices of judges, and against the passions of the multitude who may demand their victim

with a clamorous precipitancy. So long as this palladium remains sacred and inviolable the liberties of a free Government cannot wholly fall."

That great English jurist, Justice Blackstone, pays this warm and splendid tribute to the trial by jury in England, in referring to the eulogy of Montesquieu on English liberty, and his regretful concession that it too must perish:

"A celebrated French writer, who concludes that because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury."

All the truest and most enlightened friends of human rights, the world over, speak in similar terms of the value of the trial by jury. If anything more were wanted to fix indeluctably in the American mind and heart the spirit to preserve it, our terrible experience in this war of the oppressions resulting from its overthrow and the substitution of that destroying agency of all liberty, that alien monster to our system of civil government, the court-martial, will surely supply it.

On the provision that "private property shall not be taken for public use without just compensation," Justice Story remarks:

"This is an affirmation of a great doctrine established by the common law for the protection of private property. It is founded in natural equity, and is laid down by jurists as a principle of universal law. Indeed, in a free Government almost all other rights would become utterly worthless if the Government possessed an uncontrollable power over the private fortune of every citizen. One of the fundamental objects of every good Government must be the due administration of justice; and how vain it would be to speak of such an administration when all property is subject to the will or caprice of the Legislature and the rulers."

This great principle has been often violated in many States by the United States authorities during this war; and in Kentucky the extent and enormity of its infractions stand unequalled in all the annals of despotism. But the great rights and liberties of the people, which are the only ends and objects of legitimate government, and to which our fathers attempted to give permanent existence and inviolability in our country by incorporating them in the Constitution as part of the supreme law, which also requires all Federal and State officers to take an oath to support them, have been disregarded and outraged by this Administration with a wickedness and audacity never before approached in any free country in the so early morning of its life. In executing measures and a policy to overthrow slavery; to subjugate not only the slave States, but all the people of every State who opposed that policy and those measures; and to aggrandize, enrich, and perpetuate the power of their party, thus making war upon the Constitution and the liberties of the people, a large, doubtless the largest portion, of the public debt has been incurred. I recognize no obligation on the part of the people to pay that portion of the public debt; and when the war is over, as I hope it soon will be, and the frenzy produced by it has passed away, and given place to calm reason; when the country has come back to coin, the medium of the world, and the only constitutional money; when the public debt will exceed \$5,000,000,000, and its annual interest \$300,000,000; and the expenditures for the Army, Navy, and other public service will be \$300,000,000 more, the man is mad who expects the people to pay that large portion of the public debt created in derogation of the Constitution. The United States owe the State of Kentucky this day for slaves, horses, and military supplies, the destruction of property, the occupation and waste of houses, farms, and fields, hundreds of millions of dollars; and before she is burdened with additional taxes it would be more just and decent to pay off that debt, or at least a portion of it. The Government has repudiated and is daily repudiating untold millions of debt it owes to the people of the United States. The people do not yet belong to the Government, nor to the holders of a spurious public debt; but whenever they are taxed to the amount of \$600,000,000 annually to keep up the Government, and to pay accruing interest to its bond-holders, they and all they have will belong to both Government and bond-holders. They will never be able to pay the principal, and all they can make and save by drudging labor and severe economy would be required annually to pay tribute to their masters for indefinite ages. That is a slavery to which they will not submit.



Our system of Federal and State governments is the happiest combination for the freedom of the people and the power of the nation that has ever been conceived by man. Its principles and compromises were adjusted to those ends by great men, instructed by the ripest experience, animated by the purest and most enlarged patriotism, upon profound deliberation. The succeeding generations have shown no ability to improve them. To take charge of and preserve this combined organization of liberty and power demanded of the people an extraordinary amount of intelligence, virtue, courage, and patriotism. Washington and his compatriots were ever solicitous and exerting themselves to educate and bring up their countrymen to that high standard; while their groveling successors have been resorting to every unauthorized and foul means to break their free and proud spirit, to degrade their patriotism to a mercenary and base partisanship, to inure them to the exercise of arbitrary power by daily assaults on their rights, and thus to fit and prepare them to take passively and permanently the yoke of a military despotism. Our Government and Union were organized for peace and its triumphs, not for war or conquest, or the practical absolutism of vast armies. Its founders did not anticipate, and therefore did not organize, any special powers to meet such an emergency as this great rebellion. They refused to make a provision in the Constitution to coerce States, and from what was said on that particular subject in debate in the Convention and contemporaneous expositions, it is clear that they never contemplated that remedy for any State disorder. They left with the people and States respectively all powers not delegated by the language of the Constitution to the Federal Government. The States have the exclusive authority over their domestic institutions and local affairs. The General Government was built upon the States, and, with the forethought that if from any cause it should be overthrown, they and their governments should remain organized, and should resume all the sovereignty and rights which they might delegate to the Federal Government. They established plain limitations and restrictions upon the Government which they formed, and built up in the Constitution as part of it a great tribunal of law and reason, and having placed it high above the conflicts and passions of party, clothed it with the august functions of holding the Government itself to its constitutional moorings, confining its departments and officers within the pale of their powers, and adjudging the validity of the constitutions and laws of all the States. Those sages, devoted to liberty and peace, did not make any provision for the decision of questions or the redress of wrongs by the sword; but provided that all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, all cases affecting ambassadors, other public ministers, and consuls; all cases of admiralty and maritime jurisdiction; controversies to which the United States shall be a party; controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, should be decided by the United States courts. All other questions and wrongs were left to be determined by the sovereign people in national convention.

The State governments were intended to uphold and support the General Government in the possession and exercise of all the powers conferred on it by the Constitution, and at the same time to be the especial defenders of the States respectively and of their people, in the possession of all powers not delegated by the language of the Constitution to the Federal Government. Yet the most of the State governments have not only abandoned their great and particular trust, but have betrayed their constituents by bringing all their power to aid those who hold the United States Government to subvert all States rights and authority. The convention of Governors at Altoona was a treasonable conclave, not only against the Constitution and liberties of the American people, but also against the States.

The passion and degeneracy of the day has not only struck the Governors and governments of the

States, the Executive of the United States, and the two Houses of Congress, but what is, if possible, more deplorable, also the chiefest hope of the nation, the Supreme Court, the great power that was designed to give order, coherence, stability, and interpretation of our complex system of Federal and State governments. That court should be composed of men of the most eminent judicial statesmanship, with immovable fidelity to the Constitution as their crowning qualification. But it has among its present members *doctrinaires*, whose sublimated philanthropy and appreciation of human rights furnish them with a higher law than the Constitution, and others, who are absorbed and awed by the popular frenzy produced by this great rebellion. The Constitution provides:

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State," &c.

In the face of this positive prohibition, Congress formed the State of West Virginia, exclusively within the boundary and jurisdiction of the State of Virginia; and that court has decided West Virginia to be a State in the Union. To countenance and sustain the unnatural and futile attempt to bring up the negro to a community of civil, political, and social rights with the white race that is now being made over the country with frantic energy, that court has recently shocked the sentiment of the nation by introducing to the bar of that court two negroes, denominated lawyers, who had no business in it.

National law does not attempt to regulate and control civil war, other than that all its battles and military operations shall conform to the humane modes of all modern war. Outside of this it establishes no principles, nor does it define any of the rights of the parties to such a war. Every nation that is so unfortunate as to have a civil war in its bosom, except as to the matter of military operations, carries it on according to the will of the parties to it, uninstructed and unrestrained by national law. If that law were not thus silent, not it, but our Constitution would give the rule. It provides for all the forms and the whole subject of civil war. In addition to the powers to lay and collect taxes, it has these provisions:

"The Congress shall have power" "to raise and support armies," &c.; "to provide and maintain a Navy;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

These are all the provisions of the Constitution which bear upon the subject of civil war in any form. There is no other law applicable to them in our country. They establish legislative powers which belong only to Congress. They could not be conferred upon or shared with the President, as constitutional powers, without an express provision to that effect. All the authority which he can rightfully exercise in relation to the matters embodied in those provisions he derives from the laws of Congress, and is bound by their requirements; and if those laws should be repealed he would be left without any power over their subjects. Congress alone has power to declare war, and everybody concedes that the war which Congress is empowered thus to make is war against a foreign nation. That court has so ruled in three prize cases. That is the only war referred to in the Constitution by that term. Such a war, a war between foreign nations, only carries with it belligerent rights, both on land and on sea; but a conflict of arms, a war, if you please, to execute the laws of the Union, suppress insurrections, repel invasions, or to quell domestic violence in a State, is a domestic trouble—an internal war—in which the laws of nations regulating belligerent rights have no application. They can never apply until the insurgents have established their independence, and become in fact a foreign nation. Until that consummation the insurgents are invested with no belligerent rights, and are liable to be prosecuted and punished as criminals under the municipal laws. While they have arms in their hands they may be pressed and pursued with our whole military and naval power; they may be shot down in battle, held as captives, and their resources may be cut up and crippled by all the modes known to

civilized warfare; but neither they nor the United States have any belligerent rights, as they are known and recognized by the laws of nations. Nor are insurgents or rebels of such a hybrid nature that they are subject to the laws of nations which regulate the rights and responsibilities of independent nations at war with each other, and at the same time to the punishment denounced by the civil and military laws of the United States as her citizens for their crimes. To make them at the same time subject to two codes generally discordant and often conflicting would be eminently absurd, and without any warrant in the Constitution. If States are declared by a law of Congress and the proclamation of the President to be, and in fact are, in insurrection or rebellion against the United States—and they mean the same, a rebellion being but a great insurrection—and there be a large portion of their people opposed to the rebellion and loyal to the United States, to give belligerent rights to the United States against such States would make all the people of all the loyal States, at least, and all the people of the rebel States, alien enemies of each other, and subject to all the acts and consequences attendant upon such a condition among foreign nations. When the armies of the United States should occupy and hold the rebel States, all the property belonging to such States would vest in the United States by right of conquest. The property of every citizen of the United States resident in a rebel State, however loyal himself, situated in a loyal State, would be forfeited to the United States. A multitude of other consequences, violative of our Constitution and shocking to reason and common sense, would ensue. The Supreme Court has applied this doctrine and these consequences to this insurrection.

Mr. President, if the people of the United States were assured that their Government would continue permanently what it has been practically for three years, a military despotism reared upon a prostrate Constitution, who but paid mercenaries would defend it? Who but slaves and cravens would not rush to its overthrow? But for the general hope that when the war ceases it will be brought within the scope of its constitutional powers, and that those who have so wickedly perverted it will be ignominiously driven from their places and power, the upheaving of the still liberty-loving masses of the people would ere this have commenced.

Now, Mr. President, what inducements have the people of the United States, and particularly of Kentucky, still further to pile up the enormous weight of taxes, beneath which, although paid in a currency so greatly depreciated, they can hardly now live? The Government has had too many men and too much money in this conflict. If it had had largely less of both it would not have made such a continuous and successful war upon the Federal and State constitutions and the liberties of the American people; and more taxes will enable it to carry on that war with renewed vigor and success. The problem is not now the destruction of negro slavery, but the enslavement of the white man, and the perpetuation of the power of the party whose chosen mission has been to effect both by the vast patronage and armies intrusted to it. The first approaches its consummation; if the second is averted it must be by the great diminution of the armies and the expenditures of the Government, and the manifestation by the people of their firm purpose to maintain their Constitution and liberties, come what may! To regenerate the State governments, and the Government of the United States, its legislative, executive, and judicial departments, and to rescue the country from military despotism, is the great work, and it can be performed only by its sovereign power, the people!

Mr. HALE. I rose when the Senator was in a certain part of his speech laying down a proposition which he said everybody conceded. I simply wanted to say that I was not included in that "everybody." I do not concede any such thing. The proposition was that everybody conceded that the power given by the Constitution to Congress to declare war applied to a foreign war and not to a civil war.

Mr. DAVIS. That was not the proposition.

Mr. HALE. That was the way I understood it.

Mr. DAVIS. That was not the proposition.  
Mr. HALE. Will the Senator state what it was?

Mr. DAVIS. The proposition I laid down was that everybody conceded that Congress had no power to declare war except against a foreign nation.

Mr. HALE. That was not the way you read it.  
Mr. DAVIS. That is the way I wrote it and read it, and that is the way it will stand.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky, to postpone the bill indefinitely.

The motion was not agreed to.

The PRESIDING OFFICER. The bill will now be read, and the amendments will be acted on in their order.

The Secretary proceeded to read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, be, and the same is hereby, amended as hereinafter set forth, namely:*

That section four be amended by striking out the word "five" and inserting in lieu thereof the word "ten."

The first amendment of the Committee on Finance was to strike out lines eight and nine, as follows:

That section four be amended by striking out the word "five" and inserting in lieu thereof the word "ten."

Mr. ANTHONY. I should like to know what that proposition, striking out five and inserting ten, is. Is it doubling some tax?

Mr. SHERMAN. I will state that owing to the peculiar nature of this bill, Senators ought to have before them during its consideration the law of last session, and then they can see at once what is proposed to be stricken out. This section—section four—provides for five revenue agents at large. The House of Representatives proposed to increase the number to ten. We were not satisfied of the necessity of the increase, and hence we leave it at five.

The amendment was agreed to.

Mr. SHERMAN. I would advise that each Senator be provided with a copy of the law of last session if he wishes to understand this bill. With that law before him there will be no difficulty in understanding it.

The next amendment of the Committee on Finance was to strike out from line ten to line twenty, as follows:

That section eight be amended by striking out, after the words "shall appoint" the words "with the approval of the said Commissioner, one assistant assessor, who shall be a resident of the district of said assessor; and in case of a vacancy occurring in the office of assessor, by reason of death or any other cause, the assistant assessor," and inserting in lieu thereof the words "on the recommendation of the said Commissioner, one or more assistant assessors, who shall be residents of the district of said assessor; and in case of a vacancy occurring in the office of assessor, by reason of death or any other cause, the senior assistant assessor."

And in lieu of them to insert:

That section eight be amended by striking out, after the words "within each of which," the words "Secretary of the Treasury, whenever there shall be a vacancy, or the public interest shall require, shall appoint, with the approval of the said Commissioner, one assistant assessor, who shall be a resident of the district of said assessor," and inserting in lieu thereof the words "assessor, whenever there shall be a vacancy, shall appoint, with the approval of said Commissioner, one assistant assessor, who shall be a resident of such assessment district. And hereafter no more than one assistant assessor shall be employed for any one assessment district."

The amendment was agreed to.

The next amendment was to strike out lines thirty-two, thirty-three, and thirty-four, as follows:

That section fourteen be amended by striking out the word "fifty" and inserting in lieu thereof the words "twenty-five."

The amendment was agreed to.

The next amendment was to strike out the following words in lines thirty-eight, thirty-nine, forty, and forty-one:

By inserting after the words "reasonable charges for," the word "advertising;" and by striking out all of the first proviso; and by striking out the word "further" in the second proviso.

Mr. ANTHONY. It is utterly impossible to understand this bill in this way. We might just

as well pass it without acting on any of the amendments.

Mr. SHERMAN. Senators can understand the bill by having the law of last session before them.

Mr. ANTHONY. It is impossible to follow the Clerk as he is reading the bill and refer to the act of last year.

Mr. SHERMAN. I can explain the amendments.

Mr. ANTHONY. I think if the chairman of the Committee on Finance would explain the amendments it would be better.

Mr. SHERMAN. I will do so.

Mr. ANTHONY. It seems to me a most remarkable way to report a bill.

Mr. SHERMAN. The bill was sent to us as it is, and we had to do the best we could with it in a very short time. I will state that section twenty-five fixes the compensation of collectors.

Mr. ANTHONY. I suppose that this is the portion of the bill relating to the machinery of the system.

Mr. SHERMAN. Yes, sir.

Mr. ANTHONY. If the Senator will explain generally what the amendments as to the machinery are, we could either assent to them or not understandingly.

Mr. SHERMAN. I will state that upon the Senate reassembling at seven o'clock I propose to make a detailed statement of the material changes, but as to these smaller amendments I would rather state them as we go along. This is probably a more important amendment than appears on the face of it. The twenty-fifth section of the present law fixes the compensation of collectors. Among other provisions it allows a collector a commission of one half of one per cent. on all sums collected above \$400,000. That was found in very rich districts like those in the city of New York an enormous compensation, and therefore the House of Representatives put in a provision that where the amount exceeded \$1,000,000 only one eighth of one per cent. should be allowed.

Mr. ANTHONY. Is there not a limit to the amount of compensation in all cases?

Mr. SHERMAN. Not in this regard. There is in regard to assessors.

Mr. ANTHONY. I thought the law provided that in no case should the compensation of collectors exceed \$10,000.

Mr. SHERMAN. It does not affect this provision. The last clause which we strike out of the item by this amendment allows them to charge for advertising, which we did not deem a proper charge.

The amendment was agreed to.

The next amendment was after the words just stricken out to insert as lines forty-two, forty-three, forty-four and forty-five, the following:

That section twenty-two be amended by inserting after the words "and approved by the proper" and before the word "officer," where they occur in three places in said section, the word "accounting."

Mr. HOWE. I am under the impression that this clause from line forty-two to line forty-five is transposed. I wish to call the attention of the chairman to it. It should be inserted before line thirty-five, it seems to me.

Mr. SHERMAN. Undoubtedly it is a transposition in printing. The next amendment should be inserted before this one. The printers have got it in afterward.

The PRESIDING OFFICER. That transposition will be made according to the suggestion of the Senator from Ohio.

Mr. HOWE. Before the vote is taken on the insertion of those lines I wish to suggest that the word "officer" should be "officers," should be plural instead of singular.

The PRESIDING OFFICER. That change will be made.

Mr. HOWE. After those words have been adopted, will it be in order to modify or add to them?

The PRESIDING OFFICER. It would be in order to insert additional words without modifying the text of this amendment.

Mr. HOWE. I do not wish to modify these words, but I wish to move a further amendment, and I suppose I may as well do it now.

Mr. SHERMAN. I think we had better first

go through with the amendments of the committee.

The PRESIDING OFFICER. The usual order is first to go through with the amendments of the committee before receiving amendments from individual Senators. The question is on this amendment of the committee.

Mr. SHERMAN. This is a somewhat important amendment. It is very difficult to amend a law in the way here proposed by the House of Representatives, as I shall show this evening. It almost deterred me from examining this bill. But the purpose of this amendment I will state very briefly. According to the old law the vouchers, for clerk hire, &c., were to be passed upon by "the proper officers of the Government." The question came up for decision, who were the proper officers of the Government? The Commissioner of Internal Revenue was a proper officer of the Government in one sense, and it was construed that the Commissioner of Internal Revenue should be the auditor to audit and pass on these accounts. I think myself it was a very ridiculous construction; but to remove all ambiguity we propose to insert the word "accounting," so that these vouchers must pass under the supervision of the accounting officers of the Treasury, being of course the Auditor and Comptroller.

The PRESIDING OFFICER. The question now is on inserting the lines in italics, lines forty-two, forty-three, forty-four, and forty-five, preceding line thirty-five.

The amendment was agreed to.

The next amendment was to insert after line one hundred and seventy-five the following:

That section forty be amended by inserting after the words "appointment of a successor" the words "Provided, That in case it shall appear to the Secretary of the Treasury that the interest of the Government shall so require, he may, by his order, direct said duties to be performed by such other one of the said deputies as he may in such order designate."

The amendment was agreed to.

The next amendment was to insert after the word "amended" in line one hundred and eighty-eight the words "by inserting after the word 'distiller,' where it first occurs the words 'before distilling any spirits,'" so as to make the clause read:

That section fifty-three be amended by inserting after the word "distiller," where it first occurs, the words "before distilling any spirits;" by striking out after the word "any," and preceding the words "still or stills," the word "additional;" by striking out after the word "used," and preceding the words "shall be erected" the words "as aforesaid," and inserting in lieu thereof the words "for distilling;" and by inserting after the words "shall be erected," the words "or used."

The amendment was agreed to.

The next amendment was to strike from the clause amending section sixty-one the following words, in lines two hundred and thirty-three, two hundred and thirty-four, two hundred and thirty-five, and two hundred and thirty-six:

Also by inserting after the word "warehouse," and before the words "and no drawback," the following words: "and the same fees shall be allowed for exports as are allowed to exporters for like services in the custom-house."

The amendment was agreed to.

The next amendment was to strike out the following proviso in lines two hundred and seventy-seven, two hundred and seventy-eight, two hundred and seventy-nine, two hundred and eighty, and two hundred and eighty-one:

Provided further, That no man between the ages of twenty and forty-five who is not enrolled for military duty, or regularly exempted from enrollment or draft for physical disability, shall be entitled to a license as a peddler.

The amendment was agreed to.

The next amendment was to insert before the word "town" in line three hundred and twenty-one the words "State, county," so as to make the clause read:

Provided, however, That persons appointed by any State, county, city, township, or district, or the officers thereof, to procure the enlistment of volunteers or the substitutes to fill the quota of such State, county, city, township, or district, for the military service of the United States, under the call of the President of the United States, shall not be considered substitute brokers: And provided further, That such person or agent shall receive no compensation except that which is given by such State, county, town, city, or district.

The amendment was agreed to.

The hour of half past four o'clock having arrived, the Senate took a recess till seven o'clock p. m.

# THE CONGRESSIONAL GLOBE.

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TUESDAY, FEBRUARY 28, 1865.

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## EVENING SESSION.

The Senate reassembled at seven o'clock p.m.

### COLORED BENEVOLENT ASSOCIATION.

Mr. DIXON. I ask the unanimous consent of the Senate to consider at this time Senate bill No. 451, to incorporate a Colored Union Benevolent Association in the city of Washington.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The motion can only be entertained by unanimous consent.

There being no objection, the bill (S. No. 451) to incorporate the Colored Union Benevolent Association, was read a second time, and considered as in Committee of the Whole. It proposes to declare Gorden Snowden, Charles Brown, James Wright, Sandy Alexander, Henry Logan, Charles Wilson, Henry Brooks, John Shorter, Joseph Shorter, and their associates and successors, a body politic and corporate by the name and title of the Colored Union Benevolent Association, located in the city of Washington, with the usual powers and privileges of a corporation. The objects of the association are to be to provide for the care and comfort of such members as shall be sick, disabled, or dependent, and of the families of such members, in cases where the proper officers of the association shall deem it expedient, and also to provide for the decent interment of such persons as may die in membership of the association, or belonging to the families of such members.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

### CONTINENTAL HOTEL COMPANY.

Mr. DIXON. I also ask that by unanimous consent the bill to incorporate the Continental Hotel Company of this city may be taken up and acted upon.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington. It proposes to declare Lewis Delmonico, of New York city, B. B. French, Henry D. Cooke, John W. Forney, of Washington city, Stephen Flanagan, William Overfield, junior, J. Warren Brown, of Maine, Thornton Smith, George D. Kellogg, and George Plowman, of Philadelphia, and their associates, and all persons who now or hereafter may be holders of the stock, a body politic or corporate by the style of the Continental Hotel Company, with the usual powers of a corporation, for the construction of a hotel in the city of Washington, with such supplementary buildings as may be adapted to and form part of the general plan and design thereof, and with power to furnish and equip it for the accommodation and use of any parties who may be desirous of renting and occupying it.

The capital stock of the corporation is not to exceed \$2,000,000, divided into twenty thousand shares of \$100 each.

Mr. HALE. I move to amend the bill by adding the following as an additional section:

Sec. 7. And be it further enacted, That Congress may at any time hereafter alter, amend, or repeal this charter.

Mr. SAULSBURY. I move that the further consideration of this bill be indefinitely postponed. I think that the Congress of the United States, in this the last week of the session, when there is so much business to do, could be better employed than in considering a bill to incorporate a hotel company. I therefore move that the bill be indefinitely postponed.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New Hampshire.

The amendment was agreed to.

Mr. HENDRICKS. I listened to the reading of this bill with some care, and I wish to call the attention of the Senator from Massachusetts [Mr. SUMNER] to the fact that there is no provision in it requiring this incorporated company to enter-

tain guests without reference to color. [Laughter.]

Mr. SUMNER. But the Senator knows perfectly well the rule of the common law on that subject. A hotel has no right to refuse any respectable person.

Mr. HENDRICKS. If that rule of the common law applies to hotels, it applies clearly to railroad companies with more force.

Mr. SUMNER. I know it applies to railroad companies.

Mr. HENDRICKS. But the Senator thought it necessary to detain the business of the country in making such a provision applicable to railroad companies, and I thought he had overlooked it in this bill.

Mr. SUMNER. It was because the occasion had occurred with regard to the railroad company. That company, it is notorious, has persevered in violating the law.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

### LEGISLATIVE, ETC., APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill of the House (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866, and had agreed to other amendments of the Senate to the said bill, with amendments, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. KASSON, Mr. H. WINTER DAVIS, and Mr. MALLORY, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866, disagreed to by the House of Representatives, and the amendments of the House to other amendments of the Senate to the said bill; and

On motion of Mr. SHERMAN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, disagree to the amendments of the House to other amendments of the Senate thereto, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President; and

The VICE PRESIDENT appointed Mr. SHERMAN, Mr. HARRIS, and Mr. NESMITH.

### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 82) in relation to the distribution of books and documents; which thereupon received the signature of the Vice President.

### INTERNAL REVENUE.

Mr. SHERMAN. I think we had now better proceed with the business regularly in order.

Mr. HENDRICKS. There is not a quorum.

Mr. GRIMES. Yes, there is.

Mr. HOWE. There is not a quorum here, I suggest to the chairman of the Committee on Finance, and there is a private bill which has been lying on my table for some time, which has passed the House, which I should like to take up and act upon now.

Mr. SHERMAN. If I give way to the Senator, there are others here that have similar requests to make.

The PRESIDING OFFICER. The regular order of business is called for, and no other business can be entertained except by unanimous consent.

Mr. HENDRICKS. I wish to appeal to the Senator from Ohio to allow at least half an hour of the evening sessions to private bills and little matters of that sort.

Mr. SHERMAN. I think we had better proceed with the regular order.

Mr. HENDRICKS. If all the rest of the time is to be given to public measures, we shall not be able to act on private bills at all.

The PRESIDING OFFICER. The regular order being called for, the Chair can entertain no motion except to postpone it, and the Senate will resume, as in Committee of the Whole, the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864. The Secretary will continue the reading of the bill, beginning at page 14, line three hundred and twenty-two.

The Secretary continued the reading of the bill.

The next amendment of the Committee on Finance was after line three hundred and twenty-six to insert the words, "all licenses herein provided for shall take effect on the 1st day of May next," so that the clause will read:

"52. Insurance brokers shall pay twenty-five dollars for each license. Any person who shall negotiate or procure insurance in behalf of another person or party for which he shall receive any pay, commission, or compensation, shall be regarded as an insurance broker under this act," and the licenses herein provided for shall take effect on the 1st day of May next.

Mr. VAN WINKLE. I wish to call the attention of the chairman of the committee to this amendment. It appears to me that it does not express what is intended by the committee. The intention was that the provision in reference to licenses shall take effect on and after the 1st day of May next; but this would seem to confine all that to the 1st of May next.

Mr. SHERMAN. This is an amendment to the entire section relating to licenses. This provision is to be added after that section. It says:

And the licenses herein provided for—

That is, in the section—

shall take effect on the 1st day of May next.

I think the amendment is correct.

Mr. COLLAMER. That does not change the license system now in operation.

Mr. SHERMAN. Not at all.

The amendment was agreed to.

The next amendment was on page 14, after line three hundred and thirty-three, to strike out the following clause:

That section eighty-three be amended by inserting after the words "within his district, monthly," the words "within ten days from the 20th day of each month," and by inserting after the words "such duties within," the word "said," and by striking out after the words "ten days," following the words "after demand in writing delivered to him in person, or left at his house or place of business, or manufactory, or sent by mail."

Mr. SHERMAN. I desire to make some general observations to the Senate in regard to the financial condition of the country, and especially the details and merits of this bill, and I may as well avail myself of the present occasion to say what I have to say. It will save time.

The late period of the session at which the House of Representatives sent us this bill precludes full discussion upon any of the important questions presented in it. The House is jealous of its exclusive prerogative of originating revenue bills, but it ought at least to give us an opportunity to exercise our undoubted power to amend them. This important measure, affecting every industrial interest of the country, declaring in its title that it is to provide revenue to support the Government and pay interest on the public debt, containing fifty pages of printed matter, every line demanding an examination of the previous law, was sent to us within two weeks of the close of the session. The Committee on Finance have worked diligently to prepare it for the consideration of the Senate, and now, during the closing week, with all the hurry incident to the closing days of the session, with the appropriation bills still pending between the two Houses, we must urge the Senate to pass judgment upon the numerous provisions of this bill rather than to discuss them.



After the first careful reading of this bill, and considering the many important changes proposed in it, I was inclined to recommend that the Senate postpone it until the next session rather than by hasty legislation to run the risk of new errors; but the necessity of the Government for new sources of revenue, the loss of revenue caused by defects in the present law, the constructions put upon parts of it by revenue officers, and the palpable failure to enforce the present law, especially as to incomes, induced your committee to report it back with several important amendments, and especially to provide for such an examination of the whole subject of internal taxation as will enable us to legislate in the future with fuller information. It may expedite our action to submit at the outset a few general remarks as to the necessity which compels us to impose upon our constituents the system of internal taxation provided for by this bill and the act of the last session.

Under the practice of Congress of dividing financial measures into numerous bills, all of which are considered separately, without any connection with each other, there seems no appropriate time to consider the "budget," or the general financial estimates and plans of the Government. Yet it is obvious that when it is the chief duty of Congress to provide ways and means to carry on the Government, some general principles ought to be adopted and applied to all our financial measures. "When at peace the United States had an ample source of revenue in a moderate rate of duty on imported goods. This tax was so light as never to be felt by our people, and its incidental effect in protecting our domestic industry made this tax a blessing rather than a burden. But the rebellion changed all this. We had either to submit to have our existence as a nation destroyed by a haughty, but base, ignorant, and defeated oligarchy, or we had to assume with war its unavoidable incidents, taxation and debt.

The people of the United States having definitely determined to prosecute war, it only remained for Congress to provide the ways and means to carry it on. It is manifest now, as I then urged, that it would have been better at the first session in 1861 to have reduced to the lowest possible standard all expenditures and to have provided a system of internal taxation. It is easy now to see the errors of the past. None of us appreciated the magnitude of the contest—the enormous armies demanded and the vast sums required for the contest. I still think that with parsimonious economy and heavy taxes from the beginning, we might have borrowed money enough on a specie basis to have avoided a suspension of specie payments; but when it came we were without a currency and without a system of taxation. Gold disappeared and was hoarded by banks and individuals. It flowed in a steady stream from our country. By the sub-Treasury act we could not use the irredeemable bills of State banks, and with the terrible lessons of 1815 and 1837 staring us in the face, no one was bold enough to advise us to make as a standard of value the issues of fifteen hundred banks founded upon as many banking systems as there were States. Under these circumstances we had but one resource.

We had to borrow vast sums, and as a means to do it we had to make a currency. This was done by the issue of United States notes. Subsequently, to unite the interests of private capital with the security of the Government as a basis of banking, we established a system of national banks, and upon this currency, as a medium for collecting taxes and borrowing money, have waged a war unexampled in the grandeur of its operations, and, as I trust, soon to be crowned with unconditional success.

Such a war has not been conducted without vast expenditure. Our actual expenditure during the fiscal year ending June 30, 1864, was \$865,234,087. The estimated expenditure for the current fiscal year is \$895,729,135, upon the basis of the present laws. Much more than one half of this sum has been already expended. To this sum you must add every dollar you provide for by new laws, and this grim fact must not be overlooked for a single moment when you are making new appropriations. Every dollar of this must be paid in the form of taxes; and that is not the worst of it—it must be paid now. We must

get the money either by making it, by borrowing it, or by collecting it from our people. If we could postpone the borrowing until after the war is over it would be easy, but we must have it now; and we must devise the means of getting it before we can sympathize with the poor clerk, the brave soldier, or the needy contractor. Until then your sympathy is mockery. Your very measures of relief may add more to the distress of all whose livelihood depends upon a fixed salary.

I repeat that there are but three modes of raising this money: one is by printing your notes, calling it money, and compelling your people to take it; another is by issuing your bonds or promises to pay in the future; and another is to collect the money in the form of taxes from the people. That all these modes may be resorted to is proven by the history of all modern nations when involved in war. As the first is the easiest it is apt to be resorted to first; but it is a doubtful expedient at any time, always dangerous, and soon exhausted. If pressed too far it destroys loans and taxes, and national bankruptcy is the inevitable result. A limited amount of this money was indispensable to us as a medium of exchange. It is like some medicines, necessary in certain cases and in moderate quantities, but when taken in excess, sure death.

Paper money issued by a Government is called a loan, but it has none of the elements of a loan except the promise to pay. There can be no loan without a lender, and his act must be voluntary. In the middle ages Governments resorted to "forced loans," a contradiction of terms. A forced loan was merely an unjust and unequal tax. I choose to regard United States legal-tender notes not as a loan merely, but as money, lawful money, which the citizen is compelled to receive, that which now fixes the standard of all value. Whether the power to issue it is derived from the power to coin money or to borrow money, or whether it is inherent in any Government clothed with the attributes of sovereignty, are questions we need not now discuss. We have exercised the power. It is now the currency of the country, the measure of value, and we can only regulate its form and amount, and provide for its redemption.

While we can and have made our paper money the unit or standard of value, we cannot fix the price or value of any other commodity, whether gold, silver, or food. This attempt has been made by many Governments in different ages, and has uniformly failed. The standard of value may be fixed by the Government, but a higher law fixes the relative value of all commodities as measured by this standard. We may by our tariff or tax law affect the relative value of commodities, but we cannot by direct legislation fix the value of any commodity either in gold or paper money. When the attempt has been made the result has usually been to advance rather than to decrease the value of this commodity. All our efforts to fix the value of gold, as measured by our currency, have failed. We may make penal the purchase and sale of gold; we may deny the use of our courts to enforce such contracts; we may prohibit the exportation of gold; we may deter sales of gold by heavy taxation, yet, after all, the price of gold rises or falls as our national credit rises or falls. So far as our legislation produces revenue or strengthens our Army it produces a fall of gold as measured by our standard. So far as it merely discourages trade in gold or any other commodity it increases its market value. We may as well recognize as an axiom of political economy, proven by the experience of all nations, by every form of government—despotic, monarchic, or republican—that the relative value of all commodities is beyond the power of legislation. We may fix the standard of value, we may fix the tax upon the commodity, and there our power ends. And especially is this so of gold, which has value in all civilized nations of the world, and, except with nations for a time involved in war, is everywhere the standard of value.

It is therefore manifest that the first duty of Congress is to keep our lawful money at a standard of value as near as possible to the standard of gold; and this can only be done by limiting the amount and by making it valuable to pay taxes or loans. It can only be redeemed by the Government by taxes or duties, and every tax or

duty, however oppressive to the individual, which withdraws for a time our paper money, brings it nearer the standard of gold. The power to make money by issuing legal-tender bills is now exhausted. More than enough is now outstanding to supply a currency. The issue of \$100,000,000 more would not only increase our debt to that amount, but would add even a greater sum to our expenditures by the increased price of commodities consumed by the war, while the imposition of an equal amount of taxes gives value to our currency, and thus reduces the price of commodities we are compelled to buy.

An increase of paper money benefits the taxpayer now at the expense of the soldier. It reduces the purchasing value of the pay of the soldier, while by debasing the currency it is easier for the tax-payer to pay a specific sum. In the end, however, the tax-payer loses, by the increased cost of food and clothing and transportation, which must finally be paid for in gold.

I assume, then, that while the necessity for raising these vast sums is still imperative, yet one mode of doing it, and that the easiest, is exhausted. Loans and taxes are our only resource. A loan must be voluntary. It may to some extent be induced by patriotism. In this contest thousands of patriotic people—women, children, poor and rich alike—have loaned their savings to the Government from the purest of motives. The admirable system of distributing this loan by going out from the money centers to the remote hamlets and villages, gathering from the small savings of the people rather than from the garnered treasures of the rich, has proved a wonderful success. Yet, after all, to borrow money you must appeal to the self-interest of the lender. A great nation borrowing money will be tried by the interested tests applied by the pawnbroker to his shivering victim. The more it wants to borrow, the more it must pay. The terms upon which we now borrow prove that we have pressed this resource as far as is expedient. Tested by the present standard of gold, we now pay seven and three tenths per cent. for three years, and twelve per cent. afterward, until the debt is paid in gold. We promise to pay \$1,000 in gold at the end of eight years, with interest for five of these years at six per cent. in gold, and for three years at seven and three tenths in currency, and we receive for this promise, which must be fulfilled to the uttermost, \$1,000 in currency, which will buy our soldiers no more food than \$500 in gold. But this is not all. We stipulate that this property lent us shall be exempt from all the burdens which this war casts upon all other property, of State, county, and municipal taxes. This simple statement shows that this process of borrowing is exhausted; that we dare not extend it except for the highest object of national existence. When I see the money thus borrowed expended on trivial objects, I cannot but look forward to the slow and hard process by which it must all be repaid in gold, with interest accumulated and accumulating, through the agency of collectors, by the inquisitorial process of this bill, and from the labor of the poor. And if, Senators, you have thought me hard and close as to salaries and expenditures, I trust you will do me the justice to believe that it is not from any doubt of the ability of our country to pay, or from the base and selfish desire for cheap reputation, or from a disinclination to pay my share, but because I see in the dim future of our country the same uneasy struggle between capital and labor—between the rich and the poor, between fund-holders and property-holders—that has marked the history of Great Britain for the last fifty years. I do not wish our public debt increased one dollar beyond the necessities of the present war, and the only way to prevent this increase is to restrict our expenditures to the lowest limit consistent with the public service, and to increase our taxes to the highest aggregate our industry will bear.

These general principles induce me to support many of the taxes proposed in this bill. I regard the proposed tax on sales as indefensible in principle; yet, as a temporary expedient to raise revenue, I will vote for it. The increase of the postage on letters is only to make the Post Office Department self-supporting, and to preserve the proportions between the old rate and the price of labor and commodities. The changes in the income tax are necessary to prevent a repetition

of the shameless and wholesale evasions of the special income tax. This is the only tax imposed on accumulated property, the only tax on money in State and Government securities. It is the one that should have been paid most cheerfully, but its assessment and collection was a disreputable farce.

A still more important feature of this bill is the section to compel the withdrawal of State bank notes. As the volume of currency affects the price of all commodities, I have no doubt the amount of such paper money now outstanding adds to the cost of our purchases \$50,000,000. The refusal of Congress, at the last session, to pass restrictive measures to compel its redemption has seriously affected the value of our currency. The national banks were intended to supersede the State banks. Both cannot exist together; yet, while the national system is extending, the issues of State banks have not materially decreased. Indeed, many local banks have been converted into national banks, and yet carefully keep out their State circulation. They exact interest from the people on this circulation, and yet avail themselves of the benefits of the new system. They transfer their capital to national banks, issue new circulation upon it, and yet studiously keep out the old. They issue two circulations upon the same capital. It is far better at once to abandon the national banking system than to leave it as a cloak for outstanding State issues.

If the State banks have power enough in Congress to prolong their existence beyond the present year, we had better suspend the organization of national banks. As the first friend of this measure in the Senate I would vote to-day for its repeal rather than allow it to be the agency under which State banks can inflate our currency. And the power of taxation cannot be more wisely exercised than in harmonizing and nationalizing and placing on the secure basis of national credit all the money of the country.

Many of the taxes proposed by this bill are not in accordance with established rules of political economy founded upon the experience of European countries. We are new beginners in the science of taxation. The object now is less to equalize taxation than to increase revenue. All other questions must await the necessity put upon us by war to levy in the most expeditious mode the largest possible taxes, and to do this we must extend it to nearly all articles of production and consumption.

It may be truly said of some of these taxes that they are mongrel. We can only reply that we need the money now, and must look more to the result of the tax in revenue, leaving to the future to make such changes as experience proves to be just and proper. Taxes levied now must be paid by those at home who do not fight, while, if postponed, they will fall in a measure upon those who have fought. Taxes collected now can be paid in a depreciated currency, while, if postponed, they must be paid in gold. Taxes paid now not only tend to reduce the present price of commodities, but by reducing the sum to be borrowed enable us to borrow on better terms, while taxes withheld now largely increase the sum to be levied hereafter. What we pay now we pay without interest; what we postpone for the future we pay threefold in accumulating interest. The war has given vast activity to all classes of industry, and has yielded enormous profit to those who are in business. It is proper that now they pay to the Government their full tax on these profits before they are consumed by expenditure. A tax system fully enforced now will enable us to relieve our people from many taxes when the reaction of peace shall lessen the profits of industry. We cannot increase our taxes after war—we must be prepared to reduce them. Taxes are more cheerfully paid now in view of the mountain of calamity that would overwhelm us if the rebellion succeed, but when we reach the haven of peace, when the danger is past, you must expect, then you must expect, discontent and complaint. The grim specter of repudiation can never disturb us if we do our duty of tax-paying as well as our soldiers do theirs of fighting. I therefore conclude that every dictate of policy, every sentiment of patriotism, demands of us the largest taxation now to be fearlessly assessed and impartially collected.

But it is impossible to consider the subject of internal taxation without some reference to our tariff laws. Though this bill does not change the present duties on imported goods, yet the same general principles must be applied to tariffs as to excises. The object now of our tariff laws should be to raise revenue. In times of peace we may discriminate in favor of our industry, we may abandon taxes to increase our commerce. Now our industry is sufficiently protected by requiring customs duties to be paid in gold, and we are in no condition to protect our commerce from foreign competition, because our vessels are the prey of English pirates. Our immediate want is revenue, and especially revenue payable in gold. We are committed to the payment of nearly sixty millions in gold annually, and must rely upon customs duties to pay this sum. We cannot forego this revenue without destroying the national credit, the value of our bonds, the basis of our currency. We cannot affect these without seriously impairing our manufactures and our commerce. I repeat that we must now frame our tariff laws solely with a view to revenue. All incidental protection or benefit to any industry must now give way during this war to the immediate and pressing need of revenue.

A different principle prevails in Great Britain, and in her present position of peace, with all her great wealth employed in commerce and manufacture, it is founded upon the highest wisdom. The principle adopted by her is thus stated by Sir Morton Peto, pages 24 and 25:

"If a customs duty, however moderate, imposed for a financial object, prevents trade with a country which would otherwise receive your goods in exchange for its products, it is surely better to remove the duty which imposes the obstacle to commercial intercourse than, for the sake of a small revenue, to preclude the possibility of commercial exchange."

"But the first object of legislation in regard to customs duties should be, not to tax all articles which do not come within the class of raw materials or food, but on the contrary to tax those articles alone which can be taxed without injuriously affecting our trade with other countries, and to tax such articles only to such an extent as will not injuriously affect their consumption by our own people."

Upon this principle, and another equally simple, not to impose duties on the raw materials of industry and the first articles of food, was based the policy of Sir Robert Peel, which reduced the number of articles charged with duties from eleven hundred and sixty-three, in 1841, to forty-four, in 1862; and, sir, if we were at peace, with our currency restored to its normal condition, I should be very willing to discriminate in favor of our own commerce and manufactures. Although representing an interior State chiefly engaged in agriculture, yet I have always felt that the prosperity of our industry and section finally inured to the benefit of the whole nation and of every part. I therefore have supported the present tariff law, framed with a distinct view to discriminate in favor of our home industry, and I would now only so far modify the present duties when to do so will increase the revenue. If by lowering the duty we can increase the revenue, it should be done. If by increasing the duties on any article we can increase the revenue without diminishing in a greater degree the consumption of that article, it ought to be done. During war, when our industry is fully employed in repairing the waste of war, increased importation may become a vast injury by exhausting us of gold and food, which must then be sent to pay for luxuries. We send abroad that which we most need, and receive that which we can do without. The true principle for a nation in our condition, struggling for its existence, is so to frame its tariff laws as to produce the greatest revenue from the least importation. When the war ceases, our armies are disbanded and our soldiers retire to the ordinary pursuits of industry, then the English rule should be applied of levying the requisite duties on the fewest articles, and with a view to increase your commerce and protect your industry.

With this general statement, I approach the consideration of this bill. I am not entirely satisfied with it, but I am sure it will improve the present law and add some new sources of revenue. When the machinery of collecting is perfected, which can only be done by experience, the whole of these taxes will be revised. They will be arranged into classes and schedules and simplified. Its success will depend mainly upon the Commissioner of Internal Revenue. If he will perform

his full duty, and enforce it upon all his subordinates, we will realize during this calendar year \$300,000,000 of internal revenue, an ample basis of public credit, and which will in a short time rapidly reduce the public debt. If our military and naval forces complete their great duty within this year, our present system of national finance will, I confidently trust, very soon enable us to commence the reduction of our national debt, and within the period required in Great Britain after her wars with Napoleon, enable us to resume specie payments. We have resources in this country, when united and at peace, far greater than any nation of modern times. Our accumulated wealth is not to be compared with that of Great Britain and France, but a bountiful Providence has given us sources of wealth far greater than either of these powerful nations ever had. The cotton now permeating through our lines already affects the price of exchange. What will it do when the full stream is opened? Petroleum, a flowing mine, is already exported to the amount of thirty-one million gallons a year. Our mineral resources are scarcely touched, and our young sister, Nevada, is exciting our fancy with mountains of gold and silver; and dry statistics inform us of a product there of gold and silver equal to the product of the world fifty years ago. The South is to be opened to new industry, and millions of laborers from Europe and from Asia are meeting on our favored shores to help develop our resources. We have taken our place among the great nations, but as we have attained our military position only after hard, exacting toil of military discipline, after defeats and discouragements, we can maintain our financial position only by the hard process of taxes and economy. I wish to see evil predictions of our enemies, at home and abroad, all belied. They prophesied disunion, we will show them Union. They prophesied bankruptcy, we will see them begging for our bonds, our cotton, petroleum, and gold. Then we can provide for our public debt. Then we may with safety prosecute with vigor the Pacific railroad. Then we may, without injury to our credit, enter upon the magnificent projects for the building of ship-canal. Then we can restore our commerce on the high seas, now driven under foreign flags by British pirates. Then we may revive old doctrines about the American continent being no longer the home of European kings. Now our duty is dry, hard, exacting, but it will be the more cheering when in the future our self-sacrificing patriotism in the great crisis will enable our country to enter upon its new career without a stain upon its financial honor.

The PRESIDING OFFICER, (Mr. Foot.) The question is on the amendment of the Committee on Finance, to strike out, after line three hundred and thirty-three, the following clause:

That section eighty-three be amended by inserting after the words "within his district, monthly;" the words "within ten days from the 20th day of each month," and by inserting, after the words "such duties within," the word "and;" and by striking out after the words "ten days," following the words "after demand in writing delivered to him in person, or left at his house or place of business, or manufactory, or sent by mail."

The amendment was agreed to.

The Secretary continued the reading of the bill, as follows:

That section eighty-four be amended by striking out the words "eighty first" and inserting in lieu thereof the words "eighty-second;" and by striking out the words "eighty fourth;" and inserting in lieu thereof the words "eighty fifth."

Mr. COLLAMER. I desire to know whereabouts that is and what it means.

Mr. SHERMAN. If the Senator will take the bill and the copy of the law of the session he will see what the amendments are.

Mr. COLLAMER. I cannot read two bills at one time.

Mr. HENDRICKS. I have tried them, and I think it is impossible.

Mr. SHERMAN. The best way is to keep the two together before you as we go along with the bill.

Mr. GRIMES. The only way is for the Senator from Ohio to explain it.

Mr. SHERMAN. I will explain any amendment that any Senator desires as he goes along.

The Secretary continued the reading, and read the next paragraph, as follows:

That section eighty-six be amended by striking out the words "deposit at the time of sale;" after the words "freight

from the place of" and inserting in lieu thereof the word "manufacture," and in the next following paragraph by striking out the word "that" where it first occurs and inserting in lieu thereof the word "the."

Mr. HENDRICKS. I suggest that to understand the bill at all it must be read by the Secretary in connection with the old law. It may take a little longer to do so; but I suggest that the old law be read as if it were the bill before the body while we are considering this class of amendments.

Mr. COLLAMER. I have no doubt if the honorable Senator from Ohio will consent, and will take the time, he can explain to us what those changes are, and when he says that such a one is merely to correct a mistake or an error in the old law, that will be satisfactory.

Mr. HENDRICKS. I shall be satisfied with that.

Mr. SHERMAN. The amendment now pending to section eighty-six is simply an amendment of phraseology. If Senators will turn to the old law, page forty-six, they will find that deductions may be allowed in certain cases.

"1. Freight from the place of deposit at the time of sale to the place of delivery."

The change proposed here is to strike out the words "deposit at the time of sale," and to insert "manufacture;" so that it will read:

1. Freight from the place of manufacture to the place of delivery.

This is the only amendment to section eighty-six.

Mr. JOHNSON. I have no doubt that is very clear, but still I cannot understand it.

The Secretary continued the reading of the bill, as follows:

That section eighty-seven be amended by striking out after the words "accurately setting" the word "for," and inserting in lieu thereof the word "forth," and after the words "description of the manufactured article," by striking out the words "the proposed market for the same, whether foreign or domestic," and by inserting after the word "assessor," and preceding the word "assistant," the word "or."

Mr. JOHNSON. I should like to know how that section will read if amended in that way. It is impossible to understand the bill in its present shape.

Mr. GRIMES. I will send to the Secretary, and ask him to read, that section (eighty-seven) which is proposed thus to be amended. It will be seen that it is a section of nearly a page in length, and this clause of the bill proposes to strike out certain words in certain places in that section.

Mr. JOHNSON. That I understand very well; but I want to know, if it can be done, and I suppose it can, if it is not better to read the section as it will be after it is amended as proposed.

Mr. SHERMAN. We should never get through with the bill in that way, and then we would not understand it.

Mr. JOHNSON. I cannot understand it in its present shape. We might just as well pass the bill as it is reported as to consider it in this way.

Mr. SHERMAN. I will explain it, and try to make myself understood. The bill before us provides:

"That section eighty-seven be amended by striking out after the words "accurately setting" the word "for," and inserting in lieu thereof the word "forth."

That is a mere verbal correction. Then it goes on:

And after the words "description of the manufactured article," by striking out the words "the proposed market for the same, whether foreign or domestic," and by inserting after the word "assessor," and preceding the word "assistant," the word "or."

If the Senator has the bill of the last session before him, as I have, he will see in a moment that it is a section in regard to the manufacture of tobacco, snuff, and cigars. The manufacturers of those articles are required to make an additional statement to the assessor.

Mr. JOHNSON. I cannot imagine what objection, except that it will take a little more time, there can be to reading the law of last session as it will be if these amendments are adopted; but it is impossible for us to understand it in any other way.

Mr. SHERMAN. I am willing to have the experiment tried.

Mr. JOHNSON. Let us try it for a time, at any rate.

Mr. CONNESS. I suggest to the Senator

from Maryland that in many instances the amendments proposed to long sections of the old law are very small and inconsiderable, and to compel the reading of the sections of the old law would be a work of delay, and we should never get through with the bill at all. I hope the Senator will not call for that.

Mr. JOHNSON. As far as I am individually concerned, in all cases where the chairman will say the amendments are merely verbal, and have no effect at all on the law as it now stands, I shall be content.

Mr. SHERMAN. I do not say that in regard to many of them.

Mr. JOHNSON. But I suggest that in relation to such as are merely verbal. If we cannot do something of this sort, we might as well leave to the Committee on Finance the passage of this law altogether. It is impossible, I think, unless members are much more acute than I am, to understand what the law will be unless we can see what the section is after it shall have been amended.

Mr. ANTHONY. I will ask the Senator from Ohio if it is not practicable to pass over this portion of the bill which relates to the machinery of the organization of the internal revenue system, which I suppose is the only portion of the bill that contains these amendments referred to by sections and lines.

Mr. CLARK. They run clear through the bill.

Mr. ANTHONY. Then we shall never understand the bill, and the people will never understand it, nor the officers who are to administer it. The old bill ought to be engrossed with these amendments in it, and then reenacted.

Mr. SHERMAN. The old law makes a book of one hundred pages. A great many of the amendments proposed to it by this bill are merely verbal and changes of phraseology that would seem to be reasonable and proper in themselves. They are not such as I would propose; but they come to us in the bill from the House. We cannot strike them out, because we can see that if the amendments are adopted they will improve the phraseology or context of the old bill. The amendment on which we have now delayed for five minutes is purely grammatical.

Mr. JOHNSON. Then there is no objection to that.

Mr. ANTHONY. I will ask the Senator from Ohio if there is any precedent for passing a bill in this way.

Mr. SHERMAN. Yes, sir; there was one passed two years ago; and it was a very bad precedent.

Mr. ANTHONY. I think so too.

Mr. SHERMAN. I have already said that I do not like this mode of legislation, but how can we help it? The House of Representatives have the power to originate this bill, and we have not. They sent it to us within two weeks of the close of the session. If we defeat this bill, we defeat important measures connected with it. We cannot do that. The Committee on Finance have gone over this bill, comparing it with the present law, and upon the whole of these amendments that we are now passing upon, and to which exception is made, we were all agreed. There was no difference of opinion upon them. Most of them are merely changes of phraseology; but we did not strike them out, simply because they were right enough in themselves, but not important.

Mr. JOHNSON. There is no objection to those. If the honorable member will say that these are merely verbal amendments to the old law, there will certainly be no objection on my part to them; but there are a great many of these amendments that I should suppose, from what I see, are very substantial.

Mr. SHERMAN. If there is anything material I will mention it.

The PRESIDING OFFICER. The reading of the bill will proceed.

The Secretary continued the reading of the bill.

The next amendment of the committee was on page 17, line three hundred and eighty-nine, after the word "affirmation" to strike out the following words:

On the receipt whereof an assessment of the duties due by said person, company, or corporation, shall be immediately made and transmitted to the collector of the district, to whom said duties shall be paid within five days thereafter.

The amendment was agreed to.

The next amendment was on page 17, line three hundred and ninety-four, before the word "five" to strike out the words "the said," and after the word "days" to insert the words "after demand thereof;" so that the clause will read:

And in case the duties shall not be paid within five days after demand thereof, the said collector may, on one day's notice, distrain for the same, &c.

The amendment was agreed to.

The Secretary continued the reading of the bill down to and including the following provision:

That section ninety-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: "That all manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, shall, before the same is used or removed for consumption, be inspected and weighed by an inspector, appointed under the fifty-eighth section of the act to which this is an amendment, who shall mark or affix a stamp upon the box or other package containing such tobacco, snuff, or cigars, in a manner to be prescribed by the Commissioner of Internal Revenue, denoting the kind or form of tobacco and the weight of such package, with the date of inspection and the name of the inspector. The fees of such inspection shall in all cases be paid by the owner of the manufactured tobacco, snuff, or cigars, so inspected and weighed. And the penalties for the fraudulent marking of any box or other package of tobacco, snuff, or cigars, and for any fraudulent attempt to evade the duties on tobacco, snuff, or cigars, so inspected, by changing in any manner the package or the marks thereon, shall be the same as are provided in relation to distilled spirits by existing laws. And all cigars manufactured after the passage of this act shall be packed in boxes. And any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed by the inspector, unless otherwise provided, shall be forfeited, and may be seized wherever found, and shall be sold, one half of the proceeds of such sale to be paid to the informer, and the other moiety to the United States. The Commissioner of Internal Revenue shall keep an account of all stamps delivered to the several inspectors; and said inspectors shall also keep an account of all stamps by them used or placed upon boxes containing cigars, and of all tobacco, snuff, and cigars inspected, and the name of the person, firm, or company for whom the same were so inspected, and return to the assessor of the district a separate and distinct account of the same; and also return to the said Commissioner on demand all stamps not otherwise accounted for, and shall give a bond for a faithful performance of all the duties to which he may be assigned, and return or account for all stamps which may be placed in his hands."

The committee propose to amend the clause on page 20, line four hundred and seventy-seven, by inserting before the word "return" the word "to;" so that it will read:

And to return or account for all stamps which may be placed in his hands.

The amendment was agreed to.

Mr. GRIMES. If I understand this amendment to the ninety-first section of the act of 1864, it creates a new batch of officers, to be known as inspectors of cigars and tobacco. Is that so?

Mr. CLARK. The amendment is almost entirely new, and one, as the Senator suggests, which will create a new class of officers, or a large number of the same class; and I propose, after we have gone through with the amendments of the committee, to call the attention of the Senate to it, and to propose some amendments to it.

Mr. GRIMES. I should like to inquire if it is not subject to amendment now?

Mr. CLARK. It will be subject to amendment after we have gone through with the committee's amendments. It will then be open to amendment by any member of the Senate.

The Secretary continued the reading of the bill.

The next amendment was on page 22, line five hundred and ten, in the clause proposing to amend the ninety-fourth section of the act of 1864, to insert the following:

By striking out of the clause relating to printed books the word "magazines," and by inserting after the word "news-papers" the words "periodical magazines."

Mr. SHERMAN. I promised to call the attention of the Senate to any change of importance made by the bill, and I should have stated that the tax on gunpowder is changed, but not very specially.

Mr. JOHNSON. By the House, not by your committee.

Mr. SHERMAN. Yes, sir. The amendment of the Committee on Finance, now under consideration, proposes to leave out the tax on magazines. The law now is:

"On all printed books, magazines, pamphlets, reviews, and all other similar printed publications, except newspapers, a duty of five per cent. *ad valorem*."

If amended as proposed by the Committee on Finance, it will read:

On all printed books, pamphlets, reviews, and all other



similar printed books, except newspapers and periodical magazines, a duty of five per cent. *ad valorem*.

I will state that it was represented to us that these magazines were nearly all written by ladies of literary taste, and are in rather a suffering condition now, from the high price on paper, &c., and a very strong appeal was made to us to omit them from the tax. I think it was more in deference to the ladies than from any question of principle that we agreed to the amendment. [Laughter.]

Mr. CLARK. I could not quite reconcile myself to this amendment of the committee in consideration of certain other amendments that came from the House of Representatives. Senators will perceive that the bill as it came from the House of Representatives contained this proviso:

*Provided, That Bibles and Testaments, or volumes consisting only of parts of either, prayer-books, arithmetics, spelling-books, geographies, grammars, and school-books of the kinds used in common and primary schools, and all books printed exclusively for the use of Sunday-schools, shall be exempt from any duty or tax, anything to the contrary notwithstanding: Provided further, That this exemption shall not apply to any volume which is valued at more than two dollars.*

The Committee on Finance struck out the Bibles and Testaments, &c., and subjected them to a tax, but left these magazines free from a tax. I was in favor of leaving the Bibles and Testaments, if anything, free from tax.

Mr. SHERMAN. That amendment has not been reached yet.

Mr. CLARK. It comes immediately after this, and is in close connection with it, and is a fair matter of discussion with this amendment. I was, however, in favor of leaving the law as it was, exempting newspapers alone, and letting all other books be taxed. I confess I cannot see any reason why magazines should be exempted and Bibles and Testaments taxed. I know the argument suggested by the Senator from Ohio was before us, and perhaps Senators listened to that; but I cannot see why a lady who is engaged in writing a magazine should be exempt from taxation when the poor girl in my country who spends her time in weaving a palm-leaf hat or stitching a shoe to get a livelihood is taxed. The Senator from Iowa [Mr. GRIMES] suggests to me that they write but a part of the magazines, and the publishing of the works goes on under the head and direction of sometimes very rich men, and they make a large profit upon them. I do not want to take up time in discussion, but I must confess I did not feel the force of the reasoning that exempted these magazines.

Mr. SHERMAN. I think it is better to take the amendment as a whole together. The House have inserted at the end of this clause about printed books this proviso:

*Provided, That Bibles and Testaments, or volumes consisting only of parts of either, prayer-books, arithmetics, spelling-books, geographies, grammars, and school-books of the kinds used in common and primary schools, and all books printed exclusively for the use of Sunday-schools, shall be exempt from any duty or tax, anything to the contrary notwithstanding: Provided further, That this exemption shall not apply to any volume which is valued at more than two dollars.*

The whole difficulty and trouble with this proviso was this, that it substantially surrendered the entire tax on the great body of all the books published in this country. It was represented to us that these books that are exempted comprise more than three-fourths of all the books published in the country; that the great body of the books published in this country are school-books, of which a vast number are consumed. Besides, this proviso exempted books of the lower grades of school-books, but did not exempt books of the higher grade, such as works on algebra, geometry, &c., which are consumed by scholars in high schools, and Latin books, and books in which the languages are taught. On the whole it was very hard to draw the line of distinction. I almost became a convert to the idea of the Senator from Massachusetts, [Mr. SUMNER], and that it would be better to strike out the whole clause rather than to attempt to make these discriminations and qualifications and exceptions. I think it would be better for the Senate either to abandon the whole tax on printed books, or else to abandon all these exceptions. The newspapers are exempted from the tax now.

Mr. JOHNSON. What is the estimate of the tax on books?

Mr. SHERMAN. I have none; but the books exempted by the House proviso are more than three-fourths of all the books published in this country.

Mr. SUMNER. I am very glad to hear the Senator from Ohio say that he became almost a convert to my proposition to remove all tax on books. He reminded me of a certain person who said that he was "almost persuaded to be a Christian." I think it would be better for the Senator had he become a complete convert on this occasion. I am sure the extent of his influence would be better for the country.

I am sure, sir, that in connection with this matter I can speak from no motive of self and from no personal interest whatever. It is, however, from a profound conviction that the best interests of the country require that there should be no tax on books. What you can get out of this tax in any event is very small; but it is a tax on knowledge. Look at it as you will, to that complexion it comes at last—a tax on knowledge. I do not think it worth while on the part of the Congress of the United States at this moment to enter upon such a system of taxation. It is the boast of our institutions that they stand upon the intelligence of the people, and it is a further boast that we supply education at the public cost; but how can you supply education unless you give an opportunity to buy books? Every tax, therefore, that you impose upon books is an impediment to public education. Therefore, I submit it is inconsistent with the genius of our institutions. The result of this tax will be petty; but to the extent of its influence, I submit that it will be prejudicial. I should like, therefore, to strike out the whole passage, and if the Senator from Ohio will make no objection I will move to amend the amendment which is now under consideration by moving to strike out the whole clause.

Mr. JOHNSON. Down to line five hundred and twenty-three.

Mr. SUMNER. The bill is in such a strange shape that really it is very difficult to get at it or to make any proposition with regard to it. I am perfectly baffled.

Mr. HENDERSON. The Senator will accomplish his object by moving an amendment to strike out the clause in the original law on page 53 imposing a tax of five per cent. on all printed books, magazines, &c.

Mr. SUMNER. That is what I wish to do.

Mr. HENDERSON. Then move it.

Mr. SUMNER. That is what I wish to do. It is very easy to say move it; but I find it difficult to do it.

The PRESIDING OFFICER. The question is on inserting what is printed in italics in lines five hundred and ten, five hundred and eleven, and five hundred and twelve:

By striking out of the clause relating to printed books the word "magazines," and by inserting after the word "newspapers" the words "periodical magazines."

Mr. HENDERSON. The bill before us proposes to strike out a part of the clause of the original bill, and it is certainly in order for the Senator from Massachusetts to move to strike out the whole of it if he so desires.

The PRESIDING OFFICER. Of course it is.

Mr. COLLAMER. I take it the gentleman from Massachusetts will have an opportunity to offer the amendment he desires after we have gone through with the amendments of the committee, and he can present it at that time.

The PRESIDING OFFICER. That is the usual, and indeed the uniform practice, to go through first with the amendments proposed by the committee.

Mr. JOHNSON. But this is an amendment to the amendment of the committee.

Mr. SUMNER. The question now arises on the amendment proposed by the committee. If that is adopted it may be in the way of the amendment which I desire to propose.

Mr. COLLAMER. I take it that would not be the case at all.

Mr. SHERMAN. I suggest to the Senator to strike out all after the words "printed books" in the five hundred and eleven line, in these words:

The word "magazines," and by inserting after the word "newspapers" the words "periodical magazines."

And then to make it read as follows:

By striking out the clause relating to printed books, mag-

azines, pamphlets, reviews, and all other similar printed publications.

That would strike out the whole clause.

Mr. SUMNER. That will accomplish it. I move, on page 22, line five hundred and eleven, after the words "printed books" to strike out the word "magazines," and by inserting after the word "newspapers" the words "periodical magazines," and to insert the words "magazines, pamphlets, reviews, and all other similar printed publications;" so that it will read:

By striking out the clause relating to printed books, magazines, reviews, and all other similar publications.

Mr. SAULSBURY. This is a proposition to strike out the tax upon books. I shall cheerfully support it. I have not read this bill; but I understand from the comprehensive words in which it is phrased that it levies a tax upon Bibles and Testaments, and every species of book literature. The proposition now is to strike out magazines, reviews, and all other printed matter of similar form. Whether that leaves a tax upon Bibles and Testaments I do not know; but I am opposed to any tax upon any printed matter. When I was a young man delving in ancient languages, endeavoring to understand the meaning of words and things that I read or heard, I read in one of the earliest languages this sentence, "And God said, Let light be, and light was." But, sir, if the tax is to be retained upon the Bible and the Testament, I do not know that it is inappropriate and unsymmetrical to the legislation of the present day, because the Bible and the Testament have become obsolete books. The truths which they inculcate are very little regarded in the present time. While I have read, "And God said, Let light be, and light was" in more languages than one, I find in the legislation of the present times but little of their teachings. In these days when abolitionism is rampant, I find that no attention is paid to the teachings of that Book of books. I would gladly vote for an exemption upon knowledge and upon books, and would carry out the injunction which emanated from the Most High when everything was chaos, and when it was said, "Let light be, and light was." But, sir, if light is to be taxed let it be taxed in its fountain; and as we have disregarded that Book and its teachings, let us tax it and not make a mockery of it.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Massachusetts to the amendment reported by the committee. The Senator from Massachusetts having modified somewhat his proposed amendment to the amendment it will be again reported.

The Secretary read the amendment, as modified, which was on page 22, line five hundred and eleven, after the word "books" to strike out the following words:

The word "magazines," and by inserting after the word "newspapers" the words "periodical magazines."

And to insert in lieu thereof the following words:

Magazines, pamphlets, reviews, and all other similar publications except newspapers, a duty of five per cent.

Mr. CLARK. This amendment from the Senator from Massachusetts would exempt all books, as I understand, from taxation. The duty now upon the publication of books is five per cent. *ad valorem*. I understand the Senator from Massachusetts to say that if we adopt his amendment and strike out this tax we should strike out but an inconsiderable revenue, a petty result. In that the Senator is mistaken. He conveys wrong impressions to the Senate. The revenue is very large. This simple amendment of the Senator from Massachusetts would make a difference of from eighty to one hundred thousand dollars to a single publishing house; and the Senate may judge from the number of publication houses what the tax would be for the country.

But there is another feature to which I desire to call the attention of the Senate; and that is, the inequality of your taxation, and the exemption of some manufactures from taxes and the imposition of them upon others. I say to the Senate as my candid judgment that your internal revenue system is becoming so odious that it is in danger of being broken down. It is becoming odious from the manner in which it is administered and the inequalities of assessing and collecting the taxes, and it is not desirable to increase those inequalities by any further legislation. I ask you, Mr. President, and I ask any Senator

here, how you can exempt a publishing house that publishes novels and other books of a like character, and then tax a house by the side of it which makes shirts and jackets for your children and the poor of the country.

Mr. COWAN. One is "knowledge."

Mr. CLARK. I know one is knowledge and the other is comfort; one is the comfort of a good thing, and the other is a knowledge of evil. If you do that, the man who makes the shirts and jackets will be continually pointing at the man who publishes the novel and like books, and exciting odium against your bill; and he will ask, why am I taxed for this manufacture and that man is allowed to go free?

It may be hard to tax some things; but I suggest to Senators that you have got to make these taxes equal to make the people bear them with any sort of consideration and ease, and you had better be careful what you exempt, and see how it is to operate. In the city of New York there is one rule of taxation in one district, and another rule of taxation in another district, making one lighter than the other, and continually exciting odium against your taxation. In my judgment, the worst thing we ever did for the bonds of the country, and for the ease with which the people could carry the bonds of the Government, was to exempt them from taxation, because it allows the rich to take the bonds of your Government and hold them and not be taxed for them, while the poor man is taxed for the labor of his hands and the earning of his toil.

Mr. COLLAMER. The bonds are not entirely exempt from taxation.

Mr. CLARK. I know they are not entirely exempt from taxation; but we have made the burden upon them very much lighter.

I feel, to some extent, the force of the argument suggested by the Senator from Massachusetts. I do not like to tax the Bible; I do not like to tax the Testament; I do not like to tax parts of the Bible and parts of the Testament which they are printing in some of these houses and sending to your soldiers in the field; but if you are going to raise money to pay this debt and pay the expenses of this war, and thus save your country, I do not see any other way of doing it but by making every branch of your industry bear its share of that burden, and stand up manfully to the work. I beseech this Senate to pause before they exempt any portion of the industry of the country from this taxation, which is so necessary to pay for our expenses.

Mr. SUMNER. The Senator from New Hampshire pleads to have the Bible exempted from taxation.

Mr. CLARK. I have not done it.

Mr. SUMNER. The Senator says he has not done it. Perhaps I do the Senator injustice. He made the distinction then between the exemption of the Bible—

Mr. CLARK. I will state what I did say: that I saw some difficulties; I did not quite like to tax the Bible and Testament; but I besought the Senate to pause before they made a distinction in the branches of their industry.

Mr. SUMNER. The Senator from Massachusetts does not quite like to tax the Bible. Sir, I do not like to tax it. My proposition is broader than his; but he knows very well that the real signification of Bible is book.

Mr. CLARK. Not in our language.

Mr. SUMNER. I do not know about that.

Mr. CLARK. I do not speak of it so.

Mr. SUMNER. I am not sure about that. The Senator does plead, however, for the manufacturer of the shirt, whose shop is by the side of the bookseller; but the difference between the two cases is that which I have already indicated; that if you tax the book you tax knowledge; if you tax the shirt you tax one of the general manufactures of the country. The distinction may not be accepted by all persons; and yet to my mind it is perfectly clear. You cannot tax a book without taxing knowledge. But it is said that there are books that might very well be taxed out of existence. How can you run the line? How will you make the discrimination? The trouble is more than it is worth. It is better, therefore, to have no such tax than undertake to run any such line, or make any such discrimination. A book is a book; and there should be no tax on a book.

Mr. JOHNSON. If I thought the proposed tax would be in any way injurious to the knowledge of the country I should be opposed to it; but I do not consider this a tax on knowledge at all. It is a tax on occupation, a tax on trade, a tax on manufacture. It is not, to take the instance alluded to by the honorable member, a tax on the Bible. It is a tax on the publisher who makes it his vocation, his business, to publish Bibles, and who makes a very large profit by it. I suppose there are some publishing houses in the country that would make, if this tax is not imposed, some \$70,000 or \$80,000 more than they will make if this tax is imposed. But there are a variety of other books. Would the honorable member tax law books? There are, I do not know how many, but hundreds, perhaps thousands of law books published every year, and the publishers make a profit by the publication. Is it not fair that that business should be taxed?

Mr. SUMNER. My friends knows very well that that comes out of the lawyer who is obliged to buy the book.

Mr. JOHNSON. Of course it does.

Mr. SUMNER. And my friend knows farther that it is the policy of our institutions to make justice cheap.

Mr. JOHNSON. It comes first out of the lawyer; but perhaps it comes out of the client. [Laughter.] If the client does not pay it in advance, the client who comes next pays it. I speak from some little experience. [Laughter.]

Now nobody would propose for a moment, in a Christian country, that any tax should be laid upon the Bible; that is, to prevent the circulation of the Bible throughout the country; but that is not to be the effect of this tax; and let me ask the honorable member, when he proposes to exempt all books from taxation, why does he not suggest the propriety of repealing the imposts upon foreign books?

Mr. SUMNER. I have always to a certain extent opposed that whenever I had the opportunity.

Mr. JOHNSON. To a certain extent, but not to an absolute extent.

Mr. SUMNER. I am ready to say to an absolute extent. I was obliged to yield to the pressure of others on this floor.

Mr. JOHNSON. You have not succeeded.

Mr. SUMNER. No; I have not succeeded, unfortunately.

Mr. JOHNSON. Then there is the impost on foreign books, and to the extent that that impost increases the price of books of the same kind manufactured here it is a tax on knowledge if the honorable member is right in supposing that a tax of this description is in the proper sense of the term a tax upon knowledge. But as long as you protect the American publisher by laying a tax on the foreign publisher, and put it out of the power of the American consumer, so to speak, to receive the books as cheap as he would if you had no impost tax upon books, why is it not fair, why is it not just to make the American publisher, who is but a manufacturer, pay for the privilege, for the security which we give him by the foreign impost, the same rate of taxation we impose on everybody else who manufactures articles that could be imported cheaper but for the duty?

But the honorable member is very much mistaken in supposing that this will not affect the revenue. He said to-day, and I felt the force of his objection, that he would not buy a picture for \$25,000, \$2,000 of which was to be paid annually so that the payment would run through ten or twelve years in this condition of the country. When we were in a mighty war, when the credit of the country was in a state of absolute peril, he would not agree even to vote an appropriation of \$25,000 to be expended in annual installments of \$2,000 each, because it would affect more or less the condition of the country; and yet he proposes now to strike out of this bill provisions which will yield hundreds of thousands of dollars to the Treasury. There are some publishing houses alone that will pay under this tax, and make money still, from eighty to one hundred thousand dollars; and if you except the whole of them I do not think I can be mistaken in saying that it will at least keep from going into the Treasury full \$500,000.

The other day, at the instance of the newspapers principally, the House of Representatives agreed to reduce the duty upon imported printing paper

from twenty per cent. down to three per cent., and our committee proposed to change it, I believe, so as to make it fifteen instead of twenty per cent., being a reduction of five per cent. I understood that after paper was cheapened, which it was thought would be the operation of the reduction of the tax, our people could publish just as cheap as could be done anywhere else. Now you propose to take out of the operation of this tax almost everything that is printed upon paper except newspapers.

Mr. HENDRICKS. If it be in order, I move to strike out all after the word "Bibles" in the five hundred and fifteenth line, down to the word "schools."

Mr. JOHNSON and others. We have not got there yet.

Mr. HENDRICKS. I propose to get there if it is in order.

The PRESIDING OFFICER. The Chair will suggest that the pending amendment is an amendment to an amendment, and it is not in order to amend that.

Mr. HENDRICKS. But the Senator from Massachusetts proposes to strike out a great deal. Before that motion is put, I propose to strike out less.

The PRESIDING OFFICER. It is not in order at this time. The pending amendment is an amendment to another amendment.

Mr. HENDRICKS. Then I desire to state what I intend by my amendment. I am willing to exempt the Bible from taxation, but I think we had better not exempt any other books.

Mr. CLARK. If the Senator will allow me, I will suggest how we may get at that to accomplish his purpose. The Senator from Massachusetts proposes to add words to the amendment of the committee. If that amendment is rejected, then when we come to the clause to which the Senator has turned his attention we can amend that.

Mr. HENDRICKS. That is what I propose to do.

The PRESIDING OFFICER. The question now is on the amendment moved by the Senator from Massachusetts to the amendment of the Committee on Finance.

Mr. SUMNER. I have only one word to say in reply to the learned Senator from Maryland. He does not regard a tax on books as a tax on knowledge. Pray, then, what is a tax on knowledge? I cannot imagine any tax more directly a tax on knowledge than a tax on books. If the Senator from Maryland can imagine a tax more clearly on knowledge, I should like to have him indicate it. Possibly he can. I believe, however, he cannot. If we go to the experience of other countries, I believe we shall find that books have not been taxed. If we go to England, which is the country where taxation has been carried to the farthest point, we know that books are not taxed. We know, also, that after a long and protracted struggle, only during this last year was the last tax on knowledge overthrown, being the paper duty. And yet, sir, Senators propose to take up the cast-off taxes of Great Britain and carry them still further. Great Britain has taxed paper, has imposed a stamp tax also on newspapers, all of which have been latterly removed, but I am not aware that Great Britain has heretofore imposed a tax upon books. It is reserved for this Republic, founded on knowledge, whose duty it is to make knowledge cheap, to impose, for the first time, a tax on books. I hope no such thing will be done.

Mr. WILSON. I shall vote against exempting from taxation any book whatever, even the Bible. I do not believe that the men of the country who buy and read the Bible will object to paying this tax. They will be the last men in the country who will object, and they are generally people able to pay the tax. As to a tax on a book being a tax on knowledge any more than is a tax on a hat, or a coat, or a shoe, or any article that a man wears, I cannot comprehend it. As to the suggestion that we are taking up the cast-off clothes of Great Britain, I have simply to say that we want to raise money to carry us through this struggle that we are in. We are casting about and taxing everybody and everything. There was a time when Great Britain was in trouble and did the same thing, but when she got over it she began to cast away particular taxes, and we

shall do so after the war. After we get through the war, after we are able to pay our expenses as we go, we shall cut off from the right hand and the left and relieve taxation wherever we can. That is the lesson I read in the action of Great Britain.

I am against these exemptions. What, sir, a tax on books a tax on knowledge! Suppose it is, so is a tax on the coat the boy who goes to school wears. May you not tax him a little on his books as well as on his clothes? I do not see the distinction. I think you will find that the great mass of the books of the country are printed by rich men, are read by men who are able to pay. The men who purchase books and put them into large libraries can pay a large tax on books as well as on anything else, and books will bear a tax a great deal better than many articles.

While I am up I will say another thing about these exemptions. We profess to exempt from the income tax for the benefit of poor people persons who have incomes under \$600, and the practical effect is that you exempt a majority of all the incomes of the country in amount from taxation. Men worth their tens of thousands of dollars, and whole communities, exempt themselves under that exemption of \$600. I know men for whose property I would willingly give to-day twenty-five or thirty thousand dollars who pay no income tax because they have not incomes above \$600! The largest portion of the country keep out of taxes under that rule.

I am going to vote for this bill, as I vote for all tax bills and war bills, and everything that I think helps the country through this contest, but I think a bill could have been drawn up which would be of a great deal more service than this, and that is a bill to reorganize entirely the internal revenue department of this Government. I believe that if it was reorganized as it ought to be, with the present law it would bring at least \$50,000,000 into the Treasury more than comes in now, and I think that is a work which this Congress should have addressed itself to, but I find that we are neglecting it altogether.

Mr. SHERMAN. I ask the honorable Senator what defect there is in the law now.

Mr. WILSON. There is defect in it. We expected it to be corrected at the last session, and we were told that it was to be to some extent, but instead of being corrected then, it has not been corrected yet.

Mr. SHERMAN. I think the Senator means that there is defect in the execution of the law.

Mr. WILSON. Yes, and in the law itself that allows such things. You will have faulty execution when you have got a faulty law. Every dollar collected should be paid and paid immediately into the Treasury of the United States. Not a farthing of it should be used to pay any debt or any officer whatever. The officers should be paid by appropriations out of your Treasury. Instead of that, a report made to Congress shows \$8,000,000 in the hands of the collectors, and I would stake my life to-day it is nearer \$20,000,000. That department does not know how much is in their hands. I tell you the department is loose from beginning to end, loose in law and more so in administration.

Mr. JOHNSON. Does the honorable member think that is the fault of the law itself?

Mr. WILSON. I say it is the fault of the law to a great extent, but we ought to change this thing and take away all this responsibility, and ought to require the money collected to be immediately deposited and the officers paid by appropriations out of the Treasury, then we should not have a report made to Congress showing that your collectors have on an average \$40,000 apiece in their hands. Fifty of the collectors are known to have more than \$8,000,000; one collector holding \$700,000, another \$450,000, another \$425,000.

In the brief space of two and a half years this internal revenue system has developed into its present vast proportions. By this internal revenue system the nation for years to come must raise the means to meet the extraordinary demands upon the Treasury of the United States. How important it is, then, that the modes, means, and agencies adopted to levy and collect hundreds of millions from various multitudinous sources shall be economical, equal, and safe. No one believes the present system, in its administration,

to be either economical, equal, or safe. Resting upon no fixed, intelligent, or equitable basis, arranged, rearranged, and changed continually, the system is daily growing more unequal, extravagant, and unsafe. I assert it here in my place in the Senate that the present system of assessing and collecting the internal revenue is daily growing more unequal and more extravagant—that the measure of compensation is not according to the labor performed, but according to the urgency of the demands made upon the Government.

To show the inequalities in the workings of the internal revenue system I present, in regard to clerk hire and stationery for assessors, a few statistics which cannot fail to convince Senators of the truth of the declarations I have made. In ten districts of New York and Pennsylvania, compared with ten districts in Baltimore, Cincinnati, Providence, Pittsburg, Milwaukee, and other portions of the country, the results are as follows: in New York and Pennsylvania two hundred and seventy-six thousand names assessed cost for stationery \$19,795; in the other ten districts two hundred and ninety-five thousand names were assessed, costing for stationery \$4,310, being a cost of seven cents and one and six tenths mills per name for the ten districts of New York and Pennsylvania and only one mill and four tenths for the other ten districts. These statistics show that the ten districts of New York and Pennsylvania cost five times more for stationery per name than the other ten districts, embracing cities like Baltimore, Cincinnati, Providence, Pittsburg, and Milwaukee. The inequalities of the expenditures for stationery in the offices of the assessors are demonstrated by a comparison made between the thirty-second district of New York and thirty-eight other districts in various portions of the country. The amount paid to the assessor of the thirty-second district of New York to the 30th of June, 1864, is \$3,071. The amount paid to thirty-eight other districts is \$3,110. The number of names assessed in the thirty-second district of New York is estimated at thirty-six thousand. The number of names assessed in the thirty-eight other districts is estimated at four hundred and seventy-seven thousand; showing that the cost per name in the thirty-second district of New York is eight cents and five and a half mills, and the cost of the thirty-eight other districts is only six and a half mills per name, being more than twelve times larger in the thirty-second district of New York than in the thirty-eight other districts of the country.

The inequalities in the rates paid for clerk hire are as great as the inequalities in the amounts paid for stationery. In twelve districts of New York and Pennsylvania, in which one hundred and ninety-three thousand persons were assessed and \$12,283,000 were collected, \$42,800 were paid for clerk hire. In ten other districts, in which one hundred and ninety-three thousand persons were assessed and \$12,784,000 were collected, only \$14,100 were paid for clerk hire. In the District of Columbia nineteen thousand persons were assessed and only \$800 paid for clerk hire; while in the ninth district of New York twelve thousand persons were assessed and \$4,000 paid for clerk hire. In the first district of Wisconsin sixteen thousand persons were assessed and \$617,000 collected, and only \$800 paid for clerk hire; while in the seventh district of New York fifteen thousand persons were assessed and \$502,000 were collected, and \$4,000 paid for clerk hire. In the several districts of New York \$61,200 were paid for clerk hire, while only \$38,550 were paid for clerk hire in Massachusetts, Connecticut, and Ohio; showing that fifty per cent. more was paid for clerk hire in New York than was paid in the same number of districts collecting about the same amount of money in Massachusetts, Connecticut, and Ohio.

The amounts allowed for clerk hire and for stationery have little relation to the number of persons assessed or to the amounts of the assessments. They are grossly unequal and utterly indefensible. The clerk-hire allowances in New York and Philadelphia are enormously out of proportion to the other cities and States. The amounts paid for clerk hire and for stationery should be measured by the number of persons assessed, and not the amounts for which they are assessed. The allowances fixed by this bill are based upon the number of persons assessed and the extra cost of

living in large cities. It increases, in the aggregate, the allowance to assessors for clerk hire about five thousand dollars, increasing the allowances in one hundred and sixteen districts, reducing the extravagant allowances of some districts. This proposed method of making allowances for stationery and clerk hire will more nearly equalize the amounts paid in the several districts, and reduce these expenditures in the aggregate about twenty thousand dollars. This mode of making allowances rests upon an intelligible basis, and it also provides for any increase of business and any diminution of business in any or all of the districts.

Mr. JOHNSON. If the honorable member is right as to his facts, as I take it for granted he is, I am very much surprised for one, and I cannot think that the mischiefs which certainly exist, if he is right as to his facts, can be attributed to the law; certainly not to the law exclusively. They must be owing to its administration. I agree with him, and I suppose every Senator would agree with him, that it is very bad policy to leave such large amounts of money in the hands of these collectors; that the money ought to go into the Treasury, and that it should be paid out by a check upon the Treasury. But I do not know that at this time of the session we can provide by legislation against any such mischief. I should like to know from the honorable member whether he has brought the condition of this bureau or department to the attention of the Secretary or to the attention of the President. It seems to me that if the facts are as he supposes them, the fault is in the incumbent principally and not in the law, and that the incumbent should either have been removed or have been instructed to pursue a different course; and if the honorable member had brought it to the attention of the President or the superior officer, I suppose the correction would have been made. But however that may be, it is now too late to provide a remedy by any legislation at this session. What we want is the passage of this law in some shape or other. Money we must have, or the credit of the country will very much suffer.

Mr. SHERMAN. The Senator from Massachusetts I think has been a little careless in some of his statements. It is too grave a matter to allow statements of this character to go to the community, thus creating dissatisfaction in regard to the system of taxation, when perhaps there is not so much foundation for them as is supposed.

There is no defect in the law. The only foundation for the Senator's complaint is that there have been gross inequalities in the allowances for stationery and clerk hire. That at least is the principal complaint. I have nothing to say in regard to the present incumbent of this office, whether he is the best man or not for it. The President has nominated him and he is now the officer.

Mr. NYE. Has the present incumbent anything to do with the appointment or removal of these several officers? I understand he has not.

Mr. SHERMAN. I will refer to that. I have seen all the tables to which reference is made, and the complaint now is that there has been gross inequality in the allowances for clerk hire and stationery in different districts of the United States, and if you look at the tables alone, without being informed about the facts, they do present a case of gross inequality in these allowances. Under the law these accounts all had to be submitted to the supervision of the proper officers of the Treasury. The question arose, who are the proper officers? and it was decided in the office of Internal Revenue, and also by the Solicitor of the Treasury, that the Commissioner of Internal Revenue was the proper officer. I do not think so. I think the proper officers were the Auditor and Comptroller. To obviate that defect in the law, and to cure this erroneous construction, we have provided in one of the amendments already acted on that the accounting officers of the Treasury shall pass on all these accounts, and under the law as it now stands these claims for clerk hire and stationery must all pass under the supervision of the Fifth Auditor and the First Comptroller, two as honest men, I believe, as there are in the Government at Washington.

Mr. HENDRICKS. I ask the Senator if this bill does not provide for the creation of a new Auditor.



Mr. SHERMAN. Yes, and I intended to explain that. The Fifth Auditor, on account of the vast accumulation of business in his office, is so far behind that he is not able to take the burden of this duty on him and discharge his other duties; and therefore on the recommendation of Mr. BOUTWELL, the old Commissioner, from the State of the Senator from Massachusetts, this provision for a new Auditor was inserted. The section for the new Auditor was framed by his colleague in the other House, Mr. BOUTWELL, for the purpose of relieving the Fifth Auditor and for the purpose of having an additional supervision over the accounts of the various collectors and assessors throughout the country, and it was adopted by the Committee on Finance to enable this new Auditor to give to this class of accounts the supervision demanded by the law. The Fifth Auditor is one of the accounting officers of the Treasury whose business it is now to scrutinize these accounts.

In my judgment, it was manifestly improper and wrong for the Commissioner of Internal Revenue to have anything to do with these accounts. I do not myself see how such a construction could be put upon the law. The law is plain that the accounts must be submitted to the proper officers of the Treasury. When those words were to be construed, the purpose and object of the law should have been thought of, and that was to submit the accounts to the accounting officers, for they are the only proper officers; but to remove all ambiguity, we now propose to require them to be submitted to the accounting officers, and we have provided for a new Auditor, whose especial duty it shall be to examine into these accounts and to see that they are all correct and proper. I do not believe there has been any system of fraud, because I have heard none alleged. The only complaint I have heard is that there has been gross inequality in the allowances for these different things.

I do not now seek to prolong this discussion. I asked the Senator what defect there was in the law. There is none in the law; it is in the execution of the law. The law allows to these collectors and assessors only enough stationery to conduct their business, and only enough clerk hire to discharge their duties. It is impossible to say by law how many clerks every assessor and every collector shall have. We cannot prescribe it by law. In the cities they want more or less; in the country districts, covering a large extent of country, they want sometimes more and sometimes less. It is not dependent on the amount of income produced; it depends on a variety of causes; and we cannot by law prescribe how many clerks they shall have, or what amount of stationery they shall have, because there is such a variety in the extent of the districts, the amount of the receipts, the nature of the business, and the character of the returns and the expense of the stationery, that it is impossible to fix any standard or rule by law. All these matters must be left to the proper officers in passing on the accounts, and under the law, as we now propose to amend it, all of them will be submitted to the proper Auditor of the Government.

If the Senator knows of any fraud or anything wrong in this department, it is his duty to go to the President of the United States and make complaint against the officer who is delinquent. If he believes what he now alleges, that there is gross injustice and wrong in the administration of this department, it is his duty not only to expose it publicly but to go to the fountain-head of executive patronage, where alone is the power to correct it by placing some other officer in charge of this most important bureau of the Government.

I do not like to hear anything said, without grave consideration, that affects the character of the Commissioner of Internal Revenue, because it tends very seriously to affect the confidence of the people in the just administration of our tax system. The people of this country are willing to pay taxes if they are honestly collected and honestly applied; but if you infuse into their minds the idea that they are not honestly collected or are not honestly applied, you make them dissatisfied with the whole system; and therefore anything that throws the slightest taint or shadow of suspicion on any one connected with the collection of internal revenue, in my judgment ought to be promptly corrected and promptly punished.

Mr. WILSON. I do not certainly wish to detain the Senate—

The PRESIDING OFFICER. The immediate question before the Senate is the amendment moved by the Senator from Massachusetts [Mr. SUMNER] in reference to books.

Mr. WILSON. But the whole subject of the bill is open, I suppose. I desire to say a word or two in reply to the Senator from Ohio. I do not charge the fault to be altogether with the law. I think it more with the execution of the law than with the law itself. I think this is a great department, and it ought to have at its head one of the foremost minds of the country. We ought to have more than one, perhaps a commission of three of the ablest men, to take charge of this subject of taxation. We certainly ought to have in that office some of the ablest accountants on this continent. I do not say they are not there now, but I say the office is in a condition that does not demonstrate it.

I think the proposition for a new Auditor is a great mistake, and I will tell you why it is a mistake. The Fifth Auditor's office is not behind-hand in this business. It has trained men who understand all about the business, and who can do more in one month than your new office will be able to do the next four months; and why? They have been working upon these accounts, and they understand all the rulings in regard to them. It was only in July last that these accounts were put into their hands to settle. Twenty-two months had passed away since the internal revenue system was put in operation, and the accounts when put into their hands were in such a condition that they could not be settled, and they were sent back and held in the Internal Revenue office until after the 4th of last July. Then they were put in the Fifth Auditor's office, and more than two months ago that office had brought up the first year of them. The Fifth Auditor's office, before these accounts were sent to it, had to let its men out to other offices because they had nothing to do. They do not want an additional clerk in that office; they have abundance of help. The men are trained men who understand this business and know all about it; and let me tell you further that there are in that office men who are fit to be at the head of a comptroller's office, or to occupy almost any other place in the Department. I speak of one man in particular, whom I have known for thirty years, and I know but few minds in any office of the city of Washington equal to his. I tell you, you will lose instead of gaining by this provision for a new Auditor, for the next five or six months at any rate. In the course of six months, perhaps, you can get new men trained to the business, or you may transfer the trained men from the Fifth Auditor's office and then begin right.

The Senator from Ohio alluded to the facts which I brought before the Senate. I am a little sensitive in regard to the correctness of any statement which I make in reference to facts. I do not make much trouble on a law point, but I do not like to give up any statement of a fact which I have made.

Mr. SHERMAN. I did not deny the fact. I said the tables to which the Senator referred show gross inequality; but I have no doubt many of them are explainable.

Mr. WILSON. If the Senator confesses that the tables show inequalities—

Mr. SHERMAN. I said that distinctly.

Mr. WILSON. I ask the Senator how in the world it can happen that here in the city of Washington, with eighteen thousand persons taxed, and a revenue of five or six hundred thousand dollars, the clerk hire costs \$800; and yet in some districts in the country, with only twelve thousand names, about two thirds of the number, the clerk hire is \$4,000, and they are asking for more, and they are the men who get it too; they are the men who get the extra allowances. The allowances are not based on any settled principle, but upon the urgency of the claim for great compensation. I think this can be corrected to some extent by legislation.

Mr. JOHNSON. We cannot do it now at this session.

Mr. HOWE. Mr. President, I do not mean to prolong this discussion; but I wish to say here that at the proper time I shall endeavor to show that the expense of these officers for clerk hire

and for stationery can be regulated and limited by law; that there is no difficulty about it; and secondly, I shall endeavor to show at the proper time that the proposition to create a new Auditor in the Treasury Department is fraught with all the mischiefs and all the dangers which have been suggested by the Senator from Massachusetts; that there is no necessity for it, and that it will work great mischief instead of benefit.

Mr. SPRAGUE. I desire to call the attention of the Senate to the question which is now before them, and that is in reference to the amendment of the honorable Senator from Massachusetts [Mr. SUMNER] to exempt magazines and all other books from taxation. I desire to state that my opinion is that the great publishing houses of this country are simply great manufacturing establishments, and as such should be subject to taxation, as are all other manufacturing establishments. Otherwise, the labor that enters into the production of these magazines and books is exempt from all duties or liabilities to the Government, and I do not believe that the employees of these immense establishments desire to be exempted from the burdens incident to the necessities of the time.

I go further than this, sir; I do not believe that the newspaper publisher himself feels as well that he is exempt from taxation at this time as he would if he was bearing the burdens incident to the war which all other interests bear. I do not believe the man who writes for the magazines—I should not if I were capable of writing for a magazine—feels satisfied to be exempt from taxation at a time like this; and I am sure those who read them will not read them with the same feelings of interest that they would if they were taxed. And so, sir, of all other productions. All printed matter should, it seems to me, come under the same category with other interests that are now subject to taxation.

One of the Senators from Massachusetts [Mr. WILSON] has exemplified this question very satisfactorily, certainly to me, by the suggestion that taxation upon the skill and industry of the country is a tax upon education, and there is no distinction in that respect. Taxation, to be perfect, to be thorough, should be upon luxuries and necessities. Magazines and newspapers have become necessities for the people of this country. They will read them, and they will bear the proportion of tax necessary, certainly enough to prevent any invidious distinction between manufacturers of different classes. I believe the people of the country, the people who read, the people who write, will be willing to pay the tax which is required by the bill from the House of Representatives, and I only wish there was a way in which newspapers could be coupled with magazines and all other productions, including the Bible.

Mr. SUMNER. Mr. President, my colleague did not see the difference between a tax on a boy's clothes and a tax on his book. The country in its experience, from the first settlement at Plymouth Rock, has seen that difference. I saw it when it undertook to say that education should be at the public cost, free of charge to every one in the community. My friend [Mr. Howe] shakes his head; he knows very well that one of the proudest acts in the history of New England was when at an early day she established her system of public schools, and that system has continued ever since, where every child goes to the public school free of cost. It was not at that time proposed that he should be clothed at the public cost, but they did propose to give him an education at the public cost. And, sir, if you wish to know what gave to New England those elements of prosperity and of influence which are I think sometimes recognized, you will find it in that very education at the public cost. It was because at that early day they saw that it was important that the mind should be clothed, and the public willingly undertook to do it. They left to the family at home to clothe the body; and there, sir, is the precise difference between the two cases. Now, we propose that the country should simply act according to the original great precedent of our history, that which has done so much for the national character and the national fame, by removing every impediment possible in the path of knowledge. Do not tell me that by the same rule you must remove the tax from the clothes. The argu-

ment is not sound, the conclusion does not follow. If our fathers were right in establishing free schools, I say it is right for us now to have free books.

Mr. HALE. Mr. President, I have listened to this debate, and it reminds me that we are governed a great deal by names. There is a great deal of influence in the name we give to a thing; and this tax on knowledge has been held up as one of the greatest bugbears in our path. If we could really tax knowledge, put a heavy tax on it, not on any of its incidents or accidents, I think it would be one of the most fruitful sources of taxation and revenue to this Government, and let every man give in his own inventory when he was taxed. [Laughter.] I do not know but that it would bear pretty heavily on some members of this body [laughter] when we were called on to give in our inventory of how much we knew of certain things. It would swell up one of the most tremendous sources of revenue we could possibly hit.

Mr. CONNESS. It would beat Lanman's Dictionary. [Laughter.]

Mr. HALE. It strikes me after all that there is not much in it, and I cannot see myself this distinction which my friend points out between the boy and his clothes. Take a boy's coat and shirt away from him, and he is in a bad condition to pursue knowledge; he would be indeed pursuing knowledge under difficulties. It is absolutely necessary that the boy should have his clothes. These schools are generally kept in the winter in New England, and each boy must have a pair of new shoes or boots to go to school, and mittens my friend [Mr. SUMNER] says; and it seems to me to be a refinement to undertake to say that a tax on a mere book is a tax on knowledge, and that a tax on all these incidents and accidents, and so forth, that are just as necessary as the book, is not a tax on knowledge. I confess that I concur with the Senator's colleague [Mr. WILSON] rather than with himself. Owing to the Senator's experience in his early New England life, bred up in the country, a son of the common schools, while his more learned colleague may be said to be the child of the universities, [laughter.] I think his experience and judgment on this subject are worth more—I say it with perfect kindness and great respect—and where the two Massachusetts Senators differ I am inclined to follow the one who I think is best qualified to give advice, and therefore I shall vote for a "tax on knowledge." [Laughter.]

Mr. FARWELL. Mr. President, I do not propose to detain the Senate long, but I feel as though I ought to say a word on the subject at this time. I have a different idea about taxation from a good many Senators if I have understood them rightly. I believe that taxes are to be paid by the labor of the country. You may raise a little out of the great mass of wealth that has been accumulated, but I find that it is very hard to get at. The only item of taxation that strikes directly at the accumulated wealth of the country is the income tax, and I believe it is the experience of the tax-gatherers, and of all men of experience, and who have observed the collection of the tax, that that of all others is the least collected, that in the collection of it there is the largest amount, in proportion to the whole, that escapes the tax. As to this tax upon books, it seems to me that it is one of those taxes that will in a greater measure than almost any other draw from the wealth and from the accumulated wealth of the country. The books that are bought by the poor, and that are bought for the purpose of education, are generally cheap books; they are not your gilt-edged books at ten, twenty, or fifty dollars a volume, but they are cheap books at twenty or fifty cents a volume, which have to pay one or two cents a volume to the Treasury under this law.

The Senator from Massachusetts who speaks so highly of the New England provisions that everybody should be educated at the public expense, did not go quite far enough in regard to this measure. The New England States have provided, every one of them, I think, that in all cases where it is inconvenient for the parent to provide the necessary books for his children attending the public schools they shall be purchased at the public expense on a mere application to the superintendent or superintending school committee, and it creates no pauperism and no disability

with the parent, and is even not exposed to the neighbors.

I take it that this tax upon books is not a tax upon the manufacturers or publishers; they will get as much profit, in this case and in all the other cases, as they would if there was no tax on them. I believe that where the Government puts on a two-cent tax, they add three cents to the price when they sell. The tax at last is to fall upon labor, and my vote on all these questions will be governed by the amount that can be taken by the proposed amendment from the accumulated wealth, and thus relieve the labor and the laboring classes.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 5, nays 27; as follows:

YEAS—Messrs. Davis, Harlan, Morgan, Saulsbury, and Sumner—5.

NAYS—Messrs. Anthony, Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Farwell, Foster, Grimes, Harris, Henderson, Howe, Johnson, Nye, Pomeroy, Powell, Ramsay, Sherman, Sprague, Stewart, Ten Eyck, Van Winkle, Wiley, Wilson, and Wright—27.

ABSENT—Messrs. Brown, Carlisle, Doolittle, Foot, Hale, Harding, Hendricks, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Richardson, Riddle, Trumbull, Wade, and Wilkinson—18.

So the amendment to the amendment was rejected.

Mr. CLARK. Now, I hope the Senate will reject the amendment of the committee in regard to magazines.

Mr. HOWE. I differ from the Senator from New Hampshire. I hope the Senate will agree to this amendment as the Committee on Finance did agree to it. I voted against the proposition to exempt books from taxation because I believe, as we are informed, that the tax on that manufacture is paid by the consumer, as it is paid by the consumer on all other manufactures, and the publishers themselves say that the manufacture will stand the tax, and have advised us to keep it on, and upon all books uniformly, without any exception. I recently had in my possession a communication from a large number of them to that effect.

But our observation shows that in reference to magazines the consumers do not pay the tax, will not pay it, and therefore the effect of imposing the tax must be to close out the magazines. That is not for the interest of the country, nor for the interest of the revenue; for if you close up the publication of this particular character of literature you get no revenue, and the evidence that consumption will not take them and pay the tax is made most manifest to us by the fact that of the whole number of magazines published in the country, as I understand, there are but two that have, in the whole progress of this inflation of prices, ventured to raise the price of their publications. There are just two magazines, as I am told, that have been raised from three dollars per year to four dollars. It is an increase of thirty-three and a third per cent. That does not begin to compensate for the increase in the price of the material they use and the labor they employ. Only two magazines, as I tell you, have ventured on that increase. Thus it is made most manifest that magazines cannot stand this tax; and there are two reasons why, as it seems to me, we should not crush out that kind of literature. One is that it is a cheap form of conveying intelligence to large portions of the community that could not afford to take it in any other or more expensive form. Another is, that they are the schools of literature; a great number of talented persons, and many of them females, are employed in writing for these magazines, and thus earn for themselves a subsistence, when if the magazines themselves were crushed out by taxation, it might be difficult for them to find any other vocation in which they could make themselves either so serviceable to themselves or so useful to the public at large. I know of no reason, therefore, why the Senate should hesitate to exempt this one class of literature from this taxation.

Mr. COWAN. It stands on precisely the same footing as the exemption of newspapers; and there is this difference between a magazine and a book: the book accommodates itself to the fluctuations of the currency from day to day; the magazine, being published on a contract, having time for its essence, it is impossible that the publisher can do that. It may be illustrated by the last

year. On the 1st day of January, 1864, the subscription to a magazine at five dollars was worth but \$3.25. On the 1st day of January it was \$1.65, for the reason that the currency had depreciated during that time about fifty cents on the dollar. There being no way in the world to protect against that, there is nothing left but for the publisher himself to pay the tax and to pay for the fluctuations. In regard to a book the price rises precisely as the currency depreciates. If a book be worth one dollar when currency is seventy-five, when currency falls to fifty you can make the price of the book a dollar and a quarter or a dollar and a half, and it is all within the reach of the publisher. Newspapers were exempted for the reason that if they were not exempted, and some protection given to them against the depreciation of the currency, they would all be crushed in these fluctuations, and if they are exempted, magazines stand precisely on the same footing.

Mr. CLARK called for the yeas and nays, and they were ordered.

Mr. SUMNER. Will the Chair be good enough to state the question?

THE VICE PRESIDENT. It is proposed to insert on page 22, after the word "forms," in line five hundred and ten, the words "by striking out of the clause relating to printed books, the word 'magazines,' and by inserting after the word 'newspapers,' the words 'periodical magazines.'"

Mr. CLARK. I find by their inquiries that Senators do not quite understand the effect of the amendment.

Mr. ANTHONY. Of course we cannot in a bill framed as this is.

Mr. CLARK. The Senator from Rhode Island says of course not, for we cannot understand the bill; and it is not to be wondered at, in the way that it is printed and comes before the Senate. The committee propose to amend the bill so as to exempt magazines from taxation. I oppose the exemption, and desire the yeas and nays upon this amendment of the committee. Of course those who desire the magazines to be taxed will vote "nay." This amendment does not affect newspapers, and there is a reason—perhaps not a very substantial one, but a good one so far as it goes—why magazines should be taxed and newspapers not; and that is that the newspapers furnish the current news of the day, and the magazines are made up of stories written here and there about the country for the amusement and instruction of those who happen to read them. I have only to say that if the magazine is not of sufficient value to stand the imposition of a tax of five per cent. *ad valorem*, it might as well go out.

Mr. SHERMAN. The Committee on Finance have placed magazines on the same footing with newspapers. It is pretty difficult to defend the exemption of newspapers from a tax. There are vast establishments in this country, publishing fifty thousand sheets a day, that are certainly able to pay this tax, just as much as those who are affected by a thousand other taxes in this bill are able to pay them. This, however, we considered as a closed question. It was debated at the last session, and newspapers were exempted from the operation of the tax. Now, what is the distinction between a newspaper and a magazine? The one is published every month, or periodically, and the other is published daily or weekly—they are both ephemeral in their nature—for the information of the people. The magazines are written almost entirely by the literary women of the country. We were informed that nine tenths of the matter contained in the magazines is written by literary ladies, who depend on this for their livelihood. We could not distinguish against these magazines, in favor of newspapers; therefore we propose to put them on the same footing, and exempt them all. My own inclination would rather be to put newspapers, magazines, Bibles, Testaments, books, novels, and printed matter of all kinds on the same list, subject to the same tax.

Mr. ANTHONY. The Senator from Ohio is aware that newspapers are taxed. They pay a tax of three per cent. on advertisements, which is much more than five per cent. on subscriptions would be.

Mr. SHERMAN. They all pay a tax on advertisements.

Mr. ANTHONY. That is as heavy a tax as any manufacturing business pays.

Mr. SHERMAN. Nearly all manufactured articles pay taxes in two or three forms.

Mr. SAULSBURY. Mr. President, if I understand this question aright, books are taxed; that mode in which men of thought and women of thought communicate to others the result of their investigations is taxed; and newspapers, which convey to us the news of the day, are not taxed; and the proposition before the Senate now is to exempt from taxation magazines and publications of that character, and to put them upon the same footing as the newspapers which flash to us the news of the day. When I find that the thoughts of the scientific man, and of the historian, and the instructions of the philosophic mind are to be taxed, a proposition to exempt from taxation the childish trash of the day which appears in magazines cannot receive my assent.

Who reads the sickly, sentimental magazine? Who would read anything that appears in its pages? I trust that the scholars of the Senate, the men who pride themselves upon scholastic learning, the men who profess to have gone down to the deep fountains of knowledge, will not tax the books in which men of science and men of thought, and women of science and women of thought make known to mankind what they think. At any rate, I trust that such men as these, after voting to tax such publications as that, will not vote to except the trash that is put forth in the magazines. Sir, it is true that I take magazines. They have come into my house, and they have come for the amusement of my children, and if I choose to take them I am willing to pay for them for the amusement of my children. But if I have a leisure moment and want to find what men of sense and men of thought have said, and if I want to take into my library for the instruction of my children, when they shall arrive at the years of discretion and of manhood, that which shall be of advantage to them, I do not refer to the magazine. If I would tax a book, why should I not tax the miserable ephemeral effusions of the hour? Sir, I sometimes, when I find them in my house, take them up and look at them for a moment. I find nothing of elevation of thought, nothing that can guide ripened manhood in the discharge of its duties; but I find sentimental love tales adapted to young girls, and pleasing to young men who are endeavoring to deceive young girls. If books of thought and books of sense are to be taxed, let the ephemeral productions of the hour be taxed also.

I shall therefore vote in accordance with the suggestion of the Senator from New Hampshire. If the proposition could be arrived at not to tax knowledge or information in any of its avenues, I would vote not to tax it; I would not vote to tax a newspaper, a magazine, or a book.

Mr. COWAN. Will the honorable Senator allow me to ask him whether I have not seen his speeches within the covers of the Continental Monthly? [Laughter.]

Mr. SAULSBURY. Yes, sir. Humbuggery is the order of the hour, and I did once buy a copy of the Continental Monthly. Finding no sense in it, I tore out that which was in it, and having some four or five speeches of my own that I had the vanity to think there was some sense in, I stitched them inside of the cover of the Continental Monthly. [Laughter.]

Sir, I recollect the time when the American Review was published; I recollect the time when I took the London Quarterly, the Edinburgh Review, and the North Briton. I found a great many readable articles in them, and I have many of those publications now in my library, from their first numbers until a very recent date, until I found them treating of subjects that they knew nothing about, and advancing theories which my honorable friend from Pennsylvania will allow me to say do not receive such implicit faith from him as they do from some of his associates. I then ceased to take them. As a general thing, I know now of no magazine in this country that contains articles which a man of thought can afford to read. They are filled with love-sick tales that young ladies and young gentlemen may amuse themselves for an hour in gossiping over, instead of reading that substantial literature which enlightens the mind and gives to thought a tone, that should guide it and control it and strengthen the mind as a link to sensible conversation. Since such literature has taken the place of the former

literature of the country, and it is found in reviews and magazines, and you put a tax upon books, scientific books, historical books, I will not vote to exempt from that burden such publications as these.

Sir, the great fault of the times is, that instead of studying the great lessons of history, the great truths taught by history, our people are satisfied with the ephemeral productions of the hour. When you tax that kind of information which enlightens the mind and ennobles the soul, do not ask me to exempt from the burden of taxation the common trash of the day, which no man of sense has time to read or ought to read. If you leave all free, I say to you frankly I would not tax a book; I would not tax a newspaper; I would not tax a magazine; I would let knowledge go forth to the people through any of its avenues, and let them learn all they can, and not put padlocks on the mind, but leave thought free, unconfined. But if you will make a discrimination against knowledge, against thought, and come and ask me to cooperate in that discrimination and in favor of that species of literature which is of that sort that my children have not time and ought not to read, I will not consent to the proposition.

Mr. GRIMES. I concur with the Senator from New Hampshire that any magazine that is not able to pay eleven mills on a monthly number, or one cent and one tenth, or that is not able to pay fifteen cents on an annual subscription of three dollars, might as well die. The Senator from Ohio says he is unable to see any distinction between newspapers and magazines. It is very apparent to my mind that there is just exactly the same distinction between newspapers and magazines that there is between the substantial viands you have on your table that are necessary to support life and those luxuries that are only calculated to excite the system and produce disease in nine cases out of ten. The newspaper has become, and is to almost every man in the country, a necessity. It contains the report of the markets; it contains what it is necessary for him to be informed about in order to govern his everyday transactions of life; it brings to him the foreign news and the domestic news; it gives him all the county and township news; whereas the magazine, as a general thing, especially that class of magazines which I understand from this debate it is more designed by this provision to protect than any other, is only calculated, if not to demoralize, to impair the intellectual capacities of their readers. I trust that we shall put the publishers of these magazines upon precisely the same footing that we put the publishers of newspapers. Let them pay their proportion of the burdens of Government, just as much as you compel the farmers in my State to pay their proportion upon what they produce. If they cannot make it profitable they will go into some other business.

Mr. CONNESS. I desire to inquire whether the question now is on the committee's amendment.

The VICE PRESIDENT. It is.

The question being taken by yeas and nays, resulted—yeas 12, nays 20; as follows:

YEAS—Messrs. Anthony, Conness, Cowan, Farwell, Harris, Henderson, Howe, Sherman, Stewart, Sumner, Van Winkle, and Wiley—12.

NAYS—Messrs. Brown, Buckalew, Clark, Davis, Dixon, Doolittle, Foster, Grimes, Johnson, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Powell, Saulsbury, Sprague, Ten Eyck, Wilson, and Wright—20.

ABSENT—Messrs. Carlile, Chandler, Collamer, Foot, Hale, Harding, Harlan, Hendricks, Howard, Lane of Kansas, McDougall, Nesmith, Ramsey, Richardson, Riddle, Trumbull, Wade, and Wilkinson—18.

So the amendment was rejected.

Mr. SHERMAN. I would like now to have a vote on the next amendment.

The VICE PRESIDENT. The next amendment of the committee will be read.

The Secretary read the amendment, which was on page 22, line five hundred and fifteen, to strike out the following proviso:

*Provided, That Bibles and Testaments, or volumes consisting only of parts of either, prayer-books, arithmetics, spelling-books, geographies, grammars, and school-books of the kinds used in common and primary schools, and all books printed exclusively for the use of Sunday-schools, shall be exempt from any duty or tax, anything to the contrary notwithstanding: Provided further, That this exemption shall not apply to any volume which is valued at more than two dollars.*

Mr. SUMNER. I hope that will not be stricken

out. I hope the Senate will follow the House. This was introduced into this bill by the House, and the question now is, whether we shall strike out what the House has introduced on this subject. I think we had better in that respect follow the House.

The amendment was agreed to.

Mr. SPRAGUE. I rise with the consent of the Senator from Ohio to move an adjournment; but before doing so I move to take up Senate bill No. 419, a bill which is upon its passage, and upon which the yeas and nays were ordered.

Mr. COWAN. I believe that is out of order while another motion is pending.

The VICE PRESIDENT. Does the Senator from Rhode Island submit a motion to adjourn?

Mr. SPRAGUE. No, sir; but to postpone the further consideration of this subject, and take up Senate bill No. 419, after which I will make a motion to adjourn.

Mr. COWAN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, February 27, 1865.

The House met at eleven o'clock, a. m.

The Journal of Saturday was read and approved.

CHARLES A. PITCHER.

Mr. HALE. I move that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of Senate bill No. 338, for the relief of Charles A. Pitcher.

Mr. BOUTWELL. I object.

Mr. HALE. I move that the rules be suspended for the purpose I have indicated.

The House divided; and there were—yeas 42, noes 20; no quorum voting.

Mr. HALE. I ask the gentleman from Massachusetts to withdraw his objection. I do not propose to call for the previous question, but to let the bill be discussed.

Mr. BOUTWELL. I object to this bill for the reasons assigned by the Committee on the Judiciary at the last session. It was reported against by that committee, and that report was adopted by the House. I have seen no reason to change my opinion on the subject.

The SPEAKER ordered tellers, and appointed Messrs. HALE and BOUTWELL.

The House again divided; and the tellers reported—yeas 42, noes 23; no quorum voting.

Mr. HALE. I withdraw my motion.

## TARIFF BILL.

Mr. MORRILL, by unanimous consent, from the Committee of Ways and Means, reported a bill amendatory of certain acts imposing duties on foreign importations; which was read a first and second time, ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. MORRILL. Mr. Speaker, I want to have an evening session for the purpose of considering that bill, and whatever other business may be ready.

Mr. STEVENS. Let the evening session be confined to the consideration of the tariff bill alone.

Mr. MORRILL. Very well.

Mr. BROOKS. I object until I know what it is.

Mr. PRUYN. I hope that the loan bill will also be considered. The Secretary of the Treasury is anxious about that bill.

Mr. MORRILL. I do not think there is anything in the tariff bill that gentlemen will object to. It is not proposed to go into a general revision of the tariff at this session. Having imposed as high duties upon liquors at home as from abroad, and having raised the internal duties upon petroleum and cotton, we only change the tariff to harmonize with the internal duties; and we provide also for a change in the mode of estimating the value of goods imported from abroad.

Mr. BROOKS. Let the tariff bill be read, so that we may know what it is. Reporting it now and proposing to take action to-night is rather rapid.

Mr. MORRILL. This is the last week of the session.

Mr. BROOKS. Let it be read and I will withdraw my objection.

Mr. STROUSE. I renew the objection.



The SPEAKER. An evening session can be ordered by a majority vote.

Mr. MORRILL. I move that the House take a recess from half past four o'clock, p. m., till seven o'clock, p. m., in order that there may be an evening session.

The motion was agreed to.

Mr. MORRILL. I now move that the evening session this evening be set apart for the consideration of the tariff bill.

The bill was read.

Mr. FERNANDO WOOD. Will the bill be printed?

Mr. MORRILL. It will.

The motion was agreed to.

#### BUSINESS OF NAVAL COMMITTEE.

Mr. RICE, of Massachusetts. I ask that by unanimous consent to-morrow evening be set aside for the consideration of business from the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. I object.

Mr. RICE, of Massachusetts. I move to suspend the rules to enable me to make that motion.

Mr. WASHBURN, of Illinois. If the gentleman will except the bill for the relief of the builders of the iron-clads I will not object.

Mr. RICE, of Massachusetts. I have no authority to except anything. I was directed to ask this permission.

Mr. WASHBURN, of Illinois. Does the gentleman propose to bring that matter before the House?

Mr. RICE, of Massachusetts. There is a bill of that nature before the Senate, and if it comes from the Senate to the House between this time and that it will be beyond my control.

Mr. WASHBURN, of Illinois. I hope the House will not suspend the rule as broadly as the gentleman asks. If the motion is voted down, I will then move to suspend the rules for that purpose, with the exception I have mentioned.

The motion to suspend the rules was agreed to.

Mr. RICE, of Massachusetts. I now move that to-morrow evening be specially assigned for the consideration of business from the Committee on Naval Affairs.

The motion was agreed to.

#### PRIVATE BILLS.

Mr. STEVENS obtained the floor.

Mr. HALE. Will the gentleman yield a moment?

Mr. STEVENS. For what?

Mr. HALE. I want to ask unanimous consent that the morning hour to-morrow be devoted to receiving reports of bills of a private nature.

The SPEAKER. The Chair would state that the House has ordered that the morning hour shall not be interfered with. The Chair would also state that it is doubtful whether any morning-hour business will be transacted during the remainder of the session.

Mr. STEVENS. I cannot yield for that purpose.

#### CLAIMS OF KENTUCKY AND MISSOURI.

Mr. MALLORY. I ask the gentleman from Pennsylvania to allow me to ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill of the House (No. 359) for reimbursing the States of Kentucky and Missouri moneys expended in organizing, arming, and equipping troops, and that the same be referred to the Committee of Ways and Means.

Mr. STEVENS. That bill has been referred to the Committee of Ways and Means.

Mr. MALLORY. It has, but I want to have it slightly changed, and therefore I want it recommitted.

No objection being made, the Committee of the Whole on the state of the Union was discharged from the further consideration of said bill, and the same was recommitted to the Committee of Ways and Means.

#### FORTIFICATION APPROPRIATION BILL.

Mr. STEVENS. I am directed by the Committee of Ways and Means to report back the Senate amendments to the bill (H. R. No. 688) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense, for the year ending the 30th of June, 1866.

The committee recommend concurrence in all the Senate amendments.

The appropriations of the House are all cut down one half by the Senate.

Mr. GARFIELD. I would ask whether any appropriations have been entirely cut off, or whether they are all there but only cut down?

Mr. STEVENS. They are all in the bill, but are reduced just one half, except the first one, which is reduced from \$125,000 to \$75,000.

Mr. TOWNSEND. I would inquire of the gentleman whether he thinks it is proper that the deduction of one half should be made indiscriminately. There are places on the coast—for instance, the city of New York—where fortifications of very great importance are in progress; the safety both of the city and, to some extent, the State, is involved. It seems to me there ought to be some discrimination made. Has the Committee of Ways and Means carefully considered the subject?

Mr. STEVENS. The Senate cut down all the appropriations one half; and upon an examination, the Committee of Ways and Means were rather of opinion that what was left was as much as could be profitably expended during the year; and hence they agreed to concur in the amendments.

The amendments of the Senate were all concurred in.

Mr. STEVENS moved that the vote by which the amendments were concurred in be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported back Senate amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1866.

No objection being made, the amendments were considered in the House.

#### First amendment:

At the end of the bill strike out the following proviso: *Provided*, That no money appropriated by this act shall be used for the purpose of paying any railway company for the transportation of property or troops of the United States, when such company may have accepted a grant of lands from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

The Committee of Ways and Means recommended non-concurrence.

The amendment was not concurred in.

#### Second amendment:

Add the following as an additional section: *And be it further enacted*, That to supply a deficiency in the appropriations for the current fiscal year for ordnance, ordnance stores, and supplies, including the purchase and manufacture of arms, accoutrements, and horse equipments for volunteers and regulars, the sum of \$7,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. BROOKS. I desire to ask the chairman of the Committee of Ways and Means [Mr. STEVENS] whether this is a second deficiency item—one in addition to what was originally in the deficiency bill?

Mr. STEVENS. It is.

The SPEAKER. The Committee of Ways and Means recommend non-concurrence in the amendment of the Senate. The question will be upon concurring in the amendment of the Senate.

The amendment was non-concurred in.

#### Third amendment:

Insert the following: *And be it further enacted*, That from and after the 1st day of March, 1865, and during the continuance of the present rebellion, the commutation price of officers' subsistence shall be fifty cents per ration: *Provided*, That said increase shall not apply to the commutation price of the rations of any officer above the rank of brevet brigadier general, or of any officer entitled to commutation for fuel or quarters.

The Committee of Ways and Means recommended non-concurrence in this amendment.

The amendment was non-concurred in.

#### Fourth amendment:

Insert the following: That all officers of volunteers now in commission, below the rank of brigadier general, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper.

The Committee of Ways and Means recommended non-concurrence in this amendment.

The amendment was non-concurred in.

#### Fifth amendment:

Insert the following:

*Sec. — And be it further enacted*, That commissioned officers of the Army, serving in the field, shall hereafter be permitted to purchase rations for their own use, on credit, from any commissary of subsistence, at cost prices, and the amount due for rations so purchased shall be reported monthly to the Paymaster General, to be deducted from the payment next following such purchase. And the Secretary of War is hereby directed to issue such orders and regulations as he may deem best calculated to insure the proper observance hereof.

The Committee of Ways and Means recommended non-concurrence in this amendment.

The amendment was non-concurred in.

#### Sixth amendment:

Insert the following:

*Sec. — And be it further enacted*, That the Secretary of War is hereby authorized and directed to cause tobacco to be furnished to the enlisted men of the Army at cost prices, exclusive of the cost of transportation, in such quantities as they may require, not exceeding sixteen ounces per month, and the amount due therefor shall be deducted from their pay in the same manner as at present provided for the settlement of clothing accounts.

The SPEAKER. The Committee of Ways and Means recommend concurrence in this amendment, with an amendment to the amendment.

The amendment to the amendment was read, as follows:

*Sec. — And be it further enacted*, That in addition to the amount hereinbefore appropriated for the pay of the Army the sum of \$36,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. STEVENS. I send to the Clerk's desk a letter from the Secretary of War, which I ask to have read.

The Clerk read, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, February 21, 1865.

SIR: The Paymaster General recommends an additional appropriation of \$36,000,000 for the pay of the Army to the end of the present fiscal year. This appropriation will be required for the payment of troops and bounties in consequence of the augmentation of the forces.

I respectfully ask that the appropriation be made.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

HON. THADDEUS STEVENS,  
Chairman of the Committee of Ways and Means.

Mr. BROOKS. I would ask the chairman of the Committee of Ways and Means [Mr. STEVENS] if the numbers of the Army are really augmented.

Mr. STEVENS. I must say to the gentleman from New York [Mr. BROOKS] that I do not know how to find out that fact. I have not been able to ascertain one way or the other. They are presumed to be. If all that have been called for, and all that have been enlisted, can be found, then the numbers have been augmented. They have made the calculation, supposing that to be the fact. Whether it is actually so or not remains yet to be seen.

Mr. BROOKS. I want to get that fact out more explicitly before I vote for this increase. I would ask if any gentleman of the Committee on Military Affairs can inform the House whether the numbers of the Army are really augmented. This additional appropriation of \$36,000,000 for additional pay is an enormous appropriation.

Mr. STEVENS. There has been a new call for three hundred thousand men.

Mr. GARFIELD. We increased the pay of soldiers last winter, and that would make a very considerable increase in the appropriation, even if the numbers were not increased.

Mr. BROOKS. That was included in the estimates brought in at an early stage of the session, both in the deficiency bill and the regular appropriation bill. However, I do not know that we can get any more light upon the subject; and perhaps the less light the better. Let it go.

Mr. STEVENS. You have all the light I have.

The amendment to the amendment of the Senate was agreed to.

The amendment of the Senate, as amended, was concurred in.

Mr. STEVENS. I move to reconsider the various votes upon the amendments of the Senate; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC COAL LANDS AND TOWN PROPERTY.

Mr. HIGBY. I ask unanimous consent of the House to take from the Speaker's table Senate bill No. 380, being an act supplemental to the act approved July 1, 1864, for the disposal of coal

lands and of town property in the public domain.

No objection being made, the bill was taken up and read a first and second time.

Mr. HIGBY. I move to refer this bill to the Committee of Ways and Means.

The motion was agreed to.

#### CONDUCT OF THE WAR.

Mr. GOOCH. I desire to have taken from the Speaker's table a concurrent resolution of the Senate extending the time of the joint committee on the conduct of the war for thirty days after the close of this session, and I shall move to amend by striking out "thirty" and inserting "sixty."

The SPEAKER. It requires unanimous consent at this time or a suspension of the rules.

Mr. BROOKS. I do not want to object; but I would like to hear some reason for this extension. I should like to know why that committee should not dis with the rest of us on the 4th of March next.

Mr. GOOCH. The reason we ask this extension is this: we have been instructed by the Senate and also by this House to investigate certain matters pertaining to the Army and the Navy. We have found it impossible to obtain the testimony of some of the most material witnesses; and for that reason we are unwilling to report until we have obtained that testimony.

For instance, under a resolution of the Senate, we have taken testimony in relation to the attack upon Fort Fisher. Thus far we have found ourselves unable to obtain the testimony of Admiral Porter, although we have made all the efforts in our power to obtain it. We have also taken testimony, under a resolution of this House, in relation to the Red river expedition. We have found ourselves unable to obtain the testimony of Admiral Porter in relation to that expedition. We are very unwilling to complete our reports, or make any report on either of these matters until we have obtained his testimony and the testimony of some other officers, who have been so engaged in service that it is impossible for us to reach them. It is for that reason that an extension of time is asked. I desire to have it made sixty days instead of thirty days; as thirty days may leave us without having accomplished what we desire to do.

Mr. WADSWORTH. I object to the consideration of this resolution.

Mr. GOOCH. I move to suspend the rules for the purpose of taking up that resolution.

Mr. WADSWORTH. Will an amendment to abolish the committee on the conduct of the war be in order?

The SPEAKER. The Chair thinks it would not be in order.

Mr. GOOCH called for tellers.

Tellers were ordered; and Messrs. Gooch and Wadsworth were appointed.

The House divided; and the tellers reported—ayes 71, noes 46.

Two thirds not voting in the affirmative, the rules were not suspended.

#### MAJOR GENERAL H. W. HALLECK.

Mr. SCHENCK. Mr. Speaker, on the 25th of January this House adopted a resolution, reported from the Committee on Military Affairs, asking the Secretary of War to inform the House to what particular command Major General Halleck was assigned, and whether he was receiving double rations, and if so, under what authority of law. On the 30th of January we received a reply from the Secretary of War, which was laid on the table and ordered to be printed. That reply is, I think, not satisfactory as to the authority of law under which large allowances have been made to this officer. I now move that the communication of the Secretary of War be referred to the Committee on Military Affairs.

Mr. KALBFLEISCH. I object.

Mr. SCHENCK. I move to suspend the rules that I may make the motion for reference.

Mr. HOLMAN. I ask for the reading of the answer of the Secretary of War.

The Clerk read, as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, January 26, 1865.

Sir: I transmit herewith the report of the Adjutant General, with accompanying orders, in reply to the resolution of the House of Representatives dated January 25, 1865,

inquiring concerning the duties and allowances of Major General H. W. Halleck, United States Army.

I am, sir, very respectfully, your obedient servant.  
E. M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, D. C., January 26, 1865.

Sir: In answer to the resolution of the House of Representatives of January 25, 1865, copies of the order of the President of March 12, 1864, placing Major General H. W. Halleck on duty as chief of staff of the Army, and of the order of the Secretary of War that the chief of staff receive the same allowance as if commanding a military department, are transmitted herewith.

It has been the usage of the War Department to give to officers exercising command over two or more military departments the same allowances as to his subordinate who commands only a single military department. The War Department has uniformly so construed the law.

Very respectfully, your obedient servant,  
E. D. TOWNSEND,  
Assistant Adjutant General.

Hon. E. M. STANTON, Secretary of War.

[General Orders, No. 98.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, March 12, 1864.

The President of the United States orders as follows:

I. Major General H. W. Halleck is, at his own request, relieved from duty as general-in-chief of the Army, and Lieutenant General U. S. Grant is assigned to the command of the armies of the United States. The headquarters of the Army will be in Washington, and also with Lieutenant General Grant, in the field.

II. Major General H. W. Halleck is assigned to duty in Washington, as chief of staff of the Army, under the direction of the Secretary of War and the Lieutenant General commanding. His orders will be obeyed and respected accordingly.

III. Major General W. T. Sherman is assigned to the command of the military division of the Mississippi, composed of the departments of the Ohio, the Cumberland, the Tennessee, and the Arkansas.

IV. Major General J. B. McPherson is assigned to the command of the department and army of the Tennessee.

V. In relieving Major General Halleck from duty as general-in-chief, the President desires to express his approbation and thanks for the able and zealous manner in which the arduous and responsible duties of that position have been performed.

By order of the Secretary of War.  
E. D. TOWNSEND,  
Assistant Adjutant General.

WAR DEPARTMENT,  
WASHINGTON, D. C., March 12, 1864.

A major general, while on duty as chief of staff of the Army, will receive the same allowance as if commanding a military department.

EDWIN M. STANTON,  
Secretary of War.

Mr. KALBFLEISCH. I withdraw my objection to the motion of the gentleman from Ohio, [Mr. SCHENCK.]

The motion to refer the answer of the Secretary of War to the Committee on Military Affairs was agreed to.

#### ARMY REGISTER.

Mr. SCHENCK. The House passed some time ago a joint resolution (H. R. No. 169) to provide for the publication of a full Army Register, to contain the names of all the volunteer officers. The Senate has passed that joint resolution with several amendments. I now move that by unanimous consent those amendments be taken from the Speaker's table and acted upon. I think that all those amendments ought to be concurred in, except one, which will make the price of the book higher, I think, than it ought to be.

There being no objection, the House proceeded to the consideration of the Senate amendments.

#### First amendment:

Strike out all after the word "required" in the second line and including "sixty-five" in line three, so that the clause will read:

That the Secretary of War be, and is hereby, authorized and required to cause to be printed and published a full roster or roll of all general, field, line, and staff officers of volunteers, &c.

The amendment was concurred in.

#### Second amendment:

After the word "States" in the sixth line, insert "at any time;" so that the clause will read, "who have been in the Army of the United States at any time."

The amendment was concurred in.

#### Third amendment:

After the word "rebellion" in the sixth line, insert the words "including all informal organizations which have been recognized or accepted and paid by the United States."

The amendment was concurred in.

#### Fourth amendment:

In the tenth line strike out "fifty" and insert in lieu

thereof "twenty-five;" so that the clause will read, "an edition of twenty-five thousand copies."

The amendment was concurred in.

#### Fifth amendment:

After the word "binding" in the thirteenth line strike out the words "and shall not in any case exceed one dollar per volume."

Mr. SCHENCK. I hope that this amendment will not be concurred in; and I will explain briefly the difference between the House and the Senate. As the resolution was originally reported by the Military Committee of this House, it provided that this Register, this roll of all the officers of volunteers, shall be sold to them and their friends, to soldiers and civilians, at the actual cost of printing, provided that the price shall not exceed one dollar per copy. I have no doubt myself that the volume, which will be a bulky one, will cost more than a dollar. The Senate, however, has struck out that restriction. I am still of opinion that we ought to afford this volume at a rate even something below the cost, so that all the friends of all the soldiers and officers may be enabled to furnish themselves with a copy at the cheapest possible rate. The book may be made to cost some two or three dollars, if the resolution is left without any restriction of that kind; and the restriction proposed is that the price shall be limited to the actual cost of composition, press-work, and paper, provided that the price shall not be above one dollar. I hope that that restriction will be retained. I trust that the amendment of the Senate will not be concurred in.

The amendment was not concurred in.

Mr. SCHENCK. I move to reconsider the votes on concurring in the amendments of the Senate; and also move that motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VOLUNTEER ENGINEER TROOPS.

Mr. GARFIELD, by unanimous consent, introduced a bill to regulate the organization of volunteer engineer troops; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS. I am instructed by the Committee of Ways and Means to report back House bill No. 649, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, with the amendments of the Senate thereto. I ask that they be now considered.

Mr. BROOKS. It is understood that they are to be considered in the House as in the Committee of the Whole on the state of the Union, under the five minutes debate.

Mr. STEVENS. Yes, sir.

There was no objection, and it was ordered accordingly.

#### First amendment:

Strike out "ten" and insert "twenty;" so that it will read:

For reporting proceedings in the Daily Globe for the first session of the Thirty-Ninth Congress, \$20,000.

The Committee of Ways and Means recommended non-concurrence.

Mr. WASHBURN, of Illinois. Is amendment in order to that amendment?

The SPEAKER. It is.

Mr. WASHBURN, of Illinois. I hope, then, that the condition will be affixed that the appropriation shall be dependent on the publication of the debates of the Senate and the House the next morning in the Daily Globe.

Mr. STEVENS. The committee have moved to non-concur.

Mr. WASHBURN, of Illinois. I hope that the attention of the committee of conference will be called to this subject.

Mr. STEVENS. The Senate are desirous, and very properly, that this House shall not be too extravagant in making appropriations. When we promised some \$30,000 to our employes they refused to allow it because it was too large for the contingent fund of the House. In looking at the contingent fund of the Senate, I find that they have three times as many Globes as we have, and they ask to pay in the same proportion. I do not know of any rule in morals or of economy that will allow that to be done.

The amendment was non-concurred in.

## Second amendment:

Add:

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, \$12,900.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Third amendment:

Add:

For one complete set of the Congressional Globe and Appendix for each Senator in the Thirty-Ninth Congress who has not already received them, \$6,800.

The Committee of Ways and Means recommended concurrence, with the following amendment:

*Provided, however,* That no Senator who has already, as a member of the House of Representatives, received a set of the Congressional Globe, shall be entitled to receive another set as such Senator; and the sum of \$40,000 is hereby appropriated to be added to the contingent fund of the House of Representatives for the purpose of paying for stationery purposes and such other expenses as the House may have directed or shall direct: *Provided,* That no part of such sum shall be applied to a permanent addition to the salaries of their clerks and employés.

For compensation to stenographer to committees of the House of Representatives, to be added to the contingent fund of the House, \$3,650.

The amendment to the amendment was agreed to; and the Senate amendment as amended was concurred in.

## Fourth amendment:

Strike out "\$10,334" and insert "\$19,170," so that it will read: "Capitol police, \$19,170."

The Committee of Ways and Means recommended concurrence.

Mr. BROOKS. That increases the Capitol police?

Mr. STEVENS. There have been added by authority of law certain members to that police, and this makes the appropriation in accordance with the number of the police. The Presiding Officers of the two Houses have the right to add to the number of police.

Mr. BROOKS. I hope that the Capitol will be watched carefully to the extent of \$9,000 additional.

The SPEAKER. The Commissioner of Public Buildings informed the President of the Senate and the Speaker of the House that he did not regard the Capitol safe with the present force, and an increase was therefore granted to him.

Mr. MORRIS, of Ohio. I am utterly opposed to an increase of the Capitol police. I came here the other night to attend the sitting of my committee, and could not get in at the western door, but was compelled to go through the mud to the eastern door. I think if we have not enough now to keep the doors open we will never have.

Mr. STEVENS. What hour of the night was it?

Mr. MORRIS, of Ohio. Seven o'clock. It was the 22d of February.

Mr. STEVENS. Everybody was excluded that evening.

The amendment was non-concurred in.

## Fifth amendment:

On page 3 strike out lines nineteen, twenty, twenty-one, and twenty-two, as follows:

For removing the unsightly high fence, or railing, which has been erected in the old Hall of Representatives, \$100, or as much thereof as may be necessary.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Sixth amendment:

Increase the appropriation, on the part of the House of Representatives, for the pay of the Capitol police, from \$13,920 to \$19,170.

The Committee of Ways and Means recommended concurrence.

Mr. WASHBURN, of Illinois. That seems to be somewhat extraordinary legislation.

Mr. STEVENS. The necessity for it arose out of a mistake in the addition of the several salaries of the Capitol police.

Mr. WASHBURN, of Illinois. What struck me as remarkable was that the Senate should put in this amendment to pay a part of our own employés.

Mr. STEVENS. The Senate finding that we had omitted it, and being unwilling to give us the \$40,000 for extra compensation to our clerks, gave us this.

Mr. WASHBURN, of Illinois. I suppose it is a compromise, then.

Mr. STEVENS. It is a coax, if I understand it.

The amendment was concurred in.

## Second amendment:

Increase the aggregate appropriation for annual salaries paid by the House to its employés from \$104,178 to \$109,428.

The Committee of Ways and Means recommended concurrence.

Mr. PRICE. I inquire for information whether the salaries placed opposite the names of the clerks and employés of the House amount to \$104,178 or to \$109,428.

Mr. STEVENS. That can be easily ascertained by a simple addition. It will be remembered that we have just increased one item, that for the Capitol police, from thirteen to nineteen odd thousand dollars; and now the question is upon increasing the aggregate amount to the same extent.

Mr. PRICE. I do not understand why because we made "nineteen" out of "thirteen" we should make "nine" out of "four."

Mr. STEVENS. If you increase the aggregate amount reported in the bill by the amount that we have just increased one of the items which go to make up that aggregate, the gentleman will find that it amounts to \$109,428.

The amendment was concurred in.

## Eighth amendment:

On page 7, after line two, add the following:

For completing the tiling of the floor of the old Hall of Representatives, under the same authority that the work has already been done, \$3,875.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

## Ninth amendment:

On page 7, after line eleven, insert the following:

For addition to the Public Printing Office and the necessary presses, machinery, and fixtures, \$61,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Tenth amendment:

On page 7, line twenty-three, strike out "fifty" and insert "ninety;" so that the clause will read:

For lithographing and engraving for the Senate and House of Representatives, \$90,000.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

## Eleventh amendment:

On page 8, line three, strike out "five" and insert "eight;" so to make the appropriation for the purchase of books for the Library \$8,000.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

## Twelfth amendment:

On page 8, after line six, insert:

For an enlargement of the Library of Congress, so as to include in two wings, built fire-proof, the space at either end of the present Library, measuring about eighty feet in length by thirty feet in width, in accordance with a plan to be approved by the Committee on the Library, \$169,000.

The Committee of Ways and Means recommended concurrence with an amendment to add the words "to be expended under the direction of the Secretary of the Interior."

The amendment to the amendment was agreed to.

Mr. WASHBURN, of Illinois. I would like to make an inquiry in reference to this matter. My attention was called in a differing direction when this amendment was read. Is it an amendment in regard to an appropriation for the enlargement of the Library?

The SPEAKER. It is.

Mr. WASHBURN, of Illinois. I am opposed to it and I wish to state my reasons. This subject was before the Joint Committee on the Library of which I was a member, and they refused to recommend the appropriation. It is a very large one of \$160,000, and I do not think the Treasury is in a situation to stand such an expenditure at this time.

Mr. FRANK. The committee agreed to report it.

Mr. STEVENS. The Committee of Ways and Means have acted according to what they considered to be the action of the Joint Committee

on the Library. We have no feeling about it. We would just as soon have it non-concurred in and let it go back to the Senate.

Mr. WASHBURN, of Illinois. I am as favorable to the Library as anybody here, and I would be glad to have this improvement made, yet I think we can postpone it for two or three years, when it will not cost half as much.

Mr. FRANK. Mr. Speaker, the appropriation reported by the Committee of Ways and Means is necessary, because no more room exists in the Library for the continually accruing accessions of books.

It is necessary because a large portion of the books now belonging to Congress are unprovided with shelf-room, and inaccessible except at great expenditure of time and convenience. This applies especially to the set of British Parliamentary documents, consisting of three thousand volumes in folio, full of invaluable information, which is daily wanted for reference. These volumes are all upon the floor, because no shelves can be provided for them in the present Library.

It is necessary, in order to secure the invaluable Library which former Congresses have built up at great expenditures of care and money, from another fire. The books of the Library, from the first purchase of Mr. Jefferson until date have cost somewhat over four hundred thousand dollars. The fire of December, 1851, destroyed all except twenty thousand volumes of the Library. The present Library numbers over eighty-four thousand volumes, less than half of which (or forty thousand volumes) are contained in the fire-proof portion of the Library. The remainder are stored in dark corners and passage-ways of the old Capitol, surrounded with wood-work, and liable to accident, from the firing of a flue, (which was the occasion of the former fire,) or other cause.

It is necessary, in order to provide some space where current newspapers and periodicals, both American and foreign, can be filed and consulted by members; at present there are not ten feet of room anywhere for such a purpose, and the very valuable files of political and literary journals, taken in the Library are useless to Congress until bound, when they have lost their freshness, and much of their interest.

The appropriation asked is \$160,000, and the plan of the architect accompanying the estimate proposes to provide an increase of room equal to nearly double the present fire-proof Library, which cost \$92,000. The iron work was then put up in competition and the lowest of seven bids was accepted. The present estimate is, therefore far from extravagant, considering the enlargement secured, and it can be done for the amount, notwithstanding the advanced cost of materials, as the patterns from which the ornamental iron work was cast are still on hand.

The present plan was originally designed to be carried out in 1852, when the Library room was rebuilt, but the space embraced in the two wings was then occupied by the House officers, and it was therefore left incomplete. Twelve years have elapsed, and the great increase of the Library has been such that its number of volumes is quadrupled, while no additional room of a permanent character has been provided.

The Library has asked for no appropriation beyond its regular annual one for books since 1852, until last session, when \$4,000 was appropriated for a marble floor in lieu of carpets. The Library had got along for eleven years with but one carpet and no renewal of furniture, exhibiting an economy of expenditure sufficiently rare, if not unequalled, in any department of the Government. It is therefore, with some confidence that Congress is now asked to provide permanently for the security of the invaluable literary stores which have been accumulated in the Capitol, and to protect which from injury or destruction no amount of care can be ill bestowed.

The constant donations from State Governments and from foreign Powers of works illustrating the history, statistics, politics, and legislation of our own country and of other parts of the world, cannot be accommodated. These donations might be largely increased upon application, without expense to the Library fund, and a vast amount of valuable information, useful in the practical legislation of Congress, could be obtained, catalogued, and permanently filed for the



use of members. Every State and Territory in the Union should have a file of its public documents in the Capitol, but the officers of the Library have been for years deterred from seeking these additions, because there was not room enough to contain them.

The appropriation required is not unreasonably high, as may be seen by comparing the cost of similar library accommodations elsewhere. The new reading-room of the British Museum (constructed entirely within the old edifice) cost £100,000, or \$500,000. The Boston Public Library building cost (exclusive of the ground) \$240,000. The sum of \$160,000, although large in itself, is not so in comparison with the great object of providing safe and permanent room for this rich historical collection, which is rapidly increasing, and much of which, if destroyed, could never be replaced.

I think it is unnecessary to say anything more upon this subject.

Mr. WASHBURN, of Illinois. I move, *pro forma*, to increase the amount \$1,000. I do not suppose that there is any doubt that this Library building may be improved; perhaps there is a necessity for this additional room. But I do say that I think we can get along without it a year or two longer as well as for the past two or three years; and that in one year from this time an appropriation of \$100,000 would do the same amount of work that \$160,000 will now do.

Mr. SPALDING. I wish to ask if this appropriation will add anything to the security of the Library as it now is?

Mr. WASHBURN, of Illinois. I think myself the Library is sufficiently secure. This may add to the security of the Library, but I think it is sufficiently secure now for all practical purposes.

Mr. FRANK. In reply to the gentleman from Ohio, [Mr. SPALDING,] I would state that only about one half of the books connected with the Library, or belonging to the Library, are now in the fire-proof apartment. The other half are stored away in other rooms, liable to be destroyed by fire, as books were many years ago. This appropriation is designed to make it all fire-proof.

Mr. GARFIELD. I think no gentleman will deny that any number of books left in a wooden receptacle are liable to destruction by fire. There is scarcely a library in the country, collegiate, State, or national, that has not, at some time, suffered to a greater or less extent by fire. And it is true that to-day you cannot find a single perfect set of the official archives of the Government anywhere in existence, because in 1851, under circumstances similar to those now existing, nearly the half of our Congressional Library was destroyed by fire. Now, when we have forty thousand books lying in a wooden receptacle, to leave them there liable to be burned—

Mr. WASHBURN, of Illinois. Where are those forty thousand volumes at this time?

Mr. GARFIELD. All the books of the Library which are outside the fire-proof apartments of the Library are exposed to this danger. If the gentleman will go through the wings of the building on either hand of the fire-proof apartment of the Library, he will find these cords and cords of our most valuable books stacked up on the floors. There is absolutely not even shelf room for them. And it is impossible to get at some of them without disturbing a pile of books perhaps twenty feet high in some instances. They are not available for use now because there is not even shelf room for them. Dare we go on and leave the third most valuable library in the United States of America in a condition in which it is liable to have one half of it destroyed? Really three fourths of the value of the Library may be destroyed by fire any day.

Mr. KASSON. I would make a further statement in this connection. This appropriation was asked for and urged very strongly upon the Committee of Ways and Means at the last session, and the session before also. At the last session I know it was deferred for the same consideration now proposed, namely, that it may bear postponement still longer. The time has come when this is pressed again upon our consideration. Now, while I voted at that time for deferring this appropriation, I am one of those who have become convinced that is altogether unsafe to con-

tinue that valuable library as it is now. And further, we are increasing the number of books every year, with no place in which to put them, or where they can be made useful; and we must either stop appropriating for books or we must provide additional room for them.

Mr. GARFIELD. I am glad to hear the testimony of the gentleman from Iowa [Mr. KASSON] on this subject, and I would say further, that the additions to our Library in the way of donations are such that at the present rate we shall soon have no place at all in which to put them unless this appropriation is granted. I would be willing that almost any appropriation in this bill should be cut down, or should be entirely thrown out, rather than have this appropriation fail. I hope we will provide for saving the books we already have on hand rather than risk them for another year as they have been risked for a year past. Beside the question of risk, there is the question of utilizing our Library so as to make it available for members, which will lead me to vote for this appropriation.

Mr. WASHBURN, of Illinois. I withdraw my amendment to increase the appropriation \$1,000.

Mr. WADSWORTH. I renew the amendment. I hope this Senate amendment will be adopted. As remarked by the gentleman from Iowa, [Mr. KASSON,] the attention of the Committee of Ways and Means, and of the Library Committee has heretofore been called to the necessity of this appropriation; and it was with a great deal of reluctance on my part that I was compelled, in view of the pressing necessities of the Government, to vote to defer this appropriation last year. But I am convinced that we are neglecting a very important duty that is pressing upon us.

This appropriation rests upon two necessities, either of which ought to be sufficient to sustain it—the necessity of preserving our present Library, and the equal necessity of increasing, and improving, and enlarging that Library. If our present collection were perfectly safe, I trust we should not be content to neglect the proper extension and enlargement of our Library. As remarked by the gentleman from Ohio, [Mr. GARFIELD,] our present collection is not safe. Fully one half of that Library is exposed to the peril of fire; it is not in a secure fire-proof condition. The recent burning of the Smithsonian Institution should warn us that at any moment a much greater calamity may befall the Congressional Library. I do hope that by the votes of gentlemen on both sides of the House this appropriation may be made.

Mr. PRUYN. I wish to say, Mr. Speaker, in reference to the condition of the Library, that I have visited it personally several times and I know that the statements which have been made on this floor in regard to its condition are true. A very great number of valuable books are now piled on the floor. They are inaccessible, and liable to be destroyed by an accident such as that which happened several years ago.

I wish also to say that adequate room should be provided in this building for a really national library, a library in which we can accumulate the materials of our own history, in which we are now lamentably deficient. It is mortifying to Americans, but it is a fact, that any person who may wish to write the history of our country, must now go to the British Museum; for its collection of American books is vastly superior to that of any library in this country. This should not be so. We should have ample arrangements for the reception of books, and after those arrangements are completed, a large appropriation should be made for the purpose of perfecting the great national Library of the country in respect to our own history, and putting it on a par at least with the library of the British Museum. I hope, therefore, that this appropriation will be made, as the gentleman from Kentucky has said, liberally and freely, by the votes of both sides of the House.

Mr. WADSWORTH. I withdraw my amendment to the amendment.

Mr. MORRILL. I call the previous question upon this amendment.

The previous question was seconded, and the main question was ordered; and under the operation thereof the amendment was concurred in.

#### Thirteenth amendment:

On page 9, in lines ten and eleven, strike out the words "pamphlet form and in;" so that the clause will read: "For publishing the laws in newspapers of the States and Territories, &c."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

#### Fourteenth amendment:

On page 9, line twelve, strike out "seventeen" and insert in lieu thereof "thirteen;" so that the clause will read: "For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, \$13,000."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

#### Fifteenth amendment:

On page 9, in lines twelve and thirteen, strike out "one hundred and twenty-five."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

#### Sixteenth amendment:

On page 10, after line two, add the following: "For the payment of the first annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt duties, to fulfill the stipulation contained in the fourth article of the convention between the United States and Belgium on the 20th of May, 1863, the sum of \$55,584 in coin, and such further sum as may be necessary to carry out the stipulations of the convention providing for the payment of interest on the said sum and on the portion of the principal remaining unpaid."

The amendment was concurred in.

Mr. MORRILL. The amendments numbered respectively from seventeen to twenty-three are merely formal; and I suppose it is not necessary to take a separate vote upon each.

The SPEAKER. One vote will be taken upon the whole, if there be no objection.

There was no objection.

The seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, and twenty-third amendments were concurred in.

#### Twenty-fourth amendment:

Add: "For defraying the expenses of the Supreme Court and district courts of the United States including the District of Columbia, and also for jurors and witnesses, in aid of funds arising from fines, penalties, and forfeitures, in the fiscal year ending June 30, 1865, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, \$500,000."

The Committee of Ways and Means recommended concurrence, with the following amendment:

Strike out "\$500,000" and insert in lieu thereof the following words: "\$700,000; and the unexpended balances of appropriations for the judiciary fund shall return into the Treasury."

The amendment to the amendment was agreed to; and the Senate amendment, as amended, was concurred in.

#### Twenty-fifth amendment:

Page 31, line seven, before the word "coins" insert the words "ores and;" so that it will read:

For specimens of ores and coins, to be preserved in the cabinet of the Mint, \$300.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

#### Twenty-sixth amendment:

Strike out the following: "For legal assistance and other necessary expenditures in the disposal of private land claims in California, \$10,000."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

#### Twenty-seventh amendment:

Strike out "one" and insert "two;" so that it will read: "For traveling expenses of the judges assigned to the tenth circuit for attending session of the Supreme Court of the United States, \$2,000."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

#### Twenty-eighth amendment:

Add: "For the repair of the building at St. Augustine, Florida, heretofore used for holding the courts of the United States in the northern district of Florida, \$3,000, or so much thereof as may be necessary."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

**Twenty-ninth amendment:**

Strike out the following:  
For salaries of additional clerks in the office of the Assistant Treasurer at Boston, which are hereby authorized, \$11,500.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

**Thirtieth amendment:**

Strike out the words "of the Mint;" so that it will read:  
For salaries of clerks, messengers, and watchmen in office of the Assistant Treasurer at Philadelphia, \$18,300.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Thirty-first, thirty-second, thirty-third, and thirty-fourth amendments:**

In line nine hundred and twenty-four, on page 38, after the word "of," where it first occurs, insert the words "officers and;" in line nine hundred and twenty-six, after the word "Treasurer" insert "and the tenth section of act of March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854;" and in line nine hundred and twenty-six, after the word "such" insert "further," and in line nine hundred and twenty-seven strike out "\$38,060" and insert "\$50,000;" so that it will read:

For salaries of additional clerks, and additional compensation of officers and clerks under act of August 6, 1846, for the better organization of the Treasury, and the tenth section of act of March 3, 1853, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, at such further rates as the Secretary may deem just and reasonable, \$50,000.

The Committee of Ways and Means recommended concurrence.

The amendments were concurred in.

**Thirty-fifth amendment:**

Strike out the following:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.

And in lieu thereof insert the following:

*Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized to examine and adjust the accounts of Stewart Gwynne for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to award to him such sum as may be equitably his due, to be paid from the appropriation for the expenses of national loans: *Provided further*, That for items furnished or supplied under contract no greater sum than the contract price shall be allowed: *And provided further*, That before any payment shall be made the said Stewart Gwynne shall, in such form as be prescribed by the Secretary of the Treasury, fully convey and secure to the United States the right to use said presses and any additional number thereof, with their machinery and future improvements in the Treasury building or any other buildings directed by the Secretary for any and all printing the Government may desire for its own use and purpose.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

**Mr. STEVENS.** The amendments up to the forty-third section are merely verbal, and I move that they be concurred in.

There was no objection, and it was ordered accordingly.

**Forty-third amendment:**

Insert the following as a new section:

*And be it further enacted*, That to enable the Secretary of the Treasury to provide temporary accommodations for the State Department, and for the accommodation of such of the clerks of the Treasury Department as cannot be accommodated in the present building, the sum of \$25,000 is hereby appropriated. And the Secretary of the Interior is hereby required to furnish suitable rooms in the Patent Office building for the accommodation of the Attorney General, Assistant Attorney General, clerks, and messengers in his office; and for the purpose of furnishing and fitting up such rooms the sum of \$5,000 is hereby appropriated.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

**Forty-fourth amendment:**

Add the following as a new section:

*And be it further enacted*, That from and after the passage of this act the public lands in the State of Nevada shall, for surveying purposes, be attached to and included in the surveying district of California.

The Committee of Ways and Means recommended concurrence.

The amendment was concurred in.

**Forty-fifth amendment:**

Add the following as a new section:

*And be it further enacted*, That from and after the commencement of the next fiscal year, the salary of each of the Assistant Secretaries of the Executive Departments, the Assistant Attorney General, and the three Assistant Postmasters General, shall be \$3,500 per annum.

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

**Forty-sixth amendment:**

Add the following as a new section:

*And be it further enacted*, That the provisions of the act approved April 29, 1864, increasing the compensation of inspectors of customs in certain ports, be extended to July 1, 1866.

The Committee of Ways and Means recommended concurrence, with an amendment, which was to add the following:

*Sec. — And be it further enacted*, That the Secretary of the Treasury is hereby authorized to increase the clerical force in the office of the Assistant Treasurer at Philadelphia, and the aggregate salaries of said clerks shall not exceed the sum of \$9,000, which amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

*Sec. — And be it further enacted*, That in addition to the appropriations heretofore allowed for the branch mint at San Francisco, California, the following sums, respectively, are hereby in like manner appropriated, viz:

For wages of workmen and adjusters, \$69,450.

For incidental contingent expenses, repairs, and waste, \$106,529 25.

*Sec. — And be it further enacted*, That in addition to the appropriations heretofore made for the Territory of Arizona, the following sums, in like manner, are hereby appropriated, viz:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$5,000.

For preparation and printing laws of the Territory, \$5,000.

*Sec. — And be it further enacted*, That in addition to the clerical force heretofore authorized in the Treasury Department, there are hereby authorized to be appointed the following heads of divisions and clerks, viz:

In the office of the Second Auditor, seven heads of divisions, at an annual salary of \$1,900 each; twenty-one clerks of class four, and one hundred and seventeen clerks of class three.

In the office of the Third Auditor, eight heads of divisions, at an annual salary of \$1,900 each; fourteen clerks of class four, eighty-six clerks of class three, and sixty-nine clerks of class two.

In the office of the Second Comptroller, twelve heads of divisions, at an annual salary of \$1,900 each; nine clerks of class four, twelve clerks of class three, and sixteen clerks of class two, and the sum of \$690,900 is hereby appropriated to pay said salaries. And such sum as may be found necessary to pay the compensation of the officers and clerks hereby authorized, for the current fiscal year, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

*Sec. — And be it further enacted*, That the office of Commissioner of Internal Revenue shall be organized, under the direction of the Secretary of the Treasury, into divisions, and with the officers, clerks, messengers, and laborers, with the annual salaries respectively, as hereinafter prescribed, viz:

One Commissioner, with a salary of \$4,000.

One Deputy Commissioner, with a salary of \$3,000.

One chief of the Division of Correspondence, embracing legal remedies, with a salary of \$2,500.

One chief of the Division of Finance, embracing money and accounts, with a salary of \$2,500.

One cashier in said division, with a salary of \$2,500.

One chief book-keeper in the same, with a salary of \$2,000.

One chief of the Division of Inspection, with a salary of \$2,500.

One chief clerk, with a salary of \$2,000.

One statistician, with a salary of \$2,000.

Twenty clerks of class four, twenty-five clerks of class three, forty clerks of class two, thirty clerks of class one, and so many female clerks (not exceeding forty in number) as may be necessary, who shall receive the same salary allowed to other female clerks in the Treasury Department; one chief messenger, with a salary of \$1,000; four assistant messengers, with a salary of \$840 each; and six laborers, with a salary of \$600 each.

And the officers, clerks, and employes hereby authorized shall be in substitution of all the officers, clerks, and employes now authorized or employed in said office; and the amount necessary for the compensation of said officers, clerks, and employes, at the rates aforesaid, in addition to the amount heretofore provided, for the last quarter of the current fiscal year, and for the fiscal year next ensuing, is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the duties assigned to either division of said office may, from time to time, be assigned to another by the Commissioner, subject to the approval of the Secretary of the Treasury: *And further provided*, That the provisions of this section shall take effect on the 1st day of April next.

*Sec. — And be it further enacted*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending June 30, 1866, viz:

For salary of cashier in the United States Depository, Louisville, \$1,800.

For salary of book-keeper in the United States Depository, Louisville, \$1,500.

For salary of assistant cashier in the United States Depository, Louisville, \$1,320.

For salary of clerk in the United States Depository, Louisville, \$1,320.

For contingent expenses in the United States Depository, Louisville, \$325.

For salary of cashier in the United States Depository, Chicago, \$1,600.

For salary of clerk in the United States Depository, Chicago, \$1,000.

For contingent expenses in the United States Depository, Chicago, \$400.

For salary of cashier in the United States Depository, Pittsburg, \$1,500.

For salary of assistant cashier in the United States Depository, Pittsburg, \$1,000.

For salary of watchman in the United States Depository, Pittsburg, \$900.

For contingent expenses of the United States Depository, Pittsburg, \$200.

For salary of cashier of the United States Depository, Baltimore, \$1,800.

For salary of clerk of the United States Depository, Baltimore, \$1,500.

For salary of clerk of the United States Depository, Baltimore, \$1,200.

For salary of clerk of the United States Depository, Baltimore, \$1,000.

For salary of clerk of the United States Depository, Baltimore, \$900.

For salary of messenger of the United States Depository, Baltimore, \$900.

For contingent expenses of the United States Depository, Baltimore, \$360.

For salary of cashier in the office of the United States Assistant Treasurer, San Francisco, \$2,500.

For salary of book-keeper in the office of the United States Assistant Treasurer, San Francisco, \$2,000.

For salary of cashier in the United States Depository, Cincinnati, \$2,000.

For salary of assistant cashier in the United States Depository, Cincinnati, \$1,500.

For salary of assistant in the United States Depository, Cincinnati, \$1,200.

For salary of assistant in the United States Depository, Cincinnati, \$1,000.

For salary of teller in the United States Depository, Cincinnati, \$1,300.

For salary of book-keeper in the United States Depository, Cincinnati, \$1,500.

For salary of two clerks in the United States Depository, Cincinnati, \$2,500.

For salary of clerk in the United States Depository, Cincinnati, \$1,200.

For contingent expenses of the United States Depository, Cincinnati, \$2,000.

*Sec. — And be it further enacted*, That the sum of \$1,881 25 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of salaries of clerks and others indicated in the preceding section, and of contingent expenses, for the three months ensuing June 30, 1865.

*Sec. — And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay to A. C. Collingsworth, C. H. Vedder, Edward R. Sherman, Charles C. Adams, Theophilus H. Gladwyn, Samuel W. Tucker, and the other persons employed by the deputy provost marshal of the District of Columbia, in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal.

*Sec. — And be it further enacted*, That no part of the money appropriated, either by this act or former acts, shall be applied to the payment of any claim for constructive mileage on account of any extra session of either House of Congress.

**Mr. WASHBURN**, of Illinois. I propose to add to the amendment of the Committee of Ways and Means the following:

*And be it further enacted*, That the appropriations heretofore made for the Congressional Globe shall be upon the condition that hereafter the proceedings of Congress shall be published in the Daily Globe of the day subsequent to the day such proceedings were had, and delivered to both Houses at their time of meeting.

**Mr. BALDWIN**, of Massachusetts. Will the gentleman from Illinois allow me a word?

**Mr. WASHBURN**, of Illinois. This amendment only proposes to carry out the resolution passed by the House a few days ago, in order to give us the proceedings of Congress when they can be of some use to us. Now, the proceedings which are published are three or four days behindhand. There is no reason for it, and there can be no objection to this amendment. It will not take effect at this session of Congress, but I propose that the proprietors of the Globe shall, under the existing law, prepare to have the work done as they agreed to do it, at the next session.

**Mr. KASSON**. Suppose this bill passes, as it probably will pass, by Thursday, it would take effect immediately and apply to the proceedings of Friday next. The publishers of the Globe are now three days behindhand.

**Mr. WASHBURN**, of Illinois. Four days.

**Mr. KASSON**. The query I make is whether this amendment does not defeat the entire appropriation for the Globe for this session?

**Mr. WASHBURN**, of Illinois. I will modify my amendment so that it shall take effect at the next session of Congress.

**Mr. BALDWIN**, of Massachusetts. I desire to say that the gentleman from Illinois overlooks one provision in the contract with the proprietors of the Globe. The contract provides that they shall bring out the proceedings of Congress on

the next day, provided those proceedings do not exceed forty columns of printed matter.

Now, on the morning after our night session, when we had those two calls of the House, the amount of printed matter was fifty-seven columns and a half; and then, for the first time this session, the Globe fell in printing the reports. How often since that time the proceedings have exceeded the prescribed forty columns, I am unable to say; but I notice, in looking at the amount printed in December and January, that it is not, at least, larger than the amount already printed in February. Gentlemen cannot have failed to notice that the reports of the proceedings of the Senate have been very long and heavy. I think that, in justice to the young men who now have the responsibility of printing the Globe upon their shoulders, we ought to consider this question fully and fairly. I am satisfied that they have endeavored to do the utmost in their power to get out the Globe promptly. They have, at much expense, sought to find and employ more printers in their office, and have finally secured an additional force of ten or twelve printers, at largely increased prices, to work for them until the close of this session.

We ought to consider all these facts, and do no injustice to these young men. If this amendment is adopted, it should be so modified as to make it harmonize with the provisions of the contract. I would suggest also that we sometimes allow members here to print speeches not actually delivered, and that this adds very largely to the amount of printing, and also considerably increases the expense. I doubt the propriety of this policy as a rule.

Mr. MALLORY. The gentleman from Illinois [Mr. WASHBURN] claims that his amendment is but carrying out the action of the House a day or two since. I deny that the resolution offered by the gentleman some days since was to that effect. It was a resolution directing the Committee on Printing to inquire why the publication of the Globe was behind the proceedings of this House. How we carry that out now, by providing by law that if that thing shall happen hereafter the appropriation shall not be paid to the Globe, is beyond my comprehension.

I do not understand this persistent attack on the publishers of the Globe by the gentleman from Illinois, [Mr. WASHBURN.] When this matter was up before, I thought the House fully understood the causes of this delay in the publication of the debates in the Congressional Globe, and that the House was disposed to excuse the publishers for the reasons then assigned for the delay. It was stated then, and I reiterate the statement now, that if the publishers of that paper were to employ regularly upon their paper sufficient force to keep up the debates of this House at all times, it would make the concern insolvent, for they could not stand it. For when we are engaged in night sessions, or in prolonged sittings during the day, and the debates are extended by the saying of thousands of things, perhaps—I will not say by the gentleman from Illinois, [Mr. WASHBURN]—that there was no need of saying upon this and that subject, the debates become so voluminous that it is impossible to keep a force sufficient to publish the debates promptly. The reason is one that ordinary economy would prompt the publishers of any paper in the world to adopt that practice, and ought to be sufficient for the gentleman from Illinois. The reason is, and I state it again, that it is impossible to keep a force upon the Globe sufficient to keep up with the extraordinary debates of our extraordinary night sessions and our protracted day sessions.

Now, if the gentleman wants something of this sort done to direct the conduct of those employed to publish our proceedings and to print other matters for us, why does not he direct his attack against all those who print for us? Why does he not bring up the Public Printer of this Congress, have him tried, condemned, and punished for his dereliction in this and other matters? I do not understand the necessity for the selection of this one particular paper as the object of the gentleman's eternal attack in this House. There are important documents that this House has needed from the commencement of this session up to this time, which the Public Printer has failed to have printed and sent to this House. We have not received the report of the Secretary of War; and yet we do not hear a word from the gentleman

from Illinois [Mr. WASHBURN] in relation to the dereliction of our Public Printer. His attacks are all directed against the publishers of the Globe, who happen to be two or three days behindhand in the publication of the debates. Our Agricultural Reports for 1863 have not all yet been submitted to this House by the Public Printer. Why does not the gentleman ask that to be inquired into? The Mechanical Reports have not yet been published and delivered for the year 1862 for the use of members of this House.

A MEMBER. For 1861.

Mr. MALLORY. For 1861, I am reminded by a member. All these failures and all these derelictions have been practiced by the Public Printer, and yet the gentleman from Illinois, [Mr. WASHBURN,] except when forced to do so by an amendment proposed to his resolution upon the subject of the Congressional Globe, never proposes anything in regard to the Public Printer.

Mr. DAWES. I understand the gentleman from Kentucky [Mr. MALLORY] to say that the Public Printer has not yet printed the report of the Secretary of War.

Mr. MALLORY. I so understand it.

Mr. DAWES. Has it yet been made?

Mr. MALLORY. Then let us give it to the Secretary of War. I can see no good reason for the amendment of the gentleman from Illinois, [Mr. WASHBURN.] I think it invidious, wrong, and unnecessary, and I hope the House will not adopt it.

Mr. WASHBURN, of Illinois. I withdraw my amendment, and offer this in its place:

That the appropriation hereinbefore made for the Congressional Globe shall be upon the condition that hereafter the proceedings of Congress shall be published in the Daily Globe of the day subsequent to the day such proceedings were had, and delivered to both Houses at their time of meeting; this provision to take effect at the commencement of the next session.

Mr. PRUYN. I would suggest to the gentleman to add to his amendment the words "and any delay or omission may be excused by the Speaker."

Mr. WASHBURN, of Illinois. I cannot do it. The gentleman from Kentucky [Mr. MALLORY] seems to exhibit considerable feeling upon this question, and, as is too often the case when a member moves in any matter, he is charged with entertaining feelings of hostility to some one or some thing. Now, I have been influenced by no such motives so far as regards the proprietors of the Congressional Globe.

Mr. MALLORY. I imputed nothing of that sort to the gentleman.

Mr. WASHBURN, of Illinois. They are gentlemen whom I do not know. I knew for many years the esteemed gentleman who was, until recently, the proprietor of the Globe—the late Mr. Rives—and I respected him, and my course in Congress, during twelve years, has been to support and sustain and uphold, so far as I could do it conscientiously, the Congressional Globe, for I have always believed it to be a most important publication, giving a full report of our proceedings, that our constituents and the country may know what we have been about, and may have our official action upon record.

Now, sir, I will state the point at which I was driving, and I submit that it is entirely reasonable and just to the proprietors of the Congressional Globe, and nobody else has any right to complain. We have made a contract with them, and we have agreed to pay them enormous sums in order that they may report and publish the proceedings of Congress promptly. I charge that they have failed to do this; and what I propose to do is merely to bring them up to the discharge of that contract fully and fairly, as we have provided for paying them for the service most liberally.

I desire this for our own benefit. If gentlemen will look at the Globe which appears this morning, they will find that it contains the proceedings of last Wednesday. We all know the importance of the proceedings of the last days of the session. We all realize how important it is for us to know on each day what have been the proceedings on the day previous, what propositions have been offered, what propositions have been adopted or rejected. Indeed, sir, two thirds of the value of a publication of our proceedings is lost to us by not having that publication promptly.

When it is said that these publishers cannot

publish the proceedings more promptly, I deny it. I say that the reason why they do not furnish the proceedings promptly is that they do not make a sufficient expenditure to obtain the labor of printers.

Mr. MORRILL. I suppose that the gentleman from Illinois desires merely to bring the publishers of the Globe up to their contract. If so he will not object to a proviso which I propose shall be added to his amendment, and which I ask him to accept. It is as follows:

But the publishers of the Congressional Globe shall not, however, be required to publish daily more than forty columns of the proceedings of the two Houses of Congress.

Mr. WASHBURN, of Illinois. They agree now to publish forty-seven columns.

Mr. MORRILL. Forty I think it is.

Mr. BALDWIN, of Massachusetts. Forty is the specification of the contract.

Mr. MORRILL. I think that we should not undertake in this *ex parte* way to vary the contract. Mr. WASHBURN, of Illinois. We cannot vary the contract. If the publishers of the Globe would confine themselves to the publication of the current proceedings, leaving out the written speeches, never delivered, the object which I desire, and which we all must desire, would be attained.

Mr. STEVENS. Mr. Speaker, I would suggest that one reason why the Globe this year has not been able to keep up with the debates is that the Senate has occupied almost all the space in its columns. Any one who looks at the Globe will find, I think, that the Senate occupies five pages to our one. If we could impose a ten per cent. tax upon the surplus gas manufactured in the Senate, the Globe, I think, could get along in publishing the proceedings. Without something of that kind it is impossible that the proceedings can be published promptly.

Mr. SCHENCK. Mr. Speaker—

The SPEAKER. Debate is exhausted.

Mr. WASHBURN, of Illinois. I withdraw my amendment for the present.

Mr. SCHENCK. I renew the amendment.

I am astonished, Mr. Speaker, that there should be any feeling about this matter, for I suppose that the object of all of us in reference to this question is, as it certainly ought to be, the same. The purposes to be accomplished by having our debates published in the Daily Globe, and afterward, revised or unrevised, transferred to the Congressional Globe, and put into the more permanent form of quarto volumes, appears to me to be twofold. One object is to preserve in this authentic shape an account of the proceedings of the two branches of Congress. Another object, which is certainly to be considered, is to furnish from day to day to members, when they assemble here, something to which they can refer to show what have been the full proceedings of the day before. The confusion frequently attending the proceedings of this body is such that when we come here this morning no one of us can tell with certainty or in any full degree what votes were taken, what resolutions were offered, what proceedings were had yesterday. In order that we may learn the state of any pending question, and particularly that we may be enabled to make motions for reconsideration, as well as for other reasons, it is very important that we should have before us regularly from day to day what has been done on the day preceding. The gentleman from Illinois says that the Globe of this morning brings our proceedings up to Wednesday last, February 22. We have had, for the last three days, under consideration the enrollment bill, of which I have had charge as the chairman of the Committee on Military Affairs, and it is desirable for me this morning to know precisely the position of various amendments, with a view to further amendment.

Mr. MALLORY. If the gentleman had listened this morning to the reading of the Journal he would have had all the information he desires.

Mr. SCHENCK. There is a great deal not contained in the Journal. The Globe contains the remarks, and shows the motives and the purposes sought to be accomplished by parties.

Mr. WASHBURN, of Illinois. The Journal does not show what took place in the Committee of the Whole on the state of the Union.

Mr. SCHENCK. I know that of what is done in the Committee of the Whole on the state



# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

TUESDAY, FEBRUARY 28, 1865.

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of the Union nothing appears in the Journal. I say that if we could have the very language of the amendments, hastily framed by members upon their desks and sent up, we would know how to add other amendments and other provisions in order to perfect the bill.

I propose an amendment to the amendment—

The SPEAKER. An amendment is pending already to an amendment. The amendments of the Senate are the original text.

Mr. SCHENCK. The amendment to the amendment has been withdrawn. I propose to add that they shall in no case be required to publish until after the close of the session of Congress speeches handed in and not actually delivered in the Senate or the House.

Mr. MALLORY. If the gentleman will move that as a substitute, I will vote for it.

Mr. SCHENCK. I was about to remark—

The SPEAKER. The gentleman's time has expired.

Mr. MORRILL. I propose to add that the publishers of the Congressional Globe shall not be required to publish daily more than forty columns of the proceedings of the two Houses, and that speeches not actually delivered may be postponed till the end of the session.

Mr. SCHENCK. Make it shall not be published during the session of Congress, and that they shall not be counted in the forty columns.

Mr. MORRILL. I agree to that.

The SPEAKER. The amendment as modified, is as follows:

*And be it further enacted,* That all appropriations hereinafter made for the Congressional Globe shall be upon the condition that hereafter the proceedings of Congress shall be published in the Daily Globe on the day subsequent to the day such proceedings were had, and delivered to both Houses of Congress; this to take effect at the next session of Congress; but the publishers of the Congressional Globe shall not, however, be required to publish daily more than forty columns of the proceedings of the two Houses of Congress, and any speeches not actually delivered in either House shall be postponed until the same can be published without increasing the extent of the proceedings beyond forty columns.

The amendment to the amendment was agreed to.

Mr. BROOKS. I make the point of order that the amendment of the Committee of Ways and Means is not in order, as it contains many things not authorized by law.

The SPEAKER. It is now too late to make that point.

Mr. BROOKS. This is an ingenious plan to do the most business and let the people know the least about it. It is impossible for us to know what is going on. Here is an entire reorganization of the internal revenue department, with a large amount of salaries and officers. There are private claims here of which we know nothing. I have only to say that I am astonished at the capacity of the Committee of Ways and Means to comprehend the multitude of business which is brought before them, and which they submit to the House. Posterity will wonder and admire also when they come to understand all these measures which are so suddenly submitted to their consideration, and which are so brought before the House.

I do think, to speak more solemnly upon the subject, that the reorganization of a great bureau of a Department within an appropriation bill, and that too by an amendment to an amendment of the Senate, is altogether a novel and extraordinary course of proceeding.

But I will not say more. The honorable gentleman who presides over the Ways and Means Committee [Mr. STEVENS] silenced this side of the House the other night, and lest I should anger him and he silence my side of the House, I will submit, in common with the whole House, and keep an obedient silence to whatever may be done.

The amendment as amended was concurred in.

The Clerk commenced the reading of the forty-seventh amendment, but was interrupted by

Mr. STEVENS, who said: This amendment is the deficiency bill with the exception of the clause making an appropriation to pay the extra compensation voted to our employes.

The committee recommend a non-concurrence in it.

Mr. BALDWIN, of Massachusetts. I move that the House concur.

The SPEAKER. That is involved in the vote on the recommendation to non-concur.

Mr. MORRILL. This question has long been before both Houses, and it is quite time, I think, that it should be settled. We may as well dispose of it upon this bill as upon any other. I hope the House will now concur with the Senate. I think the House quite fully understands the question, and it is not necessary to discuss it.

Mr. HOLMAN. I understand that this amendment is the deficiency bill just as we passed it, save the appropriation of \$38,000 to pay extra compensation to the employes of the House. Now, I understand that the Committee of Ways and Means have reported an amendment in another part of this bill to an amendment of the Senate, appropriating \$40,000 for certain purposes, and that amendment has already been agreed to by the House. Now, I understand that that \$40,000 covers this very matter in dispute. So that, if we concur in this amendment, the matter stands exactly as it did before.

Mr. MORRILL. The action of the Committee of Ways and Means was as the gentleman has stated. I did not concur with the majority of the Committee of Ways and Means. I hope the House will dispose of this matter now, and not allow so important an interest to hang upon so small a matter.

Mr. HOLMAN. I understand that the appropriation of \$40,000 has already been adopted.

Mr. STEVENS. This is the deficiency bill which was referred to a committee of conference, and the committee of conference is ready to report. If the House chooses to disagree to that report, they can do so, but that is no reason why the bill should be put in here as an amendment. We have refused in the House to concur in the action of the Senate by more than two to one, I think. I will not say that we have done it a dozen times, but certainly we have ten times and a half. I hope the House will not give way.

The Senate profess to be about to reform the expenditures of this House, and while upon this subject I will look a little into this matter. Their stationery for fifty-two Senators amounts to \$17,000, while ours, with one hundred and ninety-two members, amounts to only \$12,000. Their expenses under that head, if upon the same scale as that of the House, should be \$3,250, but they take \$17,000.

The Senators take ninety-six copies of the Congressional Globe each; the members of the House twenty-four copies. And yet they would find fault if we interfered with that as one of their domestic institutions.

I do not want to make invidious comparisons, and would not, had not the Senate taken the ground they have. We pledged ourselves to our employes, to the extent of \$40,000, a year ago, and we have asked the Senate to allow us to pay it, but they pertinaciously refused, and left the deficiency bill hanging by the ears upon that account. When I look at the mileage account of the two Houses, I find that my friend from Iowa, [Mr. WILSON,] who lives between the two Senators from his State, receives \$937 mileage. The Senators from that State charge, the one \$1,584, and the other \$1,600. But we do not complain. It is one of their domestic institutions, and we do not interfere with it.

The Senator from Ohio, [Mr. SHERMAN,] who is a very careful man in all these things, (and I do not blame him for watching so carefully, and keeping the deficiency bill hanging up for three months, upon the question of the payment of our employes, when the money was wanted,) received a mileage of \$532, while the member from that State, who lives in the same town, received only \$440.

Now, as I said before, I dislike these invidious comparisons. One of the Senators from Kansas received \$2,161 mileage, while one member from

the same place received only \$1,260—a difference of \$960.

[Here the hammer fell.]

Mr. GARFIELD. I have voted steadily with the House thus far in the matter of difference between the two Houses; but I am unwilling any longer to keep up a contest of this sort. I have looked into the merits of the question, and I ask the attention of the House to it for a moment. I will read a section from the 326th page of the eleventh volume of the Statutes at Large:

"That no part of the appropriations which may be at any time made for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives, nor as extra allowance to any clerk, messenger, or attendant of the said two Houses or either of them, nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses or either of them, unless such clerk, messenger, or other attendant, be so employed by a resolution of one of said Houses."

Now, this is the law in the case, and without remembering this law, and in direct violation of it, we last winter, in our generosity, or, if you please, with a proper sense of justice, voted this extra compensation from the contingent fund of the House.

Mr. STEVENS. Does the gentleman mean to say that if we now make this appropriation that will not alter the law?

Mr. GARFIELD. I do not say that.

Mr. STEVENS. Then what do you say?

Mr. GARFIELD. I will tell the gentleman. Last winter, while this law was upon the statute-book, we made an agreement which, the gentleman says, binds us in honor to pay this extra compensation to the employes of this House. I was very willing to pay it, and voted to do so. I knew that our employes had done well and had deserved well of the House. But I remember that we did not pay all the employes of the House this extra compensation. We gave no extra compensation to any of the officers of the library nor to several other officials of the House. But that is not material to the question at issue. The Senate claims that our appropriation of last session was illegal. We cannot deny it, but we insist that they shall now join us in making a retroactive law to legalize what the House attempted illegally to do. How long shall we delay the necessary appropriations to carry on the Government because the Senate will not ratify what they believe to be an illegal act of the House? I have observed with regret the heat which this subject has occasioned in this House. When it was last up the gentleman from Pennsylvania [Mr. STEVENS] said in his place that the course which the Senate had pursued in relation to this matter was "atrocious." I, for one, am unwilling any longer to be a party with the gentleman in characterizing the action of the other branch of Congress in this case as an atrocity. I believe it is high time for us to stop this war between the two Houses, and not to allow this distracting question to block another important appropriation bill, as is now proposed.

Mr. STEVENS. Does the gentleman say that it is illegal for us to pass this law and do this thing?

Mr. GARFIELD. I do not say that.

Mr. STEVENS. You have just said that in substance.

Mr. GARFIELD. I beg the gentleman's pardon; I have not. I said that the House last winter had no right to make this use of its contingent fund, because there was a law prohibiting such action by either House. We did make this use of our contingent fund. The Senate disagrees with us and refuse to allow the money to be paid under that resolution of ours, when we ask them to pass a retroactive law to legalize what we did.

No doubt we can do that; but the Senate declines to go back and legislate in that way, and they are called "atrocious" for their course; in other words, they are called "atrocious" for not agreeing to legalize our illegal act of last winter. I am unwilling to continue this contest longer and keep suspended all operations of the Government

that depend upon the two bills now before the House.

Mr. J. C. ALLEN. Mr. Speaker, this subject has occupied the attention of the House heretofore to some extent, and I feel that I am hardly doing justice to the House in calling attention to any further suggestions on the subject. But, for one, believing that it is not only the right but the duty of this House to protect and pay its officers, for the faithful discharge of their duties, such sums as this House may think them entitled to, I will not back down from the position which this House has heretofore assumed at the dictation of the Senate of the United States.

The responsibility of the postponement of measures that are important to this Government rests, not with this House, but with the Senate, and this House will be untrue to itself if they shall bend to that dictation upon the mere question as to what shall be paid to the employés of the House, as to what is a liberal and fair compensation for their services. There is no responsibility resting upon the House for the delay in the passage of important measures resting between the two Houses.

Now, sir, as I had occasion to remark once before when discussing this question, the House of Representatives pledged its faith to the employés of this House that for a continuance of the faithful discharge of their duties they should receive this additional compensation. They have been discharging those duties, it is admitted on all hands, well and faithfully. There are reasons why their compensation should be increased. Those reasons address themselves to the judgment of the House of Representatives, and not to the judgment of the Senate.

This is not the first time in the history of legislation when the other branch of the national Congress has undertaken to dictate to the House of Representatives what they should do on subjects like this. It is an unwarrantable interference with the prerogatives of this House; one to which I hope the House of Representatives will not submit, and if the Senate, using its dictatorial power upon the question of the payment of employés here, shall see fit to defeat legislation, to defeat important appropriation bills, then let the responsibility rest where it properly belongs, upon them, not upon us. I therefore hope the House will not recede from its decision on this question.

Mr. GARFIELD. I withdraw my amendment.

Mr. KASSON. I renew it for the purpose of making a brief statement of this question, as I understand it. I was an original opponent of this increase of pay. It is due to myself, therefore, to say that, although I was an opponent of it, I regard the officers and employés of this House as doing nearly twice the amount of work, as a general thing, for the same amount of money, that is done by the respective officers, clerks, and employés of the Senate. Standing in that position originally, I have now to say that I take it to be my own duty, and consequently the duty of the House, to stand by the position they have taken. I think that it is our duty to say that this contingent fund of the House shall be increased so far that if it is necessary we can appropriate the amount required for the competent and adequate payment of the clerks and employés of this body. And then I think the question may come up for the consideration of this House whether we shall repeal the resolution passed at the last session, which gave this increased pay. And I sympathize entirely with those gentlemen on the other side of the House who think the time has come, in view of the liberal disbursements of the other branch of Congress, for us to say whether this House is to determine or not to determine what is adequate compensation for its employés under the law. That we may repeal the law which was quoted here by the gentleman from Ohio, [Mr. GARFIELD,] I do not think he for a moment can doubt; and he does not doubt. He only asserts that at the last session we undertook to do what by law we were unable to do. Now, sir, we had a right by resolution to fix the compensation of our officers and employés; and then we had the right to provide in the appropriation bill means for paying those officers and employés. That is done by this bill; and whether hereafter we choose to pay them a larger or a smaller sum is to be determined by this House by a special

resolution applicable to that subject; repealing, if necessary, the resolution of the last session authorizing that payment.

Mr. HOLMAN. There seems to be a misapprehension as to how this question stands. I understand the pending Senate amendment to be the deficiency bill just as it passed this House, leaving out the controverted item of \$38,000. The Committee of Ways and Means, I understand, proposed to amend one of the Senate amendments in this way:

And the sum of \$40,000 is hereby appropriated to be added to the contingent fund of the House of Representatives, for the purpose of paying for stationery, papers, and such other expenses as the House may have directed, or shall direct: *Provided*, That no part of said sum shall be applied as a permanent addition to salaries of the clerks and other employés.

The House has adopted that amendment; the only difference between it and the other item is that it is \$40,000 instead of \$38,000. The Committee of Ways and Means of course intended it to cover this very \$38,000 item. If the House should adopt the amendment of the Senate now pending it would leave the matter standing just where it did before. The \$38,000 is appropriated by this amendment, and the pending amendment gives us the balance of the deficiency bill as we passed it.

Mr. KASSON. It presents the question to the Senate in another form. It simply increases the contingent fund of the House to enable us to redeem the liabilities of the past and the future.

Mr. HOLMAN. Was not this \$40,000 inserted, here solely for the purpose of covering that \$38,000 item?

Mr. KASSON. It is designed to meet that and some other things. Unquestionably it was designed to cover that as well as other matters, and I have argued that the House has a right to meet the question in this way, as I have understood the right.

I now withdraw my amendment and call for the previous question.

The previous question was seconded, and the main question was ordered.

The question was upon concurring in the amendment of the Senate.

Mr. BRANDEGEE called for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL. Mr. Speaker, will not the effect of concurrence be to pass the appropriations for deficiencies, without this appropriation for the employés of the House?

The SPEAKER. The Chair will state that, in his opinion, the House has already, in another portion of this bill, added this disputed item in an appropriation of \$40,000 to cover it and some other items.

Mr. MORRILL. If we concur, it no longer leaves the deficiency bill as a lever to carry the other appropriation.

Mr. STEVENS. I have now in my charge the report of a committee of conference on this very deficiency bill.

The question was taken; and it was decided in the negative—ayes 55, noes 75, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Brandegee, Brooks, Broomall, Freeman Clarke, Cobb, Dawes, Deming, Dumont, English, Finck, Garfield, Hale, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Orlando Kellogg, Kernan, Lazear, Loan, Samuel P. Miller, Morrill, Daniel Morris, Amos Myers, Norton, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, Edward H. Rollins, Shannon, Sloan, Spalding, John B. Steele, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Wheeler, and Worthington—55.

NAYS—Messrs. James C. Allen, Ashley, Blow, Boyd, James S. Brown, Chandler, Clay, Coffroth, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawson, Denison, Driggs, Ecker, Eden, Edgerton, Grider, Griswold, Harding, Benjamin G. Harris, Charles M. Harris, Herick, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Knapp, Knox, Law, Le Blond, Long, Longyear, Mallory, Marvin, McBride, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, John O'Neill, Orth, Pendleton, Radford, William H. Randall, Rogers, James S. Rollins, Ross, Schenck, Smithers, Stevens, Stiles, Strouse, Townsend, Voorhees, Wadsworth, Chilton A. White, Joseph W. White, Williams, Wilder, Winfield, Fernando Wood, Woodbridge, and Yeaman—75.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blair, Bliss, Boutwell, William G. Brown, Ambrose W. Clark, Cravens, Creswell, Dixon, Donnelly, Eldridge, Elliot, Farnsworth, Frank, Ganson, Gooch, Grin-

nell, Hall, Harrington, Hooper, Julian, Kelley, King, Littlejohn, Marcy, McAllister, McClurg, McDowell, McIndoe, Moorhead, Perry, Pruyn, Samuel J. Randall, John H. Rice, Robinson, Scofield, Scott, Smith, Starr, William G. Steele, Stuart, Sweet, Thomas, Ward, Webster, Whaley, Wilson, Windom, and Benjamin Wood—52.

So the House refused to concur in the amendment of the Senate.

During the roll-call,

Mr. WILSON said: Mr. Speaker, I have paired with the gentleman from Indiana, Mr. McDowell. If he were present he would vote against concurrence, while I would vote for it.

The result was announced as above stated.

The seventy-eighth and last amendment of the Senate was read, as follows:

Amend the title by adding at the end thereof the words "and additional appropriations for the current fiscal year."

The Committee of Ways and Means recommended non-concurrence.

The amendment was non-concurred in.

Mr. STEVENS moved to reconsider the various votes on concurring in the amendments of the Senate; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I move that a committee of conference be appointed on the part of the House to confer with a similar committee on the part of the Senate, upon the disagreeing votes of the two Houses.

The motion was agreed to.

#### ENROLLMENT BILL.

The House, as the regular order of business, resumed the consideration of the bill (H. R. No. 678) to amend the act entitled "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft.

The SPEAKER. On Saturday an amendment was adopted, on motion of the gentleman from Pennsylvania, [Mr. STEVENS.] His colleague [Mr. JOHNSON,] moved to reconsider the vote by which that amendment was agreed to; and also moved that the motion to reconsider be laid on the table. The pending question is upon the motion to lay on the table.

Mr. GARFIELD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 60, not voting 47, as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Blaine, Brooks, James S. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Grider, Griswold, Hale, Harding, Harrington, Charles M. Harris, Herick, Holman, John H. Hubbard, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Francis W. Kellogg, Kernan, Knapp, Law, Lazear, Le Blond, Loan, Long, Marcy, McKimney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, William H. Randall, Rogers, James S. Rollins, Ross, Shannon, Spalding, John B. Steele, Stevens, Stiles, Strouse, Thayer, Townsend, Voorhees, Wadsworth, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Fernando Wood, and Yeaman—75.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boyd, Brandegee, Broomall, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Dumont, Eckley, Eliot, Frank, Garfield, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Kasson, Orlando Kellogg, Knox, Longyear, Marvin, McBride, McClurg, Samuel P. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Edward H. Rollins, Schenck, Sloan, Smithers, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Worthington—60.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blair, Bliss, Boutwell, William G. Brown, Ambrose W. Clark, Freeman Clarke, Creswell, Donnelly, Farnsworth, Ganson, Gooch, Grinnell, Hall, Benjamin G. Harris, Hutchins, Jenckes, Julian, Kelley, King, Littlejohn, Mallory, McAllister, McDowell, McIndoe, Moorhead, Patterson, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Scofield, Scott, Smith, Starr, William G. Steele, Stuart, Sweet, Thomas, Tracy, Ward, Webster, Windom, Benjamin Wood, and Woodbridge—47.

So the motion to reconsider was laid on the table.

Mr. SCHENCK. I move to add the following:

*Provided*, The discovery of the fact of the insufficiency of such substitute and the wrong inflicted on the Government thereby, shall have come to the knowledge of the Secretary of War at a time sufficiently early to enable him to give the said notice within the thirty days aforesaid.

The House divided; and there were—ayes 42, noes 64.

Mr. SCHENCK demanded tellers. Tellers were ordered, and Messrs. STEVENS and SCHENCK were appointed.

The House again divided; and the tellers reported—ayes 47, noes 68.

So the amendment was disagreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 688, making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the 30th of June, 1866; when the Speaker signed the same.

#### ENROLLMENT BILL—AGAIN.

The Clerk read, as follows:

Sec. 11. *And he it further enacted*, That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the passage of this act, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship, and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any of the rights of citizens thereof, and all persons who shall hereafter desert the military or naval service and all persons who, being duly enrolled, shall depart the jurisdiction and go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section.

Mr. TOWNSEND. I move to strike out that section. In proposing to do that, Mr. Speaker, I am satisfied, if I understand the clause correctly, that the provision contained in the latter part will, in case the substitute law should ever be repealed, have the effect to deprive fifty thousand, and I do not know but one hundred thousand, people of their rights and privileges. I am disposed to agree with the chairman of the Committee on Military Affairs in every measure calculated to strengthen the armies of the Government, but I am opposed to any measure which is calculated to punish an innocent class of persons, such as clergymen, refugees, aliens, and those who, to escape with their lives and families, took an oath not to bear arms against the confederate government.

The section in the beginning would seem to imply that there was something unjust and unlawful in it. It recites "in addition to all the other lawful penalties," virtually admitting by the phrase that there is here something unlawful. There are persons whose religious convictions will not permit them to engage in this war. The time of peril and danger has also passed, and I have a deep sympathy with the thousands of the various classes I have mentioned who have felt that they could not enter into this contest without violating their honest convictions. Mr. Speaker, I am one of those who believe that this war should not continue one moment longer than is necessary to re-establish the integrity of the Government and the supremacy of the Constitution, and it does seem as if this were a needless measure. But, sir, this provision has a deeper meaning; it is one of the steps toward a consolidated Government in my opinion, a violation of republican principle. If, in the progress of events, there should ever be a division of sentiment upon a question, for instance, of a war of aggrandizement, this would be a dangerous law. There is no tribunal provided in this section to decide the question, and I, for one, will not consent to what I consider a despotic measure.

Mr. SCHENCK. Mr. Speaker, I will premise by remarking that the eleventh section, which the gentleman proposes to strike out, is copied precisely from the bill which has passed the Senate. Believing it to be a wholesome measure, when the bill had been made a special order and was under consideration in the House, the Committee on Military Affairs instructed me, among other amendments, to take this section from the Senate bill which is also now pending.

The gentleman says that this is a harsh, unusual provision to disfranchise those innocent persons for whom he feels a sympathy. Who are the persons described in this bill? Those who, being in the Army, deserted from the Army. It is a new technology which describes deserters, men guilty of the crime of abandoning the stand-

ard of their country in time of war, to support which they had sworn when mustered in, as innocent persons.

Mr. TOWNSEND rose.

Mr. SCHENCK. I cannot yield, as I have only five minutes.

Coming within this class of innocent persons are those who fly from the country and go to foreign lands in order to avoid military duty under the draft. The gentleman, in regard to these particularly, says, and the language I noticed at the time, he avows that he is one of those who feel a deep sympathy for those who are unwilling to take part in this war. I am glad that the proposition has been made so distinct. Honorable gentlemen on one side and another will vote in such a way that those who feel a deep sympathy with those who are unwilling to help the Government will vote for the amendment, and I expect that all those who feel a deep sympathy for deserters from the banner of the country will vote for the amendment.

The gentleman says that the committee who drafted this bill—and it applies to the Senate, and not to the House committee—seemed to have been conscious of the unlawful character of these penalties for the disfranchisement of those persons. The gentleman seems to forget the force of language. I invite him to look again at the section, and he will see that this penalty is in addition to the other lawful penalties. Here is a penalty that is lawful, wise, proper, and that should be added to the other lawful penalties that now exist against deserters.

I can but say in reply to the gentleman from New York that, with the position which he has taken, I am glad that the motion has been made to strike out this section, because we shall be entitled to expect a division in this House, on one side of which shall stand with the gentleman from New York those who sympathize with the man who has abandoned his country, its cause and its flag, and on the other side of which shall stand those who are for maintaining the country and its flag.

Mr. WILSON. I move to amend the section by striking out of the fourteenth line the word "and" and inserting in lieu of it the words "of the district in which they are enrolled or;" so that it will read, "all persons who being duly enrolled shall depart the jurisdiction of the district in which they are enrolled or go beyond the limits of the United States." I move this amendment, Mr. Speaker, for the purpose of providing for cases of this kind. The President issues his call upon the State for troops, and gives notice that if the quotas are not filled by a particular time a draft will take place to enforce the furnishing of the troops called for. In my own State, and I presume it is so in all the States, as soon as that notice is given many persons at once prepare to leave, and do leave, going into the Territories and among the mountains and mines in order to avoid the service of the country in event of their being drafted. It is for the purpose of reaching cases of that kind, where the persons do not go beyond the United States, but do escape from the limits of the district in which they are enrolled for the sole purpose of evading the service of the country, that I desire to have this amendment put in the bill, so that all men who run away from the draft and skulk the service of their country shall be deprived of the rights of which this section proposes to deprive those who go beyond the limits of the United States.

Mr. KERNAN. I do not understand how that is to be decided, or what tribunal is to decide it.

Mr. WILSON. I do not suppose that there is any tribunal provided in the section for determining it; but I can suggest one way of determining it. If one of these persons should return and should attempt to exercise the rights of a citizen, and he should be prevented from the exercise of those rights, then he can bring the question into the civil courts for determination.

Mr. MALLORY. Will the gentleman agree to an amendment so as to make the section apply only to persons convicted of having done this?

Mr. WILSON. That follows, as a matter of course, that a man shall not be deprived of his rights until he is convicted of the offense. He may be prevented from voting by challenge, and then he has the right to go to the courts to have the question decided.

Mr. MALLORY. Many a man is punished now, and convicted afterward.

Mr. WILSON. This will place him exactly in the same condition as to the right of suffrage as an alien, a person of foreign birth, presenting a vote. His vote may be challenged on the ground that he is not naturalized, and the judges of election may refuse his vote. He then has his remedy against the judges of election; so would a man under this section.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that he had approved and signed bills and joint resolutions of the following titles, namely:

An act (H. R. No. 184) to create the eastern judicial district of the State of New York;

An act (H. R. No. 314) for the relief of Harriet and Emily W. Morris, unmarried sisters of the late Commodore Henry W. Morris;

An act (H. R. No. 364) authorizing and requiring the opening of Sixth street west;

An act (H. R. No. 389) for the relief of Mary Shircliff;

An act (H. R. No. 543) to increase the efficiency of the medical corps of the Army;

An act (H. R. No. 664) for changing the time for holding the circuit court in the district of Virginia;

An act (H. R. No. 692) in reference to prosecutions for libel in the District of Columbia;

An act (H. R. No. 640) providing for a district and a circuit court of the United States for the district of Nevada, and for other purposes;

Joint resolution (H. R. No. 171) in the matter of Sergeant Daniel Collett, jr., deceased; and

Joint resolution (H. R. No. 173) directing the Secretary of the Treasury to issue American registers to the British schooners Minnie Williams and E. M. Baxter.

#### ENROLLMENT BILL—AGAIN.

Mr. JOHNSON, of Pennsylvania. I desire to ask the gentleman from Iowa whether he will consent to an amendment inserting after the word "section" in the seventy-seventh line, the words "on conviction before a court of competent jurisdiction."

Mr. WILSON. I should not vote for it; but it is with the House to determine. I cannot, certainly, accept it.

Mr. JOHNSON, of Pennsylvania. Then I will offer the amendment if it is in order.

The SPEAKER. The amendment would not be germane to the amendment of the gentleman from Iowa.

Mr. JOHNSON, of Pennsylvania. I will offer it when it is in order.

Mr. J. C. ALLEN. I will oppose the amendment of the gentleman from Iowa. I am opposed to this entire section. I have risen for the purpose of entering my protest against the inference which the gentleman from Ohio, the chairman of the Military Committee, [Mr. SCHENCK] seeks to draw from the vote upon the motion to strike out; and I propose to give the reasons why I shall vote to strike out the section. The gentleman from Ohio is a lawyer, and yet he has incorporated into this section a provision retroactive in its operation. He proposes to inflict a punishment upon deserters from the Army who have deserted before the passage of this law. Now, former conscription bills and laws have provided punishment for those who desert from the Army. And as the gentleman is a lawyer, I would ask him if he believes he has power to create a new penalty and apply it to those who have violated the law as it has existed heretofore. Because gentlemen do not believe that there is a power here to pass a retroactive law, and inflict a punishment unknown to the man at the time the offense was committed; because we see fit to stand by the law as it is, and insist that only such punishment shall be inflicted as was authorized at the time of the offense committed, is the gentleman from Ohio justified in setting us down as opposed to the raising of men for the prosecution of this war, and as opposed to the Government? Sir, it is unjust, and a moment's reflection will satisfy the gentleman from Ohio that he ought not thus upon this occasion to be flinging this opinion of his into the faces of the members upon



this side of the House. I have sat here patiently and listened to this kind of talk day after day, and I desire now, once for all, to enter my protest against its repetition.

While I may not have done as much to support the Government as the gentleman from Ohio, I have done what, in my judgment, I could do, to assist the arm of my Government in this terrible conflict. From the time the first call was made I have lent my feeble aid in raising troops, and I have steadily voted for appropriations to enable the Government to carry on the war, though differing with it as to the policy of its prosecution. And, sir, I have had some evidence from those high in authority of their confidence in my loyalty. At one time I had the offer of a very high position in the Army for so humble an individual as myself. But I had no military education and no military experience, and I did not feel at liberty to take the control of the lives and interests of soldiers in the field. My friend from Ohio [Mr. SCHENCK] had the tender of a high position and he took it. That is the difference between him and myself. And I insist we are not to be held as enemies to the Government because we refuse to sustain a provision which he has inserted in this clause, punishing a man differently from what he could be punished by law when the offense is committed.

Mr. CHANLER. I move to amend the amendment by striking out the last word. My object in rising is to draw the attention of the House, for the fourth time under this bill, to the provision that all who shall not return to said service, or report themselves to a provost marshal within sixty days after the passage of this act, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and that such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any of the rights of citizens thereof. While I am willing to unite with the chairman of the Military Committee in punishing deserters and in enrolling into the Army of the United States all competent and true men, I certainly deem it a legitimate question of debate—without rendering ourselves liable to the charge of disloyalty—as to the propriety or impropriety of the provision of this section which makes it the law that by a non-observance of the obligations to which I have referred a citizen shall be held to forfeit all his rights under the law as a citizen. This bill and the debate under it have brought into issue the question of the loyalty of members upon this floor. It has given rise to a serious question in the mind of every man who has taken his oath to maintain the Constitution, and all these questions center upon the personal responsibility of each member; and it does not become one on either side of the House to charge another with dereliction of duty for conscientiously debating this bill.

Now, sir, the Democratic party stands here today, Cassandra-like, raising its unavailing, sad voice against the introduction of this bill, containing within its fatal ribs the armed enemies of this Government, and its existence as a republic and a free Government upon this continent.

Gentlemen upon the other side of the House have risen in their places and represented to the Committee on Military Affairs that this bill is dangerous to the safety of the State. We charge that with this section, and the lines just read prove it, this bill tends to violate the most sacred rights of every citizen throughout the country.

But, sir, there are other points in this connection. What is the necessity for this stringent measure? Until the chairman of the Committee on Military Affairs shall have advanced to an argument more cogent than that of limiting debate to prove that this is a good measure, he, of all men, has the least right to rise here and denounce those who debate the measure. Why has not the Secretary of War reported, as his duty was, to this House with regard to the condition of the armies in the field? We are in the dark with regard to the whole matter of the conduct of this war. Why has not the committee on the conduct of the war reported to the House, and laid before us the necessity for this measure?

[Here the hammer fell.]

Mr. SCHENCK. I think this matter is sufficiently well understood, and I propose to move

to stop debate upon this section. Before I do so, however, I must insist upon setting gentlemen right in regard to one particular matter, for I do not mean to be misapprehended. I have made no general charge of disloyalty that should call gentlemen to their feet.

The gentleman from New York [Mr. TOWNSEND] moved to strike out the section, and assigned as a reason that it would punish a hundred thousand innocent persons. There are two classes of persons to be punished, deserters and those who have gone out of the United States to avoid the draft. Following up that idea, he explained what he meant by saying that he, for his part, was willing to admit that he felt deep sympathy with those, so numerous, who had gone out of the country to avoid having to take part in this war. I remarked, upon the reason thus assigned for striking out the section, that I hoped, on the issue thus made, we should find those who sympathize with deserters and those who have abandoned their country for the purpose of avoiding its service upon the one side, and those who have no such sympathy upon the other. That is all that I said upon that subject.

The gentleman from Illinois [Mr. J. C. ALLEN] misapprehends this section from not having looked carefully, as I think, into its language. He thinks it retroactive. It is not so. It does not provide for punishing those who have deserted in their character of deserters acquired by having gone before the passage of the law, but of those only, who, being deserters, shall not return and report themselves for duty within sixty days. If the gentleman looks at the language of the section, he will find that we have carefully avoided making it retroactive. We give those who have deserted their country and their flag sixty days for repentance and return.

Mr. J. C. ALLEN. Will not the infliction of this penalty on those who have failed to return to the Army be an additional penalty that did not exist at the time they deserted?

Mr. SCHENCK. Yes, sir.

Mr. J. C. ALLEN. Does not that make the law retroactive?

Mr. SCHENCK. They are deserters now. We take them up in their present status and character as deserters, and punish them for continuing in that character. The gentleman refers to lawyers here. I believe he is a good lawyer himself. Does he not know that if a man steals a horse and runs away with it to the next county it is a continual act of larceny until he delivers up the horse?

Mr. J. C. ALLEN. Suppose the soldier, being a deserter, has been arrested, and is serving out his time in imprisonment, and cannot get back to report himself, would the gentleman still inflict this penalty upon him?

Mr. SCHENCK. The character of the deserter ceases when he is arrested and brought back and is undergoing punishment; he is then a soldier returned to his place; and though that place may be one of punishment, he is borne on the rolls as a man present, and not as a deserter. That is my reply to the gentleman, and I move now to close debate upon this section.

Mr. NELSON. Will the gentleman from Ohio [Mr. SCHENCK] withdraw his motion, to allow me to offer an amendment to this section?

Mr. SCHENCK. I am asked by others to allow them to offer amendments. If I yield to one I must to all. I will not have time to get through this bill to-day, and the loan bill is to come up to-night, if I allow this section to be kept open for amendment. I must insist upon my motion to close debate upon this section and pending amendments.

The House divided on the motion to close debate, and there were—ayes 50, noes 51.

So the motion to close debate was not agreed to.

Mr. CHANLER. I withdraw my amendment.

Mr. TOWNSEND. I renew the amendment. Mr. Speaker, I took occasion a few moments ago to move that this entire section be stricken out, and I proceeded to give my reasons for that motion. The gentleman from Ohio [Mr. SCHENCK] certainly could not have heard me, for I took particular pains to say that I was disposed to assist the Military Committee, and that I had assisted them in all measures calculated to sustain our Army.

I went still further, and called attention to the portion of this section which I thought bore very heavily upon an innocent class of persons. That portion of the section is as follows:

And all persons who, being duly enrolled, shall depart the jurisdiction and go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section.

Now, sir, I do not intend to be put in a false position by the sophistry of the gentleman from Ohio. That was the portion of the section to which I alluded when I made my remarks. But the gentleman has chosen to dispute my loyalty, and to class me as sympathizing with deserters. Now, I do not go to Ohio, much less to the chairman of the Military Committee, [Mr. SCHENCK,] for a standard of loyalty to my Government. I am here as a Representative, and while I occupy that position I shall assert my views upon the questions before this House uninfluenced by any consideration from such a source.

Mr. SCHENCK. I only quoted the gentleman's own language.

Mr. TOWNSEND. On Saturday last the gentleman brought in an amendment more odious, if possible, than this. He met several members in argument, and left the House somewhat discomfited by his colleague on the committee, [Mr. ODELL,] and now he comes here and throws out the bile and smothered mortification which were accumulating when he left the House. Sir, I consider the remarks of the gentleman as not only an imputation on my position as a loyal citizen of the United States, but as an infamous accusation against the party to which I have the honor to belong.

The SPEAKER. The gentleman from New York [Mr. TOWNSEND] is out of order.

Mr. SCHENCK. Let him go on.

Mr. TOWNSEND. I took particular pains to refer to the class of persons who come under the clause requiring them to report themselves within sixty days or they would be considered to have relinquished and forfeited their rights of citizenship. Now, there are many travelers abroad who may have a wife or child at the point of death; yet if they do not report within sixty days they are to be disfranchised and forever prohibited from exercising any of the rights of citizenship. Such, Mr. Speaker, was the substance of my remarks. The attempt, therefore, of the gentleman to classify me as aiding or sympathizing with deserters, or at any rate as inferior in loyalty to the gentleman from Ohio, [Mr. SCHENCK,] I treat with contempt and hurl back with scorn.

Mr. SCHENCK. I have no reply to make to the gentleman from New York [Mr. TOWNSEND] but his own words which I took down at the time. He asserted as a reason for striking out this section, and for not wanting these "one hundred thousand innocent people" punished, that for his part he "felt a deep sympathy with those who left the country because they were unwilling to take a part in this war."

Mr. TOWNSEND. I deny saying any such thing.

Mr. SCHENCK. The reporters' notes will show whether I was right or wrong. That is the way I understood it, that it the way I took it down. Now, I have said nothing about disloyalty. But if the entertaining such sentiments as I say that gentleman expressed constitutes him a disloyal man, then he is disloyal. That is my opinion. His language and mine will go before the world for what it is worth. What I mean by his disloyalty is that it is such sympathy with disloyalty as shows that he probably entertains the same sentiments which would lead him to desert his country and flag in the time of trial.

Mr. ELDRIDGE. Is that in order?

The SPEAKER. The gentleman uses the word "if;" the Chair does not understand him to make the direct assertion.

Mr. MALLORY. He speaks in a Pickwickian sense.

Mr. SCHENCK. No, sir; in no Pickwickian sense.

The SPEAKER. If the gentleman from Ohio applied that language to the gentleman from New York, he is out of order under the rules.

Mr. SCHENCK. What language?

The SPEAKER. The language stated by the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. SCHENCK. I say that if that was the

language of the gentleman, (and such was my understanding of it, and the understanding, I think, of every gentleman here,) then I can characterize those who express their sympathy in such language only as disloyal. That is the way in which I put it. The gentleman can solve the hypothesis for himself, and state on which side he stands.

The SPEAKER. The Chair so understood the gentleman from Ohio.

Mr. SCHENCK. The record will show what was the gentleman's language. If the notes of the reporters (provided their report be published unaltered) do not sustain me, then my remarks are unsustained; for they are founded on the language which I understood the gentleman to use and which I have already stated.

Now, sir, the gentleman in the commencement of his remarks spoke of his willingness to assist the Government in the prosecution of the war by furnishing it with all the men and money it may need. I did not comment on that language, because I have heard from certain quarters so much of such professions, unsustained by votes when bills have come before us, that I did not attach much importance to it. I understand perfectly well that, like men in a boat, people may look in one direction and row vigorously in another. I know what too often is the worth of these professions, thrown out in general terms, of devotion to the country and its flag—professions unsustained by official acts when votes come to be given which will show whether such professions are founded upon actual conviction.

Mr. KALBFLEISCH. I want to ask the gentleman whether he measures his own professions of loyalty by the same standard by which he measures ours.

Mr. SCHENCK. I never measure by anything that comes from the gentleman.

Mr. KALBFLEISCH. I am afraid the gentleman never measures himself by the true standard.

Mr. SCHENCK. I will not undertake to say whether I sink below or rise above the standard; but I do not take it as my measure.

Now, Mr. Speaker, we have had our say again, and I move to close debate on this section.

The motion was agreed to; there being, on a division—ayes 71, noes 48.

Mr. TOWNSEND. I withdraw my amendment.

The question recurred upon the amendment of Mr. Wilson.

The amendment was agreed to.

Mr. JOHNSON, of Pennsylvania. I move to amend by inserting after the word "ordered," in the sixteenth line, the following words:

Shall be deemed guilty of a misdemeanor, and, on conviction thereof by any court of competent jurisdiction.

On agreeing to the amendment there were, on a division—ayes 53, noes 59.

Mr. JOHNSON, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 82, not voting 37; as follows:

YEAS—Messrs. James C. Allen, Baily, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Harrington, Herick, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Rogers, James S. Rollins, Ross, Scott, Stiles, Strouse, Sweet, Townsend, Voorhees, Wadsworth, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Fernando Wood—63.

NAYS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Garfield, Gooch, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Ames Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Webster, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—82.

NOT VOTING—Messrs. William J. Allen, Alley, Ancona, Anderson, Arnold, Blair, Ambrose W. Clark, Creswell, Dawes, Frank, Grinnell, Griswold, Hale, Hall, Benjamin G. Harris, Charles M. Harris, Hutchins, Julian, King,

McAllister, McDowell, McIndoe, Moorhead, Odell, Radford, Samuel J. Randall, William H. Randall, Robinson, Smith, Starr, John B. Steele, William G. Steele, Stuart, Thomas, Ward, Benjamin Wood, and Yeaman—37.

So the amendment was rejected.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL. I rise to a privileged question. I submit a report from the committee of conference on the disagreeing votes between the two Houses on the Navy appropriation bill.

I will state the principal points of difference between the two Houses. There was one in relation to the appropriation of \$1,000,000 for the Gulf, Atlantic, and Mississippi squadrons. It was deemed that the navy-yards at Pensacola, Port Royal, and Key West should be put in condition so that repairs of our naval vessels should be done at those points instead of being compelled to go to the North for that purpose. It was thought that a large amount might be deducted, and \$500,000 was agreed upon.

The other point of disagreement was in relation to the midshipmen. The House receded from the increased number of midshipmen, for it was impossible that the increased number could be accommodated at Newport or Annapolis. The other point, taking the nominating power from the House, the Senate receded from, leaving the proposition made on the part of the House that no appointment should be made from any district not represented.

I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the report was adopted.

Mr. MORRILL moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EVENING SESSION.

Mr. MORRILL. Mr. Speaker, it is deemed of more importance that the loan bill should be considered to-night. I think that we can get through both bills. The tariff bill is printed. I ask unanimous consent that the loan bill shall be considered to-night, and that when that is disposed of we shall take up and act upon the tariff bill.

There was no objection, and it was ordered accordingly.

#### RECESS.

Mr. SCHENCK. I move to rescind the order fixing the time for taking a recess at half past four o'clock p. m., so that we may go on with the consideration of the enrollment bill. I do not propose to do away with the evening session.

The House divided; and there were—ayes 60, noes 53.

Mr. DAWSON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 48, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, William G. Brown, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Farnsworth, Frank, Garfield, Gooch, Hale, Harrington, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Kasson, Kelley, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, William H. Miller, Daniel Morris, Ames Myers, Leonard Myers, Noble, Norton, Charles O'Neill, John O'Neill, Orth, Perham, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburne, Whaley, Wilder, Windom, and Woodbridge—79.

NAYS—Messrs. James C. Allen, Baily, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Clay, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Philip Johnson, William Johnson, Kalbfleisch, Knapp, Lazear, Le Blond, Long, Mallory, Marcy, McKinney, Middleton, Perry, Pruyn, Radford, Rogers, James S. Rollins, Ross, Scott, Stiles, Strouse, Voorhees, Wadsworth, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, and Fernando Wood—48.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blair, Blow, Brandegee, Ambrose W. Clark, Creswell, Eckley, Eliot, English, Grinnell, Griswold, Hall, Benjamin G. Harris, Charles M. Harris, Herick, Hooper, Hutchins, Ingersoll, Julian, Francis W. Kellogg, Kernan, King, Law, McDowell, McIndoe, Moorhead, James R. Morris, Morrison, Nelson, Odell, Patterson, Pendleton, Pike, Samuel J. Randall, Alexander H. Rice, Robinson, Sloan, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stuart, Sweet, Thomas, Townsend,

Ward, Webster, Wilson, Benjamin Wood, Worthington, and Yeaman—55.

So the motion was agreed to.

#### ENROLLMENT BILL—AGAIN.

Mr. JOHNSON, of Pennsylvania. I move to amend by inserting what I send to the Clerk's desk.

The amendment was read.

Mr. JOHNSON, of Pennsylvania. I desire to explain the amendment.

The SPEAKER. Debate has been closed.

Mr. JOHNSON, of Pennsylvania. Then I withdraw the amendment.

Mr. NELSON. I move to amend by striking out of line six the words "passage of this act," and inserting in lieu thereof the words "proclamation hereinafter mentioned."

The section, as reported by the Committee on Military Affairs, provides that if a deserter shall report within sixty days after the passage of this act, then certain results shall follow, as specified in the bill. Now, all these deserters in Canada and elsewhere do not know what is done in Congress, and therefore I propose to strike out the words "sixty days after the passage of this act," and insert "sixty days after seeing the proclamation hereinafter mentioned." The proclamation of the President attracts attention everywhere, and they will see it.

Mr. SCHENCK. I think the amendment a very good one.

Mr. NELSON. As to the second amendment which I shall propose, which is that in thus reporting such deserters shall be relieved of all penalties and punishment which they have incurred by such desertion, I can say that I have received letters from men in Canada, who say they are deserters from the service of the United States; that they have violated the law; that they are anxious to come back, and if you will give them amnesty for past offenses they are willing to serve out the full term of their enlistment.

Mr. SCHENCK. That matter is only making general, by law, what the President is doing every day almost. I have myself had two or three men pardoned by the President, and permitted to come back on condition that they would serve out their full term in their regiments.

Mr. NELSON. Had we better not make the thing general by law?

Mr. SCHENCK. The President is doing it all the time.

Mr. NELSON. They do not know what the President is doing privately. The gentleman suggests that the President does relieve them from all punishment when they come back. But many of these men have been out of the country for some time, and are not fully posted as to the doings of this House or as to the private action of the President. They know that the moment they cross the boundary they will be seized because somebody wants to make thirty dollars out of their arrest. The first amendment enables these men who have done wrong to have notice how they can get back; and the second says to the men who have deserted that if they will come back their sins shall be forgiven.

Mr. SCHENCK. I have no objection to an amendment somewhat in this form, at the end of the section, "provided the President shall, in his proclamation, notify those persons," so and so.

Mr. NELSON. I have no objection to that.

The question recurring upon the amendment to strike out the words "passage of this act" and to insert in lieu thereof the words "proclamation hereinafter mentioned." The question was put, and the amendment was agreed to.

Mr. NELSON. I now move to amend the section by inserting the following words:

And in thus reporting, such deserters shall be relieved of all penalties and punishments which they have incurred by such desertion.

Mr. SCHENCK. I suggest that the gentleman accept this amendment in lieu of his: add to the section the following:

In which proclamation the President is requested also to notify all deserters returning within sixty days as aforesaid that they shall be pardoned on condition of returning to their regiments or companies to serve in such regiments and companies, or in such other organization as they may be assigned to, until they shall have served out the period of time called for by their original term of enlistment.

Mr. NELSON. I accept that. The amendment was agreed to.

Mr. COFFROTH. I move to amend by inserting after the words "served out" the words "by themselves, or acceptable substitutes."

The amendment was not agreed to.

The SPEAKER. If there are no further amendments to this section the question recurs upon the motion of the gentleman from New York [Mr. TOWNSEND] to strike out the section.

No further amendments were offered.

Mr. TOWNSEND. I call for the yeas and nays upon my amendment.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. J. C. ALLEN. I move to amend by inserting the following as a new section, to come in after section eight:

*And be it further enacted, That the fifth section of the act to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863," approved February 24, 1864, so far as it applies to the payment of money for the procurement of substitutes, shall be construed to operate as a discharge from military service for one year from the date of the payment of the money aforesaid, by any person drafted prior to the 15th day of February, 1865, and since the 24th of February, 1864.*

I offer that amendment for the purpose of giving a construction to the act to amend the act entitled "An act to enroll and call out the national forces," &c., passed in 1863.

The SPEAKER. Debate has been closed upon this section.

Mr. J. C. ALLEN. I offer it as an additional section. I understand the House refused to strike out the eighth section.

The SPEAKER. They did, and this being an amendment to that section, or immediately following it, it cannot be discussed.

Mr. J. C. ALLEN. I offer this as an additional section, to come in after section eleven.

The SPEAKER. It can be offered, but not debated, as all debate has been closed upon the eleventh section.

Mr. J. C. ALLEN. I withdraw it, then, so that I may be able to explain it hereafter.

The Clerk read the twelfth section of the bill.

Mr. SCHENCK. That section proposes to repeal section three of the act of July, 1864. I desire to explain what that section is by referring to the statute. Gentlemen will find that this third section provides that it shall be lawful for the Executive of any State to send recruiting agents into any rebel State.

Mr. JOHNSON, of Pennsylvania. We are all in favor of that. I move to add the following as an additional section:

*SEC. — And be it further enacted, That hereafter, whenever a call for troops shall have been made, and the quotas for the several sub-districts shall have been fixed, the same shall be published, together with the ratio or percentage of these quotas to the several enrollments, and thereafter at any time prior to the day of the draft it shall be lawful for any number of persons to put in an acceptable volunteer or substitute to their credit, and having done so their names shall not be placed in the wheel for the then pending draft: Provided, That the number of persons claiming to put in such substitute or volunteer shall not exceed the proportion of the whole number of enrolled men to the quota required, and it shall be the duty of the Provost Marshal General to give such instructions and make such rules as shall carry this provision into effect.*

The second section of the bill already adopted provides that the substitute shall be a resident of the proper district; in other words, that the party putting in a substitute cannot change the residence of the substitute.

Now, in the agricultural portions of the country, it will be extremely difficult for a person to put in a personal substitute because of the fact that there is not the kind of material necessary for substitutes to be had; that is to say, persons who are not liable to draft, such as foreigners or persons who have served a full term of service and been honorably discharged. It is only in the cities and in the larger towns where that class of persons can be found for substitutes, and men living in agricultural districts cannot go there and get them and put them in, because that would be changing their residence. In country districts, therefore, gentlemen will be confined to the very township in which they live to obtain personal substitutes; there will be none of this material for them to obtain substitutes from.

Now, the only remedy for persons so situated is for them to offer large bounties and thereby induce their own neighbors to go as volunteers in lieu of draft. But the corporate authorities of a borough, county, or township, may refuse to pay

those bounties, and the result will be that many moneyed persons in the township or borough will be deprived of the privilege of contributing anything in the way of putting in volunteers for their relief from draft, because they are not in a position to raise taxes to pay bounties. There is but one remedy left, and that is suggested in the amendment which I have offered. The same thing is proposed in the amendment of the gentleman from Ohio, from the Cleveland district, [Mr. SPALDING.] Our amendments differ in this, that mine provides for the publication of quotas, so that parties may know what their rights are, and how many it is necessary to get together to put in substitutes. If one hundred men are enrolled and twenty-five are called for by the quota, then any four may act together and put in an acceptable substitute and have their names taken from the list for that draft only.

[Here the hammer fell.]

Mr. SCHENCK. The object which the gentleman from Pennsylvania has in view is in some senses an exceedingly just and equitable one. There are a great many persons who do not assist in filling the quotas of the several sub-districts, and yet escape any tax for that purpose.

This whole matter, however, has been before the Committee on Military Affairs, and has been discussed again and again, and we saw practical difficulties in the way of every provision of this kind, which I think will suggest themselves to the mind of the gentleman when I mention one or two of them. The first great difficulty is that this is commutation in another shape, for the benefit of the wealthiest men in a sub-district. All those in a sub-district who are able to come forward and pay their money under such a provision would be entitled to designate themselves or a certain proportion of them equivalent to the number of recruits that they had purchased, in the language of the day, to be exempted from the draft.

Now, those who thus contribute will be the men of means, and in proportion as one of them after another is enabled by the help of these associations to get rid of the draft, there remains a residuum of the poor people of the sub-district upon whom the whole burden of the draft will be thrown. That, I think, is one of the practical difficulties.

Mr. JOHNSON, of Pennsylvania. Will the gentleman allow me to answer that point of his argument? The answer to it is this, that where the people of a township refuse to allow a tax that would fall most heavily on the wealthy classes, then I think the wealthy people should have the privilege of coming together and putting in substitutes, relieving to that extent the poorer people by reducing the quotas.

Mr. SCHENCK. It might be, Mr. Speaker, that the people of the sub-district had not the majority to vote the taxes; and if not, the others would be fairly relieved. There is another difficulty in the way. Who shall designate the members of the association who are to be exempted? It is not stated in the amendment. I would scarcely be willing to leave it to the provost marshal to exercise favoritism, and determine who shall be exempt and who shall not be.

Mr. JOHNSON, of Pennsylvania. If a party of four persons come forward and put in a substitute they designate the order in which he shall stand for any of them, if drafted.

Mr. SCHENCK. I think the gentleman would find a great difficulty in carrying out this idea. There is another amendment which if this amendment prevail should be made to it. The recruit should not only be acceptable, but should not himself be liable to enrollment. Otherwise you would only be giving to the Government a man to whose services the Government has already a claim.

Mr. SPALDING. I move to amend the amendment by inserting the following as a substitute:

That any person or persons enrolled in any sub-district may, after notice of a draft and before the same shall have taken place, cause to be mustered into the service of the United States such number of recruits not subject to draft as they may deem expedient, which recruits shall stand to the credit of the persons thus causing them to be mustered in, and shall be taken as substitutes for such persons or so many of them as may be drafted, to the extent of the number of such recruits, and in the order designated by the principals at the time such recruits are thus furnished and mustered in.

Mr. Speaker, I do not see the force of the objection which the chairman of the Committee on Military Affairs makes to the amendment. In the first place he says that this would have a tendency to exonerate rich men, and throw the burden of the draft on the poor and moneyless. Such would not be the effect. Even without this provision the rich man can always purchase or procure his substitute after he is drafted, and he ordinarily does so. There is no doubt of that. With this provision in, they all subject themselves to the draft, the rich man as well as the poor man, only the rich man has the privilege, or rather any person, rich or poor, has the privilege, after being notified of the draft, of procuring recruits. Any person or association of persons in any district may procure such number of recruits as they may deem advisable, with the understanding that they shall designate the persons for whom these recruits shall be accepted as substitutes in case any of them are drafted. I would like to know if there is any earthly objection to a provision of this sort. My amendment confines the selection of recruits to those who are not subject to the draft. They must be acceptable recruits, and must be mustered in according to the rules of the military service. Is it not for the benefit of the country that such men shall be procured and mustered in, without incurring a draft at all? Such, I am told, would be the effect in many parts of the country if this provision can be ingrafted on the enrollment law.

I do not see, Mr. Speaker, that this can injure any person. All those who are disposed to do loyal service to the country can, in advance of the draft, acquit themselves of their liability by putting in recruits. I hope that one or the other of these amendments will be adopted.

Mr. JOHNSON, of Pennsylvania. I would call the attention of the House to these amendments. Mine provides that this association of persons shall be authorized to put in substitutes prior to the draft, just as the local authorities of the borough or township now have the right to do. The object is to enable parties to act who are willing to do their duty in this respect when the local authorities do not act. My amendment does not limit them to put in one not liable to draft, for the very reason that it is intended to operate in the several districts where that class of persons is not to be found at all. If gentlemen will reflect a moment they will see that there are no foreigners in the farming districts, and but few of those who have served their time so as not to be liable to the draft. The amendment of the gentleman is objectionable to me because it requires the substitute not to be liable to draft, and in that respect it differs very little from the law as it now exists. I therefore must adhere to my amendment.

Mr. ROLLINS, of New Hampshire. I move to strike out the whole section.

The question was upon the substitute offered by Mr. SPALDING for the amendment of Mr. JOHNSON, of Pennsylvania.

Upon this question the House divided; and there were—ayes 52, noes 40.

So the amendment to the amendment was adopted.

The amendment, as amended, was then adopted.

Mr. JOHNSON, of Pennsylvania. I offer the following as an additional section:

*SEC. — And be it further enacted, That hereafter, in order to equalize the several assignments of quotas, it shall be the duty of the proper Department to credit the several districts with the number of men actually furnished, together with the period of service actually rendered, without regard to the period of service to be rendered in the future.*

The object of this amendment is to cure what I consider the radical error in the calculation of General Fry, upon which the present pending draft in the country is based. The error which I consider exists in his calculation is this: in estimating the number of men which have been furnished by the several districts and States, he takes into the account of the number of men that have served in the field the number of men that are enlisted to serve, together with the number of years that they are to serve in the future; and then he proceeds to estimate the number of years with the number of men, in this way: suppose the State of Ohio has furnished fifteen thousand one year's men on the day before the call was made by the President or the order was issued



for this draft. Then the State would have credit for fifteen thousand one-year men. On the same day the State of Pennsylvania had furnished five thousand three-year men. Then those five thousand three-year men from Pennsylvania would equalize the fifteen thousand one-year men from the State of Ohio, and upon that basis the enrollment would be assigned.

That would be all very well if it was well known that this war was to last three years, and that these men would all serve out their time if they are not killed, or do not die from disease, or in some other way become thrown out of the service before they had served out the half of their time. Now, if we should obtain peace by the 4th of July next, then the State of Ohio, under this proposition, will have furnished nearly ten thousand men more than the State of Pennsylvania, under the call, because there is no provision for what these men shall do when the war closes, or when they are discharged before the expiration of their term of service.

It is an error of calculation; it is erroneous for this reason: it puts the men in the Pennsylvania reserves, who have served their full three years of service, who fought before Richmond under McClellan; who fought before Washington under Pope; who fought at Antietam under McClellan, at Fredricksburg under Burnside, at Chancellorsville under Hooker, and at Gettysburg under Meade, against those men who have merely promised to serve for three years to come. And if the war closes before that three years expire then the State which has furnished their old three-year men will be defrauded, according to this calculation. Therefore it is for the purpose of correcting this radical error, which is creating so much disturbance throughout the whole country, that I offer this amendment.

Mr. NELSON. I desire to state my understanding of this proposition. The amendment is this: if at the last call for troops made by the President the State of Connecticut, for instance, furnished five thousand three-year men and the State of Rhode Island furnished the same number under the same call, but for one year, then at the next call Connecticut shall furnish the same amount as Rhode Island does. That is to say, that State that furnished three-year men under one call shall get no more credit than the State that furnished an equal number of men for one year only. Now, in New York many of us did not believe that the war would end right away. And under the last call we endeavored to fill our quota in some of the districts with three-year men; and the patriotic and industrious men not liable to draft contributed liberally of their means, and have sent men for three years. Now, is there any justice in this proposition to make those districts which have furnished three-year men, instead of one-year men, furnish now the same number of men as those districts who furnished all one-year men and no three-year men? That is a simple statement of this proposition. The wrong appears upon its face. Your district, we will say, has furnished men for three years; while my district has furnished them for one year. Is it right that when you have five thousand men in the field to serve for two years yet to come your district shall furnish another thousand and mine another thousand?

Mr. JOHNSON, of Pennsylvania. The error of the gentleman's argument is this, that he puts service to be rendered in the future against service rendered in the past. Now, when Rhode Island puts in her one-year man against New York's three-year man, let them both serve one year, and then let Rhode Island be called on to furnish another man for the second year which the New York man serves.

Mr. NELSON. That would do, if the Government would let off New York's three-year man at the end of one year; but the Government keeps him in the service.

Mr. JOHNSON, of Pennsylvania. We can give New York the credit of the second year of her three-year man, while the State of Rhode Island is called on to furnish a man in the place of her one-year man whose term has expired.

Mr. SCHENCK. I move that debate upon the section, and all amendments thereto, be closed.

The motion was agreed to.

The amendment of Mr. JOHNSON, of Pennsylvania, was rejected.

Mr. JOHNSON, of Pennsylvania. I move to amend by inserting the following as a new section:

Sec. —. *And be it further enacted*, That hereafter in all examinations, whether of drafted men, substitutes, or volunteers, under this act and the several acts to which this is supplementary, the rules and regulations for the acceptance and rejection of recruits, on the score of physical ability or disability, and for other causes, shall be the same.

The amendment was rejected.

The question recurred upon the amendment of Mr. ROLLINS, of New Hampshire.

The amendment was rejected.

Mr. COFFROTH. I move to amend by inserting the following as a new section:

Sec. —. *And be it further enacted*, That hereafter it shall be lawful for any person to present to any United States mustering officer or provost marshal an acceptable substitute for himself, and have the same mustered into the service of the United States; and thereupon such person so mustering in such substitute shall be exempted from enrollment and draft for the period such substitute shall be so mustered; and the sub-district in which the principal resides shall have credit accordingly.

The amendment was rejected.

The thirteenth section was read, as follows:

Sec. 13. *And be it further enacted*, That section fifteen of the act approved February 14, 1864, entitled "An act for enrolling and calling out the national forces, and for other purposes," be, and the same is hereby, amended by inserting after the words "any civil magistrate" the words "or any person authorized by law to administer oaths."

Mr. J. C. ALLEN. I move to amend by inserting the following as a new section:

Sec. —. *And be it further enacted*, That the fifth section of an act to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes, approved March 3, 1863," approved February 24, 1864, so far as it applies to the payment of money for the procurement of substitutes, shall be construed to operate as a discharge from military service for one year from the date of the payment of money aforesaid, by any person drafted prior to the 15th day of February, 1865, and since the 24th of February, 1864.

I desire to explain, in a very few words, my purpose in offering this amendment. The object is to give construction to former acts upon this subject. The question has arisen in many districts whether, under the act of February, 1864, men were authorized to pay in \$300 and thus exempt themselves from military service. That question, I understand, has been submitted to the Secretary of War; but, so far as the public knows, no decision upon it has been made. The object of this amendment is to give to those who have paid in \$300 under the commutation clause credit for one year from the date of such payment.

I desire to say further that this is a question that does not affect my constituents, for they have not had occasion to avail themselves of this provision for commutation, as we have, under the various calls, furnished our quotas throughout the State.

But there are members here whose constituents have felt an interest in the proper construction of this section. It is evident, from the reading of the law, that the purpose was to exempt those who paid \$300, that being received by the Government in consideration of the services of the party who was drafted. I believe that this is only fair to those who have been called upon to pay commutation money. It was contemplated by Congress that they should have that credit.

Mr. GARFIELD. The gentleman from Illinois gives manifestly a wrong construction to the law as I understand it. In the fifth section of the act of February, 1864, to which he refers, it is provided that the maximum time for which the \$300 should exempt a man was one year, and the minimum was until the next call, which might be in a month. The longest possible time that the payment of money would leave a man off the enrollment was one year, when his name, it was provided, should be put back again. If, however, there was another call within a few weeks, he was liable to the draft. The gentleman's amendment gives a wrong construction to the law, and I hope that it will be rejected.

Mr. STEVENS. I move to strike out the last word.

I think that the gentleman from Ohio is wrong in his construction of the law. The law as it stands exempts the man who pays for one year, that is, the time for which the quota was called. He is not again to be liable until that year has expired. It would be absurd to say that a man drafted to-day for one year, after paying his money, should be again liable to draft within that time. There is no doubt that the construction

of the gentleman from Illinois is the right one. This commutation was in lieu of his service for one year and he was to be exempted during that time. It seems to me that there can be no doubt about that construction of the law. I hope that the amendment will be adopted.

Mr. GARFIELD. I will refer to the section of the law. It provides that if any drafted person shall hereafter pay money for the procurement of a substitute under the provision of the act to which this is an amendment, such payment of money shall only operate to relieve such person from the draft in filling that quota; and his name shall be retained upon the rolls in filling future quotas. Now, that fixes the normal law in the case.

Mr. STEVENS. The law evidently is that it exempts the man for the time for which he was drafted. It exempts him for a year. I withdraw my amendment.

The question recurred on the amendment of Mr. J. C. ALLEN.

The House divided; and there were—ayes 44, noes 53.

Mr. J. C. ALLEN demanded tellers.

Tellers were ordered; and Messrs. J. C. ALLEN and FARNSWORTH were appointed.

The House again divided; and the tellers reported—ayes 56, noes 62.

So the amendment was disagreed to.

Mr. CHANLER. I move to add the following:

That so much of all acts or parts of acts entitled acts to regulate and provide for enrolling and calling out the national forces, and for other purposes, as authorize the President of the United States to raise troops by conscription be, and hereby are, repealed; and that all acts and parts of acts inconsistent with this section be, and the same are hereby, repealed.

Mr. Speaker, my object in offering this is to give an opportunity to those upon this floor who conscientiously and earnestly believe the whole system of a draft is contrary to the spirit of our institutions and opposed to the welfare of our people to place their vote upon record. I deem it a great privilege, with those who agree with me, to say to the people of the country that we adhere to the military system under which our liberties were won, and that we are unwilling to fall away from it and the precedents of the American Government, to establish the European system of raising troops and organizing armies in the midst of a civil war. Our recent victories show that the armies of the rebellion, raised by conscription, are fleeing everywhere before our troops who were raised by volunteering. Why should we, imitating those who have rebelled against the Government of the United States and inaugurated a system of conscription, adopt a similar law and impose it upon the loyal and devoted people of this country, who have responded to every call of the Government thus far, and exposed themselves and offered their fortunes for the protection of the Union?

If the signs of the times do not mislead us, the rebel hosts have been scattered, and the arch-conspirator who drew them after him in rebellion against the highest earthly power, the people of this country, is about being hurled from his bad eminence, overthrown by our veteran volunteers and their skillful commanders. A conflict is raging among the stars which emblazon the southern half of our political horizon. That ruling spirit which they called from his high station here to hold them in harmony by his genius is stealing them one by one from their eccentric orbits to adorn the seat of his power as the center of a new system. Whether by force supernal or infernal he may achieve this mighty wrong we know not. The supreme power may be snatched from a portion of our people, and the sovereignty of our States may glitter in the southern cross above the throne of a despot. If so it is to be, then before long the weary eyes of those who withdrew from our councils and our fellowship with proud looks and bloody hands must cower before the artificial blaze of light which shall burst from that throne, and bowing their prostrate forms before their tyrant yearn for the calm and peaceful effulgence which once fell with universal blessing on the remotest section of this Union. With this warning sent to us from the very field of battle are we not unwise and heedless of the dangers actually surrounding the Constitution and the Union by continuing this conscription bill among our laws? Can we hope to escape the consequences inseparable

arable from an undue military power in the hands of one man and his partisans? Are we prepared to surrender the civil and religious rights of every citizen of this country to the almost Turkish justice of a military tribunal?

But suppose, as we have good reason to hope, that our rebellious brothers reunite with us again in national council for the restoration of the Union as it was. Suppose that they unite their force with our armies and bear their banner and their cross, token of suffering and betrayal, against the new emperor whose audacious throne is already fixed upon a continent proclaimed free, and, under God, sacred to the sovereignty of the people alone. Against him, united in battle, we may hope forever to sustain unbroken and untarnished the bright shield of our Union as it ever before gleamed in triumph against the despotic principles of feudalism and vassalage, until this whole boundless continent be ours. If this comes to pass, and our people arm themselves again for war, does any man dream that a conscription will be needed? The past history of this crisis has shown it to have been unnecessary; at the present it is useless and worse than unnecessary, it is corrupt. Let the enrollment law be now repealed.

I see no reason for debating this subject further. I do not wish to continue to draw upon the passions of the gentleman from Ohio, the chairman of the Committee on Military Affairs, [Mr. SCHENCK.] I submit the matter to the consideration of the House with a perfect reliance in the propriety of my action in voting against this bill, and am ready to abide by the judgment which may be passed upon its merits by the country.

Mr. GARFIELD. I move that all debate be closed upon this section and all amendments thereto.

Mr. SLOAN. I move that all debate be closed upon the entire bill.

The SPEAKER. That can only be done by unanimous consent.

Mr. PRICE. I object.

The motion of Mr. GARFIELD was agreed to.

Mr. CHANLER. I call for the yeas and nays upon my amendment, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CHANLER and BROOMALL were appointed.

The House divided; and the tellers reported—ayes twenty-seven, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 95, not voting 60; as follows:

YEAS—Messrs. Ancona, Brooks, Chanler, Clay, Denton, Eden, Edgerton, Eldridge, Benjamin G. Harris, Le Blond, Long, Mallory, William H. Miller, Morrison, Noble, John O'Neill, Pendleton, Perry, Prunty, Rogers, Ross, Stiles, Strouse, Townsend, Wadsworth, Chilton A. White, and Joseph W. White—27.

NAYS—Messrs. James C. Allen, Allison, Ames, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Braudette, Broomall, Cobb, Cole, Cravens, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, English, Farnsworth, Frank, Ganson, Garfield, Gooch, Grider, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Lazar, Littlejohn, Loan, Longyear, Marcy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scott, Shannon, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Window, Woodbridge, and Worthington—95.

NOT VOTING—Messrs. William J. Allen, Blair, Anderson, Arnold, Augustus C. Baldwin, Blair, Bliss, Blow, Boutwell, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Coffroth, Cox, Creswell, Dawson, Fieck, Grinnell, Hall, Harding, Harrington, Charles M. Harris, Herlick, Holman, Hutchins, Philip Johnson, William Johnson, Julian, Kableisch, Kasson, Kernan, Knapp, Law, McAllister, McDowell, McIndoe, McKinney, Middleton, James R. Morris, Nelson, Pike, Radford, Samuel J. Randall, Robinson, James S. Rollins, Scofield, Smith, Starr, John B. Steele, William G. Steele, Stuart, Sweet, Thomas, Voorhees, Ward, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—60.

So the amendment was not agreed to.

Mr. FARNSWORTH. I move to amend by inserting the following as new sections:

Sec. —. *And be it further enacted*, That the Secretary of War is hereby authorized to detail one or more of the employees of the War Department for the purpose of administering the oaths required by law in the settlement of officers' accounts for clothing, camp and garrison equipage, quartermasters' stores, and ordnance, which oaths shall be admin-

istered without expense to the parties taking them, and shall be as binding upon the persons taking the same, and if falsely taken shall subject them to the same penalty, as if the same were administered by a magistrate or justice of the peace.

Sec. —. *And be it further enacted*, That "acting assistant surgeons," and "contract surgeons," and surgeons and commissioners on enrolling boards, while in the military service of the United States, shall hereafter be exempt from all liability to be drafted under the provisions of this act and the acts to which this is an amendment.

The amendment was agreed to.

Mr. HOLMAN. I think that matter is not fully understood. I move to reconsider the vote by which the amendment was agreed to.

Mr. FARNSWORTH. I hope not.

The motion was not agreed to.

Mr. MALLORY. I move to amend by adding the following as a new section:

*And be it further enacted*, That the payment by any person of \$400 to the provost marshal of his district (to be proved by said provost marshal's receipt for the same) shall exempt such person from all liability to military service for the term of twelve months thereafter; and the payment of \$700 in like manner shall exempt any person so paying the same from military service for the term of two years thereafter.

Mr. HOLMAN. Is that amendment germane to the bill?

The SPEAKER. The Chair thinks it is.

The amendment was not agreed to.

Mr. INGERSOLL. I move to amend by adding the following as a new section:

*And be it further enacted*, That hereafter the head of a family, consisting of not less than two children dependent upon him for support, the mother being dead and he having no wife living, shall be exempt from draft into the military service of the United States: *Provided*, That the entire value of the real and personal estate owned by such head of family shall not exceed in value \$1,000 and his income shall not exceed \$500 per annum.

The amendment was rejected.

Mr. MILLER, of Pennsylvania. I ask unanimous consent to go back for the purpose of offering a proviso to the second section.

Objection was made.

Mr. MILLER, of Pennsylvania. Then I offer my amendment as a new section, as follows:

*And be it further enacted*, That any person who shall have served in the Mexican war and been honorably discharged, and having in addition served through one enlistment during the present rebellion, and been honorably discharged from the service, shall be exempt from military duty for three years from and after the passage of this act.

The amendment was not agreed to.

Mr. KELLOGG, of Michigan. I move to reconsider the vote by which the House refused to strike out the twelfth section.

Mr. THAYER. I move to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. INGERSOLL. I ask unanimous consent to extend the time of the recess until half past seven o'clock, instead of seven o'clock.

Mr. JOHNSON, of Pennsylvania. I object.

Mr. INGERSOLL. I then make that motion.

The motion was agreed to.

Mr. WADSWORTH. I move to rescind the order by which the House agreed to sit here until we shall have disposed of this bill.

The question was taken; and the motion was disagreed to—ayes 45, noes 61.

Mr. JOHNSON, of Pennsylvania. I offer the following as an additional section to the bill:

*And be it further enacted*, That hereafter no draft shall be ordered until for ninety days prior thereto the President of the United States shall have made proclamation for volunteers for the respective periods of one, two, or three years, as he shall deem proper, and in such proclamation he shall have offered to every recruit the sum of \$500 as bounty for one year, \$1,000 for two years, and \$1,500 for three years in quarterly installments; and if at the expiration of the said term of ninety days one half the number of men required shall be furnished, then he shall issue a similar proclamation limiting the time for volunteering to sixty days; and if at the expiration of sixty days one half the residue shall be furnished, then he shall issue a like proclamation limiting the period to thirty days, at the expiration of which time it shall be lawful to issue an order for draft for the balance of the number of men originally required according to the provisions of this act and the acts to which this is supplementary.

I desire to say a word or two in explanation of that amendment.

The SPEAKER. No debate is in order, all debate having been closed upon this section and amendments offered thereto.

Mr. JOHNSON, of Pennsylvania. Then I withdraw the amendment.

Mr. GARFIELD. I renew it.

The question was taken, and the amendment was rejected.

Mr. SCHENCK moved to reconsider the vote by which the amendment was rejected, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The Clerk then read the fourteenth and last section of the bill.

Mr. SCHENCK. I move to close all debate upon that section, and all amendments thereto.

The motion was agreed to.

Mr. HOTCHKISS. I move to add the following as an additional section to the bill:

*And be it further enacted*, That all district provost marshals shall have authority, under such orders and regulations as the Provost Marshal General shall prescribe, to compel the appearance at any time before the enrolling board of their respective districts of all persons enrolled in said district, for the purpose of examination and the correcting and perfecting of the said enrollment.

Mr. SCHENCK. I move the previous question on the bill and the pending amendment.

Mr. ROSS. I move to lay the bill and amendment on the table.

The question was taken; and the House refused to lay the bill and amendment on the table.

Mr. JOHNSON, of Pennsylvania. I suggest to the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee on Military Affairs, that we progress with this bill until we reach the vote upon its passage, and then postpone it until a certain hour to-morrow when we can have a full House.

Several MEMBERS. Why not pass it now?

Mr. JOHNSON, of Pennsylvania. It is late, and there is not a full House here. [Cries of "Pass it now."]

Mr. SCHENCK. The suggestion of the gentleman from Pennsylvania might do in ordinary times, but there are only five days of the session left, and the bill has yet to go to the Senate.

Mr. MORRILL. There are only four days of the session remaining.

The previous question was seconded, and the main question ordered, being first upon the amendment proposed by Mr. HOTCHKISS.

Mr. HOTCHKISS. I desire to say a word or two in explanation of my amendment.

The SPEAKER. Debate is not in order, the previous question having been seconded.

Mr. HOTCHKISS. I ask the unanimous consent of the House to explain the object of the amendment. [Mingled cries of "Object!" and "Hear him!" from all parts of the House.] I am sure if the House understood the amendment they would agree to it. [Loud cries of "Order!" and "Hear him!" A moment only.]

The SPEAKER. Objection is made upon both sides of the House, and no debate is in order under the operation of the previous question.

Mr. HOTCHKISS. Well, I demand tellers upon the amendment.

Tellers were not ordered.

The amendment was disagreed to—ayes 26, noes 77.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. GANSON. I call for the reading in full of the engrossed bill.

The SPEAKER. The gentleman is too late; the bill has already received its third reading.

Mr. SCHENCK. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JOHNSON, of Pennsylvania. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 83, nays 46, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Ashley, Baily, Baxter, Beaman, Blaine, Blair, Boutwell, Boyd, Braudette, Broomall, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Shannon, Sloan, Smithers, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilson, Window, Woodbridge, and Worthington—83.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Brooks, Chandler, Clay, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Hotchkiss, Philip Johnson, Kernan, Law, Le Blond, Long, Mallory, Marcy, McKinney, Middleton, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Perry, Rogers, Ross, Scott, John B. Steele, William G. Steele, Stiles, Wadsworth, Ward, Chilton A. White, Joseph W. White, and Fernando Wood—46.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, John D. Baldwin, Bliss, Blow, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clark, Coffroth, Cox, Creswell, English, Grinnell, Hall, Charles M. Harris, Holman, Hutchins, William Johnson, Julian, Kuhnleisch, King, Knapp, Knox, Lazear, McAllister, McDowell, McIndoe, William H. Miller, Nelson, Odell, Pike, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Seofield, Smith, Spalding, Starr, Strouse, Stuart, Sweat, Thomas, Townsend, Voorhees, Wilder, Winfield, Benjamin Wood, and Yeaman—53.

So the bill was passed.

Pending the roll-call,

Mr. MOORHEAD stated that Mr. NELSON was paired off with Mr. SCOTFIELD.

Mr. PRUYN stated that he was paired off with Mr. SPALDING, otherwise he would have voted in the negative.

Mr. PERRY stated that Mr. STEELE, of New Jersey, was detained at home by sickness.

The vote was announced as above recorded.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And thereupon, at forty-five minutes past five o'clock, p. m., the House took a recess until seven and a half o'clock, p. m.

#### EVENING SESSION.

The House reassembled at seven and a half o'clock, p. m.

#### ARRIVALS IN THE UNITED STATES.

The SPEAKER laid before the House a communication from the Secretary of State, showing the number, ages, &c., of passengers arriving in the United States by sea; which was laid on the table, and ordered to be printed.

#### UNPAID TREASURY DRAFTS.

Mr. PRUYN, from the Committee of Ways and Means, asked leave to report a bill in relation to certain drafts issued by the Treasurer of the United States in satisfaction of warrants which are outstanding unpaid.

Mr. WASHBURN, of Illinois. Let the bill be read.

The bill was read. The first section enacts that all amounts which are represented by drafts issued by the Treasurer of the United States prior to July 1, 1861, to facilitate the payment of warrants directed to him for payment, and which may remain outstanding unpaid on the 1st of July, 1865, shall be entered or covered into the Treasury, to the credit of the parties respectively in whose favor they were issued, and to the credit of an appropriation account to be kept by the First Comptroller and First Auditor for the redemption of outstanding drafts, &c., and the amounts of the drafts entered or covered in, are to be considered as a permanent appropriation for the satisfaction of such unpaid drafts.

The second section enacts that the drafts, the amounts of which shall have been so entered or covered in, shall be counter-entered in the accounts of the Treasurer, Assistant Treasurers, designated depositaries, collectors, or receivers, on whom they were originally drawn for payment.

The third section enacts that the *bona fide* holder of any draft, the amount of which shall have been so entered or covered into the Treasury, shall, on presenting it to the First Auditor, be entitled to have it paid, by settlement of account or warrant, according to the practice in other cases of claims against the United States.

The fourth section enacts that at the termination of four years after this act shall begin to operate the provisions thereof shall apply to all similar drafts which may then remain outstanding unpaid for four years or more.

Mr. WASHBURN, of Illinois. I inquire whether the bill was ever referred to the Committee of Ways and Means.

Mr. PRUYN. It was before the committee. It came from the Secretary of the Treasury, ac-

companied by a very brief letter, which I ask to have read, in order to explain the object of this bill.

Mr. WASHBURN, of Illinois. I do not know how the Committee of Ways and Means got jurisdiction of this matter. I have no objection to the bill being introduced now and referred to the Committee of Ways and Means.

The letter from the Secretary of the Treasury was read, as follows:

TREASURY DEPARTMENT, February 24, 1865.

Sir: Under the present law, and consequently the practice of the Treasury, the various drafts of the Treasurer and Assistant Treasurers and Depositaries that may not, for any reason, be presented for payment, prevent a proper settlement of their several accounts; and consequently whenever settlement is made must be, to that extent, imperfect upon their books.

To obviate this serious difficulty, I have the honor to submit the draft of a bill, which directs that all amounts represented by unpaid drafts outstanding more than four years shall be covered into the Treasury to the credit of the several payers of the drafts, and thereafter such drafts will be paid upon a settled account, passing through the hands of the proper accounting officers of the Treasury. I respectfully request the early action of the committee in regard to the bill.

I am, very respectfully,

W. P. FESSENDEN,

Secretary of the Treasury.

Hon. T. STEVENS, Chairman Committee of Ways and Means.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee of Ways and Means, with permission to report at any time.

Mr. PRUYN. Very well.—

The bill was so referred.

Mr. PRUYN. I now ask to report back the bill from the Committee of Ways and Means.

The SPEAKER. The gentlemen from New York will state whether he is authorized to report this bill from the Committee of Ways and Means.

Mr. PRUYN. Yes, sir.

Mr. WASHBURN, of Illinois. I am justified in saying that the Committee of Ways and Means have had no meeting on this subject, and the gentleman is not authorized to report this bill.

The SPEAKER. The gentleman will remember that during the last Congress and also during the first session of the present Congress, the same question was raised upon the Illinois ship-canal bill, reported by the gentleman from Illinois and afterward re-reported. The Chair then stated, after examining the precedents, that all he can ask of a member is, "Are you authorized to report the bill?" If he replies that he is, the Chair cannot go behind that statement.

Mr. GARFIELD. The same decision was made a few days ago on the bill increasing the pay of officers in the Army.

The SPEAKER. A number of instances could be referred to.

Mr. PRUYN. Mr. Speaker, I wish simply to say that this bill was brought here at the request of the Secretary of the Treasury, to facilitate the office business of his Department. In closing up accounts with depositaries it often happens that there are drafts outstanding, so that it is impossible to get the accounts closed on the books. The Secretary of the Treasury desires the passage of this bill, in order that when such drafts are presented they may be placed to the credit of the parties, and the account closed.

Mr. PRICE. I desire to ask the gentleman from New York a question. I wish to know whether the object sought to be accomplished by this bill is simply to enter upon the books of the Treasury Department a credit to the parties holding the drafts, or in favor of whom the drafts may be drawn—the amount of the drafts to be drawn at any subsequent period by the holders of the drafts, or those to whom they may be transferred.

Mr. PRUYN. That is the object. The amount of the drafts will be paid to whomever may present them properly indorsed.

Mr. HOOPER. I hope, Mr. Speaker, that this bill will be referred as proposed, to the Committee of Ways and Means, with leave to report at any time. Let the committee have action upon it. It can be reported in the morning. It appears to me that this course will answer every purpose. I hope that my colleague on the committee [Mr. PRUYN] will withdraw his proposition, and allow the reference to be made.

Mr. PRUYN. I cannot do that after what has occurred. In the course which I have taken I have acted on behalf of and by the authority

of the committee. It may have happened that the gentleman from Massachusetts [Mr. HOOPER] was not present at the meeting of the committee.

I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time. Being engrossed, it was accordingly read the third time and passed.

#### ARMY APPROPRIATION BILL.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had insisted on their sixth amendment, disagreed to by the House, to the bill (H. R. No. 653) making appropriations for the support of the Army for the year ending June 30, 1866; and had appointed Messrs. COWAN, WILSON, and CARLILE, a committee of conference on the part of the Senate.

Mr. STEVENS. I move that the House appoint a committee of conference.

The motion was agreed to.

LUCY A. RICE.

Mr. WASHBURN, of Illinois. I am requested, Mr. Speaker, to ask the House to take up joint resolution of the Senate No. 116, for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia. Mrs. Rice is the lady who, in Richmond, secreted our prisoners of Streight's command. In doing this she was not only subjected to considerable expense, but she did it at the risk of property and life. She afterward fled from Richmond and came to Washington. She is now here in a state of great destitution. This is the information which I have obtained from a Senator who well understands all the facts. The joint resolution proposes to appropriate to this patriotic lady \$1,500. I ask unanimous consent that the bill be now taken up and acted on.

Mr. PENDLETON. I ask that the bill may be read.

The bill was read.

In consideration of her patriotic services it appropriates to Mrs. Lucy A. Rice, her heirs or administrators, \$1,500.

Mr. PENDLETON. Is it designed to put this joint resolution upon its passage at this time?

The SPEAKER. The Chair so understands.

Mr. PENDLETON. To that I must object. I have no objection to the taking up the joint resolution for reference.

Mr. WASHBURN, of Illinois. I move to suspend the rules for the purpose of taking this joint resolution from the Speaker's table for consideration at this time.

The motion to suspend the rules was agreed to.

The joint resolution was taken up, and read a first and second time.

The joint resolution was then ordered to be read a third time; and was read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. JOHNSON, of Pennsylvania, and Mr. STILES, respectively asked and obtained leave of absence for the remainder of the night's session.

#### CALIFORNIA AND OREGON RAILROAD.

Mr. McBRIDE moved that the Committee of the Whole be discharged from the further consideration of a bill (H. R. No. 691) to authorize and aid in the construction of a railroad connecting the Pacific railroad, in California, with the Columbia river, in Oregon, and Puget sound, for the purpose of proceeding to its consideration at this time.

The motion was agreed to.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. KERNAN. What committee reported this bill?

Mr. McBRIDE. The select committee on the Pacific railroad.

Mr. WASHBURN, of Illinois. How much land is granted? I want to know how much land is taken away from our soldiers.

Mr. McBRIDE. The grant is the same as that made to the Pacific Railroad Company on



the main line, though it does not cover anything like that amount of land. It runs through a series of valleys in California and Oregon where the land is almost all taken up.

Mr. KERNAN. They can hardly do anything with it the coming summer. Let it go over so that we can have an opportunity to understand it.

Mr. McBRIDE. This bill has been printed and upon our table for weeks past. If gentlemen had taken any interest in it, I think they could have examined it before.

Mr. KASSON. I offer the following additional section, being the same I offered to the land-grant bills for the State of Iowa:

Sec. — *And be it further enacted*, That if either of said companies shall fail to complete twenty miles of road in any one year, the lands not earned by previous construction shall revert to the United States, and become subject to disposition as fully as if this act had not been passed. And all the lands certified to either of said companies under this act shall be sold by said companies, at private or public sale, within five years from the time such companies may become entitled thereto.

Where you allow these companies eight or ten years within which to complete their work, they obtain possession of these lands and hold them all from settlement, thus weakening the State which it is proposed the road will benefit, by retarding the increase of settlers, and the development of the resources of the State. If the road gets into the hands of capitalists they tie up these lands for an indefinite period of time. I therefore desire the incorporation of such a provision as this in every land grant for railroad purposes which shall be made, for the interest of the State through which the road is to pass.

Mr. COLE, of California. I wish to make an inquiry of the gentleman from Iowa. I would like him to state whether, in case of a failure to complete the twenty miles each year, there is to be a forfeiture of all of the land, or only of the land along that twenty miles.

Mr. KASSON. If it were restricted to the lands along the twenty miles that would not do. It would be ineffective unless the entire lands should revert.

Mr. COLE, of California. I am sorry that the gentleman did not bring his proposition before the select committee before whom this subject has been under consideration for a long time.

Mr. WASHBURN, of Illinois. There should be no objection to that amendment.

Mr. McBRIDE demanded the previous question. The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 59, nays 34, not voting 89; as follows:

YEAS—Messrs. James C. Allen, Allison, Ames, Baily, Baxter, Beaman, Boutwell, Boyd, Freeman Clarke, Cole, Briggs, Eckley, Eden, Eliot, Griswold, Hale, Higby, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jencks, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Law, Lazear, Le Blond, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Patterson, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Smithers, John B. Steele, Stevens, Thayer, Upson, William B. Washburn, Whaley, Wilder, and Worthington—59.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Bliss, Brooks, Cobb, Coffroth, Cox, Thomas T. Davis, Dawes, Denison, Dixon, Ganson, Herrick, Hubbard, Kalbfleisch, Kernan, Long, Marcy, Middleton, Morrill, Daniel Morris, John O'Neill, Orth, Pendleton, Pray, William H. Randall, Ross, Thomas, Townsend, Tracy, Ward, Elithu B. Washburne, Chilton A. White, and Wilson—34.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Ashley, John D. Baldwin, Blaine, Blair, Blow, Brandegee, Broomall, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Clay, Cravens, Creswell, Henry Winter Davis, Dawson, Deming, Donnelly, Dumont, Edgerton, Eldridge, English, Farnsworth, Finck, Frank, Garfield, Gooch, Grider, Grinnell, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hooper, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Julian, King, Knapp, Mallory, McDowell, McIndoe, McKinney, William H. Miller, Moorhead, James R. Morris, Morrison, Nelson, Noble, Odell, Perry, Pomeroy, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Schenck, Scott, Sloan, Smith, Spalding, Starr, William G. Steele, Stiles, Strouse, Stuart, Sweat, Van Valkenburgh, Voorhees, Wadsworth, Webster, Wheeler, Joseph W. White, Williams, Windom, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—59.

So the bill was passed.

Mr. SHANNON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 82, in relation to the distribution of books and documents; when the Speaker signed the same.

#### LEAVE OF ABSENCE.

Mr. O'NEILL, of Ohio. I ask that my colleague, Mr. FINCK, have leave of absence for this evening.

There was no objection, and it was ordered accordingly.

#### MARGARET CHANEY.

Mr. HALE. I ask unanimous consent to report from the Committee of Claims a bill for the relief of Margaret Chaney, the old woman referred to some time ago by the gentleman from Maryland [Mr. THOMAS] as having lost a hundred dollar note. There is no doubt that the note was burnt up.

Mr. WASHBURN, of Illinois. I object.

#### LOAN BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union to take up and consider the loan bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and proceeded to the consideration of House bill No. 772, to provide ways and means for the support of the Government.

Mr. STEVENS. I move a substitute for the bill. When my colleague on the committee [Mr. HOOPER] has been heard, and any other gentleman who wishes to speak on the subject, I will close the debate with a few remarks.

The Clerk read the substitute, as follows:

That the Secretary of the Treasury be, and he is hereby, authorized to borrow from time to time, on the credit of the United States, a sum not exceeding \$600,000,000, and to issue therefor coupons or registered bonds, redeemable at the pleasure of the Government after ten years, and payable at any time not more than forty years from the passage of this act, at a rate of interest not exceeding eight per cent. per annum, and of such denominations, not less than fifty dollars, as he may deem expedient. And he may, in his discretion, dispose of such bonds, at any time, upon such terms as he may deem most advisable. And said bonds shall be exempt from taxation by or under State or municipal authority.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall be at liberty to exchange bonds similar to those provided for in the first section of this act with the holders of any bonds or obligations of the United States bearing interest: *Provided*, That such exchange shall be offered by the holders of obligations within two years after the passage of this act.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury may dispose of bonds similar to those provided for in the first section of this act, in exchange for Treasury notes, certificates of indebtedness, certificates of deposit, or any representatives of value which have been or may be issued under any act of Congress; and whenever any person or persons owning a claim against the United States for materials or supplies furnished, which shall have been duly adjusted and approved by the proper officers, and for the payment of which requisitions shall have been duly made by the appropriate Department or officer, upon the Treasury of the United States, shall have given notice in writing to the Department or officer making the requisition, that the owner of such claim desires to subscribe for a loan authorized to the amount of said claim, or some part thereof, and to receive in payment of the same the bonds or other obligations similar to those provided for by this act, the said officer or Department, when making such requisition, shall specify therein the name or names of the claimant or claimants who shall have given such notice, and also the amount of such claim or claims; and thereupon the Secretary of the Treasury shall issue to the officer or Department making such requisition the bonds or other obligations aforesaid, to be delivered in payment to said claimant or claimants at the same rates and under the same conditions that the Secretary disposes of similar bonds or obligations, not below par, to other parties; and such issuing of bonds or obligations shall to that extent be a valid compliance with such requisition.

Mr. STEVENS. The last section of my substitute has not been printed, and I understand the gentleman from Massachusetts [Mr. HOOPER] will offer the same matter as an amendment to the original bill, and in that respect they will not differ.

Mr. HOOPER. This bill, with some amendments that I am directed by the committee to propose, came from the Treasury Department. It au-

thorizes \$600,000,000 to be borrowed for the next fiscal year on such terms and in such of the forms as have been heretofore authorized, except that no part of it shall be made legal tender, or be in smaller denominations than fifty dollars. The annual rate of interest is limited not to exceed six per cent. if payable in coin, nor in any case to exceed seven and three tenths per cent.; and the time for which any bonds may be issued is limited at not less than five nor more than forty years. Within these limitations and restrictions the bill leaves everything to the discretion of the Secretary of the Treasury.

The substitute offered by the chairman of the committee proposes to confine the Secretary to the issue of bonds payable after ten years, and bearing interest at the annual rate of eight per cent., payable in currency. In all other respects the bill and substitute are essentially alike. The annual rate of seven and three tenths for interest was deemed by the committee the highest that the Government ought to pay for money under any circumstances. By making the principal and interest of the bonded debt payable in coin we have some standard of value in view to which everything used as currency should be brought as early as is practicable. It seemed therefore to the committee important to adhere to the policy which has been heretofore adopted, of paying the interest on all bonds in coin, in view of making the currency equivalent to coin at the earliest possible period.

I do not propose to detain the House by any further remarks, but I will answer any inquiries in explanation of the bill. Unless the committee desire further discussion I will now propose amendments which I am instructed by the committee to offer. The first is of a verbal character entirely. It is to insert in line thirteen after the word "at" and before the words "any period," the words "or after;" so that the clause will read:

At the pleasure of the Government at or after any period not less than five years nor more than forty years from date, &c.

The amendment was agreed to.

Mr. HOOPER. I move to amend in line fourteen after the word "or" by inserting the words "may be made redeemable and;" so that the clause will read, "or may be made redeemable and payable as aforesaid."

The amendment was agreed to.

Mr. HOOPER. I move to amend, in line eighteen, by striking out "and" and inserting "and bear such dates and be;" so that the clause will read:

Not less than fifty dollars, and bear such dates and be made redeemable or payable at such periods, &c.

The amendment was agreed to.

Mr. HOOPER. At the end of the first section I move to add the following proviso:

*And provided further*, That the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, shall be so construed as to authorize the issue of bonds of any description authorized by this act. And any Treasury notes, or other obligations, bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act. And no bonds so authorized shall be considered a part of the amount of \$600,000,000 hereinbefore authorized.

Mr. Chairman, I wish to state in explanation of this amendment, that the object of it is to make any bonds that are authorized to be issued after the 4th of March—that is, the bonds remaining under the bill of the last session—homogeneous with the bonds authorized under this act, and to allow the Secretary, if he chooses, to give them the same character as the notes which are authorized to be issued under this act, or the notes which he may see fit to issue under this act. It merely brings what remain of the bonds authorized to be issued by the act of last year into the same category with the bonds authorized by this act.

Mr. PRUYN. What is the difference?

Mr. HOOPER. There is no difference. All the authority under this act is general.

Mr. PRUYN. I mean, what is the difference between these bonds and those of last year?

Mr. HOOPER. This bill is more comprehensive as to the forms that may be used than the bill of last year.

Mr. PRUYN. The rate of interest will be the same?

Mr. HOOPER. The rate of interest will be the same.

Mr. PRUYN. That is right.

Mr. HOOPER. I have another amendment which I desire to offer. I move to insert after the word "Congress," in line nine of the second section, the following:

And may, at his discretion, issue bonds or Treasury notes authorized by this act, in payment for any requisitions for materials or supplies which shall have been made by the appropriate Department or office upon the Treasury of the United States, on receiving notice in writing through the Department or office making the requisition, that the owner of the claim for which the requisition is issued desires to subscribe for an amount of loan that will cover said requisition or any part thereof.

I would remark that that is the same proposition that was referred to by the chairman of the committee as being in his substitute, although not printed.

Mr. PRUYN. I desire to call the attention of the gentleman to a verbal correction which ought to be made in the twenty-fifth line of the first section. It now reads, "and the principal, or interest, or both, may be made payable in coin or in lawful money." The word "other" ought to be inserted there after the word "or," so as to make it read, "or in other lawful money."

Mr. HOOPER. I can see no objection to that.

Mr. PRUYN. I believe the Committee of Ways and Means came to the conclusion that they would not hold that coin is not lawful money. [A laugh.]

Mr. STEVENS. It is just as well to leave it as it is, because gold is not money at all now.

Mr. HOOPER. I see no objection to that amendment, and hope that it will be adopted.

Mr. PRUYN. We came to the conclusion that we could not hold that coin is not lawful money, and the chairman thought with us on that point.

The amendment suggested by Mr. PRUYN was agreed to.

Mr. FERNANDO WOOD. Mr. Chairman, on a proposition of this magnitude I had supposed that the Committee of Ways and Means, which reported this bill to the House, would have been prepared to have presented to the House and to the country some grounds in its behalf. When the honorable gentleman from Massachusetts [Mr. Hooper] assumed, as he did, its paternity, knowing his ability and how conversant he is with questions of finance, I had supposed that some attempt at least, even in the way of explanation, would be made. Sir, the financial affairs of this country now present questions which are secondary to no other now agitating the public mind. The Government money or credit is really absorbing the whole monetary affairs of the country. The public credit is everywhere. The affairs of banking institutions and of corporations, as well as of individuals, are conducted by it. A proposition, therefore, to add \$600,000,000 to the already stupendous debt is of that magnitude that it requires the thoughtful consideration of this Congress and of the people. Indeed I think it is agitating the anxious mind of every man in the community who is capable of appreciating its magnitude and the inevitable effects.

Six hundred million dollars! Never before in our history has such a proposition been made. I go further, and say that never in the history of any country, ancient or modern, has there ever been a like proposition, of an amount so great to be voted by any legislative body in one sum, and at one time. Why, sir, the whole national debt of Russia, a nation with a population of sixty millions, that has been at war more or less for a hundred years, that has, notwithstanding our warlike attitude, a larger standing army than our own, has a debt of only a little over this sum.

But though so great, I am not prepared to say it may not be wanted, nor that it will not be voted, nor that it will not be borrowed. I certainly am not prepared to say that it will not be expended. Yet it is a duty to review the whole subject of our financial condition, that we may have a proper understanding of this whole question.

In the discussion of a question of this character, if we would reach an intelligent conclusion, it is our duty to examine thoroughly and carefully, not only the amount of the existing debt, but also to see whether there is not some way to ob-

tain a reduction of it instead of making the enormous proposed increase.

Let us look a moment at the component elements of the debt—how it has been created—whether the policy heretofore pursued has been a wise one, and see whether it is not possible to devise ways and means, without more taxation and without more borrowing, to hope for some elevated, comprehensive scheme of finance that will, from our own substantial resources, promptly meet the interest on the public debt, and finally liquidate the principal. That is the duty of the American Congress and of the American people.

Now, as to the public debt. The Secretary of the Treasury, in his last annual report, furnished an estimate of the public debt at the conclusion of the next fiscal year, June 30, 1866. After referring to the erroneous estimates of his predecessor, after telling us very truthfully and frankly the impossibility of being accurate in estimates either of receipts or disbursements, he, however, estimates the debt at that time to be \$2,223,064,000. Now, receiving that estimate with the same latitude of allowance of other estimates from the Treasury Department, I have taken the liberty of adding twenty per cent. to it, to meet probable deficiencies. That would increase it \$444,000,000. To that must be added the estimated unaudited accounts, because I assume that in the estimates of the public debt made by the Treasury Department no unaudited claim, even on file in the Department, is comprehended. I have reason to believe, sir, that the unaudited accounts, just, legal, and proper, that will in due course be audited, allowed, and paid, amount at least to \$100,000,000 more. To that I add an estimate of the unascertained valid claims against the Government, those that have not yet even been presented in form. These I estimate at \$100,000,000 more.

Then, sir, there are the State war debts. Missouri, Pennsylvania, and other States have already presented their war debt claims to Congress to be audited and settled. These claims are predicated on the ground of money honestly and legitimately expended in the maintenance of the integrity of the general Government. Hence, sir, if there be any claim that in my judgment is equitable as against the General Government, it is the claim for reimbursement of moneys that were expended in the defense of the General Government. These claims will amount in the aggregate to, at least, \$225,000,000. To that I will add, on similar grounds of equity, the city, borough, and county debts. The city of New York alone has expended over seven million dollars. In the year 1861, between April, 1861, when the war commenced, and the 1st of January succeeding, under my administration as mayor of that city, \$1,000,000 was expended in the outfit and supplies of troops sent here for the defense of the capital and for the prosecution of this war. Adding other items, as stated below, the total is \$3,342,124,000. This I presume must be sooner or later funded, and continuing the present policy of borrowing in currency and paying in coin, will have to be paid in gold. I submit a table recapitulating these estimates.

*Public debt, present and prospective.*

Estimate of the Secretary of the Treasury to end of next fiscal year, June 30, 1866.....	\$2,223,064,677
Add twenty per cent. as probable under-estimate .....	444,060,000
Estimated unaudited accounts.....	100,000,000
Estimated unascertained valid claims.....	100,000,000
Estimated State war debts to be assumed.....	225,000,000
Estimated city, borough, and county war debts to be assumed.....	100,000,000
Estimated indemnities and reclamations....	150,000,000
	<hr/>
	3,342,124,677
This amount, payable in gold, at say 200, its present value, namely, \$167,106,338.....	3,342,124,677
Total.....	<hr/>
	\$6,684,249,354

I am not without authority in predicting that our public debt must be paid in coin. Mr. SHERMAN, chairman of the Committee on Finance in the Senate, said to-day, on opening the debate on the internal revenue bill, that "when I see the money thus borrowed expended on trivial objects I cannot but look forward to the slow and hard process by which it must all be repaid in gold with interest accumulated and accumulating." But it requires no authority for the statement. Having commenced this system of borrowing greenbacks and promising to repay in gold, and assuming

that the whole war debt as above aggregated must be settled by Government, of course the same mode of payment must be continued.

Mr. Chairman, this is the present and prospective debt of the country—an enormous aggregate, but an aggregate which has to be liquidated or repudiated. I do not believe that the American people, under any possible circumstances, however corrupt an Administration may be in the expenditure of the public money, and however reckless in the accumulation of the public debt, will ever repudiate. Our obligations will be met; but the inquiry may well be, how? and when?

These questions I am not now discussing; I am dealing with the enormous indebtedness, and, to appreciate its magnitude, call your attention to that of other nations.

Compare this with the public debt of the six most powerful nations of the world: Great Britain has a public debt of \$3,760,000,000; France, \$1,330,000,000; Russia, with a standing army of eight hundred thousand men, has a public debt of \$733,000,000; Austria, with a standing army of four hundred and twenty thousand men, has a public debt of \$500,000,000; Spain, with a standing army of one hundred and sixty thousand men, has a public debt of \$1,300,000,000; Prussia has a public debt of \$180,000,000. The aggregate public debt of the six most powerful nations of the world is \$7,803,000,000—but a trifle more than our own.

Now, what are the causes which have led to our great public debt? I shall be answered that the war has caused it. I deny it. The war has furnished a pretext for much of it. I am aware that armies and navies cannot be created and subsisted, that Government cannot be conducted under circumstances such as those under which our Government has been conducted for the last four years without the expenditure of a large sum of money. And I am aware that from the very necessities of the case millions, ay, hundreds of millions, would be used under the most economical administration of the affairs of Government that would be possible. But were it possible to know how every dollar of this stupendous sum has been expended, and we could know where the public money has gone, it would be a most astounding revelation and create a revolution in the minds of the confiding and deluded American people. I shall not attempt it. It is sufficient to refer to some of the leading sources.

Undoubtedly at the head of the category, and as the corner-stone, stands the erroneous and fallacious financial system of the late Secretary of the Treasury. What was that system? Temporary expedients, based upon a theory which necessarily created a disastrous inflation of the currency. It commenced by borrowing nearly every dollar that the State banks had to loan, and then, when having them in a dependent and crippled condition, devised a scheme for their destruction by warming into being a powerful rival backed by the power of the Government. Again, by putting into the circulating medium of the country an artificial element which operated to inflate the currency. This, together with the new national bank currency, enhanced prices twofold, ay, threefold; and as prices became thus largely enhanced, of course the expenditures of the Government became largely and relatively increased. Therefore I look upon the erroneous and fallacious financial system adopted by the Treasury Department as the head and front of the numerous causes which have created this immense public debt.

But that is not all. Another cause may be found in the wrong war policy that was adopted, the immense expeditions that have been fitted out and which have been failures, the want of appreciation of the power, resources, and courage of the enemy, and in the invention and prosecution of enterprises totally useless and fruitless. Why, sir, the attempts to take Richmond overland, under the dictation of the fanatical crew who yelled "On to Richmond!" cost over one hundred million dollars. I allude, sir, to those Quixotic expeditions before General Grant was called from the West to take command of the army of the Potomac. The same may be said of numerous naval expeditions, the fleets and armadas which have been fitted out to no purpose and without result. Millions have been expended to gratify political dependents; in the construction of worth-

less iron-clads and other vessels; in experiments on all kind of war materials; in the purchase of worthless supplies, outfits, and armaments, merely for the purpose of dispensing patronage; in the extortions submitted to in like quarters from the same motives; in the support and pay of thousands of idle civil officials under pay who have done nothing, and are doing nothing; in the numerous military and naval officers on "like duty," namely, drawing pay and doing nothing; in the omission or refusal of the Government to exchange promptly prisoners, thus depriving the service of an average force of at least thirty thousand men, and in consequence entailing an expense in the support of the confederate prisoners in our prisons; and finally, in the many millions expended in the care and support of worthless, dependent negroes, to which may be added the vast sums spent for fishing bounties, for soldiers' bounties, for traveling agents in various forms; supporting at least one hundred thousand men who have rendered no public service whatever.

But, Mr. Chairman, there is yet another element of expense. I allude to the corruptions and frauds; frauds in making contracts, frauds in purchasing supplies without contracts, frauds in the charge and allowance of commissions, in the collusion between officers of the Government and outside parties, in the official appropriation of public money, in the pretended payment of bounties, in false pay-rolls, in alleged recruiting expenses, in the expenditures for the payment of soldiers and others not actually employed. Why, sir, a member of this House told me the other day that there are over one million men upon the pay-roll, alleged to be in the Army. Well, sir, we all know that there are not to-day over half a million men under arms as soldiers of this Government. Yet we are paying over one million men to-day. Where are they? They have no existence in fact as soldiers; and the Government is defrauded of an extraordinary amount.

Then, too, there are frauds in the payment of supplies, in the alleged expenses of the collection department, in the collusion of internal revenue collectors and assessors with merchants and manufacturers. There are frauds in the custom-houses, in the navy-yards, in the provost marshals' offices, in the selling of Government property to rebels, in alleged supplies to rebel prisoners, in alleged service for mail-carrying, in the expenditure of a vast secret-service fund.

I will admit that it is almost impossible, in conducting a Government like this at a time like this, to maintain the strictest integrity in all its various departments. But, sir, these frauds, these irregularities, these profligate and useless expenditures, have during the last four years been greater than were ever witnessed before in this or any other country. These are among the chief causes which have contributed to the creation of the present debt.

Now, sir, the first requisite is the institution of principles of rigid economy. We want reform; reform in the conduct of every branch of the Government, in the planning of campaigns, in the expenditure of money, but especially in the conduct of the finances. The great objects of the statesmen who represent this Administration in Congress appear to be in the development of ingenious devices to tax and borrow. To them there appears to be no other resource. It does not appear to be within their comprehension that there are other means for raising revenue. As preparatory to some suggestions on this point, permit me to offer a few general reflections. Assuming that a merchant has a capital of \$100,000, and puts his notes into the market for that sum, his notes are worth one hundred cents upon the dollar. If he issues notes for \$200,000 they are worth but fifty cents on the dollar. And so, in proportion as he extends his credit and issues his promises, those promises decrease in value.

So it is with our credit. Our political financiers are surprised because the late military results have not lessened the value of gold. They think that gold ought to have fallen because we have had military successes. Such has not been the effect—and why? Because the market value of gold when measured by currency is regulated by commercial and monetary considerations instead of military ones. The reason why these military results have not raised the price of the national currency is, first, because there is an un-

due redundancy of it, owing to the fact that the monetary affairs of the country have been badly conducted; secondly, this system from the time it was devised has been of a character necessarily to depreciate the responsibility of the Government; and thirdly, because our expenditures are so much in excess of our revenues. How long would you trust a man with an annual income of \$30,000, who spent \$90,000? How long would any prudent merchant have confidence in the responsibility of an individual or corporation that expended three times its revenue, and made up the difference by borrowing? The same principles apply to the affairs of Government. Public affairs, if properly conducted, are administered on the same principles that govern individuals. Those who pretend otherwise and who talk about the science of sociology, and seek to throw around this question a mysterious exclusiveness of knowledge, really understand very little about it. There is no other science than that which is founded in common sense.

Hence it is, by the extraordinary expenditures and the other errors to which I have referred, we are a large debtor with inadequate assets. The difference between our receipts and disbursements is so great that public confidence is wanting. This want of confidence is shown in the difference between the standard of value—namely, the precious metals—and our promises to pay. We may talk as we please, but, after all, this is the plain, palpable fact. Now, sir, where is the remedy? It is not only in the economy and judicious management of public affairs, but in the development and realization of resources within our reach but not yet attempted. We have substantial elements of value and wealth inexhaustible.

At the last session of Congress I introduced a resolution, with the intent to initiate a policy of great moment. I refer to the proposition requesting the President to assume possession of and work the mineral lands belonging to the Government. Our Territories of Idaho, Arizona, Montana, and States of Oregon, California, and Nevada contain gold, silver, and other minerals of a value probably far beyond that of similar wealth in any other country of the world. Other nations have made available such resources. Napoleon covets the rich provinces of Mexico solely for the revenues to be derived from them in the precious metals. He seeks Sonora, the richest mining district of Mexico, that his coffers may be replenished. For years he has been devising this scheme as a source of national wealth and not of territorial acquisition. Spain by the proceeds of her quicksilver mines was enabled to bear the expense of a war with both France and England almost at the same time. Russia derives large products from similar quarters. Indeed, all nations except ourselves have availed themselves of the riches existing in the bowels of their own earth, within their own territory.

Now, sir, we have mineral lands in excess of all European Powers together. Idaho, Nevada, Oregon, California, Arizona, and Colorado, are three fourths precious ore. This is public property—as much so as this Capitol. Not one step has been taken toward realizing these values. No sir, not one; but we have gone on borrowing to-day to pay that which we borrowed yesterday, apparently with no other thought or faculty than that of spending, taxing, and borrowing. A prudent merchant would convert existing assets before doing either one or the other. No sane individual would borrow at large interest while in the possession of illimitable wealth lying idle and unproductive.

But there is yet another mode of raising revenue, in a manner that neither taxes nor imposes liabilities—a mode which will impose no burden upon the American people. I allude to the levying of an export duty upon articles shipped abroad. I know that the general opinion is—and such was my opinion until recently—that there is a constitutional restriction against levying an export duty. I have looked into that question, sir, and I have availed myself of such authorities and information as were at hand in order to ascertain whether it was so or not, and whether the authorities were sufficient to justify the conclusion that there was no power. The Chamber of Commerce, in New York, has sent a memorial to Congress asking an amendment to the Constitution permitting Congress to impose a duty upon

exports; and I understand the honorable gentleman from Maryland [Mr. DAVIS] has introduced a proposition to the same effect.

I have read with great care the debates of the convention which framed the Constitution, and of the several State conventions which ratified it, but have been unable to reach the conclusion that Congress has not the power to levy a duty on exports. We have indirectly done it already. There have been no shipments from this country for years that has not left something in the hands of the General Government. A cargo cannot be exported until a clearance is obtained at the custom-house. The manifest contains an enumeration of the articles shipped and the value thereof. To that statement the owner or shipper must make oath, and pay the clearing charges. Is not that a tax? I know that in technical phrase it is called a custom-house fee, but it is a tax nevertheless. Under the old debenture laws two and a half per cent. of drawbacks was left in the hands of the Government. Was not that an export duty? The question was not raised as to the power of Congress to pass such measures when these laws were enacted. In this House, recently, we imposed a tax of six cents a gallon upon petroleum, and that tax follows the article across the sea—there was no drawback in consequence of the export. Is not that equivalent to an export duty? If we can do a thing indirectly we can directly. Now, what is the provision of the Constitution which it is supposed restricts Congress from laying an export duty. It is found in article one, section nine, subdivision five, which states:

"There shall be no tax or duty laid on any article exported from any State."

It appears to me that this was not intended to apply to exports to foreign lands. Brightly, in his marginal note opposite to this provision of the Constitution, refers to it as relating to "State duties." No tax or duty shall be laid on any article "exported from any State," not from any port of the United States; not from the United States; but that no tax or duty shall be laid upon any article exported from any State. Though found among the restrictions upon the powers of Congress, it seems to me to have been intended that Congress should lay no tax or duty on any interstate commerce.

Assuming the power, how vast would be the revenue from such a source. The exports from the United States during the last half of the last fiscal year were two hundred and forty odd million dollars, and the last month produced relatively the much larger amount. It is safe to estimate when we again become, as we shall, a cotton exporting country, with a continuation and increase of the petroleum and other shipments, that this will reach \$1,000,000,000 per annum, and an export duty of twenty per cent. upon that would produce \$200,000,000, and no domestic interest would suffer; an export duty becomes an element in the cost to the foreign consumer. No citizen of the United States would pay a dollar of it. The original cost, the export tax, and the shipping expenses, freight, commissions on sales, and import duty upon the other side, make up the cost to the foreign consumers. The result, therefore, would be that that \$200,000,000 thus contributed to our Treasury would come out of the pockets of citizens of Europe, and not of the United States.

Mr. Chairman, I am admonished that my hour allotted to this discussion has closed. I have endeavored to present my views in plain language and with a strict regard to truth as to statement. If I have not succeeded in convincing the committee that our present financial system is ruinous, and that every principle of political economy has been disregarded, I have not only failed in my object, but I shall regret the attempt. There is, however, an outside tribunal to whom I appeal and if it shall fail to appreciate, let time determine whether the homely precepts of common sense or the fine-spun theories of dreamers, speculators, and speculators are best for a great people suffering under a great wrong.

Mr. HOOPER. Mr. Chairman, as the number of members in the House is not very large this evening and as several gentlemen wish to leave, I propose that we name an hour to-morrow when a vote shall be taken on the bill and amendments, with the understanding that the debate may go on until that time.



Several MEMBERS. Close the debate now.

Mr. DAVIS, of Maryland. There are gentlemen who wish to discuss the details of the bill in a business discussion.

Mr. STEVENS. I am willing to agree to anything that the gentleman from Massachusetts proposes.

Mr. HOOPER. I was going to suggest that, by general consent, we take the vote on this bill at one o'clock to-morrow.

Several MEMBERS. To-night.

Mr. HOOPER. I withdraw the proposition.

Mr. STEVENS. Mr. Chairman, of course I expected, having offered the substitute, to defend that substitute in some remarks of twenty or thirty minutes' duration. It is suggested, however, that I reserve my remarks until after the previous question is seconded. I have no objection to that, and if any other gentleman wishes to address the committee to-night I will postpone my remarks.

Mr. WILSON. I suggest to the chairman of the Committee of Ways and Means that he move that the committee now rise for the purpose of closing debate, and that then we have a five minutes' debate on amendments.

Mr. STEVENS. Very well; I will renew my amendment in the House and then make my speech. I have no objection to that if it be the sense of the committee. I therefore move that the committee do now rise for the purpose of closing general debate.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union had had under consideration as a special order the bill (H. R. No. 772) to provide ways and means for the support of the Government, and had come to no resolution thereon.

Mr. STEVENS. I move that all general debate on the bill terminate in one minute after the Committee of the Whole on the state of the Union shall have resumed its consideration.

The motion was agreed to.

Mr. WARD. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. STEVENS. I will hear what the gentleman has to say.

Mr. WARD. I desire to say that I have been detained from the House for some weeks by indisposition, and have been unable to complete some remarks that I intended to submit. I ask the House for permission to print them.

Permission was granted.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and resumed the consideration, as a special order, of the bill (H. R. No. 772) to provide ways and means for the support of the Government, general debate being closed by order of the House in one minute.

The question was taken on Mr. Hooper's amendment, and it was agreed to.

Mr. WILSON. I propose the following as a substitute for the first section of the bill:

That the Secretary of the Treasury be, and is hereby, authorized to borrow from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums, not exceeding in the aggregate \$600,000,000, and to issue therefor coupon or registered bonds of the United States, in such form as he may prescribe; and such bonds shall be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable at the pleasure of the Government at any period not less than five years nor more than forty years from date, or payable as aforesaid, as may be expressed upon their face; and the interest on such bonds shall be payable semi-annually: *Provided*, That the rate of interest on any such bonds shall not exceed seven and three tenths per cent. per annum; and the rate of interest shall be expressed on all such bonds.

The difference between that substitute and the report of the Committee of Ways and Means is this. The substitute strikes out of the first section of the bill all that part that authorizes the Secretary of the Treasury to issue interest-bearing notes, and confines him to bonds, either coupon or registered. It also provides the rate of

interest on the bonds at seven and three tenths instead of six per cent.

The object is simply to prevent the issuing of any notes to circulate as money, beyond the amount now authorized by law. Under the section, as reported by the Committee of Ways and Means, the Secretary of the Treasury would have authority to issue \$600,000,000 of Treasury notes, not legal tender, it is true, but nevertheless notes that might circulate as money. Their denomination should not be less than fifty dollars, as provided by the section reported by the Committee of Ways and Means.

Now, sir, I am not in favor of authorizing the Secretary of the Treasury to issue any more notes. I think that the authority which he now has goes far enough in that direction. I think it is our duty, as I expressed on another occasion, instead of adding to the volume of the currency, to provide some means whereby it may be reduced. This amendment does not provide for a reduction; it simply provides against the proposed expansion.

Now, it is no answer to this objection to say that the Secretary of the Treasury may not issue any of these notes. The very fact of the authorization of such an issue by this bill would create an uncertain state of affairs throughout the commercial circles of the country. The knowledge that the Secretary of the Treasury had the power at any time to put in circulation an amount of notes, to circulate as money, limited only by the amount fixed in this bill, namely, \$600,000,000, would certainly unsettle very much the value of everything that can be affected by an expansion of the currency; not so much as the expansion itself, but to a certain degree; and it does seem to me that it would be suicidal to us to place upon the statute-books of the country an authorization of this kind.

I am opposed also to authorizing the issue of any more bonds, the interest on which is to be paid in coin. I think we should not pursue that line of policy, inasmuch as the sale of the present seven and three tenths loan is supplying all the money that is needed. We should have some settled policy. A constant change, either in the character of the bonds, or of the kind of money in which the interest is to be paid, or in the rate of interest, continually operates to unsettle the securities of the Government. If, at the commencement of this war, we had established a policy with a fixed rate of interest, defining unchangeably the character of the money in which that interest was to be paid, I believe it would have been much better for the financial affairs of the Government, and that to-day our debt would not have been so large as it is. It is the constant change and uncertainty of our issues; the resort to-day to coin, and to-morrow to paper; the resort to-day to six per cent., to-morrow to seven and three tenths per cent., and the next day to eight per cent., as suggested by the gentleman from Pennsylvania, [Mr. STEVENS,] in his substitute—it is this which tends to shake the confidence of the community in all the securities of the Government.

Mr. KASSON. I have regretted that the gentleman from New York, [Mr. FERNANDO WOOD,] and my colleague, [Mr. WILSON,] should take a position, and I should equally regret that any other gentleman should take a position so decidedly adverse to the policy urged in this bill upon the committee and on the House. On the one hand this bill is declared to be unprecedented in its policy; on the other hand, my colleague [Mr. WILSON] says that this policy now proposed tends to unsettle the money markets of the country. Now, I think it will appear from a single glance at our past legislation that both gentlemen are equally wide of the mark. It is not unprecedented, because it conforms exactly to every loan bill, after the first one, that has been authorized since the commencement of this war. It does not tend to unsettle the money market, because it is exactly what the policy of the Government has been, and what the money market is accustomed to in this country.

This bill has been published long enough for every financial man in our great commercial centers to become acquainted with its contents, and I have yet to learn from any financial source or center any apprehension that the policy indicated by this bill tends to unsettle the money market or

the financial policy of the country. The bill is put expressly upon the ground that it is what the public are accustomed to; it is exactly what the public expect; it is exactly what I have seen recommended in the money articles of four leading commercial papers, and commended as the exact policy which the Government should pursue. I had occasion formerly, on some other financial bill, to caution the committee to be careful how it changed the policy of the Treasury Department which has hitherto characterized the administration of the finances of the country. I maintain, differing entirely with the gentleman from New York, [Mr. FERNANDO WOOD,] that this policy has met with results entirely unexpected, in the great prosperity with which it enabled us in this country to carry on this war.

In the beginning of the war it was announced from the other side of the Atlantic that we could not possibly raise the means to carry on this war one year without resorting to the assistance of foreign capitalists to obtain the means for our necessary expenditures; yet the very policy now censured by the gentleman is one that has carried the country successfully up to this time, so successfully that the amount of debt unpaid is hardly appreciable compared with the amount of money expended in satisfying the lawful demands upon the Treasury.

This money question is a delicate one; and which I always hesitate to approach. But when I find a bill presented in this House containing a policy hitherto known to the country; when I find that policy supported by the Secretary of the Treasury, he being a man originally entertaining the same views as my colleague, [Mr. WILSON,] but who now recommends this policy; when the Committee of Ways and Means is almost unanimous for the policy now proposed to the House, I submit to gentlemen that I have reason to beg them to be careful how they attempt to break down that policy and unsettle the financial affairs of the country.

Mr. WILSON. Will my colleague allow me to say a word? Of course I have not the same means of knowing the views of the Secretary of the Treasury as my colleague; but if I understand the report made to Congress by that officer at the commencement of this session he does not favor the issuance of any more gold-bearing bonds.

Mr. KASSON. This bill has not only come from the Treasury Department, but has been the subject of repeated consultations with that Department since it came to the hands of the committee. It does not necessarily result in the issuing of these gold-bearing bonds; but the power to issue such bonds was declared by the late Secretary of the Treasury, and is declared by his successor, to be a desirable alternative in any loan bill. By vesting this power in the Secretary of the Treasury we give him an important influence over the money market.

My time is brief, and I must hasten on to notice the suggestions which have been made about increasing the volume of the currency. In this bill we have limited the lowest denomination of any character of obligations to fifty dollars. Therefore, in the nature of things, as long as they cannot be legal tenders they cannot swell the volume of the currency of the country. The propriety of this measure must be patent to any gentleman who will consider for a single moment the necessity that may arise for something else besides bonds and paper currency. Suppose that for a single quarter the amount of gold in the Treasury should prove to be less than was required for the payment of the interest on our gold-bearing bonds. Suppose that the Government should be obliged to go into the market to obtain gold. Would it not be better, in such a case, that the Secretary of the Treasury should have the right to effect a temporary gold loan for the small amounts required for one fiscal quarter rather than that he should be compelled to go into the general market and pay whatever price might be demanded? Does not England issue exchequer bills for the express purpose of reaching over these temporary deficits in the Treasury? It is the custom of every treasury department to do so; and we cannot justly deprive ours of the power.

Mr. DAVIS, of Maryland. I move to amend the amendment of the gentleman from Iowa by striking out all after the word "provided;" and I would suggest to the gentleman that perhaps he

will better attain the object that he desires to reach by dividing the question.

The gentleman who has just taken his seat has discussed only one of the questions involved in the amendment; that is, whether the interest should be payable in currency or in gold. But the amendment contemplates another and a very material object, which does not at all depend upon that question, and which may be either adopted or rejected, however the question of interest may be determined.

The first part of the amendment relates to the form in which the security is to be given. The bill leaves this absolutely at the discretion of the Secretary of the Treasury. Under the bill as reported, that officer may issue coupon bonds, or Treasury notes, gradually accumulating interest, in the form which has hitherto been used and which now constitutes a very large proportion of that inflation of the currency under which the country is suffering.

Mr. HOOPER. The gentleman will allow me to remind him that, in the last section of the bill, there is a restriction against the issue of anything that is legal tender. By this bill nothing is authorized to be issued as currency; it simply authorizes the issue of different forms of loan.

Mr. DAVIS, of Maryland. I am perfectly aware of that. And I desire to say that the delusion which appears to rest on the minds of gentlemen is the supposition that they have ended the currency question when they have disposed of the question of legal tender. A bank note, sir, is not a legal tender; yet bank notes have in very great measure inflated the currency. Currency is anything that is in such form and has such value that it will pass conveniently and readily from hand to hand in lieu of coin. Whether it be a legal tender is absolutely immaterial. Making its notes legal tender was a resort of the Government to compel the acceptance of those notes; and it would have been equally effective whether those notes had or had not value independent of that given to them by the coercive authority of the Government. And although you do not give these obligations that coercive power which our legal tender laws have given them, if the Government issues Treasury notes, subdivided into sums which will answer the purposes of currency, in such sums as will pass from hand to hand in the daily commerce of the land, so long as the credit of the Government is equal to the credit of a bank, the Treasury note will stand as a bank note; and if there be two Treasury notes while the market only calls for one, there will be a corresponding inflation of currency and a corresponding depreciation of value.

Now, what the gentleman from Iowa [Mr. WILSON] designed to accomplish by the adoption of his amendment was, to require the securities issued by the United States to be in such form that they should not and would not be, in the nature of notes used as currency. He would confine them to coupon or registered bonds of such an amount as would not likely be used, and, indeed, from their form, would not be used as currency.

So far as the amendment touches that point I am anxious that it should prevail. Whether we shall adopt a specie basis for interest or currency notes for interest is a question on which gentlemen may differ and on which I confess I entertain serious doubts, and I should like to be enlightened by the views of the committee and other gentlemen of the House. Therefore, I pray the gentleman from Iowa to let us remedy one grievance and take the first part of the amendment, and let the interest question be settled by a subsequent vote.

Mr. WILSON. In reply to the suggestion of the gentleman from Maryland I will say that I will modify my amendment, leaving the proviso of the committee to stand with the words "or other obligations" stricken out.

Mr. KERNAN. I think that the gentleman will accomplish his purpose by striking out in the seventh and eighth lines the words "or other obligations;" and in the fifteenth line to the twenty-first inclusive, the words, "and so much thereof as may be issued in other forms than bonds may be made convertible into any bonds authorized by this act, and may be of such denominations—not less than fifty dollars—and made redeemable or payable at such periods as in

the opinion of the Secretary of the Treasury may be deemed expedient."

Mr. DAVIS, of Maryland. That has been stricken out.

Mr. KERNAN. It leaves the bill to give authority to the Secretary of the Treasury to borrow on bonds with the interest payable in currency. It strikes out the part authorizing him to put forth currency.

Mr. DAVIS, of Maryland. That is it exactly. Mr. WILSON. My amendment, as modified, will make it read as follows:

*Provided*, That the rate of interest on any such bonds, when payable in coin, shall not exceed six per cent. per annum; and when not payable in coin shall not exceed seven and three tenths per cent. per annum; and the rate and character of interest shall be expressed on all such bonds or obligations.

Mr. KERNAN. That ought to be adopted, for the time has come when we ought to raise money without issuing currency.

Mr. MORRILL. It is well understood by every member of the House that the Government has not been able to negotiate loans as fast as its necessities required; and the proposition on the part of the gentleman from Iowa is to restrict it to one single class of securities when the Secretary of the Treasury, whoever he may be, will desire two classes. I think that we should give him that much option. He should have the right to issue bonds or seven-thirty Treasury notes; in other words, in the form of the English exchequer bills, but only for a longer period of time.

As to this becoming currency, I utterly repudiate the idea that it is possible for them to become currency unless they are made legal tenders. What are the facts in reference to the compound interest Treasury notes? After they have run a certain length of time they are all withdrawn from circulation; sometimes it takes longer and sometimes shorter. And it is true that even legal-tender Treasury notes are withdrawn from circulation.

If these obligations or Treasury notes should be allowed to be issued by the Government, they will not only be a convenience to the Government, but they will afford a convenience to those saving Government stock. They will be a convenience to our soldiers in the field if they have a large amount of Treasury notes. They will save sums not larger than ten dollars. At such a time as this, though our affairs are exceedingly prosperous, I would not cripple the Treasury, but would give it a choice of securities to throw upon the market. It certainly may at times be a very great convenience to issue these notes; and if the amendment of the gentleman from Iowa had gone any further than that, and confined the issue of bonds and Treasury notes, I would have no objection. But to strike the whole out, leaving solely bonds to be issued, would in my judgment cripple the Treasury to an extent which I do not think this House will feel justified in doing.

Mr. DAVIS, of Maryland. I have no doubt that a great many purposes of convenience would be answered by leaving the Secretary of the Treasury at liberty to put the credit of the Government in any form that would suit the convenience of the occasion. I have no doubt that the convenience of the soldiers, of officers, of small capitalists, of all persons who have small means to invest, might to some extent be met more easily by one plan than by another. And if that were the only question I would not say one word against it.

But, Mr. Chairman, it is a matter of life and death that there should be restored a normal ratio between the currency of the country and the standards of value—gold and silver. It is merely penny-wise and pound-foolish to attempt to accommodate small classes in the community at the expense of all the permanent interests of the whole body of the community. One dollar now in gold is worth two dollars in currency. The mere result, therefore, of the Government borrowing money at this time at that rate is that the Government binds itself to pay twice as much as it receives, and when you levy taxes you have to put on twice as much in order to get enough to carry on the Government. In that, I state a proposition that no one will controvert, not even my distinguished and learned friend from Vermont, [Mr. MORRILL], to whom I cheerfully accord the credit of being the ablest financier in either branch of Congress that it has been my pleasure to meet during the last eight

years. But the plain, simple fact is that if tomorrow you double the currency you must double the taxes; and if there be any one thing true, both in point of common sense and political economy, it is that every step you take in the direction I have indicated is a step toward lightening the burdens of the people, restoring the rates of value, and making that which is the normal standard of value approximate to the real value. And if that be so, of what earthly moment is it that a few individuals in the Army, a few old maids in the country, a few persons who have only a hundred or fifty dollars to invest, should be accommodated, when the finances of the country are being ruined and posterity being burdened with nearly a double burden, because everything is depreciated by doubling that which is of no value excepting as currency?

Now, what I wish to accomplish, what the gentleman from Iowa [Mr. WILSON] wishes to accomplish, what I take it the sound, second sober thought of the House wishes to accomplish, is to reduce the enormous volume of currency. This license to the Secretary of the Treasury is an advice to him that the volume of currency may properly be increased under circumstances, though there is no such combination of circumstances now that any foresight can point out. We have got along up to this period, and now, when we can see the end of the rebellion, when our military establishment may be decreased, when there is scarcely any use for the Navy for active operations, when we look forward for decisive events in forty or fifty days, when we hear crumbling the confederacy before our armies, is it to be supposed, if we insist that there shall be a definite standard of value, that the credit of the Government cannot raise by loan what is needed? I concur with the gentleman from Iowa that the mere uncertainty put into this bill is an obstacle to any permanent improvement of the finances of the country.

[Here the hammer fell.]

Mr. KASSON. I move to amend by striking out the last line, for the purpose of enabling me to reply to the mistaken argument of my friend from Maryland, [Mr. Davis.] It is put upon the identical ground as if we were providing by law expressly for the issuing of Treasury notes to circulate as currency.

Mr. DAVIS, of Maryland. That is the effect of it.

Mr. KASSON. That is undoubtedly not the effect of the bill according to history and precedent.

Mr. DAVIS, of Maryland. But it is according to the working.

Mr. KASSON. Not necessarily flowing from the bill in any particular whatever. We have frequently given this discretion to the Secretary of the Treasury, and he has not since we last gave it him exercised it to the amount of one dollar; and gentlemen should not now endeavor for a moment to alarm the people of the country by indicating that it is the intention of the Committee of Ways and Means or of the Secretary of the Treasury to swell the volume of the currency. We have fixed the minimum denomination of the notes at the same as that of bonds, and as they bear interest at seven and three tenths and six per cent., payable in gold, they cannot remain in the market for sixty days. And why? Because you cannot invest your money in any of the ordinary transactions of commerce that will pay you as much interest as that will.

Now, sir, in view of this fact and in view of the fact that with the discretion given to the Secretary of the Treasury to issue over one hundred million dollars of gold-bearing interest bonds and not one dollar of gold-bearing interest bonds issued, with discretion to issue it in Treasury notes, and not a dollar in Treasury notes issued. I ask gentlemen how they can say for a moment that the effect of this bill is either to compel or to induce the Secretary of the Treasury to exercise this power thus proposed to be granted to him. On the contrary, I maintain the position I took before, that the very moment you take away the two powers from him to bridge over difficulties in the financial market and use a legitimate influence in controlling the financial affairs of the country, in case your taxes and loans running from five to forty years do not realize the money you want to pay the Army and Navy, you cannot, even though the Army and Navy may be willing

to take exchequer bills and send them home to their families as investments, pay them in that form of security.

I do trust that the common sense of the committee will perceive the danger of taking from the Secretary of the Treasury a power hitherto exercised with such remarkable success and with such soundness of judgment.

I believe this meets the last arguments, so far as I am able to meet them, offered by my friend from Maryland and my friend from Iowa. I hope that before we adopt a policy radically changing the present system more serious consideration will be given to it than can be given in a hasty five-minute debate. I now withdraw my amendment to the amendment.

Mr. PRUYN. I renew the amendment to the amendment for the purpose of saying a very few words on this subject. I probably should have contented myself, on this branch of the question at least, with listening to what might be said by other members of the House and not have joined in the debate had it not been for what has occurred on the other side of the House, and especially for the remarks which have been made by the chairman of the Judiciary Committee [Mr. Wilson] and the gentleman from Maryland, [Mr. Davis.] Last year I think both these gentlemen united most persistently in that measure which gave away \$300,000,000 of the legitimate circulation which the Government might have used to the national banks. One hundred and fifty millions at least, and I believe that at this time perhaps nearly two hundred millions of that \$300,000,000 have already been taken up. Now, it may very well be that with this unlimited power of circulation, as it were, given to the national banks, the Secretary of the Treasury may need nothing more for the purpose of carrying on the affairs of the Government; but should the amendment of the gentleman from New York, [Mr. Fernando Wood,] which is not yet before the committee, to restrain the circulation of the national banks and to cut off that supply, be adopted, it may very well be that in that case the Secretary of the Treasury may want the bond powers which this bill confers upon him.

Sir, I repeat that I should have permitted this part of the bill to pass by had it not been for what has occurred upon the other side of the House; but now that Administration members have taken the ground that the gentleman from Maryland and the gentleman from Iowa have taken, I feel that I am placed in a position in regard to this matter which is somewhat different from that which I before occupied.

I was glad also to hear the gentleman from Iowa state certain propositions of the same character as those which I laid before the House last year—that this thing had commenced all wrong, that we were wrong in the outset in the character of the debt we had created, and that it was now time we should retrace our steps. This opens a larger field of discussion than I can presume even to touch under the five-minute rule.

Mr. WILSON. Will the gentleman allow me to interrupt him?

Mr. PRUYN. Certainly.

Mr. WILSON. A year ago I favored the proposition submitted by the gentleman from Pennsylvania [Mr. Stevens] to abandon the gold interest-bearing form of bonds and to resort to the payment of interest in currency. I furthermore stated some days ago in some remarks which I submitted to the House that I did not favor the adoption of the present national banking system, but voted against that system originally.

Mr. PRUYN. But last winter you voted for it.

Mr. WILSON. Last winter, when the question was put to me whether I would continue the old act without amendment or adopt some amendments to it, I voted for the amendatory act, because I thought it was better than the original one.

Mr. PRUYN. I always agreed with the gentleman from Pennsylvania at the head of the Committee of Ways and Means, that we never should have given away this large amount of circulation to the national banks; and the sooner we cut it off by adopting an amendment such as the gentleman from New York proposes the better for the country.

Mr. HOOPER. What about the circulation of the State banks?

Mr. PRUYN. I did not propose to increase the circulation of the State banks. Whatever that circulation was at the commencement of the war I was willing to let it stay at that, and let the Government come in and fill up the vacuum; instead of which we have given away \$300,000,000 of circulation, and the sooner we cut it off the better. Under these circumstances I shall vote for the proposition of the gentleman from Iowa, by virtue of which the discretionary power to be given to the Secretary of the Treasury shall be limited in the respect which he mentions.

Mr. HOOPER. I rise to oppose the amendment of the gentleman from New York. I am not surprised at the statement coming from that side of the House, that we have begun wrong and have continued wrong. I think the action of the other side of the House has been consistent with that view.

Mr. PRUYN. This evening it came from your side of the House. Last year it came from ours.

Mr. HOOPER. It was your statement that we commenced wrong and continued wrong. I must confess that I am somewhat surprised at the proposition of the gentleman from Iowa, [Mr. Wilson,] and at the argument of the gentleman from Maryland, [Mr. Davis.] With some knowledge on this subject, it had never occurred to me before that the issues under a simple loan bill can be used for currency, and would become currency, the two things seemed to me so entirely distinct. I admit that there has been an attempt to connect the two, to some extent, in the bills which authorize the compound-interest notes, which were made legal tender for their face value. But even these, I think, cease in a short time to become currency, and are converted into loans. After the interest has accumulated somewhat on them the parties holding them generally reserve them to get the benefit of the reserved interest, instead of passing them for their face value.

Mr. PRUYN. If that be the correct view of the matter, what is the reason of the difference in this act, unless it is intended that the one thing shall be different from the other?

Mr. HOOPER. This bill itself distinctly excepts the issue of anything for legal tender. I will send to the Clerk's desk and have read a short extract from the report of the Secretary of the Treasury, which I think explains the two ideas of loan and currency.

The Clerk read, as follows:

"Failing to raise the means required in the ordinary mode, and urged by the conviction that the large amount of suspended requisitions, swollen to more than one hundred and thirty million dollars, should be reduced, the Secretary resolved to use all the means at his command to pay so much, at least, as was due to our brave soldiers, who were suffering from the long delay in satisfying their just claims but still continuing to serve their country with unflinching courage and uncomplaining devotion. To effect this object he was compelled to replace the whole amount of five per cent. notes which had been canceled, amounting to more than eighty million dollars, and even slightly to exceed that sum."

Mr. HOOPER. This was currency; legal-tender notes bearing interest, but a legal tender for their face value. I wish to call attention to the next portion of the paragraph, in which the Secretary shows that there should be an issue of bonds, such as are now proposed, as the soldiers wish to take them as loans. The two, in my opinion, have never been mixed together to be taken as currency. They were taken as loans.

The Clerk continued the reading, as follows:

"More fully to accomplish his purpose, the Secretary resolved to avail himself of a wish expressed by many officers and soldiers, through the paymasters, and offered to such as desired to receive them seven-thirty notes or small denominations. He was gratified to find that these notes were readily taken in payment to a large amount, our gallant soldiers, in many instances, not only receiving them with alacrity, but expressing their satisfaction at being able to aid their country by loaning money to the Government. The whole amount of notes thus disposed of exceeded twenty million dollars, and the Secretary has great satisfaction in stating his belief that the disposal thus made was not only a relief to the Treasury, but proved a benefit to the recipients, in affording them a safe and valuable investment, and an easy mode of transmitting funds to their families."

Mr. HOOPER. Now, Mr. Chairman, I wish to say that the exigencies of the Treasury are not less now than they were at that time. I hope that the Secretary may have the privilege of issuing a loan in such form as will better meet the exigencies of the Government.

Mr. KASSON. I would suggest to the gentle-

man from Massachusetts [Mr. Hooper] that the committee now rise and report the bill and amendments to the House with the understanding that the gentleman from Maryland [Mr. Davis] and my colleague, [Mr. Wilson,] each of whom has an amendment to propose, may propose it in the House.

Mr. PRUYN. I withdraw my amendment.

Mr. THAYER. I renew it for the purpose of asking the gentleman from Massachusetts [Mr. Hooper] whether the note [a \$100 compound-interest note] I now exhibit to him is currency?

Mr. STEVENS. If the gentleman will pass it along here I will make it an investment. [Laughter.]

Mr. HOOPER. It is a legal tender for \$100; but about this time its value is \$103.

Mr. THAYER. It is not legal tender for the whole amount secured by it.

Mr. HOOPER. It is legal tender for its face, \$100, but not for its full value, \$103.

Mr. THAYER. I withdraw my amendment.

Mr. STEVENS. It is getting late; I propose that the committee now rise, with the understanding that we go into the House simply with the original bill; I will then in the House offer my substitute, and any other gentleman that chooses may offer amendments. Then I will call the previous question, and we can adjourn upon that until morning.

Mr. WILSON. I cannot agree to that for the reason that if the amendment which I propose is adopted in its present form I desire to offer another to do away with the coin provision of the section as it would then stand.

Mr. STEVENS. What I propose is for the gentleman to offer both those amendments in the House.

Mr. WILSON. I desire, in connection with that second amendment, when it comes up for consideration, to present the views of the Secretary of the Treasury upon the subject.

Mr. HIGBY. Does the gentleman from Pennsylvania [Mr. Stevens] propose that there shall be no debate in the House when the other amendments are proposed?

Mr. FERNANDO WOOD. Does the gentleman propose to allow any gentleman to offer in the House such amendments as he may think proper?

Mr. WILSON. I would suggest that we go on half an hour longer as we can.

Mr. STEVENS. Very well.

The first question was upon Mr. Wilson's amendment, in the nature of a substitute for the first section.

Mr. MORRILL. I propose to amend the first section, before the question is put upon the substitute, by striking out the words "other obligations" where they first occur, and inserting the words "Treasury notes" in their stead.

The amendment was adopted.

Mr. MORRILL. I now propose to make the same change in other portions of this section, so that it will read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums, not exceeding in the aggregate \$600,000,000, and to issue therefor bonds or Treasury notes of the United States, in such form as he may prescribe; and so much thereof as may be issued in bonds shall be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable, at the pleasure of the Government, at or after any period not less than five years nor more than forty years from date, or may be made redeemable and payable as aforesaid, as may be expressed upon their face; and so much thereof as may be issued in Treasury notes may be made convertible into any bonds authorized by this act, and may be of such denominations, not less than fifty dollars, and bear such dates and be made redeemable or payable at such periods as in the opinion of the Secretary of the Treasury may be deemed expedient. And the interest on such bonds shall be payable semi-annually; and on Treasury notes authorized by this act the interest may be made payable semi-annually, or annually, or at maturity thereof, and the principal, or interest, or both, may be made payable in coin or in lawful money: Provided, That the rate of interest on any such bonds or Treasury notes, when payable in coin, shall not exceed six per cent. per annum; and when not payable in coin, shall not exceed seven and three tenths per cent. per annum; and the rate and character of interest shall be expressed on all such bonds or Treasury notes.*

The amendment was agreed to.

Mr. PRICE. I want to know if I understand the Committee of Ways and Means perfectly. I supposed that gentlemen in this House were hon-



est in their declarations when they stated that they wished to reduce the volume of the currency. I have supposed so for a long number of days and weeks. But do they now propose to place in the hands of the Secretary of the Treasury, or in the hands of any other man, born or to be born, the power to increase the currency \$600,000,000 more? Is that their object?

Mr. STEVENS. It is not the proposition of the committee, only of the gentlemen who offered it.

Mr. WILSON. They are now giving the definition of the term "or other obligations," which all the time meant "Treasury notes."

Mr. PRICE. I supposed so. It shows the candor of the gentlemen in admitting the true character of the effort in which they are engaged. I admire their courage, but cannot much admire their judgment.

Mr. MORRILL. The gentleman will understand that the bill limits itself, and excludes legal tender of all sorts.

Mr. PRICE. I earnestly protest against any power being given to any man, in the present circumstances of the country, to increase the volume of the currency a single dollar. Some time ago I attempted, with some other gentlemen on this side of the House, and I believe some on the other side, to throw some restriction in the way of doing this very thing. We failed on that occasion, and we may fail again—I cannot tell what may now be the action of this House—but every attempt to increase the volume of the currency up to this time has met with no successful opposition. The volume of the currency is already too great. As I have before remarked in this House, the sun sets every night upon a greater volume of currency than it rose upon in the morning. Now, in addition to all the legitimate means of increasing the volume of the currency, it is proposed coolly and deliberately, in the high council chamber of the nation, before the gaze of the commercial world, to give at one fell swoop an officer of this Government the power to increase it by the addition of \$600,000,000. Sir, if we give by this bill a power to do that, if it should go abroad that there is such a power vested in an officer here at Washington, we may as well bid good-by to all financial prosperity or any hope of ever seeing the end of the system now begun. I trust that there is sufficient commercial and financial sagacity and prudence in this House to vote down such a proposition, and bury it so deep that it will never have a resurrection; not only to consign it to "the tomb of the Capulets," but seal forever the tomb, so that it will not only have no resurrection, but it will never be heard of again in this Hall. I am utterly astonished at this bold proposition to increase the volume of the currency by the addition of \$600,000,000, and I shall be still more astonished if it receives anything like a respectable vote on either side of this House.

Mr. HOOPER. I desire to ask the gentleman a question. Who has made a proposition to issue \$600,000,000 as currency?

Mr. PRICE. I am glad to answer the gentleman. It affords me a great deal of pleasure to impart information to any gentleman not so well informed as myself. [Laughter.] The bill proposes, if I understand the English language, to allow \$600,000,000 to be issued in bonds or other obligations; and the gentleman from Vermont, [Mr. MORRILL,] whose honesty and courage I admire, proposes to strike out "other obligations" and insert "Treasury notes." I will say to the gentleman from Massachusetts that this bill proposes to give to the Secretary of the Treasury the power to issue \$600,000,000 of bonds or Treasury notes, and that language grammatically understood will give him the power to issue \$600,000,000 of Treasury notes. I believe the question is properly answered.

Mr. HOOPER. Will those Treasury notes be currency? The gentleman said that the bill authorized the issue of \$600,000,000 of currency.

Mr. PRICE. If they do not pass as currency what is the object of the bill? I have been told tonight, as I have been told before, that these seven-thirty notes do not pass as currency. But the history of the country contradicts that statement. We have had the proof presented in this Hall that the seven-thirty notes do pass as currency; and the notes proposed to be issued under this bill will pass just as readily.

Mr. MORRILL. I move, *pro forma*, to amend

by striking out in the thirty-first line the words "seven and three tenths."

Mr. Chairman, from the very start, in relation to legal tender and paper currency I have been, I think, a consistent opponent of the whole scheme; and like my friend from Iowa, I voted for the amendment to the bank bill at the last session because I thought it was an improvement upon the then existing law. But when a gentleman of the financial ability of the gentleman from Iowa, [Mr. PRICE,] last upon the floor, undertakes to convince this House and the public that this bill authorizes the issuance of a circulation of \$600,000,000, I am, I confess, surprised.

Sir, I was willing to confine the provisions of this bill so as to embrace precisely what was intended. It was intended to authorize the issue of Treasury notes bearing seven and three tenths interest, and not any legal tender at all. It is not in the power of the Secretary of the Treasury or any banker in the world to make any such paper as that a circulating medium. There can be no demand for it to pay any debts, public or private. It cannot be so used.

Mr. WILSON. I will suggest to the gentleman from Vermont that the notes issued by the State banks and banking associations are not a legal tender, nor are those of the national banks, yet all these circulate as money.

Mr. HOOPER. Do they bear interest?

Mr. WILSON. Certainly they do not bear interest. This bill would authorize the Secretary of the Treasury, if he were disposed to exercise the power, to issue \$600,000,000 in fifty-dollar notes to circulate as money.

Mr. MORRILL. I do not think that it would. All notes of banks were designed to be circulated in times when we were making specie payments, and they were of course redeemable in specie and equivalent to specie. These, however, on the contrary, are not designed to be circulated. And they will not be circulated.

I beg gentlemen, on this side of the House at least, to have some confidence in the management of the Treasury of the United States. I know that the purpose of the Government is not to issue these seven-thirty Treasury notes as circulation. It is intended for the convenience of the Department and for the convenience of the small capitalists.

Mr. FERNANDO WOOD. I ask the gentleman from Vermont whether he denies that Treasury notes have been issued as circulating medium.

Mr. MORRILL. I admit, Mr. Chairman, that the Treasury notes which we have had and made legal tender for their face have been issued as a circulating medium. This bill provides that there shall be no more legal-tender notes issued, whether bearing interest or not.

Mr. FERNANDO WOOD. I understand that very well; but according to the measure of the gentleman from Vermont there can be more currency issued under this \$600,000,000, the only difference being between making it a legal tender and not making it a legal tender.

Mr. MORRILL. The gentleman will see that the Treasury Department is restrained from issuing any more legal-tender notes.

Mr. FERNANDO WOOD. But the gentleman now proposes to insert the words Treasury notes.

Mr. MORRILL. I ask them to be inserted because that is what the Treasury Department wants, what the Treasury is at present using most successfully. I want to express the purpose honestly on the face of the bill.

Mr. FERNANDO WOOD. The gentleman denies the intention to issue any more currency, and yet he proposes that the Treasury Department shall issue fifty-dollar notes as currency.

Mr. MORRILL. They are to be issued in small or large sums as heretofore, so that they may accommodate all classes of the public and yet not circulate as currency.

Mr. FERNANDO WOOD. The gentleman from Iowa who expressed his surprise then was correct.

Mr. DAVIS, of Maryland. My friend from Vermont, who has just taken his seat, insisted, with some emphasis, that these Treasury notes shall not be a legal tender. Now, nobody in this House knows better than my friends from Vermont and Massachusetts that the quality of being a legal tender is absolutely irrelevant on the question whether a note is currency or not; and if the

gentlemen wish to join issue on that point I will yield the floor for them to do it.

I want to understand and I want to be understood. It has been mentioned two or three times that the national banks have issued one hundred and fifty or two hundred million dollars of circulating currency, not one cent of which is legal tender. So that whether it be made legal tender or not is irrelevant when we are trying to determine whether a piece of paper does or does not swell the currency. Whether they bear interest or not is equally and absolutely irrelevant, for I know by experience, and both those gentlemen know by experience, that we have had in our pockets Treasury notes bearing interest which we have received in exchange for other bills, and which we have paid out, and which are currency though they do bear interest. Therefore, the fact that they bear interest and the fact that they are legal tender, are irrelevant on the question of currency. What does determine is the denomination. The smaller would more assuredly go into circulation, and the higher would go less into circulation. When you go up to \$1,000 it is not part of the currency in any shape; but every note of the United States under fifty dollars, whether payable on demand or fifty years hence, does in point of fact enter into the currency, does pass from hand to hand, does inflate the currency. And the bill which has now been put into the exact shape to express what before was its legal operation, says on its face, in so many words, that the Secretary of the Treasury, in his judgment, and not in accordance with our judgment, whenever the progress of events may render it necessary, may issue \$600,000,000 of Treasury notes carrying interest, or as he shall desire them, which can be placed to your credit in the bank, with which you can pay your bills, and which you will carry about in your pocket, and which will, in spite of the Secretary of the Treasury, increase the currency *pro tanto*.

Mr. MORRILL. I desire to ask the gentleman if he does not perceive the difference between this proposition and the acts which make the national bank circulation currency. It is that they are made receivable for all duties and taxes.

I withdraw my amendment.

Mr. BOUTWELL. I move a *pro forma* amendment to the amendment of the gentleman from Iowa. I desire to ask the Committee of Ways and Means if they will not allow the bill to be amended so as to limit the amount of Treasury notes to be issued to the comparatively small sum of twenty-five to fifty million dollars. I think this House, so far as it is a part of the legislative power of the Government, ought to settle a question of this sort for itself. I can see that it may be necessary for the Treasury Department in an exigency to avail itself of the power proposed to be conferred by this bill; but I think this House, with reference to the currency and finances of the country, ought to decide how far that power should be exercised. For one I am not disposed to leave it in any doubt. If we are called upon to vote upon the question whether the Treasury Department shall have power to issue indefinitely to the extent of \$600,000,000 Treasury notes, I for one shall vote in the negative. If, however, the committee will limit the amount to be issued to \$50,000,000 I think I will vote for it.

Mr. WILSON made a remark entirely inaudible to the reporters.

Mr. BOUTWELL. Very likely it may be so, but if the Committee of Ways and Means think it is not, I, for one, am willing to grant some additional power.

But it is clear to my mind that these Treasury notes are circulation. The question whether they are circulation or not is not a question of law, or of statute, but a question of fact. Now, we know perfectly well that if a Treasury note is issued to a man who does not desire to invest in Government securities, he passes it; and it passes from hand to hand until it comes into the hands of somebody who does prefer to invest in Government securities. But when it gets into his hands, he converts it into United States bonds, because that is more secure and better adapted for purposes of investment. Therefore I say, with due submission to the judgment of the committee, that these Treasury notes are circulation. It is entirely immaterial whether they are legal tender or not, so far as circulation is concerned.

# THE CONGRESSIONAL GLOBE.

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Mr. STEVENS. I do not rise to speak for the committee in this matter. I say there is authority to issue from a hundred to a hundred and twenty-five million dollars. I do not know exactly how much of that remains unissued. I think that is sufficient for an emergency. I have gone for putting this issue upon the square basis of bonds; and I would rather increase the interest or sell the bonds at a discount for the currency now in the country, than to go any further with the present system, in the extension of which I see nothing but ruin.

As there is no quorum present, and we shall get no vote to-night, I move that the committee rise. The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and especially the special order, being the bill (H. R. No. 722) to provide ways and means for the support of the Government, and had come to no resolution thereon.

And then, on motion of Mr. STEVENS, (at eleven o'clock, p. m.) the House adjourned.

## IN SENATE.

TUESDAY, February 28, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday's proceedings was dispensed with.

## HOUSE BILL REFERRED.

The bill (H. R. No. 797) in relation to certain drafts issued by the Treasurer of the United States in satisfaction of warrants which are outstanding unpaid, was read twice by its title, and referred to the Committee on Finance.

## CONDITION OF INDIAN TRIBES.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution of the Senate (S. R. No. 89) directing an inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities. The amendment of the House was to strike out all after the word "that" in the first line of the first section down to and including the word "Representatives" in line five, in the following words:

There be raised a joint committee, to consist of three members of the Senate, to be appointed by the President of the Senate, and four members of the House, to be appointed by the Speaker of the House of Representatives.

And to insert in lieu thereof:

A commission of three persons be appointed by the President, by and with the advice and consent of the Senate.

So that the resolution will read:

That a commission of three persons be appointed by the President, by and with the advice and consent of the Senate, to inquire into the present condition of the Indian tribes, &c.

The VICE PRESIDENT. The question is on concurring in this amendment.

Mr. LANE, of Kansas. I should like to have that lie over until the chairman of the Committee on Indian Affairs comes in.

Mr. CONNESS. The chairman was here just now.

Mr. SHERMAN. I move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

## ARMY REGISTER.

The Senate proceeded to consider its amendments to the joint resolution (H. R. No. 169) to provide for the publication of a full Army Register, disagreed to by the House of Representatives.

Mr. WILSON. I move that the resolution and amendments be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that

the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866; and also to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 676) making appropriations for the naval service for the year ending the 30th of June, 1866.

The message further announced that the House of Representatives insisted upon its amendments to the bill of the Senate (S. No. 390) relating to the postal laws, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. COLE, Mr. BROOKS, and Mr. ASHLEY, managers at the same on its part; and also that the House of Representatives insisted upon its disagreement to certain amendments of the Senate to the bill of the House (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, insisted on by the Senate; that it insisted upon its amendment to the sixth amendment of the Senate to the said bill, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILSON, Mr. STEVENS, and Mr. JAMES C. ALLEN, managers at the same on its part.

The message further announced that the House of Representatives had passed Senate joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia; and also that it had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 678) to amend the act entitled "An act further to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft; and

A bill (H. R. No. 691) to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon and Puget sound.

## POSTAL LAWS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (S. No. 390) relating to the postal laws, insisted on by the House; and

On motion of Mr. SHERMAN, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President; and

The VICE PRESIDENT appointed Mr. COLAMER, Mr. CONNESS, and Mr. WRIGHT.

## LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. SHERMAN. I was appointed yesterday a member of the committee of conference on the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866. I ask to be excused from service on that committee on account of my duties in the Senate.

The motion was agreed to.

Mr. SHERMAN. I move that the Vice President appoint a member of the committee of conference on that bill in my place.

The motion was agreed to, and the Vice President appointed Mr. CLARK.

## HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles, and referred as indicated below:

A bill (H. R. No. 691) to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon and Puget sound—to the committee on the Pacific Railroad.

A bill (H. R. No. 678) to amend the act enti-

led "An act further to regulate and provide for the enrolling and calling out the national forces and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft—to the Committee on Military Affairs and the Militia.

## PROCEEDINGS IN CRIMINAL CASES.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (S. No. 88) regulating proceedings in criminal cases, and for other purposes. The first amendment of the House was, immediately after the enacting clause of the first section to insert the following:

That every grand jury impaneled before any district or circuit court of the United States to inquire into and presentment make of public offenses against the United States, committed or triable, within the district for which the court is holden, shall consist of not less than sixteen, nor exceeding twenty-three persons. If, of the persons summoned, less than sixteen attend they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately, or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to complete the grand jury; and whenever a challenge to an individual grand juror is allowed, and there are not other jurors in attendance sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose. No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors.

The House further propose to amend the bill in section one, lines two and three, by striking out the words "in any district or circuit court of the United States."

Mr. TRUMBULL. I move that the Senate concur in those amendments. I have examined them and they do not alter the bill. I will state that in Oregon the court has to sit several days to get a grand jury, and we thought it better to reenact the common law.

Mr. HALE. I rose to inquire whether it makes any change in the common law. I desire to stick to the common law.

Mr. TRUMBULL. This does not alter the common law.

Mr. HALE. I understand that it does. I understand that by the common law it requires not less than twelve to make a grand jury. It must be at least twelve, and not over twenty-three. That is the common law as I understand it; and if the honorable Senator from Maryland, who knows as much as anybody about legal questions, will listen to me, I will ask him if that is not the case.

Mr. JOHNSON. I think it does alter it in some respects, but I think it alters it beneficially.

Mr. HALE. My question is, whether by the common law a grand jury does not consist of twelve, and not over twenty-three?

Mr. JOHNSON. Yes.

Mr. TRUMBULL. I do not understand the law to be that twelve constitute a grand jury at common law. I think it must be sixteen—not more than twenty-three nor less than sixteen.

Mr. McDOUGALL. Twelve to find a bill.

Mr. JOHNSON. That is the way it is in the House amendment. It does not change it at all in that respect.

Mr. HALE. I think the subject had better lie over. I think gentlemen are laboring under a grand mistake, and I think we should act carefully when we come to tamper with the provisions of the common law in reference to grand juries. If Senators will let the subject lie over until tomorrow, I will not insist on my objection if it does not turn out that I am entirely right—that twelve constitute a grand jury all over the world where the common law prevails.

The VICE PRESIDENT. The bill and amendments will be passed over informally.

## RAILROADS IN MINNESOTA.

On motion by Mr. HARLAN, it was

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill of the House (H. R. No. 761) extending the time for the completion of certain land grant railroads in the State of Minnesota, and for other purposes, yesterday passed by the Senate, with amendments.

## NAVAL OBSERVATORY.

Mr. GRIMES. I move that the Senate postpone all prior orders and take up the bill (S. No. 478) in relation to the Naval Observatory. It will take but a moment to consider it.

The motion was agreed to, and the bill was read a second time and considered as in Committee of the Whole. It proposes to repeal so much of the first section of the act of August 3, 1848, entitled "An act making appropriations for the naval service for the year ending the 30th of June, 1849," as requires the superintendent of the Naval Observatory at Washington city to be a captain, commander, or lieutenant in the Navy, and no officer of the Navy employed as superintendent is to receive other than the shore duty pay of his grade.

Mr. GRIMES. I suppose it is hardly necessary for me to explain this bill. By the act of 1848 it was provided that the superintendent of the Observatory shall be selected from the three grades of captain, commander, or lieutenant. In 1862 we created three other grades, those of admiral, commodore, and lieutenant commanding. This bill simply proposes to give the President an opportunity to select any officer of any one of these grades, or any professor of mathematics, and put him in charge of that Observatory.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## PICTURE BY W. H. POWELL.

Mr. COLLAMER. I call for the unfinished business of the morning hour. I simply desire to have a vote upon it.

Mr. HOWARD. I hope the Senator will allow me to offer and have passed a resolution simply directing the transfer of the maps and papers in relation to the Pacific railroad to the Department of the Interior. It will require no debate at all.

Mr. COLLAMER. I simply desire to have a vote on the resolution which is the unfinished business of the morning hour, and I presume it will occasion no debate.

Mr. SUMNER. Yes, it will.

Mr. COLLAMER. Then we must have it. Has it come to this, that when the honorable member from Massachusetts is opposed to a measure we cannot have a vote upon it? All I ask is for a vote.

Mr. BROWN. Is it in order to make a report?

The VICE PRESIDENT. It is not in order to do anything until the Senate disposes of the motion of the Senator from Vermont, which is to postpone all prior orders and proceed to the consideration of the unfinished business of the morning hour of yesterday.

Mr. CONNESS. I hope the Senator from Massachusetts and all other Senators will avoid debate upon this and all like propositions. We understand all that is contained in this resolution, and if such propositions are debated we cannot dispose of the business that we have charge of. We have all got business waiting. I hope we will come to a vote upon this question. Every Senator knows how to vote, and it appears to me that to occupy time now by debate is an encroachment by one Senator upon every other Senator's time.

Mr. SUMNER. I have not said that I should debate this question; but I have said that I should insist upon a vote upon it if it was called up, and also that I shall insist upon amendments. I have two or three amendments which I wish to move to it, and on which I shall call the yeas and nays.

Mr. CONNESS. Very well; let us have a vote.

The question being put, there were, on a division—yeas 12, nays 11; no quorum voting.

Mr. WILSON, and Mr. LANE, of Kansas, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 11; as follows:

YEAS.—Messrs. Anthony, Collamer, Conness, Cowan, Davis, Doak, Farwell, Foot, Foster, Hendricks, Howland, Johnson, McDougall, Morgan, Nye, Pomeroy, Riddle, Saulsbury, Stewart, Ten Eyck, Van Winkle, Wade, Wilcox, and Wright—24.

NAYS.—Messrs. Brown, Chandler, Dixon, Hale, Harlan, Lane of Kansas, Morrill, Sherman, Sumner, Trumbull, and Wilson—11.

ABSENT.—Messrs. Buckalew, Carlile, Clark, Grimes,

Harding, Harris, Henderson, Howe, Lane of Indiana, Nesmith, Powell, Ramsey, Richardson, Sprague, and Wilkinson—15.

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol, the pending question being on the amendment of Mr. SUMNER to add the following proviso:

*Provided further,* That in the national Capitol, dedicated to the national Union, there shall be no picture of any victory obtained in battle with our own fellow-citizens.

The amendment was not agreed to.

Mr. SUMNER. I offer another amendment to add the following proviso:

*Provided,* That no contract shall be made until after a competition among the artists of the country, all of whom shall have an opportunity of offering themselves as candidates, and of exhibiting designs for the proposed picture; and the committee shall postpone any contract with Mr. Powell until they shall be satisfied, after such competition, that he is the most meritorious artist.

I should like to have the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. SUMNER. Before that amendment is submitted to a vote, I wish the Senate to understand its bearings. It is to the effect that there shall be a competition among all the artists of the country before any one shall be designated for this important work. We already have one picture from Mr. Powell in the Rotunda. It is known as the picture of De Soto. Are Senators so enamored of that picture that they desire to introduce another from the same artist? Are Senators so carried away with devotion to one artist over all the artists of the country that they set apart, in this time of war, \$25,000 for him to paint, not only one picture, but a second picture? I am not aware that this artist, meritorious as he may be, can claim such a preëminence among the artists of the country that he should receive this signal honor. You are about to confer a great honor, designating him proudly, conspicuously, among all the artists of the country; and you do it hastily, in an off-hand way, without considering the claims of other artists, without knowing the sentiments of other artists, or of the friends of art on the subject. I have in my hand a letter addressed to me by an artist of our country, one well known, under date of February 15, from which I shall read an extract:

"I see by the papers of yesterday that the House, by a majority of four, has made an appropriation of \$25,000 for a picture of some naval victory, to be painted by W. H. Powell. At a meeting last evening of the Artists' Fund Society—an organization comprising a majority of the artists of this city, and all the leading ones, with one or two exceptions—this matter was discussed, and it was their unanimous opinion that at this period of the country's distress and strain for means to carry on the war, it is not expedient or proper for Congress to vote any money whatever for pictures or other mere decorations of the Capitol. The building is already complete, or sufficiently so for all its essential purposes, and in their opinion costly decorations should be reserved for a more prosperous time, and then be the subject of fair competition among all the artists."

It is to carry out that idea that I have offered the amendment now under consideration. I have also this very morning received another letter from another artist, from which I will read a single extract. After protesting against the passage of the proposed measure, he says:

"Should, however, such a resolution be called up again, permit me to offer a suggestion, which is, that so generous a gift be open for public competition to American artists generally."

Now, sir, I do plead for American art. I do not stand here as the representative of any individual; but I plead for the art of my country. I think you will give an unwise vote if you now, without further consideration, without any competition, give a second order to the author of the picture of De Soto in the Rotunda of the Capitol.

Mr. CONNESS. I shall certainly not consume any time that I know to be so valuable in discussing this matter; but I will simply say that if the letter read by the honorable Senator was intended as a lecture for the Senate and House of Representatives, it is a piece of impertinence on the part of the writer, and the whole proceeding of their society is an insolence not to be borne, and I think it should not have been intruded here. I feel it due to myself as a Senator to say thus much. I hope we shall come to a vote, because the Senate is certainly capable of understanding the question before it.

Mr. RIDDLE. It is evident that the resolution of the Senator from Vermont will pass in some form; but the Senator from Massachusetts has proposed an amendment to it which I conceive to be impracticable. In the first place he wishes competition. How can he obtain competition unless all the artists will send pictures to enable the committee to select the one to be purchased? The painting of De Soto was the first painting of Mr. Powell; and I admit that it is not a superior painting; but we have proof in the Rotunda now that Mr. Powell is capable of producing a better painting of a naval character than has ever been sent to Washington. I do not know Mr. Powell. I have met him once, I think. I know nothing about him. But in my opinion the picture of Perry's Victory on the Lake is the greatest painting that ever adorned the Capitol of the United States. When we know that there is such an artist living, why hesitate and offer competition and get men to present pictures here in order that this competition may be preserved? I am in favor of voting for a man who we know can produce the picture, and who has given proof to the country that he can do it; and hence I shall vote for this proposition of the Senator from Vermont.

Mr. COLLAMER. I have but a single word to say. Amendments and speeches upon it will destroy this resolution. It can be easily done. Such things have been done and probably will be done again. I will not take time to answer any remarks the honorable Senator from Massachusetts may make, because if I do, I do it at the sacrifice of the resolution. I do not want to amend it, for if it is amended it will have to go back to the House, and may be lost.

Mr. SUMNER. I have one word in reply to the Senator from California, and another word in reply to the Senator from Delaware; and I begin with the Senator from California. I am sorry to have to say anything further; but the remarks which fell from the Senator from California were so strange, so utterly unjustifiable, that I should not do my duty if I did not reply to them. He says that the artists of this country when they presume to express an opinion on this question are impertinent.

Mr. CONNESS. Will the Senator permit me to interrupt him?

Mr. SUMNER. Certainly.

Mr. CONNESS. I intend that the Senator now shall not misrepresent what I have said.

Mr. SUMNER. I have no desire to do so.

Mr. CONNESS. That part of their letter that I denounce as impertinence and as insolent is that which gives an opinion to Congress touching the economy or extravagance that they may pursue. When they speak as artists I have nothing to do with it at all. But I apprehend that the honorable Senator will find it very difficult to redeem that portion of the letter to which I have referred from the obnoxious charge to which it is subject.

Mr. SUMNER. When I was interrupted I was replying to the Senator from California who had arraigned the artist whose letter I read for impudence and impertinence.

Mr. POWELL. If the Senator will allow me, I will ask him to be kind enough to give the name of the writer.

Mr. SUMNER. No, sir; I shall not give the name.

Mr. POWELL. I will say to the Senator that I do not think it very proper to read letters here as authority and not let us know the names of the persons writing them, because then we might attach to them the importance they deserve.

Mr. SUMNER. I have to say to the Senator, in reply, it is done every day.

Mr. POWELL. I am aware that it is by the Senator, but not by others.

Mr. SUMNER. The Senator is mistaken. I very rarely do it myself.

But, Mr. President, let me ask if artists cease to be citizens? Have they not the privilege of criticising the conduct of public servants? May not an artist approach Congress by petition? Would the Senator from California exclude him from that privilege? Or, if he appears humbly by petition and presumes to make a suggestion to this honorable body, will the Senator from California rise in his place and call him an impertinent? Is it not a matter of every day's experience that we are approached by petitioners on every ques-



tion before us, questions of finance, questions of war, questions of slavery? And now I have presumed simply to read an extract from a letter of an eminent artist, and a Senator calls it impertinent! I choose, therefore, to read it again:

"At a meeting last evening of the Artists' Fund Society—an organization comprising a majority of the artists of this city, and all the leading ones, with one or two exceptions—this matter was discussed, and it was their unanimous opinion that at this period of the country's distress and strait for means to carry on the war, it is not expedient or proper for Congress to vote any money whatever for pictures or other mere decorations of the Capitol. The building is already complete, or sufficiently so for all its essential purposes; and in their opinion costly decorations should be reserved for a more prosperous time, and then be the subject of fair competition among all the artists."

Where is the impertinence in that statement, the result of conversations and deliberations among the artists of the country? I think my friend from California would not repeat his criticism now, when he has fully in mind the words to which it is applicable.

Mr. CONNESS. Is the Senator through?

Mr. SUMNER. I am not. I said when I began I had also one word in reply to the Senator from Delaware, who insisted that there could be no competition among artists, or that it was impracticable; and I understood him to say that it was not resorted to in other countries, and particularly in England. The Senator is mistaken. The pictures which adorn the Houses of Parliament have all been placed there after a competition among the artists of England. An important commission was constituted, composed not only of artists, but of men of literature and of talent, whose duty it was to examine all designs submitted to them and select the best. That is the testimony of England when undertaking the ornamentation of her Houses of Parliament. I think we may be instructed by that example; and especially may we be instructed by it when we already have in the Rotunda of the Capitol one picture by this very artist. One is enough. There are many who would say that the one that is there is more than enough.

Mr. CONNESS. I shall not be tempted to consume time. The Senator from Massachusetts is a good advocate. To relieve the letter that he has read from what I will repeat again as its impertinent character, he presents it now in the light of a petition to this body. I simply say to him it cannot be viewed in that light. It is a commentary by those artists upon the proceedings of one of the Houses of Congress. It undertakes to state the majority by which a certain act passed that House, when they have no right but to know that it is an act of that body, and they cannot know anything else than what is officially declared. But, sir, I will not pursue the subject.

Mr. SUMNER. The Senator knows that was officially declared. It was declared that it passed the House only by four majority.

Mr. CONNESS. I simply repeat again that the Senator from Massachusetts is an ingenious advocate. When he gets his constituents in a bad position he is abundantly able to relieve them from the difficulties of that position; and he has undertaken to do it by placing them in the attitude of petitioners. I hope we shall now have a vote on the amendment proposed by the Senator and also on the main proposition.

Mr. RIDDLE. The Senator from Massachusetts treated my remarks rather unfairly. The only difference between the Senator and myself is this: I say an artist may design pictures and yet may not be able to execute them to perfection. For instance, the designs of all the pictures in the Rotunda are very good, but any man who has the first idea of art on looking at those pictures would think that the same mother produced the whole of the persons represented. They are all alike. If you look at them with an artistic eye you will see that their countenances and faces are all alike. If you leave this matter open to competition and let artists produce plans when you do not know that they are able to execute them, you are bound to have another bad painting; but we know that this artist can design and execute a good one.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Massachusetts, upon which the yeas and nays have been ordered.

Mr. SUMNER. I ask to have the amendment reported again.

The Secretary read it, as follows:

*Provided*, That no contract shall be made until after a competition among the artists of the country, all of whom shall have an opportunity of offering themselves as candidates, and of exhibiting designs for the proposed picture; and the committee shall postpone any contract with Mr. Powell until they shall be satisfied, after such competition, that he is the most meritorious artist.

The question being taken by yeas and nays, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Anthony, Chandler, Dixon, Farwell, Hale, Harlan, Lane of Kansas, Morgan, Nye, Pomeroy, Sumner, Ten Eyck, Trumbull, Wilkinson, and Wilson—15.

NAYS—Messrs. Buckalew, Carlile, Collamer, Conness, Cowan, Davis, Foot, Grimes, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, McDougall, Powell, Riddle, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, Wade, and Willey—23.

ABSENT—Messrs. Brown, Clark, Doolittle, Foster, Harding, Harris, Howard, Morrill, Nesmith, Ramsey, Richardson, and Wright—12.

So the amendment was rejected.

The joint resolution was reported to the Senate without amendment.

Mr. SUMNER. I have another amendment to offer. It is to strike out all of the resolution after the word "with" in the fourth line, in the following words:

William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory; the particular subject of the painting to be agreed to by the committee and the artist: *Provided*, That the entire expense of said picture shall not exceed \$25,000, and \$2,000 shall be paid to said William H. Powell in advance, to enable him to prepare for the work; the remainder of said installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

And to insert in lieu thereof:

F. B. Carpenter, of the State of New York, for the purchase of a painting now on exhibition in the Rotunda of the Capitol, entitled "The Emancipation Proclamation before the Cabinet," at a price not to exceed \$20,000, to be paid on the delivery of the painting, out of the fund appropriated for the Capitol extension.

Mr. HOWE. It seems to me the question whether we shall purchase a picture and expend \$25,000 or not is occupying a great many hours, every one of which, at this stage of the session, is worth more than any picture that is likely to be produced in a great many years. I therefore move that the resolution be laid upon the table.

Mr. JOHNSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Brown, Chandler, Dixon, Farwell, Hale, Harlan, Howard, Howe, Lane of Kansas, Morgan, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Van Winkle, Wilkinson, and Wilson—18.

NAYS—Messrs. Buckalew, Collamer, Conness, Cowan, Davis, Foot, Hendricks, Johnson, Lane of Indiana, McDougall, Nesmith, Nye, Powell, Riddle, Saulsbury, Sprague, Stewart, Willey, and Wright—19.

ABSENT—Messrs. Anthony, Carlile, Clark, Doolittle, Foster, Grimes, Harding, Harris, Henderson, Morrill, Ramsey, Richardson, and Wade—13.

So the motion was not agreed to.

The VICE PRESIDENT. The question recurs on agreeing to the amendment proposed by the Senator from Massachusetts.

Mr. SUMNER. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 2, nays 33; as follows:

YEAS—Messrs. Pomeroy and Sumner—2.

NAYS—Messrs. Anthony, Buckalew, Collamer, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Hale, Hendricks, Howe, Johnson, Lane of Indiana, McDougall, Morrill, Nesmith, Nye, Powell, Riddle, Saulsbury, Sherman, Sprague, Stewart, Ten Eyck, Trumbull, Van Winkle, Wilkinson, Willey, Wilson, and Wright—33.

ABSENT—Messrs. Brown, Carlile, Chandler, Clark, Davis, Doolittle, Harding, Harlan, Harris, Henderson, Howard, Lane of Kansas, Ramsey, Richardson, and Wade—15.

So the amendment was rejected.

Mr. SAULSBURY. I move that the Senate do now adjourn. I think it is time for us to adjourn for the session, considering the manner in which we have been spending our time this morning.

The motion was not agreed to.

The joint resolution was ordered to a third reading, and was read the third time.

Mr. SUMNER. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Conness, Cowan, Davis, Foot, Harris, Hendricks, Howard, Johnson, Lane of Indiana, McDougall, Nesmith, Nye, Powell, Riddle, Saulsbury, Sprague, Stewart, Van Winkle, Willey, and Wright—23.

NAYS—Messrs. Brown, Chandler, Dixon, Farwell, Hale, Harlan, Henderson, Howe, Morgan, Pomeroy, Ramsey, Sherman, Sumner, Ten Eyck, Trumbull, Wilkinson, and Wilson—17.

ABSENT—Messrs. Anthony, Clark, Doolittle, Foster, Grimes, Harding, Lane of Kansas, Morrill, Richardson, and Wade—10.

So the joint resolution was passed.

#### PACIFIC RAILROAD SURVEYS.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is now before the Senate.

Mr. HOWARD. Before that is taken up, I ask the unanimous consent of the Senate to take up and pass a resolution which I sent to the Chair some time ago. It will not require any debate at all.

Mr. SHERMAN. These applications are made all around me. I think we had better proceed with the consideration of the tax bill. This is the last day we can have for the consideration of that very important measure.

Mr. HOWARD. This will not consume a minute of time.

Mr. SHERMAN. I will let it be read; so that we may see what it is.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 125) transferring maps and other documents in relation to the surveys of the Pacific railroad to the Department of the Interior, and it was read twice by its title.

Mr. HOWARD. I hope it will be put on its passage. It will take but a moment.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that all maps, profiles, and other drawings, together with estimates and reports connected with explorations and surveys for the Pacific railroad made under the authority of the Government, and all other information upon the subject of the road in the possession of any Department of the Government, shall be transferred to the Department of the Interior; and it authorizes the Secretary of the Interior to furnish copies of them free of charge to the Union Pacific Railroad Company so far as they may be useful in aiding that company in determining the proper route for their road.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PETITIONS AND MEMORIALS.

Mr. SHERMAN presented a memorial of manufacturers of cigars remonstrating against an increase of the tax on cheroots; which was ordered to lie on the table.

Mr. FARWELL presented a resolution of the Legislature of Maine in favor of an extension of the time during which that State may establish an agricultural college; which was referred to the Committee on Agriculture.

#### PAPERS WITHDRAWN.

On motion of Mr. COWAN, it was *Ordered*, That Perkins & McMahon have leave to withdraw their petition and papers.

On motion of Mr. SPRAGUE, it was *Ordered*, That Caleb Tompkins have leave to withdraw his petition and papers.

#### BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 480) to authorize the erection of a custom-house at Island Pond, Vermont; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 127) authorizing that the time for revision of the laws of the District of Columbia be extended for and during the Thirty-Ninth Congress; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a message of the President of the United States communicating, in compliance with a resolution of the Senate of the 24th instant, information in regard to the alleged enlistment in foreign countries of

recruits for the military and naval service of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a resolution to print three thousand copies of a statement or table of the Senators of the United States, with the commencement and termination of the service of each, showing the succession in each class from the time to which this statement was brought by the last edition of the book of the Constitution and statistics published by W. Hickey, to the 4th of March, 1865, reported in favor of it, and the resolution was adopted.

Mr. SHERMAN, from the Committee on Finance, to whom was referred a bill (H. R. No. 652) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June 1866, reported it with amendments.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 776) concerning the Potomac bridge and the Center market, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 787) to incorporate the Harmony Cemetery Company, (of colored persons,) in the District of Columbia, reported it without amendment.

Mr. STEWART, from the Committee on Public Lands, to whom was referred a bill (S. No. 381) in relation to swamp and overflowed lands in the State of California, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 333) for a grant of lands in the Territories of Colorado, New Mexico, and Arizona, to aid in the construction of a railroad and telegraph through said Territories, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 467) for the improvement of the navigation of the Colorado river, and the construction of wagon roads in Arizona and Utah Territories, reported it with an amendment.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Benjamin Leroy, praying for a pension, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the resolutions of the Legislature of Indiana in favor of granting pensions to persons wounded and the representatives of persons killed in the defense of that State from the invasion by the rebels, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of William Croswell, praying for a pension, submitted a report accompanied by a bill (S. No. 481) for the relief of William Croswell. The bill was read and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred a petition of Mary McIlroy, praying for a pension, submitted a report accompanied by a bill (S. No. 482) for the relief of Mary McIlroy. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. BROWN, from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 378) for the relief of certain non-commissioned officers, privates, musicians, and artificers of cavalry, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a bill (S. No. 479) to incorporate a National Military and Naval Asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States; which was read and passed to a second reading.

He also, from the same committee, to whom the subject was referred, reported a joint resolution (S. R. No. 126) to provide for the payment of colored volunteers recruited in South Carolina; which was read and passed to a second reading.

Mr. POMEROY, from the Committee on Public Lands, to whom was recommitted the bill (H. R. No. 710) to extend the time for the com-

pletion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin, reported it without amendment.

#### HOUR OF MEETING.

On motion of Mr. SHERMAN, it was

Ordered, That the daily hour of meeting of the Senate be eleven o'clock, a. m., until otherwise ordered.

#### COMMITTEE ON MINES.

Mr. STEWART. I ask the unanimous consent of the Senate to call up a resolution which I offered some days ago to amend the 34th rule of the Senate, so that at the next session we shall have a committee on mines. It is a very important subject, and I presume there will be no opposition to the passage of the resolution.

Mr. SHERMAN. I call for the regular order of business.

The VICE PRESIDENT. The regular order being called for, no other motion can be entertained.

Mr. SHERMAN. I ought to say to the Senator from Nevada that the question about the organization of a new committee is one proper for consideration at the extra session, and he will have ample time to offer it after the 4th of March.

The VICE PRESIDENT. The subject is not now before the Senate.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that he was directed by the House of Representatives to return to the Senate, in compliance with its request, the bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes.

The message further announced that the Speaker had appointed Mr. E. B. WASHBURN a member of the committee of conference on the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, in the place of Mr. WILSON, who had been excused from service on the committee.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the enrolled bill (H. R. No. 676) making appropriations for the naval service for the year ending the 30th of June, 1866; which thereupon received the signature of the Vice President.

#### RAILROADS IN MINNESOTA.

Mr. HARLAN. I now ask the unanimous consent of the Senate to take up House bill No. 761, extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes, with a view of correcting an error in it. It has just been returned from the House for that purpose. I understand the chairman of the Committee on Finance will not object to it.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) No objection being made, the bill will be considered as before the Senate.

Mr. HARLAN. I move that the vote by which the bill was passed be reconsidered.

The motion was agreed to.

Mr. HARLAN. I now move that the vote by which the amendments were ordered to be engrossed and the bill read a third time be reconsidered.

The motion was agreed to.

Mr. HARLAN. I now move that the vote by which an amendment to the amendment commencing on the 8th page and terminating on the 9th, being a proviso, be reconsidered.

Mr. POMEROY. I suppose the chairman of the committee has now accomplished his object. He does not desire to have that vote taken now, but only to have the motion entered.

Mr. HARLAN. We shall be through in a moment. We wish the bill to go back to the House. It is a matter of great interest to the Senators from Minnesota, and I do not wish to delay it. It can be corrected in a moment.

Mr. POMEROY. All the Senators who are interested in it are not in. I do not object to it.

Mr. SHERMAN. I understood this was merely to correct an error.

Mr. HARLAN. To correct an oversight; an

amendment which was not understood at the time it was passed.

Mr. POMEROY. Then I have no objection to it.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment, which was to strike out the proviso in section six, from line thirty-six to line forty-one, in the following words:

*Provided*, That no land shall be granted and conveyed to said State under the provisions of this act on account of the construction of any railroad or part thereof that has been constructed under the provisions of any other act at the date of the passage of this act, and adopted as a part of the line of railroad provided for in this act.

And to insert in lieu thereof:

*Provided*, That nothing herein contained shall interfere with any existing right acquired under any law of Congress heretofore enacted making grants of land to the State of Minnesota to aid in the construction of railroads.

Mr. HARLAN. I do not wish that amendment to be adopted. It is not that the words proposed to be inserted should not be, but those words ought not to be stricken out, and I hope they will not be.

The PRESIDING OFFICER. The question is on reconsidering the vote by which this amendment was adopted.

The motion was agreed to.

The PRESIDING OFFICER. The amendment is now before the Senate, and the question is on its adoption.

The amendment was rejected.

Mr. HARLAN. I now move to insert the words that were intended to be inserted, as a separate proviso to the sixth section:

*And provided further*, That nothing herein contained shall interfere with any existing rights acquired under any law of Congress heretofore enacted, making grants of land to the State of Minnesota to aid in the construction of railroads.

The amendment was agreed to.

Mr. POMEROY. I should like to have the Senator from Iowa tell us how it stands now.

Mr. HARLAN. It restores the text of the amendment reported by the committee, and adds a proviso preventing any interference with vested rights.

Mr. POMEROY. I have no objection to that.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The Secretary continued the reading of the bill.

The next amendment of the Committee on Finance was on page 22, line five hundred and thirty, in the clause proposing to amend the ninety-fourth section of the act of last year, to insert the following:

By inserting after the word "sewing," in the proviso to the paragraph relating to "sails, tents, awnings, and bags," the words "or pasting."

The amendment was agreed to.

The Secretary continued the reading of the bill, as follows:

By inserting at the end of the paragraph relating to stoves and hollow-ware the following: "on railroad chairs, and railroad and ship spikes, made of wrought iron, five dollars per ton;" by striking out, in the second proviso of the paragraph relating to "rivets," the words "upon which no duty has been assessed or paid," and inserting in lieu thereof the words "the duty to which it was liable;" and after the word "loops," in the line following, inserting "not having been paid;" by striking out the paragraph relating to steam engines, and inserting in lieu thereof the following words: "on steam, locomotive, and marine engines, including the boilers and all their parts, a duty of five per cent. *ad valorem*. *Provided*, That when such boilers or parts thereof shall have been once assessed and a duty previously paid thereon, the amount so paid shall be deducted from the duties on the finished engine."

Mr. GRIMES. I desire to inquire of the chairman of the Committee on Finance whether this provision in the bill as it comes from the House increases or diminishes the tax on railroad chairs and spikes.

Mr. SHERMAN. It increases it. It levies the same tax on railroad chairs and railroad and ship spikes, made of wrought iron, as on stoves, hollow-ware, and castings. Most of these amendments are amendments of phraseology and transpositions of sections. If the Senator will take up

the book of laws of the last session he will see what the change is.

Mr. GRIMES. I have got the book before me. We are attempting to amend a section that embraces some dozen pages, and it is utterly impossible for me to keep track of this bill and the law that we are attempting to amend at the same time.

Mr. SHERMAN. The provision of that law in regard to steam engines is:

"On steam engines, including locomotive and marine engines, a duty of three per cent. *ad valorem*."

This bill proposes to amend that by making the duty five per cent., but at the same time adds the proviso:

*Provided*, That when such boilers or parts thereof shall have been assessed and a duty previously paid thereon, the amount so paid shall be deducted from the duties on the finished engines.

That is applying the same principle to steam boilers as is applied in other parts of the bill to other manufactures. The proviso in this portion of the bill in regard to quicksilver is simply to give it the same right of transfer to a bonded warehouse and be exported free of duty as is provided in other cases of manufactures or production.

Mr. GRIMES. I observe that this bill proposes to strike out all that is in the law of 1864 in regard to steam engines, and to insert in lieu thereof:

On steam, locomotive, and marine engines, including the boilers and all their parts, a duty of five per cent. *ad valorem*. *Provided*, That when such boilers or parts thereof shall have been once assessed and a duty previously paid thereon, the amount so paid shall be deducted from the duties on the finished engine.

Mr. SHERMAN. The present duty, I will inform the Senator, is three per cent. The old law reads as follows:

"On steam engines, including locomotive and marine engines, a duty of three per cent. *ad valorem*."

We here provide that there shall be levied—

On steam, locomotive, and marine engines, including the boilers and all their parts, a duty of five per cent. *ad valorem*.

But we provide that when such boilers or parts thereof have been once assessed and a duty previously paid on them, the amount so paid is to be deducted from the duties on the finished engines. The reason is obvious. The boiler is a separate and distinct branch of manufacture, which is taxed as a boiler; and when it forms a part of the engine it should not be retaxed, because nothing additional is done to it when it is put into the steam engine except to make it a part of the steam engine. You tax it as a boiler, and then to tax it as part of the engine, without additional work being put upon it, would be manifestly unjust. This provision increases the tax on all this machinery from three to five per cent., and then it provides that where the boiler is a separate article of manufacture, and has paid a distinct duty, the duty shall not be assessed twice; that is, it shall not be assessed on the boiler as part of the engine.

Mr. GRIMES. I apprehend that will not be a very profitable way of legislation; that if you exempt such portions of the boiler of these engines as have been once taxed in some other character, in the hands of some other manufacturer, you will lose money rather than make it by passing this bill.

Mr. SHERMAN. It is done all through the law of last year.

Mr. GRIMES. No, sir.

Mr. SHERMAN. On the very same page of the law which we are now proposing to amend, the Senator will find three provisions of precisely similar character. Here is one:

"*Provided*, That steel rolled, and sheet, rod, or wire made of steel upon which a duty has been assessed and paid, shall be assessed and pay a duty of five per cent. *ad valorem* upon the increased value only thereof."

So on the same page there is the same provision in regard to rolled brass, copper rolled, yellow sheathing metal in rods or sheets, &c. That same provision is applied to nearly every article of manufacture where the article itself is a specific article of manufacture.

Mr. GRIMES. As has been remarked to me, this is a violation of the principle upon which the whole of our tax laws hitherto have proceeded. It has been suggested to me by the Senator from Vermont [Mr. COLLAMER] that we tax leather in the hands of the butcher before it is converted into leather, and then we tax it in the hands of the manufacturer. We tax every bolt and every

piece of copper that goes on a ship, and then we tax the ship afterward as a manufacture.

Mr. SHERMAN. The Senator is mistaken. Here is one of the provisions of the old law:

"On rolled brass, copper rolled, yellow sheathing metal in rods or sheets, and shot, sheet lead, and lead pipes, a duty of three per cent. *ad valorem*: *Provided*, That when any of the articles herein mentioned shall not have been assessed and a duty paid thereon of three per cent., in the form of ingots, pigs, or bars, a duty of five per cent. shall be assessed and paid thereon."

Now, in regard to leather:

"On leather of all descriptions, curried or finished, a duty of five per cent. *ad valorem*: *Provided*, That all leather previously assessed in the rough and upon which duties have been actually paid shall be assessed on the increased value only when curried or finished."

Mr. GRIMES. Do you not put a tax on the shoes?

Mr. SHERMAN. Yes; because there is an entire change of the article.

Mr. HENDERSON. While we are upon this subject I desire to call the attention of the chairman of the committee to the fact that I think in the committee the words "or parts thereof" in line five hundred and forty-six were stricken out.

Mr. SHERMAN. They were, and they ought to be out.

Mr. HENDERSON. I ask the unanimous consent of the Senate while we are upon this subject to strike out those words "or parts thereof," because it was certainly the understanding of the committee that they should be stricken out. I presume it is an error in printing the bill that they are not so marked. The proviso reads, as it now stands:

*Provided*, That when such boilers or parts thereof shall have been once assessed and a duty previously paid thereon the amount so paid shall be deducted from the duties on the finished engine.

I move to strike out the words "or parts thereof."

The amendment was agreed to.

Mr. COWAN. I desire to move an amendment in the five hundred and thirty-fifth line on this same page.

Mr. SHERMAN. I suggest to the Senator to let us dispose of the amendments of the committee first.

Mr. COWAN. The amendment last acted upon was not an amendment of the committee.

Mr. SHERMAN. They intended to make that amendment.

Mr. HENDERSON. I asked the unanimous consent of the Senate to make the amendment so as to carry out the intention of the committee.

Mr. COWAN. I beg pardon.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The reading of the bill will be proceeded with, and the amendments reported by the Committee on Finance will receive the first action of the Senate, and then amendments by other Senators will be in order.

The Secretary continued the reading of the bill. The next amendment of the committee was in line five hundred and eighty-three, page 24, to strike out the following words:

By adding to the paragraph relating to patent, enameled, and japanned leather, the words "*Provided*, That when a duty has been paid on the leather in the rough, the duty shall be assessed and paid only on the increased value."

Mr. GRIMES. I understand the chairman of the Committee on Finance to say that that is the old law. I wish to inquire, what then is the necessity of adding it here, and who is going to determine what is the amount of the increased value on this enameled leather?

Mr. SHERMAN. We propose to strike it out. The Senator agrees with us entirely. The House have put in a provision exempting patent, enameled, and japanned leather from a double tax. We thought that the article was so much changed by the process of enameling, &c., in its value and character that the provision ought to apply to that character of leather, and therefore we move to strike it out.

Mr. GRIMES. I agree with the committee if that is what is to be accomplished by it.

The amendment was agreed to.

The Secretary continued the reading of the bill down to and including the following clause:

By inserting in the paragraph relating to ready-made clothing, after the word "dress," the words "not otherwise assessed and taxed as such," and by striking out of the same paragraph all after the words "does not exceed the sum of" and inserting the words "\$1,000 per annum shall be exempt from duty."

Mr. SHERMAN. I have promised to state where we came to any provision of importance, and this is an important subject to which I wish to call the attention of the Senate. In the old law we exempted \$600 per annum of the product of tailors, boot and shoe makers, &c., and other small employments. This clause increases the exemption to \$1,000.

Mr. COLLAMER. Do the Committee on Finance propose to increase the exemption as it came from the House?

Mr. SHERMAN. No, sir; it is not the bill as it came from the House; but I call the attention of the Senate to it because I promised to call their attention to any matter in which there was an important change made. The House increased the amount of the exemption from \$600 to \$1,000.

Mr. JOHNSON. Do you strike it out?

Mr. SHERMAN. No, sir; we leave it as it is.

The next amendment was on page 26, line six hundred and ten, after the words "*ad valorem*," to strike out the following words:

By striking out in paragraph relating to diamonds, precious stones, and imitations thereof, and all other jewelry, the word "ten," and inserting in lieu thereof the word "five."

Mr. SPRAGUE. This subject received the attention of the Committee of Ways and Means of the House of Representatives, who heard committees from different parts of the country upon it. They represented that their interests had been in the past year very seriously affected by the distinction which the law of last year made in regard to their interests, requiring those who deal in jewelry to pay a tax of ten per cent., while upon silverware, diamonds, &c., there was only imposed a duty of five per cent. They represented that it had a tendency to induce contraband trade. It is within my knowledge that a large portion of the jewelry now produced in this country is manufactured at the homes of the people making the goods, and it is then sold to whomsoever it may concern. The effect has been to decrease the amount manufactured by the large manufacturers and to entirely deprive the Treasury of any income from this tax. Silver is not taxed at all. Diamonds are not taxed. The labor upon them simply is taxed. Gold and the labor that enter into the manufacture of jewelry are taxed. There are many articles made of silver which are made both by the manufacturer of gold and silver, where they compete with each other, and this discrimination in the tax tends to destroy the interests of those engaged in the manufacture from gold. Some of the best and most respectable of them have come to Congress, and have had long conferences with the House committee on the subject. It has been certainly impossible for the Senate Committee on Finance to thoroughly investigate the subject. I hope, therefore, that the Senate will not agree to the report of the committee.

Mr. SHERMAN. The Senator from Rhode Island is very much mistaken about there being no tax upon jewelry set in silver. I have the law before me. It is perfectly clear. The old law provides:

"On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a duty of ten per cent. *ad valorem*: *Provided*, That when diamonds, emeralds, precious stones, or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold or any other material, the duty shall be assessed and paid upon the value only of the settings."

That is the present law. The House of Representatives propose to reduce the tax on jewelry from ten to five per cent. The Committee on Finance thought it was a character of employment that could afford to pay an increased tax, just like the increased tax on whisky or tobacco. We thought it was one of those articles of luxury that might be dispensed with, and that people who wish to wear jewelry could afford to pay ten per cent. on its value to the Government, being almost double that levied upon other manufactures.

Mr. GRIMES. Your amendment leaves it just where it is now under the present law?

Mr. SHERMAN. Yes, sir.

Mr. SPRAGUE. But under the operation of the present law the Government does not receive an income from the tax. The law does not provide any means by which the tax can be levied on the obscure establishments. There is no possible provision by which any revenue to the Treasury can be derived from seven eighths of the jewelry that is now taxed ten per cent. Those



gentlemen who came here representing this interest made this point very clear to the Committee of Ways and Means of the House. The chairman of the Committee on Finance may be right; but those who are manufacturing silverware in competition and to be sold alongside of this jewelry report that they pay no duty or tax upon anything but the labor employed—nothing upon the silver, and nothing upon the value—while in the manufacture of similar articles from gold there is a tax of ten per cent. on the gold and on the labor. On the silver manufacture the labor alone is taxed. That is the way they construe it at the Department at any rate.

Mr. SHERMAN. If I believed that the Commissioner of Internal Revenue or any other man could so construe this law, I should certainly have but little confidence in his common sense. I do not think such a construction can be put upon it. The words are plain:

"That when diamonds, emeralds, precious stones, or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold or any other material, the duty shall be assessed and paid upon the value only of the settings."

If silver is not a material, then as a matter of course the alleged construction would be correct; and if anybody will say that, we will simply provide for a case of lunacy.

In regard to the machinery by which this tax is collected, the same machinery is applied in the collection of this tax as in the collection of all taxes on manufactures. I have no doubt many obscure jewelers, carrying on their work in remote places or in lofts, may avoid this tax; but that may be said of every tax imposed by law.

Mr. COLLAMER. How will reducing the amount correct that?

Mr. SHERMAN. I do not know, unless it is supposed that they are more expert in trying to avoid a tax of ten per cent. than they would be to avoid five per cent.

Mr. SPRAGUE. The inducement to fraud is very great with the tax at ten per cent., while if the tax was put at five per cent. it would be comparatively small. These gentlemen feel that there is a certain injustice that articles of the same trade should be taxed at five per cent. and their particular articles taxed at ten per cent. It offers a great inducement to fraud and contraband trade.

Mr. COLLAMER. It would have no effect in relation to the mode of collecting at all.

Mr. ANTHONY. I certainly understand that the construction stated by my colleague prevails. It is so stated by persons engaged in the manufacture. The committee of the House considered this matter very deliberately and with a great deal of examination, and I think we had better let the tax be as they have put it. I do not see why there should be a discrimination against this branch of industry. It may be a luxury to those who buy it, but a great deal of this cheap jewelry is as near to wearing apparel as almost anything. It can hardly be called an article of luxury. But it is an industry to those who manufacture it. I hope that we shall disagree to the amendment of the Committee on Finance, and allow it to stand as the House have placed it.

The amendment was agreed to.

The next amendment of the committee was on page 26, line six hundred and nineteen, after the word "descriptions," to insert the words "when prepared for use;" so that the clause will read:

On snuff, manufactured of tobacco or any substitute for tobacco, ground dry or damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, forty cents per pound.

Mr. SHERMAN. The whole tobacco tax is provided for in another section, and in case the Senate tobacco tax should not be agreed upon these words should be restored. I will make that explanation now.

The amendment was agreed to.

The next amendment of the committee was on page 26, after line six hundred and twenty, to strike out the following clause:

On cavendish, plug, twist, and all other kinds of manufactured tobacco, not herein otherwise provided for, forty cents per pound.

Mr. HENDERSON. I hope the chairman of the committee will permit these clauses relating to tobacco to be passed over for the time being.

Mr. SHERMAN. I think they might as well be acted upon now.

Mr. HENDERSON. Well, sir, I have no objection. I am ready. I suppose this whole subject of the tax on tobacco is now amendable.

Mr. SHERMAN. The committee propose to strike out this paragraph, and the Senator has a right to move to insert something else in its place. I suppose that is what he desires to do.

Mr. HENDERSON. Yes, sir.

Mr. SHERMAN. The Senator has a right to do that.

Mr. HENDERSON. I move to insert in lieu of the words proposed to be stricken out the following:

On cavendish, plug, twist, and all other kinds of manufactured tobacco prepared for the purpose of chewing, and made merchantable, whether prepared by machinery or by hand, and whether sweetened or not, thirty-five cents per pound.

Mr. CLARK. I think we had better retain the old definitions if the Senator from Missouri pleases, as they have already been construed in part and acted upon. I propose to move to strike out "forty" and insert "thirty-five" where he desires to have it done.

Mr. HENDERSON. That is in my amendment.

Mr. CLARK. But I want to retain the old definitions which have been acted on by the Department, and the forms prepared.

Mr. HENDERSON. I will explain to the Senator from New Hampshire why I have offered this amendment. It is upon information that I have very recently from our manufacturers. The business of manufacturing chewing tobacco, from which the Government received nearly half a million dollars in my State last year, will entirely cease in my State unless some amendment of this character shall be adopted. The honest manufacturer will not be permitted to continue his business; he must give it up and quit it entirely. I understand that now tobacco is twisted by the hand in large quantities, and that orders are frequently made for it in that shape. It is not pressed by machinery; it is not put under the screw, as manufactured tobacco is. As we understand it, it is called manufactured tobacco after it has been subjected to the press of the screw; but I am told it is now merely twisted up, sometimes sweetened and sometimes not sweetened, but twisted up by the hand as close and as tight as it can be, and large orders are now made for tobacco in that shape, and it is being used in that shape; and hence it is that the honest manufacturer must be compelled to quit the business unless—

Mr. CLARK. I will ask the Senator to look at line six hundred and twenty-four of the bill, just below, and he will see a provision exactly for the case that he is mentioning now.

Mr. HENDERSON. I understand that; but the Senator will see that I do not wish to make any distinction at all. If tobacco is put up in that condition, and is made a merchantable article, and used by the chewer in that shape and condition, it ought to pay exactly the same tax.

Mr. CLARK. Does the Senator merely desire to have the "thirty" raised to "thirty-five"?

Mr. HENDERSON. Certainly.

Mr. CLARK. I have no objection; but I desire to preserve the old forms of definition which are used in the forms which have been sent out to the collectors.

Mr. HENDERSON. I preserve them. I will read the amendment to the amendment again.

On cavendish, plug, twist, and all other kinds of manufactured tobacco—

Using the words precisely as they were used before—  
prepared for the purpose of chewing and made merchantable.

That does not interfere with the farmer twisting up the tobacco and using it himself; but when it is twisted up and made a merchantable article and orders are made for it by the merchants throughout the country and it is used and sold in that shape, I desire that it shall pay the same tax.

Mr. JOHNSON. Is not that provided for by the succeeding clause?

Mr. HENDERSON. Not properly. The succeeding clause says:

On tobacco twisted by hand, or reduced from leaf into a condition to be consumed, without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, thirty cents per pound.

You cannot get that tax at all, because the farmer will put it up and will use it, and will sell

it to his neighbors. I desire to say that when it is made merchantable, that is, when it is bought and sold for chewing purposes, it shall pay the same tax as other tobacco. There is no distinction here in the section as it now stands to prevent parties from putting it up and using it. Certainly the section is not intended to apply to the farmer who goes into his own tobacco-house and twists tobacco and puts it in his pocket and uses it, because any man has a right so to do, and it would simply be taxing the leaf. I desire only to tax it in its manufactured state; and if parties manufacture it in that condition and use it as a manufactured article, make it a merchantable article, buying and selling it, then I desire to tax it.

Mr. CLARK. I am not certain that the Senator may not desire the same thing that I do, and if he will withdraw his amendment for the present and let the matter go over, I will confer with him, and perhaps we can agree precisely on what it should be. He may have the same object that I have.

Mr. HENDERSON. I presume we have the same object in view.

The PRESIDING OFFICER. The question now is on the amendment of the committee, the amendment to the amendment being withdrawn.

Mr. CLARK. I desire to strike out "forty" in line six hundred and nineteen and insert "thirty-five." That was according to the understanding of the committee; but it seems to be retained here at forty cents. The increase is provided for in another part of the bill. It now reads:

On snuff manufactured of tobacco or any substitute for tobacco, ground dry or damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, forty cents per pound.

The PRESIDING OFFICER. That amendment, striking out "forty" and inserting "thirty-five," will be made if there be no objection.

Mr. HENDERSON. Before that question is submitted to the Senate and acted upon, I desire to state that if the Senator intends to insist upon the increase of the duty upon manufactured tobacco and smoking tobacco in the subsequent part of this bill instead of the increase here, I shall oppose it. If he desires an increase I think the increase ought to be made at this point. I am not one of those who believe that tobacco can stand much increase from the taxation that we now have. If it be desired to increase it in the subsequent section and levy an additional twenty per cent. upon all manufactured articles contained in section ninety-four of the bill of the last session, I shall oppose it. Senators will see that twenty per cent. upon the tobacco tax is seven cents. It is now thirty-five cents, and one fifth of that is seven cents, which would make the tax forty-two cents. If the Senator proposes to change the tax of forty cents here to thirty-five cents, and then insists on the increased duty in the subsequent part of the bill, it will make the duty on tobacco forty-two cents instead of forty cents. As there is a general increase insisted on in this bill, I shall not object to an increase of the taxation upon tobacco. I am willing to consent to a tax of forty cents, and let it stand in the bill here at forty cents; but I shall insist upon no increase in the subsequent section. I can demonstrate to the Senate, I think, satisfactorily that forty cents is a very exorbitant tax upon this article; and I have information that satisfies me that if this tax is much increased, the business, at least in my section of the country, will not be continued.

Mr. CLARK. What I designed was to strike out the increase of five per cent. here and reduce it to the old price of thirty-five cents, and then increase the tax upon tobacco, as we had increased the rates upon the other articles, one fifth of the tax, or one twentieth of the amount. It would add to the tax on tobacco at thirty-five cents, seven cents, making it forty-two cents, and the increase would correspond exactly with the increase we make on many other articles; and that was the understanding of the committee.

Mr. HENDERSON. That was not my understanding.

Mr. CLARK. But if the Senator desires to confer with me further in connection with this amendment, perhaps it had better be passed over as well as the rest.

Mr. HENDERSON. I think it had better be passed over.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire is withdrawn, and the question is on the amendment proposed by the committee, striking out certain words.

Mr. CLARK. That amendment had better be passed over, and no action taken upon it at present, as the Senator from Missouri and myself are to confer about it.

The PRESIDING OFFICER. That amendment of the committee will be passed over, no objection being made, and the reading of the bill will be proceeded with.

The Secretary continued the reading, as follows:

On tobacco twisted by hand, or reduced from leaf into a condition to be consumed, without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, thirty cents per pound.

Mr. HENDERSON. Let all those clauses in regard to tobacco be passed over.

Mr. CLARK. Cigars and all?

Mr. HENDERSON. No; I am willing to consider the tax on cigars now.

The PRESIDING OFFICER. If no objection be made, the amendments reported by the committee on the subject of tobacco will be passed by and not acted upon at the present time; and the reading will be proceeded with, beginning on the six hundred and thirty-sixth line.

The Secretary continued the reading of the bill.

The next amendment of the committee was on page 27, line six hundred and thirty-eight, after the word "cigarettes" to insert, "and valued at not more than five dollars per hundred packages," so that the clause will read:

On cigarettes made of tobacco, inclosed in a paper wrapper, and put up in packages containing not more than twenty-five cigarettes, and valued at not more than five dollars per hundred packages, five cents per package.

The amendment was agreed to.

The next amendment was on page 27, after line six hundred and thirty-nine, to strike out the following clause:

"On all cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitutes therefor, whether imported or of domestic manufacture, sixty cents per pound; and no tare for the box or package in which any cigars or cigarettes are packed shall be allowed in ascertaining the weight. And the duty as aforesaid on all cigars, cheroots, or cigarettes imported shall be levied, collected, and paid under such regulations as the Secretary of the Treasury shall prescribe;" by inserting in the last paragraph relating to cigars, after the words "imprisonment not exceeding thirty days," the words, "and any person furnished with such permit may apply to the assistant assessor or inspector of the district to have any cigars of their own manufacture weighed; and on receiving a certificate of the weight, for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the duty. A copy of the certificate shall be retained by the assistant assessor, or by the inspector, who shall return the same to the assistant assessor of the district. The purchaser shall pack such cigars in boxes, and have the same inspected and marked or stamped according to the provisions of this act, and shall make a return of the same as inspected to the assistant assessor of the district, and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them to the collector of the district wherein they were manufactured, and before the same have been removed from the store or building of such purchaser, or from his possession; and any such purchaser who shall neglect for more than five days to pack and have such cigars duly inspected, and pay the duties thereon according to this act, or who shall purchase any cigars from any person not holding such permit, the duties thereon not having been paid, shall be deemed guilty of a misdemeanor, and be fined not exceeding \$500, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars shall be forfeited and sold, one fourth for the benefit of the informer, one fourth for the officer who seized or had them condemned, and one half shall be paid to the Government."

On cigarettes made wholly of tobacco or any substitute therefor, on cheroots or short sixes, and on all cigars valued at fifteen dollars or less per thousand, with the tax included, five dollars per thousand; and on all cigarettes or cigars valued higher than as aforesaid, fifteen dollars per thousand.

Mr. HENDERSON. I am under some misunderstanding about this thing. I desire that a portion of that section that is proposed to be stricken out shall be retained, especially that portion which guards the revenue and requires that these cigars shall be stamped and inspected.

Mr. CLARK. That is in the old law.

Mr. HENDERSON. My impression is that this is an improvement on the old law. I ask the Senator to let it be passed over for the present along with the other tobacco tax.

The PRESIDING OFFICER. If no objection be made, no action will be taken on this proposed

amendment at the present time, but it will be passed over, and the reading of the bill will be proceeded with.

The Secretary continued the reading of the bill.

The next amendment was on page 29, after line seven hundred and two, to strike out the following clause:

That section one hundred three be amended by striking out the words "two and a half per cent. upon the gross receipts," and inserting "two and a half per cent. upon net receipts under \$3,000, and five per cent. upon the excess."

Mr. FARWELL. I will ask the Senate to pass over the amendment to this section. The committee have amended it by striking out a portion of the House bill, and then by inserting a long paragraph at the end. There are some other sections in the bill which have close connection with this, to which I propose to offer some amendments, and to which I shall ask the attention of the Senate at the proper time; but I would like to have this amendment passed over until that time comes.

Mr. SHERMAN. I think we had better decide this question now. We have to get through with this bill to-night. We have passed over several amendments already, and I think we might as well settle this question at once. The question presented by the honorable Senator is whether corporations shall be taxed on their gross receipts or on their net receipts. That is the question to be determined by the Senate.

Mr. FARWELL. That is not the question in this amendment. The question here is whether vessels shall be taxed upon their gross receipts or upon their net receipts, and upon that subject I propose to offer an amendment, and I shall desire to have some little time accorded to me to express my views upon it. I think the policy in every respect of the taxation adopted by the last Congress is not entirely sound, but this in contravention of the whole policy adopted through this bill. There cannot be found another case in the whole bill that is analogous to this.

In the first place, here is a tax upon what? Upon a man's receipts of money. It is not upon any manufacture; it is upon receipts for the use of his property; and those receipts are taken in the gross. What are the gross receipts of a vessel? This law was passed at the last session of Congress. I never heard of any intention to so construe the act as to apply it to the coasting trade of the country until after I came to Washington. Since then I have had letters from all portions of the coast, complaining of the great hardships of this bill. In the first place, if it were proper to tax this property in this way at all, there is no comparison of the gross receipts with the net receipts. A man may receive a very large sum as gross receipts from a vessel, and still not have one cent left as a net receipt; and yet the committee now propose to tax him, and the law of last Congress did tax him, two and a half per cent. upon the gross earnings of the vessel.

The most of the vessels that this clause reaches are sailed upon shares by the master, he taking one half of the gross receipts, and in cases of the smaller class of vessels going along the coast, three fifths of the gross receipts for his wages and for the wages of the crew which he assumes to pay, and the provisioning of the vessel. There are three fifths of the gross receipts that the owner never sees and has nothing to do with. Then, again, from the other two fifths he must pay the insurance, he must pay all the wear and tear of his vessel, he must pay the port charges; and in many cases not one cent of the receipts comes into his hands, and yet he is taxed two and a half per cent. upon the gross receipts of the vessel. It is manifestly unjust.

Besides, sir, this is a case where there can be no protection given. He is competing against the tonnage of the whole world. You will find by examining the section of the law that is now proposed to be amended, that it expressly provides that in cases of railroads, toll-bridges, and other corporations, they shall be allowed to add this tax to their charges, putting these taxes directly upon the passengers who may travel over them, or who may have occasion to use them; but in this case there can be no protection. This class of property which it is proposed to tax in this unheard-of way is competing against the tonnage of the whole world. There is no protection given to it; and there cannot be.

The whole policy through all these taxes has been to exempt from taxation such articles of manufacture and produce of this country as cannot be protected against competition from foreign articles of the same kind. One reason given here, and a very good reason in my judgment, for the termination of the reciprocity treaty with Great Britain was, that with regard to many of our articles, upon which we ought to raise some revenue, we were prohibited from doing so by the fact that the same articles were admitted duty free from the British provinces, and consequently no tax could be laid on the same articles manufactured in this country. Now here is a case right in point; and I beg Senators to give their attention for one moment to the result of this kind of legislation. The American tonnage is fast disappearing from the ocean; and who suffer by it? Not the owners of the tonnage. They can sell their tonnage at any time at fair prices and can invest the proceeds in other property; but it is to be the policy of this country to drive from the ocean the tonnage belonging to American citizens, the missionaries and the pioneers of trade everywhere? Why, sir, it is the tonnage of the country that has opened up markets to the manufacturers and producers of this country all over the world. Had not America been a nation largely engaged in tonnage I do not believe we should be shipping an article from this country to Australia to-day. Some of our ships went out there upon freight with cargoes loaded in Great Britain, and when the masters got there (intelligent as all our shipmasters are) they found that those markets were prepared to receive many articles of the growth and manufacture of this country, and they at once opened up a correspondence with their owners at home and with their friends at home, advising them that certain articles would pay well for shipping there; and from that small beginning we have opened up a large trade. It is so to all the other parts of the world.

Mr. SHERMAN. I do not like to interrupt the Senator from Maine, but I wish to inquire if he has not fallen into a misapprehension. There is no tax levied upon the transportation of persons and property between the United States and any foreign port.

Mr. FARWELL. No, sir; but the Senator will perceive, if he will look at the subject for a moment, that we have some four million tons of shipping. Perhaps one million tons is of that class that it must be employed in foreign trade or in long voyages. It is too large, it is too heavy a draught of water, it is too cumbersome, for the coasting trade.

Mr. SHERMAN. There is no tax levied upon that sort of a vessel.

Mr. FARWELL. I know that. I will explain it to the Senator in a moment if he will permit me. There is perhaps one million tons that is too small for the foreign trade except, perhaps, to the near ports in the British provinces and West Indies, leaving two million tons that are adapted for either trade. Now, I ask the Senator if he can protect the coastwise tonnage when there is no protection to the foreign tonnage. Here are two million tons of shipping well adapted to either trade, coastwise or foreign; and whenever the coastwise trade pays better than the foreign, this shipping drops into it until it is reduced to the natural level; and whenever the foreign trade is the best, they go into that trade, so that of themselves they will keep the trade, foreign and coastwise, upon an equilibrium. Therefore I say that there can be no protection.

I supposed that the policy would be adopted here that has been adopted in all other Governments. There is no commercial nation that puts a direct tax upon its tonnage. France has for more than twenty years levied a tax of five francs per ton—nearly a dollar—upon every ton of shipping that enters her ports from a foreign port. This of course applies to her own tonnage as well as to ours and that of other nations, thereby drawing a large revenue from other nations, and still leaving her ships upon an equal footing with theirs. England, too, has collected certain dues, harbor dues, light dues, &c., from all foreign tonnage; but the United States has never levied any. That was manifestly a bad policy even in time of peace, when we had abundance of money to supply the revenue of the Government. We should have adopted this policy then, so that when for-

eight vessels came to our ports they should contribute something to our revenues as well as to have us contribute to theirs. We have at this very Congress made an appropriation for the extinguishment of the Scheldt dues, which was a tax on our tonnage as well as a tax on the tonnage of other countries going into the Scheldt; and I think within a very few years we compounded the Sound dues with Denmark, paying a large sum of money to get rid of those dues.

Now, sir, the taxes proposed by this bill on shipping come very uneven; they are very troublesome to collect; it is very expensive to get them; and I suggest to the committee—and I made the suggestion once before, but I fear the attention of the committee was not called to it—that the Government may derive more revenue in a direct way where it will cost not one cent to collect it. The Government may collect more money from the shipping of the country than it will derive under this tax, and where it will cost not one cent to collect it, by assessing a tax on vessels coming from foreign ports, and I say to the Senator from Ohio that the owners of the shipping of this country will not object to a direct tax assessed upon each vessel as she arrives from a foreign port, paid into the custom-house at the time of her entrance, where there can be no escape, and where there can be no expense of collecting, and where at least three fifths of it will come out of foreign nations, and half of it out of Great Britain, who has done so much to bring our tonnage into disrepute.

Mr. COWAN. I should like to ask the Senator from Maine whether the tonnage that is taxed under this bill is in competition with foreign tonnage; whether a foreign ship loaded at one of our ports for another of our ports would not be subject to this tax the same as our own shipping.

Mr. FARWELL. I will state to the Senator that a foreign ship cannot load in one of our domestic ports for another domestic port; it is prohibited. I supposed I had explained to the Senator, but his attention must have been drawn off at the time I explained it, that it was not possible to give protection; that that is no measure of protection, because we have so large a class of vessels suitable for the coasting trade that whenever the coasting trade pays better than the foreign trade they drop into the coasting trade until they bring it down to the standard of the profit of the foreign trade, and consequently no protection can be given by this measure by giving us the exclusive right of the coasting trade. England gives that same right to her coasting vessels also.

Mr. COWAN. I should like to ask the Senator another question: whether this tax upon the coasting trade is not charged by the shipper additional upon his freights; and, whether the voyage be prosperous or not, if he has not received the tax at least by way of these extra charges.

Mr. FARWELL. There can be no addition. The man who goes into the market with a vessel is obliged to take what they give him; he takes the rates, be they more or less, and the coasting rates and foreign rates correspond as near as can be. If one business is paying the other is paying. They run together. Now, instead of making it a direct tax in this way, and making the American tonnage pay the whole of it, why not put the tax on every ship that arrives at one of our ports from a foreign port? Then Great Britain will pay her portion of the tax. Why, sir, I looked in the Tribune only a night or two ago, and out of some forty arrivals in that port more than thirty-five were foreign vessels.

Mr. SHERMAN. My friend from Maine is not discussing the amendment now before the Senate, but discussing a proposition upon which I agree with him entirely; and if he will prepare an amendment carefully—he is more familiar with the subject of shipping than I can be—making a reasonable duty upon foreign ships arriving at our ports, in the nature of light-house dues, I shall vote for it with great pleasure; but that does not affect this question.

Mr. FARWELL. But would the Senator have this increased tax put on also?

Mr. SHERMAN. No; I would apply that tax only to foreign shipping. I believe, however, we cannot impose such a tax as that. At any rate, the question now before us is not the one that the Senator is discussing.

Mr. FARWELL. I was only discussing that

as a substitute for this, as a reason why this should be rejected; and then I propose to advise the committee to offer, or to offer myself, such a proposition as I have suggested. I believe it is a just measure. I believe that where the Government gets \$500,000 under this tax they may get \$1,000,000 under the other. Great Britain will pay \$500,000 of it; we shall pay perhaps \$300,000 of it; and the other \$200,000 will come out of other foreign ships. I believe that this amendment should be rejected. I believe that if there was no tax obtained in any other way this should not be imposed. It is not a manufacture; it is an income. The money received from a ship is merely an income; and that you propose to tax five or ten per cent. as the case may be, and then here instead of putting on two and a half per cent. more to the income, making it seven and a half or twelve and a half, you put two and a half on the gross receipts, which is more than ten per cent. on every dollar of net income that will be obtained from any of this class of property. Such a tax is manifestly unjust. I hope the amendment proposed by the committee will be rejected at any rate.

Mr. VAN WINKLE. If I understand the present question, it is upon that part of the bill proposing to amend section one hundred and three of the old law, which commences in the bill before us on line seven hundred and three; and the question is whether the taxes are to be imposed upon the gross or upon the net receipts of these various companies. The Committee on Finance proposed to strike out the amendment in this respect that has been introduced by the House. The House proposed instead of having this tax uniformly upon the gross receipts to tax at a double rate the net receipts.

We were warned by one of the Senators from New Hampshire [Mr. CLARK] last evening against the danger of an inequality in the imposition of these taxes. He stated, and I have no doubt justly, and properly, and truly, that if our people were satisfied that the taxes were equally imposed so as to affect every industry in the same proportion, there would be little objection made to the payment of the taxes. My own experience as a member of the Finance Committee and in my intercourse with my fellow-citizens generally is that the complaints that are made are not so much against the amount of taxes imposed as it is that they operate unequally on different branches of business. I think that the law as it stands does, and must necessarily, operate unequally. You may take the various businesses that are comprised in this amendment, and you find that there does not prevail a uniform ratio of net to gross receipts. In many of the companies, perhaps a very small proportion, but taking the largest interest, that of our longest and best managed railroads, and you will find that generally the net receipts bear a proportion of about one half to the gross receipts. Now as to them this cannot be anything more than fair. If it is true, as I have stated, that the net receipts amount to about one half the gross receipts, and you transfer the tax from the gross receipts to the net receipts, doubling it at the same time, you are likely to realize the same amount of money from it.

But, sir, there are various smaller interests; there are the city railroads as an instance, where the net receipts do not perhaps bear the same proportion to the gross receipts. We have the cases that have been alluded to by the Senator from Maine. The voyage of a vessel and her receipts from that voyage vary very greatly. There can perhaps be no rule prescribed for such cases. It cannot be said that there is anything like an average. One voyage is prosperous and another the reverse; and a case has recently been given in a newspaper of a vessel chartered I believe to go to California for \$6,000, and when she got there she had already expended upward of the six thousand dollars; and yet she was taxed upon that sum as her receipts.

Now, I apprehend that the object of these taxes is to substitute this as it were for the income tax, or to be as it were an income upon the receipts of these companies; and if you pursue the rule that stands in the old law, it cannot fail to work a great inequality. My opinion, therefore, is decided that you will best accommodate the interests of the revenue, that is to say that you will get a better revenue, that you will render this tax, in its appearance at least, more equal to those who are

subject to it, and that upon the whole you will do greater justice by adopting the amendment of the House than you will by rejecting it. It proposes that the net receipts under three thousand dollars shall be subject to a less rate of tax. While it is impossible to specify or to give a catalogue of the kinds of business which that would affect, yet it may be said generally that in those cases the business is not a very profitable business where the whole receipts do not exceed that amount; and therefore the rate as to them is properly made less. I have had some experience in this matter. I was in the shipping business in early life, and I have been in the railroad business in later life, and connected with these companies, and so far as my own testimony will go in reference to the knowledge thus acquired, I will say that the only fair way to reach these companies is by taxing the net receipts; and if, as I have stated, the net receipts in most of these cases amount to one half the gross receipts, and you at the same time double the tax, you do not affect the gross amount to be received from them.

Mr. CHANDLER. Before action is taken upon this subject, I will move to amend the amendment by inserting after the word "transportation," in the seven hundred and twenty-fourth line, the following—

Mr. SHERMAN. I will state to the Senator that we have not reached that point yet. We are now at line seven hundred and three, page 29.

The VICE PRESIDENT. The question now before the Senate is on the amendment of the Committee on Finance to strike out from line seven hundred and three to line seven hundred and seven inclusive, on page 29.

Mr. SHERMAN. Mr. President, this amendment is a very important one. The House of Representatives propose to substitute in place of the tax of two and a half per cent. upon the gross receipts of all transportation companies, two and a half per cent. on the net receipts under three thousand dollars, and five per cent. on the excess. This question was carefully considered by the Committee on Finance, and we concluded that it was not wise to adopt this change. The present law yields us a very large revenue. It is the only tax upon corporations; it is the only tax upon transportation. To apply a new rule would be to make one that is very varied. What are the net receipts of a transportation company? What are the net receipts of a ship? How is it possible to ascertain them? How is it possible to apply the rule to all the various transportation companies of the country? In some cases it would be a very light tax, in other cases it would be very heavy. What are net receipts? No two members of the committee could agree upon the subject of what net receipts are; and I ask Senators what would be the meaning of net receipts? Are the net receipts those that are left after deducting all the expenses of transportation, all the hire of laborers, insurance, taxes, the cost of running the ship, the cost of running the railroad, funds that are set aside for special purposes, interest on bonds, construction account, &c., &c.? It is impossible to adopt such a rule and apply it to a tax law. The present rule is clear and definite. It is very easy to ascertain the gross receipts of a railroad company, of a bank, of a corporation, of a ship, of a horse railroad, and of every other corporation engaged in transportation. There is no other rule that is so definite and distinct as will enable us to apply it in a question of taxation.

Some of these companies complain that a tax of two and a half per cent. is very high, but they are authorized to charge this two and a half per cent. upon their customers. They increase the amount of freight and their bills for transportation in a ship to correspond with the tax. They have increased their fare on railroads to correspond with the tax. They are authorized by the terms of this bill to add this tax on their fare even in the case of horse railroads; and where a tax of two and a half per cent. amounts, as it does on many of them, to less than one cent they are authorized to add one cent to the amount of fare that they are authorized by law to charge. It seems to me, therefore, to change the rule of assessment upon these corporations would be to substitute an uncertain, variable rule for what is now certain and fixed. The tax on corporations will yield us over five million dollars—between



five and ten millions. I endeavored to find the exact amount, but I have not been able to get it. To adopt any other rule would be to allow all sorts of evasions and all sorts of frauds. It seems to me, therefore, it is wiser to adhere to the rule established at the last session after full discussion, rather than to change it before six months have expired.

Mr. FARWELL. I agree in the main with the views of the Senator from Ohio, the chairman of the committee; but here are two things connected together in this section that are so entirely different, as ships and railroads, toll-bridges and canal-boats, which are common carriers, and corporations, which are protected everywhere. No man can go and build a line of railroad up and down this avenue without consulting Congress; and we know very well that Congress will give no right to put a competing road right alongside of the present one. These people, therefore, may add to their fare, and put this tax which is imposed upon them upon their customers. But there are no chartered rights to the use of the great highway of the world. Here is an open competition; and the fault I find with this proposition is that ships are lashed to railroads. When I asked the committee to pass over the consideration of this section, my proposition was to separate the two; I proposed to strike out of the section the word "ship," and then legislate for ships by themselves, by putting on tonnage duties.

Mr. SHERMAN. That is not in order now. The Senator can accomplish that at the proper time by moving an amendment to the original bill, striking out the word "ship," but that is not now at all affected by this amendment.

Mr. FARWELL. I have no objection to it. The amendment was agreed to.

The next amendment was on page 29, after line seven hundred and seven, to strike out the following clause:

That section one hundred and three be further amended by adding the following after the word "vehicle" where it occurs the second time in the section: "Provided, That this section shall not apply to those teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufactory, or to the teams or vehicles used in the transportation of ores from the mines where the same is excavated to the place where they are reduced or worked."

The amendment was agreed to.

The next amendment was on page 30, after line seven hundred and sixteen, to insert the following:

That section one hundred and three be amended by inserting after the words "and any foreign port" the words "but such duty shall be assessed upon the transportation of persons and property shipped from a port within the United States through a foreign territory to a port within the United States, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States receiving such freight or transportation." And that section one hundred and three be amended by adding at the end of said section the following: "And provided further, That no tax under this section shall be assessed upon any person whose gross receipts do not exceed \$1,000 per annum."

The amendment was agreed to.

Mr. CONNESS. There was an amendment adopted just now without its having secured the attention of Senators; and I wish, if there be no objection, to have it considered again.

The VICE PRESIDENT. They will all come up again for consideration in the Senate.

Mr. CONNESS. I know that; but we may not have an opportunity to say then what we wish to say upon it. It occurs on the 30th page of the bill just passed; it is the proviso relating to "teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufactory, or to the teams or vehicles used in the transportation of ores from mines where the same is excavated to the place where they are reduced or worked."

I was so unfortunate as not to be able to be present at the meetings of the Finance Committee, and therefore have no complaint to make of the action taken by the committee; but I was unaware of their having taken such action as to propose to strike out the amendment made by the House of Representatives which exempts the class of wagons and vehicles used in transporting logs to mills for lumber, or the transportation of ores from the mine to the place where it is reduced. I desire simply to say to the Senate that this tax is one that ought not to be imposed; that it is one

that cannot be afforded; that in most instances the hauling of this ore is for experimental purposes; and that, as we have concluded to tax the product of the mine, namely, the gold that is taken from it, this tax, of all others, should not be imposed here. The idea of taxing an ox team that is engaged in hauling logs from where they are cut to the mill seems to be one so preposterous as not to require any considerable explanation. The Senators from Nevada feel a particular interest in this proposition, for they are living in a country where this business is very largely done, not only where ores are hauled for great distances to points where they are reduced, but where lumber is very scarce, and where the tax imposed in this manner upon it would be very severely felt. I hope the Senate will not concur in this part of the recommendation of the committee.

Mr. SHERMAN. This proposition, it seems to me, is the most singular one of all the exemptions that are endeavored to be put on the tax bill.

Mr. CONNESS. I will say to the Senator it was very fully discussed in the House of Representatives and adopted with great unanimity.

Mr. SHERMAN. Let me state a fact. The Senator proposes to exempt from taxation the transportation of gold ore and lumber, and yet proposes to subject to taxation the transportation of food. That is the long and the short of it. Everything else in this world must pay a tax upon its transportation except gold and lumber. Why? Nearly all of the lumber of this country is made by large manufacturing companies in Michigan and other places, who saw it up. Nearly all the gold that is transported, which would be reached by this bill, is owned by large mining companies; and we know from the New York papers that they are companies sometimes having a capital of five, or ten, or fifty million dollars. According to this provision the Senator would exempt mining companies and lumber companies from paying a tax upon their transportation, and yet would levy a tax upon the transportation of the food that is carried from the State of Ohio to the State of Massachusetts. It seems to me there is no ground on which it can be placed; there is no reason for it. The Committee on Finance could not justify it. We did not see any reason that actuated the House; and I am sure the Senators from Nevada, who represent a State so rich that the other night I felt that I belonged to a nation more powerful than any in the world after listening to the honorable Senator from Nevada, [Mr. NYE,] I hope they will not commence by special legislation exempting their transportation from tax, when we impose it by this bill upon the transportation of every necessary of life.

Mr. CONNESS. I know that the Senator would not recommend this amendment striking out the proposition made by the House of Representatives if he were exactly aware of the facts. Let me say to the Senator that there is not a foot of lumber made in the country that we represent that is not transported after it is made upon wagons, and that is all subject to tax. But here is a mill and there is a forest; and the ox teams used in hauling the logs to that mill are to be taxed also. Is the Senator not willing to wait until it is made into lumber and then receive his tax; for every foot of it must be hauled to market. Will he tax the hauling of it in the log and then tax it at the other side of the mill as it goes to the market and to the consumer? I hope not. I know the Senator does not wish to do that.

Now, in regard to the fabulous idea that the Senator has deduced, by some process or other, from the speech of my honorable friend from Nevada in regard to the mines of Nevada, I will merely say that had I not known something of the sage-brush country and of the delving that is necessary to get the gold or silver, I too might have been led away by the flowers of rhetoric of my honorable friend. I know it was hard for him to restrain his enthusiasm when he desired to paint the prospects of what he regarded as the realities of his young and giant Commonwealth; but I would hate very much, as I apprehend his constituency would, that taxation should be based upon the eloquent representations of my honorable friend. I do not wish to condemn them. As long as a Senator has the proud privilege of being able to stand on the top of the mountains and

imagine that all the earth he sees but covers over the shining metal; I know no reason why he should not be permitted to describe the scene here as it occurred to him without the Finance Committee and the honorable chairman of that committee being at liberty to get up a revenue bill based upon that picture. It is to that part of it that I object.

Mr. NYE. It will be remembered, Mr. President, by the Senate that in the remarks I made in regard to our power to produce gold, if the avenues were opened up through which we could get the means of reducing the ore, I stated that we could as well produce \$500,000,000 a year as the \$25,000,000 or \$30,000,000 that we now produce. I repeat that assertion. It was no flower of rhetoric, and it was no assertion upon which the chairman of the Committee on Finance had a right to draw any other deduction than such as I intended to suggest—that we had the power to produce if we had the means of reducing the ore. But, sir, we have not those means.

But, sir, to come to the question: the committee propose by striking out these words to tax the drawing of our ores two and a half per cent. upon the net product of drawing up to \$3,000, and five per cent on the excess. It seems to me that this is unfair; and when I say this I do not mean, and I do not represent in part a constituency that desire to shrink from their due proportion of the burdens of this war. But the getting of the ore to the mill where it is reduced is a part of one business, that is, of producing bullion, and the honorable chairman of the Committee on Finance might as well lay a tax upon the team that draws the cotton from the railroad to the mill or from the canal to the mill as upon the ore from the mine to the mill where it is reduced. It is a part of the same business; and when this bullion is produced you tax that.

Lumber, too, is a most essential ingredient in the reduction of these ores. We are so situated in Nevada that the only lumber we have lies in the extreme western part of the State, upon the eastern slope of the Sierra Nevada mountains. That lumber is drawn from one hundred to four hundred miles after it is manufactured, to rear the structures that reduce these ores. I have myself seen wagons weighed upon a scale loaded with lumber, and the owner of the lumber paying fifteen cents a pound upon that lumber, one foot of lumber weighing three pounds, making a cost of forty-five cents per foot for drawing that lumber to the place of its destination—\$450 per thousand feet for drawing it. That is taxed when it is in the shape of lumber, and now it is proposed to tax the team that draws it from the mountain to the mill. I suggest to the honorable chairman of the Committee on Finance whether that is not burdening that already overburdened article too much.

I do not understand that it is the policy of the Finance Committee or of the nation to so load down the business of producing anything up to the time that it is produced by taxation, as to prevent its production. A large majority of these teams are owned by the miners themselves. They are not taxed. The balance of them are owned by poor men, who find a few days now and then to devote to the purpose of hauling ore from the mine to the mill; and it varies in distance from half a mile to eight or ten miles.

Let me suggest to the chairman of the Finance Committee that two and a half per cent. upon their net earnings would not be much. The net earnings of these people who have hauled this ore for the last year have been very small indeed. It has been a year of great depression in our mining business and in our lumber business; and our miners and lumbermen have had all they could do to live. I submit to the honorable chairman of the Committee on Finance that if he desires to reach the great thing, to tax the bullion, it is a matter of public economy and public interest to increase that production, untrammelled from taxation, as much as possible. If he taxes the team that draws the ore, he may with the same propriety tax the person that brings it to the mouth of the tunnel, or raises it through the shaft to the surface. With as much propriety, I assert, could the committee tax the car that brings the bullion to the mouth of the mine or the tunnel, as to tax the team that takes it from there a shorter or a longer distance for the purpose of reducing it. If

we wish to raise revenue upon the production, I submit that it is not wise to cripple and lessen that production by unnecessary taxation. Sir, I think it will be wisdom on the part of the Committee on Finance; it will be wisdom on the part of both Houses of Congress, if they will lighten the burdens of taxation as much as they can upon the production of bullion.

Allow me to suggest, Mr. President, that it is not the mere tax upon the bullion that sets forth the full benefits of the production. It is the fact that we produce this bullion; it is the fact that we are a gold and silver producing nation that gives to our bonds their value abroad, and will increase the basis upon which they rest if the production is not crippled and killed by this incessant taxation from the time the first blow is struck in the mountain till the shining metal is seen. I protest, therefore, in the name of the revenue of this country against this proposition. If you would increase the revenue, lay not these heavy burdens of taxation upon this poor class of people that help to produce the bullion. Get out your bullion, and lay such a tax upon that as bullion alone can sustain. But, sir, I insist that it is not wise to tax in these incipient steps the poor teamster that works a day now and a day hereafter in drawing the ore from which the bullion is produced. It will not increase your revenue, but will decrease it, if you tax these laborers who produce the bullion.

Therefore, sir, I am opposed to this amendment. I think the House acted wisely in inserting this provision. Let us leave these channels that help the production of bullion as free as possible. I would not tax the honorable Senator from Rhode Island [Mr. SPRAGUE] in getting his cotton from a railroad to his mill; but I would tax the fabric. I would not tax the man who wrought it; but I would tax the fabric, and thereby reach the whole. I insist upon it, therefore, that it is not wise, it is not discreet, that this amendment should be adopted.

Mr. STEWART. I regret exceedingly to be called upon to express my views with regard to this subject of taxation on this amendment; but it is a more important matter than the chairman of the Committee on Finance perhaps imagines. The constituents that I represent are more heavily taxed for transportation than any other people in the world. We have a population of from thirty thousand to fifty thousand; we probably reach fifty thousand now; but while we did not reach thirty thousand a year ago we paid in one year in transportation for the food (and that question has been spoken of here) and supplies that we brought from California alone, over twelve million dollars. That was a very large amount. The timber and lumber that is hauled is another item which if we had the facts here would astonish the Senate.

Mr. SHERMAN. With the permission of the Senator from Nevada I desire to make a statement. When the Committee on Finance acted on this matter they did not even regard the condition of things in Nevada; and I will state to him the reason why. If this proviso is adopted simply to accommodate the new State of Nevada, we shall sacrifice large revenues in the State of Pennsylvania, the State of Maine, and the State of Michigan. Take the State of Pennsylvania alone. There are corporations there engaged in hauling wagons and vehicles to carry iron ore from the mines to the place where it is manufactured. They pay transportation. There are more than five hundred such in Pennsylvania to one in Nevada. Shall we make an exception of a class of business merely to accommodate Nevada, when by it we surrender five hundred times the amount of revenue which the whole State of Nevada will pay under the provisions of this section? That will be the result. If the Senator desires Nevada to be exempted from the operations of the bill, rather than consume time I would vote for it; but I know that he would not desire that.

Mr. STEWART. I would not like to have it in that shape. I suggest to the Senator to so amend the clause as to exempt the teams hauling gold and silver ore.

Mr. SHERMAN. Then I will ask the Senator how we can exempt the gold and silver ore, and not iron ore? Why should gold and silver ore be exempted, and not iron?

Mr. STEWART. That is the very story I propose to tell to the Senate. I propose to show why it should be excepted. It is of great importance that the question should be understood by the Senate, and I suppose I may as well go on and state some facts in regard to it.

In the first place we are taxed for transportation more than any other people in the world. Our State is so situated that its progress or its abandonment is simply a question of transportation. We have no railroads. Everything that we use must be transported at sometimes as high as twenty-five or thirty cents a pound. The question whether a pound of rock shall be worked or not is often simply a question of transportation. For instance, take the case of rock in the eastern portion of the State, where there is little or no timber by which it can be worked. It must be taken to water and to timber. Suppose that if it were hauled to where it can be worked it would be worth \$100; that is, if it were on the western border of the State, where there is water and timber. Suppose (and this is exactly the case there) you attempt to transport it from the eastern portion of the State, where it is worth nothing, to the western border, where there is water and timber. The cost of transportation is eighty or ninety dollars a ton. Now, if you add two and a half per cent. to the gross amount that the miner receives, which is large, it will prevent the hauling of that quartz at all. As we are at present situated all the quartz that will pay for hauling will be hauled, and much of it is hauled at a loss. But if you add any burdens, if you add two and a half per cent. to the cost of transportation, which is really adding two and a half per cent. to the gross product of the mine, it will in many cases prevent the mines from being worked at all.

If we had transportation there, and railroads there, Nevada would certainly be one of the richest countries in the world. We are progressing as fast as we can with the means we now have. The difficulty of transportation, and its immense cost, is what retards our progress. If that one question of transportation were out of the way, there is no reason in the world why we should not be producing to-day five or six hundred millions per annum. If we had railroads over the Great Basin, so that we could have our quartz transported readily to the timber, there would be no end to the amount of our production; but as long as that difficulty remains in the way, our progress must necessarily be very slow.

There is something very fascinating about mining. Miners will take the chances of obtaining transportation as long as there is a hope of striking something sufficiently rich to enable them to make money. Three fourths, four fifths, yes, I may say nine tenths, of all who attempt to operate in those mines and transport the ore to wood and water fail. One in ten succeeds and makes a fortune. That is the stimulus that induces the other nine to expend their money and haul this rock—it is entirely experimental—to the rivers and to the timber. You are taxing men who are attempting to develop the country at the loss of their fortunes, because one in ten succeeds. Stop this experimenting; stop this attempt to work the rock; stop them from hauling, by imposing burdens upon them, and you will be the losers by it. A new mining district is being discovered in the desert daily. The first year is entirely experimental whether they will open it at all or not. The cost of transportation amounts sometimes to hundreds of thousands of dollars. If you impose a tax of two and a half per cent. upon that, you put a still further embargo on the production of bullion, and I believe you will lose money by the experiment.

If you will encourage these miners to go and develop the country, occasionally (and that is the present stimulus) one will make a good strike and will get rich and have an income, and from that income you will derive a revenue. If you take it in its incipient state and say to the enterprising miner who shall attempt to experiment upon rock situated in the desert, and shall build his mill, and shall attempt to haul quartz over these deserts, (and it takes a year or so to make that experiment,) that while he is making that experiment you will tax him with the heavy burden of two and a half per cent. on the gross cost of that hauling, you will utterly discourage all attempts to develop the mining regions.

It seems to me that not only Nevada, but the whole gold and silver regions, should be exempted from this proposed tax. We have not got all the mineral fields there in the country. Idaho is right to the north of us. It is barren too. We sometimes have pack-hauling from San Francisco clear up to Idaho, some four or five hundred miles. These are experiments, and the Government should encourage these experiments. If you impose this tax, you will diminish our production more than by imposing a tax on any other point that you can strike. It will be most fatal.

The question is often asked here, "You have the richest country in the world, and why are you not producing more mineral wealth than you are? Why is not the production increasing?" Sir, what is needed in order to encourage the development of our mineral wealth? I will tell you. There are two things that we need in order to have our mineral fields opened. We need to have our titles settled by relinquishment on the part of the Government of the United States. We should have the right to hunt for mines, and protection when they are found, so that we may understand that after spending fifteen or twenty years hunting for mines we shall have the reward of title settled, and thus be enabled to obtain money to develop them. We need one other thing; we need transportation. That is the great obstacle that nature has placed between us and the realization of the vast mineral wealth that is locked up in the mineral fields of the United States. We certainly have mineral wealth surpassing that of any other nation. We have mineral fields that are more valuable than those that have been discovered by any other people. That is the universal testimony of travelers from all parts of the world who have come among us. But the great barriers that are placed there by nature of mountains and deserts almost entirely forbid enterprise going there. We have now a threat of Congress of oppressive taxation hanging over us. We have the uncertainty of title, with the threat of taking from us the reward of our labor when we find it. We have the subject entirely misunderstood. Those are the reasons why we do not produce from \$500,000,000 to \$1,000,000,000 per annum. Nature has placed immense obstacles in the way of the working of these mines, and the slightest addition to those difficulties will diminish the production. Place this tax upon the teamsters, and you will lose double the amount that will be received from it in the diminution of the income tax you would otherwise receive. The miners cannot stand a tax of two and one half per cent. more upon their experiments, for these are but experiments. Sometimes they turn out well; sometimes they make men rich, so that they can pay your income tax and add to the wealth of the country.

Thus far very little attention has been paid in this country to the subject of mining. We have not paid as much attention to it here in our own mines as Great Britain and France have already done. They have sent out their agents and commissioners there to report with regard to our mines, and with regard to the difficulties attending mining operations. They understand something of this subject. In consequence of the want of information on this subject in this country we are compelled to employ the learned from those countries and pay them enormous rates for their experience. We are taxed from five to thirty thousand dollars a year for mining experts a piece. We pay men from five to thirty thousand dollars a year for their experience as miners. We have no mining colleges. There is no information among the people with regard to this great branch of industry. No means have been taken on the part of the Government to encourage this development, and here is a blow in the dark at one of the most vital points of its existence, transportation. I can find you millions and millions of tons of rock worth from fifty to five hundred or one thousand dollars a ton that is so far away that it will not pay for the transportation to timber. Add a little more to this burden, and it will be felt materially in that country.

Now, I say before this is done the question should be thoroughly understood. I have occupied the attention of the Senate longer than I had intended upon this point, because I wished to speak of the difficulties of developing that country and what is necessary to be done in order that it

may be developed. I repeat again, two things are necessary to accomplish that object: transportation and security of title. Let us alone, and give us transportation, and we will send you bullion enough to make you the greatest commercial nation in the world. We will give you more exports than you now have from all other sources if you will overcome these obstacles of transportation and give the miner freedom to hunt for gold, and then you can make something out of the mines. But you propose to tax it. Whatever you get in the way of exports is taxed, because they buy a commodity that you tax at the custom-house. Our Constitution wisely provided that exports should not be taxed, and bullion is emphatically an export. Every tax that you levy upon bullion is in violation of the spirit of the Constitution forbidding a tax upon exports. It is a tax upon exports. The bullion that we produce is all exported, and it is taxed once when it returns in the way of commodities. Let us produce this bullion; let us get rich in its production, and we shall have plenty of trade and plenty of imports to tax, because we will then buy the luxury of the Old World. I say, therefore, that if the present age is to realize anything from its mineral wealth, it must realize it by pursuing that course which is absolutely necessary for its development. It takes but very little to destroy the prosperity of that country. You have now a tax of one half of one percent. upon bullion, which is wrong.

Let me state a fact here with regard to mining enterprises. Since California was first discovered there have been, I presume, in all, about eight hundred thousand men engaged in the business of mining. Of that eight hundred thousand forty per cent. have died and twenty-five per cent. have gone out of the business. The balance, or in the neighborhood of two hundred and fifty thousand, are there. That is about the average of those who have been there all the time. Are they rich? No. When they leave the portion of the country in which they have been prospecting they leave it a barren waste. They go and hunt mines elsewhere. They have not enriched themselves; but they have been industrious; they have progressed with its development as far as human energy without more capital and encouragement than they have had could possibly go. If you will look at the roads they have projected and built over the mountains, if you will look at the canals they have constructed for the purpose of conveying water, if you will look at the ruins of their labor upon that country, you will be astonished. All travelers wonder that that amount of labor could possibly have been performed by that number of men. In doing this, what have they done? Have they made themselves rich estates and fine homes? The work they have done in the mountain region would have been sufficient to build up States of greater wealth and prosperity than the great State of Illinois. But who has realized from this labor, and who is to realize from the labor and enterprise necessary to develop the mines hereafter? It is the commercial world; it is your traders; it is the cities of the East; it is the nation generally, by having an export that gives trade an impetus, that gives you a commerce. It is exports that you need to give you commerce; and you ought to leave that as free as possible in the country where it is produced; and particularly should you be governed by this rule: to leave it sufficiently free to allow its production to continue, and continue in proportion to the resources you have to develop. Sir, we have resources that are greater than any other country ever did have to develop. The production from those resources is not at all in proportion to the amount of the resources or the importance of realizing them. I speak of this because it is so important a principle in taxing gold and silver, which you realize the benefits of, which the nation realizes the benefits of, by the way of its trade; but which the miners do not.

Why do they continue? I will tell you why they continue this experiment. Because one in fifty gets enormously rich, and that keeps the other forty-nine busy prospecting, because there are occasional gains; because that people have become fit for this business and are fit for no other. That is the reason why they continue. They have acquired a taste for this gambling. If it is important for this country that it should be developed, if it is important to the country that this

should go on, hold out this inducement and hold out greater. If you want that country developed, it would be better to pay an additional reward to the man who discovers a rich mine than to throw any obstructions in his way. But all the additional reward they want is for Congress to declare that they shall remain free to hunt for gold, and to aid, as it is now aiding liberally, to give us transportation. When the gold is produced, that which remains in the country is taxed immediately as money; that which goes from the country, as I remarked before, is taxed in the shape of the commodities that it buys. This builds up a country. Either your mines are worth nothing to the country at all, or they are worth something to the country for the reason that they give you an export trade. You cannot lay burdens on them and develop them. Nine tenths of them are now working, and always will, at a loss. A very little embarrassment further than those they now have will stop half of those that are now producing. There is no use of talking of any mineral wealth unless it can be produced. It can only be produced by removing the burdens upon it. Not one tenth of what should be produced is now being produced. It is because the burdens of nature upon this production far surpass the ability of the men there to overcome. If the burdens of nature with which we contend in Nevada were removed, we would be one of the greatest States, if not the greatest, in this Union. It is unwise to add to those burdens there. It is unwise in California; it is unwise in Idaho, or in Arizona, or any other mineral region of the United States, because it will lessen your revenues.

Sir, you can hardly conceive the number of ways in which the people of the United States would become rich by the production of gold and silver to the extent of \$500,000,000 a year. Financiers can tell you something about it. The gold is taxed when it comes back to us in the shape of foreign commodities. The production of it gives employment to a large number of people who are the consumers of your products and give you a fine market. It stimulates trade everywhere. Its benefits I need not attempt to unfold; but, sir, if you wish to realize those benefits you can only do it by removing all burdens upon the production. Why, sir, the most enterprising set of men that ever populated a country have been unable to penetrate even the shell of your mining country; they have not been able to explore a hundredth part of it; and it is because nature has forbidden them to do so without greater capital and different means of transportation from what they now have. In considering this subject it must be considered in all its aspects, and this question of transportation is among the first obstacles that should be understood. I am opposed to this section so far as it has reference to any portion of the mining region.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is on the amendment reported by the Committee on Finance.

Mr. STEWART. I call for the yeas and nays upon it.

Mr. JOHNSON. I suggest that there is not a quorum present.

Mr. STEWART. I should like to have the yeas and nays on an important question of this sort.

Mr. JOHNSON. I suggest to the honorable Senator that he can make his motion in the Senate, and we are now in Committee of the Whole. I think he had better withdraw it for the present.

The PRESIDING OFFICER. Will the Senator from Nevada repeat the amendment that he proposes?

Mr. STEWART. The Committee on Finance have reported in favor of striking out the proviso commencing in the seven hundred and tenth line. The committee propose to reject this proposition, which is a House proposition:

*Provided, That this section shall not apply to those teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufactory, or to the teams, or vehicles used in the transportation of ores from the mines where the same is excavated to the place where they are reduced or worked.*

The PRESIDING OFFICER. That amendment of the committee has been agreed to.

Mr. SHERMAN. We had passed over that portion of the bill, and this discussion was really out of order; but I did not wish to raise the point.

The question has been acted upon. If the Senator wishes to have the yeas and nays ordered, he can call them in the Senate. I hope he will not insist upon it now.

The PRESIDING OFFICER. The Secretary will continue the reading of the bill.

The next amendment of the committee was to insert on page 31, after line seven hundred and thirty-five, the following:

*That section one hundred and ten be amended by striking out, after the words "and redemption thereof," the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking."*

Mr. GRIMES. I desire to have some explanation of that section. I do not understand it as it now stands.

Mr. SHERMAN. The one hundred and tenth section of the original act in regard to banks and banking exempts from the tax on deposits "savings banks having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking." The committee were of opinion that it was better to strike out the exception. The deposits in the deposit banks now in the country amount to not less than \$200,000,000; and after full reflection and consideration, we deemed that it was not wise to exempt them. The trust companies of the country, which are very large and powerful, insisted upon being classed as savings banks, because they deposited their money with other banks, and consequently were not in the light of other companies; but we thought it was unwise to make any exception, and that all banks of deposit, whether they were trust companies or savings banks, and all other companies, should pay the one half of one percent. on their deposits.

Mr. SUMNER. The Senator from Vermont [Mr. COLLAMER] is not now in his place, and I know that he wishes to discuss this question at length.

Mr. SHERMAN. He can do it in the Senate.

Mr. SUMNER. I ask whether it is not better to pass it over informally.

Mr. SHERMAN. I think we had better not pass it over. He will have a chance in the Senate.

Mr. SUMNER. I happen to know that the Senator is particularly earnest about it. I do not know but he may wish to discuss it twice. I think it had better be passed over informally.

Mr. SPRAGUE. I know that he desires to discuss it.

Mr. SUMNER. He has spoken more than once about this matter to me this morning, and I am astonished not to see him here. I think he understood that we should not get so far as this.

Mr. SHERMAN. Senators know that this bill is up, and if they go away and we are to postpone every amendment in this way, we shall never get through with the bill. The Senator from Vermont will have an opportunity to discuss this matter, as I know he desires to discuss it, in the Senate. I trust therefore we may go on. That is the only way we shall ever get through with the bill.

Mr. SUMNER. Then I will divide the Senate upon the amendment.

Mr. JOHNSON. I have no objection to the amendment in part, but I doubt very much the propriety of applying it to all savings institutions. There are some of them that are limited to \$50,000 in their capital, and I shall propose at the proper time—I will not detain the Senate now—to except certain savings institutions whose capital does not exceed that amount. There will be no objection to that, I suppose. I make no motion now.

The PRESIDING OFFICER. The question is on the amendment reported by the committee.

Mr. SUMNER. On that I ask for a division. The question being put, there were, on a division—ayes 5, noes 9; no quorum voting.

Mr. JOHNSON. Let it be passed over for the present.

The PRESIDING OFFICER. The fact that there is no quorum voting suspends the operation of further business until a quorum shall appear.

Mr. GRIMES. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. FOOT. I know that my colleague desires to be heard upon this question; and I will state,



as the occasion of his absence at this time, that he is engaged on a committee of conference. I therefore ask that it may be passed over for the time being.

Mr. SHERMAN. If that is so, then he is engaged in the business of the Senate, and I certainly will interpose no objection to it being passed over.

Mr. GRIMES. Then I shall withdraw the call for the yeas and nays.

The PRESIDING OFFICER. The call for the yeas and nays may be withdrawn; but the difficulty is that the last vote disclosed the fact that no quorum was present, and the Senate cannot proceed until a quorum is ascertained to be present.

Mr. SHERMAN. I move that the Senate adjourn, merely for the purpose of obtaining a quorum; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yea 1, nays 35; as follows:

YEA—Mr. Saulsbury—1.

NAYS—Messrs. Anthony, Brown, Chandler, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harlan, Harris, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Morrill, Nesmith, Nye, Pomeroy, Powell, Ramsey, Riddle, Sherman, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Willey—35.

ABSENT—Messrs. Buckalew, Carlile, Clark, Collamer, Conness, Harding, Henderson, Howard, Lane of Kansas, McDougall, Richardson, Wilkinson, Wilson, and Wright—14.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question recurs on the amendment.

Mr. SHERMAN. Let it be passed over, as the Senator from Vermont [Mr. COLLAMER] is not present.

The PRESIDING OFFICER. The amendment will be passed over, if there be no objection.

The next amendment was in line seven hundred and sixty-eight, to insert the words "and also all premiums on gold and coupons;" so as to make the clause read:

*Provided*, That income derived from interest upon notes, bonds, and other securities of the United States, and also all premiums on gold and coupons, shall be included in estimating incomes.

Mr. HENDRICKS. I wish to inquire of the chairman if that means that gold shall be estimated at twice its nominal value; that is, whether an income of \$1,000 in gold is to be estimated at \$2,000 in charging a man with income tax?

Mr. SHERMAN. The provision is very plain:

*Provided*, That income derived from interest upon notes, bonds, or other securities of the United States, and also all premiums on gold and coupons, shall be included in estimating incomes.

One of the most shameless evasions, in my judgment, of the income tax law was that the holders of United States securities, who were not subject to any other taxation except the income tax to the United States, returned in their income only the gold they received, and yet paid that income in currency. This is for the purpose of making it clear. They no doubt sold their gold or coupons at the current premium, received in currency the proceeds of their investment, twice the amount they returned. It was done no doubt in nine cases out of ten.

Mr. HENDRICKS. Then I suggest to the chairman of the committee that he had better make this very plain. I think it is just as right to tax a man on the gold he does not sell as the man who sells the gold. The "premium" is the amount the man gets from the sale; and I think that this language will not include the gold which a man receives and keeps.

Mr. JOHNSON. I agree with the honorable member from Indiana that the evasion can be carried on almost as successfully unless the amendment is more comprehensive than it is. The only effect will be that they will keep their gold and coupons on hand until the assessment is made, and sell them afterward.

Mr. TRUMBULL. If I understand the Senator from Ohio, it seems to me this amendment would operate very unequally. Take the case of an importer who holds United States securities and receives his interest in gold. He wants the gold to pay the duties on his imported merchandise, and he uses it in that way; he will not pay a premium on that gold. The Senator from

Ohio does not mean that he shall return twice the amount of the interest he has received. That is the case of a man who uses the gold. Then take his neighbor who lives by his side and is engaged in another branch of business that does not require him to pay out gold in duties, and he sells the gold and pays the tax upon the amount he gets for it. Is there not an inequality in that? Suppose he does not sell it; a man can go into any establishment probably in the city of New York or the city of Washington and buy an article for half the amount in gold that it would cost him if he paid in paper. The result will only be to induce persons to deal in that way and you will get nothing by it. It seems to me it will amount to nothing at all. Is it intended to tax the party according to the nominal value of gold in all cases, whether he sells it or not?

Mr. SHERMAN. Yes, sir.

Mr. TRUMBULL. If that is the intention it would take in everybody.

Mr. SHERMAN. If the Senator will sit down with the bill before him and suggest an amendment to carry out his idea, I shall be very glad.

Mr. TRUMBULL. You will not carry it out by the bill as it is, I am quite sure. If a man gets no premium on his gold he has no tax to pay. The word used is "premium," and the result would be that if a man used the gold without selling it for a premium he would pay no tax except upon the amount of gold he received at its face value.

Mr. MORRILL. It strikes me that the object can be accomplished by simply striking out the two words "all premiums," and it would read:

The income derived from interest upon notes, bonds, and other securities of the United States, and also on gold and coupons.

Mr. SHERMAN. I suggest to the Senator from Maine that the amendment read "and also the current premium on gold and coupons received on said bonds."

Mr. GRIMES. Suppose a man does not sell the gold?

Mr. SHERMAN. Then he would be bound by this amendment to return it at the current value in paper.

Mr. TRUMBULL. I think we had better disagree to the whole of it.

Mr. JOHNSON. I should like the Senator from Ohio to explain what he means by the "current premium received." Can he mean that a man is to pay a tax on what he does not receive, because he ought to receive more?

Mr. SHERMAN. What I mean is that when men receive gold for interest on their bonds they shall either pay their tax on that interest in gold, or if they choose to pay it in currency that they shall pay it at the current rate of gold. If the Senator can express the idea in better language I should like to have him do it. That is what we desire to accomplish.

Mr. GRIMES. It seems to me that the language used by the committee in the bill is that which ought to be adopted, and then if you want to reach those who have gold and hold on to it for the purpose of deriving an advantage from the increase in its value, reach them by a subsequent clause to be added to the bill hereafter.

Mr. SHERMAN. We had better do it here.

Mr. GRIMES. You do not do it by your present language.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio to the amendment of the Committee on Finance.

The amendment to the amendment was agreed to.

Mr. SHERMAN. Before the question is taken on the amendment as amended, I think it would be better to put the provision in this form:

And shall also include premium at the current market rate on gold or coupons received on such notes, bonds, or securities.

I think that will accomplish the object.

Mr. VAN WINKLE. I should like to know what is meant by the current market rate. At what time? On the day it is received or on the day the return is made?

Mr. SHERMAN. On the day it is received.

Mr. VAN WINKLE. Then it should be so expressed.

Mr. COLLAMER. I wish to make a suggestion on this point. Where a man receives a salary from the Government the Government takes the tax out of his salary as it pays him. Why cannot the tax, upon Government stocks and

bonds be deducted when the interest is paid in the same way?

Mr. SHERMAN. I will answer that suggestion. That was a view which was suggested to the committee, but I do not see that it would be exactly fair to the foreign bondholders. Could we do so without violating our contract with them? We levy this tax upon the American bondholder as a burden due by him as a citizen to the Government of the United States, as his portion of the common burden. Can we deduct the tax from the foreign bondholder? How can we distinguish? The Englishman who holds our securities would very seriously object to the deduction of this tax from the interest on his bonds, upon the ground that it would be a breach of the contract he made with the Government.

Mr. COLLAMER. I do not see that it would be a violation of contract; but it would be a troublesome thing, I know, to impose a personal tax on a man not a citizen.

Mr. HENDRICKS. I wish to suggest to the chairman of the committee that the objection which he makes to the proposition of the Senator from Vermont is obviated by the first part of the section. The first part of the section provides for a tax upon citizens of the United States residing abroad.

Mr. SHERMAN. But when a coupon is presented, a piece of paper half an inch long and an inch wide, how can you distinguish whether it is owned by a foreign bondholder or by an American citizen? How is the officer to whom it is presented, the Treasurer, to know to whom it belongs and deduct the five per cent.?

Mr. HENDRICKS. Is there no way of knowing at the Treasury who presents it?

Mr. SHERMAN. None at all.

Mr. JOHNSON. Let the amendment be read.

The SECRETARY. It is proposed to reject the words in line seven hundred and sixty-eight, and to retain the words in lines seven hundred and seventy and seven hundred and seventy-one, amended as follows:

And shall also include all premiums at the current market rate on gold or coupons received on such notes, bonds, or other securities.

Mr. JOHNSON. I agree with the committee that this case ought to be provided for; but I am by no means sure that it will be done by the words proposed to be inserted by my friend from Ohio. I understand the object of the committee is to provide that the difference between the nominal value of gold and coupons and their actual value as currency in the market should be ascertained, and that the difference where there is a sale should be considered as income. That I think is proper, because that difference is profit. Take the case of a man who has a thousand dollars' worth of gold: he goes into the market with it. The amendment says its value shall be ascertained at the current rate. What is the current rate? Suppose by bad management he receives less than the market rate, or by good management he receives more, is he in the one case to pay on the profit which he has not made, or is he in the other not to pay on the entire profit which he has made? I suggest to the honorable member and to the Senate that I think the object can be attained without any difficulty by amending the section so as to make it read as I will read it with the amendment which I suggest:

*Provided*, That income derived from interest upon notes, bonds, and other securities of the United States, and premiums received on gold and coupons, shall be included in estimating incomes.

The amendment of the honorable member from Ohio says "premium at the current rate." What does that mean? My friend from New York, [Mr. MORGAN,] let me suppose, has \$10,000 in gold which he wants to dispose of. He goes into the market, and he is able to get more than the current rate, or he takes less than the current rate, is he in the first case only to pay upon the profit which he would have made if he had taken the current rate, or is he to pay upon the entire profit; and in the second case, is he to pay his tax on the assumption that he has received the current rate when he has not received it? The object is—I am sure that is the object of the honorable chairman—to tax the actual profit which a man has made on his income. Whatever he has succeeded in realizing money by is to be considered as income to the extent that it is worth more than the

property disposed of. I think that object would be accomplished by amending the section so as to strike out the words "also all," in line seven hundred and sixty-eight, and insert the word "received," after "premium," and then it would read:

That income derived from interest upon notes, bonds, and other securities of the United States, and premiums received on gold and coupons shall be included in estimating incomes.

Mr. SHERMAN. Suppose he does not receive a premium, but keeps the gold?

Mr. JOHNSON. Then he ought not to pay. You ought not to charge him a tax on what he does not get.

Mr. SHERMAN. Suppose he receives the gold and puts it in his pocket to hoard it. That is the very thing we object to. He then receives the income in that which is better than United States currency. If he was compelled to sell the gold you would tax the premium he received on it; but now you say, if he is able to hoard the gold you will not tax it.

Mr. JOHNSON. But you propose to consider it as income. Is it income? My friend from New York will permit me again to use his name. Suppose on to-morrow morning he receives in gold \$10,000. That is income, and you tax it as such, but the Senator from Ohio wants to tax it as \$15,000 or \$20,000. My friend from New York puts that gold in his pocket. Whenever he sells it, if he sells it for more than \$10,000, he makes the difference between the \$10,000 and what he gets for it; but suppose he keeps it until the \$10,000 in gold is only worth \$10,000 in currency, you still tax him on the assumption that he has actually received the difference between \$10,000 in gold and \$20,000 measured in currency. That does not seem to me to be fair. You may tax him on the \$10,000, because he owns \$10,000, but it is proposed to tax him as having in his hands property in fact worth \$20,000. I say you cannot call it income until he realizes by a sale of the gold.

Mr. TRUMBULL. If I understand what the chairman of the Committee on Finance desires, I think an amendment which I have drawn up will meet it. It is to insert after the word "also," these words, "the difference between the standard value of gold and coupons on the day the same are received and their current value in lawful money at the same time." The difference between them at that time, if I understand it, is what the Senator from Ohio wishes to get at. If a man receives the gold and hoards it up, let him be taxed on that; hold out some inducement to him not to do that. It is the very thing we want him not to do.

Mr. SHERMAN. I think those words would answer the purpose the same as the amendment I proposed. I have no choice as to the language, but am willing to adopt the suggestion of the Senator from Illinois.

Mr. GRIMES. We are legislating now about the income tax. Is it pretended that a man derives income from gold which he holds in his pocket, any more than I do who hold real estate which I do not choose to part with, anticipating a rise? How could you tax me for income on such real estate?

Mr. SHERMAN. It only applies to gold received on bonds of the United States. I think the words I have already proposed will cover the whole matter.

Mr. GRIMES. The truth is, the committee had it right in the start, when they provided that all premiums on gold and coupons should be included in estimating income. That is the way the committee reported it, and that is the way it ought to stand. Now, it seems that some gentlemen are desirous to reach the gold in the hands of the parties, if they see fit to hold on to it and not to sell it. They have a right to hold on to it and not to part with it. If I own real estate, or any other unproductive property, I may hold on to it; but the moment I part with it, and the moment a man parts with the gold, the profit derived becomes a part of the income, and is liable to taxation.

Mr. JOHNSON. The honorable member will permit me to say that is not what the committee did mean. The committee meant to tax the difference between the actual and nominal value of

the gold. I think with him that the increased value of the gold in currency cannot be considered as income until the gold has been sold and the difference has been received. The word "premium," as used by the committee, as I understood the chairman, was intended to be considered as including the actual difference.

Mr. GRIMES. I would not undertake to say what the committee meant, but I know that no other construction can be put on this language legally than that it means the premiums actually received on gold and coupons.

Mr. JOHNSON. That is the construction I put on it.

Mr. COLLAMER. Is it really intended to count as income what a man would make if he did sell his gold?

Several SENATORS. Yes, that is it.

Mr. COLLAMER. Then why not tax a man on what he would have made if he had sold his horse?

Mr. SHERMAN. We still look on gold as money; that is the difference. We do not look on a horse, yet, as money. We have two kinds of money, gold and paper money. We pay gold for interest, and it is received; and now we propose to require the person who receives it either to pay his income tax in the kind of money he receives or else to make up the difference in case he pays it in a depreciated currency.

Mr. COLLAMER. It amounts to this, after all, that you tax a man for that which he might have made with his gold if he chose to sell it instead of keeping it.

Mr. JOHNSON. Under the amendment now moved he has not the right to pay in gold.

Mr. COLLAMER. Then that is entirely a misrepresentation. There is no provision in the law that a man may pay his tax in gold at a less sum.

Mr. SHERMAN. I assure the honorable Senator that no assessor or collector would object to taking it in gold.

Mr. COLLAMER. I do not want any experiment of that kind. I object to considering as income that which you say a man might have made if he pleased to do what he did not do.

Mr. HOWE. I have listened to the very animated colloquy on the other side of the Chamber as intently as I could, and I have been a good deal interested in it. I have not been able yet to hear any proposition which to my mind bettered much the recommendation of the committee, and until I hear a better one I am inclined to stand by that. It is very evident that if the interest which is paid on the Government securities in gold is worth any more than its nominal sum you must tax it whether it is converted or not. If you adopt these suggestions that you will only tax the premium when it is actually received, it is very evident that no premium will ever be actually received because the man who is paid \$1,000 in gold to-day as his interest, never will exchange it for paper, but he will pay it out for some property or merchandise, and he will buy twice as much with it as he would buy with the same amount in paper; and he will turn the property, the merchandise, the wheat, the flour, whatever he buys with it, into paper whenever he wants to do so. There will be no exchange of gold for paper thereafter. I think the language as it stands will reach all premiums received on gold, and all premiums earned on gold or coupons, and I am willing to stand by the language of the committee.

Mr. SHERMAN. I withdraw my amendment. I believe, myself, it is better to adhere to that which has been fully considered by the committee.

The amendment was agreed to.

Mr. COLLAMER. I understand that while I was necessarily absent there was passed over an amendment in relation to savings banks. I ask that that be now acted upon.

The PRESIDING OFFICER. The Senate will now return to the amendment referred to, which is to insert after line seven hundred and thirty-five, the following:

That section one hundred and ten be amended by striking out after the words "and redemption thereof," the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of depositors only, and which do no other business of banking."

Mr. COLLAMER. At the last session of Congress I occupied somewhat the attention of the Senate in relation to this subject, and the Senate at that time by a very decisive vote, notwithstanding the objection of the Senator from Ohio, adopted the qualification and exception which is now by this amendment proposed to be stricken out. The House of Representatives have done nothing with it, but the committee of the Senate proposed to strike out the exception. I should be pleased to hear what is the occasion of the alteration now proposed, and why it is now proposed. The Senate passed upon it at the last session and very decisively.

Mr. SHERMAN. I was in hopes that I should be able to give the Senate the statistics that I have been endeavoring to get in regard to savings banks, but I find it very difficult to get at them except from the reports of the different States, and I will state them as near as I can in round numbers, and if I am incorrect the Senators representing those States can make the correction probably. I had a statement prepared a year ago, I think, but I have not been able now to find it. The amount of deposits in the savings banks in the State of New York, if I remember right, was placed at \$108,000,000. The amount in Massachusetts was over fifty millions, and in the other States of New England not so large, but considerable. The whole aggregate of deposits in the savings banks in New York and New England was something over two million dollars if I recollect aright, and I think I am not mistaken, though in the absence of statistics I cannot say positively.

Probably most of this money is made up of the deposits of poor people, especially in portions of New England described by the Senator from Vermont, but a considerable portion of it, especially in the cities, consists of the deposits of people well able to bear taxes upon their income. The total aggregate was so large, and the subject was so fair and so just an object of taxation to my mind, that I believed there was no reason for making the exception. In the State of Ohio, for instance, our people generally, poor and rich, deposit in our ordinary banks. Sometimes they allow interest on those deposits as savings banks do. I believe we have no savings banks, so called, in the State of Ohio, and I am not aware that there are any through the Northwest to any considerable extent; there may be one or two at Chicago. The deposits are made in ordinary banks. I look upon a savings bank precisely like any other bank of deposit. I know of no difference. The difference in their organization is not a reason for a difference in the mode of taxation. A savings bank in New England, described in this section, is one that receives deposits for the benefit of the depositors. An ordinary bank receives deposits for the benefit of its stockholders, and a trust company receives deposits for loan and for the benefit of the stockholders. All of them receive deposits to make money upon for the benefit of somebody, either the depositors themselves or the stockholders engaged in the bank. In principle I cannot see any distinction or difference between them. It seems to me, therefore, that a tax of one half of one per cent. a year on the amount of these deposits is not an unreasonable contribution on their part toward the wants of the country.

Mr. COLLAMER. These banks do not have either capital or circulation.

Mr. SHERMAN. The Committee on Finance discussed the matter very fully, and we concluded that this class of deposits should pay the tax imposed on other deposits in banks—one twenty-fourth of one per cent. each month on the average amount of money subject to check or draft. The tax on deposits in ordinary banks is one half per cent. a year, and the same tax applied to savings banks would yield us \$1,000,000 revenue and would not be oppressive to any single individual. I have no doubt that the tax would not be felt even by a single depositor, and the cry of opposition I do not believe would come up from the laboring men of New England.

We are compelled to resort to almost every expedient for taxation; and to make an exception in favor of this class of deposits, an exception that costs us \$1,000,000 a year, seems to me without foundation in principle or in reason. Hence when this subject was brought before us

again in this bill, we felt it our duty to report a repeal of the exception.

I cannot now state any other reasons than those I have given. At the last session of Congress we excepted from the operation of the tax the deposits of savings banks, and thus lost to the Government revenue \$1,000,000. Perhaps Senators may say that the class of savings banks in many of the cities, in New York, for instance, are not the class intended to be described in the exception which has been made, but the practical effect has been to deny us any revenue from any banks which are called savings banks, and if Senators will look to the returns from the Commissioner of Internal Revenue, they will see that there are no returns of deposits from any bank in the United States called a savings bank—none that I have been able to find, so that the practical effect of this exception is to lose us \$1,000,000 without any good reason.

Mr. VAN WINKLE. There is a distinction, and a very marked one, between the deposits of savings banks and trust companies and those of ordinary banks. We all know that on the amount of deposits in an ordinary bank no interest is paid by the bank, but on the contrary the bank uses those deposits as capital, and on them makes its profits. The contrary is the case with savings banks and trust companies. For every dollar they receive they pay interest at a given rate; and in the case of savings banks which are mentioned in the present law, and which provision was framed by the Senator from Vermont [Mr. COLLAMER] at the last session, it is intended to be confined strictly to those of an eleemosynary character which never expect to make one dollar out of the deposits for those concerned in the institution.

It is the same with trust companies. For every dollar they receive they pay interest. That interest so paid by the trust company or the savings bank enters into the income of somebody and is there taxed, and in that way it is reached and pays perhaps the full half per cent that is endeavored to be thrown upon it here. The trust companies and perhaps the saving banks themselves generally keep a bank account. They pay out no money at their own counters on checks or drafts, but draw checks themselves on ordinary banks in which they deposit their money. With trust companies generally the money is not payable without five days' notice, and except for the sums of small depositors deposited with that understanding the savings banks do not pay out money except on reasonable notice.

I contend, therefore, that there is a marked distinction between the cases. Alluding to the principle which has been spoken of here, that the desire is to make these taxes equal in their burden on different classes of the community, it seems to me that to tax these deposits is imposing an unjust tax, because the same amount is taxed twice. The depositors receive their interest or their dividends, and in one shape or other the money is already taxed, and to an amount perhaps equal to that now proposed to be imposed.

Mr. COLLAMER. Mr. President—

Mr. GRIMES. With the consent of the Senator from Vermont, I move that the Senate proceed to the consideration of executive business. There are many messages that ought to be referred and some reports that ought to be made.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent in executive session the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 772) to provide ways and means for the support of the Government, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were then signed by the Vice President:

A bill (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1866;

A joint resolution (S. R. No. 112) for the relief of James B. Royce; and

A joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 772) to provide ways and means for the support of the Government was read twice by its title, and referred to the Committee on Finance.

The hour of half past four o'clock having arrived, the Senate took a recess till seven o'clock, p. m.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock, p. m.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message of the President of the United States transmitting, in answer to a resolution of the 23d instant, General Order No. 23, issued by Major General Banks at New Orleans, February 3, 1864; which was ordered to be printed, and to lie on the table.

He also laid before the Senate a report from the Attorney General, giving a statement of counsel fees paid by his Department; which was ordered to lie on the table and be printed.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I desire to make a report from a conference committee.

Mr. SHERMAN. Will it give rise to debate?

Mr. WILSON. I cannot tell, but I hope not.

Mr. SHERMAN. It may be received informally. If it is a question that will give rise to debate, it will displace our business.

Mr. HALE. I think it will give rise to debate.

Mr. WILSON. I shall agree that it be laid over if it leads to debate.

Mr. SHERMAN. With that understanding I have no objection to the report being received.

Mr. WILSON. The committee of conference on the disagreeing votes—

Mr. DAVIS. The subject had better be announced.

Mr. WILSON. I am just about announcing it. The committee of conference on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs having met, after full and free conference do agree to recommend to their respective Houses as follows—

Mr. DAVIS. I object to the reception of that report at this time.

The VICE PRESIDENT. The Senator means to the consideration of it.

Mr. DAVIS. To the consideration.

Mr. WILSON. If it is to lead to debate I should be very glad to have it printed, so that we can understand it.

The report was ordered to be printed. It is as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An act to establish a Bureau for the Relief of Freedmen and Refugees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a Commissioner, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be assigned to him by the Secretary of War, not exceeding one chief clerk, two of the fourth class, two of the third class, three of the second class, and five of the first class. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in an act entitled, "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon

their duties, give bonds to the Treasurer of the United States, the former in the sum of \$50,000 and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with securities to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party, upon any breach of the conditions thereof.

Sec. 2. *And be it further enacted,* That the Secretary of War may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen, and their wives and children, under such rules and regulations as he may direct.

Sec. 3. *And be it further enacted,* That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the States declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the Commissioner, aid in the execution of the provisions of this act; and he shall give a bond to the Treasurer of the United States in the sum of \$20,000, in the form and manner prescribed in the first section of this act. Each of said assistant commissioners shall receive an annual salary of \$2,500, in full compensation for all his services. And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. The Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

Sec. 4. *And be it further enacted,* That the Commissioner, under the direction of the President, shall have authority to set apart for the use of loyal refugees and freedmen such tracts of land within the insurrectionary States as shall have been abandoned, or to which the United States shall have acquired title by confiscation, or sale, or otherwise. And to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it is so assigned shall be protected in the use and enjoyment of the land for the term of three years, at an annual rent not exceeding six percent, upon the value of said land as it was appraised by the State authorities in 1860, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the Commissioner may, by regulation, prescribe. At the end of said term or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent as aforesaid.

Sec. 5. *And be it further enacted,* That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

HENRY WILSON,

JAMES HARLAN,

W. T. WILLEY,

*Managers on the part of the Senate.*

ROBERT C. SCHENCK,

GEORGE S. BOUTWELL,

JAMES S. ROLLINS,

*Managers on the part of the House.*

#### GOVERNMENT WHARF AT BATH.

Mr. MORRILL. I ask the Senate to take up a very small bill, which will not occupy any time; it is Senate bill No. 318, to authorize the Secretary of the Treasury either to repair certain property or sell it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 318) authorizing the Secretary of the Treasury to sell certain property of the United States when no longer required for the public service. The bill, as introduced, provided that in all cases where custom-houses, wharves, docks, marine hospitals, with the ground whereon they are built, and other property of the United States, under the supervision, direction, and control of the Secretary of the Treasury, and not connected with the military or naval establishment, shall be no longer used or required for the public service, the Secretary of the Treasury, under the direction of the President of the United States, may cause the same to be sold, at public auction or upon advertisement and proposals, for the best price that can be obtained therefor, and, upon payment of the consideration into the Treasury of the United States, make, execute, and deliver all needful or proper conveyances thereof.

The Committee on Commerce had reported the bill with an amendment, which was to strike out all after the enacting clause, and insert the following:

That the Secretary of the Treasury is hereby authorized to lease the wharf property belonging to the United States situated at Bath, in the State of Maine, for a term of years, the lessee making all repairs thereupon; or he may sell the same at his discretion if it is no longer in use or required for the public service, and he is hereby authorized to make, execute, and deliver all needful conveyances to the purchaser or purchasers thereof.

The amendment was agreed to.



The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was amended so as to read, "A bill authorizing the Secretary of the Treasury to lease or sell certain property of the United States situated at Bath, in the State of Maine."

#### SWORD TO CAPTAIN STELLWAGEN.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred a message from the President, transmitting correspondence in relation to the presentation of a sword to Captain Henry S. Stellwagen, have directed me to report a resolution authorizing the acceptance. I ask the action of the Senate on it now, as it is a resolution of course.

Mr. COLLAMER. I wish to say that there is the post route bill, that every man in the Senate wants passed, and I presume there is no objection to it.

Mr. SUMNER. I know there is to be debate on that. I happen to know it.

Mr. COLLAMER. On the post route bill?

Mr. SUMNER. Yes; it is so.

Mr. COLLAMER. I never heard of such a thing.

Mr. SUMNER. The Senator will know it when the bill comes up. The Camden and Amboy railroad matter will be discussed on it.

Mr. COLLAMER. It is not on it.

Mr. SUMNER. It is to be put on.

The joint resolution (S. R. No. 128) authorizing the acceptance of a sword of honor from the Government of Great Britain by Captain Henry S. Stellwagen, of the United States Navy, was read three times, and passed. The sword was presented by the Government of Great Britain as a mark of their gratitude for the assistance rendered by Captain Stellwagen while in command of the frigate Constellation to the British brigantine Mersey, when in a disabled condition.

#### POST ROUTE BILL.

Mr. COLLAMER. I desire to call up House bill No. 774, the post route bill.

Mr. SUMNER. There will be a division on that, and a debate.

Mr. COLLAMER. I understand that there is not any objection to anything there is in the bill. I presume the gentleman will say that.

Mr. SUMNER. I raise no objection to that.

Mr. COLLAMER. There is no objection to anything there is in the bill. Any bill can be made debatable and disputable by trying to put on it something that does not belong to it. I understand from the intimation thrown out that it is to be proposed to attach to the bill the measure which is known as the New Jersey railroad bill. Every railroad in America is already a post route. Putting that on this bill does not affect it one way or the other.

The VICE PRESIDENT. The Senator from Vermont asks unanimous consent to consider the bill he has named. Is there any objection?

Mr. SHERMAN. In view of the declaration already made I feel it my duty to object. I have not the slightest objection to the bill of the honorable Senator, but I know the power that any Senator may now exercise if he chooses.

Mr. COLLAMER. The Senator from Massachusetts may make every bill before the body disputable in that way.

Mr. SUMNER. Let me say to the Senator that it has been the purpose of Senators here now for weeks, if the bill that has been passed by the House of Representatives should be baffled in the Senate so that we should be unable to get a vote on it, to attach it to the post route bill.

Mr. COLLAMER. Why not propose to attach it to an appropriation bill?

Mr. SUMNER. "Sufficient unto the day is the evil thereof." The first proposition is to attach it to the post route bill.

Mr. COLLAMER. That very road is a post route already. Every railroad in the country is now a post road. I move that the pending bill be informally laid aside for the purpose of taking up the post route bill.

The VICE PRESIDENT. The Senator from Vermont moves to postpone informally the pending question for the purpose of taking up the bill which he has indicated.

Mr. SHERMAN. That "informally" means nothing.

The VICE PRESIDENT. The Chair does not understand such a motion. It is the first time he ever heard it in the Senate. Things are informally done by unanimous consent. The formal motion will be to postpone the pending question.

Mr. SHERMAN. The honorable Senator makes a motion, but he says he does it informally.

The VICE PRESIDENT. If it could be done informally it would be in the power of the Senator from Ohio to call up the pending bill at any moment.

Mr. SHERMAN. So far as I am concerned, I am willing that the post route bill shall be taken up informally.

The VICE PRESIDENT. That is what the Chair just asked if there was any objection to.

Mr. FOOT. The purport of the motion is simply this, that my colleague asks unanimous consent to take up and consider at this time the post route bill.

The VICE PRESIDENT. The Chair has so stated, and has also stated to the Senator from Ohio that if it be taken up in that way it will be within his power at any time to call up the tax bill, which is the regular order of business. Is there any objection?

Mr. SUMNER. I must object, and I do it simply on the ground that I know there are Senators interested in the question who are not here.

The VICE PRESIDENT. If objected to it cannot be done.

Mr. TRUMBULL. I desire to ask the unanimous consent of the Senate to put upon its passage the bill to provide for the publication of the opinions of the Attorneys General of the United States.

Mr. COLLAMER. I object to it utterly, and to all other bills. I object to everything.

Mr. SHERMAN. I call for the regular order. The VICE PRESIDENT. The Senate will proceed to the consideration of the bill which was pending when the recess was taken.

Mr. CONNESS. I move to postpone the consideration of the pending bill that we may get to the bill indicated by the Senator from Vermont.

Mr. SHERMAN. Mr. President—

Mr. CONNESS. The Senator from Ohio will excuse me for an instant. The motion shall not be in his way. I believe I am in order.

The VICE PRESIDENT. The motion is in order.

Mr. CONNESS. A very extraordinary circumstance to my mind has occurred. The chairman of the Committee on Post Offices and Post Roads rises to present the annual post route bill for consideration. Nearly every Senator has amendments to offer to that bill which deeply concern his people. My friend from Massachusetts rises and prevents the consideration of that bill by threatening to offer to it as an amendment a pending bill concerning what is called the New Jersey monopoly. Now, I wish to say to the Senator from Massachusetts that I had intended to vote with him on that bill, but I shall not be alone, I undertake to say, in voting against it in any form hereafter in which it shall come before this body while such a course as this is being pursued. If there is one legitimate bill for this body to consider in the remaining hours that are left, it is the bill named by the honorable Senator from Vermont; I mean, of course, giving place to tax bills. I am grieved and pained that a threat to attach another bill to it shall be made and then an objection based upon that. It is a course of proceeding according to which we can do no business in this body, because, like the Senator from Vermont, I shall object to any and every bill, and particularly those which come from my friend from Massachusetts, if he pursues this course, and vote against his monopoly bill in any and every shape in which it shall be considered. Now, I withdraw the motion.

Mr. SUMNER. The Senator will discharge his duties as he—

The VICE PRESIDENT. There is no question before the Senate except the pending bill.

Mr. SUMNER. I have to remark on that—

The VICE PRESIDENT. The Senator cannot by way of reply to another question.

Mr. SUMNER. Then I move to postpone that bill.

The VICE PRESIDENT. Now the Senator is in order.

Mr. SUMNER. I was merely going to say that the Senator from California will discharge his duties as a Senator on this floor as to his conscience seems best, and I shall discharge mine as to my conscience seems best. I now withdraw the motion.

#### INTERNAL REVENUE.

The VICE PRESIDENT. The bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, is before the Senate as in Committee of the Whole, the pending question being on the amendment reported by the Committee on Finance, to insert after line seven hundred and thirty-five, on page 31, the following:

That section one hundred and ten be amended by striking out after the words "and redemption thereof" the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking."

Mr. COLLAMER. The honorable chairman of the Committee on Finance [Mr. SHERMAN] has a manner of talking about this subject of savings banks that strikes me very strangely, but after all, I suppose it can be easily accounted for in the aspect in which he views the subject. He says that we have lost I do not know how much, but I believe he indicated \$1,000,000, by not taxing these institutions. It reminds me very much of a neighbor of mine who lost \$500 last year by not having any wheat to sell. [Laughter.] Most men have lost money in that way; and that is the way we have lost \$1,000,000, by not stealing it. That is a mere form of expression, but it is an imposing form.

The chairman of the committee gave us a statement of the amount of money deposited in the savings banks in New York and New England, for savings banks of the kind and character of which we are talking are almost entirely confined to those States. I know that there are nominally savings banks, so called, in different States at the West, but they are institutions with stockholders just like any other banks, and they take this name because it is a popular name. I desire gentlemen to remember that the savings banks about which we are talking are described as "savings banks having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking;" that is, do no banking business. That is the species of institution about which we are talking. The chairman says that in these savings banks even of this character in the State of New York there are a little over one hundred millions, and in Massachusetts about fifty millions, and in the other New England States less, but the amount in all is \$200,000,000. Probably that is rather a large estimate; but put it at that. That is a very large sum of money, it is true, but to whom does it belong? To between seven and eight million people, and it does not amount to twenty-five dollars apiece. All there is of it divided among the people of those States where the savings banks exist, would not reach twenty-five dollars apiece, so that the amount is not really very surprising. It is no very large sum of money compared with the number of people who own it.

It is not, to be sure, to be expected that I can convince a man of the chairman's intelligence of a distinction between these banks and other banks, when he says that he cannot comprehend that there is any. If he cannot comprehend it, it is utterly vain for me to labor with him. The distinction was very well described and defined by the honorable Senator from West Virginia, [Mr. VAN WINKLE,] just before the recess. All other banks receive deposits, and the deposits which they receive and on which they are taxed they use to make money for the bank, for the corporation, for the stockholders. That is invariably the case in regard to deposits in other banks; but these savings banks have no capital stock, have no stockholders, do not make anything for any corporation. The very terms defining them show that they are confined simply to taking money from people who earn small sums and let it out for them better than they can do for themselves. That is all there is of it.

Whatever money is made goes to those people who deposit, and whatever is lost is lost by them; the bank does not lose anything. Some of our ordinary banks receive deposits and allow some interest to the depositors, but it is immaterial in that case whether the bank loses or gains, it pays what it agrees to pay and the profit or loss beyond that is for the stockholders. Most of our banks pay nothing on deposits. They are taken for the convenience of depositors and for the profit of the bank.

If the word "bank" had not been used in naming these savings institutions I hardly think anybody would have ever dreamed of putting them on the foundation of banks; I hardly think it would have excited the cupidity of the most vigilant who were looking for opportunities to get money. It is very unfortunate for these institutions that the word "bank" has been used. The moment that word "bank" is heard certain ears are erect at once and the idea is, what is to be made out of a bank in order to give an advantage to the great nation?

Mr. President, there is one leading feature in our system which we have been desirous as far as possible to retain, and that is, that we should not tax people upon income who had no income that did not exceed \$600. I am not tenacious about the amount of \$600 particularly. If you put it at \$300 or \$400, it would be all the same in my mind. I refer to it to show that it was not intended to go down to low-water mark in taxing the incomes of people; that the poor people were not to be taxed. If \$600 is too large an exemption, reduce it. I am not now talking about the evasions of which the honorable Senator from Massachusetts [Mr. WILSON] has several times spoken, and perhaps very correctly. He thinks the law should be better executed, and the work more thoroughly done. I thought so too. I think it has been evaded, but I think there is somewhere a point, without now deciding where it is, below which we should not go.

Well, sir, what is the effect of this taxation? Here are little savings banks, say in New England. There are the operatives in our factories. I know that a good part of the honorable Senators who are now listening to me hardly know what that word means. They are an order of people not known among them, but they are a very large number of people in point of numbers in New England, and New York, and Pennsylvania, and are getting to be somewhat numerous in Ohio. These laboring people, men and women, for there are many females among them, earn a little beyond their immediate necessities, say fifty dollars in a year; some of the men lay by \$100 in a year, and they put by that little saving in the savings bank. They do not put it all in at once, but at intervals during the year. I believe there is one of the savings banks in the city of Boston which is called the Ten Cent Savings Bank, taking deposits as low as ten cents. I am told there is one in New Hampshire which receives deposits of five cents, so as to reach even the savings of children, the little presents that are given them which they may deposit there. Here is a female or a laboring man who has saved fifty dollars or \$100 in the course of a year besides the actual cost of living from day to day. That female, we will say, lives in Manchester, New Hampshire, and she goes to my brother CLARK and deposits with him her money to take care of it for her, and he lends it out on what he judges good security for her. Mr. CLARK does that business as a mere charity, getting nothing whatever for it, and now you propose to say to him that before he shall pay over to her the six dollars interest on her \$100 for a year, if he can get that much interest on it, from a Government bond perhaps, thirty-six cents shall be deducted out of that six dollars and paid over to the Treasury of the United States year by year. Is not that going down below low-water mark? Is not that a violation clearly of the general principle that the incomes of poor people shall not be taxed? Is it not a violation of the principle on which your \$600 exemption rests? Many of these people after supporting themselves from week to week and year to year have not even \$300 or \$500, and yet it is proposed to say that they shall pay this income tax. If they lend the money themselves they do not pay it, but if they employ the trustees of a savings bank to lend it for them they

shall pay it. \*Notwithstanding the professions of the honorable Senator from Ohio as to his inability to comprehend the distinction, I am pretty sure that a large part of the Senate is capable of understanding the difference between that and an ordinary bank, and it is very appreciable to those who desire to understand it. If these poor people have got to pay over one fifth or one sixth part of their interest before they can get it, the payment of interest to the depositors ceases in all our country savings banks at any rate. I do not see why it will not be the end of them all if they have got to give a fifth to the Government. Generally speaking, in these savings banks, after paying the treasurer, and that is about the only expense they have except office room, they divide about five per cent. or sometimes four per cent., I do not know of any that ever get above five per cent., and they have no expense except an office room and the small allowance to the treasurer for his trouble in negotiating the money. If you impose this tax on them the institutions must of course close up. They cannot exist if you require them to give up one fifth part of the income to the Government before they can let these poor people have the interest they get for them. They must return them the money to do the best they can with it themselves.

What good will it do, what benefit will it be, to have these institutions wind up their business? They are mere charities. They are altogether eleemosynary. I do not know how it may look to other gentlemen, but it seems to me that you might as well undertake to levy a tax upon the contribution box of the poor, or the contributions made at the sanitary fairs. There is money there, and if all you want is to get hold of money why not seize on that? I think I could point out to the honorable chairman of the Finance Committee a great many subjects which are legitimate objects of taxation, and which would not be obnoxious at least to the objection of grinding the face of the poor. I would ask why it is that we have lost \$10,000,000 by not taxing the farm stock in this country? We have not taxed the horses, the cattle, the sheep "upon a thousand hills" in Ohio. We have lost millions of dollars, then, according to the Senator's argument, by not taxing the stock. We have not taxed the machinery in the factories, and instead of there being \$200,000,000 worth of it I undertake to say there is a hundred times that. Does not the honorable Senator believe there is and has been all the while a large body of hoarded gold in this country in the hands of the people? We all know that there are a good many millions. Is there any attempt to tax it? I have not seen any or heard of any. How will you find it? Make a man disclose it just as you make him disclose his income. Whether the men who have hoarded it have lost money or made money is not very material. Then there is the whole land, all the real estate of the country with no tax on it. Why not tax that?

I know not, looking about, why we shall be neglecting great matters and attending to these small items. It seems to me, as I have said, coming down below low-water mark. I will not take up the time of the Senate. Perhaps it is best to levy contributions on the bread at the sanctuary and everything of that kind, especially if it goes to the poor.

Mr. SHERMAN. We tax plate used for religious purposes.

Mr. COLLAMER. You do not tax the Eucharist of the church, or anything contributed for the poor except in this particular.

Mr. SHERMAN. It is very easy to make a tax obnoxious by selecting particular cases and showing their hardships. The Senate probably will remember the celebrated production of Sydney Smith, ridiculing the taxation of Great Britain, and the remark of an eminent speaker in Great Britain who described the process of taxation and said that an Englishman was born to be taxed, lived to be taxed, and died to be taxed. I can select any tax in this bill and show by the same character of argument which the Senator from Vermont uses that it is most terribly oppressive. We levy a tax on shoes. The ragged urchins whom we pass daily on the streets on our road to the Capitol have to pay taxes to the Government on the shoes they wear. I might show that such a tax as that is oppressive, odious, infamous; that a great Government like ours ought not to tax

these poor people by levying a contribution on their shoes and their clothing. In the same way I might show that all these taxes are odious.

Why, sir, the food that feeds the poor people of Massachusetts, the operatives who deposit their earnings in these savings banks, is taxed on its way from the plains of Ohio to Massachusetts. Why add to the price of the food of the poor operatives of Massachusetts and of New England a little miserable dole of taxation, and take from the price of their wages by levying a tax of three per cent. on transportation?

The Senator should have considered, on the other hand, that wealthy men in New York and Boston, desiring to use their money rapidly, or having no immediate use for it, frequently deposit for a time in a savings bank \$1,000, \$2,000, or \$5,000, and if this exception is made they are not taxed at all. Why does not the Senator take the other extreme case of a man who having \$20,000 on his hands wishing to draw interest on it and yet to have it where he can withdraw it when he desires it, deposits it in a savings bank. The savings banks receive the deposits of the rich as well as the earnings of the poor—perhaps to not so general an extent as other banks, but there is nothing to prevent it. I have been told of cases where they do.

Mr. SPRAGUE. I desire to interrupt the Senator to say to him that my experience is entirely different from that. The charters of the savings banks in New England generally limit the amount which shall be received, and so far as my experience is concerned, and it extends to a number of them, they do not receive deposits over \$100, and the new banks that are formed do not go beyond \$500.

Mr. SHERMAN. But how often do they receive deposits of \$100 from the same individual? Does my honorable friend mean that any one depositor's account cannot exceed \$100?

Mr. SPRAGUE. Yes, sir.

Mr. SHERMAN. I warrant you the savings banks of that kind are comparatively few.

Mr. POMEROY. Except them.

Mr. SHERMAN. I should be willing to except them, although I do not like to make exceptions in the tax bill. My honorable friend from Vermont rather makes fun of me on that account. I am perfectly willing to except those banks who receive no deposits except the simple earnings of the poor people that he talks about. If they limited their deposits on hand from any one depositor to \$100, I certainly would not follow such deposits; but that is not the case. The Senator, in order to make a hard showing and a hard case, makes an exaggerated statement, and thus seeks to deter us from imposing this tax. There is not a bank in the United States that might not make the same showing. I know of people who own stock in banks, that have but \$1,000 or \$2,000, and they live upon that little saving perhaps of a deceased husband or a dead father. My honorable friend has no objection to levying a tax upon the dividends, upon the deposits, and upon the circulation of a bank that husbands the resources of the widow and the orphan.

Mr. COLLAMER. I never said that.

Mr. SHERMAN. No, but you might take any bank in the United States, and those banks are generally the depositories of the earnings of the people, and you may find in every bank as a stockholder a widow who depends upon the dividends of that bank for her daily bread. You may find in it the deposits of the orphan, and if you take these extreme cases you might show that every tax upon your statute-book is oppressive. But, Mr. President, that is not the way to discuss this question. My honorable friend did it at the last session, and almost moved my heart for the poor people of Vermont, and I say now that if this tax did not reach anybody but those poor people I should be the last to lay the hand of oppression upon them; but I know that under this exemption many others escape.

But my honorable friend said we have other sources of taxation, and I listened to him in the hope that he might open up to us some rich fountains on which we might lay some of the burdens. He asks, why not tax land? Why, Mr. President, the Constitution of the United States answers that question. If it were not for that provision of the Constitution which requires direct taxes to be apportioned among the States,

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lands and all kinds of property, including horses and cattle on the hills of Ohio, would have been taxed long ago.

Mr. COLLAMER. That direct tax clause does not cover any personal property. That has been decided by the Supreme Court over and over again.

Mr. SHERMAN. I doubt very much whether that has been decided in the case referred to. Land at any rate cannot be taxed unless by apportionment. The honorable Senator agrees to that; and that principle was extended to slaves, at least by the declaration of the judges; but my own impression is that any direct tax of that kind (although I will not go into the argument) must be apportioned among the States. Take the case of land. Why not tax land? The answer is obvious that we can only tax land by apportioning it among the States; and what then? The State of Rhode Island, with her accumulated wealth and vast resources, with her factories and ships piled mountain high in that rich State, would not pay one fifth of the tax that the poor State of Iowa would. A tax that would be oppressive to the last degree in one of the new States would not bear the weight of a finger on the State of Rhode Island; and so of other States. The State that I represent is so fortunately situated, wealth has now so accumulated in that State, that we could bear a direct tax; and so far as my constituents are concerned they are perfectly willing to bear any form of tax, direct or indirect; but it was not so forty years ago, and a direct tax levied on the State of Ohio after the war of 1812 would have crippled the credit of that State.

Mr. COLLAMER. We levied it for three years afterward.

Mr. SHERMAN. But it was regarded as oppressive and soon repealed, while the excise law was continued for some time. So with machinery. The honorable Senator says we do not tax machinery; but we tax the product of machinery, every bit of it. We do not propose to tax the savings bank but to tax the product of the savings bank, the profit made out of it, and that is all; the deposit in the savings bank, the result of the savings bank. Why not tax gold? I ask the honorable Senator if he would propose to tax gold to thus drive it out of our country? Gold is one of those articles the most heavy and yet the most volatile of any in the world; it is lighter than gas and more timid than a woman, and yet the heaviest of metals. A tax upon gold would drive it out of our country as rapidly as our boats could carry it. Therefore, no one has proposed to tax gold. The result of such a tax would be that gold, being in itself movable and easily transported, would be deposited in the banks of Europe and left there as a safe deposit for future use. A tax on gold has never been proposed by any one.

But it is not sufficient to say that there are other sources of taxation. We come back to this. Here is an exception made from all other banking institutions, an exception which I think is not founded on principle, and which I think ought to be repealed; and here allow me to say that I would not have introduced this question again this year, but we were compelled to consider it for this reason: the trust companies of the city of New York, by a very intelligent gentleman, came to us and represented that they were on the same footing that savings banks were, that they deposited their money in other banks, that although they were stock institutions and received their dividends, they ought not to be taxed, and they demanded to be included in the same exception as savings banks. We found that this exception would make demands from other corporations, and that we either had to make one general rule applicable to all, or we had to have a perpetual struggle with other institutions to come within the exception of savings banks. With considerable hesitation, but after much reflection, we concluded it was wiser and best to remove the exception. I am perfectly willing to take the vote of the Senate and abide their action on it without further debate.

Mr. FOSTER. I have received within a day or two a letter from a very intelligent, practical man on this subject in my State, from which I will read a very few words, with the permission of the Senate:

"I believe for the greater part of the moneys in savings banks are the hard earnings of women without protection, superannuated persons, and young girls and boys."

He then goes on to state a few cases with which he is acquainted:

"A widow lady has about three hundred dollars in our savings bank; an old lady has about the same sum, and a young man, who is *non compos mentis*, \$300 more, making \$900, the interest on which, at five and a half per cent. per annum, the amount paid by the bank, is \$49 50. From that is deducted the national tax of five per cent. on dividends, and the State tax of three fourths of one per cent. on the capital, making \$9 22, which leaves from the income of the \$900, \$40 28, which is four and a half per cent. net to the individuals."

It is proposed by the honorable Senator from Ohio to reduce that little pittance below the four and a half per cent. which these people now receive. My friend then adds:

"These three persons pay a greater sum of direct tax to the General Government than all the farmers in this town."

And the town where this letter is written would not be a rich agricultural town in Ohio, but it is a rich agricultural town in Connecticut, one of our best townships of land; and these three persons pay now, as he says, a larger direct tax to the General Government than all the farmers in the town, for they pay none at all.

Mr. SUMNER. I also have received a letter from a practical person, dated as late as February 25, and I should like to call the attention of the Senator from Ohio to it. It is from one of the collectors of the internal revenue in Massachusetts, as familiar with the sources of taxation as anybody in the State. He has been astonished at what he read in the newspapers of the proposition of my friend from Ohio, and writes to protest against it. He concurs with the Senator from Vermont with regard to the character of these institutions. He writes as follows on that point:

"These savings banks are charities conducted by trustees, without pay or reward, enabling people from their small earnings to safely save small sums, which, aggregated, are at least one half invested in Government loans."

He then says:

"If it is supposed that by this repeal the deposits in savings banks will be diverted into Government securities, the answer is that now at least one half of the deposits of these banks are already so invested. This tax upon them will prove their annihilation, and the course must be to wind them up and either sell these securities in competition with the Government or divide them among depositors. It will work no new investment in Government loans, even if any of them can stand this tax. To state the proposition is to refute its policy. They can receive for interest but six per cent.; the State tax is already three fourths of one per cent.; the United States tax on dividends is five per cent.; and the income tax, I think, one fourth of one per cent. more. Then this additional tax makes four per cent. There is left to depositors only two per cent. Every savings bank in this State, and I believe, throughout the country, must necessarily close its doors if that proviso in the one hundred and tenth section is repealed."

That is a complete answer to the speech of my friend from Ohio; but he will pardon me if I expose in one word the fallacy of his argument. He assumed that the savings banks were something which they are not. He assumed that they were like a trust company, that they were like any other bank or any other corporation. They are not. My honorable friend from Vermont emphatically testified to that when he designated them so completely as charities that you might as well undertake to tax the Eucharist itself as to tax them. When you tax savings banks you tax a charity, you tax the poor, and the poor exclusively. Your tax is not general, applicable to the rich and the poor and that large intermediate class between the rich and the poor, which is the case with all other points of taxation, but it is a tax that strikes absolutely and exclusively the poor.

My honorable friend from Ohio said that the poor boy on his way to school must stop to get his pair of shoes, and he might not have the money to buy them, and yet he must pay the tax on those shoes. But, sir, there was the fallacy in the illus-

tration of my honorable friend. The tax on shoes is a tax equally on rich and poor. Every man wears shoes, and every man therefore pays the tax on shoes, and we all know that it is one of the incidents of life, it is one of the incidents of poverty, that a tax on shoes or clothes or food or any of those articles which are required by the poor, of course is felt more by them than by the rich. But for that very reason, when you come to a case where the tax is absolutely and exclusively on the poor and not on the rich, you should hesitate. My friend from Ohio is clearly mistaken. He gives a bad character to the savings bank, and then proceeds to tax it. He calls it something that it is not, and then proceeds to tax it for what he chooses to call it and not for that which it really is.

Now, sir, I insist that its true character shall be recognized as a charity for the benefit of the poor, and on that account I claim its immunity from taxation.

Mr. COWAN. Mr. President, I have listened with great attention to the argument made in favor of excepting savings banks. In the first place the honorable Senator from Vermont [Mr. COLLAMER] argued the question *de minimis*; that is that these banks are so small that they ought to be exempted, their deposits are too small; but it still remains for him to show that they are not banks of deposit and loan. It does not matter what you call a bank. That does not change its character. It still remains to inquire what is the nature of it. What is the nature of the business which it does? I believe that all banks may be divided into two classes, and I think they are so divided by political economists: banks of deposit and loan, and banks of issue and circulation. What is the difference then between a savings bank, where the deposits are five cents, and one where the deposits are \$500, except in quantity? There is none in quality. But if we except savings banks where the deposits only are five and ten cents and twenty-five cents, and the holders are poor people, shall we not exempt those where the holders are rich people, and where deposits are in large quantities? There is no proposition made here to exempt those banks where the deposits are very small in amount, but it is to exempt all savings banks. I do not see the force of this argument *de poveritate*: because these people are poor, ergo they are to pay no tax. The poor are taxed everywhere. You talk about taxing the savings of a sewing woman. Do you not tax the coal that warms her feet by the fire? You tax the light by which she sews; you tax the cotton she sews, and the needles and everything else; and yet her earnings are to be exempt. But she loans to the Government. Well, if she loans to the Government who pays better interest than the Government? Who is it that pays six per cent. in gold in return for the loan of paper now reduced to fifty cents on the dollar? But what do your savings banks do with their gold when they get it? They go across the street and sell it again for paper at fifty cents on the dollar, and thus double the interest, and make twelve per cent. in that way, because although the dollar they get in exchange for the gold may not be a dollar as to anybody else, it is a dollar as to this Government and this people; we are bound to redeem it some day; make it good some day.

Then again it is put on the ground of charity. Charity! Wherein does it resemble a charity? Gentlemen say because certain humane individuals administer it free of charge. Is that a charity? I have heard of many humane individuals who administer savings banks free of charge running away with the bank and all the money. These humane individuals may manage them very well at times, but I should be rather inclined to think that they make their own accounts upon that score. But what I mean to say is that that is no argument against taxing the fund, against taxing this accumulation of property, because the officers volunteer to conduct the institution gratuitously; it is no reason why this mass of property liable to taxation should be exempt. It bears no



resemblance to a charity. It bears no more resemblance to the box of the poor, or the Eucharist upon the communion table, than a hawk does to a hand-saw. What is a charity? A charity is that which is voluntarily given away without consideration, for the support and maintenance of the poor. I suppose there is no other institution in the country that is so dissimilar to a charity as a bank.

I understand that even in New England, from the letters which have been read, the rich and the strong and the powerful have no compunctions of conscience about taxing these institutions. Have you exempted them yourselves? The letter read by the honorable Senator from Connecticut showed they are taxed there; the letter read by the honorable Senator from Massachusetts showed they are taxed there. I do not know whether the little State of Rhode Island, with its enormous fortunes and its immense accumulations of wealth, taxes them or not, but surely they are taxed in Massachusetts and taxed in Connecticut.

Mr. SPRAGUE. They are not taxed in Rhode Island.

Mr. COWAN. I am very glad to hear it. I think it is creditable to the gentlemen of Rhode Island that they do not tax the earnings of their sewing girls and their poor.

Mr. SPRAGUE. We try to induce them to deposit their funds in savings banks.

Mr. COWAN. That is all right. I can understand why people living in the neighborhood of these banks, and knowing exactly their character, may be disposed to make an exception in their favor; but here, where we do not know their character, and where in all their principal features they resemble other banks which we have taxed, I do not see the force of this exemption.

I agree with the chairman of the Committee on Finance. Draw your line, exclude this *de minimis* about which you think the law ought not to care; but we do not want to exempt large banks, banks of large deposits, banks where the rich take advantage of this scheme for the purpose of putting into circulation the surplus money of the country, because I suppose that is the reason of it. New England is thrifty, New England is economical, and she knows that if there is a parcel of loose coppers about it is better for the community to gather them up into a savings bank and distribute them about for the purpose of making them active capital. If they are so small, draw the line, cut them out, and let us tax the other savings banks, in Pennsylvania and in New York and elsewhere, which ought to be taxed. I am told that in some of the States, if you go into one of the towns and see the finest building on the street, and inquire what it is, they will tell you it is the savings bank. I do not know whether that is the case in New England or not, but it is in some of the States. Should not that institution be taxed? And yet, under this exclusion, that bank would be exempted.

Mr. COLLAMER. I will detain the Senate but a moment. As to the deposits in these banks, I think the sums are generally very small. I can merely say that if rich people do deposit in them, they are taxed on their income. They do not escape taxation by putting their money there, because they pay upon whatever they do get. Therefore, that is no reason.

Mr. HENDERSON. At the last session, when this subject was up, I took occasion to look into the figures and to ascertain what would be the result of this exemption. I stated then, and I state again, and I take pleasure in stating, that I would vote for this proposition if I found all the savings banks in this country of the character represented by the Senator from Vermont, and of the character that they seem to be in his own State. When I come to look at that gallant little State, I find that it has forty savings banks, with a deposit of \$1,712,231. There are forty banks, making about \$40,000 to each bank. I suppose that the institutions there are strictly and truly what he represents them to be. I regret very much that I have to vote for a proposition that taxes them at all; but I desire to call that Senator's attention to the difficulty that will be in the way of following his lead upon this subject. While he is seeking to exempt the earnings of a few poor in his own State, I apprehend that the result will be to exempt a very large amount of

capital in other States. I do not desire to impose any tax that will be burdensome on the poor. I do not desire to impose a tax such as he thinks this tax will be; but I differ with him materially in regard to the character of the tax. In the little State of Rhode Island I find that there are \$9,945,867 on deposit. Each depositor in the savings banks there has \$263 to his credit. I take the number of depositors and I take the amount they have on deposit and I find that each man on an average has \$263. That does not look to me that it is a "mite" society; it does not look to me that it is an institution where the poor drop in ten cents, as represented by the Senator from Vermont. That is a very large average for the deposit accounts of banks of circulation throughout this country. Take the banks of issue in the State of Rhode Island: in 1863 those banks had on deposit only \$5,594,394.

Mr. COLLAMER. That is because they do not pay anything on deposits.

Mr. HENDERSON. Now, I submit to the Senator from Vermont, what is the object of making a deposit in a bank? Say for instance, I have \$263; or I will take his own State. Every depositor in the State of Vermont has \$155 to-day in the savings banks. Does the Senator know it? Every depositor has to his credit on an average \$155, a very large average for deposits in banks of issue. Suppose that I have \$155, and I choose to deposit it in a bank of deposit and circulation. Why do I do so? It is because I am doing my business at bank. I expect to get discounts at that bank, and I expect to patronize the institution. If I do not give them my deposit, can I expect when I want paper discounted to get it done? How is it with persons who deposit in savings banks? They expect to realize a benefit. What is that benefit? They expect the money is to be loaned, and they will receive dividends.

But there is another class of institutions in this country referred to by the Senator from Ohio who is at the head of the committee. I refer to the banks. The difference between a trust bank and a savings bank, as I understand, is this: a trust bank is a bank with capital; individuals go and subscribe capital and the bank receives deposits and agrees to pay a stipulated sum upon deposits, loans the deposits out or discounts upon them, buys bills of exchange, &c. Their profits consist in the difference of interest that they realize over and above what they pay. Not so with a savings bank; a savings bank is a mutual insurance company where all the parties unite together and agree to elect officers, and by those officers to loan the money, and the officers themselves keep their deposits there too, loan the money, and divide the amount they receive in the shape of dividends. I undertake to say there is no difference; and if deposits are to be taxed in one bank they ought to be taxed in another bank. I cannot for my life see the distinction.

I feel the weight of the remarks made by the Senator from Vermont, but I do not think they are founded in justice. He compares this to a tax on the communion plate. The Senator has a peculiar way of saying those things that no other Senator has. He can say them with a force and a power that sinks into our hearts and makes us almost actually believe that we are digging down into the grave, tearing up the coffin of some dead man and taxing it. It is not so.

The Senator from Connecticut asks, why do this thing? and he says the savings banks take the money they receive and deposit it with banks of deposit and circulation until they want to use it. Let me refer to the Senator's own State. In 1863 Connecticut had forty-nine savings banks with deposits to the amount of \$23,446,936, and each depositor had \$227, a very large average. How much had the banks of circulation in Connecticut on deposit at that time? Eight million eight hundred and ninety thousand two hundred and thirty-seven dollars, only about one dollar for every three in the savings banks. The argument of the Senator from Connecticut falls to the ground; the savings banks did not take their money and redeposit it in banks of deposit and circulation.

In New Hampshire twenty-seven savings banks had a deposit account of \$6,560,308, while the banks of circulation in 1863 had but \$1,725,866 on deposit in 1863, there being nearly four times as much in the savings banks as in the banks of cir-

culation. How is it in Massachusetts, where there are ninety-three savings banks? I am willing to exempt the million and a half of money in Vermont, if the Senator from Vermont will confine the exemption to his own State; but how is it with Massachusetts? The Senator from Massachusetts read a letter from some savings bank gentleman, I suppose—

Mr. SUMNER. I beg the Senator's pardon; from one of the revenue collectors of the United States.

Mr. HENDERSON. He is a very nice gentleman indeed.

Mr. SUMNER. He is.

Mr. HENDERSON. In Massachusetts, with ninety-three savings banks, the deposit account is \$50,404,623, or over half a million each, and yet you ask us to exempt the whole. The deposits in all the other banks in Massachusetts are \$37,471,133. The savings banks in that State have \$13,000,000 more of deposits than all the other banks in Massachusetts. And you ask us to exempt all of it, and a collector of revenue writes here asking Congress to do this thing. I think he ought to be removed, and if the Senator will just give his name I will join willingly and freely to have him removed.

In New York there are seventy-five savings banks, with \$76,538,183 of deposits. Do you want us to exempt all that? In that State, contrary to the rule in the New England States, the banks of issue and circulation had a larger deposit account than the savings banks, having \$200,824,776. But why exempt the \$76,000,000 deposited in savings banks?

I have only looked to the statistics of the six New England States and New York; and in those seven States I find a deposit account of \$169,000,000 in the savings banks, and the Senator from Vermont says a tax on that money is taxing the communion plate, is taxing the grave, is taxing the poor. The savings banks throughout the country must have not less than from three to four hundred million dollars on deposit, and we are asked, in the name of poverty and of humanity and of mercy and of kindness to the poor, to relieve them all from taxation. If the Senator from Vermont would merely propose to exempt his own State, to just such banks there as he represents them to be, I do not know but that I should vote with him. I would rather vote with him than to have the exhorting power of his voice falling on my ear whenever I rise to oppose this proposition. I can hardly bear it. I was not able to bear it at the last session, and had to yield. At this session I am not disposed to do so. I find that we can get a million and a half or two million dollars from this source, and the small, pitiful sum that Vermont will pay ought to induce the Senator to let it pass.

In regard to the profits made, I have not now the statistics before me, but I can state to the Senate that I examined the matter thoroughly at the last session, and I undertake to say that the profits made on these deposits are as great as the profits made in any of the banks in the United States; and in many cases much larger.

Mr. HOWE. Will the Senator tell us who gets those profits?

Mr. HENDERSON. The depositors.

Mr. HOWE. Are they not taxed for them?

Mr. HENDERSON. Am I not taxed on my money when I make a deposit in a bank of circulation? Am I not taxed in every shape and style that a man can be taxed? The Senator asks me if the depositors in a savings bank are not taxed. They ought to be taxed. What is the difference whether a man deposits his money in one bank or another? He always deposits, expecting to get some benefit from it in some way, does he not? If he deposits in a bank of circulation, he expects to be accommodated by having his note discounted when he wants money, or expects to get a bill of exchange on time or at sight on fair terms whenever he wants it. He always expects to be remunerated for the benefit he confers on the bank by making his deposits with it. No man makes his deposits with an institution without expecting to be benefited in some way.

Mr. HOWE. But when a man deposits his money in a bank of circulation that deposit is not taxed to him, it is taxed to the bank, because the bank has the benefit of it.

Mr. HENDERSON. That is all I want done in this case. I want the bank to pay on the deposit account.

Mr. HOWE. But if the money is deposited in a savings bank, the bank gets no benefit from it, the depositor gets the whole benefit from it, and is taxed on that benefit as income. That is the difference.

Mr. HENDERSON. Let me ask the Senator whether he would exempt a trust company from the operation of this tax.

Mr. HOWE. No.

Mr. HENDERSON. Now, I submit to the Senator in all candor, what is the difference between them in principle?

Mr. HOWE. The Senator himself has just stated in explicit terms what the difference is. A trust bank is a bank which uses its deposits for its own benefit, paying an equivalent to the depositor, to be sure.

Mr. HENDERSON. They pay a certain per cent. on their deposits and expect to realize on the advanced interest they make. Sometimes they lose, sometimes they make. Now, I ask the Senator if there were a trust bank and a savings bank in his town, would he not deposit in the one or the other just as he supposed would be profitable to himself?

Mr. HOWE. Certainly I should.

Mr. HENDERSON. Then why should we exempt the one and not the other? If a man in a town in New England or in the city of New York has money to deposit, and he prefers depositing in a savings bank where he calculates to make more, why is it that it ought not to be taxed? Why should it be exempted when if the same amount was deposited in another institution, with an expectation of benefit also, it would be taxed?

Mr. HOWE. The question that the Senator put exposes the fallacy of his argument. If I put my money into a trust bank which pays me four per cent. and uses the money, I am taxed on the four per cent. If I put it into a savings bank which pays me all the money earned, I am taxed on all its earnings. In the one case, the trust bank gets a profit from the deposit over and above what it pays the depositor, and therefore is taxed for its deposits. In the other case, the savings bank gets nothing, but pays the whole earnings to the depositor; and yet you insist on taxing the savings bank which earns nothing, and also taxing the depositor, who gets all that is earned.

Mr. HENDERSON. The depositor, as I understand it, earns all in the one case, and in the other he may not earn all. The difference between depositing in a bank of deposit and circulation and in a trust bank or a savings bank is just the difference between an insurance company made up of capital stock subscribed and a mutual insurance company where every man becomes a member of the company. Suppose I want to start a savings bank in my town; I gather together fifteen or twenty persons and we determine to make our deposits in the institution; other individuals after awhile finding that it was a safe institution would come up and deposit. We would elect officers, and those officers would loan the money and collect it, and after paying the expenses of the officers, the salaries necessary to secure the discharge of their duties, we would divide the profits. I say that there is no difference, and there ought to be no difference, in the burdens levied by the Government on the depositor in a savings bank and the depositor in a bank of circulation and deposit, because the man expects to be benefited whether he deposits in one or the other. I cannot see and never could see any reason for making this exemption.

Mr. CLARK. The Senator from Missouri, Mr. President, called the attention of the Senate to the amount of the deposits of the discount banks and of the savings banks in various States of the Union, and compared one with the other. He compared, for instance, the deposits in the discount banks in my State with the deposits in the savings banks, and he found that the deposits in the savings banks were larger than the deposits in the discount banks. Did the Senator for a moment consider what those deposits represented? The deposits in the discount banks represented the balances on hand by men who were doing business and depositing in those banks at a given day. The deposits in the savings banks represented the earnings of those depositors for years. Take the

average of deposits in the savings banks in New Hampshire. I think the Senator said it was about \$160 to a depositor. Will he tell me how long one of these depositors had been in putting that \$160 into bank? It might have been put in in five cents, in ten cents, in twenty-five cents, in one dollar, in five dollars, and perhaps in ten dollars, as the person might have earned and saved, and so in years it had got up to be \$160, whereas a man depositing in a discount bank might have deposited \$160,000 in the same time, drawing out and putting in continually. There is no comparison between the two classes of deposits.

Mr. HENDERSON. Let me ask the Senator upon what principle it is that we tax a deposit in a bank of circulation?

Mr. CLARK. Upon the principle that the bank which there is a rich institution takes the deposit and makes money out of it.

Mr. HENDERSON. I submit to the Senator if he does not know that in ninety-nine cases out of a hundred banks of issue do not thank their depositors for the use of the money. Does he not know that banks of issue generally do not desire deposits, but keep them as a favor to the customers of the bank?

Mr. CLARK. In my country they all invite them.

Mr. JOHNSON. Some pay interest.

Mr. CLARK. Not a month before I came away from home there was a scramble between the banks in my town as to who should have the United States deposits.

Mr. HENDERSON. The Senator says the banks of issue in his State invite deposits. It is strange to me that six and a half millions go into the savings banks when only \$1,725,000 after all these invitations succeed in getting into banks of issue.

Mr. CLARK. I can explain to the Senator from Missouri very easily. The savings banks give their depositors four or five per cent.; the discount banks will not give them in some cases anything, in some cases three per cent.; hence men depositing do not let it remain there. It is an entirely different case. In one instance the money is put in until the man wants to use it; in the other it is put into a place to save and to keep it.

Mr. SPRAGUE. Let me interrupt the Senator from New Hampshire and suggest that the deposits in the banks of New Hampshire are the proceeds of discounts of notes, to be drawn out immediately. They are not deposited in banks to remain there, but they are for discount of notes offered at the bank and deposited for a few days to be drawn out in the regular course of business.

Mr. CLARK. I will state what is the case probably with every bank that has more or less people doing business and keeping a fund deposited in bank; when they want money they draw from that deposit, and it varies from day to day as men happen to draw; but the deposits in savings banks do not vary in that way. A person puts in money there to keep and to make a little earning upon it. It has been the policy of the Government to exempt under six hundred dollars of income, and if a poor person gets his income in any other way you do not tax him; but if he puts his money into a savings bank and his earnings are less than six hundred dollars, you will tax him. If you can catch him with his earnings in a savings bank, though they be less than six hundred dollars a year, you will tax him if this amendment prevails.

Mr. President, I was remarkably struck with the argument of the Senator from Pennsylvania, [Mr. COWAN.] It was exceedingly luminous, it was almost conclusive, when he referred to the Senator from Rhode Island and said he was very glad they did not tax these savings banks in Rhode Island. If then they did not tax them in Rhode Island would it be right for us to tax them? And what was the excuse he gave? the reason why they should not tax them? Because they knew about them; but here in our ignorance, where we knew nothing about them, we could cut right and left, and we should legislate in our ignorance!

Mr. COWAN. Do they tax them in New Hampshire?

Mr. CLARK. No, sir. We taxed them for a short time, I think for three months, and at the next session of the Legislature it was repealed. We do not tax them. It has not been the policy of the government to tax them. These earnings

are mites in my State. The people of my State are not a rich people. Those who deposit in these banks are the people who earn from month to month, and if they have a little saving after the month's expenses put it into bank; next month more is put there, and by and by comes a fit of sickness to a mother or child or sister, and the fund is drawn down and exhausted. This very last fall, in raising your soldiers, some of the poor people who had their funds there were obliged to take them to get for them substitutes to go into the Army, while they staid at home to earn money and support their families. The Government had the whole. The savings banks in my town lost more in that way the last fall than they had lost for years. These little deposits draw from four to five per cent. interest, which is carried to the account of the depositor once in six months or once in a year as it may be; and then at the end of five years, if the bank has earned anything more than what it carried to the account of the depositors, deducting the losses, it is all credited off to the depositors then in the bank. Every cent of the earnings of the bank goes to these poor people, and in many of the institutions they are so very careful that a man is not allowed to deposit over \$300 or \$400, because it is not for the interest of the bank to have a man deposit a large sum and keep it there until he can do better with it and then take it out. They are peculiarly institutions of deposit and institutions of saving to encourage the people to save their money, and to afford to those who do not otherwise find it an opportunity of investing their money. They are, as the Senator from Vermont says, almost eleemosynary institutions, they are almost charities. They have had a beneficial effect on the country. I hope it will not be the policy of the General Government, when they have been exempted by the States, to tax them now.

Mr. FARWELL. I insist upon saying a word on this question. I know the Senate are impatient, and I am not going to take more than five minutes on any question from now until the final adjournment; but, Mr. President, I certainly feel amazed at this discussion. I have my eye upon a rich banker in State street who has a million of money that he is lending—lending it upon real estate on bond and mortgage—and what do you tax him? You tax him for the stamps upon his notes and upon his bonds, and you tax him upon his income. That is all that he is taxed on. Now, here are five thousand laboring people, poor people, who would not have had a dollar had it not been for these charitable institutions, had not these good men given their time, their attention, and care to taking charge of the little mite, and as it accumulated lending it upon real estate for these people, and carefully husbanding the interest. I think the laws of nearly all the States require that a large portion of the money shall be lent upon real estate. The law does not allow these men to go into the market and take notes and bills of exchange and hazard the loss of the money, but the law requires that it shall be put upon real property, and they always get small interest for it; they get no such interest as the rich banker who manages his own money upon State street gets; and now we propose to tax these poor people, whose business is managed upon charity by the best men in the whole country, more than we tax the rich banker. That is the real effect, if I know anything about the savings bank. If I know anything about the foundation upon which this tax is to be laid, it is, lay your tax on money merely because you find a large accumulation of it; and that accumulation has been made through the instrumentality of those men who have been acting as managers of these banks. I say that the chairman of the committee, with all his ingenuity, cannot show that that money would be taxed as he proposes to tax it by this amendment if it was in the hands of a few rich men and being lent in the same way that this is lent. He cannot demonstrate to us that in that case he would get one dollar from it except upon the income tax, and these people must pay an income tax too, unless their income is so small that it is exempted by the law.

Mr. SPRAGUE. I may tire the Senate, but I am not willing that the vote shall be taken until some facts which have not been expressed are made known. I am cognizant of a savings bank

having deposits to the extent of \$500,000. All the expense attending that bank is for its secretary, perhaps \$500 or \$700 at the outside; the president and the directors do the business of that bank without a dollar's compensation. The loans are made with the strictest economy; they are made without taking the slightest risk, at the smallest rate of interest, with a view to security for the benefit of an innumerable number of small depositors. The depositors are from the States of Connecticut, and Massachusetts, and Rhode Island. They receive every dollar of the income derived from that capital. A large portion of the money in that savings bank and other savings banks in New England is deposited by the soldiers of our Army. The great idea which the projectors of these institutions had was to induce the poorer class of people to deposit their money and to save for the future, for old age. It has been demonstrated that when people begin to save their earnings they are in every respect more worthy, more prudent, and better citizens; and the philanthropic people and those who have desired to benefit those around them, have been foremost with that view to induce them to save; and to-day the soldiers of your Army constitute as large a proportion of these depositors as civilians. Indeed, owing to the increased cost of living, civilians have been obliged to withdraw a portion of their deposits and the soldiers have taken their places; and to tax soldiers, and to tax the poor and small depositors, is to legislate against their saving and depositing for the future in order to sustain them in their old age, provide for their children, and induce them to be economical and prudent. Sir, it is one of the worst features, in my opinion, that I have seen in the project for taxation which has been introduced into the legislation of this country.

Mr. HALE called for the yeas and nays; and they were ordered.

Mr. HENDERSON. I desire before this vote is taken to assure Senators from the States where these banks exist that they are paying no tax on bank deposits now. If Senators will take the report of the Commissioner of Internal Revenue for the last year, they will find that their States are paying nothing in the shape of a tax upon deposits. I call the attention of the Senator from Vermont to the fact that his State paid only \$235 22 on deposits.

Mr. COLLAMER. I said before that the ordinary banks in Vermont do not allow interest on deposits, and of course people make nothing by leaving their money there.

Mr. HENDERSON. There is a large deposit account in the banks of circulation there, and I do not see how only \$235 could have come in.

Mr. COLLAMER. That is a matter concerning the execution of the law.

Mr. HENDERSON. The report of the Commissioner shows that that is all the revenue we get from that State under this particular tax. The Senator from New Hampshire, who seemed very much excited on this subject, says this money is the earnings of the poor, and he wants to keep it. I think if we do not tax it, he will keep it, and whether we tax it or not they seem to know how to keep it pretty well. New Hampshire only paid \$646 13 as tax on deposits, though her banks of issue had a deposit account of \$1,750,000. The State of Connecticut paid only \$4,054 tax on deposits.

Mr. SHERMAN. I ought to mention to the Senator that that statement was made before the law of last session took effect.

Mr. HENDERSON. This statement covers one year's tax on bank deposits.

Mr. SHERMAN. The present law took effect, I think, on the 1st of July.

Mr. HENDERSON. This return was under the old law. It is schedule B on pages 270 and 271 of the report of the Commissioner of Internal Revenue for this year. It is a recapitulation of the collections from banks, insurance, railroad, canal, and turnpike companies for the fiscal year ending June 30, 1864. I might refer to various other States in order to show very great irregularity. I attribute it to the fact that the larger number of the deposits go into these savings banks where they are not taxed.

Mr. SAULSBURY. Mr. President, I find that when the people of the country are to be taxed; a strife arises as to who shall be taxed, what State

shall be taxed, the people of what section shall be taxed. I do not know the particular state of the question before the Senate, but I know there is a controversy as to who shall be taxed, what State shall be taxed, and what section shall be taxed for carrying on this war. It opens up before the intelligent mind a magnificent theme of debate. The honorable Senator from Missouri contends that western interests shall not be taxed; there are other gentlemen who say that New England should not be taxed, and perhaps there are others who say that the intermediate section between the far West and the East should not be taxed. But, sir, there is one section that feels the burden of taxation deeply, and that is the section from which I come, the section of the border—a people who had nothing to do in bringing on this war, who were opposed to its inception, and have been opposed to its continuance. I say, challenging contradiction (but I mean no personal offense to any individuals) that if there is any section of this country that ought to be taxed it is New England. From the hot-bed of New Englandism came the sentiments which disturbed us when we were at peace and in repose. We were a happy, quiet people, peace was throughout all our borders, and had it not been for the teachings of New England we should still be enjoying peace and quiet.

Sir, I cannot sit quietly in my seat and hear this controversy about taxation between the different sections of my country. In early childhood I was taught that I had but one country, and it embraced New England, it embraced the entire North, it embraced the entire South, and wherever the American flag floated there was my country. New England is as much my country as any portion of the United States; Massachusetts is a part of my country; I recollect the example furnished by Hancock, by Adams, and by the other revolutionary sires; I recollect in early life how my soul was stirred by reading the utterances of her noble sons in behalf of liberty, and I have never seen the time when I wanted New England turned out in the cold; and I have never seen the time when I wanted South Carolina, the chivalrous, noble State of the South, turned out in the cold. It is all my country, all my home; but now when demoniac influences have come over the people and we are engaged in fratricidal strife, I find that when a taxation bill comes before you, there is a struggle as to who shall pay the most, the East, the West, the North, or the South. If you had observed the counsels of the great Democratic party of this country, which governed the country for sixty years and carried us to glory and renown, you would not be in the condition you are now. [Laughter.] Gentlemen may laugh; the galleries may laugh. People laugh even when their liberties are about to be destroyed. Sir, there is one little State bordering upon the center, a border State, the first to enter into the Union and the last to abandon it under all circumstances, that says, "Consider well the path you tread; consider what counsels you follow."

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the Committee on Finance.

Mr. SHERMAN. Those in favor of taxing the deposits in savings banks will vote "yea;" those opposed, "nay."

The question being taken by yeas and nays, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Brown, Carlile, Conness, Cowan, Davis, Doolittle, Grimes, Harlan, Harris, Henderson, Hendricks, Howard, Lane of Indiana, Morgan, Nesmith, Pomeroy, Powell, Sherman, Stewart, and Trumbull—20.

NAYS—Messrs. Anthony, Clark, Collamer, Dixon, Farwell, Foot, Foster, Hale, Howe, Johnson, Lane of Kansas, McDougall, Morrill, Nye, Sprague, Sumner, Van Winkle, Willey, Wilson, and Wright—20.

ABSENT—Messrs. Buckalew, Chandler, Harding, Ramsey, Richardson, Riddle, Saulsbury, Ten Eyck, Wade, and Wilkinson—10.

The VICE PRESIDENT. The Chair decides affirmatively. The amendment is agreed to.

The next amendment of the Committee on Finance was to strike out the following proviso:

And provided further, That net profits realized by sales of real estate purchased since January 1, 1864, shall be chargeable as income; and losses on sales of real estate purchased since January 1, 1864, and sold within the year for which income is estimated, shall be deducted from the income of such year.

And in lieu of it to insert:

And provided further, That net profits realized by sales of real estate purchased within the year for which income is

estimated shall be chargeable as income; and losses on sales of real estate purchased within the year, for which income is estimated, shall be deducted from the income of such year.

The amendment was agreed to.

The next amendment was to strike out the words "rates of," before "interest," in line eight hundred and seven.

The amendment was agreed to.

The next amendment was to insert the words "his share of," before "the gains," in line eight hundred and nineteen.

The amendment was agreed to.

The next amendment was in line eight hundred and twenty-four, to strike out "carry on" and insert "cultivate."

The amendment was agreed to.

The next amendment was in line eight hundred and fifty-nine, to strike out "any" and insert "every."

The amendment was agreed to.

The next amendment was in line eight hundred and sixty-eight, to strike out "twenty-five" and insert "fifty."

The amendment was agreed to.

The next amendment was to insert the words "or his or her ward or beneficiary" after "she," in line eight hundred and eighty-two.

The amendment was agreed to.

The next amendment was in line eight hundred and eighty-seven, to strike out "all of" after "upon."

The amendment was agreed to.

The next amendment was to strike out, in lines eight hundred and eighty-seven and eight hundred and eighty-eight, the words "as provided by this act" and insert "as prescribed by law."

The amendment was agreed to.

The next amendment was to strike out lines nine hundred and eight, nine hundred and nine, and nine hundred and ten, as follows:

That section one hundred and twenty be amended by striking out at the end thereof the word "act," and inserting in lieu thereof the word "section."

The amendment was agreed to.

The next amendment was to strike out the words "husband or" before "wife," in line nine hundred and eighteen.

The amendment was agreed to.

The next amendment was to strike out of the clause proposing to amend section one hundred and sixty-nine of the present law, the following words, in lines nine hundred and ninety-eight, nine hundred and ninety-nine, and one thousand:

And by inserting in the proviso, after the words "imported articles," the words "except lucifer or friction matches, cigar lights, and wax tapers."

The amendment was agreed to.

Mr. VAN WINKLE. I suggest to the chairman of the Finance Committee that the words "that 'schedule B,' preceding section one hundred and seventy-one," in lines ten hundred and one and ten hundred and two, should not be stricken out. It is necessary to retain those words, in order to fit with what follows the part to be stricken out.

Mr. SHERMAN. The Senator is correct.

The Secretary read the words proposed to be stricken out by the amendment of the committee, from line ten hundred and two to line ten hundred and twenty-three, as follows:

In the paragraphs relating to "Bill of exchange, (inland)," be amended by striking out all of said paragraphs, and inserting in lieu thereof the following:

Bill of exchange, (inland,) draft, or order for the payment of any sum of money, otherwise than at sight or on demand, for every \$100, or fractional part thereof, five cents.

Loan of money. Any loan of money, or any advance of money on security, whether represented by note, certificate, check, receipt, or other evidence, not otherwise provided for, and not including mortgages, if on demand, for every \$100, or fractional part thereof, two cents.

If to be paid at a time designated, for every \$100, or fractional part thereof, five cents: Provided, That any note or other evidence of debt, payable on demand, shall be void after thirty days from date, unless it has been protested within that time, or shall have been stamped with duty within that time, at the rate of five cents for every \$100 or fractional part thereof; and any pawnbroker's certificate for an amount of loan less than five dollars shall not require to be stamped.

The amendment was agreed to.

Mr. VAN WINKLE. The words "and in," in line ten hundred and twenty-three, should be "in the."



The VICE PRESIDENT. That correction will be made.

Mr. HENDERSON. I suggest that the words "be amended" should be inserted in line ten hundred and twenty-three.

Mr. SHERMAN. Let that amendment be made.

The VICE PRESIDENT. The amendment will be made.

The next amendment was in line ten hundred and twenty-seven, after the word "transportation," to insert "the charge upon which exceeds one dollar."

Mr. SHERMAN. I ought to explain that the House of Representatives changed the mode of taxing express companies, and then left the old stamp duty precisely as it was before. As we have already negated the change proposed by the House, we, by this amendment, relieve the express companies from putting a stamp on receipts for the delivery of property where their charge is one dollar or less.

Mr. CLARK. The words of the amendment should be altered.

Mr. SHERMAN. It ought to be "the charge upon which is one dollar or less."

The amendment, as modified, was agreed to.

The next amendment was to strike out the following words in lines ten hundred and twenty-eight, ten hundred and twenty-nine, ten hundred and thirty, and ten hundred and thirty one:

And that "Schedule C," preceding section one hundred and seventy-one, be amended in all the paragraphs concerning "playing cards" by striking out, wherever it occurs, the word "retail."

The amendment was agreed to.

The next amendment was to insert after line ten hundred and thirty-one the following:

Add at the end of the paragraph marked "receipts" the following: "Provided, That when two or more persons shall sign the same receipt, one stamp, equal in value to the several stamps required by this act, may be affixed to said receipts in lieu of said several stamps."

The amendment was agreed to.

The next amendment was in the clause proposing to amend section one hundred and seventy-one of the existing law, to strike out "before the words 'refined coal-oil' the words 'crude petroleum or rock-oil'" in lines ten hundred and forty-eight and ten hundred and forty-nine.

The amendment was agreed to.

The next amendment was in line ten hundred and fifty to strike out "by inserting the words."

The amendment was agreed to.

The next amendment was in line ten hundred and fifty to insert the word "bullion."

Mr. STEWART. I move to strike out the word "bullion."

Mr. VAN WINKLE. The word "and" should go before "bullion."

Mr. STEWART. I believe the amendment proposed by the committee is to insert the word "bullion."

The VICE PRESIDENT. That is the amendment.

Mr. STEWART. I am opposed to the insertion of the word "bullion." I think we shall get less revenue by that principle than we shall by adhering to the law of last session.

Mr. SHERMAN. I, perhaps, ought to explain to the Senate the effect of this amendment, so that the Senator may have the benefit of it. There is a very small tax now levied on bullion, the only tax, I believe, that affects very materially this important product of the State of the honorable Senator. When that is exported under the present law there is a drawback, so that the English, who get nearly all our bullion in the present condition of affairs, pay us no tax. We propose not to allow the drawback, so that all the gold produced in this country shall pay at least the small tax levied on it. The effect of striking out the word "bullion" would be that all that goes to Europe would pay no tax and all that is consumed in this country would pay the tax. We were very clear on this subject, and were unanimous that we ought to levy the tax on bullion, so as to make the English pay on that which they take from us.

Mr. STEWART. That is just exactly the effect I understand it to have. I understood the provision precisely, and that is just exactly what I am opposed to. I am opposed to taxing it as

an export. I do not believe we shall get as much revenue. I believe it is wrong in principle to tax any of the raw materials that can be exported. It would be looked upon as very absurd to tax bullion or to tax any export that we have to the same extent that you would tax an import.

Mr. CONNESS. The Constitution does not permit a tax on exports.

Mr. STEWART. This is virtually a tax on exports. Taxing the bullion is taxing the export, because it is all for export. All articles that are produced exclusively for export should go out of the country free, and for the reason that we should have as much go out of the country as possible, and why? No matter who buys it—whether the English or French, or anybody else—they have got to pay for it. If they pay for it in gold, no gold goes out of the country; but that is not the truth as a matter of fact; they pay for it with a commodity of some kind, and that commodity, when it comes here to be used, instead of being taxed one half of one per cent. is taxed fifty per cent., and the tax falls on a class of persons who voluntarily pay it, who will pay it rather than not have the luxury. We can make more money by allowing it to go free out of the country and encouraging its product than we can by placing a tax on the labor that produces it, decreasing its value, putting an additional burden on it, making it worth one half per cent. less and decreasing the amount produced. That also applies to coal-oil. Here, too, I think the committee have made a mistake in the principle that they apply to coal-oil. I think they are going to injure that source of revenue. I put it solely on the ground of getting more revenue. The production of coal-oil is in its infancy. It is developing a great, and new, and important source of wealth. We are already able not only to compete with but to surpass any other country in that production. You place a tax upon the exportation of it, and although it may seem to you a slight tax the effect may perhaps be that before another year you will have competitors, so that you will have no market abroad, and the coal-oil "bubble" will burst. Your oil wells will not have dried up, your coal-oil will not have been exhausted, but the present enterprising class who are developing them will have been destroyed before you know it, and twenty years will elapse before you can get them to go into it again, because "a burnt child dreads the fire." I think so much of this section as refers to coal-oil is a dangerous experiment. The position in which it was put by the law of last year is evidently better and safer, and it is particularly so as to gold and silver. Let them go out free.

I am opposed to taxing wheat that is exported. I am opposed to taxing any article that can be exported until we have exports enough so that we can bring the world in debt to us. Why not do the same on any other commodity that is to be exported? Is there any reason in it? I say let everything that can be exported go out of the country free until we have exports enough, so that the world will owe us. That is the theory upon which you will increase your credit and at the same time get three or four or five times the revenue by taxing the commodity that is returned. I object to this not on account of the amount, but because it is wrong in principle. It is wrong in principle to apply it to a raw material. It is wrong in principle to apply it to wheat, coal-oil, gold, or silver, or cotton, and it will be found so. If we have more than other nations, if we have this vast wealth that can pay our debt, we must get it out and sell it to the rest of the world and bring the world in debt to us. We have no particular use for bullion here. We have no particular use for gold and silver here as a circulating medium; we have got circulating medium enough, but we want the basis for it. Why tax it when it goes out of the country and by increasing your commerce brings back articles that you may tax four times as much, because it falls on a class of the community that will have luxuries? It is wrong in principle, and therefore I move to strike out the word "bullion."

Mr. CONNESS. I do not agree with my neighbor on this proposition, which I regret. The effect of the Senator's argument seems to be that if you should not insert the word "bullion" there, and thus stop the benefit of drawback that the man has in our country now who sends his gold

to a foreign country, it is equivalent to levying a tax of one half of one per cent. upon the gold belonging to our own people and remitting it on that belonging to foreigners. Let me take the city of San Francisco, for instance. There is a population of importers composed of a part who are Americans and who have their principal dealings with our Atlantic cities; who buy in our own American markets for the people of California and Nevada. Another portion are foreign importers who import all the goods they buy from European countries. They, under the provision of the law as it stood, would be entitled to a drawback. That portion of the gold which had come into their possession and had been taxed one half of one per cent. at the Mint or assay office would have been entitled to a drawback and the return of the one half of one per cent., while our own people who bought in our own markets were taxed one half of one per cent. on their bullion.

I would join the Senator in saying that the tax of one half of one per cent. at the Mint is a tax on the gold product. It makes every ounce of gold worth that much less, and to that extent it discourages the production of gold, and on principle I am opposed to it. But last year, when this question was very thoroughly discussed here; discussed to my satisfaction and a little beyond it, we agreed to this tax of one half of one per cent. as a settlement of the question, and we agreed that it should not be considered as an export tax because the Constitution forbade us from imposing an export tax upon anything, but we held that we had a right to regulate the commodity and to require it when it was changed in our Mints and assay offices from one form to another, to pay a tax if we saw fit to do it. I did not agree with the policy, but accepted it as the best solution of what appeared to be a determination on the part of the people here to tax the product of our mines. I cannot accept my neighbor's theory that that tax shall now be so regulated that it shall fall exclusively on our own people, under the mistaken idea, as I believe, that we shall thereby increase our exports and bring the whole world in debt to us.

I disagree with my friend in another respect, and that is when he says we do not want gold and silver. I think we want it about as much as we do holiness at this time, and a little of both, a great deal of both, would serve us. I think we want it here. I think it is not enough to say that we have a circulating medium when that medium is paper, because a circulating medium of paper that is not redeemable with gold, which the whole world has accepted as the standard of value, is a very unsafe medium for our commercial transactions. It is true that as long as our people agree to take it from one another we do very well; but we have increased it to such an extent now that the prices of all commodities have risen until they are double at least what they formerly were. We are all looking now for the termination of this war and for the return to specie payments as the day of happiness, when a dollar in paper will be the equivalent of and be convertible into a dollar of gold, when our bonds will be paid at our national Treasurer's office in gold as they become due. I am not in favor of paying a premium to encourage the exportation of gold and silver from our country.

Mr. STEWART. My position is to leave this matter just as it was regulated by the law of last year. It was wisely regulated, although I think the tax of one half of one per cent., it could be perhaps demonstrated, was not, under all the circumstances, entirely wise, but still I do not propose to speak of that.

The Senator says, why not let our own people have it as cheap as we let Europeans have it? The answer is very plain. If we use it ourselves and convert it into jewelry and the like, if it remains in the country, it is not taxed as much as it is if it goes out and buys a commodity. Why do you want exports? Why do you want bullion sent out of the country? Why do you want wheat sent out of the country? Why do you want cotton sent out of the country? Why do you want coal-oil sent out of the country? For this simple reason: exports buy commodities, and those commodities come here and pay heavy duties. You can make more money in that way. There is an additional reason, and a very sound reason, and that is that if you have more exports than you have

imports the world will get in debt to you and will pay you in money; the world owes you; your credit is good. It is with nations just as with men. If we can so conduct the business of the nation as to get the nations of the earth indebted to us it will be by using the advantage we have of having things to sell which they must buy. If we can do that and get them in debt to us our credit will be good, our bonds will be good. It is a very simple and plain proposition. The advantages are all with us. It was a wise provision of the Constitution that there should be no duty on exports. Why should that be a constitutional provision? You have no duty on exports, and you let them go free to foreigners while you charge your own citizens. That is the effect of the provision in the Constitution, and for a very wise purpose, because exports induce imports and you can get larger returns. Your gold and silver would be worth very little if you had no place to export them to; your coal-oil well would be worth very little; your broad acres in Illinois would be worth very little, if you had no market for the products.

The time may come when you will have to tax wheat and flour. Gentlemen then will object to letting flour go free out of the country. Why? Take two bushels of wheat, which illustrates the case very well; one is consumed by the farmer. Unless you tax it in the shape of wheat you never tax it at all. The other bushel is taken to Europe; it is there exchanged for a yard of cloth; that cloth comes back to New York and is taxed. This matter of drawbacks was wisely provided to meet that contingency, and should not only have applied to gold, but should have applied to coal-oil, as it did originally. This experiment that you are making to tax the raw material, to tax exports, you will find is wrong in principle; and if you depart from the principle of the Constitution, that exports shall not be taxed, and get around it by any indirection whatever, you will find that you will have less revenue than you would have by encouraging by all means the development of anything that can be sold to other countries, either for commodities or to involve them in debt to us. I think this is a question of principle that should be looked into and thought on before this amendment is adopted, for I believe it is a departure from our true policy.

The VICE PRESIDENT. The question is on inserting the word "bullion;" and the negative of that is the affirmative of the Senator's motion.

Mr. STEWART. I vote against the insertion. I want the yeas and nays, because it is a question of principle.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 9; as follows:

YEAS.—Messrs. Anthony, Chandler, Clark, Collamer, Conness, Cowan, Dixon, Farwell, Foot, Foster, Grimes, Harlan, Harris, Henderson, Howard, Howe, Johnson, Lane of Indiana, Morgan, Nesmith, Ramsey, Sherman, Sprague, Sumner, Willey, and Wilson.—26.

NAYS.—Messrs. Davis, Hendricks, Nye, Powell, Riddle, Saulsbury, Stewart, Van Winkle, and Wright.—9.

ABSENT.—Messrs. Brown, Buckalew, Carlile, Doolittle, Hale, Harding, Lane of Kansas, McDougal, Morrill, Pomeroy, Richardson, Ten Eyck, Trumbull, Wade, and Wilkinson.—15.

So the amendment was agreed to.

The next amendment was to strike out after the word "bullion," just inserted, the words "quick-silver, lucifer or friction matches, cigar lights, and wax tapers."

The amendment was agreed to.

The next amendment was to strike out the following words at the end of the second section of the bill:

And this section shall take effect from and after the passage of this act, anything hereinafter to the contrary notwithstanding.

The amendment was agreed to.

The next amendment was to strike out the third section of the bill, as follows:

Sec. 3. And be it further enacted, That from and after the 1st day of April, 1865, there shall be levied, collected, and paid, in lieu of the duty now provided by law, on all cotton upon which no duty has been levied, collected, or paid, and which is not exempted by law, a duty of six cents per pound until the 1st day of July, 1866, and on and after that date a duty of five cents per pound, which shall be and remain a lien thereon until said duty shall have been paid, in the possession of any person or persons whomsoever; and the allowance or drawback which shall hereafter be allowed upon articles on which any internal duties or tax shall have been paid, manufactured exclusively of cotton, shall be at the same rate per pound on such articles so manufactured, when exported, as shall be proven to the

satisfaction of the Secretary of the Treasury, under such regulations as he may prescribe, to have been actually paid per pound on the cotton from which said articles are manufactured.

Mr. SUMNER. I should like to have an explanation of that amendment.

Mr. SHERMAN. The Committee on Finance are in favor of levying a tax on cotton, but not in the form proposed, and we differed in regard to the mode of the drawback when the article was manufactured in this country and exported. On the whole, I think it would be better to let the section go out, and let the committee of conference draft a section which will cover the whole matter. We propose to strike it out. I am, however, in favor of a tax on cotton.

Mr. GRIMES. I should like to know how the committee of conference is going to know what is the sense of the Senate on that subject.

Mr. SHERMAN. The Senate will be represented.

Mr. GRIMES. The Senate will be represented, but a committee of conference professes to carry out the views of the Senate on important questions. How are they going to know unless we have some action on it?

Mr. SHERMAN. In order to raise the only question there is in this whole matter, (I suppose it is in order to amend the part to be stricken out,) I move to strike out all after line ten, so as to leave the tax on cotton.

The VICE PRESIDENT. The question then is on striking out so much of the section as follows the tenth line.

Mr. SUMNER. I should like to know of the Senator whether he proposes anywhere a modification of the tariff to correspond with the change in the tax on cotton.

Mr. SHERMAN. The tariff ought to be modified or the present drawback remain. Let me state the law now, and Senators will see the difficulty. This section proposes to tax all cotton produced in this country six cents a pound until the 1st of July, 1866, and after that five cents a pound. The latter clause of the section allows to the domestic manufacturer a drawback, when he exports any goods made out of American cotton, to an amount equal to the amount of the tax. That is the proposition. That is, upon every pound of cotton cloth manufactured in this country, when he exports it for a foreign market he is entitled to a drawback of six cents a pound. This is so marked a discrimination in favor of our industry as to amount to a bounty almost equal to the cost of manufacture. What is the cost of manufacturing a pound of cotton, I ask my friend from Rhode Island—ordinary sheeting?

Mr. SPRAGUE. About twenty cents.

Mr. SHERMAN. If I am correctly informed, a pound of cotton makes in ordinary sheeting about five yards.

Mr. FOSTER. Three.

Mr. SHERMAN. I rely on my friend, [Mr. SPRAGUE,] who is engaged in the business.

Mr. ANTHONY. He refers to printed goods.

Mr. SHERMAN. He says from three to six, and I take five as a medium. It is proposed to pay to the American manufacturer for exporting cotton goods an enormous bounty. Suppose that in this country we produce a million bales of cotton, and of that quantity we manufacture five hundred thousand bales, and export the other five hundred thousand bales. In the first instance it all pays alike a tax of six cents a pound. But suppose that one hundred thousand bales of that which we manufacture here is exported to foreign countries in the manufactured shape, we are to pay out of the Treasury of the United States to the manufacturer or the exporter six cents a pound upon all the cotton so manufactured, while if it is manufactured in England we get the whole amount of the duty. Can we afford to pay such a bounty to the domestic manufacturer? The amount of bounty that would be paid to the domestic manufacturer is at least one third and perhaps one half the entire cost of the manufacture.

Mr. FARWELL. I desire to inquire of the chairman if there is no provision for a drawback on the raw cotton exported.

Mr. SHERMAN. There is no provision for a drawback on the raw cotton. If raw cotton is exported it pays us a duty; but if we manufacture that cotton here, add to it a little labor, and then export it, it is proposed that we shall pay back

to our manufacturer all the duty, so that so far as revenue is concerned the United States would be interested under this system in having all our cotton manufactured abroad. The United States as a Government would be interested in preventing a single pound of American cotton from being manufactured for exportation. It seems to me that is wrong.

But on the other hand the home manufacturers say that we levy a duty on cotton of two cents when we import it, and that the English manufacturer gets his cotton free of duty, and that the English are now using a large quantity of India cotton on which they pay no duty, while if the American manufacturer uses the same cotton he must pay a duty of two cents in gold, and that the present tariff law is a discrimination against him if you do not allow the American manufacturer some drawback. We propose to put him on the same footing as to our domestic cotton with the foreign manufacturer, but he says he will be laboring under a disadvantage if he should be compelled to use the short staple cotton, and therefore the effect of our laws will be a discrimination against him. But in reply to that it may be said that under the present law, which is not repealed by this bill, we allow a drawback of two cents a pound on all domestic cotton manufactured and sent abroad. It seems to me that is enough.

I do not want to be unjust to our domestic industry. I want to give it fair and reasonable protection and give it the benefit of our tariff law, but it seems to me that to give a bounty of six cents on every pound of cotton manufactured in this country which may be exported would be giving a bounty which the Treasury cannot bear. It would make it the interest of the United States, plainly and palpably, that the cotton produced in this country should be manufactured abroad rather than at home, because if manufactured at home and sent abroad in the form of the manufactured article we should not get a single dollar of revenue from the cotton. Under the operation of the section as it stands, we get six cents a pound tax on the cotton if it is manufactured at home and consumed here, but if it is manufactured here and then exported we do not get a cent except simply on the wastage in the process of manufacture.

Mr. JOHNSON. That "simply" includes a great deal.

Mr. SHERMAN. The law now allows them a drawback.

Mr. COLLAMER. I understand the Senator from Ohio to say that the two cents drawback is not repealed.

Mr. SHERMAN. The old law imposed a duty of two cents and allowed a drawback of two cents.

Mr. COLLAMER. Does the Senator propose to repeal the drawback?

Mr. SHERMAN. This section of the House bill proposes to give the full six cents as the bounty, so that we get no revenue.

Mr. COLLAMER. But how does the Senator propose to have it?

Mr. SHERMAN. The amendment is to strike out the drawback here, leaving the old drawback to stand. This amendment leaves the present drawback of two cents a pound as a compensation against the duty imposed by the law and to put our home manufacturer on as good a footing as the English manufacturer. I do not know whether it accomplishes that purpose. My desire was to leave this whole question open for the committee of conference. Gentlemen who have conversed with me from the manufacturing States say that this is not fair to their States.

Mr. COLLAMER. We cannot live under it.

Mr. SHERMAN. I do not want to be oppressive, but at the same time I do not want to refund a tax which we have levied and which we have levied alike on all cotton. I do not want to give up those taxes merely to induce the manufacture here.

Mr. ANTHONY. The internal revenue tax upon a pound of cotton manufactured is a great deal more than the drawback. I do not know what language to use to make it plainer, that when we impose a tax upon the raw material we should allow a drawback upon the exported manufactured article. I think that principle runs through our whole legislation.

Mr. SHERMAN. That is done except in this case. There is no other manufacture in which the raw article is exported from this country to the foreign manufacturer. For instance, when a steam engine is made in this country and is exported, we allow a drawback of the last tax, not of all the taxes, the five per cent. tax on the manufacture, and then it must come in competition with an engine made in England, and the raw material out of which it is made being all furnished in England free of tax, to put our home manufacturer on the same footing with the English manufacturer we must allow a drawback. That is clear and manifest, and that the law does; but in this case we produce the cotton, we levy a tax upon the cotton, it goes to England and is there manufactured. There is the difference.

Mr. ANTHONY. That theory would hold good if there was no cotton used by the English manufacturers except what they get from this country; but a very large portion, much the largest portion, of the English cotton goods are manufactured from cotton that is raised in other countries and that comes into England without paying any duty whatever. We have a considerable export of cotton goods; I suppose my colleague can tell better than I can how much it is; I suppose it is not over four or five million dollars' worth at present; it has been more than that. If this amendment prevails not a yard of cotton goods can be exported, and we shall have to send out of the country an equivalent value in gold to make up for the deficiency. All the cottons that we send to Brazil, where we are competing with the English, would be cut off.

Mr. HOWE. How cut off? Do they not pay the same duty?

Mr. ANTHONY. They do not pay the same duty, because they manufacture from cotton that pays no duty. They will not get it from us cheaper if we have to pay six cents a pound duty.

Mr. CLARK. Allow me to ask the Senator from Ohio a question on this point. I understand him to say that if a tax is laid upon cotton in this country, and a drawback is laid when it goes abroad, it produces nothing to the revenue.

Mr. SHERMAN. It does not on the cotton itself.

Mr. CLARK. If you lay such a tax as to kill all your export trade, are you not exactly in the same condition?

Mr. SHERMAN. I do not believe that will follow. I do not see how it can.

Mr. CLARK. If it could follow, we should be in the same condition precisely.

Mr. SHERMAN. Yes, if that was the fact.

Mr. JOHNSON. I think my friend from Ohio is entirely mistaken in this case. In the first place the drawback in all such cases is allowed to enable our manufacturers to compete with those of England in the same material. They receive in England the cotton without paying any duty.

Mr. SHERMAN. They do not receive ours unless they pay this six cents.

Mr. JOHNSON. What I mean to say is that there is no duty imposed upon it in the hands of the English importer.

Mr. SHERMAN. Yes there is.

Mr. COWAN. We do not allow a drawback on raw cotton; that is the peculiarity.

Mr. JOHNSON. I understand that very well. This tax is six cents on the pound. How many pounds of cotton does it take to make one pound of cloth?

Mr. CONNESS. I feel interested in hearing this discussion. I do not think it belongs to a few Senators. I trust the Senator from Maryland will address the whole Senate.

Mr. JOHNSON. Sometimes it is objected to me that I speak rather too loud. How many yards of cloth does it take to make one pound of cotton? There is an allowance of twenty per cent. for waste, which is hardly good for anything. You get the tax on that, do you not? Six pounds of cotton make five pounds of cloth. You get that. Is it not all-important that our cotton manufacturers should be put upon a footing to compete with the English manufacturers? We now do compete, as I understand; we have done it for a good while in the coarser kinds of cloth; we send cotton goods all over the world; but if you refuse to allow this drawback we shall not be able to send any. There are some of the manufacturers in the East, I think, whose establish-

ments have been constructed for the very purpose of competing with the English manufacturers, and to refuse this drawback will close their doors; and therefore, even if you did not get revenue by this particular mode of taxation, you get it in another way; you get it because our ability to compete abroad increases very much the wealth of the country, and upon that increase of wealth you have the power to tax and you do tax. You tax this very product; and the direct internal tax, as my friend from Rhode Island [Mr. ANTHONY] suggests, amounts to more than would be this drawback, and if you break down the trade you lose that direct tax at once.

Mr. HENDERSON. Under the law of 1864 a tax of two cents a pound was imposed on the raw material, cotton, and in section one hundred and seventy-one, in relation to drawback, it was provided that "there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw or unmanufactured cotton, refined coal-oil, naphtha, benzine or benzole, distilled spirits, manufactured tobacco, snuff, and cigars of all descriptions, equal in amount to the duty or tax paid thereon, and no more." But when they came to cotton manufactured they declared that an additional drawback should be allowed. Under that law, upon cotton manufactured, an *ad valorem* duty of five per cent. was imposed, and whenever an exportation takes place, of course that five per cent. *ad valorem* is paid back to the manufacturer or to the party exporting; but the law-makers of 1864 were not satisfied with that drawback, but they gave an additional drawback. The provision is in a proviso to section one hundred and seventy-one:

"And provided further, That in computing the allowance or drawback upon articles manufactured exclusively of cotton, when exported, there shall be allowed, in addition to the five per cent. duty which shall have been paid on such articles, a drawback of two cents per pound upon such articles, in all cases where the duty imposed by law upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury."

Much to my astonishment Senators rise and say that if the proposition of the committee shall be adopted it will be utterly impossible any more to export cotton fabrics from this country abroad. Why? Will some Senator tell me why? I do not understand it. Does not the cotton manufacturer, when he exports the article, get back what he paid? He surely does; he gets back every dollar paid under the revenue law. Does he not get it back just as any other exporter of an article gets it back? Take the article of tobacco, that is manufactured very largely in my State. I ask Senators if there is any difference whatever between the cases. When we export the article of tobacco what do we get back? We get back the thirty-five cents a pound that we paid upon the article. Do we get back the two dollars a gallon on the whisky and brandy used in its manufacture? Do we get back the duties paid by the owners of the sugar and the liquors that go into the manufactured article? Why not give all that back to us? Large quantities of brandy are used in the manufacture of tobacco, upon which we have to pay two dollars per gallon first proof.

Mr. FARWELL. Allow me to ask the Senator if the weight of tobacco is not increased very much when it is manufactured from the leaf to the exported product?

Mr. HENDERSON. Not at all. I can tell the Senator that brandy is used simply for the purpose of preserving the article, and that it is largely or nearly entirely evaporated. It may increase somewhat, but not materially, and we get no drawback for that article; we only get the drawback on the thirty-five cents a pound we pay after the article has been manufactured.

Now, we are told most strangely, indeed, that unless the manufacturer of cotton gets back the tax that was paid by the man who purchased the article of cotton in Louisiana, or in Alabama, he cannot afford to export it. I do not put my judgment above that of other Senators, but I say that if that be true you ought not to levy this tax upon the cotton, for it is an export tax. How dare you levy an export tax, anyhow? If this be an export tax, how can you levy it? If it be justifiable in any sense of the word to levy this tax on cotton, it is simply because the demand in other portions of the world is such as to make

the foreign manufacturer pay the tax that is levied on the raw material. Is it not so? Why do you levy this tax of six cents a pound on the raw material of cotton in this country now? It is simply because you believe the demand for the article in Europe is such that you can make the manufacturers in England and France pay the tax. If you cannot do that what right have you to impose this unjust burden on the man that is bound to export cotton from this country? It is indirectly an export tax, unless the demand of foreign countries be such as to justify you in imposing this tax and refusing drawback, because you do not allow the drawback on the exported article in the raw or unmanufactured shape. Why is this? It is simply because you believe the foreign manufacturer will pay the duty. If you cannot make the foreign manufacturer pay it, you have no right to levy it, and you cannot levy it without breaking down an industrial pursuit. Is not that proposition as clear as any proposition can be? Why is it that the Constitution says that you shall not levy an export tax? Because, if Congress had that power, where an article of industry in this country was produced in any State in excess of the demand in this country, the people of that State would be literally ruined.

Now, why is it not proposed to levy this tax on cotton? Simply because you can make the foreign manufacturer pay it. If that is true, how do you hurt the manufacturer in this country by refusing to give him a drawback on the raw material after it is manufactured? I say this proposition cannot be gainsaid: if you cannot make the foreign manufacturer pay this tax which you levy when the article is exported, you ought not to levy it; if you can make him pay it, you ought not to allow the manufacturer to have the drawback when he exports. You give the manufacturer everything that you took from him. It is true you have increased the price of the cotton in the hands of the manufacturer, but can the foreigner get it without having the increased price put upon it? Can he get it without having this six cents tax imposed upon it? He cannot, and you all know it. If he can get it otherwise, you are not justified by the Constitution, by common sense, by reason, by common regard to the industrial pursuits of other portions of the country, in levying any such tax; but if you can make him pay for it, he cannot get the cotton any cheaper than our manufacturers can, and cannot get it as cheap, because he has to pay not only the six cents a pound, but the cost of transportation, the laws of interest, and everything of that sort, before he can get hold of the raw material. When he does get it, he can manufacture probably no cheaper than our manufacturers. If he can manufacture as cheap, we come in fair competition. From the manufacturer we now take five per cent. *ad valorem*. Under this bill we propose to take six per cent. *ad valorem*, and when he comes to export to give him back every dime we took from him.

What is this proposition? A man in the city of New Orleans purchases cotton. A gets it there; he sells it to B, B sells it to C, C sells it to D, D sells it to the manufacturer in Baltimore or Boston, Rhode Island or Connecticut, or elsewhere, wherever it is manufactured, and it is manufactured in a great many places. When it is put into the manufactured fabric by the manufacturer he has to pay six per cent. *ad valorem* under this bill. When he exports the article he gets back the six per cent.; but he says, "I am not satisfied with that." Why? "A, down at New Orleans, when he got this cotton paid six cents a pound tax on the raw material, and I want that also handed back to me." I say he never paid a dollar of it; but he says somebody paid it. It is true somebody paid it; but did the foreign manufacturer get the cotton which he used for one cent less than the manufacturer here? If he did, do not impose the tax. Hence I voted for striking out the tax. I saw that the manufacturers of the northern States did not feel easy under the provision; they did not like it; they thought we of the West were doing them injustice. Then I said, "I am perfectly willing to go back to first principles; strike out the tax on cotton entirely, and then you cannot grumble." They did not see, however, that they would be any better off. The foreign manufacturer gets the raw material as cheap as our manufacturer, except the cost of transportation, loss of interest, &c.



Mr. COWAN. I should like to ask my friend from Missouri whether it is not strictly in accordance with the spirit of the Constitution that all articles of every kind when exported should be relieved of any internal burden, simply for the reason that the Constitution forbids any duty upon exports, and whether, therefore, it would not be right, if the raw material is taxed and then exported, to allow a drawback upon that; whether if it be manufactured and exported the drawback ought not to be allowed upon that; whether, in other words, the drawback is not for the purpose of accommodating our internal system of taxation to the provisions of the Constitution which forbids a duty on exports.

Mr. HENDERSON. I have no time certainly to enter into that constitutional question; nor do I know that I am qualified without further examination to discuss it. I am stating now what my course was in the Senate. The Constitution says that "no tax or duty shall be laid on articles exported from any State."

Mr. DAVIS. If the honorable Senator will permit me, I will make a single suggestion. It seems to me that that inhibition of any duty on any article to be exported is in the form in which it is proposed to be exported; and any tax put upon the article before it had assumed the form in which it was proposed to be exported could not be the subject of drawback.

Mr. HENDERSON. I am not disposed to be led into a discussion of that question, because it will take up more time than the Senate has or will have. I am speaking of it now as a question of policy, and of the course that I pursued in committee, and the course I am willing now to pursue before the Senate. I am willing to vote with gentlemen who are interested in the manufacture of this raw material, to strike the whole tax out, or I am willing to sustain the report of the committee as presented, so far as my vote is concerned; and of course I carry no further influence than my own vote. If gentlemen insist on taxing cotton, the raw material, they certainly do it upon the ground that it can stand the tax; that the foreign manufacturer must pay the tax we levy here. It can be done on no other ground. It cannot be justified otherwise. You may talk about this constitutional question as much as you please; but if you have the right to come into my State and to say to my State, growing an agricultural article of production in excess of the demand in this country, that you will impose a duty upon the raw material and compel us to export it without giving us a drawback, you can break down the industry of any State in the Union. I do not intend to discuss the constitutional question, but I say the practical effect would be the destruction of the industry of any one of the States of this Union. You cannot levy this tax without admitting that the foreign manufacturer is bound to pay it; and if that be true I take it for granted you ought not to have a drawback after you have manufactured the article. Therefore I say that so far as my vote goes, if you insist that the raw material shall pay the tax, I shall insist after that that you shall not have a drawback except to the amount you paid upon the manufactured article, the six per cent. *ad valorem*.

Mr. DAVIS. Mr. President, in my opinion no tax can be imposed upon the raw article, the cotton, that is exported, and no impost or tax can be imposed upon any article that is presented at the port of departure for exportation. No impost tax can be placed upon wheat because in that form it is proposed to export the article. When wheat is made into flour and is proposed to be exported, the ship loaded, and a clearance obtained, no tax can be imposed upon the flour; and if the wheat has paid an internal tax, you cannot ask a return to the exporter of the amount of internal tax paid upon wheat. I present that article simply for illustration. My idea is that where an article is produced in the country, and by the process of any manufacture its form is changed, it is only the impost upon the form that it has assumed when it is proposed to be exported that can be claimed as a drawback. But a return of any tax imposed on it in any form in which it had existed before this transformation into the particular condition or form in which it is proposed to be exported could not be claimed as a drawback. The article prohibiting the tax is simply that "no tax or duty shall be laid on articles exported from any State."

It is the article that is proposed to be exported to which this prohibition of tax implies. You may extract bullion from the mines. That is a raw material. You cannot, in my opinion, tax the exportation of bullion in that form; but if you work it up into plate and jewelry, and propose to export that, that plate and jewelry are subject to exportation, but the exporter of them in that form is not entitled to a drawback for any tax that was imposed internally upon the original article.

On the subject of cotton I entertain a very confident opinion, and a very clear one, to my own mind at least. Cotton is a raw material in its raw state. If it is proposed to be exported in that form you cannot impose a tax upon the export, because it is an article in that form that is proposed to be exported; but if you spin that cotton into yarn, you cannot in exporting the yarn claim a drawback for any tax imposed internally upon the original cotton wool. The same is true where cotton is manufactured into cloth or into any fabric whatever. If you propose to export the fabric that is manufactured from cotton in that form, it is exempt from any export duty; but if you export it in that form the exporter cannot claim as a drawback any tax that has been imposed upon the raw material or the cotton wool, or even upon the cotton-spun yarn. He is simply entitled to an exemption for tax upon the article in the form in which he proposes to export it. He is entitled to exemption of any impost tax upon the article that he proposes to export. The inquiry is, what articles does he propose to export? If it is the raw cotton, he is entitled to exemption from an impost duty upon the article in that form. If it is a cotton fabric, he is entitled to exemption for any impost duty upon the article in that form; but he is not entitled, as a drawback, to any impost duty that has been paid upon the raw material before it has been manufactured into cloth. I think that is the whole of it, and very plainly so.

Mr. SUMNER. This is a very important question. I really wish that it could have the attention of the Senate. It certainly has not had it thus far. I believe, upon the whole, that the proposition of the Senator from Ohio to strike this whole section out and carry it to the conference committee is the best thing that can be done under the circumstances, though I think that ought not to be done without the consideration of the Senate, so that the committee may have, in a certain sense, instructions from the Senate as to what course they shall pursue. Thus far in the debate the discussion has been confined to the latter part of the clause relating to a drawback. It is that that has occupied the attention of the Senator from Kentucky, and also of the Senator from Missouri; but to my mind the earlier part of the clause is perhaps more important in its bearings. The latter part, which the Senator from Missouri discussed, relating specifically to the drawbacks, is necessarily applicable only to those cottons that are exported. Now, the tax of six cents a pound, which is imposed in the beginning of the section, is applicable to all cottons at home; and it is to that that I wish to call the attention of the Senator from Ohio. If that tax is imposed without some corresponding change in the tariff the greater part of the cotton mills of our country must stop. So far as cotton is manufactured at the West, the business will be suspended. In New England—

Mr. SPRAGUE. They are about all stopped now.

Mr. SUMNER. Very well; the Senator says they are about all stopped now.

Mr. CLARK. Then they cannot start again.

Mr. SUMNER. They cannot start then, as the Senator from New Hampshire suggests; but there is the practical point which has not been touched in this discussion thus far. If you impose a tax of six cents on cotton you make it impossible for the American product to compete with the English product. The result will be that your country will be flooded with the English cottons manufactured from Surat cotton. They are coming in now; but then if you add a tax of six cents a pound, the flood will go on until the cotton business of this country will be entirely overflowed. I have one or two figures relating to that point which are important:

"Goods from Surat cotton, three and a half yards to the pound, forty-eight threads warp and forty-eight threads

filling, come in at one cent and a quarter per square yard. Now a tax on cotton of six cents per pound would be a tax of nearly two cents a yard on these goods; six per cent. on the manufacture would be from one to three cents more; and even with gold at 200 these English-made goods would come in freely. I am told that Mr. Stewart, in New York, is now importing freely."

Mr. GRIMES. Will not all that be remedied by increasing the tax?

Mr. SHERMAN. That whole difficulty has grown out of an error in the former tariff law. If a line had been engrossed as it should have been that defect would have been corrected.

Mr. SUMNER. But the practical point I was coming to is, will it be corrected? If, for instance, you raise the tax on cotton to six cents a pound without some corresponding change in the tariff, where are you? The point that I am calling the attention of the Senate to is precisely this, that with an increase of the tax on cotton to six cents a pound, and without any corresponding change in the tariff, you ruin the cotton business of the country. I do not go into the question of drawback which other Senators have discussed. I confine myself to the question of the tax of six cents a pound on cotton. As this whole subject is now going to pass into the hands of a conference committee I desire that the committee should be prepared to deal with that aspect of the question, and that if they do impose a tax on cotton they shall see that the tariff is amended so as to correspond.

Mr. SHERMAN. The tariff bill is now pending in the House of Representatives, and I presume will be passed. The defect to which the Senator refers will, I think, be corrected. I am perfectly willing to give a reasonable and fair protection, more than equal to our internal tax. I am here now between two fires, and I wish to state the position in which we are placed. A number of Senators are opposed to all tax on cotton on the ground of principle. Other Senators say they are opposed to the tax on cotton unless we will allow a drawback on that which is manufactured at home and exported abroad; and between the two I am afraid we shall lose all revenue from this article, from which I think we ought to derive a large revenue.

There is no constitutional difficulty in the way. The Senator from Kentucky a while ago stated the correct principle. We may levy a tax on the horses of this country, and if they are exported certainly the duty that had been paid upon them would not be remitted. So of carriages; we may levy a tax on carriages here in this country, and if we should happen afterward to export the carriages no one would think of refunding the tax. We may levy a tax on cotton or any other production of this country; and if we levy it on what is consumed at home as well as what is exported abroad it is not an export tax. An export tax within the meaning of the Constitution is a tax levied on an exported article from which the article consumed at home is exempt. That is the meaning and the definition given in the books on taxation. An export duty is a duty levied on the exported article. Where the duty applies to the article consumed at home and abroad it is not an export duty. It is a duty or an excise according to the nature of the article taxed. There is no difficulty, therefore, in my judgment, in the way of our taxing cotton.

The question is how can we levy that tax so as not to do injury to our own industry? The Senator from Rhode Island said that the domestic manufacturer labored under some difficulty in competing with the foreigner. That is a mistake. By the tax on manufactures there is a duty of five per cent. internal tax levied on all manufactures of cotton, and not one cent more in any form. That is the aggregate of internal taxation on manufactures of cotton in any form. When this manufactured article is exported every cent of that is refunded under the operation of the law as it now stands. The Senator from Missouri is right on that point. If these manufactured cotton goods are exported to a foreign country every cent of duty paid here at home is refunded in the first instance, so that the article may be exported free of any duty whatever levied in this country. That was done to put the manufactured article here on the same footing with the article manufactured abroad. That is the present law. Now Senators want us to impose a duty of six cents on all cotton, to be levied on the English purchaser

as well as upon the home purchaser, so that they are then put on the same footing precisely, and then after that is done they want us to say to the home manufacturer, "If you will manufacture this cotton in Lowell we will pay you back all the duty we collected from you."

Mr. COLLAMER. If it is exported, not manufactured.

Mr. SHERMAN. Well, if you will manufacture it at Lowell and send it abroad we will pay you back all we collected from you; but we will not pay the Englishman who has taken it to Manchester and manufactured it. In other words, we pay to our home manufacturers, in addition to the drawbacks already allowed by law, a direct bonus or bounty of six cents a pound for all that is manufactured in this country for foreign markets.

Mr. CLARK. The Senator should remember that the Englishman has another kind of cotton out of which he can manufacture the coarse goods and drive you out of the market if you impose that tax.

Mr. SHERMAN. On that point I will say I am willing to give to our manufacturers an amount of drawback on raw cotton equal to the amount of our duty on raw cotton. That puts them certainly on the same footing. I am willing to go further. I am willing to admit this Surat cotton free of duty, and put you precisely on the same footing as the English manufacturer; and then I am willing in addition to that to give you a larger duty on the manufactured article so as to enable you fairly to compete with foreigners.

Mr. CLARK. I want the Senator to think for a moment whether we can tax a product so fine as our cotton to that extent that it can be made to compete with the coarse Surat cotton.

Mr. SHERMAN. I am willing to do anything to put the domestic manufacturer on a footing with the foreign manufacturer; but I am not willing to put my hands into the Treasury of the United States, and give every man who manufactures a pound of cotton in this country for exportation six cents a pound on his exportation. That is the result of it. I am perfectly willing to let the present law stand, which gives you the two cents a pound, which was intended as a kind of offset.

Mr. CLARK. If the Senator will permit me, that assumes that if you tax the cotton that goes into the article to be manufactured you will not be driven out of the market, as you undoubtedly will.

Mr. SHERMAN. Why?

Mr. CLARK. When you tax the cotton and manufacture taxed cotton, and attempt to export the fabric, you will lose your entire foreign market.

Mr. GRIMES. How much is the foreign market?

Mr. CLARK. It has been from three to five and six millions a year.

Mr. SHERMAN. Mr. President, the history of the last three years has shown that when cotton was worth more than one dollar a pound the English people came here and got all they could of it; and when it goes down they will gladly come here and pay the reduced price and pay the six cents a pound to us, and carry it abroad and manufacture it.

Mr. CLARK. I do not desire to disturb the Senator in his argument; but I will ask him whether he would take the condition of things which has existed for three years in this disturbed state of the market as a criterion on which to judge of trade? For two or three years the British could not get this Surat or Egyptian cotton in any sufficient supply, and they were obliged to take our cotton at almost any price; but now they have got the market full of that kind of cotton, and are under no necessity of taking ours, no further than ours is unquestionably the better article.

Mr. SHERMAN. I am perfectly willing to put the two on the same footing in the purchase of cotton, and then give the American manufacturer any reasonable amount of protection for the home consumption. I have sufficiently explained my purpose. My own conviction is that it is better to let the drawback stand precisely as it is now, to levy the increased duty on cotton, giving the drawback of two cents a pound under the present law. But in order to leave the mat-

ter open I am perfectly willing that the suggestion of the Committee on Finance be acted upon, and the whole section be stricken out and the matter left to a conference committee.

Mr. CLARK. My judgment is that at this late period of the session the amendment of the committee had better be adopted; and I want to suggest to the Senator from Ohio that when we laid a duty of two cents a pound on cotton we thought it wise to put on a drawback; and now he proposes to put on four cents additional, twice the amount put on in the first place, and give no drawback. It would ruin the trade.

Mr. SPRAGUE. In this connection, I desire to state very briefly the condition of the manufacture of cotton in this country. It is peculiar. I wish every Senator to know the fact, and I state it as a fact, that one fourth of the cotton manufacturing of this country at the present time is employed and three fourths is idle. It is owing to the taxes; it is owing to the condition of the country; it is owing to the restrictions upon the outlet of cotton; and it is owing more, perhaps, than to any other cause, to the restrictions in the cultivation of cotton. The difficulties attending its production have so increased the price that there is not a manufacturer in the country to-day who is willing to buy the article. Nobody can afford to pay the price that is required to manufacture and to bring into market any article of cotton. A yard of cotton cloth which a few years ago could be purchased at five or ten cents a yard is to-day from forty to fifty cents a yard; and that is purchased by those people who are unable and cannot afford to pay for the article they require. There is no article that they can use as they can use cotton. They cannot use woolen in certain seasons of the year. They are obliged to use cotton.

Sir, the policy of the Government as exhibited by this tax bill, is to tax an article which the people of the country require as a necessity, and the price of which, if produced, is beyond anything they can purchase. The result of that policy is that the great manufacturing interest of this country has been obliged to reduce its operations, to my personal experience, to one fourth its usual operations. The people of this country will not consume the article which you tax. You would derive more revenue from a duty of three per cent. on cotton than you would from a duty of five per cent. or six per cent. as you now propose. I find fault with the policy of those who have charge of taxing the industry of this country that they do not seem to discriminate between those articles that are subject to the conditions of this war and those articles that are not. Here is this article of cotton. I ask Senators to look at it. The price of cotton has risen from ten cents a pound up to two dollars; and still the Senate of the United States seem to find no pleasure except in continuing to tax it. It is an article that is used by the poorest class of the people of this country.

I have very little interest in making these suggestions to the Senate. I do not care one iota, so far as I am personally concerned, what tax they impose upon cotton or its manufacture. But, sir, these increased taxes affect a class of persons that can ill afford to pay them. The salary and wages of the persons who wear and consume this article, even at this time, will not permit them to pay this exorbitant price which has been occasioned by this war, by the blockade, and by the taxes imposed by the Government.

Sir, nothing has made me tremble more, or fear more for the safety of this Government, than the discriminations which I have seen exhibited by those who have charge of levying taxes and duties upon the interests of the country. Such discriminations are made and duties are imposed on interests ill able to bear them in almost every item of the bill under discussion. From the votes that we have had here this evening I have no hopes that the industry of this country will in any way be protected; that those who have a right to be protected, those who are poor, those who require a cheap commodity, will in any way be regarded here. I simply desire to enter my protest against this constant, this every day desire on the part of Senators, who apparently see but one great interest to tax, and seeing no other, desire to tax that regardless of whom it may affect.

Mr. SHERMAN. I rise for the purpose of ask-

ing the Senate to let us take a vote at once on these various amendments. This bill has yet to go for revision in its various features to a committee of conference, and then when that committee have reported, every Senator can vote for or against the result of that report. The state of business is such that it is almost indispensable that we should finish this bill to-night. It must go to a committee of conference at any rate. To-morrow we shall have the Indian bill, the civil bill, the tariff bill, and I do not know how many others. I therefore appeal to the Senate to let us take a vote on these various amendments, and let the bill go to a committee of conference, and then each Senator can act as he chooses on the report of that committee. It is an unpleasant mode of proceeding; it is a totally indefensible system of legislation ordinarily, but we are just in that condition that we are compelled to do this or the bill will be lost. I shall withhold any debate myself upon the various amendments, unless where explanations are required, and I shall even not oppose one or two amendments to which I am much opposed, especially that in relation to bank taxation, in order to have them presented to a conference committee, and then when that committee shall submit a report every Senator can vote for or against that report.

Mr. HENDRICKS. On any ordinary measure I would agree to the proposition of the Senator from Ohio, but on this bill I will not. Rather than submit this measure to a committee of conference to legislate for us without the possibility of our knowing what the law is that is to tax the people, I will stay here day after day until we adjourn. Yes, sir, I will consider an extra session a calamity much less than the misfortune to the country of passing this tax bill without every Senator who desires to understand it having an opportunity to understand it. I think that the bill has come before this body in a very singular shape. It is a very difficult bill to understand. We cannot read the bill and know what it is. We must examine the past legislation of the country, and know to some extent the confused decisions of a not very competent officer in the Treasury Department. I speak of the head of the Revenue Department of the Treasury, not of the Secretary. Whether we can get through this bill or not to-night, I do not choose to discuss. I will sit here as long as it is the pleasure of the Senate to stay; but I am not willing to extend this system of legislation by committees of conference.

I have a little to say about the particular question that is before the body. I understand the proposition of the Senator from Ohio to be to strike out all after the tenth line of this section. I will ask the Senator if that is so.

Mr. SHERMAN. Yes, sir; but I intend to withdraw it. I will allow it to stand so as to hear what the Senator has to say on the subject; but I have made up my mind to let the whole section go out.

Mr. HENDRICKS. Mr. President, I supposed this was a bill for revenue, and not a bill for protection; and I understood this section to be based upon the idea that we might look to the production of cotton in this country as a source of revenue. The tax now is two cents per pound. This bill for a time proposes that it shall be six cents; that the production of cotton will justify that tax, whatever use may be made of the cotton. If that is the judgment of the Senate, let it be so; but I am inclined to agree with the Senator from Rhode Island that this is a very terrible tax. Cotton used to be produced in this country, and sold to the manufacturer at eight cents a pound, and then the people got clothes that they could pay for. The Senator from Rhode Island intimates that the price will soon go up to such a point that the people will not be able to buy clothes. I do not desire to see that. I do not expect to vote for this very high tax; but if it be adopted by the Senate at six cents a pound, then upon what idea is it adopted? That the cotton, when produced, will bear that tax, whether sold to the foreigner, or sold to our own manufacturer. If I understood correctly the position of the Senator from Kentucky, I do not quite agree with him.

Mr. DAVIS. Will the honorable Senator permit me to state my position in a word or two? It is simply this: a drawback may be allowed upon the export of articles upon two principles: first, that the article is not properly subject to the tax

in the form in which it is proposed to be exported. For instance, whisky is taxed at the distillery. If whisky in that form is exported, my opinion is that the tax upon the whisky that has been paid in that form may be refunded, and ought to be refunded, because in that form, being exported, it is not subject to a tax at all. But, on the contrary, if cotton is manufactured into a fabric in that form, and if it is exported, it is not subject to a tax at all, because there is a prohibition of a tax upon exports; but the man who exports it is not entitled to have a drawback for any tax that has been imposed upon the raw cotton wool, upon the principle that raw cotton wool if it is exported in that form would not itself be subject to a tax; in other words, that it is only the article in the form in which it is proposed to be exported that is prohibited from being taxed by the provision of the Constitution which prohibits any tax upon exports. I admit that Congress may give the benefit of a drawback—I may call it a drawback—upon the exported cotton fabric; but that is not a protection given under the provision of the Constitution which says that "no tax or duty shall be laid on articles exported from any State."

It would be simply in the nature of a premium or a bounty upon the export of the article in that form. My own opinion is that the raw material ought not to be taxed for home consumption, because, in my judgment, it would be impolitic and would be oppressive to the people to put this tax upon the raw material that is to be manufactured and consumed at home.

Mr. HENDRICKS. I hope the Senator from Kentucky will take it in good part if I suggest to him that he always expresses himself so very clearly that it is but seldom necessary for him to interrupt any gentleman to restate his position. I think I understood him correctly before.

I think myself that an internal tax may be imposed upon any article if that tax has no reference to its exportation; but if it be a tax with a view to the exportation, it cannot be laid. Suppose there are a thousand bales of cotton produced in any particular locality. Those thousand bales may be taxed at the rate of six cents a pound in the locality where they are produced, and afterward a portion of them may be sold to the manufactory in the northern States, and a portion may be taken to port and sold abroad; but they go out with the cost that is upon them at the time they reach the port. One objection that I have to this section is, that I think, in spirit, it does violate the Constitution. It proposes that the cotton that is used in this country shall not pay six cents tax, but that all cotton that is exported and sold abroad shall pay six cents. Although in words it may not be a violation of the Constitution, it is in effect. I should like to have the attention of the chairman to that proposition, that as the section stands it taxes cotton that is used in the country nothing.

Mr. HOWE. Oh, no.

Mr. HENDRICKS. Yes, sir, it taxes it nothing, for the reason that if the manufactured article be carried out of the country, then there is a drawback to the full extent of this tax.

Mr. SHERMAN. But that which is consumed at home will have to pay the tax.

Mr. HENDRICKS. That is so. I am speaking of the article that is manufactured in the country and afterward in the manufactured condition sold abroad. To that extent it pays no tax, while all cotton that is intended for exportation is to pay six cents. In spirit, to that extent, I think it is a violation of the Constitution; but I do not care about discussing that question at this time.

Now, sir, what right have the eastern States to ask of us that there shall be a tax of six cents a pound upon cotton, and that they shall be allowed to recover that back from our people if they sell to us; but if they go into foreign markets to compete with manufacturers abroad, that that shall be refunded? I cannot see the right of it. All that they can ask of us in imposing a tax upon cotton is that they shall have an equal chance in the markets there and in the markets abroad. In the markets at home they have more than an equal chance, because they have the protection of the tariff. They have a protection of thirty, or forty, or perhaps fifty per cent. here at home; and then if they pay the same tax upon the cotton

that the foreigner has to pay to us when he buys the cotton, it is certainly all they can ask. Has it ever been known before that they shall have an advantage given to them in their efforts to secure a foreign market? Heretofore it has been considered enough if they were placed upon equal terms and their enterprise and their labor were not crippled by any legislation on our part; but now they ask the advantage of six cents on every pound of cotton that they convert into fabrics which they propose to sell abroad. I think it is not right; and if the Senator from Ohio withdraws his amendment I shall renew it.

Mr. SHERMAN. Do you want a vote upon it?

Mr. HENDRICKS. Yes, sir; I think the proposition ought to be adopted.

Mr. SPRAGUE. It is proposed here to tax cotton six cents a pound, while cotton can be produced in other countries without any taxation whatever at as cheap a price as the cheapest in this country. I ask the Senate to understand that when they are voting on this question. The cotton produced in Mexico, in Central America, and in Egypt, is as favorable to any fabrics that are used by the people as the cotton that is produced in any portion of this country. You tax the cotton produced in this country, and permit the cotton to be manufactured in England untaxed.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment proposed by the Senator from Ohio, to strike out all after line ten of section three.

Mr. SHERMAN. I will withdraw that, and let the vote be taken on the section.

Mr. HENDRICKS. Very well; I will let it go.

The PRESIDING OFFICER. The question, then, is on the amendment of the Committee on Finance to strike out the whole of section three. The amendment was agreed to.

Mr. SHERMAN. I will offer at this place, from the Finance Committee, a new section which I believe will be satisfactory to everybody. It comes in appropriately at this portion of the bill, and therefore I would rather have it here:

*And be it further enacted*, That from and after the 30th day of June, 1865, the gross amount of all duties, taxes, and revenues received or collected by virtue of the several acts to provide internal revenue to support the Government, and to pay interest on the public debt, and of any other act or acts that may now, or hereafter, be in force connected with the internal revenues, shall be paid by the officers, collectors, or agents receiving or collecting the same, daily into the Treasury of the United States, under the instructions of the Secretary of the Treasury, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description whatever, anything in any law to the contrary notwithstanding. And all moneys now directed by law to be paid to the Commissioner of Internal Revenue, including those derived from the sale of stamps, shall be paid into the Treasury of the United States by the party making such payment; and a certificate of such payment, stating the name of the depositor, and the specific account on which the deposit was made, signed by the Treasurer, Assistant Treasurer, and designated depositaries, or proper officer of the deposit bank, and transmitted to and received by the Commissioner of Internal Revenue, shall be deemed a compliance with the law requiring payment to be made to the Commissioner, any law to the contrary notwithstanding: *Provided*, That in districts where from the distance of the office, collector, or agent receiving or collecting such duties, taxes, or revenues from a proper Government depository, the Secretary of the Treasury may deem it proper, he may extend the time for making such payment, not exceeding, however, in any case, the period of one month.

*And be it further enacted*, That so much money as may be necessary for the payment of lawful expenses incident to carrying into effect the various acts relative to the assessment and collection of the internal revenues after the 30th day of June, 1865, until the 1st day of July, 1866, and not otherwise provided for, be, and the same is hereby, appropriated from any money in the Treasury not otherwise appropriated. And it shall be the duty of such of the collectors of internal revenue as the Secretary of the Treasury may direct to act as disbursing agents to pay the aforesaid expenses without increased compensation therefor, and to give good and sufficient bonds and sureties for the faithful performance of their duties as such disbursing agents, in such sum and form as shall be prescribed by the First Comptroller of the Treasury and approved by the Secretary.

Mr. President, this is a very important provision, carefully prepared by the Secretary of the Treasury, and I believe heartily approved by every member of the Committee on Finance who has examined it. It applies the same rule in the receipt and disbursement of the funds from the internal revenue that are now applied to the receipt and disbursement of customs, and withdraws from the Commissioner of Internal Revenue all control over the money, and requires the money to be paid directly into the Treasury and paid out on warrants as any other money.

Mr. HOWE. This is a very important provision, as the Senator from Ohio states, and it is a very necessary one. I approve it entirely. I recollect a similar provision was drawn at the last session, and it was adopted by the Senate. It was then found necessary to make a great many amendments in the law in order to incorporate that with the law. I do not now recall all the amendments that were then necessary, but I recollect two provisions in the law which it seems to me will be very inconsistent with this; one of which directs the assessors of the several districts to audit the accounts of their assistant assessors and pay them by drafts on the collector; and that still stands. There is no other mode, as the law now stands, of auditing, settling, and paying the accounts of assistant assessors, except having them audited by the assessor, and paid by draft on the collector.

Mr. SHERMAN. We require in a previous amendment all these accounts to be submitted to the proper accounting officers.

Mr. HOWE. The Senator is mistaken. The accounts of the assistant assessors are not required to be presented to the proper accounting officers. There is another provision in the law which seems to me to be very incongruous with this. The law still retains in the employ of the Government a cashier of internal revenue, a salaried officer, giving a heavy bond, who will have nothing in the world to do if this amendment is adopted, as it ought to be adopted. I only call attention to these provisions.

The amendment was agreed to.

The next amendment was on page 45, section four, line eleven, after the word "benzole" to strike out the word "coal."

The amendment was agreed to.

The next amendment was on page 45, section four, line thirteen, after the word "cotton" to strike out the words "manufactured tobacco, snuff, cigars, cigarettes, and cheroots;" so that the section will read:

Sec. 3. *And be it further enacted*, That in addition to the duties imposed in section ninety-four of the act to which this is an amendment, as hereinbefore amended, there shall be levied, collected, and paid upon the goods, wares, and merchandise therein mentioned, except as hereinafter otherwise provided, an increase of one fifth or twenty per cent. of the duties or rates of duty now provided in said section, whether *ad valorem* or specific: *Provided*, That the additional duties or rates of duty herein mentioned shall not apply to coal illuminating oil, refined, and naphtha, benzine and benzole, coal, paper of all descriptions, printed books, magazines, pamphlets, reviews, and similar publications, cotton.

Mr. HENDERSON. I trust this amendment will not be agreed to. Whatever tax will be put upon tobacco will be placed in a previous section. The Senator from New Hampshire and myself have agreed upon that.

Mr. CLARK. This amendment should not be made, as we have arranged the tax in other parts of the bill. I hope, therefore, that the amendment will not be agreed to.

The amendment was rejected.

Mr. MORRILL. I should like to inquire whether it is in order to move an amendment to this section.

The PRESIDING OFFICER. Not until the amendments of the committee have been concluded.

The next amendment was to strike out the fifth section of the bill, in the following words:

Sec. 5. *And be it further enacted*, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866.

Mr. GRIMES. On that I want a vote.

Mr. CLARK. I ask the Senator from Ohio who has charge of this bill to allow that amendment to be passed until we come to consider the one at the end of the bill, which, I suppose, he intends to propose in lieu of it.

Mr. SHERMAN. I am perfectly willing to allow the action of the Committee on Finance to stand at present, and let the matter go to the committee of conference. We cannot enter into the debate on the subject now.

Mr. GRIMES. I want a vote upon it.

Mr. SHERMAN. The Senator from Iowa wants it stricken out, and I want it retained.

Mr. GRIMES. I do not want it stricken out. I want it to stand.

Mr. SHERMAN. I do not want it stricken



out, but I do not think we have time now to enter into a discussion of the subject.

Mr. CONNESS. Let us take a vote upon it.

Mr. GRIMES. It is useless to send a question of this kind to a committee of conference, when the Senate itself may be in favor of agreeing with the proposition of the House of Representatives.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Finance to strike out the fifth section of the bill.

Mr. GRIMES and Mr. HENDERSON called for the yeas and nays, and they were ordered.

Mr. GRIMES. I have only one word to say in this connection. It is known to most members of this body, at any rate to all those who were here when the original bank bill was passed and when the amendment to it was passed a year ago, that I voted against both of those bills, because I did not believe at the time that it was expedient or wise for us to go into that system; but Congress decided otherwise, and the country has sustained Congress in that action. Now I think, if it be true, as the Senator from Ohio has told us, that these State banks, notwithstanding they have been diminished in number, have continued to increase the volume of their currency, so that they have out now somewhere between one and two hundred millions—

Mr. CLARK. The Senator is mistaken.

Mr. HARRIS. They reduced their circulation over thirty millions last year.

Mr. GRIMES. My authority is the chairman of the Committee on Finance.

Mr. SHERMAN. I have the official statements here.

Mr. GRIMES. If that be true, I say the Government must obtain some control over them, and we may just as well let these banks know at this time that at some future time they must adopt the other system of banking that has been agreed upon by Congress and sanctioned by the people, or they must close up their shops. Hence I am in favor of this proposition.

Mr. RAMSEY. I desire to offer an amendment to this section by adding the following proviso:

*Provided, That banks incorporated under State authority, whose circulating notes are secured wholly by deposit of bonds of the United States at their par value to the amount of ten per cent. beyond the amount of their circulating notes, shall be taxed upon their circulation and deposits in the same manner and at the same rates as are, or may be, prescribed for the taxation of national banks.*

Mr. SHERMAN. Mr. President, if the Senate is not willing to let this matter go to a committee of conference I am willing now to meet the question fairly. I think we must either repeal the national banking law or we must forbid the circulation of State banks. We are just in that predicament when in my judgment it is vitally necessary. I have a mass of documents and papers here, and intended at some length to explain to the Senate the importance of this question and my own views upon it; but I could not do so at this hour of the session. Although my strength is sufficiently preserved to do it, I do not want at this period of the session to speak to the Senate on the subject; nor do I want to delay a vote on the passage of this bill, because to do so, I think, would endanger the passage of the bill entirely.

The statement made by the Senator from Iowa is correct as to the great body of the States. The amount of circulation in 1863, in all the States now within our jurisdiction, including New Orleans, was \$173,039,185. The amount in January, 1864, was \$169,926,129, showing a small decrease in one year; but nearly all that decrease was in the States of Louisiana, Tennessee, Kentucky, Missouri, and Indiana. In the eastern States the increase during 1863 was millions.

Mr. CLARK. How much?

Mr. SHERMAN. About ten million dollars absolute increase.

Mr. CLARK. The Senator from Iowa said, and to that I took exception, that the increase had been almost one hundred million dollars.

Mr. SHERMAN. Now let me tell you the condition of affairs. In my State and other States, some of the State banks, availing themselves of the privileges of the national banking law, there being no restriction upon their State circulation, all the restrictive measures having failed at the last session, have actually organized under the

national law, and have increased their State circulation and have received at the same time circulating notes under the national system, and are now going on and conducting business in that way. The amount of State circulation at this moment outstanding, and upon which there is a tax, was on the 1st of January, over one hundred and thirty-six million dollars. Although the amount of national circulation has gone up to something like eighty million, yet the amount of State circulation has not diminished one fourth of that; and the very banks that are organized under your national system are keeping and carrying on a double circulation on the same capital. Not only that, they have actually raised the question of law, whether they are bound to pay taxes on their old circulation, on the ground that the old corporations have ceased to exist and there is nobody to act. In my deliberate judgment, as the result of my sober conviction, we must put an end to one or the other of these systems.

Mr. DOOLITTLE. Both.

Mr. SHERMAN. The Senator from Wisconsin says "both." I do not think it wise to put an end to both. I think the national banking system has been a grand and a great success, and I would stake my reputation upon it; but it cannot undergo this system of competition with State banks that are now increasing their issue. I have these tables furnished me by the Commissioner of Internal Revenue and also by the Comptroller of the Currency, showing a state of affairs that I think ought at once to be checked. The House were at loggerheads about various propositions. Various taxes were proposed. Many members who were in favor of taxing State banks out of existence could not agree upon the terms. Finally, however, they did agree upon this fifth section. That will, I think, effectually do the work, and I trust, therefore, that the Senate will agree to the section. It is true a majority of the Committee on Finance recommended that it be stricken out; but I may say here, without disclosing any secrets, that was done, I believe, for the purpose of bringing it to the attention of the Senate as much as anything else. We were divided about it just as the Senate will be divided. My own convictions are strong on the subject, and I intended at some length to go into the details of the argument upon it; but I will not do so at this late period of the session, as we have barely a quorum present, and if we should break up at last without a quorum, all I should say here would only have to be repeated when we discussed it again; and yet I think it is our duty to stand by this bill and get it out of the way if we can to-night. There are many important questions lying behind it. I, for one, was willing to let this section be stricken out and trust to the committee of conference to keep in a section of this kind. I would rather see the whole banking system suspended one year than see the present condition of affairs continued, and I believe it would be better for the country to do it.

Mr. FARWELL. I should like to ask the chairman of the committee one question. I desire to ask him if he has got any information whether it was not possible for the Treasury to furnish these banks, if they had all chosen to enter into the national banking system, the circulation to supply the necessary amount previous to this time?

Mr. SHERMAN. I am told there is no trouble about that at all.

Mr. FARWELL. I believe with the Senator that the sooner we drive out the circulation of these banks the better.

Mr. SHERMAN. I will state further that the House amendment does not operate until the 1st of January next. It gives to the State banks nearly one year to close up their business, and it will not operate very severely. It postpones the operation of all future taxes until the 1st of January. The amendment I have prepared at the close of this bill is based upon a different principle; but as a matter of course, if this fifth section is retained, I shall abandon that amendment.

Mr. HOWE. I wish the Senator from Ohio would give way to an adjournment. ["Oh, no."] It is half past eleven o'clock.

Mr. SHERMAN. We must get this bill out of the way to-night.

Mr. COWAN. We cannot pass it to-night. There is no use of attempting it.

Mr. CLARK. Let us make all the progress we can with it.

Mr. SHERMAN. If we cannot pass it to-night we may as well kill the bill.

Mr. HENDRICKS. This proposition has nothing to do with revenue. This is banking.

Mr. HOWE obtained the floor.

Mr. HENDERSON. Senators have to sleep at some time, and if we stay here to-night we shall have to sleep to-morrow. We must have rest; and I propose that the Senate adjourn.

Mr. HOWE. I will give way to a motion to adjourn.

Mr. HENDERSON. Then I make that motion.

Mr. SHERMAN. I suggest, if Senators are impatient, that we read through the bill and dispose of everything else at any rate, and then we can talk about the question of adjournment.

Mr. HENDRICKS. I do not consent to that. If the Committee on Finance abandon revenue and commence a banking system, I hope we shall discuss it thoroughly. I will never consent to it as long as I can resist it in any proper way. I do not consider this section as belonging to revenue at all. I consider the whole proposition an outrage upon the States, and I feel it to be my duty to resist it as long as I am able to do so. If it were a revenue question I would go any extent, compromise anything; but it has nothing to do with revenue. It is to carry out a peculiar policy that I do not believe the country wants.

Mr. CONNESS. I rise to inquire what is the question in order.

Mr. HENDERSON. I have moved that the Senate adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri that the Senate do now adjourn, and that motion is not debatable.

Mr. CONNESS and Mr. SHERMAN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Cowan, Davis, Harris, Henderson, Hendricks, Howe, Morgan, Morrill, Powell, Ramsey, Sprague, and Van Winkle—12.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Farwell, Foster, Grimes, Lane of Indiana, Nye, Sherman, Stewart, Sumner, Trumbull, Willey, and Wilson—16.

ABSENT—Messrs. Brown, Buckalew, Carlile, Collamer, Dixon, Foot, Hale, Harding, Harlan, Howard, Johnson, Lane of Kansas, McDougall, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Ten Eyck, Wade, Wilkinson, and Wright—22.

So the Senate refused to adjourn.

Mr. HOWE and Mr. CONNESS and Mr. TRUMBULL rose and addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is entitled to the floor, he having yielded it to allow the motion to adjourn to be made.

Mr. TRUMBULL. I do not know how the Senator from Wisconsin can occupy the floor after a motion to adjourn has been made.

The PRESIDING OFFICER. He yielded it to allow the motion to be made.

Mr. TRUMBULL. Then he lost it, I apprehend. I do not understand that a Senator can give way and have a motion decided and still occupy the floor.

The PRESIDING OFFICER. It is not according to the strict construction of parliamentary rule, but it has always been customary in the Senate. Besides, the Senators all rose at once, and the Chair recognized the Senator from Wisconsin.

Mr. CONNESS. I have no objection to the Senator's having the floor, if he does not propose to make a long speech.

Mr. HOWE. I do propose to make a long speech.

Mr. TRUMBULL. It is somewhat extraordinary to me that a Senator can allow a motion to adjourn to be made and still occupy the floor after that motion is decided.

Mr. HOWE. I have been here but a few years; but in the course of the few years I have been here I never knew a gentleman to lose the floor by giving way to a motion to adjourn. That is the difference between the Senator's experience and mine.

I am sorry to have this question forced on the Senate when it is so thin, and at so late an hour. It is a question in which I feel a very deep

interest. I would a great deal rather see the bill buried than to see that section adopted; and if that section be adopted, I shall vote to bury the bill. There is nothing more certain than that, if I live to vote upon the passage of the bill. There is no necessity for this, and in my humble judgment there is no justification for it whatever.

I am unlike the Senator from Iowa: I voted for this national bank system; I approved of it; I agree that it should supersede the State banks; but I dissent utterly and altogether from that intimation or suggestion which comes from several quarters that if it must supersede the State systems the sooner it supersedes them the better. It ought to supersede them; it is sure to supersede them, because it is a better system; but I did not think it was necessary to tell the Senator from Iowa; I did not think it was necessary to tell the Senate of the United States that it was an operation of some little delicacy to wind up a banking system; that you could not close out a circulation of one or two hundred million in a day without jarring somebody; and it is not necessary to jar the community in order to effect the very end that the Senator from Ohio and the Senator from Iowa aim at.

Mr. TRUMBULL. If the Senator from Wisconsin will give way to a motion to adjourn I will make that motion, and will change my vote upon it.

Mr. HOWE. I will give way to a motion to adjourn.

Mr. TRUMBULL. I move that the Senate adjourn. I think we shall accomplish nothing by sitting here longer to-night.

Mr. SHERMAN. I call for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 15; as follows:

YEAS—Messrs. Cowan, Davis, Harris, Henderson, Hendricks, Howe, Morgan, Morrill, Powell, Ramsey, Sprague, Sumner, Trumbull, and Van Winkle—14.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Farwell, Foster, Grimes, Lane of Indiana, McDougall, Nye, Sherman, Stewart, Willey, and Wilson—15.

ABSENT—Messrs. Brown, Buckalew, Carlile, Collamer, Dixon, Foot, Hale, Harding, Harlan, Howard, Johnson, Lane of Kansas, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Ten Eyck, Wade, Wilkinson, and Wright—21.

So the Senate refused to adjourn.

Mr. HOWE. I am unlike the Senator from Ohio. I have not a vast amount of facts or figures with which to treat the Senate to-night. I have some ideas about this question. I have already said I did not believe it is necessary for the country at large. As an apology for the interest I take in it, as an apology for the fact that I undertake to speak at all upon the question at this hour of the night, I will say that it is a measure which is full of peril to the people of the State I represent. I have heretofore explained the peculiar condition of the banking system in that State; I have heretofore told the Senate the impossibility of their being transferred suddenly from the system upon which they are now banking into this new, and as I believe, better system. I shall not pursue that topic to-night. I undertake to say that it is not necessary for the country at large that this very radical measure should be adopted.

The circulation of these State banks is not increasing. The Senator from Ohio has told you himself upon facts which he held in his hands that on the contrary it is diminishing. There is another fact of which I am very well advised: that banks are being transferred from the State to the national system to-day, and have been for months past, just as rapidly as the Comptroller of the Currency could provide for them. It requires some time, it requires some effort, to provide the circulation, to receive and examine the papers, and to perfect the organization of a bank upon the national system; and I am told that for months the transfer has gone on just as fast as the Comptroller of the Currency could provide for them.

It is said that some of those banks which have changed from State to national banks have not retired their circulation but still keep it out. That is a wrong in itself, and may be remedied as all wrongs may be if you are sensible; but one wrong cannot be remedied by repeating another. If you mean to stop that evil, address yourself to the correction of that evil, and not attempt to perpetrate another.

Mr. McDUGALL. I desire to ask the Sena-

tor from Wisconsin a question. By what system does he propose to correct a thousand wrongs? As there will be ten thousand of these institutions, of which at least one tenth will be wrong, how will he correct the one tenth wrong?

Mr. HOWE. I could not very well tell exactly how to treat ten thousand wrongs until I saw them; and as I do not see but one or two just now, I will not undertake to treat the larger number.

It is very easy to impose a tax upon the circulation of those banks which have been transferred to the national system. That will correct that evil. But it does not seem to me to be right; it does not seem to me to be fair to hold up that fact, to hold up the wrong of a few isolated banks as a crime in the whole system, and to insist, because a few are doing wrong that therefore the whole system should be abandoned. I shall not occupy the time of the Senate at any length to-night. The Senate is in no mood to hear, and I have no desire to speak. I am utterly—

Mr. HENDRICKS. If the Senator will yield to a motion to adjourn I will make that motion.

Mr. HOWE. I will yield in one moment to that motion. I am utterly opposed to this section. I think it more pernicious than any other one feature in the bill; and I think it has an amount of viciousness in it which overbalances all the virtue that the extreme friends of this bill can claim for it; and although I have supposed that I should support it, I have never called myself one its extreme friends. I will now give way to a motion to adjourn.

Mr. HENDRICKS. I make that motion.

Mr. SHERMAN. Upon that I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 16; as follows:

YEAS—Messrs. Cowan, Doolittle, Henderson, Hendricks, Howe, Morrill, Powell, Ramsey, Sprague, Sumner, and Van Winkle—11.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Farwell, Foster, Grimes, Lane of Indiana, McDougall, Morgan, Nye, Sherman, Stewart, Trumbull, Willey, and Wilson—16.

ABSENT—Messrs. Brown, Buckalew, Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Harlan, Harris, Howard, Johnson, Lane of Kansas, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Ten Eyck, Wade, Wilkinson, and Wright—23.

So the Senate refused to adjourn.

Mr. SHERMAN. With the consent of the Senator from Wisconsin, I now ask the Senate to act upon this amendment, to strike out the fifth section. I myself will vote to strike out the section for the present. I shall insist on maintaining it in the committee of conference. If Senators who are opposed to the section desire it stricken out, they can only assent to what I propose. Those who favor it will take the chance of saving it in a committee of conference.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Minnesota to the amendment of the committee.

Mr. TRUMBULL. Mr. President, I sought to obtain the floor some time ago simply to express my dissent from the proposition of the Senator from Ohio to submit this legislation to a conference committee. He proposes that the Senate shall either adopt it or reject it, and he is indifferent which, and let the matter go to a committee of conference to be settled. Now, what is our condition? We have before us a bill that I venture to say not one single individual in this Senate off the Finance Committee understands. I confess I do not. I looked over the bill when it was printed and laid on our tables. I saw that it was so long and so complicated that it would be impossible for me, in the discharge of the other duties that were upon me, to understand it so as to act intelligently in reference to it, and therefore I have not undertaken to compare this bill with the existing law to understand its various provisions. I thought I should be able, probably, as we progressed with the bill to understand the main features of it so as to be able to vote intelligently upon most of the questions that would arise in the discussion of the bill.

Now it is proposed that we turn the matter over to a committee of conference. Why, sir, we might as well not consider this bill at all. When the committee of conference shall have acted upon it, they will come in here with a report, and what will be the argument? You will be told you cannot amend the report of a committee of

conference—and such will be the decision of the Chair and of the Senate—it is a whole, an entirety; and then it will be said, on the part of the Finance Committee, "This bill is necessary for the maintenance of the Government; are you going to let a revenue measure fail?" These same gentlemen who will vote to lay aside all other business to take up a revenue bill, will say, "Here is a revenue measure, and you must take it." "I am not for this provision," says one, "that taxes the banks ten per cent. and destroys all the State institutions in the country." "I am not for this provision," says another, "that does not tax out of existence these State banks; but here is a bill as an entirety; I cannot refuse to sustain the Government;" and thus we will all of us be compelled to vote for whatever the committee of conference bring in here.

It has always been bad enough that so much of our legislation was committed to committees of conference, but it is getting worse every year. When I first came to the Senate I thought it was very bad; but we used at that time to be able to consider to some extent the report of a committee of conference; but now it is not considered at all in this body. We have a bill now pending, I am told, in the hands of a committee of conference, which has on it the most important provisions, involving more than a million of money, that this Senate has ever seen. One of the appropriation bills passed the House of Representatives, and came here, and was amended to some extent. It then went back to the House of Representatives. The House have amended our amendments, increasing the appropriations more than a million dollars and then asked for a conference committee. The bill then came in here. Some Senator moved that the Senate insist upon its amendments and agree to the conference asked by the House. That motion carried as a matter of course. The amendments put upon the bill by the House were not read; not a Senator knew what they were, or knew they were on the bill. We agreed to the committee of conference; and there is now in the hands of the committee of conference of the two Houses a bill that has on it appropriations for more than a million dollars that have never been read in this body at all, and we shall never know what they are. By and by the report of that committee will come in here, and we shall hear that the fourteenth amendment of the House is agreed to, and the sixteenth amendment is disagreed to; and so on, numbering them up to fifty. If any Senator should then venture to ask to have the report explained, it will be said, "Here we are in the last days of the session; if any time is occupied in explanation and debate, it will defeat the bill; you must rely upon your committee of conference." I, for one, would just as soon vote here to-night that this Senate should not meet until eleven o'clock on Saturday morning, and when we meet agree to take the reports of the committee of conference that may be appointed, as to go on legislating in this way.

Now, I hope that no such course will be pursued with this bill. This important question that is now pending I want decided by the Senate, and I want the committee of conference, when it meets, to be instructed by the Senate as to what they are to insist upon, and not be indifferent about it whether we decide it one way or the other. The committee of conference should be the mere representative of the body that appoints them. That is the business of a committee of conference. It was never contemplated that a committee of conference should be the originators of measures and should be the legislators. The only parliamentary design of such committees was that the committee of each House should represent the sentiment of that House, and when the committees met together they should endeavor to compromise upon the disagreeing votes of the two Houses. There is no disagreeing vote when you take such a course as is now proposed. The Senate, by a sort of acquiescence here, is asked either to vote this section in or out; and the chairman of the Committee on Finance tells us he is indifferent which, and does not care which; just let it go to a committee of conference, and they will fix it. Sir, I hope we are not to have such legislation.

Mr. SHERMAN. Mr. President, I wish to make a simple statement in regard to this matter.

I am as much opposed to this form of legislation as the Senator from Illinois, and if I ever boasted of anything—and I do not know if I ever said it before—it is this: during the last Congress that I was a member of the House of Representatives no appropriation bill ever went to a committee of conference with a substantial disagreement between the two Houses, but every appropriation bill was passed at least one day before the close of the session, and was signed by President Buchanan within full twenty-four hours before the close of the session; and not one was closed in the midst of a night session in the House of Representatives. I speak of the last two sessions that I was a member of the House of Representatives. The business was in that condition that we closed every bill of an important character without a committee of conference that amounted to anything at all, and all the amendments in the third degree were considered in both the Senate and the House. The reason was that the business was sent to the Senate at an early stage of the session.

But that is not the condition in which we are now placed. We have got to take things as they are. It is no use for us to find fault, or grumble, or growl. This bill was sent to us within two weeks of the close of the session. From the very day and hour that the bill was received the Committee on Finance went to work, and we worked consecutively sixteen hours out of the twenty-four (at least I did myself) to prepare the bill for the consideration of the Senate. It was brought up here, and it is now here. The Senate are impatient. We are threatened with a long debate. They are not willing to sit it out to-night; and if we come here to-morrow and commence with this bill at eleven or twelve o'clock we shall waste all day to-morrow upon it. There are but three days left of this session. We have the loan bill behind, which is indispensable, and to which this bill must give way. We must take up the loan bill and act upon that. We have the legislative appropriation bill laden down, as the Senator from Illinois says, by appropriations that we never saw before, and some of which we have rejected twice over; and yet they are put on in the House in the third degree. The civil and miscellaneous bill, or the omnibus bill, has not even passed the House of Representatives, and I suppose is going through its first reading to-night, and it is not here. It is not the fault of the Senate. I will say that no appropriation bill has remained in this body two weeks without the full consideration and action of the Senate, so that there is no delay here.

The question now is whether we will allow this tax bill to be defeated on account of the press of business on the Senate, or whether we shall take the only mode that is left to save it. I never would propose this mode of legislation did I not believe that there was a necessity for it. I dislike committees of conference as much as the Senator from Illinois. I think it a bad system of legislation; but we are in this condition: to-morrow morning this bill must give way to the bill to provide ways and means to carry on the Government, the loan bill, and then the appropriation bills will be crowding upon us; and I am afraid one or two of them, especially the Indian appropriation bill, which is fifty-three pages long, and is ready for the consideration of the Senate, will be loaded down with a large number of amendments likely to excite debate. In this condition of the business of the session, I do not see any other way but for Senators to let this bill go to a committee of conference, and then let every Senator decide upon his responsibility to vote for or against the report of that committee. A majority of the Committee on Finance have reported in favor of striking out the fifth section. I think it is wrong; but I am willing to forego any expression of opinion for the present, and let it go to the conference committee with that section stricken out. If any Senator shall consider the action of the committee on that section so important as to induce him to vote against the bill, as a matter of course he will do so; and he will do so whether we spend one day or one hour in talking about it. I trust, therefore, and so far as I can I shall insist, that we shall take a vote on these various propositions and act on them. I will not discuss the matter any further myself.

Mr. CONNESS. If all other propositions remain in doubt or involved doubt, there is one

that appears clear to my mind, and that is, that the consumption of hours in this kind of debate should not be continued. Everything that the honorable Senator from Illinois has stated is known to us all. We all deprecate what he deprecates as much as he can; but as the chairman of the Committee on Finance says, there is a condition of things before us, and it is our bounden duty to use the time that we have with the greatest possible economy. Therefore there is but one of two courses to take: the one now suggested by the honorable chairman of the Committee on Finance, or to go on taking the yeas and nays and voting upon these propositions without debate, agreeing that we will not debate them. We will vote as intelligently if we take that course as if we debate them over and over again. I trust, sir, that we shall remain here and dispose of this bill to-night.

Mr. McDougall obtained the floor.

Mr. CLARK. I will ask the Senator from California to give way to allow me to introduce a resolution, that I think every Senator here will see the importance of, that it may be passed unanimously.

By unanimous consent the resolution was received and considered, as follows:

*Resolved by the Senate, (the House of Representatives concurring,) That the 16th and 17th joint rules of the two Houses be suspended for the residue of the present session.*

Mr. COWAN. I doubt very much whether that resolution should be adopted. A great many of us have not made our speeches yet. [Laughter.] I should like to hear those rules read.

Mr. CLARK. I will read them:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and Senate shall be presented to the President of the United States for his approbation on the last day of the session."

We always have to suspend these rules at the close of a session.

Mr. COWAN. I should like to have one additional feature added to that resolution, and that is, that when speeches are to be made, they be made to the point, not upon some general subject connected with the establishment of the Government and its maintenance, but to the point in issue.

The resolution was adopted.

Mr. McDougall. The question pending involves this proposition:

That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association, paid out by them after the 1st day of January, 1866.

The policy of this amendment was indicated in the speech of the chairman of the Committee on Finance upon the introduction of this bill. It may be the opinion of this Government, as far as it is a Government, considering it as a Senate, House of Representatives, and Executive, that it is wise policy to wipe out of existence all the authorities and powers of the States. It may be the opinion of the legislators who have produced these propositions that we will thereby be stronger and better. It may be their opinion that we will produce a more solid, more exact, and more certain currency. It may be their opinion that we will accommodate the interests of the vast country over which has been administered, and before long will be administered, the laws of the Federal Republic by attempting this system of compelling the detailed currency of all parts of the country to be governed by centralized influence; that individual enterprise with regard to currency, with regard to banking institutions, with regard to capital possessing credit, shall be possessed alone by the centralized power of the Government of the United States in the city of Washington. Here is an edict from this Government to wipe out of existence all State power to organize institutions to deal in money in their several jurisdictions.

Mr. President, monetary, administrative, judicial, and military powers must have their several relations. The fathers who laid down the foundations of this Republic were men who had studied the lessons of antiquity. They had learned from Grecian and Roman States many lessons; but there was a little work, not voluminous, which

was the favorite of Franklin and Madison and Jefferson, and of the men who laid the foundations of our Republic, the author of which was called Montesquieu. He affirmed as an absolute truth, as the result of great study, (and he was called then the best philosopher on the science of government,) that no republican institutions could be maintained over a vast extent of territory only by association. It is a truth in political science, that in the maintaining of institutions we have to make them more or less immediately. How we will make them depends, of course, upon the particular condition of society and their affinities. It would not be hard to aggregate New England. No Government can be maintained as a republican system of government over vast territories unless they are subdivided into separate portions, where their special administration is exercised in small districts, and where their general power is aggregated in the whole, as it was in Greece, as it was in the Achaean League, as it was in the States of the middle ages, and in the free cities of Europe. This is a truth which history has established, which Montesquieu has recorded, and which the fathers of the Republic introduced into our Constitution as a principle. We have a country extending from the Atlantic to the Pacific, from the Gulf of Mexico to the northern lakes, and then again up far away to British Columbia. Does any reasonable person suppose that any one system of banking, for instance, could obtain throughout all that region; that Oregon could accept a system inaugurated by the politicians or the managers in the city of Washington or in the city of New York; or that California could do it, or that Dakota could do it; or Idaho, or Arizona? No, sir. Their interests are adverse, and they have their various modes of transacting business, and for the purpose of transacting their business they require their own mode of doing it. A bold effort is attempted here to thrust upon all this great nation—beginning where the people grow onions and potatoes, then coming to the pine woods, then to the cotton, then to the corn, then the hemp, then the tobacco, and then going further west to the grass fields, and then to our silver and gold in the mountains of the West—the same system of transacting business between man and man. A man in Denver City, worth his fifty or one hundred thousand dollars, says, "I have made money enough; I will withdraw from the pursuits in which I have been engaged, and I will furnish facilities to my fellow-citizens which will give me an income; I will do that instead of putting my money in stocks." They have gold and silver there. You say that he cannot transact that business; he must do it *secundum* this law. So a man in Missouri has hemp and tobacco fields. A gentleman at Jefferson City, for instance, worth \$500,000, is willing to furnish facilities for doing that business. You say to him, "You must do it, not upon the basis of money, but according to this rule." So, go down to Memphis, where there is a cotton market. Cotton commands gold and silver in the markets of the world, and so do hemp and tobacco. Go to Arizona, where they breed gold and silver, and still they must be subject to this Procrustean rule. We hope to develop Arizona into one of the wealthiest portions of our Federal Union; their exchanges are to be governed by this rule of the national banking institutions, and you prevent any person from engaging in the business of facilitating their local exchanges, unless he submits himself to the Federal authority by a tax of ten per cent. You go then to California, and apply the same rule, though we deal in gold and silver. You say that every banking institution that does not belong to your national bank system, even though it deals in gold and silver, shall pay a tax of ten per cent. So in Oregon and in Washington Territory.

What does it mean? I know well what it means. It was devised in the evil spirit of ambition by one who sought by the centralization of power and force here in the Federal Government to make himself strong enough to wield this as an empire. That was his centralized idea which he designed, approximating step by step, and that is a part of the philosophy of our whole policy of finance.

Mr. SPRAGUE. If the Senator from California will give way I will move an adjournment. It is past midnight.



Mr. McDOUGALL. I yield for that purpose.  
Mr. SPRAGUE. I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. McDOUGALL. I do not seek an adjournment. I am only gassing off crude opinions; but though the slag may be about them they are the result of years of contemplation.

Mr. TRUMBULL. Will the Senator from California give way for a moment till I make a suggestion?

Mr. McDOUGALL. Certainly.

Mr. TRUMBULL. The Senator from California observes that the Senate is very thin and the hour is very late. There is a difficulty about this bill. We all desire to have action on it, but we have no rule to limit debate in this body. My suggestion is—I hope it will be acquiesced in all around—that, instead of continuing here at this hour, which is exhausting all of us, we now adjourn, and to-morrow, as we meet at eleven o'clock, let us take up this bill at half past eleven, with the understanding that no person will occupy more than five minutes in discussing any proposition upon it, and then come to a vote. I think in that way we may dispose of the bill in the course of an hour to-morrow. Then, as my friend from California is speaking generally upon this subject, he would, perhaps, postpone his remarks till we reach the loan bill or some other bill.

Mr. McDOUGALL. No; I want to make them on this ten per cent. proposition. I am approximating my conclusion; I have not arrived at it yet.

Mr. TRUMBULL. I think if the Senate would agree to the suggestion I have made, we could get this bill through in an hour to-morrow.

Mr. McDOUGALL. I am talking about this ten per cent.

Mr. TRUMBULL. Will the Senator consent to a motion to adjourn?

Mr. McDOUGALL. I will yield for that motion.

Mr. TRUMBULL. I hope that the Senate will agree to adjourn. I think we can dispose of the bill in an hour in the morning. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, February 28, 1865.

The House met at eleven o'clock, a. m. Prayer by the Chaplain, Rev. W. H. CHANNING.  
The Journal of yesterday was read and approved.

### POSTAL LAWS.

On motion of Mr. COLE, of California, Senate bill No. 390, relative to postal laws, with House amendments thereto, which had been returned from the Senate, was taken from the Speaker's table for consideration.

The House insisted upon its amendments to said bill, and asked a committee of conference with the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER subsequently appointed Mr. COLE, of California, Mr. BROOKS, and Mr. ASHLEY, as such committee on the part of the House.

### MILITARY ACADEMY BILL.

Mr. BLAINE, from the committee of conference upon the disagreeing votes of the two Houses upon the bill (H. R. No. 621) making appropriations for the support of the Military Academy, reported that the committee having met, after full and free conference had agreed to recommend, and do recommend, to their respective Houses that the House of Representatives recede from its disagreement to the first amendment of the Senate, and agree to the same; and that the Senate recede from their second amendment.

Mr. BLAINE. I will say that there were two disagreements, one with reference to the appropriation of \$25,000 to be used for providing store room for artillery. The Senate struck that out, and the conferees on the part of the House yield it. The other point of disagreement was an amendment of the Senate which took away from the Secretary of War the supervisory power over the matter of restoring cadets who have been dismissed. The Senate yield that.

The report of the committee of conference was agreed to.

Mr. BLAINE moved that the vote by which the report was agreed to be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN W. GARRETT.

The SPEAKER, by unanimous consent, laid before the House a memorial and letter addressed to the Speaker by John W. Garrett, president of the Baltimore and Ohio Railroad Company, relative to House bill No. 768, entitled "An act to facilitate railroad communication with the capital of the nation;" which was referred to the Committee on Military Affairs, and ordered to be printed.

### LOAN BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the loan bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and resumed the consideration of the bill (H. R. No. 772) to provide ways and means for the support of the Government, the pending question being the amendment proposed yesterday by Mr. MORRILL, to strike out the words "other forms than bonds" and "other obligations" wherever they occur, and insert in lieu thereof the words "Treasury notes."

The question was taken on the amendment, and it was agreed to.

The question recurred on the following amendment, offered by Mr. WILSON last evening as a substitute for the first section of the bill:

*Be it enacted, &c., That the Secretary of the Treasury be and is hereby, authorized to borrow from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums not exceeding in the aggregate \$600,000,000, and to issue therefor coupon or registered bonds of the United States in such form as he may prescribe; and the said bonds shall be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from the date of issue, or be made redeemable at the pleasure of the Government at any period not less than five years nor more than forty years from date, or payable as aforesaid as may be expressed upon their face; and the interest on such bonds shall be payable semi-annually: Provided, That the rate of interest on any such bonds when payable in coin shall not exceed six per cent. per annum, and when not payable in coin shall not exceed seven and three tenths per cent. per annum, and the rate and character of interest shall be expressed on such bonds.*

Mr. MORRILL. I ask for tellers on the amendment.

Mr. HOOPER. If it is in order I should like to make a little explanation of the effect of this amendment, which, I think, was misunderstood last night.

The CHAIRMAN. Debate is exhausted upon the amendment.

Tellers were ordered; and Messrs. MORRILL and WILSON were appointed.

The committee divided; and the tellers reported—ayes 55, noes 39.

So the amendment was agreed to.

Mr. HOLMAN. I believe that amendment was a substitute for the first section?

The CHAIRMAN. It was.

Mr. HOLMAN. Is it in order to move an addition to the section as it now stands?

The CHAIRMAN. It is.

Mr. HOLMAN. I move to add to the section the following:

*And all bonds and other obligations issued under this act shall be subject to State and municipal taxation.*

The question was put; and there were—ayes 39, noes 55.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and Messrs. HOLMAN and HOOPER were appointed.

The committee divided; and the tellers reported—ayes 45, noes 56.

So the amendment was rejected.

The Clerk read the second section.

Mr. HOOPER. I move to insert after the word "for," at the end of the fifth line, the word "other;" so that it will read:

*That the Secretary of the Treasury may dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner and at such rates and under such conditions as he may think advisable, for coin, or for other lawful money of the United States, &c.*

The question recurred on the following amendment offered last evening by Mr. HOOPER:

On page 3, line nine, after the word "Congress" insert the following:

*And may at his discretion issue bonds or Treasury notes authorized by this act in payment for any requisitions for materials or supplies which shall have been made by the appropriate Department or officer upon the Treasury of the United States on receiving notice in writing through the Department or office making the requisitions that the owner of the claim for which the requisition is issued desires to subscribe for an amount of loan that will cover said requisition or any part thereof.*

Mr. PRUYN. I move to amend the amendment by striking out the words "or Treasury notes." The House has stricken out those words in the bill, and they ought to be stricken out in the amendment also, so as to make the two conform.

Mr. HOOPER. I rise to oppose that amendment. As the seven-thirty Treasury notes are now the popular loan, and are likely to be so until this bill goes into effect, and until the former loan bills are exhausted, I hope that amendment will not be made. My amendment authorizes seven-thirties, which are the only Treasury notes now being issued, to be issued for this purpose as well as bonds, and I see no reason why this popular loan should not be continued. I think if the House had understood the effect of the amendment which they have adopted, the result of the vote would have been different. I think there was a misapprehension last night in regard to what are Treasury notes. I hold one now in my hand, one of the seven-thirty Treasury notes. Now, I say that no gentleman in this House, nor any other man, in my opinion, ever saw one of these notes in circulation as currency. They are not calculated for currency. They never were intended to be issued as currency, and, in my opinion, they never have been used as currency.

Mr. FERNANDO WOOD. I will ask that the character of the note be stated.

Mr. SPALDING. I desire to ask the gentleman from Massachusetts a question, for I want information upon this subject. I want to know if the amendment offered by the gentleman contemplates the issuing of anything other than seven-thirty bonds? If that be the object, why not make it clear by using language that will express the idea? I am entirely willing to go for that measure so far as the seven-thirties are concerned, but I am opposed to enlarging the circulation. I have voted for the amendment so as to restrict the bill in this respect. I desire that the House shall understand the matter, so that nobody may be hoodwinked.

Mr. FERNANDO WOOD. As I understand the character of the note which the gentleman from Massachusetts has presented to the committee, (for he has not explained it,) it is simply an interest-bearing coupon note. In answer to his statement that no member has ever seen notes of that character used as circulation, I will say that I have had such a note paid to me in this city during this session of Congress. Until those notes accumulate an interest which makes them worth more than their ostensible face, they are used as circulation.

Mr. SCOFIELD. The notes of which the gentleman speaks are legal tenders; these are not legal tenders.

Mr. HOOPER. I think that the gentleman has confounded two different sorts of notes. There are notes of three characters issued by the Treasury Department. One class are the United States notes, so called, which are a legal tender and bear no interest; another class are the interest-bearing legal tender notes; but the seven-thirties bear interest, have coupons attached, and are convertible into twenty-year bonds. I think that the gentleman from New York has confounded another class of notes with the seven-thirties. A few of the latter might, by accident, be in circulation; but I never saw one in circulation, and I doubt whether any one has ever seen a seven-thirty note used as currency.

Mr. FERNANDO WOOD. Mr. Chairman, we cannot by legislation control this question of circulation. Every evidence of the credit of the Government, issued in whatever form it may be, can at times be made a circulating medium. Therefore notes of the character of these seven-thirties, although they are coupon notes, can to a limited extent be used as currency.

Mr. HOOPER. I admit that almost anything,

in case of need, may be used as currency; but I mean to say that practically these are not so used, and never have been.

Mr. ELDRIDGE. The gentleman from Massachusetts has exhibited one of the seven-thirty notes with coupons attached, and he alleges that such notes have never been used as currency. Now, sir, I have in my possession a note which I received from the Sergeant-at-Arms, in payment for services as a member of Congress. It is a five per cent. note with coupons attached.

Mr. SCOFIELD. It is a legal tender, is it not?

Mr. ELDRIDGE. It is a legal tender for the amount of its face.

Mr. SCOFIELD. These seven-thirties are not legal tenders.

Mr. FERNANDO WOOD. Whether a note be a legal tender or not does not alter the fact as to its circulation.

Mr. HOOPER. The gentleman from Wisconsin [Mr. ELDRIDGE] will allow me to explain that the note to which he refers is not a seven-thirty Treasury note; it is not a Treasury note, so-called; but it is one of what are called coupon notes, which are a legal tender for their face.

Mr. PRUYN. I modify my amendment so as to strike out the words "or Treasury notes authorized by this act." No Treasury notes are authorized by the bill thus far.

The amendment of Mr. PRUYN to the amendment of Mr. HOOPER was agreed to; there being, on a division—ayes 48, noes 45.

The question recurred on Mr. HOOPER's amendment.

Mr. SPALDING demanded tellers.

Tellers were ordered; and Messrs. GANSON and BROOMALL were appointed.

The House divided; and the tellers reported—ayes 58, noes 38.

So the amendment was adopted.

Mr. FERNANDO WOOD. I move to add the following proviso to the second section:

*Provided*, That so much of the act approved June 3, 1864, as authorizes the Comptroller of the Currency to issue circulating notes to national banking associations is hereby repealed; and the circulation of the said banks shall be withdrawn under the direction of the Comptroller of the Currency within one year from the passage of this act; and if the Secretary of the Treasury shall be of opinion that the exigencies of the public service require a further issue of Treasury notes to replace the said circulation so withdrawn, or any part thereof, he shall be at liberty to issue the same in such form and manner (not legal tender) as he may deem advisable.

That is the amendment I referred to last evening in the discussion on this bill.

Mr. BROOMALL. I rise to a point of order. I hold that the amendment is not germane to the bill.

Mr. FERNANDO WOOD. The Chair will of course overrule that point of order. It is not only germane to this bill, but particularly germane to this section.

The CHAIRMAN. The Chair decides that the point of order is not well taken.

Mr. FERNANDO WOOD. Mr. Chairman, the object of my amendment is to take from circulation the vast amount of national bank notes now in existence. It is declaring; in fact, that the system is vicious and has produced much evil in the community. And in case the Secretary of the Treasury thinks that the withdrawal of so large an amount of circulation will be disastrous and injurious to trade, it allows him to substitute Treasury notes not a legal tender to a limited amount. That is a provision to provide against disastrous consequences.

Mr. HOLMAN. I would suggest to the gentleman to limit it to \$110,000,000, which is the amount now out from the national banks.

Mr. FERNANDO WOOD. I am willing to leave that discretionary with the Secretary of the Treasury.

Mr. PRUYN. That is the effect of it.

Mr. FERNANDO WOOD. Undoubtedly. If the rumors be true in reference to the gentleman who is to be the next Secretary of the Treasury he holds views which in my judgment will make it entirely prudent to intrust him with the privilege of enlarging or contracting the circulating medium of the country.

To sustain this amendment and to indorse the statement made last night that the circulating medium should be founded upon coin, I desire the Clerk to read an extract from the report of Mr. McCulloch, the Comptroller of the Treasury.

The Clerk read, as follows:

**PAPER MONEY.**—Now, what is needed in a paper circulating medium is that it should be convertible into coin; that it should be sufficient in amount to answer the purposes of legitimate business; that it should not, on the one hand, by being overissued, encourage extravagance and speculation, and give an artificial and unreliable value to property; nor, on the other hand, by being reduced below the proper standard, interrupt business and unsettle values. It should be supplied to just the extent of the demands of a healthy trade. It should be increased as the regular business of the country may require its increase, and be diminished as the proper demand for it is diminished.

Mr. FERNANDO WOOD. These are the views of the Comptroller of the Treasury in his report of November 28, 1863, and who, it is said, is to be our next Secretary of the Treasury. I think that the views so conservative, so correct, ought to induce us to intrust to that officer a wide discretion on this subject.

The main object of my amendment is to restrict the circulation. We are all agreed as to the effect of that circulation. It has not only deranged the affairs of the Government, but the monetary affairs of the country. It is time that something should be done in reference to the matter.

Mr. MORRILL. I hardly think that the committee desire at this late stage of the session to adopt that amendment, and I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union had, according to order, had the loan bill under consideration, and had come to no resolution thereon.

Mr. PENDLETON. I ask the gentleman from Vermont to let me submit the following resolution:

Whereas by the second section of the act of September 2, 1789, to organize the Treasury Department, it is made the duty of the Secretary of the Treasury "to make report and give information to either branch of the Legislature in person or in writing, (as he may be required,) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office;" Therefore,

*Resolved*, That the Secretary of the Treasury be invited to attend the sittings of the House, during the present session, whenever it may have under consideration bills imposing taxes on the people or authorizing the negotiation of loans or the issuing of bonds or notes or for the amendment of the national banking law, in order that he may give the House information orally touching the necessity of passing said bills.

*Resolved*, That the Clerk be directed to notify the Secretary immediately of the passage of this resolution, and from time to time to advise him when the House will consider the said bills.

Mr. MORRILL. I cannot yield to that resolution.

Mr. STEVENS. There is no necessity for that, as the Secretary of the Treasury has kindly come up here this morning to instruct us without invitation. [Laughter.]

Mr. PENDLETON. I want to give him an opportunity to debate.

#### COMMITTEE OF CONFERENCE.

Mr. WILSON. I ask to be excused from serving on the committee of conference on the Army appropriation bill, and that the gentleman from Illinois, [Mr. WASHBURN], who understands the points of disagreement between the two Houses, shall be appointed in my place.

The SPEAKER. The Chair hears no objection, and it will be ordered accordingly.

#### LOAN BILL.

Mr. MORRILL moved that debate in the Committee of the Whole on the state of the Union on the pending amendment to the loan bill be closed in one minute after its consideration shall be resumed.

The motion was agreed to.

Mr. MORRILL moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and resumed the consideration of the loan bill.

Mr. KERNAN. I desire to offer an amendment to the second section.

The CHAIRMAN. The amendment is not now in order. The amendment of the gentleman from New York [Mr. FERNANDO WOOD] is pending.

Mr. FERNANDO WOOD. I call for tellers on my amendment.

Tellers were ordered; and Mr. FERNANDO WOOD and Mr. ASHLEY were appointed.

The committee divided; and the tellers reported—ayes 34, noes 64.

So the amendment was not agreed to.

Mr. KERNAN. I move to amend the second section by striking out the words "shall be exempt from taxation by or under State or municipal authority," and insert in lieu thereof the words "shall be subject to State and municipal taxation in the same manner and at the same rate, but not higher, as other personal estate."

The amendment was not agreed to.

The Clerk read the third section.

Mr. GARFIELD. I ask unanimous consent to go back and make a verbal correction to section two. It is to strike out the words "or other obligations" in line nine. Those words have been struck out wherever they occurred in the first section.

Mr. HOOPER. I object.

Mr. HIGBY. I move to strike out the third section.

Mr. WILSON. Before the motion to strike out is put, I desire to ask the consent of the committee to go back and offer an amendment to the first section of the bill. As I stated before, my attention was called away when the Clerk commenced reading the second section. I had intended to offer an amendment before that time, but was cut off by the Clerk reading the second section before I was aware of it.

Mr. HOOPER. I object.

Mr. WILSON. Then I will move a proviso to the third section, which will accomplish the same purpose. I move to add the following proviso:

*Provided*, That the rate of interest on all bonds issued under the provisions of this act shall be seven and three tenths per cent., payable semi-annually in the lawful money of the United States.

As I said before, I had intended to offer an amendment to the first section to accomplish the same object.

Mr. HOOPER. I will withdraw my objection.

Mr. WILSON. Then I move to amend the substitute which has been adopted for the first section, by striking out of lines twenty-seven and twenty-eight the words "when payable in coin, shall not exceed six per cent. per annum." I offer this amendment for the purpose of testing the sense of the House on the question of paying the interest of our obligations in coin. I know of no better statement of the reasons why this should be done than that given by the Secretary of the Treasury in his recent report, and from that I propose to read an extract. The Secretary says:

"The laws authorizing the issue of bonds bearing interest in coin specifically pledged the revenue from customs to the payment of that interest, and provided for the collection of those duties in the same currency. In the opinion of the Secretary, that pledge should not be violated. A departure from it could only be vindicated by one of those State necessities which justify a nation in temporarily postponing its obligations in order to preserve the power to discharge them at a future day. When the pledge was given, no one anticipated a possible continuance of the war for such a length of time as would involve the increase of the public debt to the point it has already attained, or the possible payment of interest in coin to an amount beyond the ability of duties on imports to supply. It will be noticed, however, that our annual coin interest now exceeds fifty-six million dollars. Should the additional amount required for the expenditures of the present fiscal year be raised upon bonds bearing interest in coin, and the revenue from customs not exceed the estimate predicated upon the receipts of the first quarter, it is quite manifest that resort must soon be had to some other source of supply, or recourse must be had to the emission of securities of a different character. It could not be expected that such securities would stand on a level with those the interest upon which is payable in coin, unless an increased value should be given them by a higher rate of interest, or their payment should be secured by a specific lien upon revenue. In view of the serious considerations presented by this question, whether as affecting the market value of coin or the ability of Government to meet its specie interest, should the war continue, from the revenue now specifically appropriated for that purpose, the Secretary is forced to the conclusion that we should in the future rely, for the most part, upon securities bearing interest in currency, convertible into bonds, the interest of which is payable in coin. Notes bearing an increased rate of interest, payable in currency, redeemable in three or five years, and convertible at maturity into five twenty bonds, would be preferable, in the judgment of the Secretary, to any other form of security. Bonds at long date, the interest of which is payable in currency at the usual rates, would be less attractive, and in the end involve a much greater sacrifice."

Thus it will be seen that the Secretary of the

Treasury, after a full and thorough examination and reflection upon the financial condition of the country, came to the conclusion that we should stop the system of issuing bonds the interest of which is payable in coin. I know it was said last evening by my colleague, a member of the Committee of Ways and Means, [Mr. Kasson,] that the Secretary of the Treasury favored the provisions of this bill as reported from the committee. But this House has no authoritative enunciation of the views of the Secretary of the Treasury except that which is contained in the report which he submitted to the House. If there is any change in his views in that regard it ought to be communicated in some official form to the House of Representatives. Until that is done I must take the views set forth in the annual report of the Secretary as those entertained by the head of that Department. That being the case we are but carrying out, by adopting the amendment I have proposed, the line of policy which the Secretary suggests is the proper one for the Government to pursue.

Mr. BROOKS. I am opposed to proceeding one step further in the payment of coin interest on obligations to be hereafter issued, and therefore I oppose any amendment looking in that direction.

Mr. MORRILL. The amendment of the gentleman from Iowa is to strike out the provision providing that the interest shall be payable in coin.

Mr. BROOKS. I will move, then, to amend the amendment in order to say what I desire.

Mr. MORRILL. I desire to oppose the amendment of the gentleman from Iowa.

Mr. BROOKS. I will give way to the gentleman, and offer my amendment hereafter.

Mr. MORRILL. Mr. Chairman, I do not propose to occupy even five minutes; but I do propose to state the question a little different from what the gentleman from Iowa has done. I do not understand that the Secretary of the Treasury has changed his opinions one iota. I believe that he has administered the duties of his office in the mode expressed in the extract which has been read by the gentleman from Iowa. But the point of difference between the gentleman from Iowa and myself is this, that while I do not think it would be wise for the Secretary to use the power to issue any bonds at the present time with interest payable in coin, yet I do conceive that it is wise for us to give him the power, or otherwise he would be placed in the hands of but one class of money-lenders. I think that no gentleman would be willing to take the office of Secretary of the Treasury at this time without having this option within his reach. It would be impossible for him to carry on the business of his Department successfully without having that authority.

Mr. STEVENS. May I ask my colleague on the committee a single question?

Mr. MORRILL. Certainly, sir.

Mr. STEVENS. If it is only to be kept up as a right, will not these money-lenders refuse to lend money on interest in lawful money so as to force the payment of interest in coin at ten or twelve per cent.?

Mr. MORRILL. The experience of those who have administered the Department is entirely the other way. They do find this option to be a power which they can exert and exert successfully for the interests of the Treasury.

Mr. BROOKS. I move to amend the amendment so as to reduce the interest proposed to one per cent. Educated as I have been, it is of but little importance to me, as a member of this House, what may be the opinion of the Secretary of the Treasury. The House has the custody of the public money, and it is the duty of the House to exercise its own prerogative and power without any reference to any Secretary of the Treasury.

Sir, we have gone as far as Congress can go and as the country can endure in the issue of bonds the interest on which is payable in coin, unless we tax the people in coin in their direct taxes. Sixty-three million dollars, about the receipts at custom-houses, are now exhausted for the payment of interest on the bonds of the Government in coin. If we go a step further, the taxes have got to be collected in coin, in order to pay the interest on the public debt, and throughout all parts of the United States. We have reached the extreme point where the customs can supply us

in coin, and any attempt to go further may be fatal to the interest upon the whole public debt. I am amazed that those who have pledged the public faith for the payment of the interest on the existing debt in coin should attempt to go one step further, and provide for the creation of a further debt bearing interest in coin, when they know the coin can be collected only by direct taxation.

Sir, the great question before this country is not a question of arms so much as it is one of currency. The expanded currency of this country is now \$900,000,000, when it ought not to be over \$300,000,000 or \$250,000,000; and though our victories are numerous, and our importations light, and our exports large, yet gold keeps up at 200, when it ought to be reduced to 120 or 140, if the currency of this country was not constantly expanded.

The legal-tender debt of the country on the 31st of January last was \$674,581,000; the national banking currency is now about one hundred million dollars; the State bank circulation is about one hundred and twenty-five million dollars; making an aggregate of \$900,000,000 in all.

So long as you expand the currency and make money plentier than anything else, you can continue to borrow money; and this is our condition just now. But if you attempt to change this order of things and to borrow money, pledging the faith of the Government to pay the interest in coin, and tax the people of this country therefor to pay it in coin, when the legal operations of the country are in paper currency, you take the first practical step, in my judgment, toward repudiation, and I beg the House to pause upon this dangerous threshold and to look to the future and beware of that dangerous step. We can scarcely pay now what we owe in coin, and for which the public faith is pledged, and in my judgment he who now goes further prepares the first step toward repudiation. The great debt of this country is now in a few hands, and the time is coming in a few years when he who rises on the stump, especially in the West, in favor of repudiation, will be able to obtain a large and powerful vote, if the interest on the public debt is to be payable in coin when the circulation of the country is paper.

The first error of Congress was in distinguishing between coin and paper. That was the first fatal step. The next was legal tender. Let us now limit our action and go no further.

Mr. INGERSOLL. Mr. Chairman, in discussing financial questions it has often been said, and I believe frequently by the gentleman from New York, [Mr. Brooks,] that if the currency should be still further expanded, and if the present financial policy of the Government continued, the West would repudiate the national debt. I desire to state most emphatically that the West will never repudiate, nor will it sanction for a moment the idea of repudiation. The West will stand by the obligations of this Government, let it cost what amount of personal or pecuniary sacrifice it may. When this idea of repudiation is put forward in this House, it should not receive any degree of toleration from those gentlemen who have the honor of representing the great West; from me it never shall, not even the consent which may be inferred from silence.

The West is rich in material resources, and her heroic and patriotic people are determined not only to maintain the Government in all its integrity, but are also unalterably determined to maintain its honor. Sir, the West will be the last portion of this country to acquiesce in the doctrine of repudiation. We are able to maintain the integrity of this Government; we are able to maintain its credit, and we are as ready and willing to do it as any other portion of this country. Sir, I hope we have heard for the last time, from any source, this talk of repudiation. Should the great city of New York, or any other portion of the East, attempt to repudiate the public debt, which I do not even anticipate will ever be the case, the West, single-handed and alone, would maintain the credit of this country. We will maintain the honor, not only of the West, but of the whole country. He who would talk or dream of repudiation by the West is a madman. Never, never will the glorious West cover itself with infamy by indorsing this cowardly and rascally doctrine of repudiation. The West has given freely of its best blood to put down the rebellion and to maintain the national integrity, and will

ever as freely give of its treasure to maintain the national honor. Repudiation and secession should and will sleep in the same inglorious grave.

Mr. MORRILL. I move, *pro forma*, to amend by inserting "seven" instead of "six." I do this for the purpose of calling the attention of the gentleman from Iowa [Mr. Wilson] to a portion of the report of the Secretary of the Treasury which he did not read, because, I suppose, it did not make for his proposition.

Mr. WILSON. I could not read the whole report in five minutes.

Mr. MORRILL. To show that the opinions of the Secretary of the Treasury remain unchanged, and that what he asks now is entirely in harmony with the views promulgated in his annual report, I ask the attention of the committee to the following words:

"In view of the serious considerations presented by this question, whether as affecting the market value of coin or the ability of Government to meet its specie interest, should the war continue, from the revenue now specifically appropriated to that purpose, the Secretary is forced to the conclusion that we should in the future rely, for the most part, upon securities bearing interest in currency, convertible into bonds, the interest of which is payable in coin. Notes bearing an increased rate of interest, payable in currency, redeemable in three or five years, and convertible at maturity into five-twenty bonds, would be preferable, in the judgment of the Secretary, to any other form of security. Bonds at long date, the interest of which is payable in currency at the usual rates, would be less attractive, and in the end involve a much greater sacrifice."

Mr. WILSON. I read every word of that that bears upon this question.

Mr. MORRILL. I withdraw my amendment. Mr. PRYON. I renew the amendment.

I shall vote, Mr. Chairman, in favor of this proposition, if the Secretary of the Treasury be allowed the option to issue such class of bonds as he pleases; and I shall vote against the proposition of the gentleman from Iowa. I cannot vote against a proposition which contemplates paying the interest on the debt of the Government in gold, believing, as I do, that all the interest on the Government debt, as well as all its principal, should have been payable in gold from the outset. And I think that we are bound to believe that the Secretary of the Treasury will use the discretion vested in him so that in issuing bonds under this act he will take care to issue them within the ability of the Government to meet them in coin. I do not think that we ought to take for granted that in the outset he will aid in what is called the work of repudiation, but that he will exercise the discretion vested in him within the limits that the Government finances will warrant. I shall vote to give him the discretionary power, and against the proposition of the gentleman from Iowa.

Mr. BOUTWELL. Mr. Chairman, I hope that the committee will not abandon the idea of paying the interest in coin. I am sure that the Government will ultimately gain nothing by any departure from a coin basis for its bonds. However you may plan or scheme, the result will be at last that the public debt, interest and principal, except so much as may be paid while we are collecting revenue in depreciated currency, is to be met in gold or in the equivalent of gold. If you make your interest payable in paper you will be compelled to pay as much higher rates as paper is less valuable than gold.

We have reached a point in our financial affairs when no sort of scheming will answer the purpose; and the country ought to have notice that gold must be raised to pay the interest in coin. If we sell our securities wherever coin is, whether in England, France, or the German States, to pay interest in coin, so much less will be the public debt. Therefore I am for one prepared to say that we will pay all of our interest in coin as it becomes due, at a rate not exceeding six per cent., and to go into the markets of the world and borrow all that we need.

There are three things you can do. The first is to economize, and that, judging from the past, we are not disposed to do. The second is to tax, and from what has happened here during the last week, we are not disposed to tax. And I say, with all deference to my colleague of the Committee of Ways and Means, that I have in the last twenty-four hours ascertained at the Treasury Department exactly what the receipts of the Government have been from the two sources of customs and internal revenue, and I am of opinion that his statement that the revenue for the



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current year will amount to \$344,000,000 is excessive to the extent of \$40,000,000.

The last and most vital measure is the reduction of the circulating medium. I said that I was willing to agree to the issue of Treasury notes, with the understanding that they should go into the circulation of the country to the extent of \$25,000,000 or \$50,000,000; but, sir, on reflection, I am not prepared to stand by the proposition. The increase of the currency increases prices to a corresponding extent; and you will have to pay, in the increased expenses of the Government, a sum equal to the amount added to the circulation of the country. If you increase the circulation of the country \$25,000,000, you will find that the expenses of the Government will be exactly in the same ratio, to say nothing of the hardships that will be inflicted on the great body of the people. In other words, you will have to pay \$25,000,000 for the use of \$25,000,000 for one year. If the House and country will come to the conclusion to pay all liabilities, and that they shall be redeemed, principal and interest, in coin, and then go into the markets of the world, we can carry the country through without difficulty.

Mr. STEVENS. At what rate would our bonds sell abroad?

Mr. BOUTWELL. If you will take the forty-years' bonds, principal and interest payable in gold, they can be negotiated to the extent of \$100,000,000. I make that statement from some knowledge of what foreign bankers have expressed a desire to do.

Mr. PRUYN. I understand that our currency of all kinds amounts to \$675,000,000.

The question recurred on Mr. Wilson's amendment, and it was disagreed to.

Mr. HIGBY. I move to strike out the last section.

Mr. Chairman, the details of our financial affairs I leave to those more familiar with them than I am. I move to strike out to make a few remarks on a point on which little has been said, but which I know is largely in the minds of gentlemen. I can hardly say what I desire to say in five minutes, but I can say it in ten minutes. But if we are acting under the five-minute rule I suppose I cannot go over that time.

The member from New York [Mr. FERNANDO WOOD] last evening, in the lengthy remarks he made, spoke upon a point which is prominently in the minds of every member of this House; and in this legislation I have no doubt that the great mass of the members upon this floor have faith, sincere faith, that the great debt of the country can be paid directly from the mineral lands belonging to the country. In that, sir, their hopes and their faith are utterly false. The gentleman said last evening that he had urged that this Government should take possession of the mineral lands as belonging to the Government. And I have no doubt, if there were to be a direct expression of opinion, that two thirds or three fourths of the members upon this floor would say that that is their opinion upon this subject; and I have no doubt that this legislation is being based upon the idea I have presented. If I did not believe that the finances of the country would be perfectly safe as based upon the wholesome financial condition of the country in all the departments from which the country draws its resources, I would not for one moment give my support to this bill, because the very foundation upon which it is based would be entirely false.

The Government take possession of the mineral lands! Why, sir, the Government would be like the man who drew the elephant in the lottery; he got a very big thing, but when he got it he did not know what to do with it. The Government take possession of the mineral lands! The miners on the mineral lands, before they would pay over and above the past expenses they have incurred, I have no doubt would tell the Government to take the mineral lands and work them. Every miner, and every man who is acquainted experimentally with the business operations of mining, would say that the Government in running these

mines would find itself after a few years with a far greater debt upon its hands than it had when it commenced. Go upon the idea that because such a vast amount of gold and silver is taken out of these lands, therefore the Government should take those lands! Why, sir, the leaving these lands free has encouraged the spirit of adventure and sent thousands and thousands of men to hard labor who otherwise would never have moved in that direction. That, and that alone, has given rise to the vast amount of exploring and prospecting which has opened up these store-houses of wealth. From one third to one half of the labor and expense of mining is bestowed in first finding where the hidden treasure lies. One half the expense is incurred by the miner before he receives any return for his labor. I would like every member of this House to go with me from mining locality to mining locality throughout the mineral district, that they might see the vast amount of labor which has been bestowed in this way, and every man would say that the miners deserve all they can get from those places which they have explored, and upon which they have made such vast expenditures.

Gentlemen may then say that the unexplored lands should be divided up and sold out. Then I would remind gentlemen that to develop these unexplored lands would cost the same amount of labor and capital before they would be placed in the same condition as the present developed territory.

I desired to say this much simply because this subject has been agitated, and in some future Congress will culminate in final action. I have thrown out these remarks for the consideration of members who will have seats upon this floor in the next Congress, that they may consider them in the mean time.

I withdraw my motion.

Mr. HOOPER. I move that the committee rise for the purpose of terminating debate.

Mr. COX. Before that is done I desire to say a word.

Mr. HOOPER. I yield to the gentleman.

Mr. COX. I desire to say one word in relation to the remark which fell from the lips of my friend [Mr. INGERSOLL] in reference to repudiation. I do not think he comprehended the remarks which fell from the gentleman from New York, [Mr. BROOKS.] If he had I do not think, as a western man, he would have answered it precisely in the way he did. I understood the argument of the gentleman from New York to be that if the interest upon our bonds are made payable in coin and the custom-house duties are made payable in coin, the operation of it, under our present infamous and outrageous tariff, would compel our western people to investigate this fiscal question; and on investigation, unless they found relief, they would have it in some other form, perhaps repudiation.

Mr. INGERSOLL. Does the gentleman from Ohio assert that under any circumstances the people of the western States will repudiate the lawful debt of the Government?

Mr. COX. I do not believe that they will.

Mr. INGERSOLL. All right.

Mr. COX. I believe that during the next five years there will be such floods of light poured in upon these fiscal questions that we will revolutionize and save this country from repudiation, and anarchy, and ruin to both rich and poor as a consequence. I never will lisp a word in favor of repudiation. I know that credit is cash and that cash is everything. It is greater than morals. The great questions in this country are economic questions; and those are the questions that are hereafter to agitate this country and topple from power the present Administration.

Mr. MOORHEAD. How will we get light on these subjects when the gentleman goes out of Congress? [Laughter.]

Mr. COX. If my friend had only read a rather elaborate speech which I made on the tariff last session, and especially upon the iron interest of Pennsylvania, he would have had such a flood of

light on his head that it would have struck him with an epileptic fit. [Laughter.]

Mr. MOORHEAD. I did not see it.

Mr. COX. That is because the gentleman did not look for it. It proved that the iron mongers of his State were receiving from one hundred and fifty to two hundred per cent. of the hard earnings of industry, because, as was well said yesterday by a Republican Senator, all these taxes at last will be paid in gold, and wrung from the sweat of industry. All your wealth, all your shoddy demands are, after all, nothing but the beaded sweat from the brow of labor, and in the end labor will seek its proper position in the country, and then capital must look out.

Mr. Chairman, I shall at the proper time, when the tariff bill comes up, offer my old amendment which the gentleman from Vermont [Mr. MORRIL] last year said was so so absurd, and which I have not yet learned was absurd, providing that all our customs duties shall be paid in currency and not in the specie of the country. That will strike off at one fell swoop nearly one hundred and fifty per cent. of the bounties paid by western industry to eastern capital, and which in the end goes into the hands of the bondholders, who live mostly in the eastern States. When the gentleman from Illinois says that the West will never repudiate, I join with him in that; but when he comes up and says that this oppression is still to continue and that the West is to be mortgaged more and more, and more drawn from them, and that the West will still come up and foot the whole bill for fear of repudiation, I do not go with him there. The West will not foot the bill exclusively. We want fair, just, and equal taxation, and that taxes shall fall like the dews of Heaven alike upon the rich and the poor. I now, in accordance with my promise, move that the committee do now rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration bill of the House No. 712, to provide ways and means for the support of the Government, and had come to no conclusion thereon.

Mr. HOOPER. I move that all debate in Committee of the Whole on the state of the Union on the special order close in one minute after the consideration shall be resumed by the committee.

The motion was agreed to.

Mr. HOOPER. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and resumed the consideration of the special order.

The CHAIRMAN stated the pending question to be upon the substitute for the bill offered by Mr. STEVENS.

Mr. STEVENS. As we have got through with the amendments offered with the exception of my substitute, I will withdraw the substitute and offer it again in the House when the committee rises; that course will save time, and the committee can now rise.

Mr. BROOKS. Before the committee rises, I would ask the gentleman from Massachusetts if it is necessary that we should appropriate this \$60,000 for further printing of notes; and if two or three million have not already been appropriated for the purpose.

Mr. STEVENS. I suppose that if it be deemed necessary we can continue this discussion in the House. I therefore withdraw my substitute, and move that the committee rise and report the bill.

Mr. DAVIS, of Maryland. I have an amendment which I desire to offer as an additional section.

Mr. STEVENS. That can be offered in the House.

Mr. BROOMALL. I also have an amendment.

Mr. STEVENS. Let it be the general understanding that these three amendments shall be offered in the House.

The motion of Mr. STEVENS was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 772) to provide ways and means for the support of the Government, had directed him to report the same with sundry amendments.

Mr. STEVENS. I now renew the substitute which I offered and withdrew in Committee of the Whole.

Mr. DAVIS, of Maryland. I move the following as an amendment to the substitute and also to the bill:

*And be it further enacted, That no note or obligation hereafter issued under any act of Congress shall be a legal tender; and no Treasury note for fifty dollars or under shall be reissued when paid in to, or received by the Treasurer, but all such notes shall be canceled, and no Treasury note hereafter to be issued, under any law, shall be for a less sum than \$100.*

Mr. BROOMALL. I move to amend by adding the following as a new section:

*Sec. —. And be it further enacted, That, in lieu of \$100,000,000 of the amount of bonds authorized by this act, the Secretary of the Treasury may, at his discretion, issue Treasury notes of denominations not less than \$100, bearing interest at a rate not less than six per cent. nor more than seven and three tenths per cent. per annum; and the said Treasury notes shall be made convertible into any bonds authorized by this act, and the interest and principal shall be made payable at such time within twenty years as the Secretary of the Treasury may determine.*

Mr. STEVENS. I now call the previous question on the bill and the various amendments.

The previous question was seconded, and the main question ordered.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. HAY, his Private Secretary, announced that the President had approved and signed joint resolution and bills of the following titles:

Joint resolution (H. R. No. 82) in relation to the distribution of books and documents;

An act (H. R. No. 688) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1866;

An act (H. R. No. 690) to revive certain provisions of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March 3, 1815, and for other purposes;

An act (H. R. No. 738) relating to the enrollment and license of certain vessels;

An act (H. R. No. 781) granting to the Michigan City Harbor Company the use of Government piers in said harbor for the purpose of protecting said harbor;

An act (H. R. No. 783) concerning the collection district of Salem and Beverly, in Massachusetts; and

An act (H. R. No. 784) to amend an act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May 6, 1864.

#### LOAN BILL—AGAIN.

Mr. STEVENS. Mr. Speaker, I had hoped to be able to change our financial system and inaugurate a new one, which would reduce the price of gold and the price of every article of living and all the munitions of war. I had entertained that hope until this morning, when I saw operating here certain influences which I regretted to observe. I do not know how far there may have been a change in the opinions of the House; but I confess I was shocked to hear the extreme doctrines of the gentleman from Massachusetts, [Mr. BOUTWELL], in favor of continuing to pay in gold all our indebtedness till the end of this war. Now, I intend to make one more effort. Last year we were successful until the Secretary of the Treasury came here and sat behind us, when on the yeas and nays our action was reversed.

As I am about making another effort to resist and reverse the present financial policy of the Government, it may be well to give a brief review of its rise, progress, and present condition.

When Mr. Buchanan went out of power he

left a debt, contracted in times of profound peace, of something like \$100,000,000. When Mr. Lincoln came into power he found an empty Treasury and a civil war already begun. He found it necessary at once to call for seventy-five thousand soldiers. To meet the expenses it was necessary to assemble Congress. The extra session in 1861 authorized a loan of \$250,000,000, \$50,000,000 in Treasury notes and \$200,000,000 in six per cent. twenty-year bonds. That loan was taken by the banks of New York, Philadelphia, and Boston; \$150,000,000 of it was paid in coin; but before the last \$50,000,000 were due all the banks in the United States suspended specie payments, and it was paid in currency at a loss to the Government of over \$5,000,000. This gave such a shock to public credit that it was found impossible to negotiate a loan in coin at any price. The financiers of New York (bankers and brokers) were consulted and gave it as their opinion that a loan of \$50,000,000 put on the market would not produce over eighty per cent., payable in the irredeemable currency of the banks; that a specie loan was impracticable. Under these circumstances certain members of the Committee of Ways and Means (a very small minority) suggested the idea of issuing United States legal-tender notes. They thought that if a currency not immediately redeemable in coin must be used by the Government it had better issue its own notes; it would be more secure than State banks, and would save the Government a large amount of interest. It is due to the late Secretary of the Treasury to say that he was decidedly hostile to the scheme. The bill was reported by an individual member and lay upon the files more than a month before his consent and that of a majority of the committee could be obtained. Then imperious necessity compelled them to yield, and \$150,000,000 of legal tenders were authorized which have proved to be the most acceptable, as it is the safest, circulation ever existing in this country.

Such was the origin of legal tenders. It was followed by a bill reported by the Committee of Ways and Means, to borrow a sum not exceeding \$500,000,000, known as five-twenties. An effort was made in this House by a distinguished gentleman from Illinois, now deceased, to make the interest payable in coin; it was lost by thirty-nine majority. The House saw the absurdity of declaring by law a circulation which they had just created and declared lawful money and made a legal tender to be of less value than gold, thus depreciating its value. The New York brokers and bankers sent their emissaries here, but failed with the Committee of Ways and Means in the House, but finally persuaded the Secretary of the Treasury and the Senate to adopt that fatal policy. It came back to the House thus amended, and though resisted by the original friends of the bill, passed. That induced the provision to have the duties on foreign importations paid in specie. To this unwise discrimination, creating two kinds of currency, and pronouncing one kind of lawful money inferior to the other kind of lawful money, I attribute most of the trouble which has arisen from the high price of everything, the enormous and unnecessary expense of the war, and the constant fluctuation in the market.

Time and experience, I had thought, had forced upon most people the conviction that longer perseverance in this system must lead to disastrous consequences. I had wondered that we had not seen this before we inaugurated a system so palpably unwise.

To show the necessity of this change, let us suppose that the increase of the public debt will stop at \$4,000,000,000. The interest, at six per cent., would be \$240,000,000. This would have to be paid in gold to be purchased by the Government. If, while we have required but \$56,000,000, the holders of that commodity could put it at \$270 to the \$100, as they did, it is not extravagant to suppose that when \$240,000,000 must be had they will be able to command \$300 for \$100. Three times \$240,000,000 will make \$720,000,000. Add say \$130,000,000 for other expenses, and old loans falling due, and you have \$850,000,000 to be raised annually to pay the interest and ordinary expenses alone. If you add \$50,000,000 for a sinking fund, you have the round sum of \$900,000,000 to be raised by taxation. I know of no young nation that ever bore such a tax.

Our present tax is not a light one, yet it is not expected to produce more than half that sum.

In my judgment the people could not, and would not, bear it. I would not be understood that this country would, under any circumstances, repudiate her debt; but she would, from necessity, be driven to suspend the payment of part of her interest for a while. That would be a disgrace which we must not for a moment contemplate. We must begin in time so to shape our course as to avoid it.

It may be said that we could not have sold our loan at par if we had made the interest payable in lawful money. I do not believe that. If we had maintained the equality of United States notes with gold, as we had declared by making them a legal tender, and received them for customs, I believe these long loans receivable in currency would have readily commanded par.

But suppose we had been obliged to sell them at ten per cent. discount, what have we now sold them at with gold-bearing interest? We have received in currency \$100 for gold bonds for \$100. That \$100 in currency could be bought and no doubt was bought for forty dollars in gold, and we instantly commenced paying \$100 in coin for it; for when we pay the interest in gold and the principal when due, it is all gold from the beginning. So under this wise system we have actually been selling our bonds at sixty per cent. discount. Nor have we the merit of using a currency which, it is said, would keep down prices. We have used nothing but the currency which we had ourselves decried and depreciated.

But that immense loss was not the worst feature of that fatal policy. When Congress made United States notes a legal tender which every citizen was bound to receive at par unless he held Government loans, it was unwise and unjust to make any discrimination between different classes of creditors. Gold coin, silver coin, and United States notes, were all equally lawful money of the United States. Why should Government declare that the one was better than the other, and thus by legislation depreciate its own money? If Congress had declared that gold should not be a legal tender, and should not be received for duties or paid for interest, but that United States notes and silver should be, gold would have depreciated below either of the others. While the sixty million Treasury notes were receivable for duties they were of equal value with coin, while Treasury notes not thus receivable were at a discount. But Congress created an absolute necessity for coin in proportion to the increasing amount of her debt, and made it alone receivable for duties, thus declaring that all other money was inferior to it. Our duties last year amounted to over \$100,000,000. The holders of gold knew that at least \$25,000,000 must be had each quarter by the merchants, no matter what it cost. Outside of the vaults of the New York banks, who by their charters must hold their coin, I suppose the average amount in New York was just about \$25,000,000. Whoever possessed that could compel the merchants to pay whatever price their consciences would permit them to ask. It is no hard thing in such a city for a few men to monopolize the whole of it. The struggle for such monopoly would raise the price, and the purchasers would indemnify themselves by extorting from the merchants, who receive in their business only United States notes and currency, and were therefore at the mercy of speculators—of a class of men the most worthless in the community—men who consume the fruits of the earth but produce nothing.

If no gold had been needed to pay interest and duties, the demand for it in this country would have been too trifling to have attracted attention. If there had been no demand for it how could the price have risen above par? Who would have bet on the gold board when the winner could not profit by his luck?

The cost to the merchants and the Government in direct premiums is the smallest part of the evil. Congress made gold, when no longer money, no longer a circulating medium, the standard of value. Every article came to be measured by the price of bullion, the extorted unnatural price paid by the merchants. Of course when gold sold at two and a half times the mint value everything purchased by the rich and the poor, by private individuals and by Government, followed in the

same direction. They might not always quite overtake it, as caution was necessary; but they approximated it. Wheat, which before the war was at \$1, has been \$2 50 when gold was 250, and is now over \$2 per bushel when gold is at about 200. Beef was from \$8 to \$10, now at \$10 to \$20; and so of everything else. Certain theorists are in the habit of attributing this to an inflated currency. This, in my judgment, has had much less to do with it than is generally supposed. If that were so, prices would not fluctuate with the fluctuations in the gold market; for the volume of currency does not thus vary. The merchant holds his goods higher or lower as the price of gold rises or falls. He marks and re-marks them according to the thermometer of the Israelites in the gold-room, not according to the contraction or expansion of the currency.

I know that when the currency is unduly expanded it raises prices. When too much contracted, prices fall. It makes not a particle of difference whether that currency is in coin or in paper. California has never had any other but a gold currency, but prices have always been double those east of the mountains. The sole cause was that gold was abundant there. The circulating medium was larger than the business required. The effect would have been precisely the same had her currency been paper.

The currency is never inflated so long as there is no more than is necessary for the business of the country. The proper quantity depends not on a fixed amount, but on the quantum of business. I do not believe that our currency is swollen much beyond the necessary amount. Before the war our circulation in coin and bank notes was about \$400,000,000. Our circulation now is about \$600,000,000—I doubt if the actual circulation is so large. A large portion of the legal tenders are hoarded. When lately the banks took a loan of \$50,000,000 they had great difficulty in procuring sufficient legal tenders to fill it. The compound-interest notes are nearly all placed as investments.

But suppose the circulation to be one third larger than before the war. Does not the business of the country require double the amount of currency that it did then? The Government contracts then were about \$80,000,000, including all her expenses. They are now at least \$900,000,000; and I believe that individuals—including new branches of contracts in the loyal States, tobacco, petroleum, &c.—are quite as large as then. Our merchants then required about \$90,000,000 to pay their duties. They now require of our currency \$300,000,000.

I believe, therefore, that we have no more circulation than is necessary to carry on the increased business of the nation. The exorbitant prices are not, to any great extent, at least, due to excessive circulation, but to the vicious standard of value erected by Congress when, having demonetized coin, they made the commodity of gold the measure of all other commodities; and which, being in so small a volume, enabled speculators to control the whole business of the country, and play havoc with the interest of the nation. In times of suspension the amount of circulation has very little influence on prices; the discount line of the banks has much more to do with it. Then banks discount on their capital and deposits, thus flooding the country with money easily obtained. Take, as a sample, the state of the Philadelphia banks on the 20th of this month. Their discount line was nearly \$49,000,000, while their circulation was \$4,856,771, and specie was \$1,569,223; their capital \$13,740,000, and deposits \$37,141,910. Here was no inflation of the currency. It was not one fourth the amount of their capital. But there was a monstrous inflation of their loans. If gentlemen had directed their taxation to deposits instead of circulation they would have shown more statesmanship. Had all our loans been for lawful money there would have been no difficulty in having them taken at six per cent. at par. All "lawful money" being received for duties and interest. It was said they would never have been taken abroad. That to me would have been a merit. The annual net earnings of this country would have been sufficient to absorb all our loans and pay all the expenses of the war. Now what is sold abroad is sold at forty dollars on the hundred, and we immediately pay \$100 in coin for it

as interest, and must ultimately pay \$100 principal for every \$40 received when specie payments are resumed. What an immense sacrifice to a foolish theory!

But that evil is now upon us, and in order to sell our present loan, payable in lawful money, we must make it as desirable as the past loans. I think eight per cent. interest, irredeemable for ten years, will accomplish that object. In my judgment it will be the most advantageous loan for capitalists yet issued. We have three kinds of loans:

1. The five-twenties, interest payable in coin, redeemable at the pleasure of the Government after five years, in lawful money, and payable absolutely in twenty years in money.

2. Ten-forties, redeemable in ten years at pleasure of Government, and payable in forty years, principal and interest, in coin, at five per cent.

3. Seven-thirties, interest in money and convertible in three years into five-twenties, or redeemable in money.

Let us take up these several loans and see if the present one, while it relieves the Government from the payment of coin, is not the best for holders. Suppose gold to remain at 200, the five-twenties will bear twelve per cent. for three years, which they have yet to run, and will then be paid in money. Of course, thereafter it is to be invested in a six per cent. loan. One hundred dollars, at twelve per cent. for three years, will be \$36; and for seven years, at six per cent., \$42; ten years, equal to \$78. At eight per cent. for ten years it would be \$80.

The seven-thirties are payable in money, and therefore less valuable than are eight per cent. stock, as they are not convertible until the five-twenties will be payable in currency, or near that time.

The ten-forties are the only ones about which there can be a doubt, as the interest and principal are both payable in coin after ten years at five per cent.

Now their comparative value depends entirely upon the time when we shall resume specie payments. If we should resume specie payments in three years, as most financiers believe, then the money in which the interest and principal of the ten-forties will be paid will be no better than that in which this loan of eight per cent. will be paid—both will be coin—while for three years the ten-forties will bear five per cent. gold, equal to ten per cent. at present price of gold, yet for the balance of the ten years, that is, for seven years, they will bear five per cent., and this loan will be eight per cent. The account will be thus: ten per cent. on \$100 for three years will be \$30; five per cent. for seven years, equal to \$35, \$65; eight per cent. for ten years \$80—\$15 in favor of the eight per cent. bonds.

This is supposing gold to remain at 200. But if these gold-bearing bonds can be stopped where they are, and those out be converted, and the duties paid in lawful money, gold would fall to par, and this loan for ten years would be three per cent. better than the ten-forties and two per cent. better than the five-twenties. It seems to me that all the outstanding gold-bearing bonds would soon be converted.

I suppose no capitalist would desire more for his money than eight per cent., especially if that could be secured for ten years. It would be much better than an interest whose rate depended upon the varying prices of the gold room.

Can we afford to pay eight per cent? I have supposed our debt would ultimately be \$4,000,000,000, and \$3,500,000,000 would bear interest. We should always have half a billion that would bear no interest. The interest would be \$280,000,000, to which must be added \$100,000,000 for ordinary expenses, making \$380,000,000, to be provided for. I think that no one can doubt that our present internal tax law, when properly executed, will produce \$320,000,000; and our duties, when payable in money, at least \$150,000,000; making \$470,000,000. This would leave a surplus of \$90,000,000 for a sinking fund. If we stop where we are, with gold-bearing bonds we can manage our interest without any increase in the price of gold.

Our gold-bearing interest is now \$63,000,000. It will be increased a little when the seven-thirties are converted. With our foreign demand we may need \$70,000,000. I have no doubt that our

average duties while payable in coin, will be \$80,000,000.

With \$2,000,000,000 of our debt at six per cent. or bearing no interest, of which \$29,000,000 of the interest is payable in currency, suppose it be increased to \$2,000,000,000 more at eight per cent., being \$160,000,000, the amount would stand: gold bearing bonds, interest say \$70,000,000; which would be paid by duties thus squaring it:

Present debt bearing currency interest.....\$29,698,000  
Interest on \$2,000,000,000, at eight per cent.....160,000,000

Leaving to be provided by internal duties.....189,698,000  
I believe our present internal tax will produce 320,000,000

Leaving a balance for a sinking fund of.....130,302,000  
Deduct ordinary expenses.....100,000,000

\$30,302,000

This supposes no conversions.

Some have suggested that the value of our currency would be affected by the amount of our taxation; that the price of greenbacks would rise and the price of gold fall just in proportion as we lay burdens on the people. I think my excellent colleague from Vermont [Mr. MORRILL] fell into this notion.

I think there never was a balder fallacy. No doubt the value of our bonds depends on the confidence which the people have in our solvency. But so long as we raise sufficient revenue to pay the interest on the public debt, and the people confide in the ability and will of the Government to pay, taxation can have no influence on the relative value of legal tenders and coin. Now, there has never been a day since this war began that the people have not had perfect confidence in the ability and disposition of the Government to pay all its liabilities. There never has been an hour since our first tax law was passed that our revenue would not pay all our accruing interest and ordinary expenses. At this day, with our new tax law in full operation, our revenue will be quite sufficient to pay our ordinary expenses and the interest on the full amount of debt after two years more of war accumulations, unless we should continue to make that interest payable in coin. In that event it will pay just about half of it. Yet notwithstanding that ability and public confidence, the price of gold has not been affected by taxation.

Some of our tariff friends are almost reconciled to the high price of gold because they think it acts as a protection to domestic industry. In this I think they are mistaken. The price abroad of goods is not raised as ours is. It remains the same as before the war. The duty is paid on the foreign valuation. Hence the amount, though payable in coin, is small compared with the price when once imported. The enormous price here pays the importer a larger profit, notwithstanding the gold duties. Hence importations are not discouraged by the high price of coin.

Suppose before the war the price of an article abroad was \$100, the duty twenty-five per cent. It would cost, exclusive of charges, \$125 here; if it brought here \$150, the net profit would be \$25. Now, the price abroad is the same, \$100; but the duty being (in currency) twice as much would make the cost here \$150. We know that every article is more than twice the price it was. It would sell for \$300; deduct the \$150, and it would leave a profit of \$150 instead of \$25.

Let us sum up the result of the argument.

The interest, payable in coin, after our loans already authorized are taken, will be about \$70,000,000. This will be paid by the coin received for duties, say \$70,000,000, so that they balance each other.

Debt bearing interest in lawful money.....\$68,570,952  
Yielding an interest of.....29,693,770  
Suppose the debt to be increased by \$2,000,000,000, at 8 per cent.....160,000,000

Making interest.....189,693,770  
Add ordinary expenses.....100,000,000

To provide for.....289,693,770  
I believe no one puts our internal revenue at less than.....320,000,000

Leaving a balance of.....\$30,302,320

In this I have not noticed legal tenders as a debt. If you want \$150,000,000 more, and should ever get over the terrors of Wall street, you can



raise it by levying two percent. on the operations of the gold rooms.

If you continue gold-bearing loans, take the same debt.....	\$1,200,000,000
Add the present currency loan, which would be converted.....	608,570,952
	1,808,570,952
Add the two billions increase.....	2,000,000,000
	3,808,570,952
Interest at 6 per cent.....	6
	228,514,257
Deduct gold duties.....	70,000,000
	158,514,257
To purchase at three for one.....	3
	475,542,771
Add for ordinary expenses.....	100,000,000
	575,542,771
Internal revenue (deduct).....	330,000,000
	\$245,542,771

This to be added yearly to our debt would soon lead to bankruptcy.

Mr. HOOPER. In case the substitute be rejected I ask unanimous consent that I shall have leave to offer the amendments which have been adopted in the Committee of the Whole on the state of the Union to the original bill. I trust there will be no objection.

There was no objection; and it was ordered accordingly.

Mr. WILSON. Will it not be in order to recommit to the Committee of Ways and Means with instructions?

The SPEAKER. It will not, as the previous question has been seconded. It will be in order after the third reading of the bill if the previous question be not demanded on its passage.

Mr. WILSON. I desire, if such an opportunity can be had, to propose to recommit the bill to the committee with instructions to report a bill providing for the continuance of seven-thirty bonds with the condition that when the Government shall resume specie payment the interest shall be at six per cent.

Mr. BROOMALL. I ask my colleague to allow me the six minutes left of his time to explain my amendment.

Mr. STEVENS. I yield for that purpose.

Mr. BROOMALL. The time allowed me in which to explain my amendment is short. I will therefore do it in as few words as I can. I was opposed to the bill of the Committee of Ways and Means because I look upon it as allowing the amount of \$600,000,000 to be issued at the option of the Secretary of the Treasury in such notes as might enter into the currency and so further inflate it. I was opposed to the amendment of the gentleman from Iowa, [Mr. WILSON,] adopted by the Committee of the Whole on the state of the Union, because it required the whole \$600,000,000 to be issued in bonds the interest on which would necessarily be payable in gold; because I believe that no money has yet been borrowed on bonds where the interest was not payable in gold. Being thus between the two extremes, I offer my amendment partly for the purpose of explaining what I am willing to vote for, and mainly with the hope that the two extremes would adopt my amendment as a mean between them.

The difference between my amendment and that of the Committee of Ways and Means is simply this: it restricts the amount of the Treasury notes to be issued under the act to \$100,000,000 instead of allowing the Secretary of the Treasury to issue the whole \$600,000,000. It also raises the minimum denomination. It provides that the lowest notes shall be of \$100 instead of \$50.

I think, if the provisions are fairly considered, it will be seen while on the one hand it will not require us to continue the gold-bearing bonds to so large an amount, on the other hand it will not allow the issue of such notes as will materially enter into the currency. Notes of \$100 and upward play but a small part in inflating the currency. Notes of a smaller denomination perform almost the whole function. I do not believe with some gentlemen who have addressed the Committee of the Whole on the state of the Union. Whether or not a note is a legal tender will not affect the question of its entering into the currency. If it will pass at par it will enter into the

currency and inflate it. As long as a note is passed at par daily it will enter into the circulation, because by passing from hand to hand at par it is currency.

The only means of preventing Treasury notes from entering into the currency consists in two things which I have endeavored to hit in my amendment; that is, the keeping the denomination so high as to prevent their inflating the currency, and to make them interest-bearing. As long as notes are interest-bearing they will enter into the currency only until the amount of interest becomes a material matter. The moment the interest on the \$100 notes becomes a material matter—and that is early—the people are induced to hold them.

This is all I have time to say. I hope both sides will agree to adopt my amendment.

The SPEAKER. The question is first upon the amendment offered by the gentleman from Iowa [Mr. WILSON] to the first section reported from the Committee of the Whole on the state of the Union.

The amendment was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums, not exceeding in the aggregate \$600,000,000, and to issue therefor coupon or registered bonds of the United States in such form as he may prescribe; and so much thereof as may be issued in bonds shall be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable, at the pleasure of the Government, at any period not less than five years nor more than forty years from date, or payable as aforesaid, as may be expressed upon their face; and the interest on such bonds shall be payable semi-annually: Provided, That the rate of interest on any such bonds or other obligations, when payable in coin, shall not exceed six per cent. per annum; and when not payable in coin shall not exceed seven and three tenths per cent. per annum; and the rate and character of interest shall be expressed on all such bonds.*

Mr. HOOPER. As this is a test vote, and as the amendment prohibits the issue of the popular seven and three tenth notes, I call for the yeas and nays.

Mr. GRISWOLD. I would inquire of the gentleman from Massachusetts what is the difference, if any, between the Treasury notes authorized by the bill of the Committee of Ways and Means and those Treasury notes now being sold daily, and from which the Government is realizing three or four millions a day.

Mr. HOOPER. None whatever.

Mr. WILSON. I desire to have this question understood before the vote is taken. I understand that there is a great difference between the provisions of this bill and the existing law for issuing seven-thirty notes. Under the present law they can only be issued upon subscription, while under the operations of the present bill they may be paid out as other money by the Government.

Mr. HOOPER. That provision to which the gentleman refers applies only to cases where a party who has a claim against the Government desires to subscribe for the loan to the extent of the Government indebtedness to him. He has the option to take the money or to take bonds under this act.

Mr. WILSON. Then this bill differs from the present law in another important respect. Under the provisions of the bill as reported from the Committee of Ways and Means these notes may be issued redeemable or payable at such periods as, in the opinion of the Secretary of the Treasury, may be deemed expedient. Now the present seven-thirty notes are convertible in three years. But the Secretary may make these notes, under the present bill as it comes from the committee, redeemable in thirty, sixty, or ninety days, or one, two, or three years. That is a very important difference.

Again, the bill which we now have under consideration does not prohibit the Secretary of the Treasury from issuing notes in the precise form of the original interest-bearing notes now legal tender for their face.

In these three respects the notes issued under the present bill may differ from the present seven and three tenth notes.

Now what I desired to have an opportunity to do was to move to recommit this bill to the committee with instructions to report a bill continuing the present system of seven and three tenth notes, and to provide that after the resumption of specie

payment the interest shall be six per cent. instead of seven and three tenths.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 48, nays 97, not voting 37; as follows:

YEAS—Messrs. Ancona, Baily, Augustus C. Baldwin, Bliss, Boutwell, Brandegee, Brooks, William G. Brown, Chandler, Clay, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Denison, Edgerton, Eldridge, Farnsworth, Ganson, Herrick, Hotchkiss, Hutchins, Kalfbeisch, Kernan, Knapp, Law, McKinney, James R. Morris, Morrison, Odell, John O'Neill, Pendleton, Perry, Pruyn, Smithers, Spelling, Stevens, Stiles, Strouse, Sweat, Townsend, Webster, Wheeler, Williams, Wilder, Wilson, and Fernando Wood—48.

NAYS—Messrs. James C. Allen, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boyd, Broomall, Freeman Clarke, Cole, Thomas T. Davis, Deming, Dixon, Driggs, Dumont, Eckley, Eliot, English, Fick, Frank, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Hall, Harding, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Lazear, Le Blond, Littlejohn, Loan, Long, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scofield, Scott, Sloan, Smith, Stuart, Thayer, Thomas, Upson, Van Valkenburgh, Wadsworth, Ward, Elihu B. Washburne, William B. Washburn, Whaley, Joseph W. White, Windom, Winfield, Woodbridge, Worthington, and Yeaman—97.

NOT VOTING—Messrs. William J. Allen, Alley, Allison, Anderson, James S. Brown, Ambrose W. Clark, Cobb, Coffroth, Creswell, Donnelly, Eden, Harrington, Benjamin G. Harris, Charles M. Harris, Philip Johnson, William Johnson, Julian, King, Mallory, McDowell, McDoe, William H. Miller, Nelson, Noble, Price, Radford, Samuel J. Randall, Robinson, Rogers, Shannon, Starr, John B. Steele, William G. Steele, Tracy, Voorhees, Chilton A. White, and Benjamin Wood—37.

So the amendment was not agreed to.

During the roll-call,

Mr. COFFROTH stated that he was paired with Mr. SHANNON upon all questions connected with this bill.

The result of the vote having been announced as above recorded,

Mr. HOOPER moved to reconsider the vote by which the amendment was rejected; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECESS.

Mr. RICE, of Massachusetts. I move that the House take a recess this afternoon from half past four until half past seven o'clock, p. m.

The motion was agreed to.

Mr. RICE, of Massachusetts. I move to reconsider the vote by which the motion was agreed to; and to lay the motion to reconsider on the table. The latter motion was agreed to.

The SPEAKER. The Chair will state that the session of this evening is set apart for the consideration of reports from the Committee on Naval Affairs.

Mr. MORRILL. Will that business override the tariff bill?

The SPEAKER. It will. By the order of the House yesterday, Tuesday evening was assigned by unanimous consent for the consideration of reports from the Committee on Naval Affairs.

Mr. MORRILL. Then I move to suspend the rules so as to enable me to move that the House dispose of the tariff bill before that business shall be taken up.

The SPEAKER. The Chair would state to the gentleman from Vermont that no motion in regard to that matter will be in order, the order having been made by unanimous consent, until the time is reached when that order operates. The matter will be within the control of the majority of the House this evening, and the business of the Committee on Naval Affairs can then be postponed by a majority of the House.

Mr. MORRILL. Then I give notice that I shall make an effort to have the consideration of the tariff bill continued until it shall be disposed of.

LOAN BILL—AGAIN.

The House then resumed the consideration of the special order reported from the Committee of the Whole on the state of the Union.

The amendments adopted by the Committee of the Whole on the state of the Union to the original bill before the adoption of Mr. WILSON's substitute for the first section and for the offering of which in the House unanimous consent had

been given to Mr. HOOPER, were severally read, and agreed to.

The question recurred on the following amendment, in the nature of an additional section, offered by Mr. DAVIS, of Maryland:

*And be it further enacted*, That no note or obligation hereafter issued under any act of Congress shall be a legal tender, and no Treasury notes bearing interest for fifty dollars or under shall be reissued when paid into or received by the Treasury, but all such notes shall be canceled; and no Treasury note hereafter to be issued under any law shall be for a less sum than \$100.

Mr. DAVIS, of Maryland, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 86, not voting 41; as follows:

**YEAS**—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Brooks, William G. Brown, Chanler, Clay, Cox, Cravens, Henry Winter Davis, Dawson, Denison, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Herrick, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Law, Le Blond, Marcy, McKinney, Middleton, Morrison, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Rogers, Scofield, Scott, Spalding, William G. Steele, Stevens, Stiles, Strouse, Townsend, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Wilson, and Fernando Wood—55.

**NAYS**—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, Freeman Clarke, Cobb, Cole, Deming, Dixon, Driggs, Dumont, Elliot, English, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, Knapp, Knox, Lazear, Littlejohn, Loan, Long, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Sloan, Smith, Smithers, Stuart, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Windom, Winfield, Woodbridge, and Yeaman—86.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, James S. Brown, Ambrose W. Clark, Coffroth, Creswell, Thomas T. Davis, Dawes, Donnelly, Eckley, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, Julian, Kasson, King, Mallory, McDowell, McIndoe, William H. Miller, James R. Morris, Nelson, Price, Radford, Samuel J. Randall, John H. Rice, Robinson, Shannon, Starr, John B. Steele, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Benjamin Wood, and Worthington—41.

So the amendment was rejected.

The question recurred on Mr. BROOMALL'S amendment, as follows:

*Sec. 1. And be it further enacted*, That in lieu of \$100,000,000 of the amount of bonds authorized by this act, the Secretary of the Treasury may at his discretion issue Treasury notes of denominations not less than one hundred dollars, bearing interest at a rate not less than six nor more than seven and three tenths per cent. per annum, and the said Treasury notes shall be made convertible into any bonds authorized by this act, and the interest and principal shall be made payable at such time within twenty years as the Secretary of the Treasury may determine.

Mr. BROOMALL. As that amendment has been rendered unnecessary and inconsistent with the bill by the action of the House on the report of the Committee of the Whole on the state of the Union, I ask leave to withdraw it.

The amendment was withdrawn.

The question recurred on the substitute offered by Mr. DAVIS, of Maryland, and it was rejected.

The question recurred on the substitute offered by Mr. STEVENS, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to borrow from time to time, on the credit of the United States, a sum not exceeding \$600,000,000, and to issue therefor coupons or registered bonds, redeemable at the pleasure of the Government after ten years, and payable at any time not more than forty years from the passage of this act, at a rate of interest not exceeding eight per cent. per annum, and of such denominations, not less than fifty dollars, as he may deem expedient. And he may, in his discretion, dispose of such bonds at any time, upon such terms as he may deem most advisable. And said bonds shall be exempt from taxation by or under State or municipal authority.

*SEC. 2. And be it further enacted*, That the Secretary of the Treasury shall be at liberty to exchange bonds similar to those provided for in the first section of this act with the holders of any bonds or obligations of the United States bearing interest: *Provided*, That such exchange shall be offered by the holders of obligations within two years after the passage of this act.

*SEC. 3. And be it further enacted*, That the Secretary of the Treasury may dispose of bonds similar to those provided for in the first section of this act in exchange for Treasury notes, certificates of indebtedness, certificates of deposit, or any representatives of value which have been or may be issued under any act of Congress; and whenever any person or persons owing a claim against the United States for materials or supplies furnished, which shall have been duly adjusted and approved by the proper

officers, and for the payment of which requisitions shall have been duly made by the appropriate Department or officer upon the Treasury of the United States, shall have given notice in writing to the Department or officer making the requisition that the owner of such claim desires to subscribe for a loan authorized to the amount of said claim, or some part thereof, and to receive in payment of the claim the bonds or other obligations similar to those provided for by this act, the said officer or Department, when making such requisition, shall specify therein the name or names of the claimant or claimants who shall have given such notice, and also the amount of such claim or claims; and thereupon the Secretary of the Treasury shall issue to the officer or Department making said requisition the bonds or other obligations aforesaid, to be delivered in payment to said claimant or claimants, at the same rates and under the same conditions that the Secretary disposes of similar bonds or obligations, not below par, to other parties; and such issuing of bonds or obligations shall, to that extent, be a valid compliance with such requisition.

The amendment was rejected; there being, on a division—yeas 33, nays 77.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOOPER moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE called for the yeas and nays on the passage of the bill, and for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

Mr. ELDRIDGE called for tellers on the passage of the bill.

Tellers were ordered.

The House divided; and the tellers reported—yeas 78, nays 35.

So the bill was passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

Mr. HOLMAN called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 47, not voting 44; as follows:

**YEAS**—Messrs. Allison, Ames, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brandegee, Broomall, William G. Brown, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Dumont, Eckley, Elliot, English, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Lazear, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Sweet, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Wilder, Windom, Woodbridge, Worthington, and Yeaman—91.

**NAYS**—Messrs. James C. Allen, Ancona, Brooks, Chanler, Cox, Henry Winter Davis, Dawson, Denison, Edgerton, Eldridge, Finck, Ganson, Grider, Harding, Holman, Philip Johnson, William Johnson, Kalbfleisch, Kernan, Knapp, Le Blond, Long, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, Pendleton, Perry, Pruyn, Rogers, Ross, Scott, William G. Steele, Stevens, Stiles, Strouse, Townsend, Chilton A. White, Joseph W. White, Williams, Wilson, Winfield, and Fernando Wood—47.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Arnold, Ashley, Bliss, James S. Brown, Ambrose W. Clark, Clay, Coffroth, Cravens, Creswell, Donnelly, Farnsworth, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hotchkiss, Hutchins, Julian, King, Law, Mallory, McDowell, McIndoe, Nelson, John O'Neill, Pike, Radford, Samuel J. Randall, John H. Rice, Robinson, James S. Rollins, Shannon, Smith, Starr, John B. Steele, Stuart, Voorhees, Wadsworth, Ward, and Benjamin Wood—44.

So the motion to reconsider was laid on the table.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 621) making appropriations for the support of the Military Academy for the year ending June 30, 1866; and

Joint resolution (H. R. No. 164) authorizing a contract with William H. Powell for a picture for the Capitol.

#### TARIFF BILL.

Mr. GARFIELD. I rise to a privileged question.

Mr. MORRILL. There are several privileged questions pending. I hope that the House will allow the tariff bill to be now taken up and acted upon. It cannot be considered in the Senate at all unless we pass it to-day.

Mr. GARFIELD. I give way for that purpose.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the tariff bill.

Mr. WASHBURN, of Illinois. I have a privileged report to make—

The SPEAKER. The gentleman from Vermont moves to suspend the rules which make the report privileged.

Mr. WASHBURN, of Illinois. This is not under the rules, but under the order of the House.

Mr. MORRILL. The gentleman can make his report as soon as we complete the tariff bill. It will take but a short time.

Mr. WASHBURN, of Illinois. It is very important that the proposition which I have to report shall pass immediately.

Mr. MORRILL. It is not so important as the passage of the tariff bill. Before the question is put on the motion to suspend the rules I move that all general debate on the tariff bill shall close in one minute.

The motion was agreed to.

The question recurred on the motion to suspend the rules, and it was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and proceeded to the consideration of the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign imports.

Mr. HOLMAN. As there seems to be such an extraordinary anxiety to press this bill upon this House, I will not call for the reading of the bill at length.

The first section was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section six of an act entitled "An act to increase the duties on imports, and for other purposes," approved June 30, 1864, be amended in paragraph marked "second," by striking out after the words "on finer and lighter goods of like description" the words "exceeding one hundred threads and;" and that section eighteen of the said act be amended by inserting therein after the words "raw cotton," in parentheses, the words "and raw silk as reeled from the cocoon."

Mr. WARD. I move to add to this section the words, "or not further advanced than tram, thrown, or orgazine." I presume the Committee of Ways and Means will not object to that amendment.

Mr. MORRILL. I do not object to that. There are, however, many amendments that may be proper; and the greatest objection I have to them is the swelling the size of the bill.

Mr. WARD. The reason for the amendment is this: these words, as is well understood by the Committee of Ways and Means, were incorporated in the bill of the last session, but were omitted in the enrolling of the bill. My object is merely to make this bill conform to the bill of last session as it actually passed both Houses of Congress.

Mr. MORRILL. The gentleman from New York [Mr. WARD] is correct. These words were in the bill last session as it passed; but were omitted in the enrolling of the bill.

The amendment was adopted.

The second section was read, as follows:

*SEC. 2. And be it further enacted*, That from and after the day when this act takes effect, in addition to the duties heretofore imposed by law on the importation of the articles mentioned in this section, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On brandy, rum, gin, and whisky, and on cordials, liquors, arrack, absinthe, and all other spirituous liquors and spirituous beverages, fifty cents per gallon of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

On spun silk for filling in skins or cops, ten per cent. *ad valorem*.

Mr. WARD. I move to amend this section in the second paragraph by inserting after the words "fifty cents per gallon of first proof" the words "and less strength." We would thus get an increased revenue, because much of these articles imported is of less strength than first proof.

The amendment was adopted.

The first portion of the third section was read, as follows:

Sec. 3. *And be it further enacted*, That from and after this act takes effect, in lieu of the duties heretofore imposed by law on the importation of the articles mentioned in this section, there shall be levied, collected, and paid the following duties and rates of duty; that is to say:

On cotton, five cents per pound.

Mr. BROOKS. I move to strike out the line reading "on cotton, five cents per pound."

Mr. MORRILL. I hope the motion of the gentleman from New York [Mr. Brooks] will not be adopted.

Mr. BROOKS. The reason I make this motion to amend is that there is an excise duty of five cents per pound laid upon home cotton. In point of fact, this is a bounty to the present holders of cotton, and will increase the value of what is in their hands five cents per pound in addition to the present value. Or to make myself clearer: the moment this becomes the law, cotton will rise five cents per pound in the hands of manufacturers or commission merchants or those who have permits to purchase cotton. The prices of all cotton articles are now as high as this country will bear. The amount of manufactures has decreased, and will decrease much more, just in proportion as prices are raised. Manufactures are not only decreasing, but at the present time we are importing Egyptian, Surat, and East India cotton in general. Now, when we are to receive five cents per pound excise duty on our home production of cotton, it seems to me that in the present condition of affairs, considering the present high price of cotton goods, in which the poor are interested more than the other classes, we ought to be content with the excise duty. The reasons which apply to duties on other articles imported do not apply to this. This is one of the products of our own country. The revenue from the excise will be large, and the only effect of this duty will be to increase the price of all cotton manufactures five, ten, or fifteen cents, proportionably as the duty is raised here.

Mr. MORRILL. We have sometimes on this side of the House dealt in hard words toward our "erring southern brethren." But I venture to say that no man in this House has ever proposed a measure so harsh and sweeping in its nature upon them as this proposition of the gentleman from New York, [Mr. Brooks.] We have already levied a tax upon the production of cotton in our own country, and the gentleman from New York after this proposes to allow our own manufacturers to import cotton from abroad free of duty, or in other words, to create a bounty upon the production of foreign cotton. What the Committee of Ways and Means propose is to be perfectly fair in this matter of duties upon cotton. If we levy a duty upon the American article, then levy an equivalent duty upon the foreign article.

Now, as it regards the amount of stock on hand, perhaps there never was a time in the history of our country when there was a smaller stock of cotton in the hands of speculators than at present. I know that some favored pets have received permits to get cotton from the South. But unless they get it within our lines within a very short time it will become subject to our internal duty, if the bill providing for that duty shall become a law. There is also a very small stock of cotton goods on hand. There has recently taken place a great depreciation in their value. Cotton goods that lately sold for fifty and sixty cents a yard are now to be had at less than forty cents.

Mr. GRINNELL. At less than thirty cents.

Mr. MORRILL. Yes, sir; and I believe I have seen them quoted at less than thirty cents. With this heavy decline in the price of the raw material, and in the price of the manufactured article, what will be the result? The result will reach foreign manufactures far more oppressively than it will our own. In England, and to some extent on the Continent, manufacturers are in the habit of having on hand at least a year's stock of the raw material, or of the manufactured goods. They cannot supply distant markets with less. But our manufacturers have no such stock. The demand for our goods is now almost exclusively at home. If this great decline should take place, as I am led to anticipate, and if our manufacturers, or those holding stocks of goods, had an amount equal to that held by British manufacturers and

merchants, we might look perhaps for a greater disaster to our trade in the coming year than has ever taken place. But the imposition of this duty, instead of being a hardship, will tend to break the fall, and the article itself can at the present time well bear the burden. I hope that it will not be stricken out.

The amendment was not agreed to.

Mr. BROOKS. I desire to ask whether it is intended to allow a drawback on this cotton, if it be exported in the form of cotton goods.

Mr. MORRILL. It is provided in the internal revenue bill that a drawback shall be allowed.

Mr. BROOKS. I think it is most unjust to do so.

The Clerk read the following clause:

On illuminating oil and naphtha, benzine, and benzole, refined or produced from the distillation of coal, asphaltum, shale, peat, petroleum, or rock-oil, or other bituminous substances used for like purposes, forty cents per gallon.

Mr. SCOTFIELD. I move to amend by adding at the close of the clause just read the words "on petroleum or rock-oil twenty cents per gallon; and on crude coal oil fifteen cents." After a careful examination of this clause of the bill I have come to the conclusion that it does not cover the crude oil, but only the refined. If it is not included the rock-oil from the Canadas will be brought over into this country, underselling us everywhere in the market, defeating altogether the collection of revenue from this source. Coal tar in a cheap state will also be brought into the country from New Brunswick and Nova Scotia; it will be afterward refined, and thus will evade taxation.

The amendment was adopted.

Mr. COLE, of California. I move to insert "on quicksilver twenty per cent. *ad valorem*." The tax is ten per cent. now. A considerable quantity is imported into this country from France and Spain, where it is produced by convict labor.

Mr. MORRILL. We have not raised the excise duty on quicksilver in the recent internal revenue bill, and I trust that the amendment will not be adopted. If we had this amendment might be proper.

Mr. COLE, of California. I will modify it so as to make it fifteen instead of twenty per cent.

The amendment was adopted.

Mr. STEVENS. I move to strike out the words "made to patterns and fitted to be laid down on such roads or planes without further manufacture," so that it will read, "on iron bars for railroads or inclined planes, fifteen cents per one hundred pounds."

The amendment was agreed to.

Mr. DAVIS, of New York. I move to strike out the last word. The duties imposed by existing law on the importation of railroad iron constitute a sufficient protection to the American manufacturer. These duties are now twenty cents per pound—\$13 40 in gold per ton. The freights from England or Europe to this country are payable in gold, and they are on the average \$7 50 per ton. Insurance is equivalent to \$1 50 per ton, and the commissions on purchases are equal generally to \$1 per ton. Then we have the aggregate of \$23 40 as a protection to the American manufacturer upon the importation of this production of railroad iron. Now, sir, we must double that, for everything is double in gold, and you have \$46 80 as the protection of the American manufacturer against the foreign producer.

Mr. Chairman, we should look at the present capacity of the mills and manufacturing establishments of this country for railroad iron, and we should further examine the amount of the demand which is made upon them by the completed and uncompleted railroads of this country. We require upon the whole system of our American roads for reconstruction and repairs, independently of the construction of a single mile of new road, three hundred thousand tons a year. The rolling-mills of this country are incapable of producing that amount. This country in its legislation has provided already, as far as it could provide, for the construction of new avenues of communication, new lines for the purpose of developing the interests and productiveness of this country; and I ask, where are we to obtain material for that construction if we by our legislation here shall impose such duties upon the foreign production as to exclude it?

It has been stated, and is undoubtedly true, that the demand for the Government has been so

great during the last four years that establishments constructed for the purpose of rolling railroad iron have been compelled to devote their power to other manufactures for the use of the Government. This may cease in the future, and I hope that it will; but, in my judgment, from the information I have obtained, we will be unable in this country to produce the iron that is required for the purpose of repair and reconstruction alone, to say nothing of that demanded by new enterprises on this continent. I therefore believe such legislation at the present time is unwise.

We are looking in this bill for revenue. I desire that the coffers of this Government shall be filled as far as may be, and while I would not lay my hand severely upon the American producer and manufacturer, I would not put a duty on a foreign importation so high as to preclude them, and preventing the Government from having those revenues which should flow into it when the tariff of internal duties shall be adjusted according to reason and judgment. I hope that we shall not add to the duties already imposed on this article.

Mr. COX. Did I understand the gentleman to say that this was an increase of the present duty upon railroad iron?

Mr. DAVIS, of New York. Yes, sir; the present duty is \$13 40 a ton, and this adds \$3, making \$16 40.

Mr. MORRILL. I am sorry to differ with my friend from New York, for whose judgment I certainly entertain the greatest respect, with reference to this article of railroad iron. If there is anything in the history of the last three or four years that has given us strength, it has been the ability of our country to produce iron in the largest quantities. Without an enlargement of the capacity of the country to its present extent we should not have been equal to the contest in which we are now engaged. The vast amount of iron consumed by the present war is perhaps unknown to most of the members of this House, and the gentleman from New York has underrated the capacity of our country to produce railroad iron. If I am not greatly misinformed, that capacity at the present time is more than double that stated by the gentleman from New York; and yet, Mr. Chairman, from the unfavorable action of this House last year, both upon the subject of internal taxes and the tariff, the amount which has been imported has more than quadrupled in less than two years, and is still increasing at a rapidly advancing rate.

I have taken pains to ascertain from the Treasury Department the facts in reference to this matter; but before I give that information let me remind the committee that last year we raised the internal revenue tax upon railroad iron from \$1 50 to \$6 for two thousand pounds, and we made no increase whatever in the tariff except to reduce the ton from gross weight to net weight. This has been thought to be a very great hardship upon that interest, and the price of pig iron produced in Ohio and Pennsylvania has gone down more than one half. The price of that article but recently was something like seventy to seventy-five dollars per ton, and it is now less than forty dollars, I am told, for the same quality.

The amount of railroad iron imported into the country from abroad for year 1864 was 118,714 tons, amounting to \$3,904,417, which was paid for, of course, in coin. The amount that was imported for the quarter succeeding that, (ending September 30, 1864,) was 39,664 tons, which is at the rate of 160,000 tons per annum, provided the same rate of importation continued during the year, (as it is not probable it will,) amounting to \$1,500,000 in gold, exclusive of tariff duties.

Under these circumstances the Committee of Ways and Means have not proposed any extravagant measure; but after consulting with many members who last year voted against giving any consideration for the internal tax levied upon railroad iron they have agreed to report fifteen cents per hundred pounds, or three dollars per ton. I do not think the judgment of the House will be that that much is wrong. I hope this provision will be agreed to.

Mr. COX. I move to amend by striking out the fifteenth, sixteenth, and seventeenth lines, as follows:

On iron bars for railroads or inclined planes, made to patterns and fitted to be laid down on such roads or planes



without further manufacture, fifteen cents per one hundred pounds.

I move this amendment in all earnestness. It is not a mere formal motion. This article of railroad iron ought not to be raised three dollars a ton more as this bill provides. It is nothing more nor less than giving the iron men three dollars a ton as a bounty more than they got before. It is heaping gratuity on gratuity. And gentlemen say this is all right; gentlemen from Pennsylvania all say it is right.

Mr. STROUSE. I have failed to hear any gentleman from Pennsylvania rise in his seat here and say "it is all right," or advocate any increase of the tariff on iron.

Mr. COX. Mr. Chairman, I had no idea of striking Pennsylvania so near by when I made my remark; but I cannot understand from the argument of the intelligent gentleman from Vermont [Mr. MORRILL] why the people who represent other elements and interests of industry should be laid under perpetual burdens for the purpose of aiding one peculiar interest of any one State, or any class interest of any kind, and especially when such interests are already surfeited with protection. This is a tax upon the railroads of the country, and it is at last extorted from their passengers; in other words, it comes from the people, as all other taxes do.

There is no class of industry so much protected by the present tariff as the iron interests. They know it, and if there is any reason why iron has fallen from eighty dollars a ton to forty dollars a ton since the last session of Congress it is simply because the protection has been so enormous as to increase the manufacture in an unhealthy and ruinous degree, thereby inducing rivalry in this country, which tends to break down the whole business, unless we fix the rates of duty at a proper and moderate rate.

The gentleman from Vermont objects that there should be foreign iron imported into this country. He says that owing to the war and other reasons iron has come rather too abundantly from abroad, and that we have imported three or four times the amount this year that we did two years ago. Perhaps I may be wrong in this statement. But if that be so, I say let it come. Let any article come if it cheapens its price to the people. Reduce the price of railroad iron in these times of war when railroads play such a conspicuous part in the war, both in strategy and transportation, and invite the largest competition from all the world to supply us with this indispensable article.

I undertook to show to this House last year from statistics, precisely what the extent of protection was in favor of this particular class of interests, and on railroad iron. I thought I had proved (at least it was never answered, and I derived my statistics from the census and from reliable returns made) that railroad iron had, under the then tariff before it was increased, one hundred and ninety per cent. of bounty on a paper basis. They call it protection. It is nothing less than robbery from one and the large class of people to help another and a smaller class. I proved also that the bounty on bar iron was one hundred and seventy per cent.; I mean on a paper basis, supposing the customs all to be paid in gold, as they are. And yet these iron men come here, and with unblushing audacity, clamor for more, and more, and more. If they were wise in their day and generation they would stop this clamor, because the longer and larger the protection is given, in the end the worse their ruin.

I am therefore in earnest in moving to strike out this section. There is no reason why the duty should be enlarged. It will not give any more revenue. It is simply for the purpose of fostering one class of interests to the detriment of another.

Mr. GRINNELL. I am opposed to striking out this section. I believe that the gentleman from Ohio stated the fact as it is when he said that rivalry had reduced the price of iron. I think I so understood the gentleman.

Mr. COX. I did not say that. I said that that was the inference to be drawn from the remarks of the gentleman upon the other side of the House, [Mr. DAVIS, of New York.]

Mr. GRINNELL. The gentleman did state distinctly that iron manufacturers had increased, and that the price of iron had been reduced during the last year.

Mr. COX. I went further, the gentleman will apprehend, and said that it would go on, if this protection should be increased, so as to break down the whole interest, and that it would be better to keep the tariff at a moderate rate. My idea is this, I beg the gentleman to understand, that where you give any protection you have got to give a little more and a little more. It is like one of those machines you find in Pennsylvania or New England, where if you put a finger in the hand goes, and then the arm, and then the whole body, and it is better to cut it off at the finger at once. [Laughter.]

Mr. GRINNELL. Mr. Chairman, the God of nature, as I have understood, in endowing this country has settled the question that we can make our own iron and should make it. We have iron mountains, we have coal, and we have that with which to feed the men engaged in the mining of those articles.

Now, I am called upon to vote on this question as a western man. Shall I say to my constituents, it is better for you to seek a market for your grain across the ocean rather than down by the iron mountain in Missouri, or the iron mountains on Lake Superior, or the iron mountains in Pennsylvania or New York or Vermont?

I sir, have settled this question in my mind a long time ago, that if we can bring about a rivalry we shall have cheap iron and get a good price for our products. The price of grain is determined by the market. If you must have a foreign market you must calculate what it costs to take wheat there. If the market is at Pittsburg you get much more for it there than you get at Liverpool. If the market is at St. Louis you get the more for it. This must settle the question. Bring the manufacturer of iron here to us and the grain producer is benefited by it. Take away the tariff and let the cheap labor of Europe come in competition with our labor, and the consequence will be that our farmers must send their grain abroad. I am opposed to all this. It looks to me like superlative nonsense.

Mr. COX. Will the gentleman from Iowa allow me one question?

Mr. GRINNELL. Certainly.

Mr. COX. If the gentleman were president of a railroad company, and if iron were offered in the markets of Europe at forty dollars per ton, while he would have to pay eighty dollars for it here; or if he were in the sheep business and could get some excellent foreign breeds, would he not prefer to make his purchases abroad rather than in this country? I know he would. And that is the whole argument.

Mr. GRINNELL. So far as these incidental arguments are concerned, I say that I do not need to go abroad to buy either sheep or iron. As one interested in the extension of western railroads, I believe that the stockholders would advance their interests by stimulating the grain production by means of supplying near and home markets, which are those at once reliable and beneficial to those distant from the sea-board.

Mr. KASSON. I ask the gentleman from Ohio to withdraw his amendment, that I may renew it.

Mr. COX. I am pressing this amendment in earnest. I will withdraw it if the gentleman will renew it.

Mr. KASSON. I will do so.

Mr. COX. I withdraw my amendment.

Mr. KASSON. I renew it. I wish to say, Mr. Chairman, that, however reluctantly, I have been obliged to differ with the Committee of Ways and Means in this proposition to increase the duty on the species of bar iron adapted to railroads; and I wish to give my reasons. While my colleague [Mr. GRINNELL] has a railroad to the town where he lives, I unfortunately have not yet a railroad to my town—and I want one. I also recognize a difference between us beyond that. He regards this theory of protection as much more effective than I do; and I give him credit for acting in sincerity on his belief. I believe that the agricultural products of the West have their prices affected here essentially by their prices in Europe, and that whenever the prices are enhanced at Liverpool they are also enhanced at Pittsburg. Why? Because we produce a surplus of agricultural products which must be exported. If we do not have a sufficient market abroad, that surplus settles down on the quantity retained at home and lowers the price. If the price abroad goes up, it natur-

ally carries up the price at home. The laws of supply and demand regulate the price.

Mr. GRINNELL. Let me ask my colleague whether, if we have to seek a foreign market for our grain, it does not reduce the price to the farmers in proportion to the cost of transportation.

Mr. KASSON. Not at all. If the foreign market demands our grain, it goes at a price better than can be got for it at home. If we have no surplus, then our home demand regulates the price here. If we have a surplus, the price at Liverpool regulates the price in this country.

Now, in order to get the western products to any market, either at home or abroad, we must have railroads, unless we run steamboats on dry land, as some of them do run almost on dew. But the boats are unable to carry the great products of the western country. So we have no necessity of striking at any interest of the country. The question is whether it is of more importance to the whole country to increase the profits of the manufacturers of railroad iron at the expense of the extension of your railroad system through the West, or to increase that railroad system, thus creating a large addition to the revenue of the country in the ten thousand channels that are affected by the great surplus of western products. As for myself, I believe it is our duty to leave the way open so far as it is now open—and it is by no means very widely open—for the introduction of railroad iron from abroad, with a view to hold a check upon the price that is imposed by the railroad iron manufacturers in this country. I cannot yield the great interests of the West, which are now utterly dependent upon the extension of the railroad system. We cannot settle our lands without it; we cannot get immigration without it; or if we do get immigration to a partial degree we cannot without railroads realize the value of the products that they raise upon our lands. Every prosperity of the West hangs upon this very railroad system, and I cannot consent to see it destroyed by this increased duty on railroad iron.

Mr. MORRILL. I now move that the committee rise, and I would say that the public business is so pressing that I hope every member of the House will be promptly present this evening at the hour of meeting.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union, according to order, had had under consideration the special order, being a bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations, and had come to no conclusion thereon.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title:

A joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia; when the Speaker signed the same.

#### GENERAL THOMAS AND ADMIRAL LEE.

Mr. SCHENCK. I ask unanimous consent to take from the Speaker's table the joint resolution (H. R. No. 139) of thanks to General Thomas, together with the Senate amendment to include the name of Admiral Lee, for the purpose of having the same referred to the Committee on Military Affairs.

No objection being made, the joint resolution and amendment were referred accordingly.

#### PAUL S. FORBES.

Mr. RICE, of Massachusetts, asked unanimous consent to have taken from the Speaker's table and referred to the Committee on Naval Affairs joint resolution of the Senate authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war.

Mr. HOLMAN objected.

#### ENLISTMENTS IN THE DISTRICT OF COLUMBIA.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, submitted a report from the committee, with accompanying testimony, together with a bill to prevent the

enlistment of persons charged with crime in the District of Columbia as substitutes in the Army and Navy, and to prevent frauds at the District jail in the city of Washington; and moved that the report and bill be printed, and that the bill be recommitted to the Committee for the District of Columbia.

The motion was agreed to.

The hour of half past four p. m. having arrived, the House took a recess till half past seven p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock, p. m.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of War in answer to a resolution of the House inquiring if any order has been issued prohibiting colored persons from leaving Washington without a pass.

Mr. SCHENCK moved that the communication be printed and referred to the Committee on Military Affairs.

The motion was agreed to.

The SPEAKER also laid before the House a communication from the Secretary of War in answer to a resolution of the House inquiring the number of troops furnished by California, and concerning the enforcement of the draft in that State.

Mr. SCHENCK moved that the communication be referred to the Committee on Military Affairs.

The motion was agreed to; and the communication was accordingly referred and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of War in answer to a resolution of the House inquiring the amount of money paid for the use of the steamer Vanderbilt.

Laid upon the table, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. MORRILL. I move to postpone the special order for this evening, until after the tariff bill shall have been concluded. If the chairman of the Committee on Naval Affairs [Mr. Rice, of Massachusetts] desires it, I will move that his committee have to-morrow evening.

Mr. RICE, of Massachusetts. I must object to that. This evening has been specially assigned by the House for the consideration of the business of the Committee on Naval Affairs; and it was upon my own motion that this evening session was held. I think it is but due to the committee, and necessary to the welfare of the Government, that the business with which the committee has been charged by the House shall be considered this evening. There has been no opportunity since the recess of Congress for this committee to report. We have some measures which we are very anxious to present. I think that the time having been specially assigned to the committee by the House we are entitled to it.

Mr. MORRILL. How long will it take?

Mr. RICE, of Massachusetts. I do not know how long. But I think the Committee of Ways and Means should not seek to deprive us of the opportunity of using the time which has been assigned to us by the House. I hope, therefore, the motion of the gentleman from Vermont [Mr. Morrill] will not prevail.

Mr. MORRILL. I have no disposition to deprive the Naval Committee of proper opportunity to get their bill before the House. I am willing to leave it to the House to say whether it is not best that the tariff bill which has been before the House should be concluded and sent to the Senate, in order that it may be acted on there, or whether it is best to devote the evening to other business.

Mr. RICE, of Massachusetts. The gentleman will have his time to-morrow morning. I hope the motion will not prevail.

The SPEAKER. Does the gentleman from Vermont move to postpone till to-morrow evening?

Mr. DAWES. I hope the gentleman will not undertake to assign this business to to-morrow evening. I have been waiting for an opportunity

to bring before the House some privileged questions.

Mr. WASHBURN, of Illinois. I desire to say that I have in my charge a privileged report, which I have postponed until the gentleman from Vermont could get through the tariff bill, so that it might go to the Senate. I shall insist on my right to bring in that report as soon as the tariff bill is disposed of.

Mr. BRANDEGEE. We cannot object to any privileged report which the gentleman from Illinois has the right under the rules to bring in. But our committee, charged with business connected with the organization and administration of the Navy of our country, has not had for three months an opportunity to report to this House; and there are before the committee matters that seriously concern the efficiency of our Navy. The chairman of the committee, with great persistency, only justified by the importance of the case, has insisted for a week past in having a day assigned for the business of this committee; but the Committee of Ways and Means have occupied almost the entire time of the House for the last week.

Mr. STEVENS. Why, sir, the enrollment bill has occupied four days to one that has been occupied by our business.

The SPEAKER. The Chair understands that the motion of the gentleman from Vermont is to postpone the special assignment for this evening till to-morrow evening.

Mr. MORRILL. Yes, sir. It must be obvious to every member that if we expect this bill to be acted on in the Senate it must be put through to-day. I therefore demand the previous question.

The previous question was seconded, and the main question ordered.

On the motion to postpone the special order, there were, on a division—ayes 47, noes 49.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MORRILL, and Rice of Massachusetts, were appointed.

The House divided; and the tellers reported—ayes 47, noes 57.

So the special order was not postponed.

#### DEFICIENCY BILL.

Mr. STEVENS, by unanimous consent, reported from the Committee of Ways and Means a bill to further supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1865, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for to-morrow and from day to day until disposed of.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I rise to make a privileged report.

The SPEAKER. When a time is assigned for a committee, they have the exclusive right to that time.

Mr. WASHBURN, of Illinois. Does a special order shut out any report?

The SPEAKER. A special order does not, but an assignment of a day or an evening gives exclusive right, for otherwise the Committee of Elections might come in and consume the whole time. Does the gentleman from Massachusetts yield to the gentleman from Illinois?

Mr. RICE, of Massachusetts. I cannot, for if I yield to the gentleman I must yield to others.

#### NAVAL JUDGE ADVOCATE.

Mr. RICE, of Massachusetts. I am instructed by the Committee on Naval Affairs to report a bill to establish the office of Solicitor and Naval Judge Advocate.

The bill was read a first and second time.

Mr. RICE, of Massachusetts. Mr. Speaker, that bill has been recommended by the Secretary of the Navy. He has reported that numerous law cases occur in his Department from time to time which demand the attention of a solicitor to be attached to that Department. There are questions in relation to the formation and interpretation of contracts, and in relation to proceedings in courts-martial which have to be decided. The Secretary has informed us that the Department will be greatly facilitated in its action by the appointment of such an officer, and that it will result in a great saving to the Government. The

committee were unanimous in reporting the bill. I understand that the Senate committee have also approved a similar bill.

The salary fixed in the report of the Secretary of the Treasury was \$4,000, and the Committee on Naval Affairs cut down the amount \$500, making it \$3,500. We also provide that the office shall continue only during the rebellion and one year thereafter.

Mr. GARFIELD. I want to know what the provision means in reference to limiting the fees for recording the proceedings of naval courts-martial to \$200. I want to know why we should allow fees to a salaried officer.

Mr. RICE, of Massachusetts. The existing law allows beyond that sum, and we have thought it proper to limit it.

Mr. GARFIELD. Are these fees to be paid to this solicitor in addition to his salary?

Mr. RICE, of Massachusetts. They are not, and I think that if the gentleman will read the paragraph he will be satisfied. It provides that the fees for record of naval courts-martial shall not in any case exceed \$200.

Mr. WASHBURN, of Illinois. I am sorry that the Naval Affairs Committee have brought in a bill to create this new office with a new salary. I think that we can get along without it.

Mr. DAWES. Are these fees to go to the Solicitor of the Navy Department?

Mr. RICE, of Massachusetts. They go to whoever makes the record of the court, wherever that may be. The office of the Judge Advocate General is to be at the Navy Department.

I demand the previous question.

Mr. BLISS. I would like to have this bill more definite. It provides that this office shall continue during the rebellion and one year afterward. I would like to have it more specific.

Mr. RICE, of Massachusetts. It will require a year to finish the business which will have accrued in the Department. We desire that he shall continue no longer than his services are necessary.

Mr. SPALDING. When this subject first came before the Committee on Naval Affairs I was opposed to it *in toto*. On consultation with the Secretary of the Navy I found that he was compelled to pay out four times the amount to attorneys, and I was willing to agree to it if the office were made temporary. It is only to continue during the rebellion and one year afterward, and to pay the officer \$3,500 instead of attorneys four times that amount.

Mr. RICE, of Massachusetts. I demand the previous question.

Mr. HOLMAN. I move to lay the bill on the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time.

Mr. HOLMAN. I call for the reading of the engrossed bill.

The SPEAKER. The bill is not engrossed, and it goes to the Speaker's table.

Mr. WASHBURN, of Illinois, moved that the vote by which the bill was ordered to be engrossed and read a third time be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was not agreed to.

#### APPOINTMENT OF ADMIRALS AND OTHERS.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back a bill (H. R. No. 535) to further regulate the appointment of admirals, and for the appointment of certain volunteer officers in the Navy, with an amendment in the nature of a substitute.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF MIDSHIPMEN.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back a bill (H.

R. No. 605) to increase the pay of midshipmen, and for other purposes; with an amendment in the nature of a substitute.

The substitute was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVAL SERVICE.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a bill to amend certain acts relative to the naval service, and for other purposes; which was read a first and second time by its title.

The bill was read *in extenso*.

Mr. RICE, of Massachusetts. I think it is proper that I should make some explanation of this bill; but I will detain the House only a few minutes.

The first section amends the seventh section of the act of February 24, 1864, which provided that in case of the transfer of seamen and ordinary seamen who had enlisted in the Army, to the Navy, the amount of the bounties which they had received from the State or from the national Government when enlisting should be deducted from any prize money to which such seamen might become entitled during the term of their enlistment.

The Comptroller of the Treasury has stated that it is impossible for him to carry out that provision, inasmuch as he has no means whatever of ascertaining what amount of bounty any such seamen had received from the State or national Government at the time of his enlistment into the Army. The act has in fact become inoperative. This first section repeals that provision.

The second section provides that any person who shall desert from the naval service of the United States shall, after his apprehension or return to the service, be required to serve an additional time equal to that during which he was absent from the service; and that he shall serve that additional time in addition to any penalties which may be inflicted upon him as a punishment for his desertion.

The third section reduces the pay of the officer now charged with experiments in gunnery at the Washington navy-yard, and saves some twelve or fifteen hundred dollars a year.

Mr. KASSON. I call the attention of the chairman of the Committee on Naval Affairs to the fact that that law has been already repealed in an appropriation bill passed at this session.

Mr. RICE, of Massachusetts. That only shows that another committee of the House had their attention called to the same subject.

The bill further provides for the amendment of the tenth section of the prize law, so as that fleet surgeons, fleet paymasters, and fleet engineers shall participate in the distribution of prize money with the other officers attached to the vessels of the fleet. They were accidentally omitted at the time when the prize law was passed; and the bill still further provides that the act of July 4, 1864, which provides for the payment of not exceeding sixty dollars to the crews of vessels sunk or destroyed in action during the present rebellion, shall be applied to such officers. This bill limits the application of that provision to such ships as have been so lost or destroyed since the commencement of the present rebellion. The provision is rendered necessary by the fact that a large number of old claims for such losses antedating the present rebellion have been brought in.

The bill further provides that the provisions of the pension law of July 4, 1864, which says that persons in the military service of the United States shall be entitled to a pension of twenty dollars a month for the loss of both feet, and twenty-five dollars a month for the loss of both arms or both eyes, shall also apply to persons who have suffered in like manner during their service in the Navy. There seems to be no good reason at all why a man who loses his legs, or his arms, or his eyes in battle in the naval service should not be entitled to the same pension that is provided for those in the military service. I believe that there can be no objection to the provisions of this bill.

Mr. GARFIELD. I desire to ask the gentle-

man a question in regard to the first section of this bill. It occurs to me that those men who enlisted in the Army and received bounties in the Army and afterward were transferred to the Navy ought not to keep the bounties which they received in the Army and then have all the pay, emoluments, and prizes that they receive in the Navy. It offers a premium for men to go into the Army first and then get transferred into the Navy. I think that first section ought not to pass.

Mr. RICE, of Massachusetts. My friend from Ohio was quite right in his first impression, and the provision of law is as suggested by him. I recollect that my attention was called to it at that time. But, as I said when I commenced my explanation, the law is practically inoperative.

Now, inasmuch as transfers from the Army to the Navy have almost entirely ceased, and the number of seamen transferred who have become entitled to any prize money is very limited, the Comptroller of the Treasury says, in a letter which I have here, that it is impossible for him to carry out the provisions of that law, and it is upon his request that this modification is made.

Mr. GARFIELD. Could not the bounty be taken out of their pay?

Mr. RICE, of Massachusetts. If my friend will understand the point, it is this, that there are no means by which the Comptroller can become informed of the amount of bounties which these persons have received. The committee have looked into this subject very carefully, and they find that the law is practically inoperative.

Mr. GARFIELD. They can find out, certainly, what bounties have been received from the General Government.

Mr. RICE, of Massachusetts. Yes, sir; but not what bounties have been received from States, counties, and individuals.

Mr. GARFIELD. Why not have it so that the State and local bounties shall not be returned, but that the Federal bounties shall be? We ought to deduct the bounties that we know of.

Mr. RICE, of Massachusetts. As I said before, the cases amount to nothing of any account, and the officer of the Government charged with the execution of this duty says that it is impossible for him to carry it out. I now call the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### DESTRUCTION OF THE ALABAMA.

Mr. RICE, of Massachusetts, also, from the Committee on Naval Affairs, reported a bill to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama; which was read a first and second time.

The bill instructs the Secretary of the Navy to pay to Commodore John A. Winslow and the officers and crew belonging to the United States steamer Kearsarge while engaged in the capture and destruction of the rebel piratical vessel Alabama, on 19th June, 1864, the sum of \$190,000, the same being the estimated value thereof; the said amount to be distributed to the officers and crew in the same manner as prize money, and to be in lieu of the bounty authorized by the eleventh section of the act of June 30, 1864, to regulate prize proceedings, &c.

Mr. HOLMAN. I do not desire to make any point of order on this bill, but I wish to inquire whether there is any general law authorizing the payment of bounty money in such cases.

Mr. RICE, of Massachusetts. I will be happy to explain to the gentleman from Indiana if he will give me his attention for a moment. The eleventh section of the prize law passed the 30th of June last authorizes bounty to be paid for each man on board of an enemy's vessel which is destroyed by any vessel of the United States of \$100 per man, provided that the enemy's vessel so destroyed is of inferior force to the vessel by which she is destroyed, and of \$200 per man on board

the enemy's vessel if it be of equal or superior force to her captor or destroyer.

The tenth section of the same bill also provides that where a vessel of the United States Navy captures an enemy's vessel and brings her into port, if the captured vessel be of equal or superior force to her captor, then the whole value of the vessel goes to the captor. Everybody in the House is sufficiently familiar with the ravages of that piratical vessel, the Alabama, upon American commerce, and with the great anxiety that prevailed not only among the members of the Government but also among commercial men everywhere, that that vessel should be captured or destroyed. She was so captured and destroyed on the 19th of June last; and the service thus rendered to the country and to its commercial business by her destruction has seemed to be of so great importance as to demand on behalf of the captors something more than the paltry sum that they would get by the payment of \$200 a man for every man on board of the Kearsarge. The Secretary of the Navy has consequently recommended that substantially the provisions of the tenth section of the prize law shall be carried into effect in this case—that is, to give to the captors of the Alabama substantially the advantages which they would have derived had they succeeded in bringing the Alabama into port.

I believe that the Secretary of the Navy, for the purpose of ascertaining what would be a fair sum to award to the captors under the tenth section of the prize law, ordered a board of naval officers to make an estimate of the value of the ship and her equipments; and that board reported the value to be, according to their estimate, \$190,000. That sum is very much less than the cost of the vessel or her estimate abroad. I think she cost originally £58,000, which would be some \$240,000 in gold. And this is a proposition to give to her captors \$190,000, which is only the sum to which they would be entitled had they succeeded in bringing the vessel into port.

It seems to me, sir, that the service performed by Commodore Winslow and his associates was of that brilliant and useful character both to the reputation of the country and to the protection and safety of our commerce that it is eminently worthy of the recognition of Congress, as it has been recognized by the people throughout all portions of the loyal section of the country. I trust the House will concur in the object of the bill.

Mr. DAVIS, of Maryland. I desire to ask the gentleman from Massachusetts as to whether it has been the habit of the Government heretofore, where a vessel has been destroyed by one of our cruisers, to allow compensation in lieu of the prize money to which they would be entitled if they had taken her into port.

Mr. RICE, of Massachusetts. Of course the instances in which such compensation would be paid would be very rare, because the circumstances under which such compensation would be recommended or made would be of the most extraordinary character—in one word, would be of as extraordinary a character as that which is now under consideration.

Mr. DAVIS, of Maryland. I wish to know whether the Government has ever heretofore allowed as prize money the value of the vessel sunk by one of our cruisers.

Mr. RICE, of Massachusetts. I have endeavored in what I have already said to explain that the conditions of this bill seem to be entirely in accord with the principle that is involved in the tenth section of the prize law, which is that in a case where an enemy's vessel is of equal or of superior force to the captor, the whole value of that vessel shall go to the captors and no portion of it accrue to the United States. In this case the Kearsarge destroyed the Alabama, sending her to the bottom, and therefore did not bring her into port; and the officers and crew of the Kearsarge are thus deprived of the prize money which would have fallen to them by the sale of the vessel.

But the service they have rendered is of so distinguished a character that it has been deemed proper and just to recognize it by giving them a sum equivalent to the estimated value of the vessel when she was destroyed.

I am unable to answer categorically the question propounded to me by the honorable gentle-



man from Maryland, any more perhaps than it would be possible for him to answer me if I were to ask him for an instance where a similar service had been performed by any naval vessel of the United States.

Mr. DAVIS, of Maryland. I merely supposed that when a bill of this character was proposed for this House to pass, the committee would be prepared to satisfy this House of its propriety both in the way of principle and precedent. It may be right; I merely wanted some information in this respect.

Mr. RICE, of Massachusetts. I think that the principle involved is correct. I did not suppose that I should be able to point to precedents in this case, inasmuch as the act itself is of so brilliant and useful a character as to have no precedent. I will say further in relation to this bill, that in a letter from Captain Winslow, received by me a few days ago, he stated to me that he was repeatedly called upon by his subordinate officers, and especially by the men constituting the crew of the Kearsarge, whether the Government intended in some way, some proper and suitable manner, to recognize the valuable services they have performed.

Mr. COX. Mr. Speaker, I am opposed to this bill on principle. [Laughter.] Gentlemen laugh at that; they either do not understand it, or it shows that those who laugh are unprincipled themselves. I am opposed to granting prize money except where the law requires it to be paid, and I would be in favor of abolishing the prize system altogether. It is paying money to sailors and others without consideration. When we enlist sailors, and pay them for services, we expect them to perform all that is contemplated in that service. They are paid a *quantum meruit* for that service. They are paid for doing their duty; and that is enough. I know we have a prize law; I know the source from which that law is derived. But I am opposed to taxing the Treasury of the United States any more than we can help in order to enlarge this system of prize money beyond the law. Officers of the Navy have made immense fortunes since this war commenced by the receipt of prize money. I do not want to stretch the law any further than is necessary to carry out its intent. I oppose this bill because it seeks to do this. If it did not do this, what is the need of this law? It would be superfluous.

Why, sir, we undertake in this bill to give prize money to men, not for capturing, but for sinking a vessel. And the gentleman says, or his bill is predicated on the idea, that there is no difference between the two acts. What is the object and origin of this prize system? When the property is brought into port, when a consideration is rendered to the Government, then, and only then, there is a share given for the services by which property is taken for and used by the Government. But it is all wrong to undertake to tax us for every vessel that is sunk by the valor of our Navy. If we set such a precedent there will be no end to bills like these. We might as well give prize money to every sailor who has been engaged in sinking any little vessel on the sea since this war began. It is no argument in favor of this bill to say that this act was a brilliant one; that the Kearsarge had a magnificent combat in the face of France and all Europe. As I said before, I am opposed on principle to going beyond the letter of the law in this regard, and levying an additional tax upon the Treasury, when the sailors never had any right to expect and no right to receive it under the law as it exists.

Mr. KELLEY. I would like to ask the gentleman from Ohio [Mr. Cox] whether his principle would prevent his encouraging Commodore Winslow in sinking another pirate on the English coast?

Mr. COX. That is a very ridiculous question for a gentleman to ask who has been attending to this debate. It is one of that sort of questions which a man asks whose mind is floating about the House and never knows what is before the House. The gentleman knew when he asked his very peculiar question that I would be as prompt as he to recognize any services which would sink the Alabama, or any other pirate. I have no sympathy with pirates of any kind. I have always fought pirates. I have been fighting pirates ever since I have been in this House.

Mr. KELLEY. Is the gentleman willing to make any substantial recognition of the merits of sinking a pirate?

Mr. COX. I am willing to make any recognition that the law will give to Captain Winslow, such as giving him special promotion. We passed a resolution of thanks to him and his crew, and also a law in order to give him such promotion, and to show him special favor.

Mr. PIKE. That only applies to the master of the vessel. This bill applies to the sailors.

Mr. COX. We provided by law that Captain Winslow might have special promotion. If I am not right, then the chairman of the Committee on Naval Affairs, [Mr. Rice, of Massachusetts,] can correct me. If the gentleman from Pennsylvania [Mr. KELLEY] wishes to give Captain Winslow and crew a proper recognition, let him propose a vote of thanks, if it has not been already done. Let the Department give Captain Winslow his rank of Admiral, or any other rank which the favor of the Department, after a vote of thanks here, will give him. Why should we go out of our way now to tax the Treasury for this purpose when we are already paying our money by millions per day in order to put down, in the language of gentlemen on the other side, "this damnable rebellion?"

Mr. RICE, of Massachusetts. I will state that the services of Captain Winslow have been recognized by the vote of this House, and he has been promoted. The object of this bill is to provide for the crew, the men who fought the guns and managed the ship, and the committee think they should have an equivalent for what they would have received if they had brought the vessel into port.

Mr. COX. I will ask my friend from Massachusetts this question, whether he is willing hereafter to conform to this precedent which he proposes to set to-night, and in every case where a vessel is sunk by our sailors to give the seamen who sink it prize money?

Mr. RICE, of Massachusetts. Why, Mr. Speaker, by no means. I have said nothing at all in the remarks which I have made that justifies the honorable gentleman from Ohio in drawing any such conclusion. I have stated explicitly that the ground on which this appropriation is recommended is, that the act was one of a very extraordinary character, and I will say to my friend now that I for one would be willing to make a similar appropriation to the officers and men of any vessel in the United States Navy who will send a rebel corsair to the bottom of the ocean and stop her preying upon our commerce; and, sir, I think it would be a very economical expenditure of money on the part of this Government to do so.

Mr. COX. I will join with the gentleman in any measure that he may bring forward for the purpose of strengthening our Navy and strengthening the head of the Department by general laws—not by special legislation when a special case comes up. That is not wise or scientific legislation. Let the gentleman bring in his general laws. Let him resurrect this Navy Department; let him give it more vigor, and there will be fewer corsairs on the ocean.

I do not undertake to say that this exploit of the Kearsarge was not a brilliant achievement. It stands out almost alone, and therefore it is preëminent. But, Mr. Speaker, if this precedent be set, where can we stop? The gentleman from Pennsylvania [Mr. KELLEY] will some time or other come in, perhaps, with a bill to pay somebody else for sinking some other corsair; and so we may go on till we must pass these bills in regard to every little vessel.

Mr. KELLEY. I will pledge my honor that I will participate in bringing in, or having brought in, a bill of this kind whenever a British ship, manned by British sailors, and armed by British guns, shall be sunk gallantly as the Alabama was sunk.

Mr. COX. Well, now, you see the gentleman takes just the position I said he would. He will bring in a bill every time this thing is done. Why not, then, make general laws for this purpose? These special bills show that your system is defective somewhere, as the gentleman from Maryland [Mr. Davis] argued the other day. You come here to give special favors at special times for special purposes. Why not rise to a higher grade of legislation, and make general laws which

will have the proper effect, and drive these corsairs from the ocean?

Mr. RICE, of Massachusetts. I am entirely willing to submit the question to the judgment of the House upon its merits. I therefore call the previous question.

Mr. WASHBURN, of Illinois. Will my friend from Massachusetts state how much was raised by subscription in Boston as an acknowledgment of this service?

Mr. RICE, of Massachusetts. I think that about twenty thousand dollars was raised; and I have no doubt that that liberal and enlightened community would be very happy indeed to raise money in the same way as often as such examples shall be repeated.

I withdraw the call for the previous question for the present, and yield to the gentleman from Ohio, [Mr. SPALDING,] a member of the Naval Committee.

Mr. SPALDING. The Naval Committee understand very well that, according to the laws of the land, there is no legal claim on the part of the officers and crew of the American ship, the Kearsarge, for their gallant exploit in sinking the Alabama upon the coast of France. It therefore becomes a matter of discretion with the members of this House whether they will remunerate those gallant sailors for that grand achievement.

Now, I appeal to every patriotic member of this House to answer me and say whether he would erase from the history of our country and its gallant Navy that brilliant action upon the coast of France for a half a million dollars, nay, for millions triplicated and fourfolded. I venture to say that my colleague from Ohio would not have that glorious incident erased from our history for any sum of money which could be computed here to-night. I therefore ask that the House will act as patriotic Americans, and say to these gallant defenders, when they have acquitted themselves well, as our sailors did on the coast of France, upon the deck of the Kearsarge, "If you did not succeed in taking the prize into port you did what was better, and without which the victory would have been incomplete; you sent her to the bottom of the ocean in sight of England and France, and crowned your country with such a triumph as their navies have never had."

Mr. RICE, of Massachusetts. I demand the previous question.

Mr. DAVIS, of New York. Does this bill make an appropriation?

The SPEAKER. It does.

Mr. DAVIS, of New York. Then it must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. It is too late to make that point of order, as the bill has been discussed.

Mr. WASHBURN, of Illinois. I hope that the previous question will not be seconded, and that we will send the bill to the Committee of the Whole on the state of the Union, where it can be debated.

The House divided; and there were—ayes 47, noes 49.

Mr. RICE, of Massachusetts, demanded tellers. Tellers were ordered; and Messrs. WASHBURN, of Illinois, and PENDLETON were appointed.

The House again divided; and the tellers reported—ayes 59, noes 51.

So the previous question was seconded.

Mr. ELDRIDGE demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 67, not voting 56; as follows:

YEAS—Messrs. James C. Allen, Ashley, Bailey, Baxter, Blow, Boutwell, Brandegee, Chandler, Dawes, Dixon, Edger-ton, Eliot, English, Griswold, Hall, Hooper, Horchikiss, Asahel W. Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Knox, Law, Lazear, Loan, Longyear, Macy, Marvin, McAllister, McClurg, William H. Miller, Moor-head, James R. Morris, Leonard Myers, Nelson, Odell, Charles O'Neill, Pendleton, Perham, Perry, Pike, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Scfield, Spaulding, Stevens, Strouse, Sweet, Thayer, Townsend, Van Valkenburgh, Ward, Webster, Wheeler, Williams, Wilder, and Yeaman—59.

NAYS—Messrs. Allison, Ames, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Blaine, Bliss, Boyd, Broomall, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cox, Henry Winter Davis, Thomas F. Davis, Dawson, Deming, Driggs, Eden, Eldridge, Finck, Frank, Ganson, Garfield, Grider, Grinnell, Hale, Harding, Harrington, Her-rick, Higby, Holman, John H. Hubbard, Hubbard, Kalb-schisch, Kasson, Orlando Kellogg, Kernan, King, Le Blond,

Littlejohn, Long, McBride, Middleton, Samuel F. Miller, Morrison, Norton, Pomeroy, Price, Radford, John H. Rice, Ross, Scott, Sloan, Stuart, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Chilton A. White, Wilson, Winfield, Woodbridge, and Worthington—67.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Beaman, Blair, Brooks, James S. Brown, William G. Brown, Ambrose W. Clark, Cravens, Creswell, Denison, Donnelly, Dumont, Eckley, Farnsworth, Gooch, Benjamin G. Harris, Charles M. Harris, Hutchins, Philip Johnson, William Johnson, Julian, Knapp, Mallory, McDowell, McIndoe, McKinney, Morrill, Daniel Morris, Amos Myers, Noble, John O'Neill, Orth, Patterson, Pruyi, Samuel J. Randall, William H. Randall, Robinson, Rogers, Schenck, Shannon, Smith, Smithers, Starr, John B. Steele, William G. Steele, Stiles, Tracy, Voorhees, Wadsworth, Whaley, Joseph W. White, Windom, Benjamin Wood, and Fernando Wood—56.

So the main question was not ordered.

**Mr. WASHBURNE**, of Illinois. I move that the bill be referred to the Committee of the Whole on the state of the Union.

**Mr. DAVIS**, of Maryland. I ask the gentleman to yield to me to move an amendment.

**Mr. WASHBURNE**, of Illinois. I yield for that purpose.

**Mr. DAVIS**, of Maryland. I move to add that there shall be paid to Lieutenant Cushing and the officers and men under his command the value of the rebel iron-clad *Albemarle*, destroyed by them, the value to be estimated by a commission appointed for that purpose. It was an infinitely more brilliant service than the destruction of the *Alabama*.

**Mr. WASHBURNE**, of Illinois. I move to refer the bill and the amendment to the Committee of the Whole on the state of the Union, and on that demand the previous question.

**Mr. COX**. I suggest that we should include the payment to the soldiers and sailors who captured Fort Fisher, Charleston, and Wilmington.

The previous question was seconded, and the main question ordered; and under the operation thereof the motion was agreed to.

**Mr. WASHBURNE**, of Illinois, moved to reconsider the vote by which the bill and amendment were referred to the Committee of the Whole on the state of the Union; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAWRENCE PENNINGTON.

**Mr. RICE**, of Massachusetts, from the Committee on Naval Affairs, reported a bill to revive, in part, the act approved March 3, 1857, making an appropriation for the naval service for the year ending June 30, 1858; which was read a first and second time.

**Mr. WASHBURNE**, of Illinois. What is that bill?

**Mr. RICE**, of Massachusetts. By the act of February 28, 1855, a Naval Retiring Board was appointed to examine into the efficiency of officers of certain grades for sea and shore duty, and if found unfit for such duty and blameworthy they were to be dropped from the service; if unfit, without any blame, they were to be placed on the reserve list. The act provided that such persons as were dropped and were blameless should receive one year's pay. By the act of 1857 \$51,000 was appropriated to pay the year's salaries of such officers as were blameless and dropped from the service. On the 20th of June, 1862, there was unexpended balance of \$9,700 of that sum remaining, and it being supposed that all the cases had been presented and settled, that sum of \$9,700 was passed over into the general fund of the Treasury.

Since that time the case of Lawrence Pennington, who was entitled to a year's salary of about thirteen hundred dollars, was presented and paid by the Navy Agent in the City of Washington; but the accounting officer of the Treasury disallowed it because the fund had been passed over into the general fund of the Treasury.

The bill which has been reported provides simply for a revival of so much of the original bill as may allow this claim to be paid.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

**Mr. RICE**, of Massachusetts, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVAL SOLICITOR AND JUDGE ADVOCATE.

**Mr. RICE**, of Massachusetts. I now call up the motion to reconsider the vote by which the bill to establish the office of Solicitor and Naval Judge Advocate was ordered to be engrossed and read a third time.

The motion to reconsider prevailed.

The question recurred upon ordering the bill to be engrossed and read a third time.

**Mr. WASHBURNE**, of Illinois. I rise to a question of order. I moved to reconsider, and the House refused to do it.

**The SPEAKER**. The gentleman is mistaken. The House refused to lay this motion to reconsider on the table. There was no vote taken on the motion to reconsider.

The question being put and no quorum voting,

**The SPEAKER** ordered tellers; and appointed Messrs. **EDGERTON** and **HOLMAN**.

The House divided; and the tellers reported—ayes 59, noes 33.

So the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

**Mr. WASHBURNE**, of Illinois. I call for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 65, nays 53, not voting 64; as follows:

**YEAS**—Messrs. Ames, Arnold, Ashley, Bailey, John D. Baldwin, Blow, Boutwell, Brandegee, Broomall, Chanler, Cox, Driggs, Edgerton, Eliot, English, Farnsworth, Frank, Grinnell, Griswold, Hale, Hall, Higby, Asahel W. Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McAllister, McBride, McClurg, Moorhead, Daniel Morris, Leonard Myers, Norton, Odell, Charles O'Neill, Perham, Perry, Pike, Price, Radford, Alexander H. Rice, Edward H. Rollins, James S. Rollins, Scott, Spalding, John B. Steele, Strouse, Thayer, Upson, Van Valkenburgh, Ward, Webster, Whaley, Wheeler, Wilder, Woodbridge, Worthington, and Yeaman—65.

**NAYS**—Messrs. James C. Allen, Allison, Ancona, Augustus C. Baldwin, Blaine, Boyd, Brooks, Clay, Cobb, Coffroth, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Dixon, Eden, Finck, Ganson, Grider, Harding, Harrington, Herrick, Hotian, Hotchkiss, John H. Hubbard, Hulburd, Ingelsoll, Kalbfleisch, Kernan, King, Knapp, Lazear, Le Blond, Long, Middleton, William H. Miller, Morrison, Pomeroy, Pruyi, John H. Rice, Ross, Scofield, Sloan, William G. Steele, Sweat, Thomas, Tracy, Elihu B. Washburne, William B. Washburn, Chilton A. White, Wilson, Windom, and Winfield—63.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Baxter, Beaman, Blair, Bliss, James S. Brown, William G. Brown, Ambrose W. Clark, Freeman Clarke, Cole, Cravens, Creswell, Dawes, Denison, Donnelly, Dumont, Eckley, Eldridge, Garfield, Gooch, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, Philip Johnson, William Johnson, Julian, Law, Mallory, Marcy, McDowell, McIndoe, McKinney, Samuel F. Miller, Morrill, James R. Morris, Amos Myers, Nelson, Noble, John O'Neill, Orth, Patterson, Pendleton, Samuel J. Randall, William H. Randall, Robinson, Rogers, Schenck, Shannon, Smith, Smithers, Starr, Stevens, Stiles, Stuart, Townsend, Voorhees, Wadsworth, Joseph W. White, Williams, Benjamin Wood, and Fernando Wood—64.

So the bill was passed.

**Mr. RICE**, of Massachusetts, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ROBERT WATSON AND OTHERS.

**Mr. MOORHEAD**, from the Committee on Naval Affairs, reported a bill for the relief of Robert, John & James Watson, of Pittsburgh, Pennsylvania; which was read a first and second time by its title.

The bill was read *in extenso*.

The bill was ordered to be engrossed and read a third time.

**Mr. WASHBURNE**, of Illinois. I would like some explanation of this bill.

**Mr. MOORHEAD**. The firm of Robert, John & James Watson, of Pittsburgh, Pennsylvania, were the owners of a steam tug originally named *R. & J. Watson*. They were engaged in the coal business at Pittsburgh, and carrying coal to New Orleans. One of the brothers, a member of the firm, remained in New Orleans and sold the coal. Two other brothers, members of the firm, are engaged in mining the coal and transporting it to New Orleans. They built this boat at Pittsburgh. It was the first iron propeller that was built there, and was first taken to New Orleans in 1859.

After this war broke out, namely, on the 28th

of January, 1862, this boat was seized by the confederate forces by a peremptory order from the confederate general. It was afterward in the confederate service at Memphis when Memphis was captured, and there it was retaken by our forces and fell into our hands. Immediately after that one of the firm came on here and made an application to the Secretary of War for the restoration of the boat. The Secretary gave him assurances that the boat should be restored, but told him that it was useless for him to remain here longer; and accordingly he went home. About that time the act passed by Congress transferring the whole control of the boats on the Mississippi and on the western waters generally from the Army Department to the Navy went into operation. This boat was thus transferred and taken from under the control of the War Department. The case was afterward taken before a prize court in Springfield, Illinois, and without notice to the owners it was adjudicated and the boat was ordered to be sold. It was sold to the United States for the sum of \$8,000, one half of that amount going to the captors. That boat has been in the service of the Government for more than two years. In a memorial that this firm presented they asked that the boat be restored, and they also asked compensation for the time during which the Government had the use of it.

The Committee on Naval Affairs have instructed me to report this bill providing for the restoration of the boat, and providing further, that the owners in accepting the boat shall be debarred from any further claim against the Government.

I hope, therefore, that there will be no dissenting voice, but that the boat will be restored to these men.

**Mr. SPALDING**. The gentleman says he was authorized by the Committee on Naval Affairs to report this bill. As a member of that Committee I do not assent to this bill; on the contrary I think it ought not to pass.

**Mr. MOORHEAD**. I will say that at the meeting of the committee at which I was authorized to report this bill the gentleman from Ohio for some reason or other did not happen to be present.

**Mr. SPALDING**. No, sir; I was present on sundry occasions when this bill was considered and I objected to it every time.

**Mr. MOORHEAD**. The committee authorized me to report the bill, and I have done so. I have endeavored to state the case to the House, and I think it is so plain and clear that although the gentleman from Ohio may not be able to see it, this House will see that this boat ought to be restored to these men.

**Mr. KERNAN**. As I understand this vessel went to New Orleans in 1859.

**Mr. MOORHEAD**. Yes, sir.

**Mr. KERNAN**. One of these men was engaged in business in that city; and as I understand it the vessel remained there until she passed into the hands of the rebels in 1862. We subsequently captured her from the rebels and she was regularly condemned by a prize court.

Now, it seems to me to be a pretty suspicious case that a vessel, being in the possession of the owner living at New Orleans, goes into the rebel service. We know that they used her against us as an armed vessel, and that we captured her. And now parties living at Pittsburgh who are mining coal, claim some interest in the vessel and call on us to pay for it. I think their claim is against the rebel government, and not against us. I think that if we go behind the decision of prize courts, and compensate parties who claim that they owned vessels before the rebels took possession of them and used them against us, in two or three years we shall find such claims very large, and shall be likely to pay for a good deal of property we ought not to pay for.

I am glad that there is one member of the Committee on Naval Affairs who dissented from this report, and I do not think, unless some further explanation should be made, there will be a very unanimous vote in the House in favor of this measure.

**Mr. MOORHEAD**. I regret very much that I was not able to make the House, and especially the very acute gentleman from New York, [Mr. KERNAN,] understand the statement I made. I thought I had shown that at the time this boat was at New Orleans this firm was engaged in mining coal in the county of Alleghany, Penn-

sylvania, in which I reside, and disposing of it at New Orleans. They sold the coal at their yard there, and had barges there all the time, and this tow-boat was built for the purpose of towing the barges out to the vessels to which they were to deliver the coal, and to different places and points about or near the city. It was the property of loyal men, residents of my district.

Now, with regard to the capture of the boat being a suspicious circumstance, I have testimony here to show how that was. I did not want to bore the House with it; but if gentlemen persist in objections it will be necessary for me to have it read. I have the testimony here as to the manner in which the boat was seized by the order of the confederate government. Knowing the loyalty of this man Robert Watson, the brother residing there, they preferred to take his property rather than that of a disloyal man. Therefore his boat was taken and put into the confederate service, and changed from a harmless coal-boat tug into a gunboat, and its cannon turned on its own friends. It was then called the Little Rebel. Now, I ask that this boat be restored to its proper owners and that its name be changed from the Little Rebel to what it was before. Shall I have all this testimony read to the House? It is ample and satisfactory, and covers the whole case. I have no doubt of the loyalty of these gentlemen. They are just as loyal as the gentleman from New York, [Mr. KERNAN,] or any man on that side of the House, or this side either. I therefore move the previous question.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman a question.

Mr. MOORHEAD. I will hear it.

Mr. WASHBURN, of Illinois. It seems to me, Mr. Speaker, that we are passing on a judicial decision. According to the gentleman's statement and according to his bill, this Little Rebel was captured and brought to Cairo and was there condemned as a prize by the district court of the United States for the southern district of Illinois, and now we are asked to declare that she was unjustly condemned. I do not think that this House is prepared to pass upon such a judicial decision.

Mr. WILSON. It seems to me, Mr. Speaker, that the suggestion which the gentleman from Pennsylvania makes in regard to the loyalty of the owners of the vessel has nothing whatever to do with this case. It is not on the status of the person owning this species of property that the court passes, but upon the fact whether the property itself is criminal. If the property is criminal, it matters not how loyal the owner of the property may be.

Mr. MOORHEAD. How can the property be criminal?

Mr. WASHBURN, of Illinois. We are passing here upon a decision of the court without knowing the reasons upon which the decision was founded or anything about the facts.

Mr. KERNAN. On *ex parte* evidence.

Mr. WASHBURN, of Illinois. Yes, on *ex parte* evidence.

Mr. MOORHEAD. I yield to my friend from Alleghany, [Mr. WILLIAMS,] who is a little more of a lawyer than I am, and who will explain these proceedings *in rem* that my legal friends speak of. [Laughter.]

Mr. WILLIAMS. I desire to say one word on this question. My colleague from Pittsburg [Mr. MOORHEAD] has overlooked, it seems to me, one very material point in his otherwise very clear and perspicuous and satisfactory statement of the facts of the case, and that is that the condemnation in question took place on the false suggestion that the boat was used for the purposes of the rebel government with the privy and consent of the owners. I think my colleague did not state that fact. How the boat is to be considered criminal is a question which my learned friend from Iowa [Mr. WILSON] will be perhaps prepared to answer. I should like to ask him, as well as the gentleman from New York, [Mr. KERNAN,] whether by virtue of the law of postliminy, if this property was taken from a loyal owner and recaptured by our own Government, the original possessors are entitled to have it restored to them.

Mr. KERNAN. I desire to ask my friend, who is a good lawyer and who stands by the law, whether he thinks that this is the proper forum

to review and try questions as to property where it has been condemned by a regular court at Cairo where everybody could be heard who chose to intervene.

Mr. WILLIAMS. I do undertake to say that this is the only court of appeal in a case of this sort. It is not regularly a court, but it can and does exercise an equitable jurisdiction in cases of this sort, and ought to exercise it.

Mr. SLOAN. Will the gentleman allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. SLOAN. I understand the gentleman to say that it was a controlling suggestion with the court that condemned this vessel that she was used by the rebels with the privy of the owners. What evidence has the gentleman that this was a controlling circumstance or suggestion that induced the district court to condemn this vessel?

Mr. WILLIAMS. Nothing less than the record. That was a material averment, and will be found there.

Mr. SLOAN. Has the gentleman read the opinion of the court?

Mr. WILLIAMS. I have read the record of the case. The opinion of the court, whatever it may be, is not at all a part of the record. I have never seen it so.

Mr. GANSON. I desire to ask the gentleman a question.

Mr. MOORHEAD. I must resume the floor, and insist on the previous question.

Mr. WILLIAMS. Will my colleague yield further?

Mr. MOORHEAD. I cannot, as the case is clear, and the House is anxious to have a vote upon it.

Mr. WILLIAMS. Will my colleague allow me to answer a question put to me by the gentleman from New York, [Mr. KERNAN?]

Mr. MOORHEAD. I cannot now. I have called the previous question. We have had the *rem* of this thing, and the postliminy of the case. [Laughter.] I now desire to explain the common sense and equity of the case.

Mr. KERNAN. Was the value of this vessel paid to the captors?

Mr. MOORHEAD. The vessel was sold for \$8,000, and the half was paid to the captors.

Mr. KERNAN. Then we are called upon to pay twice for this vessel.

Mr. MOORHEAD. I will explain that if gentlemen will give me a little time. This boat was sold for \$8,000, and the half of that was paid to the captors. The boat was in the rebel service but for a few months; since July, 1862, it has been in the service of this Government. The owners of the boat claim about three thousand dollars per month, which would be a proper charter for that boat, but which would amount to more than the whole value of the boat.

Mr. GANSON. How did the boat get into the possession of the Government when it was sold?

Mr. MOORHEAD. It was seized at Memphis and put into the Government service, and used a long time before the proceedings in Illinois.

Mr. GANSON. When was the proceeding had?

Mr. MOORHEAD. My legal friend from the Alleghany district can explain that.

Mr. WILLIAMS. About the month of September, 1862.

Mr. GANSON. How could the boat have been in the service of the United States for three years if she was seized in 1862?

Mr. MOORHEAD. I said two years. It is still in the service of the Government. The boat was bought by the Government and has been in the Government service ever since it was taken in Memphis in July, 1862.

Mr. WILSON. How could the boat have been two years in the service of the Government before the condemnation and sale, when it was captured at the time we took Memphis?

Mr. MOORHEAD. I did not say that at all. I say that the boat legally and justly and equitably belongs to this firm of R. & J. Watson, ever since it was taken from the rebels, and that this proceeding was, as the bill states, unjust—illegal, perhaps; I do not say about that. It was unjust, at any rate, and therefore I call the previous question.

Mr. MORRILL. I see that this bill is clogging the business of the Naval Committee. I therefore move to lay this bill on the table.

Upon the motion to lay on the table the House divided, and there were—ayes 49, noes 49.

The SPEAKER voted in the negative.

Mr. WASHBURN, of Illinois, called for the yeas and nays upon the motion to lay the bill on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 55, not voting 72; as follows:

YEAS—Messrs. James C. Allen, Allison, Ames, John D. Baldwin, Boyd, Brandegee, Chanler, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Eliot, Farnsworth, Ganson, Herrick, Holman, John H. Hubbard, Hulburd, Kalbfleisch, Kern, Knapp, Knox, Le Blond, Littlejohn, Long, Marcy, McClurg, Middleton, Samuel F. Miller, William H. Miller, Morrill, Daniel Morris, Morrison, Norton, Odell, Pendleton, Perry, Pomeroy, Price, Pruyn, Radford, Edward H. Rollins, Scott, Sloan, Spalding, William G. Steele, Strouse, Sweat, Townsend, Upson, Elihu B. Washburne, William B. Washburn, Wilson, and Winfield—55.

NAYS—Messrs. Bailly, Blaine, Blow, Broomall, Freeman Clarke, Clay, Cox, Dawson, Driggs, Eden, Edgerton, English, Finck, Frank, Grider, Grinnell, Griswold, Hale, Hall, Higzy, Hotchkiss, Asahel W. Hubbard, Kasson, Kelley, Orlando Kellogg, King, Law, Loan, Marvin, McAllister, McBride, Moorhead, James R. Morris, Leonard Myers, Nelson, Charles O'Neill, Perham, Pike, William H. Randall, John H. Rice, James S. Rollins, Ross, Scofield, John B. Steele, Stevens, Thayer, Tracy, Ward, Whaley, Chilton A. White, Williams, Wilder, Windom, Woodbridge, and Worthington—55.

NOT VOTING—Messrs. William J. Allen, Alley, Ancona, Anderson, Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blair, Bliss, Boutwell, Brooks, James S. Brown, William G. Brown, Ambrose W. Clark, Coffroth, Cravens, Creswell, Henry Winter Davis, Dawes, Denison, Donnelly, Dumont, Eckley, Eldridge, Garfield, Gooch, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, Lazar, Longyear, Mallory, McDowell, McIndoe, McKinney, Amos Myers, Noble, John O'Neill, Orth, Patterson, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Schenck, Shannon, Smith, Smithers, Starr, Stiles, Stuart, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Webster, Wheeler, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—72.

The SPEAKER voted in the negative.

So the motion to lay on the table was not agreed to.

On seconding the demand for the previous question there were, on a division—ayes 51, noes 31; no quorum voting.

The SPEAKER ordered tellers, and appointed Mr. MOORHEAD, and Mr. STEELE of New Jersey.

The House divided; and the tellers reported—ayes 55, noes 41.

So the previous question was seconded.

The main question was ordered.

The question being on the passage of the bill, Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 59, not voting 78; as follows:

YEAS—Messrs. Bailly, Blow, Broomall, Freeman Clarke, Clay, Dawson, Driggs, Dumont, Eden, Edgerton, Frank, Grinnell, Hale, Higzy, Hotchkiss, Ingersoll, Kasson, Kelley, Orlando Kellogg, King, Law, Loan, Marvin, McAllister, McBride, Moorhead, James R. Morris, Leonard Myers, Nelson, Charles O'Neill, Perham, William H. Randall, John H. Rice, James S. Rollins, Ross, Scofield, John B. Steele, Stevens, Stuart, Thayer, Tracy, Ward, Whaley, Williams, Wilder, and Yeaman—45.

NAYS—Messrs. James C. Allen, Ames, Augustus C. Baldwin, John D. Baldwin, Boyd, Brandegee, Chanler, Cobb, Cole, Cox, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Dixon, Eliot, Farnsworth, Ganson, Herrick, Holman, Asahel W. Hubbard, Hulburd, Jenckes, Kalbfleisch, Kernan, Knapp, Knox, Littlejohn, Long, McClurg, Middleton, Morrill, Daniel Morris, Morrison, Norton, Odell, Patterson, Pendleton, Perry, Pomeroy, Price, Pruyn, Radford, Scott, Sloan, Smithers, Spalding, William G. Steele, Strouse, Sweat, Townsend, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Chilton A. White, Wilson, Windom, and Winfield—59.

NOT VOTING—Messrs. William J. Allen, Alley, Allison, Ancona, Anderson, Arnold, Ashley, Baxter, Beaman, Blaine, Blair, Bliss, Boutwell, Brooks, James S. Brown, William G. Brown, Ambrose W. Clark, Coffroth, Cravens, Creswell, Denison, Donnelly, Eckley, Eldridge, English, Finck, Garfield, Gooch, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, John H. Hubbard, Hutchins, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, Lazar, Le Blond, Longyear, Mallory, Marcy, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, Amos Myers, Noble, John O'Neill, Orth, Pike, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Edward H. Rollins, Schenck, Shannon, Smith, Starr, Stiles, Thomas, Voorhees, Wadsworth, Webster, Wheeler, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Worthington—78.

So the bill was rejected.



During the roll-roll, Mr. WINDOM stated that his colleague, Mr. DONNELLY, was confined to his room by sickness.

The result was announced as above stated. Mr. KERNAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY DEPARTMENT OF THE NAVY.

Mr. KELLEY. I am directed by the Committee on Naval Affairs to report back, with an amendment, bill S. No. 382, entitled "An act to provide for the better organization of the pay department of the Navy."

The bill was read.

The amendment proposed by the Committee on Naval Affairs was to add the following as a new section:

*And be it further enacted,* That the Secretary of the Navy is hereby authorized to appoint acting past assistant paymasters and acting past assistant surgeons to serve during the present war, and to have the same pay as officers of like rank in the Navy.

Mr. WASHBURNE, of Illinois. I hope that this power will not be given to the Secretary of the Navy.

Mr. KELLEY. The Secretary of the Navy has usually made these subordinate appointments. They are mere acting appointments. The appointees lose their offices when the vessel goes out of commission, unless they be reappointed. They are not regular officers of the Navy. I call the previous question.

Mr. PIKE. I hope that the gentleman will permit me to move an amendment to the first section of the bill. The bill provides for one hundred paymasters, fifty passed assistant paymasters, and fifty assistant paymasters. I move to reduce the number of paymasters to eighty, and the others to forty.

Mr. KELLEY. I yield to the amendment, but I hope that it will not pass.

Mr. PIKE. The present number of paymasters in the Navy is sixty-four, assistant paymasters thirty-six, making one hundred paymasters and assistant paymasters in the regular Navy. This doubles the number. They wish for an increase of force and additional rank between the assistant paymasters and regular paymasters, to which I have no objection. But I think that the increase is too large, and that it should be fifty instead of one hundred.

It is proposed by the Navy Department, and I have no doubt will meet with the concurrence of the House, that hereafter the payments now made on shore by Navy agents and other disbursing agents of that character shall be made by the regular officer attached to the naval station or the navy-yard; and in consequence they will need this increased force.

Mr. WASHBURNE, of Illinois. Why this addition if the present officers can do it? Why is it necessary to make this new batch of officers?

Mr. PIKE. It has been found latterly that the Navy agents in the large ports, for some reason or other, have fallen into difficulties, and that the bonds which they are required to give to restrict them within the bounds of propriety are not sufficient. It has been found that officers who have a life position and interest which depends upon the proper discharge of their duties are more likely to honestly and properly disburse moneys than mere temporary officers. It has been found in the Army that life offices are better than a bond for the protection of the interests of the Government.

For that reason the increase of force is very well; but, as I have said, I do not concur in the Senate bill, which doubles the force. I propose to add fifty per cent. to the present force, and I think that is enough.

The whole number of paymasters in the Navy is five hundred, about equal to the number of surgeons. This will provide one hundred for the regular Navy and three hundred for the volunteer force, and I hope that the amendment will be adopted.

Mr. KELLEY. Mr. Speaker, I think that the gentleman's amendment is an unwise one. The pay department of the Navy was regulated to meet the wants of the Department before the breaking out of the rebellion, when it consisted at

one time of only sixty-five vessels. We have now over six hundred vessels in commission, and probably it will be a long time before we will have less than one hundred and fifty. The number of paymasters, as stated by my colleague, is sixty-four, and the number of assistant paymasters thirty-six. There are something like two hundred acting paymasters in the service, less than two hundred, and on the reduction of our service a large number of acting paymasters will have to be retained. We have sixteen paymasters now on shore at different depots of supply. Paymasters in the Navy perform other duties than paymasters in the Army. They not only pay the officers and men, but they take charge of the clothing and small-stores. One is required, therefore, for each vessel.

The Navy Department is carrying the proposition into effect to substitute a paymaster at each of the stations at which a Navy agent has heretofore existed. If that be done I am quite sure that enough will be saved at each station to pay the increase of expenditure called for by this bill. With sixteen stationed at depots of supplies, with others detailed for the purpose I have indicated, with "relays," as it was called in the Senate, on home duty to relieve members of the corps, one year out of four on home duty being the practice, with all that, you will find that two hundred will be inadequate to the service. I think that the reduction to eighty proposed by the gentleman from Maine would be an unwise one.

Now there are four hundred gentlemen engaged as acting assistant paymasters; and it is proposed to give the Government the opportunity of selecting from among those two hundred who have shown themselves most competent and faithful. They have a well-trained and experienced corps from which to select. The number two hundred will not be too large. The amendment suggested proposes to give to those gentlemen who have served as acting assistants a chance for a slight promotion, so that men who have served faithfully a series of years in an acting position, may pass to the position of acting assistant paymasters. It is to encourage fidelity in that branch of the service. I hope that the bill will pass, and that the gentleman from Maine will withdraw his amendment.

Mr. DAVIS, of Maryland. From the statement of the gentleman from Maine [Mr. PIKE] I infer that the paymasters contemplated by this bill are intended to perform the duty, or a portion of the duty, of Navy agents. Does the bill propose to abolish the office of Navy agent?

Mr. PIKE. No.

Mr. DAVIS, of Maryland. If not we are doubling officers for the same duty.

Mr. KELLEY. In reply to the gentleman from Maryland, I will say that where paymasters have been detailed to perform the duty of Navy agent, there the Navy agent has been removed.

Mr. DAVIS, of Maryland. It rests with the Government to appoint both by law.

Mr. KELLEY. The Government cannot abolish the office of Navy agent. That is for Congress to do. I understand that the head of the Navy Department would approve of a law abolishing the office of Navy agent.

Mr. DAVIS, of Maryland. Then as the bill stands I cannot support it, as it seems merely to be doubling officers. I have not had time to study the merits of the bill, but it seems to me that an essential part of it should be that the Navy agent should be abolished if the duties are to be performed by the new paymasters.

Mr. PIKE. My motion was to diminish the number of officers that were authorized by the Senate. I said for one that I was willing to consent to an increase, and among other reasons was this, that three or four probably may be necessary at the navy-yards. The gentleman is aware that at present paymasters are discharging the duties of Navy agents at these yards.

Mr. DAVIS, of Maryland. That would seem to show that there are enough to discharge the duties.

Mr. PIKE. In furtherance of my idea that there should be a reduction, I will call the attention of the House to the fact that these officers are officers in the regular Navy, and that this increase of numbers is an increase of light officers.

Mr. DAVIS, of Maryland. In addition to the permanent officers of the Navy.

Mr. KELLEY. I demand the previous question.

Mr. HOLMAN. I demand tellers.

Tellers were ordered; and Messrs. KELLEY and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 78, noes 15.

So the previous question was seconded, and the main question was ordered to be put; and under the operation thereof the amendment reported from the committee was adopted.

The amendment offered by Mr. PIKE was then agreed to.

The bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. HOLMAN. I move that the House adjourn.

The motion was not agreed to.

The question recurring on the passage of the bill,

Mr. PIKE called for the yeas and nays.

The yeas and nays were ordered.

The question was put, and there were—yeas 52, nays 52, not voting 78; as follows:

YEAS—Messrs. Allison, Bailey, John D. Baldwin, Blow, Boyd, Broomall, Chanler, Freeman Clarke, Cox, Dixon, Edgerton, Eliot, English, Grinnell, Griswold, Hale, Asahel W. Hubbard, Ingersoll, Jenckes, Kasson, Kelley, Law, Littlejohn, Loan, Marcy, Marvin, McAllister, McClurg, Leonard Myers, Charles O'Neill, Perham, Perry, Pike, Radford, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Smithers, Spalding, John B. Steele, Sweat, Thayer, Van Valkenburgh, Ward, Whaley, Wilder, Windom, Fernando Wood, Woodbridge, Worthington, and Yeaman—52.

NAVS—Messrs. James C. Allen, Ames, Augustus C. Baldwin, Blaine, Brandegee, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Driggs, Eden, Farnsworth, Finck, Frank, Ganson, Hall, Herrick, Holman, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Kathfisch, Orlando Kellogg, Kernan, King, Knapp, Knox, Long, Middleton, Samuel F. Miller, William H. Miller, Daniel Morris, James R. Morris, Norton, Odell, Pomeroy, William H. Randall, Ross, Scott, William G. Steele, Stuart, Townsend, Tracy, Elhu B. Washburne, William B. Washburn, Wheeler, Chilton A. White, Wilson, and Winfield—52.

NOT VOTING—Messrs. William J. Allen, Alley, Ancona, Anderson, Arnold, Ashley, Baxter, Beaman, Blair, Bliss, Boutwell, Brooks, James S. Brown, William G. Brown, Ambrose W. Clark, Clay, Coffroth, Cravens, Creswell, Dawson, Denison, Donnelly, Dumont, Eckley, Eldridge, Garfield, Gooch, Grider, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Ugly, Hutchins, Philip Johnson, William Johnson, Julian, Francis W. Kellogg, Lazear, LeBlond, Longyear, Mallory, McBride, McDowell, Melndoe, McKinney, Moorhead, Morrill, Morrison, Amos Myers, Nelson, Noble, John O'Neill, Orth, Patterson, Pendleton, Price, Pruyn, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Schenck, Shannon, Sloan, Smith, Starr, Stevens, Stiles, Strouse, Thomas, Upson, Voorhees, Wadsworth, Webster, Joseph W. White, Williams, and Benjamin Wood—78.

The SPEAKER. The Chair votes in the affirmative, and the bill is passed.

During the call,

Mr. HOLMAN stated that Mr. ASHLEY and Mr. ANCONA had paired off.

Mr. RANDALL, of Kentucky, stated that Mr. CLAY had left the Hall on account of sickness.

Mr. FERNANDO WOOD. I rise to a privileged question. I move to reconsider the vote by which the bill has been passed. I voted through a misconception.

The SPEAKER. The motion will be entered.

PAUL S. FORBES.

Mr. PIKE, from the Committee on Naval Affairs, reported a joint resolution authorizing the Secretary of the Navy to advance Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war; which was read a first and second time.

The question being on its engrossment and third reading,

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

The motion was not agreed to; there being, on a division—ayes 33, noes 60.

Mr. PIKE. I will make a brief statement in reference to this resolution. Paul S. Forbes, of New York, some eighteen months ago, with an honest desire to produce a vessel superior to any vessel in any navy of the world, and, as I believe, for no other purpose, having no expectation of making a dollar out of the contract, entered into a contract with the Navy Department to produce a vessel to be called the Idaho, of two thousand five hundred tons burden, for the sum of \$600,000.

Mr. HOLMAN. I rise to a question of order.

This bill, if I am rightly informed, was not referred to the Committee on Naval Affairs.

Mr. PIKE. This is a joint resolution introduced by the Committee on Naval Affairs. It was referred to that committee by the House, and is now reported.

The SPEAKER. The Chair thinks that that settles the question.

Mr. HOLMAN. This is not the Senate bill.

The SPEAKER. If a petition on this subject was referred to the Committee on Naval Affairs, that gives the committee jurisdiction.

Mr. HOLMAN. Has this bill been reported to the House?

The SPEAKER. It is an original bill.

Mr. HOLMAN. It has not been read to the House.

The SPEAKER. It has been read the first and second time, and the question is now on its third reading.

Mr. PIKE. I am almost through with my statement. This gentleman, for the sum of \$600,000, proposed to produce a vessel of some two thousand five hundred tons burden, to be called the Idaho, guarantying that, loaded with her armor, she would for twenty-four consecutive hours make sixteen knots an hour in sea-way, something never done before, and which, in my judgment, cannot be done now. This vessel now lies at the wharf in New York having her engines on board. She is now progressing to completion. Improvements of the most valuable character have already been made in her, and whether she actually fulfills the conditions of her contract or not, I have no doubt she will be a very superior and valuable vessel. This gentleman has received on his contract some \$300,000. He is now in advance of that sum \$400,000, having already expended \$700,000 on his contract for \$600,000. He will be obliged to expend \$200,000 more before he gets the vessel ready for her trial trip. All that he now asks of Congress is to give him \$250,000 on his contract out of the \$600,000. Not one single dollar of extra allowance is asked for in the resolution.

Mr. WASHBURN, of Illinois. If the gentleman from Maine will provide in this resolution that this contractor shall not come to Congress for additional pay I will vote for it.

Mr. PIKE. I am not authorized to do it, nor will I prejudge his case. I move the previous question on the engrossing and third reading of the joint resolution.

Mr. HOLMAN. I insist on the joint resolution being reported to the House.

The SPEAKER. It will be now read.

The joint resolution was read. It authorizes the Secretary of the Navy to pay to Paul S. Forbes, of the city of New York, the sum of \$250,000 in addition to the sums heretofore paid, to apply on his contract of the date of May 22, 1863, for building a steam screw sloop-of-war, the same being an advance payment on the contract to aid in the completion of the said sloop-of-war; provided that no part of said sum shall be paid without the assent in writing of the sureties of said Paul S. Forbes; and provided further that nothing in the resolution contained shall be so construed as in any manner to affect or vary said contract, except as to the time of making said payment.

Mr. HOLMAN. I believe that this joint resolution appropriates \$250,000. It should therefore be first considered in the Committee of the Whole.

The SPEAKER. Does the gentleman rise to a point of order?

Mr. HOLMAN. I do.

The SPEAKER. This joint resolution is not an appropriation bill. It would be entirely insufficient of itself to take any money out of the Treasury. It authorizes \$250,000 to be paid out of money which must be appropriated by some other bill. It is not, therefore, an appropriation bill. The Chair overrules the point of order.

Mr. PIKE. I now insist on the previous question.

The previous question was seconded, and the main question was ordered; which was on ordering the joint resolution to be engrossed and read a third time.

Mr. HOLMAN called for tellers on the engrossment and third reading.

Tellers were ordered; and Messrs. HOLMAN and PIKE were appointed.

The House divided; and the tellers reported—ayes 75, noes 20.

So the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on its passage, there were, on a division—ayes 71, noes 22.

So the joint resolution was passed.

Mr. WASHBURN, of Illinois, (at eleven p. m.) I move that the House do now adjourn.

Mr. HOLMAN called for the yeas and nays, and for tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The motion was not agreed to.

#### GUNBOAT CONTRACTORS.

Mr. BRANDEGEE. The House is in so amiable a disposition that I would like to introduce a joint resolution, which I am instructed to report by the Committee on Naval Affairs, and which I know will commend itself to the favorable consideration of the House.

The joint resolution for the relief of Woodruff & Beach and others was read. It refers to the Secretary of the Navy the petitions and memorials of Woodruff & Beach and others, and of the contractors for the seven iron vessels, and their machinery, known as double-enders, and the contractors for the seventeen vessels known as wooden double-enders, and the contractors for engines, machinery, &c., claiming relief for additional cost and expense beyond the contract price for the construction of naval vessels and machinery, with authority to grant such relief, if any, as shall appear to be just and equitable on examination of their respective claims. The Secretary of the Navy, if he shall deem it necessary for the purposes of such examination, may appoint a board to make the same under his direction; and on the report in writing of such board, if he is of the opinion that the report is just and proper, he shall have authority to pay the said several claimants or either of them the amount awarded in such report to such claimants, out of any money in the Treasury appropriated for the construction, purchase, completion, or repair of vessels for the Navy, or steam machinery, provided that no person whose contract shall not be fulfilled to the satisfaction of the Navy Department shall be entitled to relief under this resolution; and provided further that the allowance shall in no case exceed twenty per cent. on the contract price; except in the case of the Camanche, in which case the allowance shall not exceed thirty per cent., and except also in the case of the Dunderberg, in which case the contractor shall be allowed, as the work progresses, for the cost of the additional size of the vessel and engines, in addition to the per cent. that may be allowed him for losses, not exceeding twenty per cent.; and provided further that the allowance shall not in any case exceed the actual and necessary cost to the contractor.

Mr. HOLMAN. I make the point of order that this joint resolution is now read for the first time, and, by the rules of the House, if objection be made, it cannot be read a second time on this day.

Mr. WASHBURN, of Illinois. I have a right to make the motion that the joint resolution be rejected.

The SPEAKER. That motion is never made in the House. The rule states that if any member objects to the second reading of a bill, the question shall be put by the Chair, "Shall it be rejected?"

Mr. HOLMAN. I raise the point that the joint resolution cannot be read the second time this day.

The SPEAKER. The Chair overrules that point.

Mr. WASHBURN, of Illinois. Then I make my objection to the second reading.

The SPEAKER. The rule is this: the first reading of the bill is for information; and if opposition is made to it, the question then is, "Shall this bill be rejected?" And this question is debatable; but if no opposition is made, or if the question to reject be negatived, the bill shall go to its second reading without objection.

Mr. WASHBURN, of Illinois. I made my objection.

The SPEAKER. Then the question is, "Shall the bill be rejected?" which is debatable, and the

gentleman from Connecticut [Mr. BRANDEGEE] is entitled to the floor.

Mr. BRANDEGEE. I want to make a proposition to the House, as it is evident that this bill will involve discussion, and it may be, some considerable amount of feeling, judging from what has been exhibited already, and from the unusual course taken in proposing to reject the bill at its first reading. I propose to gentlemen that if an adjournment now will leave this matter pending as unfinished business, and will leave me entitled to the floor to explain the bill, I will vacate the floor for the purpose of having any gentleman move an adjournment. If not, I propose to take my hour now.

Several MEMBERS. Go on now.

Mr. DAVIS, of New York. I wish to know whether the Mr. Paul S. Forbes named in this joint resolution is the same party to be benefited by the resolution which we have just passed, authorizing the Secretary of the Navy to advance \$250,000 to him?

Mr. BRANDEGEE. He is the identical individual.

Mr. DAVIS, of New York. For the same vessel?

Mr. BRANDEGEE. For the same identical vessel; and I think I can show to the satisfaction of the House that if this joint resolution is passed there is no danger that Mr. Forbes will be paid twice.

Mr. DAVIS, of Maryland. Is not this an appropriation bill?

Mr. BRANDEGEE. It is not. The money, if any is to be paid, is to be paid out of moneys already appropriated for these vessels. This joint resolution provides for the creation of a board.

Mr. DAVIS, of Maryland. Mr. Speaker, I would ask for what purpose this is appropriated.

The SPEAKER. The Chair would state that the rule is uniform, that an appropriation bill must be a bill which of itself takes the money out of the Treasury by its own operation. It must read "out of any money in the Treasury not otherwise appropriated." For instance, pension bills virtually appropriate money out of the Treasury, but they are not appropriation bills; the money is appropriated by a general bill.

Mr. DAVIS, of Maryland. It proposes to divert money appropriated for one purpose to another.

The SPEAKER. That can be done without its being an appropriation bill.

Mr. PIKE. More than that: it provides for the payment of \$4,000,000 without any further action of either branch of Congress.

The SPEAKER. Will the gentleman from Maine, [Mr. PIKE,] point out the part of the bill which makes it an appropriation bill, according to the rules of this House?

Mr. PIKE. I would call attention to these words:

If he is of opinion that the report is just and proper, the Secretary of the Navy shall be authorized to pay the money to said claimants.

The SPEAKER. To be paid out of what money?

Mr. PIKE continued to read:

Out of any moneys in the Treasury appropriated to the construction, completion, or repair of vessels for the Navy, or for steam machinery.

The SPEAKER. The Chair overrules the point of order, and decides that this is not an appropriation bill according to the usage and rules of this House.

Mr. BRANDEGEE. Mr. Speaker, if these parliamentary gentlemen have exhausted the resources of the Manual in the attempt to get me off the floor, I will now attempt to explain the merits of the measure which I have reported under the instructions of my committee.

This is a bill for the relief of certain contractors.

Mr. MORRIS, of New York. I would ask the gentleman how long he proposes to speak.

Mr. BRANDEGEE. As the opponents of the bill evidently intend to interrupt me with frivolous questions until my time runs out, I will decline to yield except it be for a point of order. I have the floor, and having had some practice elsewhere, I am not to be driven from it, unless the House will consent to adjourn, so as to leave this question to come up in the morning, in which case I

will cheerfully give way for a motion for adjournment, it being now near midnight.

Several MEMBERS. Oh, no!

Mr. BRANDEGEE. Mr. Speaker, this joint resolution provides for the relief of certain contractors, and it may—though it does not necessarily—involve a pretty large appropriation from the Treasury. I think I know how odious the very name of a contractor is in the ears of this House and of the country; scarcely less so, I imagine, than the name *publican* was to the ears of the descendants of Moses.

These two things—the amount involved and the parties to be relieved—have drawn down upon the bill the hot wrath of the gentleman from Illinois, [Mr. WASHBURN]; for he has already indicated, with more than his usual vehemence, and less than his usual judgment, that he will pour out the vials of his indignant eloquence upon the bill, the parties to be relieved by it, the committee who have reported it, and, by a sort of prophetic damnation, all who are about to vote for it.

I propose, since the House has now settled into so excellent a good temper, after the storm of the earlier part of the evening, to speak to the merits of the measure; and leaving vehemence and vituperation to those who have a taste for that style of argument, I will appeal to the calm judgment of the House, and that sober sense of equity that is never appealed to in vain, to sustain the action of the committee.

And in the first place, Mr. Speaker, who are the parties to be relieved here? Who are these odious contractors, these money-changers whom the gentleman from Illinois seeks to lash from this temple of the Capitol with his whip of scorpions? They are the steam-engine and ship-builders of the United States—a class of men whom I undertake to say, for public services and for private worth, are an honor to the American name wherever the English language is spoken.

I confess myself, Mr. Speaker, to a considerable astonishment at the impression made on my mind by the appearance of these men before the committee of which I am a member. I knew them to be, of course, men of intelligence in the branch of mechanic art to which their time and attention had been devoted. But I was not prepared to find, as I did find, that these engine and ship-builders, in general intelligence and education, in probity of character and uncalculating patriotism, were the equals of any gentleman on this floor, not to make a more invidious comparison. Among them—and I instance their names as types of their class and not as select exceptions—were such men as George Quintard, and Secor & Co., of the great engine-building firms of New York city, names known and honored as representatives of American skill wherever steam has driven keel over the navigable waters of the globe. Paul S. Forbes, whose princely patriotism offered to build for your Government the fastest steamer in the world at cost, without a dollar for his time and services, was another. William H. Webb is one of them, the great American ship-builder, whose public services would have been honored with knighthood under any other form of government than ours. And with them is James B. Eades of St. Louis, a name that will yet come to be written on the same page in future history as that of Watt or Fulton, who, amid the very din and hurly-burly of war, with rebel raids at the very doors of his foundry, while he was overwhelmed, or rather while any other man than he would have been overwhelmed with the giant task of constructing your Mississippi squadron, still found time to give to his country two inventions which will make his name immortal—one an application of steam to the handling of heavy ordnance, by which a fifteen-inch gun that weighs twenty tons—larger and heavier than those huge granite shafts which stand in solemn grandeur before the portals of your Treasury—can be manipulated in action by one man with the ease with which a boy fires his pocket pistol; the other, an invention which in the judgment of our wisest military engineers is soon to revolutionize the whole art of fortification defense throughout the world. These are some of the men—types merely—of the class of American mechanics which this bill proposes to relieve from irredeemable bankruptcy and ruin.

Mr. Speaker, it was to these, and such as these, that your Secretary of the Navy went in person, in that dark hour of our country's faith; when an iron navy was to be improvised out of nothing; when a navy, the ordinary work of years, was to be launched upon the instant to meet the exacting demands of a blockade of more than three thousand miles of coast line; and more than all, to draw off the lurid lightning of that portentous war-cloud which threatened to burst from abroad. The fabled miracle of mythology was to be repeated here, that at the instantaneous touch of American genius Pallas was once more to spring full armed from the brain of Jove. And it was done, sir. The appeal was not made to American mechanics in vain. They were not here, these ship and engine-builders, prowling around the Departments to snap at the first bone thrown from the windows of patronage. They did not belong to this hungry lobby, the nuisance of legislation, that vermin swarm who buzz, and hum, and crawl along the tessellated pavements amid these marble corridors. They were at their ship-yards and in their machine-shops, and at the appeal of your Secretary they placed shop and yard at his disposal. Contracts were entered into to construct a Navy which is yet to make you the masters of the ocean. The price was restricted to the lowest possible estimate of cost, based upon the then existing state of the market. It was pinched down to the last farthing of the value of labor and material then. And then a greenback was worth a gold dollar. Thus, and upon such a basis, were these contracts entered into. And it may give the House some idea of the prudent precaution of the Secretary of the Navy when I state that many of these contracts were for the delivery of a first-class ship-of-war, of novel plan, never before constructed, fully equipped, with her engines on board, at a price less than the actual cost of the engines alone to the contractors, as it has resulted. And the House can easily see that they were not in the nature of ordinary contracts, and ought not to be measured by ordinary formulas. They were for building ships. They were not for furnishing horses, or clothing, or any of those articles which have a standard price in the market, fluctuating, to be sure, but fluctuating between certain ranges easily calculated, and where the contractor can go into the market and fill his entire contract in thirty days at the furthest. They were for building ships, the work of months, ordinarily of years, and involving that vast problem of the prices of labor, provisions, insurance, freights, interest, iron, wood, coal, exchanges, and the thousand and one elements of naval architecture.

But I am anticipating. These contracts were made upon the terms and under the circumstances which I have already referred to. Then came the dark days. Then came a state of facts for which the file furnished no precedent; for which the wit of no man could have estimated. The wisdom of prophecy alone could have foreseen and provided against it. You were defeated upon land and sea. The gulf of dissolution yawned beneath us. It seemed as though our cause was to go down. The nation's head was sick and the nation's heart was faint. You had already been chased in panic from the stricken field of Bull Run. You had changed your leader only to leave thousands of nameless graves in the oozy swamps of the Chickahominy. Another leader had dashed in vain your gallant columns against the bristling heights of Fredericksburg. Under a fourth you were checked at Chancellorsville. Meanwhile, upon the sea as well as upon the land, you were discomfited. Your flag was hunted over every ocean by rebel corsairs. And when you had tracked the pirate by the light of your burning commerce the convenient neutrality of your British ally afforded him protection and impunity. The result was that both your exports and your imports were driven to foreign bottoms, and the great carrying trade of the second naval Power in the world was ended.

"*Tante molis erat Romanam condere gentem.*"

Of course your credit went down under such a series of disasters. And as it went down day by day, gold, that standard of values and exchanges, rose in proportion. You had to expand your currency to fill up the mighty void. And the more you expanded the more you had to expand, for the law is inexorable which aggravates such

a disease by the application of such a remedy. When the great balloon arose freighted with panic and expansion it took up with it all values. Food and clothing, labor and material, the luxuries and the necessities of life, all ascended with it. No man could have foreseen the extent or rapidity of this ascent when these contracts were made, and if he had estimated for it in these contracts he would have been considered either an idiot or an extortioner.

This is one argument for relief.

Added to this was the tariff. You found yourselves without finances. The Army must be fed and clothed. Steam must be kept up in the boilers of your war ships. But where were the ways and means to come from? You must resort to import duties, and you were compelled to lay them up to the very verge of prohibition. You doubled, in some cases quadrupled, your duties, and thus added to the cost of iron, copper, and all metals, duck, hemp, naval stores, and all that large class of imported articles which are the essentials in naval construction. Then came the draft. Volunteer enlistments flagged. That grand, wild uprising of the nation at the echoes of the first gun upon Sumter—comparable to nothing in all history save the first crusade, when all Europe rushed to arms for the recovery of the Holy Sepulcher—had settled into the calm conviction that the war was to be long and bloody instead of "short, sharp, and decisive." You were forced to a conscription; and the first revolutions of the fated wheel drew forth—not that scurvy scum which, under the stimulus of enormous bounties and swindling substitute brokers is now gathered from the stewards of your cities and the almshouses of Europe—but the bone and sinew of the land; the men of the forge and the anvil; the men of the ax and the hammer. Skilled labor became almost unattainable, and then only at the most enormous prices. Right there, just at the time when this scarcity existed, and when these men were compelled through the shortness of hands to run their establishments night and day, and upon Sundays, at double the wages for this extra work, you aggravated the difficulty by calling a large portion of this class of labor for your own employment in your own yards. I do not complain of it; they do not complain of it. You needed them, and you took them. But it raised the price of this class of labor one hundred per cent., and this added the last straw to the load which even then had become too heavy to be borne without ruin and bankruptcy.

The reasons I have thus hurriedly alluded to would seem sufficient to lay an equitable foundation for relief.

But another exists more controlling than either, indeed than all of them put together, which seems to my mind to put their claim beyond all question; and that is, that from time to time the Department ordered to be made repeated, substantial, almost fundamental alterations in the work contracted for.

Mr. FARNSWORTH. Will the gentleman from Connecticut yield to a motion to adjourn?

Mr. BRANDEGEE. I have already indicated my willingness to have the question taken without debate. I am willing also to yield the floor for any motion to adjourn, provided this question, which now has priority, shall go over to be disposed of to-morrow. [Cries of "No!" "No!"]

Mr. WASHBURN, of Illinois. Twenty millions cannot be voted in this House without discussion.

Mr. BRANDEGEE. I am ready for discussion, then, to the end of the chapter. Mr. Speaker, a magnificent talisman that of the gentleman from Illinois, that can convert four millions into twenty. Aladdin's lamp grows dim in the comparison.

Mr. FARNSWORTH. Will the gentleman allow us to adjourn?

Mr. BRANDEGEE. Mr. Speaker, if I yield for the motion to adjourn will I thereby lose my right to the floor?

The SPEAKER. The gentleman will not; he will be entitled to the floor whenever this business comes up again.

Mr. BRANDEGEE. When will that be?

The SPEAKER. The Chair cannot state, as it is liable to be put aside by privileged questions, motions to suspend the rules, privileged motions, &c.



Mr. BRANDEGEE. As the Committee on Naval Affairs have intrusted the charge of this bill to me, and as, if it now loses its priority, it is obvious it cannot come up again this session, I must go on to the end of the chapter.

Mr. Speaker, I had at the moment of interruption arrived at the very pith and marrow of this case; that is, the changes ordered by the Department. It will be remembered by the House that these contracts were for iron vessels of a class and type hitherto unknown in naval architecture. That "queer looking cheese-box on a raft" which steamed into Hampton Roads in the gray dawn of that memorable morning after an entire fleet of wooden ships had been sunk or driven ashore by a single rebel iron-clad, heralded the advent of a new epoch in naval warfare. Her advent marked a new era in ship-building, as distinctive from its predecessor as in the pre-Adamic history the era of the mammalia is different from the era of the trilobite. When the sun went down on that day's conflict, the age of wooden vessels for war purposes had passed into history. The London Times, at the news of that day's work, said that the "boasted fleet of England now consists of just four ships." The germs of the trilobites, henceforth are laid up in ordinary, beneath the "Old Red Sandstone." But the "little Monitor," though an original creation of the genius of John Ericsson, was still not a perfect one. The first creations of genius are rarely perfect. It is the law of great ideas that they come forth rough hewn; and the Monitor was a great idea. The gentleman from Maine [Mr. PIKE] said the other day in debate (quoting Carlyle) that "a ship-of-war was a great fact." The Monitor was more. She was a great idea. But she had many imperfections, and the test of battle showed them. Her voyage around to the Roads, what time she was led by the hand of Providence to our deliverance, had also developed many inconveniences and oversights in her construction.

The earlier class of vessels of that type, under the test of ocean steaming and of battle, all developed objections. These were to be remedied; and after these contracts were given out, and when the work was partially completed, the alterations called for by time and experience were ordered; and they were very substantial alterations, involving very great expense, and, what was worse, delay to these contractors. I have not time now to specify these alterations in detail. They are all set forth with particularity in the report of the Senate Committee on Naval Affairs, which report the House committee has adopted. There is no dispute about these facts, for the very order of the Department itself detailing the alterations is printed with the report. They were very many; they were ordered at different times, and they involved a very great delay in the completion of these contracts. And, Mr. Speaker, delay then was loss; time was money then, if ever.

Owing to the peculiar causes I have before alluded to, and within the recent recollection of all of us, gold was going up day by day, almost hour by hour, as the mercury mounts the tube when exposed to the blaze of a fire. Of course the market for materials hung trembling upon the gold room, and the bulls in coin at their parlor in the Fifth avenue affected by their operations the price of ship materials as well as the price of bullion. Two or three months' delay—in a contract for a \$700,000 steamer—occasioned by the Government, at a time when gold rose one per cent. a day, and sometimes more, was the last straw which broke down these contractors. The result is to some of them relief or bankruptcy. That is the whole question, just as it stands now before you. They have worked calmly on until now, patiently fulfilling their contracts, both in spirit and letter, until the earnings of a lifetime have been swamped in the operation.

And now, sir, here they are, and what do they ask? Not to plunder your Treasury, not for a dollar of profit on their work, not, as some gentlemen seem to think, to obtain additional compensation for services rendered; but they simply ask you to pay what these vessels have actually cost them, and you yourselves are to be the judges of what they cost. These American mechanics stand here and ask you to pay the actual cost of the ships which carry your flag upon the ocean, and not one dime in addition. Sir, can

you refuse them? Did ever a Government since the dawn of history obtain a navy upon such cheap terms as these? Will you refuse so reasonable a request, and in one moment sponge out of them the earnings of a lifetime? Mr. Speaker, I know not how other gentlemen may feel, but for myself I declare I could not read the history of the splendid achievements of our gallant Navy in the ears of my little children without a blush of shame, if it is to be coupled with the recollection that its keels were laid on the wreck of the private fortunes of the men who constructed it—a Navy which has already saved you from foreign war, and done so much and so well toward putting down domestic insurrection.

Mr. KALBFLEISCH. I should like to inquire how much is involved in this bill.

Mr. BRANDEGEE. I will state that in a moment; and when I do come to that, and the reasons urged for refusing to pay because of the magnitude of the amount, I shall claim the attention of my very excellent and vehement friend who sits in front of me, [Mr. WASHBURN, of Illinois:] upon which occasion I trust I shall, as now, have the honor of his attention while I refer to some small matters of appropriation in which his record is not quite consistent with his present economical opposition.

But to proceed. Ruin and bankruptcy stare in the face the men who have built the American Navy, while you higgie about paying them its cost. You say it is by no fault of yours that the cost has exceeded the contract price. I reply with more truth, it is no fault of theirs. And if it be not, and no one pretends that it is, is it fair that they should carry the whole loss?

Mr. SCOFIELD. The bill does not propose to pay them, but it proposes to raise a board and to job out our legislation to the Navy Department.

Mr. BRANDEGEE. I thank the gentleman for reminding me of an argument for the bill which I should otherwise have forgotten. The objection he raises is to my mind one of the main merits of the measure, and this I will undertake to show in a moment. My argument now leads me to reply to the objection on the score of the amount involved. But I will not forget the gentleman; and if I do, I beg him to remind me of his point before I take my seat.

Mr. Speaker, I have heard but one objection deserving the name to the payment of these men, and that is that the country cannot afford it, at least not now. And it is with that view that insinuations and innuendoes have been injected into this debate as to the amount involved in its passage. That amount, like the three black crows, has not diminished in its passage from mouth to mouth. The committee find the amount involved, if all were paid, to be about four millions. The gentleman from Maine immediately applies arithmetical progression to the statement and announces it to be \$6,000,000; while the gentleman from Illinois, not to be outdone on this floor by a Maine mathematician, resorts to geometric calculations, and insists upon it it is \$20,000,000. Whatever be the amount, it is said, it is too large to pay now.

Mr. Speaker, if it be too large a sum for thirty million people to pay, I suggest it is too large for these fifteen gentlemen to lose. If it will bankrupt your Treasury, in the name of Heaven what is to become of theirs? Too large a sum to pay to the men who have built your Navy! Why, sir, I have sat in this Hall this session a silent and awe-struck spectator at the facility with which you voted appropriations to every mendicant enterprise that knocked at the door of your Treasury. I thought as I gazed upon this bewildering prodigality that your resources were inexhaustible, or, at any rate, that your generosity was. You cannot vote \$4,000,000 to pay for the hulls which in the coming day of ocean conflict are to dictate the law to the nations, but you can vote millions upon millions of your imperial domain—the surest foundation of your credit—to a great scheme of western railroads. You can engage in an unseemly quarrel with the Senate upon a vital appropriation bill, to give to your clerks and messengers twenty per cent. of additional compensation, but you cannot afford the twenty per cent. provided by this bill to save American mechanics from bankruptcy. You can—without the opposition of my most excellent friend, who was as dumb as an

oyster—vote an enormous subsidy for an oceanic communication with the Emperor of China, and his cousin-pagan, the great Khan of Tartary.

"Where, where was Roderick then?  
One blast upon his bugle-horn  
Were worth a thousand men."

And you can and did, under the lead of the gentleman from Illinois, vote thrice, yes, four times, as many millions as this bill proposes, to forcing an unnatural wedlock between the waters of the Hudson and the waters of the Mississippi. Yes, sir, \$40,000,000 will have gone down into that cavern of folly before the youngest child of this generation will come to see an armed vessel of depth sufficient to navigate the ocean carried from New York bay by way of the lakes to the Father of Waters. And to show that you are consistent alike in things small and great, I expect to see the House, before this week closes, vote \$1,000 mileage to the western gentlemen who spend from thirty to forty dollars in getting from their homes to the capital.

And now, sir, not to forget the promise to my friend from Pennsylvania [Mr. SCOFIELD] across the way, I come to the provisions of the bill itself. What is it? What does it propose? It does not propose an appropriation. But as I am a frank man and am not apt to disguise what I mean, I have no doubt that it will involve an appropriation when its provisions come to be put in execution. The bill provides that the Secretary of the Navy shall have authority to appoint a board, if he shall deem necessary, to examine into the claims of these parties, and to report to him what relief, if any, is just and equitable. And upon their report, if approved by him, he shall have authority to pay the sum awarded to each out of the fund provided for the construction of vessels; but in no case to pay more than twenty per cent. in addition to the contract price, nor in any case more than the actual and necessary cost. That is the long and the short of it.

Mr. YEAMAN. I ask the gentleman now to yield to an adjournment.

Mr. BRANDEGEE. The House is listening to me in such good temper now after its storm that I decline to yield. Besides, I am about through. I shall only explain a provision or two of the bill and then find a good point to wind up on.

Mr. Speaker, if I understand the objection of my friend over the way [Mr. SCOFIELD] it is that the respective merits of these various claimants is not, upon the theory of the bill, to be determined here, but by a board to be appointed by the head of the Navy Department. Well, sir, I have already stated that I think that feature of the bill will commend itself to the judgment of the House. It is "jobbing out legislation" to the Navy Department, and abdicating our privilege to it. For one I am quite content to "let out this job," Mr. Speaker, to the Navy Department for the simple reason that it can be intelligently decided there and cannot here. That is all. The very nature of the questions to be decided makes a board of experts the best tribunal and this House the poorest tribunal to adjudicate them. What are they? The cost of vessels, of vessels built in different parts of the Union by different contractors, of different types and sizes, and at different times and prices. Such questions involve an investigation of the cost of every material of which they are constructed, of the prices of labor at the different periods and different points, a very careful examination of books and figures, a personal inspection of the work and the manner of its completion. Will any one pretend that such an investigation can be had here? Why, sir, I know of no forum under heaven worse calculated for the consideration of such questions than this Hall, and I know of no way in which they can be so intelligently decided and so well as by a board of officers to be appointed by that Department within whose purview such questions belong.

If it be objected, as has been hinted rather than stated, that the appointment ought not to be lodged with the present head of that Department, I have this to say, that there is where it legitimately belongs. I have no reason, as the House knows full well, to be either the admirer or the eulogist of the Secretary. He has persistently, not to say willfully, opposed himself to a great measure of public importance, regarded by himself as vital to the welfare of the Navy, against the judgment

# THE CONGRESSIONAL GLOBE.

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of the very board selected by himself to advise him—against the judgment of the Naval Committee of this House, and of four fifths of the naval officers of the country—against the interests of the State in which I was born and the district I have the honor to represent. And so far as our private relations are concerned, I have asked him for but few favors and have received—none.

But I will do the Secretary justice. He is an honest man. I have known him for fifteen or twenty years, and I know his heart is as far from corruption as heaven is from earth. I am willing to trust the composition of this board, which is to control the disbursement of \$4,000,000, to him—knowing that no dollar of it will cleave to either his palms or theirs.

This very tribunal is limited to the measure of relief; so that you, not these claimants, select your own court, and then you prescribe the mode by which you limit the relief to but twenty per cent., and to not only the actual but the necessary cost. So that even by this bill they get scanty as well as tardy justice, if they get relief at all.

Now, Mr. Speaker, I want to say one word in closing what might be called a peroration to a less desultory speech. I believe my record on this floor will show that I am not in the habit of voting unnecessary appropriations. I have as persistently opposed them, large and small, as any other gentleman on this floor, always excepting my friend from Illinois, [Mr. WASHBURN,] and I have kept pretty close to his heels, except when he has flown out of his orbit. My record is clear and indisputable upon that point. And it is so from education and instinct, for I represent a constituency who are a thrifty and a frugal folk, and while they are content to pay of their substance to all needed wants and for all honest claims upon the Government, they have no tolerance for the harpy crew who are feeding and feasting upon her bleeding heart in this hour of her trial. But I should be false to myself, to my own sense of justice, false to my constituents who believe in a fair day's wages for a fair day's labor, false to the good name of the country, if I did not ask you to deal fairly by the American mechanics who laid the keels of the American Navy.

Mr. WASHBURN, of Illinois. I rise to a question of order. I call for the reading of the 140th rule.

The Clerk read the rule, as follows:

"140. No extra compensation shall be allowed to any officer or messenger, page, laborer, or other person in the service of the House, or engaged in or about the public grounds or buildings; and no person shall be an officer of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government, or be interested in such claim otherwise than an original claimant; and it shall be the duty of the Committee of Accounts to inquire into and report to the House any violation of this rule."

Mr. WASHBURN, of Illinois. I charge that there is an employé of the House upon the floor who is acting as an agent for these claimants. His conduct has been observed by me and by other members of the House to-night. I have seen him introduce persons on the floor who are not privileged to the floor, and who are interested in the passage of this joint resolution. I have seen him prompting members and doing various other indecent and improper things, and I ask that that rule be enforced. [Cries of "Name him."] His name is Wilson, and he occupies the position of lobbyist under cover of employment under the Doorkeeper.

The SPEAKER. The gentleman from Illinois raises a point of order, and makes a charge upon his own responsibility. In 1842 the House adopted a rule that no employé of theirs should be interested in any claim pending before the House except as an original claimant himself. If there is any employé—the person suggested by the gentleman from Illinois or any other person—who has violated that rule, he will be excluded from the Hall, and it is the duty of the Committee of Accounts, under this rule, to examine into the case and report upon it. The Doorkeeper will enforce the rule.

Mr. WASHBURN, of Illinois. I ask further that the rule be enforced that excludes from the floor all persons except those who are privileged. I think it high time that we adopted some rule here that shall be administered—either throw open the doors and let everybody in or exclude everybody who is not entitled to be here.

The SPEAKER. The gentleman from Illinois requires the enforcement of the rule in regard to privileged admissions to the floor. All persons who are not entitled by the rules to remain upon the floor will now retire.

Mr. BRANDEGEE. I still hold the floor, and in accordance with a promise I made, I will now yield ten minutes of the remainder of my time to the gentleman from Pennsylvania, [Mr. L. MYERS.]

Mr. PIKE. I object to the gentleman yielding unless he yields absolutely.

The SPEAKER. The gentleman has a right to yield to any gentleman for explanation of the pending measure.

Mr. KALBFLEISCH. I would remind the gentleman from Connecticut, before he yields the floor, that he has not yet answered my question.

Mr. BRANDEGEE. I will answer the gentleman's question. I understand from the statements of parties who appeared before the committee that the joint resolution will involve about four million dollars if the entire amount shall be awarded; the joint resolution proposes that the award of the board shall appropriate any sum, within certain limits, that they may find each particular party entitled to, and the total may not amount to that sum; but I am a frank man, and I do not disguise the fact that I believe, if this bill is passed, \$4,000,000 will be taken from the Treasury to redeem from bankruptcy the men who have made this Navy.

I now yield to the gentleman from Pennsylvania.

Mr. L. MYERS. Mr. Speaker, I had hoped this resolution would pass without dissent, because it proposes a just relief to a worthy class of citizens—men who have contributed in no small degree to sustain the honor of the country. Yet I scarcely expected it, and from the opposition made to-night, as on several occasions of late, the proper demands of the Navy seem to me to find very little favor with some gentlemen of this House. My friend from Connecticut [Mr. BRANDEGEE] has so ably explained the measure under consideration that it is unnecessary to enter into details. I shall content myself at this late hour with taking a general and national view of the matter. As I understand the question—and I have done what probably a great many here have not: I have carefully read the Senate report upon it—a number of well-known, some of them eminent citizens, builders of armored and other vessels, and steam machinery, owing to the war itself, the rise in gold, the increased cost of all the materials and labor entering into their contracts, above all to the alterations in plans suggested by a constantly-growing experience, and ordered by the Navy Department, would now be greatly the losers if we kept them rigidly to their original contract prices. They are before the Congress of the nation for relief, and I hope it will be cheerfully accorded to them.

Mr. GANSON. Will the gentleman specify wherein the change in the contracts was made?

Mr. L. MYERS. Certainly I will specify. I find by looking over the Senate report that during the progress of the work many and material modifications of plan were adopted. In some cases the contractors were required to suspend work until new plans and specifications could be prepared.

Mr. GANSON. Will the gentleman please explain?

Mr. L. MYERS. I decline to yield further. I am about to explain, and am now answering the gentleman's question. As one instance, I find in a letter addressed by General Inspector Stimers to Messrs. Secor & Co., one of these firms,

under orders from the chief of the Bureau of Construction, the following:

"In consequence of defects developed in the monitor vessels now afloat in actual service at sea and in battles, it has been decided to make the following changes in the iron-clad steamers Mahopac, Tecumseh, and Manhatatan, now building by you:"—

with a minute description of the alterations required and a request for the calculation of the difference in cost between the original and amended plans, all of which the gentleman can read if he sees fit.

I find also in this report that—

"The delays occasioned in the work by the changes of the plans caused large losses to the contractors; first, by leaving their labor unemployed for the time upon their hands; second, by requiring them to carry insurance and interest; third, by the constant and rapid increase of the cost of labor and materials, and the depreciation of the currency, for which the Department could not give adequate and complete relief."

The committee state very fully that when these various contracts were made the art of building iron-clad ships-of-war was yet but an experiment, constant modifications in plans becoming necessary. To satisfy the gentleman from New York [Mr. GANSON] I will read their conclusions and the convincing reasons they give:

"The committee are satisfied that the petitioners have sustained, and are sustaining, heavy losses, which it was not in their power to avoid after making their contracts. Their contracts were generally for large amounts, and required a long time for their completion. It was impossible for them to make provision for all the material required, or to foresee and provide against the great advance in the price of labor. The demand for iron of peculiar and large sizes and fine quality was great, the supply small, and the means of producing it in the country limited. New machinery for preparing and rolling it was necessary; under such circumstances, builders of iron ships and heavy machinery could not contract in advance for such quantities as would be required, even could they advance the money, so that they were compelled to abide the fortunes of the market. During the progress of the work by many of the petitioners labor and materials have advanced, perhaps, one hundred per cent. This was not foreseen either by the reckless or the most prudent. The increased cost of labor and materials outran the calculations of every one. Ought the losses resulting from such a state of facts to fall entirely upon the petitioners? The committee think not."

And, Mr. Speaker, I think not.

I am one of those, sir, who believe in the power and efficiency of our steam, and especially of our armored vessels. I think the Government should facilitate in every honorable way, not only the completion of those now building, but the construction and perfection of enough more to make us beyond question the most formidable Power in the world; and I am willing to leave the question of additional compensation for these ship-builders to the Navy Department or a board of its selection, limited, however, in the amount to be paid as proposed by the resolution.

What especially commends this resolution to me is that, instead of hastily passing upon the merits of these applications here, the whole subject is committed to those who best understand it, and can calmly, upon an examination of dates, figures, and facts, do even-handed justice, allowing, reducing, or totally rejecting a claim, as the evidence shall warrant. But it appears to me this very reference of the matter to the Navy Department creates much of the opposition manifested so warmly to-night.

I know, sir, there are a few here who decry the management of that branch of our service, who speak lightly of the results attained by the iron-clad and other vessels built by its direction, and omit no opportunity for attack upon it.

The Navy Department needs no defense from me. We are passing through the greatest struggle known to history. A peaceful people, we have shown that patriotism and a just cause know no obstacles. An army of a million brave men this day triumphantly carries forward the banners of the Union.

But, Mr. Speaker, proudest among the creations of this war is the American Navy. In March, 1861, four wooden vessels within reach of orders and twenty sent away by traitors; now a fleet of six hundred and seventy-one vessels, seventy-one of them iron-clad; one hundred patrolling the waters of the redeemed Mississippi, the Cumber-

land, and Tennessee; and three thousand five hundred and sixty miles of coast blockaded, ay, and blockaded so effectually that the share of the Government in prize money counts by many millions—the last port closed to all but the avenging legions now repossessing Wilmington, Charleston, and Mobile.

The deeds of our gallant seamen sufficiently attest the power and endurance of the vessels which bore them. Those deeds illustrate the regeneration of the Republic, and will live in song and story only rivaled by the brilliant exploits of our armies. They place the names of Morris and Craven beside that of Lawrence; and in Worden, Foote, Cushing, Winslow, Porter, and Farragut, recall the glories of Barney, Preble, Truxton, Bainbridge, Decatur, and Perry.

Mr. Speaker, in the Rotunda of this Capitol there is a noble picture representing Perry's great victory on Lake Erie—the hero himself, as he passed amid the fire of the fleet from the shattered Lawrence to the Niagara. I would it belonged to the nation. We have within a few weeks passed a resolution which my colleague [Mr. O'NEILL] informs me has been to-day adopted by the Senate authorizing its artist to execute a painting commemorative of some striking incident of this war. The subjects are not wanting, but I could wish that I might have the selection from them.

Proud though it might be, I would not take the iron-clad contest in Hampton Roads, which saved the nation, astonished the world, and marked a new era in naval warfare; nor prouder still, the battle off Cherbourg, when in the sight almost of two false nations, the Kearsarge—whose victorious seamen we have this evening voted to compensate—sent to the ocean's depths the pirate Alabama, fit type of the cause and the fate of the rebellion; nor yet the great armored combat in Charleston harbor, of which the Russian Admiral Lesofsky, differing from the gentleman from Maryland, [Mr. DAVIS], reports that the monitors came out of a terrible, concentrated, and unprecedented fire from the forts almost scatheless; nor even the brilliant attack upon Fort Fisher, when the Ironsides, Monadnock, with other iron-plated as well as wooden vessels, played so conspicuous a part. No, sir; I would select the fight in Mobile bay; the rebel ram Tennessee, with her armor broken, her steering gear disabled by the monitors, grappled firmly by them, and about to surrender, while the great captain, Farragut—instead of being seated quietly in the Admiralty Board pictured by the gentleman from Maryland—is lashed to the mast of the good ship Hartford, where the shot and shell whistled past him, who by common accord has been deemed worthy of the mantle of Perry.

We need not blush for our Navy—it has been worthy of its ancient renown, and no critic can now with justice call our iron-clad armaments an experiment. At least the experiment has succeeded so well that all maritime Powers are profiting by it. The lesson from the Merrimac, in the language of the London Times, reduced the whole English navy to two ships, the Warrior and the Black Prince; and although on January 1, 1863, the number was only increased to four, she has now twenty-seven iron and wooden armored vessels, twenty of them sea-going. France has already eight iron-clads afloat, twenty-five building, and nine in reserve. Russia is not far behind. Italy had fifteen armored vessels in 1863; and Brazil, and Turkey, and Prussia, are having iron-clads built in France and England. These are principally the offspring of the American conflict, toward which Europe still looks with absorbed and increasing interest.

As early in that conflict as 1861 the Secretary of the Navy offered a chance of competition for the best mode of constructing these armored vessels, and the result is before the world. With but little opportunity, as I shall show, of building such vessels at national yards, the work was necessarily given to contractors, and to them is due much of the success which we have attained. I know there have been errors, and shortcomings, and defects, but, Mr. Speaker, these were the incidents of a new creation; and wherever these builders have in good faith done their best, they should not be deprived of a just profit while doing the work of the Government and the people.

Not is this all. We may soon have to deal with naval Powers more formidable than the

rebellion. No action or inaction of ours should cripple these builders or delay for a day the completion of armaments which may bring peace to the country or keep it when brought. As the commerce of a nation is its wealth, so its navy constitutes its strength. England, once the boasted mistress of the seas, never doubted the proposition; and France, which till of late years paid too little attention to her navy, was never feared by England so much as now. Only last year an English writer tremblingly pictures the result should the navies of France and Italy!—poor little despised, recreated Italy, which England helped about as much as she did Poland or her cousin of Denmark, and not quite as much as she helps the confederates—should the navies of France and Italy “ever pull the horse together.” And as England and France and our Russian friends recognize this truth, so must we. If peace comes and stays with us, our Navy must still be completed and preserved, must be kept from corrosion and adhesion and decay. Our vessels will constantly need docking, refitting, and repairs. That flag which hangs above you, Mr. Speaker, must still be borne proudly into every port.

But we must be prepared too for foreign war. England only provoked us in 1812 because of our supposed naval weakness. Although her entire war navy nearly doubles ours, that argument would not hold good now—our iron-clads making up for the difference. But she who bullied Brazil at Rio within two years and made no compliments with China and Japan, still furnishes ships and outfit and harbor to pirates—one day sympathizes with the Florida, the next her Canadian children plot incendiarism and incursions over the border, not so bold as the English reserve who were taught a lesson in gunnery on the Alabama. Throughout this war, against the advice of her great commoners, false to her teachings and traditions of liberty, she has sided against us, playing the enemy rather than the neutral; and although the queen, under the inspiration of Union victories, now talks of reconstruction, there is no telling at what moment a collision might take place.

Still further. The President's message says nothing about Maximilian, it is true. The Monroe doctrine may be in *abeyance*, but it is still the settled policy of the country, and this House has but responded to the wishes of the people in reiterating it. The Power that could spare fifty thousand troops for Mexico, and steam them across the Atlantic, is not to be despised; and even though France be not the aggressor it may soon be our province to assert our time-honored policy and aid the neighbor who is showing her tyrant that she is not only a belligerent, but a very formidable one.

The rebellion, plotted for a third of a century by a pampered aristocracy, is in its death-struggle. Thousands are seeking the proffered amnesty; conquered cities returning to their allegiance; States even talking of a shelter beneath the old flag. The bitterness of our strife may rankle for a time, but with language, blood, memories and hopes in common, when the leaders of the conspiracy are punished the armies that have clashed against each other may yet vie in prowess to drive the invader from the shores of Mexico.

I say all this, Mr. Speaker, in no spirit of bravado. The wish for war is not “father to the thought,” but a wise statesmanship is not blinded by the glitter of present success. On more than one occasion since the rebellion commenced we were on the eve of a war with Great Britain. The very proper repeal of a treaty which gave “reciprocity” only in name is already being misconstrued. To protect our commerce and frontier we must have armaments as well as fortifications on the great lakes. The Monroe doctrine will be enforced by the people, perhaps even against the sanction of the Government. Protection to our Navy and those who have built it up, increase of its strength, will, amid the complications which may arise, not bring war, but ward it off, and produce an amicable adjustment of the question. We shall then have a lasting peace, lasting because other nations will fear to attack us; lasting because the Union will be one of power as well as beauty; lasting, for soon slavery, the cause of discord between North and South, will have perished from the land.

The Declaration of Independence asserts that all men are created equal. Here in time of war, but in the mild mode pointed out by the Constitution, we have declared what that declaration implied, *that they of right ought to be free*.

The Constitution was framed to form “a more perfect Union,” more perfect than the Confederation that preceded it, which, amid all its defects, at least declared that “the Union shall be perpetual.” Shaking off the heresy of State sovereignty, wiping from our escutcheon the only stain that marred its purity, we can at last stand erect before the nations, and soon shall proudly point to the more perfect Union which our fathers fondly hoped for, won by the very crime that sought to destroy it. Peace beams upon us from the near future. Lack of the appliances of war, even amid the richest means for those appliances, alone tempted the folly of secession. Let us profit by the lesson. Europe respects power; by power alone will the peace be preserved against her.

But, Mr. Speaker, there is a reason more cogent than any yet mentioned why we should relieve the meritorious of the ship-builders now applying to Congress. These contractors for iron ships and steam machinery have nowhere the facilities which will enable them to fill an agreement made, as is generally asked, for the shortest possible time. The Government is their only purchaser. It is never certain that they will obtain another contract, and it is not reasonable to demand of them—in view of these facts it is scarcely within their legitimate means—to build the heaviest forges and machinery for the most powerful steam engines, nor can they lay up timber, iron, and other materials in sufficient quantities to prevent great loss from the fluctuations in prices at a time like this. It is the fault of Congress that these contractors are now here; at least there would not have been so many but for the indifference and inaction of Congress upon this very subject. Time and again has the Secretary of the Navy called attention to the question. First in March, then in June, then in December, 1862, and again in his reports of December, 1863, and December, 1864, pressing the want of a great national navy-yard where alone the proper facilities could be obtained, urging the great loss and delay to the service arising from the insufficiency of our present yards, public and private, and absolutely begging Congress to take immediate action.

Let me read a brief extract from his last report:

“To relieve the navy-yards from work which they have but limited means to execute, and to secure necessary repairs, the Department has been compelled to establish stations for machinery and means of refitment at Mound City, Memphis, New Orleans, Ship Island, Pensacola, Key West, Port Royal, Beaufort, Norfolk, and Baltimore. But these and all the private establishments of the country, besides other calls upon them, have been insufficient to keep the present Navy in necessary order.”

Again he says:

“Were there outside of our navy-yards establishments to perform promptly the requisite work in time of war, I should not at this time again press the subject of a navy-yard for iron work for the construction of vessels upon the consideration of our authorities. But although the Department has generally been ably and zealously seconded in its efforts by private contractors, yet the fact that there is no customer but the Government for much of this heavy class of iron work forbids us to expect that individual enterprise will be prepared to execute it without full remuneration for all the outlay for shops, tools, and machinery which may be required in preparation.”

How truthful these statements are, how sad the lesson they should have taught, may be learned in the fact that but for delays in completing the armored vessels ordered by the Department for the shallow waters and sounds of North Carolina, we should not now have to sorrow over the terrible massacre at Plymouth.

What has been the case in England? The Warrior, ordered May 11, 1859, to have been delivered in July, 1860, was not finished until October, 1861. Her contract price was £210,000, and the Government had to pay for her £254,000. The Black Prince, ordered October 6, 1859, to have been delivered October 10, 1860, was not finished until after January, 1862, and her cost was increased from £230,000 to £250,000. The Defense was not delivered until four months after contract; the Hector and Valiant seven months, and the Resistance ten months after. Yet these English contractors have great iron-ship-yards on the Thames, Clyde, Mersey, Tyne, Wear, Tees, Avon, &c.—the combined capacity of all



our private yards, in the language of Chief Engineer King, "not being equal to the first of the great iron-ship-building yards on the river Thames," many of the largest iron vessels having been built for the Government by the Mill-wall Company, the Thames Company, Napier & Sons, and the Messrs. Laird Brothers whose names will not readily be forgotten by the American people; all of their works more extensive than any out of Great Britain. Chief Engineer King adds:

"Under existing circumstances, the best of our private yards could not construct one such vessel as the British frigate Achilles within three or four years. Several iron gunboats which were contracted for more than two years ago are not yet completed, and will not be for some months."

No wonder that when the dread of the Merrimac was all over the land and the presence of the Roanoke sadly needed, it took many months to get her a new crank-shaft—and then in the rough only—in place of her broken one, our navy-yards not being able to make it. No wonder that in 1862 the gunboat contractors, who had run their works night and day, seven days in the week, came to Congress for relief from their forfeitures of \$200 per day for being beyond their contract time. No wonder that the Niagara when most needed was detained fourteen months, and the Cuyler ten months, for repairs, or that a manufacturer of reputation and ability was two years beyond his stipulated time in setting up the turrets of the Tonawanda and Miantonomah. No wonder that so distinguished a citizen as Captain John Ericsson, last June, had to ask Congress for relief in his engagements to build the Puritan and Dictator, the last named of which has been erroneously called a failure because she too had her shaft broken. No wonder, sir, that when every year, almost every month, experience is quickening our knowledge in this great new art of iron-ship-building, and plans are changed of necessity by the Navy Department, when delays for the causes I have stated are unavoidable and prices are constantly enhancing, these contractors should now knock at our doors for a relief which ought not to be refused them. The British Admiral Robinson, speaking of these difficulties, says, "It is not, therefore, one contractor (for steam machinery) or one iron-ship-builder, but all who have failed in their agreements." Secretary Welles, in his report upon the Albatross affair, uses almost precisely the same language.

Let us grant the prayer of these builders for a proper hearing and determination of their claims, and then go to work in sober earnest, at once, to provide a national yard which will prove a saving of millions in money and years in time instead of the expense which some gentlemen here dread so much.

In this view, if not in others, the Naval Committee of this House, to whom the matter was referred, were unanimous.

Nor would such action do injustice to these private ship-builders, who would still have much of the Government work to do, at perhaps a fairer chance of just remuneration than now.

In appointing Engineer King to visit the dock-yards of Europe the Secretary of the Navy declared that the want of such an establishment in the United States had become a national misfortune, and Mr. King after full investigation concurs in the opinion.

We have no proper wharfage or dockage room for our wooden vessels even; but above all we need a great constructive iron-ship-yard. The workshops of France and England, and the materials they hurried forward, conquered Russia. We want a place to make the largest anchors and armor-plates, the most powerful engines and ordnance and ordnance stores; a great foundry owned by the nation, with basins and water frontage more extended than all we now have combined—one, too, which will need little other protection than the ships which lie there.

It is perhaps not strictly within the scope of this argument to define what the requirements for a yard of this kind should be, and yet it is not entirely foreign to the question, for an unfortunate selection would extend indefinitely the evils I have mentioned, not to speak of the vast expenditures it would throw away or the disaster it might bring upon the country. Nor need I say to this House where I believe such yard should be located, although the gentleman from Connecticut,

[Mr. BRANDEGEE,] who has kindly surrendered to me a part of his time, expresses his regret that the locality urged by him was not the preference of the Secretary.

Mr. BRANDEGEE. I do not object.

Mr. L. MYERS. Very well. Differing as we do on that question, I give all credit to my friend, who, waiving his personal feelings against the Secretary, advocates the resolution before us because he deems it right. He has awarded the highest praise to that officer in pronouncing him an honest man; the best reason, too, for our confiding to him the settlement of the claims of these ship and engine-builders. Next to that praise let me add that in urging a navy-yard where he believed the combined advantages were greatest, he has been national, not sectional.

Chief Engineer King, after a thorough examination of the great European dock-yards, declares, as the Secretary has, that we need a yard for iron ships "in an entirely secure position, far from the sea, in fresh water, and within easy reach of iron and coal." Such a place—League Island—was offered by Philadelphia to the Government, a free gift, combining all the requisites to a degree presented by no other locality; the skilled labor of the largest manufacturing city in the Union on the spot; iron, coal, timber, in unrivaled quantities; fresh water, and that distance from the sea which makes defense easy. Chat-ham even had no such advantages, nor perhaps any other place in the world. Yet the proffer is still unaccepted, the resources of the country in this respect rendered nugatory, and we continue to be thrown almost exclusively on the contract system because a rival locality brought shadows against us "to fright" the House "from its propriety."

I should rejoice if through the advantages lavished on my native State by a kind Providence the city of Philadelphia could be the chosen spot for such an establishment.

There is no time I fear for further action on the subject this session. But I trust the next Congress will determine upon a location wherever in their judgment is best, and proceed in this great work as a national necessity. Meantime, and at all times, let us be just. No stronger claim has been presented to us than the one under discussion, and I hope the joint resolution will pass.

Mr. BRANDEGEE. Mr. Speaker, I cannot, of course, at this the hour of midnight, and after making a speech myself, urge the passage of so important a measure as this by any parliamentary tactics that would prevent discussion. I am willing therefore to consent to any arrangement that may be proposed that will let this subject go over and come up to-morrow as the unfinished business.

Mr. WASHBURN, of Illinois. We cannot make any arrangement about the matter.

Mr. BRANDEGEE. Well, I give way to the gentleman from New Hampshire, [Mr. ROLLINS.]

Mr. ROLLINS, of New Hampshire. I move that the House adjourn.

The motion was agreed to; there being, on a division—ayes 46, noes 43.

So the House (at ten minutes after twelve o'clock, a. m.) adjourned.

## IN SENATE.

WEDNESDAY, March 1, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal was dispensed with.

## EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 25th of February last, copies of all the orders, permits, licenses, and correspondence in the possession of that Department connected with the subject of trade in the southern superintendency; which was referred to the Committee on Indian Affairs.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the 3d of February, 1865, information in relation to the printing of the argument of the judges advocates on the trial of Franklin W. Smith, and

in relation to the employment of agents or detectives by the Navy Department; which, on motion of Mr. GRIMES, was ordered to lie on the table and be printed.

Mr. HALE subsequently said: I move to reconsider the vote by which the answer to a resolution of the Senate making certain inquiries of the Secretary of the Navy was ordered to be printed. My reason for so doing is that the papers ordered to be printed, instead of being an answer to the inquiries of the resolution, consist mainly of an inflated autobiography of the Assistant Secretary of the Navy, and mainly intended as an argument for making him a rear admiral.

The VICE PRESIDENT. The motion to reconsider will be entered.

## REPORT OF SMITHSONIAN INSTITUTION.

The VICE PRESIDENT also laid before the Senate the annual report of the Board of Regents of the Smithsonian Institution, showing the operations, expenditures, and condition of that Institution for the year 1864; which was ordered to lie on the table and be printed.

Mr. ANTHONY. I desire to offer a resolution in connection with that report. It is the usual annual resolution on the subject, and has received the assent of the Committee on Printing, and need not, therefore, be referred to that committee:

*Resolved*, That five thousand additional copies of the report of the Smithsonian Institution for 1864 be printed; three thousand for the use of the Senate and two thousand for the use of the Smithsonian Institution: *Provided*, That the aggregate number of pages contained in said report shall not exceed four hundred and fifty, without woodcuts or plates, except those furnished by the Institution, and that the report be stereotyped.

The resolution was considered by unanimous consent, and agreed to.

## PETITIONS AND MEMORIALS.

Mr. GRIMES presented a memorial of the American Medical Association, praying for an increase of the rank and pay of surgeons in the Navy; which was referred to the Committee on Naval Affairs.

## PAPERS WITHDRAWN.

On motion of Mr. FOOT, it was

*Ordered*, That Captain John B. Montgomery, United States Navy, have leave to withdraw his petition and papers.

## REPORTS FROM COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred a joint resolution (S. R. No. 110) creating a committee on damages, reported it without amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred a joint resolution (S. R. No. 127) authorizing that the time for revision of the laws of the District of Columbia be extended for and during the Thirty-Ninth Congress, reported it without amendment.

Mr. POWELL, from the Committee on Printing, to whom was referred a joint resolution (S. R. No. 63) repealing the joint resolution of Congress providing for the distribution of certain public books and documents, asked to be discharged from its further consideration, the Senate having already passed a resolution on the subject; which was agreed to.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred a joint resolution (S. R. No. 134) authorizing the Northern Pacific Railroad Company to invest its funds in Government securities, reported it without amendment, and that it be postponed until the first Monday in December next; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 691) to authorize and aid in the construction of a railroad connecting the Pacific railroad in California with the Columbia river in Oregon and Puget sound, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 166) to provide for mustering out of the military service certain non-commissioned officers and privates who enlisted to fill old regiments, reported it without amendment and adversely.

Mr. DOOLITTLE, from the Committee on Indian Affairs, who were authorized by a resolution of the Senate of the 2d of July, 1864, during the recess to inquire into the policy of providing by a

general law for relieving the public domain of the United States of the possessory title thereto of the several Indian tribes, submitted a report; which was ordered to be printed.

Mr. DOOLITTLE. I move that five thousand additional copies of the report be printed for the use of the Senate.

The VICE PRESIDENT. That motion will be referred to the Committee on Printing.

#### SUBSTITUTES FOR COTTON.

Mr. ANTHONY presented a letter of the Commissioner of Agriculture addressed to him, transmitting the report of the commission appointed under an act of Congress approved February 25, 1863, "for investigations to test the practicability of cultivating and preparing flax or hemp as a substitute for cotton;" which was laid upon the table.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the Senate five thousand copies of the report of the commissioners appointed under an act of Congress approved February 25, 1863, "for investigations to test the practicability of cultivating and preparing flax or hemp as a substitute for cotton;" and that ten thousand copies be printed for the Department of Agriculture.

#### ARMY REGISTER.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the action of the House upon the amendments of the Senate to the joint resolution (H. R. No. 169) to provide for the publication of a full Army Register, to make a report upon the subject. The House of Representatives have concurred in four amendments made to the resolution by the Senate, and disagreed to the fifth. The Committee on Military Affairs recommend that the Senate recede from that amendment, and I ask action upon it at the present time.

The VICE PRESIDENT. If there be no objection, the Chair will put the question. It is moved that the Senate recede from its fifth amendment to this joint resolution.

The motion was agreed to.

#### STAFF OF LIEUTENANT GENERAL.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 476) to provide for a chief of staff to the Lieutenant General commanding the armies of the United States, to report it back without amendment, and I will ask for its consideration at this time. I think it will lead to no debate. If it does, I will let it go over.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that the President of the United States may, by and with the advice and consent of the Senate, appoint a chief of staff to the Lieutenant General commanding the armies of the United States, who shall have the rank, pay, and emoluments of a brigadier general in the United States Army.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ENCOURAGEMENT OF IMMIGRATION.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to consider Senate bill No. 403. It is important that it should be considered now. It is a bill amending the immigration act, reported from the Committee on Agriculture.

Mr. GRIMES. Is that the bill which the Senator from Ohio [Mr. SHERMAN] introduced?

Mr. LANE, of Kansas. Yes, sir.

Mr. COLLAMER. I feel it my duty to ask for the consideration of the annual bill providing for the establishment of postroads. I endeavored to get it considered yesterday morning, but could not get it attended to, because the Senator from Massachusetts [Mr. SUMNER] desired to put a railroad bill upon it. I desire to move the suspension of all prior orders in order to take up that bill, and if the Senate reject it I shall be enabled to show by the record that I have done my duty.

The VICE PRESIDENT. The Senator from Kansas asks the unanimous consent of the Senate to consider the bill indicated by him at the present time.

Mr. COLLAMER. I object to it.

Mr. LANE, of Kansas. Then I move, if it is

in order, to postpone all prior orders with a view to take up the bill. This is an immigration bill of a general character which it is important to pass. I make a motion to postpone all prior orders and take up that bill.

The VICE PRESIDENT. That motion is in order.

Mr. LANE, of Kansas. I understand from the chairman of the Committee on Finance that it is not likely to provoke discussion.

Mr. GRIMES. I can state, I think pretty certainly, that the Senator from Maine [Mr. MORRILL] will discuss it.

Mr. SHERMAN. I can state to the Senator that everything that my friend from Maine objected to in the bill was stricken out by the Committee on Finance. I understand the Committee on Agriculture have only taken the bill as reported from the Committee on Finance. Is that the case?

Mr. LANE, of Kansas. Yes, sir, without amendment.

The VICE PRESIDENT. The Senator from Kansas modifies his motion, and instead of asking unanimous consent, moves that all prior orders be postponed for the purpose of taking up the bill he has indicated.

Mr. LANE, of Kansas. Let the title of the bill be read.

The Secretary read it, as follows:

A bill to amend the act entitled "An act to encourage immigration," approved July 4, 1864, and the act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855.

Mr. COLLAMER. I understand this bill is to be debated. It is said that the Senator from Maine [Mr. MORRILL] desires to debate the bill. So I understand from the Senator from Iowa.

Mr. SHERMAN. The bill as originally introduced was objectionable and would have been opposed; but I think everything objectionable in it has been stricken out.

Mr. CONNESS. Before the vote is taken I should like to ask the chairman of the Committee on Finance whether this bill now contains the provision for legalizing contracts made out of our country in other countries for labor, or whether it has been amended in that respect.

Mr. SHERMAN. There is nothing of that kind in the bill. All the provisions relating to those disputed points were omitted by the Committee on Finance. The bill now called up by the Senator from Kansas I am told is a House bill, and is a copy of the bill reported from the Committee on Finance. If that is so, I do not think there is a single thing in it to which any Senator will object. All the disputed items about contracts for labor are stricken out.

Mr. CONNESS. Are you sure of that?

Mr. SHERMAN. I cannot be sure of it without having the bill read.

Mr. CONNESS. It is a very long bill.

The VICE PRESIDENT. The question is on postponing all prior orders for the purpose of taking up the bill named.

The motion was not agreed to; there being, on a division—ayes five, noes not counted.

#### PACIFIC RAILROAD.

Mr. CONNESS. I move to postpone all prior orders and take up House bill No. 763, a bill reported from the Committee on the Pacific Railroad, which contains a few short amendments to the Pacific railroad act, to enable the companies to progress with their work. It is essential that it should be acted upon now.

Mr. HOWARD. I hope that bill will be taken up. It will take but a moment.

Mr. HARLAN. I desire to offer some amendments to that bill before it is acted upon; but I am not prepared to do so now. I hope, therefore, it will not be taken up.

Mr. TRUMBULL. That being the case, I hope Senators will allow me to call up some bills to which there are no amendments to be offered.

Mr. CONNESS. The honorable Senator who threatens this bill with amendments was in the committee now nearly a week since, February 24, when it was reported. We are approaching the termination of the session rapidly. I think it was due to that bill, and those who have it in charge, and those whose interests are comprehended by it, that he should have had his amendments pre-

pared; and I should like to know how long it will take him, or whether this bill is to be defeated by waiting for the Senator to prepare his amendments.

Mr. HARLAN. I shall, of course, occupy the first time I can appropriate which is not demanded for other business that I think equally important. I will prepare them as soon as I can.

Mr. CONNESS. I ask for a vote on the motion to take up the bill. It is true that there is not a single act that I have undertaken to press upon the attention of this body during this session connected with California affairs that has not been obstructed by the honorable Senator with all the power and influence he has in this body; and if our legislation is entirely barred by his action it will be rather a hard proceeding to us.

Mr. HARLAN. I think the reflection made by the Senator is unjustifiable, unless, in his opinion, the Pacific railroad lies entirely within the State of California. I had supposed that that great work was intended to commence near the States bordering on the Mississippi valley, and to proceed some thousand miles or more before it would reach his State; and as one line of the road, or a branch road, terminates opposite the State I have the honor in part to represent, I feel, I think, if I can be intrusted to hold my own opinions, as deep an interest in the success of the work as the Senator from California probably can.

As to my having unwarrantably obstructed the passage of any bill in which the State of California was particularly interested, I think the Senator will be unable to adduce the slightest proof. When bills have been referred to the committee of which I have been a member, I have given them the attention they deserved, and have attempted to consider them carefully and candidly, and have acted in pursuance of my own judgment as to their merits. It is true I have not always accorded in opinion with the Senator from California. That may be my misfortune, but it surely has not been my fault.

Mr. BROWN. The Congress of the United States has been very liberal in its dealings with these companies, and has shown a very great desire to enable them to progress with their work and complete it as speedily as possible. The desire at the present time is to take up a bill making a trifling amendment, which will enable the companies that are depending upon the use of the bonds which are authorized to be issued by them for raising money to negotiate those bonds abroad more favorably than they can now do. If this bill is taken up and acted upon it will facilitate them perhaps one year in the construction of the work, or in the realization of their mines. I do not think it will take more than one or two moments to pass it, unless the Senator from Iowa has amendments to offer of a more serious character than any I am aware of. I trust the Senator from California will be gratified in his desire to take up the measure. It not only affects the road in California, but it likewise affects the eastern branches of that road.

Mr. COWAN. I hope the Senate will take up this morning the regular order of business, the bills which interest the country everywhere.

Mr. SHERMAN. I move that the Senate resume the consideration of the unfinished business of yesterday.

The VICE PRESIDENT. The Chair thinks that motion is not now in order. It will be in order when the motion of the Senator from California is disposed of.

Mr. SHERMAN. I ask leave to make a report from the Committee on Finance.

The VICE PRESIDENT. There is a question before the Senate.

Mr. SHERMAN. I will then submit a motion. I do not wish to waste this precious hour. I move to postpone the pending business with a view to take up the bill to provide ways and means for the support of the Government.

The VICE PRESIDENT. The question now is on postponing all prior orders and taking up the bill indicated by the Senator from California.

Mr. CONNESS. I think the honorable chairman ought not now to antagonize this particular measure.

Mr. SHERMAN. I do not antagonize any particular measure.

Mr. CONNESS. It is equivalent to that; because if gentlemen are forced to vote upon

it, under the pressure that the Senator makes, of course the vote will be adverse to this bill. I notify Senators that the propositions contained in the bill that we desire to have taken up are very simple, and yet are of the most vital importance, perhaps not to the railroad interest represented by the honorable Senator from Iowa, but I know they are of the first consequence to us. Mr. President, we are endeavoring to make the Pacific railroad over the greatest natural barriers on our continent. Shall we not have a chance to do that? I hope we will take a vote on this proposition.

The VICE PRESIDENT. The question is on the motion of the Senator from California.

The motion was agreed to; there being, on a division—ayes 16, noes 11; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864.

The bill proposes to amend section ten of the act of July 2, 1864, so as to allow the Central Pacific Railroad Company and the Western Pacific Railroad Company of California to issue their six per cent. thirty-year bonds—interest payable in any lawful money of the United States—upon their separate roads; and the companies are authorized to issue, respectively, their bonds to the extent of one hundred miles in advance of a continuous completed line from Sacramento.

The second section proposes to ratify and confirm the assignment made by the Central Pacific Railroad Company of California to the Western Pacific Railroad Company of that State of the right to construct all that portion of the railroad and telegraph from the city of San José to the city of Sacramento, with all the privileges and benefits of the several acts of Congress relating thereto, and subject to all the conditions thereof; but the time within which the Western Pacific Railroad Company are to be required to construct the first twenty miles of their road is to be one year from the 1st of July, 1865, and the entire road is to be completed from San José to Sacramento, connecting at the latter point with the Central Pacific railroad, within four years thereafter.

The Committee on the Pacific Railroad reported the bill, with an amendment in section one, line six, after the word "California" to insert "the Union Pacific Railroad Company, and all other companies provided for in the said act of July 2, 1864;" so that it will read:

That section ten of said act of July 2, 1864, be so modified and amended as to allow the Central Pacific Railroad Company and the Western Pacific Railroad Company, of California, the Union Pacific Railroad Company, and all other companies provided for in the said act of July 2, 1864, to issue their six per cent. thirty-year bonds, &c.

The amendment was agreed to.

Mr. HOWARD. There is another amendment which ought to be made, which is rather verbal in its nature. It is on page 2, line fourteen, at the end of the first section, to strike out the words "from Sacramento" and to insert the words "of construction," so that it will read:

And the said companies are hereby authorized to issue, respectively, their bonds to the extent of one hundred miles in advance of a continuous completed line of construction.

Mr. CONNESS. There is no objection to that. The amendment was agreed to.

Mr. HARLAN. I move to amend the bill by striking out the second section.

Mr. CONNESS. I do not know what the object of the honorable Senator can be in making this motion. The section provides that Congress shall ratify an assignment legally made since the last session of Congress by the Central Pacific Railroad Company to the Western Pacific Railroad Company for the construction of a part of this road. The act of last year fully justifies the assignment made, and the parties are entitled to all the legal privileges and benefits that the law confers upon the original parties. The only object of seeking this confirmation of the assignment is this: the company are now engaged in constructing twenty-five miles of their road as required by law.

Mr. McDUGALL. I will ask my colleague to allow me one moment on a question pertinent to the matter upon which he is now speaking.

Mr. CONNESS. I prefer to go on with my explanation to the Senate, because I do not wish to consume time. I hope we shall come to a vote without discussion, and I am making an explanation to the Senate and not a discussion. It is clear we cannot get action on this kind of measures at this period of the session unless we do it by economizing time.

The object of seeking this confirmation of assignment while these parties are building their road is to enable them to negotiate better with capitalists to obtain the money necessary to go forward with the work. If application be made now, they will have to furnish, through an attorney, a legal exposition of their rights. If Congress ratifies it, there is no such legal exposition necessary *prima facie*. It improves their credit in the market. There is no responsibility added to the Government, not the weight of a hair.

Mr. HARLAN. This provision was considered maturely at the last session of Congress and deliberately rejected by the committee of conference, and I think by the Pacific Railroad Committee of the Senate. It was in one or the other bill—however I think in the bill passed by the House—and was fully considered in a committee of conference of the two bodies, and stricken out.

Mr. CONNESS. I know the Senator does not intend to make any misstatement, but he is not stating the fact correctly, if he will pardon me. Has he any objection to my stating to the Senate what the facts were in that regard?

Mr. HARLAN. None whatever.

Mr. CONNESS. Mr. President, the facts are not as the Senator states them. The fact was that there was an old assignment made by the Central Pacific Railroad Company to the Western Railroad Company, and the bill which passed the House last year, if adopted by the Senate, would have confirmed that assignment and extended the benefits of the Pacific railroad act to the railroad known as the San Francisco and San José railroad, fifty miles of road, I wish Senators to understand, finished and constructed and running, and profitably so. I believed, with others, that the policy of Congress was not to make a gift to roads already constructed, but to make grants to induce the construction of roads; and therefore, among others, I objected to that confirmation; but this bill does not contain it at all. The assignment that we propose to confirm here is a totally different one. It is in all respects legal, and authorized by the Pacific railroad act. It does not extend the bonuses of the Pacific Railroad Company to one foot of the road lying between San Francisco and San José, as the assignment spoken of last year did; and therefore it is not obnoxious to the objection of the Senator.

Mr. HARLAN. I shall not occupy time. I think I did not misstate the facts that I was attempting to state. The committee of conference of the two bodies took this view of the subject: that in the charter, in the original act and in the amendatory act, the Government held the company that acquired the franchise of the Government to construct the road in pursuance of its provisions in order to receive the subsidy in bonds and in lands; that it was a matter totally unimportant to this Government what agency the company acquiring the franchise should employ in the construction of the work; that if they chose to employ some other corporate body to construct the line of road, or any portion of it, and if it was completed in accordance with the provisions of the law, it was a matter totally immaterial to this Government. They might employ a corporation; they might employ an individual, a corporate aggregate or sole; and if the work was done in pursuance of the charter they would be entitled to the bonds and lands as provided in the law; and hence it was not a question that properly should be submitted to Congress whether they had legally under the laws of California made an assignment of a franchise to another company or not. If they have the right under the law, and have made the assignment in pursuance of law, and the assignee shall construct the work in accordance with the provisions of the law, then no parties will be damaged; but this Senate and Congress cannot know what the character of that contract is.

This question was examined when I was present, by the Pacific Railroad Committee of the Senate. I think it has been examined by no mem-

ber of that committee. They took the statements of the Senator from California as true; and I would not call in question his veracity. He doubtless believes they are true; and if true, the passage of this part of the bill is totally unimportant to him; it will not facilitate the work in the least. But if this assignment is not in conformity to law, and has not been made to responsible persons, a ratification of that assignment by Congress will shift the responsibility from the company that has acquired the franchise from the Government, will release them from all responsibility, and thus endanger, as I believe, the final success of the work.

The Senator himself says that it will effect no good unless it may be to increase the credit of the assignees in the market. Their credit must be good enough if the people of whom they borrow know them to be valid. This Government gave the franchise to a company, the character of which they are supposed to examine, and with which they are supposed to be satisfied; and there I am disposed to let the matter rest. If they have the right under the law, as I am disposed to believe they have, to make the assignment, it will stand; it will be binding on the parties; the contract between the Government and the original company will still be valid; and they can offer the bonds and the land under the law if this part of the bill should not be passed. The organ of the Senate and of the House heretofore, after having carefully examined the whole subject, reported against it, and that report having been ratified by the Senate and House, it seems to me it is not right to spring the question on the Senate at this period; and when a Senator rises in his seat and says he wants to examine the bill with a view to present amendments, to cut off the opportunity of doing so and compel a vote on the question that Congress has deliberately decided against, I think is unprecedented in legislation, and improper.

Mr. McDUGALL. I think the Senator from Iowa is somewhat wrong. My colleague and myself differed during the last Congress on this subject, and the Senator from Iowa and myself agreed. We agreed in this, that the original bill contemplated building a road to the city of San Francisco as the terminus in the West. He thought, as I thought, that the original bill, passed in the first instance—he having taken a large interest in it, and being a member of the committee—covered the whole line of road from here to San Francisco. The fifty miles of road to which my colleague refers was built upon the faith of that legislation as much as any one line of road in Kansas or California; but the right of the parties building that fifty miles and completing it and running it, which was first done as part of the Pacific railroad, to the privileges of our legislation was denied, and is ignored now. It was ignored at the last session. My colleague opposed the proposition. I insisted that the benefits of the law should be extended to San Francisco. I suppose that now they have no chance of the benefit of this law, although they built the first fifty miles of the Pacific railroad. But the road involved here has not been constructed, and it has to go through mountain passes. If there is a doubt about the right of these persons to enjoy the benefits of the law, as a doubt has been made about the right of the persons who built the first fifty miles to obtain money from the Government or to obtain its support, it will be almost impossible to build the road. The support of the Government in building the line from San José to Sacramento is as essential as it is in going across the Rocky mountains; for we have to cross the Coast range, a heavy mountain barrier. I think the Senator from Iowa is mistaken about this matter. It charges the Government with nothing, and he admits it charges the Government with nothing, but is only giving character to an operation that is sanctioned, and which he admits is no damage to the Government.

Mr. CONNESS. I wish simply to say that in all essential particulars the statements made by my friend from Iowa are not correct. The assignment of which he speaks, which was not approved, is not before the Senate. An assignment made under the recent act is before the Senate. It is not correct that no member of the committee has examined this assignment. I have examined every paper connected with the assign-



ment, and there is nobody released by the adoption of this ratification. The Central Pacific Railroad Company are held bound by it. The Western Pacific Railroad Company are held bound by the terms of the assignment, and to all the responsibilities of the Pacific railroad act.

The Senator speaks, or hints, at irresponsible parties engaged in constructing this work. Mr. President, if there are responsible parties engaged anywhere in the construction of the great Pacific railroad it is those who are engaged in it in California. Many miles of that road are now in successful operation. Many more miles, passing through a country presenting the greatest natural difficulties in the world, are in process of construction. These men have put their own capital in it. They have not up to this time drawn a cent of money from the United States in the shape of bonds; and yet they have been operating for nearly nine months past a line of thirty-one miles of that road, finished and completed. There are twenty additional miles in process of completion. They desire now to put men on it over the entire Sierra Nevada mountains. In the mean time they provide that the Western Pacific Company shall engage in constructing the lower link of the road; and in order that the parties that they borrow money of, or seek to negotiate with, may be precluded the necessity of a legal investigation to ascertain whether this assignment is good or not we ask this ratification. I ask for a vote of the Senate on the subject. I am perfectly willing to trust the Senate with it.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa, to strike out the second section of the bill.

Mr. HARLAN and Mr. CONNESS called for the yeas and nays, and they were ordered.

Mr. HENDRICKS. I should like to have the section proposed to be stricken out read.

The Secretary read it, as follows:

SEC. 2. *And be it further enacted*, That the assignment made by the Central Pacific Railroad Company of California to the Western Pacific Railroad Company of said State, of the right to construct all that portion of said railroad and telegraph from the city of San Jose to the city of Sacramento is hereby ratified and confirmed to the said Western Pacific Railroad Company, with all the privileges and benefits of the several acts of Congress relating thereto, and subject to all the conditions thereof: *Provided*, That the time within which the said Western Pacific Railroad Company shall be required to construct the first twenty miles of their said road shall be one year from the 1st day of July, 1855, and that the entire road shall be completed from San Jose to Sacramento, connecting at the latter point with the said Central Pacific railroad, within four years thereafter.

Mr. HOWARD. This bill was pretty carefully considered by the Committee on the Pacific Railroad only a few days since. They gave their attention to this particular section which it is now moved to strike out. The committee thought it proper to retain the section, and I hope it will not be stricken out. It imposes no additional burden upon the United States. The sole effect of it, as the committee understood it, and which is undoubtedly the case, is a recognition on the part of the United States of the validity of the assignment made by the Central Pacific Railroad Company to the Western Pacific Railroad Company of that State within the last year, and since the close of the last session of Congress. The assignment spoken of in the bill is not the assignment to which the honorable Senator from Iowa alludes, as I understand it, and as I believe to be the fact. The sole object of this clause is to preclude the United States henceforth from making any objection to that assignment, which was made during the last summer, and consequently to increase somewhat the credit of the company, for the very reason that the United States waives all objection for the future to an assignment made by one railroad corporation to another. It forecloses all dispute and litigation as to the validity and legality of that assignment; and that is all there is about it.

The question being taken by yeas and nays, resulted—yeas 5, nays 29; as follows:

YEAS—Messrs. Cowan, Grimes, Harlan, Hendricks, and Ten Eyck—5.

NAYS—Messrs. Anthony, Brown, Buckalew, Conness, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Hale, Howard, Johnson, Lane of Kansas, McDougal, Morgan, Morrill, Nye, Pomeroy, Powell, Ramsey, Sherman, Sprague, Stewart, Sumner, Trenchard, Wiley, Wilson, and Wright—29.

ABSENT—Messrs. Carlile, Chandler, Clark, Collamer, Harding, Harris, Henderson, Howe, Lane of Indiana, Nesmith, Richardson, Riddle, Saulsbury, Van Winkle, Wade, and Wilkinson—16.

So the motion was not agreed to.

Mr. BROWN. With the consent of the chairman of the committee I move to insert, in line seven, after the word "company" the words "the Union Pacific Railroad Company, eastern division," simply for greater certainty in stating the different companies.

Mr. HOWARD. I have no objection to that.

Mr. HARLAN. How will it read then?

Mr. BROWN. "Union Pacific Railroad Company and Union Pacific Railroad Company, eastern division."

Mr. CONNESS. It is simply giving the full name of the company.

Mr. POMEROY. That is the name now, but it is not the name known in the old bill. It is known in that bill as the Leavenworth, Pawnee, and Western Railroad Company.

Mr. BROWN. This will simply give the full name of the company.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. HARLAN. I wish to call the attention of the Senate to another important feature of this bill, changing the character of the law as it now exists. Under existing laws any one of these companies, after building twenty miles of their road or roads, may draw the number of bonds indicated in the law, varying from sixteen to forty-eight thousand dollars per mile, and may obtain title to all the land opposite to and continuous with the completed sections, and no more. This bill provides that any one of these companies may issue and sell its bonds for the construction of one hundred miles of road in advance of any completed section. On the more difficult part of this work such a sale would amount to more than four million dollars. All the bonds that are issued under the law as it now exists become a prior lien on the work to the Government bonds; that is, the law subordinates the lien that it has on the road on account of the bonds that it proposes to issue to an equal number of bonds to be issued by any one of these companies on a completed section. This bill authorizes the issuing in some cases of more than four million dollars in advance of the completion of any section of the road. I do not deem it wise, and therefore shall vote against the bill.

The principle that controlled the committee of the Senate at the last session of this body, and also the joint committee of conference of the two Houses, was to grant this subsidy in land and money only as the road progressed, believing that if any one of these companies had not sufficient pecuniary responsibility to construct twenty miles of its road the Government ought not to be complicated with its credit; that it should indorse the credit of the Government only so far forth as it showed its capacity to build twenty miles of road from time to time. This bill throws that matter all open, and will enable any company to whom any one of these companies may transfer their franchise, whether they had any pecuniary responsibility or not, to go kiting in the market. I do not think that ought to be passed. I think it will endanger the rapid construction of the work.

I know that the chairman of the committee and the other members of the committee believe that it will facilitate the construction of the work; and that probably would be true if these companies were all valid companies in a pecuniary point of view, and earnestly engaged in the construction of the work; but I suppose everybody knows that these railroad companies engage in these works for the purpose of making money; and whenever they believe they can sell their franchise and make more money than they can by retaining it they do transfer their rights; and every one of these companies, if this bill should pass, is authorized to do so by the bill now pending. It does not seem to me to be wise. I suppose that something in legislation ought to be considered as having been settled. The railroad committee of this Senate and of the other House, and the joint committee, labored for weary days and weeks in maturing the bill that became a law at the last session. They did it with the idea of affording aid to valid companies that have the capacity to raise means to build at least twenty miles of the line of the road for which they asked aid. This bill proposes to unsettle that and allow them to go

kiting in the market with their bonds, in advance of having constructed any part of their work.

Mr. CONNESS. I hope the Senator will listen to my explanation in reply to the objection of the honorable Senator. For the purpose of casting reflection upon these companies, for it must be for that purpose, or it has no purpose, he says that we are to enable them to go "kiting in the market." That is the flippant language of the honorable Senator applied to men engaged, ay, as earnestly engaged, in the performance and carrying out of the greatest work of this age as the Senator can be in the great work of legislation.

Now, let me make a simple explanation to the Senate, and I ask the attention of Senators, for I will not occupy it long. The law as it stands provides that when each company engaged in constructing the Pacific railroad shall have built and completed and put in running order twenty miles of their road, they may then issue a proportionate amount of their bonds for those twenty miles of road, and they may, in addition, draw from the Government its bonds for that twenty miles of road. Let me show you the operation of it in crossing the great Sierra Nevada mountains. Thirty-one miles of the road from Sacramento eastward toward those mountains and among their lower ranges of hills, are already constructed. They are now engaged in constructing an additional section of twenty miles. Although they have invested a vast amount of capital, more than four million dollars, in the construction of this section of the road, they cannot obtain any further means to go forward beyond that point. Is it wise to refuse them the privilege of issuing their bonds so that they may at once let out contracts for the grading of the entire distance to the line of the State of Nevada? Under the law they are restricted to the construction of twenty miles before they can issue a dollar of their own bonds. What is the condition of the State of Nevada? They are paying \$12,000,000 annually for the produce and machinery hauled upon wheels over the Sierra Nevada mountains. The amount of freight that is paid upon that would yield a profit to the railroad company, if completed, that would make it one of the most profitable railroads in the world. Now, shall these companies be debarred from the issuance of their bonds so that they may let out contracts for the whole line of the road, and thus complete the road over that great natural barrier at the earliest possible moment of time; nay, before they are required to do it by this act, for it is their determination to construct it at the earliest moment? Nor does it, as the honorable Senator says, increase the obligations of the Government one cent. I hope that we shall get a vote on the bill.

Mr. GRIMES. I wish to inquire of the Senator if this bill applies to any other than that portion of the country between California and Nevada.

Mr. CONNESS. It does; and the Senator who objects to it aided in obtaining an amendment so as to make it apply to the other roads.

Mr. GRIMES. It applies to the whole length of the road?

Mr. CONNESS. Yes, sir.

Mr. MORRILL. I wish to ask the Senator one question: whether we are to understand that this is an authority to issue bonds of the company in addition to those to be issued by the law, or whether it calls for the issue of Government bonds.

Mr. CONNESS. No, sir; their own bonds. The Government does not issue any until the road is completed.

Mr. MORRILL. Does it give any right to any additional issue of Government bonds in addition to the law of last session?

Mr. CONNESS. Not a cent. It only authorizes them to issue their own bonds in advance of the time fixed in the law of last year.

Mr. MORRILL. I understood the Senator from Iowa [Mr. HARLAN] to say as much as that.

Mr. HOWARD. I beg to assure my friend from Maine that the rights of the Government are left precisely the same as under the former act.

Mr. MORRILL. Allow me to ask what is the difference between the present and the former act.

Mr. HOWARD and Mr. CONNESS. Nothing in that respect.

Mr. COWAN. In what respect is it?

Mr. MORRILL. I should like to have the chairman explain precisely the alteration which is contemplated by the bill.

Mr. CONNESS. Will the Senator permit me to make the explanation?

Mr. MORRILL. Certainly.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. CONNESS. I appeal to the Senator from Ohio to allow us to dispose of this bill.

Mr. SHERMAN. I would not give way under any consideration for any business. This bill has consumed the morning hour.

Mr. CONNESS. I ask the Senator from Maine to take my word in the premises that the Government bonds are not required to be issued one hour in advance of what they were required under the other act, and not one dollar extra. I ask for a vote.

Mr. SHERMAN. I call for the regular order of business.

Mr. CONNESS. I hope the Senator will give us a vote.

Mr. HOWARD. We have nothing further to say, and I hope the vote will be taken.

Mr. BROWN. I appeal to the Senator from Ohio to allow us to take a vote.

The VICE PRESIDENT. If there be no objection, the Chair will put the question. The question is on the passage of the bill.

The bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the resolution of the Senate to suspend the 16th and 17th joint rules of the two Houses for the residue of the session.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 535) to further regulate the appointment of admirals and for the appointment of certain volunteer officers to the regular Navy;

A bill (H. R. No. 605) to increase the pay of midshipmen and others;

A bill (H. R. No. 800) to establish the office of Solicitor and Naval Judge Advocate;

A bill (H. R. No. 801) to amend certain acts relating to the naval service, and for other purposes;

A bill (H. R. No. 803) to revive in part the act approved March 3, 1857, making appropriations for the naval service for the year ending 30th of June, 1858; and

A joint resolution (H. R. No. 176) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war.

#### LOAN BILL.

The VICE PRESIDENT. The Secretary will proceed with the reading of the bill now before the Senate, which is the tax bill.

Mr. SHERMAN. Pending that bill, and without intending to displace it, I ask leave to report from the Committee on Finance the bill (H. R. No. 772) to provide ways and means for the support of the Government, without amendment; and I ask the consent of the Senate to put it on its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill authorizes the Secretary of the Treasury to borrow, from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums, not exceeding in the aggregate \$600,000,000, and to issue therefor bonds or Treasury notes of the United States, in such form as he may prescribe; and so much as may be issued in bonds are to be of denominations not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable, at the pleasure of the Government, at or after any period not less than five years nor more than forty years from date, or may be made redeemable and payable as may be expressed upon their face; and so much as may be issued in Treasury notes may be made convertible into any bonds author-

ized by this act, and may be of such denomination, not less than fifty dollars, and bear such dates, and be made redeemable or payable at such periods as in the opinion of the Secretary of the Treasury may be deemed expedient. The interest on such bonds is to be payable semi-annually; and on Treasury notes authorized by this act the interest may be made payable semi-annually, or annually, or at maturity; and the principal or interest, or both, may be made payable in coin or in other lawful money; but the rate of interest on any such bonds or Treasury notes, when payable in coin, is not to exceed six per cent. per annum; and when not payable in coin is not to exceed seven and three tenths per cent. per annum; and the rate and character of interest are to be expressed on all such bonds or Treasury notes; and the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, is to be so construed as to authorize the issue of bonds of any description authorized by this act. Any Treasury notes or other obligations, bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act; and the bonds so authorized are to be considered a part of the amount of \$600,000,000 authorized by this bill.

The second section authorizes the Secretary of the Treasury to dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner, and at such rates, and under such conditions as he may think advisable, for coin, or for other lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or may be issued under any act of Congress, and at his discretion to issue bonds or Treasury notes authorized by this act for any requisitions for materials or supplies which shall have been made by the appropriate Department or offices upon the Treasury of the United States, on receiving notice in writing through the Department or office making the requisition that the owner of the claim for which the requisition is issued desires to subscribe for an amount of loan that will cover the requisition or any part of it; and all bonds or other obligations issued under this act are to be exempt from taxation by or under State or municipal authority.

The third section applies to all the bonds and other obligations issued under this act, all the provisions of the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June 30, 1864, in relation to forms, inscriptions, devices, and the printing, attestation, sealing, signing, and counterfeiting, with such others as are applicable; but nothing contained in this act is to be construed as authorizing the issue of legal-tender notes in any form; and a sum not exceeding one per cent. of the amount of bonds and other obligations issued under this act is appropriated to pay the expense of preparing, issuing, and disposing of them.

The bill was reported to the Senate without amendment.

Mr. McDougall. I desire simply to remark that this bill is one of the same quality with the various bills that have been introduced for the purpose of carrying on the finances of the Government since the commencement of this war. It does not indicate any policy. It is a loose measure, evidently framed by one who did not know what he or what the act itself proposed to accomplish. It is one of an entire class belonging to the legislation of this war with regard to our finances. It is time that this should be corrected. I have not the opportunity of course to correct it; I am not in any position even to advise upon it; but I wish to remark that this is false legislation and false policy.

Mr. JOHNSON. I am of course not only willing but desirous to pass all bills necessary to support the Government; but I should like to be informed by the chairman what will be the effect of this bill upon the bonds or notes to be issued. It provides in the third section that the bonds or notes to be issued are not to be legal-tender notes; but then it gives an authority to issue notes and

bonds to any amount exceeding fifty dollars. If they are issued in the form of bonds or in the form of notes, it seems to me it will swell the currency very considerably; and if it does so, and our national banks exert the whole authority with which they are invested, we shall have a much more inflated currency than we have now. The effect will be still more to depreciate the true legal standard of value. I do not know whether it will have that effect or not, or whether it was designed to have that effect or not; but it seems to me it will have that effect.

Mr. SHERMAN. I made the only statement here the other night that is necessary in regard to this bill. It is a bill very much like the last loan bill that we passed authorizing the loan of money. It authorizes a loan of \$600,000,000, either in the form of Treasury notes or in the form of bonds. It contains the same provisions almost as the last loan, except that the currency interest under this bill will continue for five years instead of for three years. The proviso to the third section was inserted to prevent this money from bearing the legal-tender clause. It is issued as an ordinary loan. I do not know that any statement that I could make could make the language any clearer than the bill itself. It is a simple continuation of the present system of borrowing money upon bonds and Treasury notes, leaving the character of the securities almost entirely in the discretion of the Secretary from time to time. There are one or two other provisions in it, but they are provisions of obvious meaning and obvious import. One is to authorize creditors of the Government, in case they desire it, to receive these bonds at par in payment of their debts. That provision is intended to save the circumlocution of selling the bonds for money and paying the money. I do not know that there is any other provision in the bill that is new, or that is not already contained in our previous loan laws.

Mr. TRUMBULL. I think there is very great importance in the suggestion which the Senator from Maryland has brought to the notice of the Senate. I do not know that it will do any good, and hardly expect that it will, to make any suggestion in regard to this issuing of more Treasury notes; but it is manifest that the effect of this bill, notwithstanding the clause in the last section which declares that the Treasury notes shall not be a legal tender, will be to swell the volume of the currency, if the Secretary thinks proper, \$600,000,000 beyond what it now is, by issuing Treasury notes bearing interest at six per cent. I should be glad to see stricken out of this bill all about the issue of interest-bearing Treasury notes. I have in my pocket now a fifty-dollar Treasury note drawing compound interest at six per cent. It has run some eight or ten months. I received it in the ordinary transaction of business. It has some two years or more to run. These notes pass just the same as if they were not paying interest at all; and what is the effect of that? If you get out \$600,000,000 of them, the Government of the United States would be paying \$36,000,000 in interest for nothing. I would just as soon have that note without interest as with it.

Mr. COWAN. So would anybody else.

Mr. TRUMBULL. Who then does gain by issuing these interest-bearing Treasury notes? Does anybody gain, unless it may be some capitalists, brokers, and money-jobbers, who, as my friend from Maine [Mr. FARWELL] says, instead of retaining in their vaults the legal-tender Treasury notes with which to meet their obligations, pay them out, swell the volume of the currency by paying them out, and retain in their place these interest-bearing notes; so that the effect of it is to swell the currency to the same extent as if it were really so many more greenbacks issued. I am informed by my friend from Maine that these notes which draw five per cent. interest, after running six, eight, or ten months, are gathered up by the brokers, and the Government then takes them back, allowing the interest upon them; and I believe one of the reports from the Treasury Department shows that the Government of the United States has drawn in several millions—perhaps six millions at that time—of its legal-tender non-interest-bearing notes and paid out legal-tender interest-bearing notes.

Mr. COWAN. That is the intention.

Mr. TRUMBULL. That is the intention, says

the Senator from Pennsylvania. If that be the intention, to take up the greenbacks, as they are familiarly known, upon which no interest is paid, and to substitute for them, as the Senator from Pennsylvania says, another greenback that draws interest, I say it is just paying out of the Treasury of the United States the interest upon the amounts for nothing.

Mr. SHERMAN. I do not like to hear a statement of this kind made upon a declaration that was not overheard, and which is misunderstood. The legal tenders are sometimes withdrawn and non-interest-bearing legal tenders are issued in their place; but the Senator makes it just the reverse. I do not know what authority there can be for such a statement. The Government has in some cases received these five per cent. legal tenders, and then issued in their place seven and three tenths non-interest-bearing legal-tender notes.

Mr. TRUMBULL. It is said that the proof of the pudding is in the eating of it. I have here a fifty-dollar Treasury note, marked on the back, "By act of Congress this note is a legal tender for fifty-dollars." The note is dated June 10, 1864, and it reads in this way: "The United States will pay to the bearer fifty dollars with interest at the rate of six per cent. per annum compounded semi-annually." Here is a legal tender drawing six per cent. per annum, compound interest, issued in the place, as I understand, of a legal tender that did not draw interest, and received in the ordinary course of business. Now, sir, I say that the Government of the United States throws away the interest upon this note. It is thrown away by me. I expect to have to use it to pay my bills before I get out of the city; and I only expect to get fifty dollars for it. The Senator from Ohio will not give me any more for it, nor will anybody else. It has been running since the 10th day of June, 1864; but I would just as soon have now the fifty dollars. It is that sort of legislation that I object to; and I would like to strike out of this bill all that is in it in regard to Treasury notes.

Mr. JOHNSON. Will the Senator permit me to ask him whether the indorsement upon that note makes it a legal tender?

Mr. TRUMBULL. This is a legal-tender note.

Mr. JOHNSON. Does it make it a legal tender for more than fifty dollars?

Mr. TRUMBULL. No, sir; it is a legal tender for only fifty dollars.

Mr. McDUGALL. I hope the Senator will frame an amendment such as he suggests, so that we can have the question before us distinctly.

Mr. TRUMBULL. I will move to strike out, in the first section, line seven, the words "or Treasury notes," and if that carries I will make a subsequent motion to strike out what follows in regard to the issuing of Treasury notes, so as to make it conform.

Mr. COWAN. The honorable Senator from Illinois will allow me to explain why I understand the old legal-tender notes, the United States notes, are being taken up. They are taken up in exchange for Treasury notes not bearing interest. I do not know that the notes, such as were exhibited by him here, have been exchanged for the old legal-tender issue. The object of the Treasury, as I understand it, is to take in as fast as possible all those issues which were legal tenders.

Now, Mr. President, I do not think there is any danger of increasing the depreciation of the money by increasing its volume; but I think there is danger of the depreciation of the money by increasing the volume in circulation. I think the volume in circulation depends upon the depreciation, and the depreciation does not depend upon the amount in circulation. If the money was good there would be no more of it in circulation than would be needed; and the same law holds good when it is bad. If you go out to buy with gold you only take half the money in your pocket that you would take if you were going to buy with Federal paper; and therefore Federal paper alone being in circulation it is about twice as much as the gold that would otherwise be in circulation, and no more; because no man takes more out to make his purchase than is necessary.

We increase the debt by \$600,000,000 by this bill, and in so far we depreciate the currency, just as any man in increasing his debts depre-

ciates his credit. That is the whole effect of it; and I do not think it makes any difference in what shape you issue it, except as to the terms upon which you make your loan. If you can borrow without interest, of course that is far better than to pay interest. If you can get the loan for nothing, it is better that you should take it than pay interest on it.

Mr. TRUMBULL. Then why change the law? Why issue these instead of legal tenders?

Mr. COWAN. I have been opposed to all schemes for the purpose of substituting any other currency than the one. When your money is made to pass from hand to hand as money it ought not to bear interest. It ought not to bear interest for the very reason given by the Senator from Illinois; that, so far as the people are concerned, the interest amounts to nothing, and it only becomes valuable to those who hoard the notes in the end. These notes will all find their way to banks, brokers, and capitalists, and they will hoard them, and to them the interest becomes valuable; but as regards the people using this money, and with whom it circulates from day to day, this interest is of no account at all. It was upon that principle that I was opposed to the institution of national banks, for this simple reason, that if there was not money enough in circulation already, put out your legal tenders, which you get for nothing, or, if there is money enough in circulation, then you ought not to create any institutions for the purpose of putting out more. It seemed to me that the corollary was inevitable; you could not avoid it; but that thing is done now. I do not think it makes any difference as to the shape of your securities except in so far as the amount of interest you pay; it makes no difference whether you issue them in fives, or tens, or fifties, or hundreds, or thousands, they will not affect the volume of circulation in the least, except in so far as they are affected by depreciating the credit of the Government by increasing its debt.

Mr. SHERMAN. The motion of the honorable Senator from Illinois compels me to make a short statement in regard to this bill which I wished to avoid.

There are two classes of securities now authorized to be issued in the Treasury Department; one, bonds with interest payable in gold, which are generally in large sums; and the extent of which we dare not increase. We have already reached the reasonable maximum of gold interest-bearing bonds; and the general sentiment of Congress, of the people, and of all men familiar with our finances is that it would not now be safe to increase the amount of gold-bearing interest bonds, because the interest is already \$56,000,000, and we dare not therefore increase it to any considerable extent. Then how must we borrow this money? We must borrow it on currency bonds, as they are called; that is, bonds the interest of which is payable in currency. The distinction between a bond and a Treasury note is rather nominal than otherwise. The word "bond" is usually applied to a long debt. The shortest bonds run from five to twenty years. We have some running from ten to forty years. The distinction between a bond and a Treasury note is rather nominal than otherwise, and in popular parlance the Treasury note applies to a short bond, or a bond running one, two, three, or four years.

Mr. TRUMBULL. And which circulates as money.

Mr. SHERMAN. Not necessarily. I will draw the distinction.

That is the real distinction between a Treasury note and bond. There is none in law; they are all bonds in law; that is, all obligations to pay in future a certain sum of money. There are two classes of Treasury notes. There are the legal-tender non-interest-bearing Treasury notes which the Senator speaks of, and they are discontinued in a measure. That is one class. Those are the United States notes, the common currency of the country. Then there is another class that is now being taken daily, and the people are absorbing from four to five millions every day, and they are the seven and three tenths Treasury notes. They are issued in small sums so as to enable the poorest people who have any earnings or savings whatever to invest them in Government securities. They are issued in the form of Treasury notes from fifty dollars up to \$500 and \$1,000. Under

the law of last winter they only ran for three years, and for that three years the interest was payable in currency. Under this bill they are to run for five years with interest payable in currency.

I am as much opposed to issuing Treasury notes or bonds as anybody can be; but we must borrow money and upon the best terms and conditions we can. We do not find it to our interest to issue any more bonds with interest payable in gold. We must, therefore, issue Treasury notes which will mature in a short time; and I hope when they mature our financial condition will be very different from what it is at present, and that then all these Treasury notes may be funded into a long bond with a small rate of interest, payable in gold. That would probably be the result of it. In the mean time we must borrow very large sums, and we must borrow it in the form in which we can get it from the people without paying interest in gold. The result is that we have been compelled to resort to Treasury notes running for a short time.

Now in regard to the compound-interest Treasury notes, I agree with the Senator from Illinois that that is not a good form of security; that, issued in the form in which he presents it, it has a tendency to inflate the currency for a short time, and for a short time only. Let me tell him that after six months or a year he will not find a single dollar of the class of notes that he has exhibited here but what will be hoarded by those who wish to look to the interest. That is the theory upon which they were issued. For a short time they do inflate the currency; but every month retires more and more of them; and when the interest has accumulated to the amount of six per cent. they will be retired and held as an investment. Why? Because the interest is not payable until the end of three years. In the mean time they are only a legal tender for the amount of the principal; and therefore if a man pays out one of those notes he loses the interest. My impression is that no more of that class of securities will be issued, although the Secretary of the Treasury has power to do it. The class of securities upon which the Government must now mainly rely are the seven and three tenths Treasury notes. They are now absorbed at the rate of four or five millions a day, more than enough to carry on the operations of the Government. So rapid is their absorption that the Government will soon be enabled to pay off the unpaid requisitions and leave an ample fund to carry on the operations of the war.

The Senator says that the issuing of these Treasury notes will inflate the currency. Certainly it will. Any kind of bond or debt will inflate the currency to a certain extent; but we cannot avoid that. That is one of the inevitable effects of our condition. On the other hand, if we should issue any portion of this \$600,000,000 without interest in the manner he proposes, the immediate effect would be largely to inflate the currency; and why? A legal-tender note without interest goes from hand to hand and it is of no value whatever except as a currency. No man will hold on to it for the purpose of saving the interest. It is a mere currency, a mere inflation of the currency; and therefore it is that I am in favor of the provision attached to the end of this bill that there shall be no more legal tenders, and if any notes are issued they shall not be a legal tender either for principal or interest. Under the operations of this bill no more of the notes similar to the one exhibited by the Senator can be issued, because those notes are legal-tender notes for the principal. Under this bill no legal-tender notes can be issued either for principal or interest.

Mr. COLLAMER. Is that in the bill?

Mr. SHERMAN. Yes, sir; that is the very point we are discussing.

This bill has been very maturely considered. We have had it pending in the Committee on Finance for a long time and have talked about it. We have not been able to produce it here because we had to await the action of the House. The bill as it now stands meets the approbation of the present Secretary of the Treasury, and I believe also the approbation of the gentleman supposed to be the future Secretary of the Treasury, and therefore I think it would be very unwise for us to change it. If the Senator's motion should prevail (which I do not think there is any danger of) as a matter of course the Government would have



no resort except to issue bonds, and then we must either adopt a new form of bonds and pay interest of our bonds in currency, or we must issue them in the usual form, with interest payable in gold.

Mr. TRUMBULL. Have we no bonds bearing interest payable in currency?

Mr. SHERMAN. No, sir. The interest on all our bonds is paid in gold.

Mr. JOHNSON. This bill authorizes the Secretary to issue currency-interest bonds.

Mr. SHERMAN. Certainly it does; so that the motion of the honorable Senator would substantially leave the Secretary no resource except to issue bonds, which usually are an instrument running a long period of time, with interest payable either in gold or paper. I think therefore the Senate had better take the bill as it is, without any amendment, especially in a matter so vital as this.

Mr. McDUGALL. This measure is objectionable for the reason that it complicates our financial system. I undertake to say that the chairman of the Committee on Finance cannot enumerate the various kinds of securities that have been issued by this Government since the war. I undertake to say there are but few persons in Wall street that can furnish with any promptness the various different classes of securities that have been issued since this war. We were informed at the commencement of the war that if we would adopt a fixed financial policy we could have all the money we required when we had our business on a gold basis, and it could have been done. I was then on the Committee on Finance, and I informed the Secretary of the Treasury that that was so, and he admitted it to be so; but we were not ready for it. We have been trying expedient after expedient, and changing our expedients without a policy; and now this is another change, authorizing again, as the chairman remarks, a new form of Government bonds payable in currency; that is, using our credit to pay our debts, and then our credit to pay our interest—a thing false in all political economy. What are our long bonds worth payable in our currency? They do not command any credit whatever; and then we are to issue an interest-bearing currency, for this amounts to a currency. That interest has to be paid, and it has to be paid ultimately in money.

Now, although I once did say in the Senate that paper made by the Government was money, I made a vast mistake when I said it; and I want to take it back now. I undertook to prove it, and I did prove it by the books; but it was a mistake. I did not know it at the time, or I would not have said it. It can be technically and historically proved to be money, but it is not money in fact.

This complication of our financial system commenced by having in the Treasury Department a gentleman of eminent ability in his way, but altogether ignorant of organizing finances, who worked by expedients from day to day; and it is being continued without any organized system. The present Secretary of the Treasury, (for whom no member on this floor has more respect than I have,) when he went to New York, on entering his office, to borrow fifty or seventy-five millions, on being inquired of by the spokesman of the gentlemen of finance of New York, whom he had called together as to what was his policy, said he had no policy. Sir, shall we never have a policy, or are we unequal to a financial policy in this country?

Here is another complication of the matter. We now have a system of laws as difficult to tread as the labyrinth of Thebes. I undertake to say that there is not a person, unless he is a man of great skill and belongs to the money markets, that understands what our securities are, and what their respective values are, and how they can be respectively applied. We are wandering from obscurity into darkness. I protest against this kind of legislation. I think the Senator from Illinois is right, and the Senator from Pennsylvania was right in his argument; but his argument proves the unsoundness of this proposition.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment moved by the Senator from Illinois in section one, line seven, after the word "bonds" to strike out the words "or Treasury notes."

The amendment was not agreed to.

Mr. HENDRICKS. I move to strike out all

of the second section after the word "thereof" in the following words:

And all bonds or other obligations issued under this act shall be exempt from taxation by or under State or municipal authority.

I presume the Senate will not agree in the view I take of this matter, but I feel it to be my duty to present the proposition to the body. I understand that the Government securities issued up to this time are exempt from State and local taxation. I am not going to discuss the question of the policy at all; but I think it must be known to Senators that there is a growing discontent in the country at the fact that so large a portion of the wealth of the country is exempt from taxation. In my judgment there is no feature in our policy that contributes so much to excite a spirit in favor of repudiation as this very provision. It may be that we shall go through this whole financial controversy, that we must meet in the future, without any serious effort in the country at repudiation. I hope so; but if we do, I think we must contemplate it now. The men who buy these bonds are generally men of great wealth. I know that it is a favorite remark of the chairman of the Committee on Finance that these bonds are purchased by poor people all over the country. That is to some extent true; but it is but as a drop in the ocean. The great body of this capital will find its way into the hands of men of large capital and into the vaults of the banks. The people will constantly see these men going to the Treasury and receiving their interest in gold, now equal to twelve per cent. per annum, and paying nothing back; and while upon the ordinary labor and wealth of the State there is the burden of supporting the State and local governments and authorities, this large capital of the country is exempt from this burden. I think we ought not to go further in this direction. For these considerations I have proposed the amendment.

Mr. SHERMAN. This question has been settled since the foundation of the Government. The first loan bill that was framed after the organization of the Government contained this provision, and it has been continued in every loan bill from that day to this. It is manifest that if the Senator's amendment be adopted these bonds cannot be sold. All those heretofore issued have been free from tax. If those that are to be hereafter issued should be subject to tax they could not be sold, and it would defeat the purpose of the law. I do not wish to prolong the argument. We are already committed to this policy. Without going into the merits of it, I simply ask that the question may be taken.

The amendment was rejected.

Mr. HENDERSON. I desire to state that I shall give my support to this bill simply because at this stage of the session I do not see that I can get anything better. We have not time to enter into the necessary discussion to get up a bill that would suit my views; nor do I suppose, if we had the time, that I could get one to suit me. I shall have to give up my own opinions and views on this subject and do something in order to provide the ways and means necessary to sustain the Government; and I desire to state that it is only that that induces me to support the bill in its present shape.

The bill was ordered to a third reading, read the third time, and passed.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLARK. I submit the following report from the committee of conference on the legislative appropriation bill:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House (No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866, having met, after full and free conference have been unable to agree.

DANIEL CLARK,  
IRA HARRIS,  
J. W. NESMITH,

Managers on the part of the Senate.

JOHN A. KASSON,  
H. WINTER DAVIS,  
ROBERT MALLORY,

Managers on the part of the House.

I desire to explain to the Senate the difficulty we have in coming to an agreement, and then to take some action in the Senate upon the point. This bill, it will be seen, is the legislative appropriation bill from the House. When it came to

the Senate from the House, the Senate attached to it the deficiency bill and returned it to the House. When it went back to the House, the House amended the deficiency bill by putting upon it this provision:

And the sum of \$40,000 is hereby appropriated, to be added to the contingent fund of the House of Representatives, for the purpose of paying for stationery, papers, and such other expenses as the House may have directed or shall direct: *Provided*, That no part of said sum shall be applied to a permanent addition to the salaries of their clerks or other employees.

They also put upon the bill a large number of amendments, making an appropriation of over a million dollars as additional legislation. This provision to which I have called the attention of the Senate is a provision making an appropriation of \$40,000 to the contingent fund of the House for the purpose of paying the additional compensation to the employees of the House voted at the last session.

Mr. HENDRICKS. What is the number of that amendment?

Mr. CLARK. It does not appear to be numbered. It is perhaps the second amendment in the bill. The committee of conference did not feel themselves at liberty to depart from the action of the Senate, and to agree to an amendment making an appropriation for that purpose. I may state to the Senate that upon all other matters contained in the bill the committee could arrive at a conclusion. They went so far as to see that they could arrive at a conclusion satisfactory to themselves, and one which they think would be satisfactory to the Senate, so that the bill could pass; but we disagreed upon this point, and did not come to a definite conclusion upon any other, but only acted informally upon them. I desire now the instruction of the Senate, at this late day in the session, as to what the committee shall do in this matter. If it be the pleasure of the Senate to recede from its former action, and to instruct or direct or intimate to the committee that the Senate will agree to an appropriation of this kind, or advise it, then we can come to a satisfactory adjustment. If they do not advise or consent to a proposition of that kind, I can only say that the committee of conference will disagree. The Senator from Oregon, (Mr. NESMITH,) who was upon the committee, I think has a motion prepared to submit to the Senate on the subject.

Mr. NESMITH. If the Senator will allow me, I will move that the bill with the amendments in disagreement between the two Houses be re-committed to the committee of conference with instructions to agree upon an amendment in the following words:

And the sum of \$43,000 is hereby appropriated, to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House.

It will be observed by the terms of this proposition that it is left entirely to the discretion of the House in disbursing its contingent fund without reference to previously existing laws. I myself would be willing to vote for the repeal of the law of 1858. I think the contingent fund ought to be under the control of the two Houses respectively. The House committee manifested a disposition to yield any controverted point except this; and at this late hour of the session there is great danger of losing the bill. I think it is as small a concession as the Senate can probably make, and I think it should be made. I was for it on the committee of conference. I submit the question to the Senate. If they concur in this proposition, there will be no trouble about a concurrence in all the other amendments.

Mr. CLARK. I think the Senator should state, or I will state, that that proposition would allow the money to be paid as the House desire to pay it.

Mr. NESMITH. That is my understanding, and it is drawn for that purpose.

Mr. CLARK. This resolution will *pro tanto* repeal the law of 1858, and permit the House to make such disbursements of the contingent fund as they may see proper by resolution. I will say further, while I am up, that there is no difficulty about the additional \$5,000 that is appropriated by this proposition. The old appropriation was \$38,000, and this is \$43,000; but the additional \$5,000 is needed to pay for stenographers and other purposes on which no question arises.

Mr. SUMNER. Is the motion of the Senator from Oregon the proper motion to be made in order to accomplish his purpose? As I understand, he moves an amendment to the bill.

Mr. NESMITH. No; this is an instruction to the committee. If the Senate concur in this instruction, the question will all be settled. That is the point for the Senate to determine, whether we will instruct the committee. With this instruction adopted by the Senate, all grounds of difficulty will be removed and the committee of conference can make a report to the two Houses.

Mr. CLARK. The difficulty is that after the very emphatic expression of the Senate three several times, the committee did not feel at liberty to depart from that action without instruction from the Senate.

Mr. SUMNER. Then I understand the committee do not make a final report now.

Mr. CLARK. No, sir; the motion is recommended with instructions.

Mr. SUMNER. It seems to me that is very proper, and I hope it will prevail.

Mr. JOHNSON. I ask for the reading of the instruction.

The Secretary read it.

Mr. JOHNSON. Is the effect of that instruction to authorize the House to disregard, except under the particular circumstances of this case, the act of Congress of 1858?

Mr. SHERMAN. It will repeal the act of Congress.

Mr. JOHNSON. I want to know whether it repeals the act of Congress altogether, or whether it repeals it so far as this particular appropriation is concerned.

Mr. COLLAMER. It does not do either.

Mr. JOHNSON. No; it does not do either as I see. There are circumstances connected with this matter—as I collect from what I have seen in the debates in the other House, and to which, I suppose, it is proper to advert—that have induced the House to think that somehow or other they are obliged in point of honor to make this allowance to their employes. I do not know but that they were of opinion that there was nothing in the act of Congress which prohibited it; but certainly they were of opinion that they had a right, either with or against the act of Congress, to make that appropriation, and they have steadily adhered to it throughout. What I should desire, however, would be to have the difference between the two Houses accommodated without its being done in such a way as to repeal the provisions of the act which has created the difficulty; and I therefore asked that that instruction should be read, in order to ascertain whether it does repeal or not the act of Congress except *pro hac vice*. I will ask the honorable member who offered it whether he proposes by that section that the House may appropriate hereafter just as much as they please out of their contingent fund.

Mr. NESMITH. I suppose this amendment only refers to the appropriation in the bill for the next fiscal year. It will have no force beyond that. It only applies to this single appropriation.

Mr. BUCKALEW. I desire to offer the following amendment as a substitute:

That the committee be authorized to agree to a provision for the payment of twenty per cent. additional compensation to the officers of both Houses for the present session.

Mr. FOSTER. I hope that amendment will not be adopted. I see no objection to the instruction proposed by the honorable Senator from Oregon, for it goes upon the ground the House of Representatives need an addition to their contingent fund; and if they do, I do not think the Senate should stand in the way of a sufficient appropriation to provide the necessary amount. That is all that the instruction to the committee will do. There will be time enough to meet other exigencies when they arise. If the House undertake to apply this money in the manner they have at former sessions, we shall be in the same condition, as between the two Houses, that we are in now; for this money cannot, by law, be applied to the increase of the salaries of the employes of the House. Still, that is a matter which we need not anticipate. I should be entirely in favor of agreeing to the proposition and giving the instruction to the committee which is suggested by the honorable Senator from Oregon, if it goes as I understand it, simply upon the ground that the House need an addition to their present contingent fund

to meet their ordinary legal expenses; and if so, certainly we ought in right and justice to vote it.

Mr. HALE. The suggestions of the Senator from Connecticut would be very well if we did not all know better; if we did not know that it is to meet expenses that are illegal and that are expressly prohibited by law, and upon which the Senate have already voted three times.

Mr. FOSTER. If the Senator will allow me, as I understand it, this money cannot be appropriated for such a purpose, because by law neither House can use its contingent fund to pay an increase of salary to their employes. The addition of \$40,000 to the contingent fund of either House for their legal contingent expenses will not alter that law at all, as I view it. The honorable Senator from New Hampshire may, of course, understand it differently, and his may be the better judgment, but I submit the increase of the amount of the contingent fund will not authorize either House to apply it otherwise than as by law they may now apply it. That is the point I make; and that, it seems to me, is all there is now involved.

Mr. HALE. That is all true; every word of it.

Mr. FOSTER. And (if the Senator in his courtesy will allow me one word more) if the House undertake to apply this money to the payment of their employes the additional sums which they have previously attempted to pay them, the accounting officers of the Treasury will not pay it.

Mr. HALE. In other words, the Senate will expect a single accounting officer of the Treasury to maintain the standard of public virtue and public law after the Senate has caved in. [Laughter.]

Mr. FOSTER. Not at all; there is no caving in about this.

Mr. HALE. Every word the Senator has said is true; but still it does not alter the case. I shall vote "no."

Mr. SUMNER. If the argument of the Senator from Connecticut is correct, will not the Senate vote for this proposition with one understanding of its meaning and the House vote for it with another understanding? Where are the two branches then? In disagreement always. It seems to me this question ought to be settled on grounds which both accept in the same sense.

Mr. FOSTER. The accounting officers will settle that.

Mr. SUMNER. The Senator says the accounting officers will settle that. It strikes me we ought not to go forward and make a question for the accounting officers. Let us make our legislation so that it shall not be construed in a double sense.

Mr. CLARK. I desire that this matter shall be understood fully, frankly, and fairly by the Senate. I have not the least doubt in the world that this resolution is drawn for the very purpose of meeting the case of the House employes. We may as well understand it.

Mr. NESMITH. If the Senator will permit me, it was so stated by the House committee.

Mr. CLARK. I am not at liberty to state what was said in the committee, but I can state that my understanding is that the resolution was drawn for that purpose, and if the Senator from Connecticut will pay careful attention to the reading of it, I think he will see a reason for coming to the same conclusion. It is an appropriation of \$43,000 to the contingent fund of the House, to be paid out according to a resolution of the House. The House have passed a resolution that it shall be for the additional compensation of their employes; and in my judgment the accounting officer of the Treasury will pay it.

Mr. HOWE. Is that the language?

Mr. CLARK. That is the language according to the resolution.

The PRESIDING OFFICER. The question is on the substitute moved by the Senator from Pennsylvania.

Mr. CLARK. I understand what the question is precisely; but I desire that the Senate shall not turn its attention from what I understand to be fully and frankly the intention of the resolution. As to the other matter, the amendment moved by the Senator from Pennsylvania, I hope it will not be agreed to; for if it was wrong, as the Senate pronounced three times over, for the House to pay its employes an additional twenty per cent., it would be equally wrong for the Senate to do it; and if we are obliged to yield this point to the House to save the legislative bill, to save the deficiency bill, yea, to save the Government, let us

not do it by a wrong on our own part, voting our own employes the same amount.

Mr. MORRILL. It seems to me this is a very clear question, and we might as well look it in the face. The House want \$40,000, contrary to law, to appropriate to their employes. We have resisted it until it is obvious that resistance is in vain.

Mr. FOSTER. Not quite.

Mr. MORRILL. Well, it comes to this: we shall lose the appropriation bill if we do not yield.

Mr. FOSTER. That remains to be seen.

Mr. MORRILL. That is pretty apparent. I take it for granted that the House have persisted, intend to insist, admitting it to be illegal. I am going to vote for it under duress; but I prefer to vote it directly. Why not concur directly with the amendment of the House, naming it? Why all this thimble-rigging and this indirection? Why not say that the House put the point directly to us, "We want \$40,000; you must yield, or the Government stops; we will not pay the soldiers; we will not perform our duty to the Government?" All argument on the subject has been in vain for the last four or five weeks, and the end will prove so undoubtedly; and upon the confession that that is all there is in it. I am going to vote for it under duress, but I prefer to vote for it direct as the House put it; to concur with the amendment of the House.

Mr. McDUGALL. I should like to ask the Senator wherein will it be an evasion if we agree to the resolution of the Senator from Oregon? I do not understand why it will be an evasion.

Mr. MORRILL. I will answer the Senator from California. I say the appropriation of the \$40,000 by the House was an evasion; not that it would be an evasion if we assent to it.

Mr. FARWELL. I do not know but that I shall regret it if a majority of the Senate vote for this resolution. I shall vote against it. I believe that the independence of the two branches of Congress is of more importance than the defeat of the deficiency bill. I believe it would be better for the country and more to the honor of Congress if the President should be compelled to call Congress together again, and the expense of it be paid from the Treasury, than that the independence of either branch should be stricken down and destroyed. The theory of our Government is that the two branches are independent branches; that the assent of each branch of Congress shall be given to every measure. Here comes a measure to us which has not our assent. If we should attach an appropriation as an amendment to an appropriation bill originating in the other House, to which we could not get the willing consent of that House, I should be ashamed of myself to insist upon that appropriation, and to force it through upon the ground that we would stop the wheels of Government unless they yielded their judgments to us. Now, shall the House of Representatives, the popular branch of this Government, say to this Senate, "Unless you yield your judgment we will stop the wheels of Government?" If they do that, I shall feel glad that I am not to be a member of Congress more than three days more. If the thing were reversed, although I might believe it was right, and my pride might concur, I would not stand as the majority of that House stand; and as one member of this Senate. I shall vote against yielding this point.

Mr. MORRILL. If it is in order, I move that the Senate recede and concur with the House on this amendment.

Mr. HALE. I am as unfortunately situated as my friend from Maine [Mr. MORRILL] with regard to this matter. I am going to vote under duress; but it is a duress that was devolved upon me when I took an oath to support the Constitution of the United States. That holds me in duress and prevents me from voting for this measure which is insisted upon by the House. Sir, this is one of the cases in which the wisdom of the framers of the Constitution is manifested, and if this body give up their own clear convictions expressed over and over again, almost unanimously, on a question of expediency, it seems to me the object of the framers of the Constitution in making two branches of the legislature of the Government of this country will be defeated and destroyed. Here is a proposition which more than nine tenths of the Senate believe to be wrong.

Here is an appropriation bill appropriating one hundred millions, more or less, to pay our soldiers in the field; and the alternative is presented to us that the hundred millions shall not be paid to the soldiers in the field for defending the country unless the Senate will consent to an illegal appropriation of \$40,000. I am ready to stand on that issue. I will not do it.

Mr. CLARK. I wish to suggest to my friend from Maine to withdraw his motion to concur with the amendment of the House, because I think it will be better to take the instruction of the Senate to the committee, and let the bill be recommitted to the committee for the purpose of disposing of the other amendments. It would be taken out of the hands of the committee if his motion should prevail.

The PRESIDING OFFICER. The motion of the Senator from Maine is not strictly in order at this time, there being two motions pending, one an amendment to the other.

Mr. MORRILL. Very well; I will not press it.

Mr. CLARK. I will say while I am up, lest I should be misunderstood in regard to what I have stated, that I am for standing by the action of the Senate as heretofore expressed. I am not for yielding to the House. I think the judgment of the Senate was right. I am ready to stand by that judgment, and give my vote with it; but as this was a matter of so much consequence, I did not feel that the committee would have discharged its duty until it had brought it to the notice of the Senate for its action.

Mr. COWAN. I think the judgment of the Senate heretofore was right; and if it decides to vote for the proposition of the honorable Senator from Oregon I think that judgment will be right. Both are judgments of the Senate, and both are equally entitled to respect. I intend to vote for this proposition. I do not feel that I have yielded anything, that I have given up anything. It is as much a deliberate judgment in this respect, and as free from duress, as free from any constitutional restraint or obligation, as any one I have formed since I have been here. I hope the motion will prevail.

Mr. WILSON. Mr. President, I desire simply to state, and I hope the country will note, the precise issue made here. The House of Representatives, in violation of the law of the country, decided to pay their employes a certain sum of money, twenty per cent. additional to their pay, right in the face of the law of the country. Now they make this proposition to add \$40,000 to their contingent fund to enable them to pay their illegal resolution. The Senate, to its honor be it said, resisted that proposition that violated the laws of the country. The House of Representatives, by a small majority—a majority made up of a few supporters of the Administration and gentlemen who in that House are arraigning the Administration every day for its wild extravagances—inist upon voting this \$40,000 to pay for an illegal appropriation.

Mr. NESMITH. If the Senator from Massachusetts will permit me, I will state that this \$43,000 embraces a great many other items; and even if the House should conclude to pay the extra twenty per cent. to its employes, it will embrace but a very small proportion of this amount, and only a small proportion will go to their officers.

Mr. WILSON. Only \$38,000 out of \$43,000 will go to their officers; that is all. I will be accurate about it. The rest of it will probably be used for something else. Now the issue is clearly presented of losing important measures to support the Government of the country, to pay the officers and soldiers of the Army and Navy and carry on the expenses of the Government, or yielding this \$38,000.

Mr. COWAN. If the Senator will allow me, is he not presuming that the House will appropriate this money illegally? It does not follow now that they are going to pay their employes for past services twenty per cent. in addition. Have we any right to presume they will? I should think, when we show the magnanimous example of yielding in this way, letting them have their own way, and putting it within their control, perhaps they may reconsider their action and not do the thing which we deprecate; at least we have no right to presume they will. I will not presume they will.

Mr. WILSON. I do not presume it, but I know it. They avow it, declare it, proclaim it, in the face of the country and of the world; and I for one do not yield to it. I yield to no such issue; and if those gentlemen who have made it choose to stand by it, let them take the responsibility before the country. That is my position.

Mr. ANTHONY. I hope that the Senate will yield this point to the House; and if the Senator from Oregon had not made the motion, I was prepared to make it myself. I think that the appropriation insisted upon by the House is not according to law; but the House thinks it is according to law, and the House has as good a right to judge as we have. We are not to presume that the other branch of Congress would insist upon an appropriation which it considered contrary to law. The House says its honor is pledged. I think we have done quite sufficient by the way of protest, by the way of recording our judgment; and I hope we shall yield to the House. I differ from my friend from Massachusetts. I hope the country will take no note whatever of this disagreement between the two Houses, and that we shall get out of it as soon as we can; and the best way is to agree to the proposition of the House.

Mr. HENDRICKS. When the chairman of the Committee on Finance, some days ago, proposed as an amendment to the legislative appropriation bill the deficiency bill, which I thought an extraordinary proceeding, I suggested that it would bring up this very controversy between the two Houses, and if it came up again I expected to yield to the House; and I now expect to do it. But upon that question I wish to submit one or two remarks.

I do not think the Senator from Massachusetts is justified by the facts in what he said. He said that the position of the House was assumed by a small minority of the Administration party and by the body of the opponents of the Administration in the House uniting upon this proposition. I understand that the position of the House was assumed by a unanimous vote, that the yeas and nays were not called; and I understand that it was taken under the leadership of the distinguished chairman of the Committee of Ways and Means, and that in pressing his arguments upon the House he used most uncourteous debate toward the Senate. That is all I have to say to the Senator from Massachusetts. He is not justified by the facts in what he says.

I think the real trouble ought to be removed. This is but surface work, in my judgment, getting away from this \$38,000. I believe that each House ought to control its own contingent fund. The act of 1858 restricting that control of the contingent fund is an imputation of a want of confidence by Congress upon each branch, and I think it ought to be repealed. If the proposition of the Senator from Oregon is not adopted, I intend to propose the following:

That the bill be recommitted to the committee of conference, with instructions to agree to substitute for the House amendment for the benefit of its employes a section repealing section five of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th June, 1859," approved June 12, 1858.

I believe that it ought to be repealed. We give a contingent fund to the different Departments, and we allow the Secretary of the Department to control that contingent fund, and his decision is conclusive upon it. Why? Because Congress has confidence in his integrity. In the same bill we give a contingent fund to the Senate, and by that law we say we will not trust the Senate to dispose of its own contingent fund. We allow the President of the United States to control millions of a secret service fund, and never allow the expenditure of that money to come to the light of day; and why? Because, upon the theory of our legislation, we treat the President as an honest man, as we treat the heads of Departments in the disposal of their contingent funds, and I say, as a matter of honor, we ought to treat ourselves in the same way. If the proposition of the Senator from Oregon is not agreed to, I expect to offer this, and if it is agreed to we shall have no such discreditable scenes in the future as we have witnessed for these two weeks past. If the House abuses its power over its own contingent fund, it is responsible to the country, as we are. We are not the guardians of the honor of the House;

we are not the guardians of the good faith of the House; and I deny that the House has any right to superintend or supervise the expenditure of our own contingent fund.

Mr. JOHNSON. Whether it is advisable to repeal the act of 1858 in the particular suggested by the honorable member from Indiana is perhaps not the question here. I rose to say, however, that I doubt exceedingly whether the instruction proposed by the member from Oregon will settle the difficulty. I understand that instruction as merely adding \$43,000 to the contingent fund of the House, and nothing more. What is the effect of increasing the contingent fund? It does not relieve the manner in which the contingent fund is to be used from the restrictions to be found in the act of 1858; and when they go to the Department and ask to be allowed \$38,000 for their employes the Department will say that that cannot be done, the act of 1858 is still in force, and by the act of 1858 it is provided that no resolution of one House shall have the effect of appropriating money in the Treasury, although it is there as a part of your contingent fund; the act of 1858, providing that the contingent funds of the two Houses is actually to be disposed of by the joint action of both Houses.

Now in relation to the dispute which exists as between the two Houses, I think that the Senate has gone far enough in expressing its own view of the authority which the House assumed to exercise by the original appropriation of last year; and I submit to Senators whether, although they are all clear about it that the House acted without authority, it is not fair to presume that at the time they made the appropriation they believed they had the authority; and although I am perfectly satisfied in my own mind that they were wrong in that opinion, yet I have lived long enough not to be surprised at the expression of any extraordinary opinion. I have heard just as many extraordinary opinions expressed on the floor of this Senate as this opinion of the House, if they really entertain it, that they had the power thus to appropriate their contingent fund.

But, sir, I rose solely for the purpose of suggesting that it is much better to instruct the committee to agree to the House amendment.

Mr. ANTHONY. I agree entirely with what the Senator from Indiana said, and I would prefer his proposition to that of the Senator from Oregon, although I shall vote for the latter. I do not wish that either House shall exercise any scrutiny over the contingent fund of the other. I think each House can be left to attend to its own contingent fund. If this resolution of the Senator from Oregon does not accomplish the object of allowing the House to pay what it thinks proper to its own employes, then I wish to have it altered so that it shall do so. If it merely increases the contingent fund, but does not allow the contingent fund to be employed for that purpose, then I wish it to be altered so that it shall be understood that we agree to allow the House to pay its own officers whatever it sees fit. It is responsible to the country and its constituents for the manner in which it employs its contingent fund.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Pennsylvania to the motion made by the Senator from Oregon to insert the following as a substitute:

That the committee be authorized to agree to a provision for the payment of twenty per cent. additional compensation to the officers of both Houses for the present session.

The amendment was not agreed to.

The PRESIDING OFFICER. The question now is on the resolution offered by the Senator from Oregon.

Mr. ANTHONY. I do not quite understand this proposition. I wish to know if this allows the House to appropriate the money for this purpose.

Mr. CLARK. They are content with it.

Mr. ANTHONY. Very well; then I am, certainly.

Mr. SHERMAN. With due deference to the opinion of the Senator from Maryland, I do not think there is a doubt about it. The resolution of the House is substantially engrafted in the law, and this law says \$40,000 shall be appropriated to enable the proper officers of the House to pay that resolution.



Mr. JOHNSON. I ask for the reading of the proposition again.

The Secretary read it, as follows:

*Resolved*, That the disagreeing votes of the two Houses on the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866, be re-committed to the committee of conference on said bill on the part of the Senate, with instructions to agree to the following item:

And the sum of \$43,000 is hereby appropriated, to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House.

Mr. HENDRICKS. I offer the following as a substitute ["Oh, no."] Very well; I will withdraw it.

Mr. WILSON. Before the vote is taken I desire to ask the chairman of the Committee on Finance if there is any provision in this bill giving constructive mileage to the Senate. I see in the public press a statement that in this bill, I think, such a provision has been put into it by the Senate, or in some bill, giving Senators constructive mileage.

Mr. SHERMAN. There is no such appropriation and no such provision in this bill or any other. On the contrary, a resolution of that kind was sent to the Committee on Finance and reported back adversely and acted upon. I will ask the Secretary to read the appropriation for mileage, the only reference there is to mileage.

The Secretary read, as follows:

For compensation and mileage of Senators, \$247,430.

For compensation and mileage of members of the House of Representatives and Delegates from Territories, \$300,000.

Mr. SHERMAN. That is all there is about mileage in the bill.

The PRESIDING OFFICER. The question is on the resolution of instructions offered by the Senator from Oregon.

Mr. TRUMBULL. Let us have the yeas and nays on that proposition.

The yeas and nays were ordered.

Mr. DOOLITTLE. I shall vote for this proposition. I would have preferred to vote, first, for the proposition of the Senator from Indiana to repeal the law of 1858. That was the first mistake. The second mistake in this transaction, in my judgment, was that the House passed their resolution to pay their employees twenty per cent., and that involved them in difficulty. The third mistake was that the Senate put on the deficiency bill as an amendment to the legislative bill as it came from the House of Representatives.

Mr. SHERMAN. That was the only way that we could save it. If we had not put the deficiency bill on this bill, the deficiency bill would have been defeated dead; and the deficiency bill is now dead.

Mr. DOOLITTLE. I think it was a mistake putting the two things together; but no matter. Under the circumstances I shall vote for the proposition of the Senator from Oregon.

The question being taken by yeas and nays, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Anthony, Brown, Carlile, Cowan, Dixon, Doolittle, Foster, Harris, Henderson, Hendricks, Johnson, McDougall, Morrill, Nesmith, Powell, Ramsey, Riddle, Sumner, Van Winkle, Wiley, and Wright—21.

NAYS—Messrs. Bucklewood, Clark, Collamer, Conness, Farwell, Hale, Harlan, Howard, Howe, Lane of Indiana, Morgan, Nye, Pomeroy, Sherman, Sprague, Ten Eyck, Trumbull, and Wilson—18.

ABSENT—Messrs. Chandler, Davis, Foot, Grimes, Harding, Lane of Kansas, Richardson, Saulsbury, Stewart, Wade, and Wilkinson—11.

So the resolution was agreed to; and the bill was recommitted to the committee of conference with instructions to agree to the proposition of the House in relation to its contingent fund.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House of Representatives had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 390) relating to the postal laws; further insisted upon its amendments to the said bill disagreed to by the Senate, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. COLE, Mr. BROOKS, and Mr. ASHLEY managers at the same on its part.

The message further announced that the House of Representatives had passed the following bills,

in which it requested the concurrence of the Senate:

A bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations; and

A bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864.

#### INDIAN APPROPRIATION BILL.

Mr. WILSON. I now desire to make a report of the Committee on Military Affairs, and to ask that it be acted upon at this time. I think the provisions of it will readily be agreed to.

Mr. SHERMAN. I must object to the interposition of other bills until I get the appropriation bills out of the way.

Mr. WILSON. What bill does the Senator want to take up now?

Mr. SHERMAN. The Indian appropriation bill, as it will take so long to enroll. I do not think it will take long to pass it.

Mr. WILSON. If this matter leads to debate I will let it go over.

Mr. SHERMAN. These bills are now in order, and I desire to go on with them. If the Senator will withdraw his motion, perhaps this evening he may have an opportunity of getting his measure considered. I want to get the appropriation bills out of the way.

Mr. WILSON. I wish to report back a bill from the House of Representatives with amendments, and I think the amendments are so plain that we might pass it at once; but as the Senator desires to get up his bill, I will let it pass over and will ask to have it printed.

The PRESIDING OFFICER. That order will be made.

Mr. SHERMAN. I now move that the Senate take up House bill No. 682, the Indian appropriation bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866.

Mr. SHERMAN. I do not know that it has ever been customary in the Senate to forego the reading of a bill once at length, and I do not like to make such a motion now; but this is a bill fifty-eight pages long, of which at least forty-eight are simply the ordinary recitations that are continued in every Indian appropriation bill.

Mr. FOSTER. It can be done by unanimous consent. It is frequently done in the case of Post Office bills and post-road bills, and matters of that sort.

Mr. SHERMAN. Then I trust that the amendments will be read.

The PRESIDING OFFICER. The Chair is informed that the reading of bills has sometimes been dispensed with when they were printed and laid upon the tables of Senators.

Mr. JOHNSON. I will ask if this bill only contains the ordinary appropriations for the Indian service.

Mr. SHERMAN. Yes, sir.

The PRESIDING OFFICER. The reading of the bill will be dispensed with if there be no objection; and the amendments reported from the Committee on Finance will be read.

The first amendment of the committee was on page 20, line four hundred and fifty-eight, under the head of "Ottawas and Chippewas of Michigan," after the word "thousand" to strike out "eight" and insert "three;" so that the clause will read:

For interest on \$206,000, unpaid part of the principal sum of \$306,000, for one year, at five per cent. per annum, to be distributed *per capita*, in the usual manner of paying annuities, per second article of the treaty of 31st July, 1855, \$10,300.

The amendment was agreed to.

Mr. SHERMAN. I ask that the bill be read from page 48 to the end, so that Senators may see the items about which there may possibly be some controversy.

The PRESIDING OFFICER. That course

will be pursued; but there are some amendments reported by the committee previous to that, which will first be read.

The next amendment was on page 45, after line one thousand and ninety-seven, in the appropriation for "Chippewas of Red Lake and Pembina tribe of Indians," to insert the following:

For this amount, to supply a deficiency in the first payment per fourth article of the treaty of October 2, 1863, to be expended in the purchase of powder, lead, twine, or such other beneficial purposes as the chiefs may request, to be equitably distributed among the said bands, \$2,000.

The amendment was agreed to.

The next amendment was on page 46, after line eleven hundred and three, to insert the following:

For the sum of \$500, to be paid to each of the seven chiefs of said bands, at the first payment, to enable each to build for himself a house, per fifth article treaty October 2, 1863, \$3,500.

The amendment was agreed to.

The Secretary proceeded to read the bill, commencing on the 48th page, with the following paragraph:

For the Wichitas and other affiliated bands:

For the expense of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, \$20,000.

Mr. DOOLITTLE. That appropriation differs from the estimate. It is here placed at \$20,000. It was estimated at \$37,800. Such has been the estimate, and such has been paid from year to year; and it will be borne in mind by the Senate that by a general provision which has been inserted in the appropriation bills for the last two years this sum which belonged to the Wichitas has been in fact confiscated for the benefit of the refugee Indians, and therefore it ought to be \$37,800; and I move that amendment as we go along.

Mr. SHERMAN. The amendment is not in order, and I trust that we shall first go through with the amendments of the Committee on Finance. I will state further that the House of Representatives have reduced these appropriations about one half, and I am rather disposed to leave them where they have left them unless there are very strong reasons given for increasing them.

The PRESIDING OFFICER. The reading of the bill will be proceeded with.

Mr. DOOLITTLE. I cannot see what objection there is to taking up this matter as we go along. It will save its being read over again and our coming back to the subject again. I call the attention of the Senator from Ohio to it.

The PRESIDING OFFICER. The custom of the Senate is to proceed first with the amendments of the Committee on Finance. The amendment of the Senator, however, is strictly in order if he insists upon it.

Mr. DOOLITTLE. I will wait until the amendments of the committee are disposed of.

The Secretary continued the reading of the bill down to and including the following item:

For expenses attending the vaccination of Indians, \$2,500.

Mr. NYE. I should like to ask the chairman of the committee whether this appropriation of \$2,500 for vaccinating the Indians has application to any particular tribe.

Mr. SHERMAN. That is the usual appropriation made for that purpose.

Mr. NYE. During the last four years I have had some twelve thousand of these Indians under my charge, and I have never seen any of this vaccination.

Mr. SHERMAN. Some of the constituents of my friend from Wisconsin probably appropriated the money. [Laughter.]

Mr. NYE. I think this vaccination must be applied principally to the Indians of Wisconsin. I never heard of it in Nevada.

Mr. DOOLITTLE. I will answer the Senator from Nevada. This is a miscellaneous provision, and applies to all the Indian tribes.

Mr. NYE. But we never saw any of it.

Mr. DOOLITTLE. Perhaps you did not in Nevada. Nevada is a young State.

Mr. SHERMAN. But she wants her share. [Laughter.]

The PRESIDING OFFICER. The reading of the bill will be continued.

The Secretary continued the reading of the bill.

Mr. NYE. I should like to inquire of the Senator from Wisconsin who has this matter in charge in which State, Nevada or Oregon, are there the most Indians. Here is an appropriation of \$45,000 to Oregon for incidental and traveling expenses, and to Nevada nothing is appropriated. I think Nevada contains more Indians in her territory than Oregon, and I should like to know the reason for this difference.

Mr. SHERMAN. I can tell the Senator how he can get a larger appropriation for Nevada. If he will divide Nevada into two States he will get the same appropriation for each that is now given to Nevada. For instance, Idaho has been divided into Idaho and Montana. We formerly appropriated \$20,000 for Idaho, and now we have appropriated \$20,000 for Idaho and \$20,000 for Montana. If the Senator will allow his State to be divided he will get twice \$20,000; and I do not know of any other way.

Mr. NYE. If the Senator will excuse me, we do not propose to divide it. We propose to add to it; and then we should not get any more, I suppose. If Oregon is a little larger than Nevada, I do not see why she should have twice as much appropriation for the same service; neither do I propose to ask any more for Nevada.

Mr. NESMITH. If it is a matter of any interest to the Senator from Nevada to understand why the appropriations in Oregon are larger than in Nevada, or the reason for the amount of the appropriations embraced in this bill, I can state it very briefly. I do not know as to the comparative number of Indians in Oregon and Nevada. I know that there is quite a distinction as to the characteristics of the Indians inhabiting the two States. Those in Nevada have not been driven from their usual fishing places and hunting grounds, and their appropriation of the country occupied by an agricultural population, and consequently the Indians in Nevada have not been disturbed. They live there in a sterile country and get the usual amount of bugs, grasshoppers, crickets, and perennial grasses, upon which they feed; and their condition has not been disturbed. They have had no such wars there as we have had in Oregon. I think they have had but one or two. The wars in Oregon have grown out of the occupation of the agricultural lands and the possession of the fisheries, together with other circumstances; and it is necessary, in order to protect the settlers there, to collect the Indians upon large reservations, where they are being partially supported by the Government and being civilized; at least, the Government is making efforts in that direction. Consequently there is a necessity for a greater amount of money there than has been spent heretofore in protecting and providing for the Indians who have not been assembled upon reservations. The Senator from Nevada of course knows more about the necessity of their being sent into reservations there than I do. It is a matter of necessity with us in Oregon. We cannot permit the Indians to roam at large through the country; and the consequence of that condition of affairs has been that we have had two or three exterminating wars in that country. The Government has adopted the policy of assembling the Indians in reservations, some of them under treaty stipulations and some of them without, and in order to maintain peace in the country these appropriations are made. That is the only reason that I know of for the distinction between Oregon and Nevada in the appropriations.

Mr. NYE. I do not desire to be captious about this matter, but I see unusual provisions applied to this appropriation for Oregon and Washington that are not applied to any other State that is quite as much exposed; as, for instance, insurance, transportation of annuity goods, &c. We have annuity goods to transport in the State of Nevada, but we are required to pay for it out of this general appropriation of \$25,000.

The Senator from Oregon is quite mistaken in one thing. There is perhaps no State or Territory in this Union where greater havoc has been made upon the means of living and subsistence of the Indians than in the State of Nevada. Their principal item of subsistence was what is called the pine nut, and the miners have cut down all the trees of that character in the localities where they formerly resided, and hence that portion of their subsistence is taken away. All I desire is

that there shall be some equality in regard to these Indian appropriations.

I see also quite a striking inequality in regard to the appropriations for the State of California. Nevada has more Indians within her borders than the State of California, and yet her appropriations—I speak without examining them closely—are not half as much. The Indians of California can be sustained much cheaper than the Indians of Nevada. They live in a productive country, and where, if they have to purchase provisions, they are far cheaper than they are in Nevada; for we have to purchase ours and draw them from California to Nevada to feed them, and I think that is somewhat so in Oregon. I desire that there shall be at least a fair quality in these Indian appropriations. We have treaties to carry out in the State of Nevada with the Shoshonee Indians that were made last year by the superintendent of Indian affairs of Utah and the superintendent of Indian affairs of Nevada, and yet I see no provision here in this bill for those treaties.

Mr. DOOLITTLE. The appropriation is contained in the part of the bill which has not been read.

THE PRESIDING OFFICER. The Chair must remind the Senator that there is no motion pending.

Mr. NYE. I asked the question for information, because if there is any good reason existing for it I do not propose to make a motion; but if there is not, I shall feel bound to make a motion to ascertain the reason of this inequality.

Mr. DOOLITTLE. On page 46 the honorable Senator from Nevada will see the appropriations that are made to pay the Shoshonees, both the eastern and northwestern and the Goship bands of Shoshonees. Although no motion is pending, I desire to say a single word to my friend from Nevada. Owing to his good judgment, and the good judgment of his friend associated with him, who is superintendent of Indian affairs of Utah, in the negotiation of the treaties in Nevada, the provisions of those treaties were wiser and better, I think, both for the Indians and for the Government of the United States, than many of the old treaties that were negotiated years ago in Oregon. At all events, the annuities that are to be provided for under the treaties made with the Indians of Nevada are not as large as they were made in Oregon and Washington Territories. The Indians are a different kind of Indians, living in a different country. But, sir, I will not take up time.

THE PRESIDING OFFICER. The reading of the bill will be proceeded with.

The next amendment of the committee was to insert at the end of the bill the following:

Chippewas of the Mississippi and Pillagers and Lake Winnegaboshish bands of Chippewa Indians in Minnesota.

For this amount to be applied in payment toward the settlement of claims for depredations committed by said Indians in 1862, per third article of the treaty, May 7, 1864, for the present fiscal year, \$20,000.

Mr. SHERMAN. Before this amendment is adopted I wish to make an inquiry of the chairman of the Committee on Indian Affairs. I have been told that, since this amendment has been reported by the Committee on Finance, there is an amendment to these treaties which has not yet been concurred in by the Indians. Is that so?

Mr. DOOLITTLE. I believe there was an amendment.

Mr. SHERMAN. I allude to the treaty with the Pillagers and Lake Winnegaboshish bands of Chippewas.

Mr. DOOLITTLE. The only amendment to the treaty was an amendment authorizing certain portions of one of the bands at Sand Lake to remain there until the President should direct or fix the time when they should remove. It was an amendment entirely for the benefit of the Indians, and was put in at the instance of a delegation of Indians who were here at the time. They have assented to it as I am informed by the Department.

The amendment was agreed to.

The next amendment of the committee was to insert at the end of the bill the following:

For this amount to be paid to the chiefs of the Mississippi upon the ratification of this treaty, per third article treaty, May 7, 1864, for the present fiscal year, \$10,000.

For this amount to be paid to the chief Hole-in-the-Day for depredations committed in burning his house and fur-

niture in 1862, per third article treaty, May 7, 1864, for the present fiscal year, \$5,000.

For clearing, stumping, grubbing, breaking, and planting on the reservation hereby set apart for the Chippewas of Mississippi, in lots of not less than ten acres each for the five bands of Indians, per fourth article of treaty, May 7, 1864, for the present fiscal year, \$7,500.

For this amount to be expended in building for each of the chiefs of the five bands of the Chippewas of Mississippi, provided for in the fourth article of the treaty of May 7, 1864, one house each, under the direction of the Secretary of the Interior, for the fiscal year ending June 30, 1866, \$5,000.

For first of ten installments to furnish said Indians with ten yoke of good work oxen, twenty log-chains, two hundred grubbing hoes, ten plows, two grindstones, one hundred axes, handled, twenty spades, and other farming implements, per fifth article treaty, May 7, 1864, for the present fiscal year, \$1,500.

For the same object for the fiscal year ending June 30, 1866, \$1,500.

For the employment of two carpenters, \$1,800, and two blacksmiths, \$1,800; four farm laborers, \$2,400; one physician, \$1,200, and medicine for sick, \$500, per fifth article treaty, May 7, 1864, for the present fiscal year, \$7,700.

For the same object for the fiscal year ending June 30, 1866, \$7,700.

For this amount to be applied toward the support of a saw-mill to be built for the common use of the Chippewas of Mississippi, and the Red Lake and Pembina bands of Chippewas, so long as the President may deem it necessary, per sixth article treaty, May 7, 1864, for the present fiscal year, \$1,000.

For same object for the fiscal year ending June 30, 1866, \$1,000.

For this amount to be expended in building a road, bridges, &c., to their new agency, per sixth article treaty, May 7, 1864, for the present fiscal year, \$7,500.

For new agency buildings to be located by the Secretary of the Interior for the common use of the Chippewas of Mississippi, Red Lake, and Pembina, and Pillagers, and Lake Winnegaboshish bands of Chippewa Indians, per sixth article treaty, May 7, 1864, for the fiscal year ending June 30, 1866, \$25,000.

For pay of services and traveling expenses of a board of visitors, to consist of not more than five persons, to attend the annuity payments to the Indians, &c., and to inspect the fields, buildings, mills, and other improvements as stipulated in the seventh article treaty May 7, 1864, not exceeding any one year more than twenty days' service, at five dollars per day, or more than three hundred miles travel, at ten cents per mile, for the fiscal year ending June 30, 1866, \$650.

For expenses of the removal of eleven hundred Chippewas, of Mississippi, to their new homes, per twelfth article treaty May 7, 1864, at ten dollars each person, for the fiscal year ending June 30, 1866, \$11,000.

For the expenses of subsistence of eleven hundred Chippewas, of the Mississippi, for six months, at their new homes, at thirty-eight cents per day for each person, per twelfth article treaty May 7, 1864, for the fiscal year ending June 30, 1866, \$75,240.

For transportation of subsistence for Indians, for six months, to their new homes, per twelfth article treaty May 7, 1864, being four hundred and thirty-five thousand six hundred pounds pork and flour, in packages, at seven cents per pound, for the fiscal year ending June 30, 1866, \$30,492.

For the payment of female teachers employed on the reservation to instruct Indian girls in domestic economy, per thirteenth article treaty May 7, 1864, for the fiscal year ending June 30, 1866, \$1,000.

The amendment was agreed to.

Mr. DOOLITTLE. On page 51, line twelve hundred and forty-three, after the word "sixty-five," I move to insert the words "of the Cherokee national fund," for the purpose of identifying the appropriation; so that the clause will read:

For payment of interest on \$68,000, abstracted bonds, for the fiscal year ending June 30, 1865, of the Cherokee national fund, \$4,980.

The amendment was agreed to.

Mr. DOOLITTLE. On page 53, after line twelve hundred and ninety-six, I move to insert the following:

To enable the agent of the Yankton Sioux to restore to the friendly members of said tribe the goods and property and provisions taken from them by the troops of the United States, \$10,000.

Mr. SHERMAN. I should like an explanation of that.

Mr. DOOLITTLE. When Sully's expedition went West, making this grand expedition of which we have read so much, and which has cost the Government from fifteen to twenty million dollars at the least, they passed in the neighborhood of the Yankton Sioux agency, who are friendly Indians, and the soldiers and those connected with the expedition took from these Yankton Sioux the provisions, &c., &c., which they had raised, and which were necessary to their own support. The agent reports these facts to the Department, and the Secretary of the Interior recommends the appropriation. If the Senator from Ohio could read this report he would be satisfied, and he would raise no question as to the propriety of this appropriation.

Mr. SHERMAN. What is the date?

Mr. DOOLITTLE. The report is a very late

one. It is dated the 18th of February. I have another appropriation of \$20,000 here to accompany this one, which I will explain more at length to the Senate when this is disposed of.

The amendment was agreed to.

Mr. DOOLITTLE. I now move to insert after the amendment that has just been adopted the following:

To enable the superintendent of Indian affairs of Dakota Territory, under the direction of the President, to negotiate a treaty of peace and amity with the hostile Sioux and other hostile tribes allied with them, \$20,000.

I should like to call the attention of the Senator from Ohio to this proposition. If the subject is sufficiently understood I will not take up the time of the Senate upon it. I have no doubt that this is one of the wisest appropriations that can be made. The truth is that the military expedition that has gone with artillery and infantry over the plains at this immense expense to the Government, so far from effecting anything against the hostile Sioux, has been almost a failure. A single regiment on horseback, in my judgment, would have accomplished five times as much. It has cost the Government an immense sum; the Sioux are still hostile; and I believe that the right persons appointed by the President to take the necessary means to negotiate for peace with these hostile Sioux can effect a peace and save all this immense expenditure to the Government, and that whole army can be sent to the front, where they can do something for the benefit of the country. The Secretary of the Interior has recommended that the sum of \$50,000 be appropriated for this purpose; but the committee, on consultation with the superintendent of Indian affairs of Dakota, who is here present, believed that for the sum of \$20,000 the thing might be accomplished.

Mr. SHERMAN. I do not know but it is useless to talk about Indian appropriations, and I generally make no resistance to them; but I never will vote, as I stated at the last session, to authorize the Commissioner of Indian Affairs to send a party of people to negotiate and treat with Indians. I think it is the most ridiculous farce that can be transacted in our Government. It is the most shameless prostitution not only of the money of the Government but of the name, and credit, and fame of the Government. Let me illustrate it. Two years ago the honorable Senator proposed to send somebody out to negotiate and treat with the Chippewas, I believe. The consequence was, that after awhile a treaty came back to us, was sent to the Indian Committee, and ratified, and the first we know about it is an appropriation of one or two hundred thousand dollars per annum to carry into effect an Indian treaty with some Indian tribe that we knew nothing of. That is the effect of it. The Committee on Finance have reported a new appropriation to this bill for one Indian tribe of \$200,000. We had no resort but to do it.

Mr. DOOLITTLE. The Senator will find that these large appropriations are for the first year for removing these Indians, their subsistence, the building of the agencies, and the other buildings which are necessary; and after that the appropriations per annum are very small. The treaty to which the Senator alludes is a treaty which was negotiated in Minnesota, and which acquired for the Government of the United States the relinquishment of the Indian title to a country almost as large as the State of Ohio. The treaty was negotiated by the honorable Senator from Minnesota [Mr. RAMSEY] and I have no reason to believe that the treaty was not negotiated upon a fair basis.

Mr. SHERMAN. I do not attack the treaty at all. I only say that this appropriation must be followed undoubtedly by a treaty probably providing for the payment of millions of dollars, because one installment alone on a modern Indian treaty will probably be \$100,000. This bill appropriates \$2,500,000 for the support of how many Indians? I do not know how many; but comparatively few in number.

Mr. BROWN. They number about three hundred thousand.

Mr. SHERMAN. Of whom probably about one third are what are called treaty Indians; and the balance, the wandering tribes of Camanches, &c., get comparatively little. It seems to me that an end ought to be put to this business of making treaties. Some three or four years ago

the Senator from Wisconsin himself agreed to provide some other system, and a Senator from California not now with us (Mr. Latham) also agreed to the same thing, and it was understood that a different system was to be adopted in the management of the Indian tribes; that we were no longer to treat them as equal powers, but we were to provide for them as dependents. That ought to be done.

I have before me an account of one of these treaties which I think is the best illustration of an Indian treaty I have ever read. It is the history of the treaty of Grenville, made by General Wayne. General Wayne, after having slaughtered a good many thousands of the Indians, convened them all together at the town of Grenville, or the hamlet of Grenville, and there he made a speech to them. I will give the substance of his speech. He said there were many white people who had come to Cincinnati, and one or two other places in Ohio, and they were very poor and needy; that they had their wives, and their wives were begging for bread; that they had their children and their children were crying for clothing. General Wayne appealed to the Indians to give to the poor whites a little land to enable them to earn a living for their women and children. That was the substance of General Wayne's appeal. The Indians took it in grave consideration. They retired to their council; and the next day they came back, radiant with joy, and addressing themselves to General Wayne, they said, "Father, we have found a way in which we can reconcile all our difficulties. The Great Spirit has given us a road out of all our troubles. You say that there are but few people at Cincinnati; that they are poor, needy, hungry, without clothing. You have offered to give us for our lands \$10,000 in gold, five hundred blankets, so many guns, so much ammunition. Now, let the great father who lives at Washington give all this money, and all these goods, and all these blankets, to the few poor white people at Cincinnati and make them rich and happy, and then let them go back from whence they came, and we will have no further trouble."

That is about the history of all Indian treaties. General Wayne did not see it in that light; and the consequence was that the Indians were compelled to give up one half of the State of Ohio; and they have been driven westward and westward until they are gradually disappearing. The idea of treating with these Indians as separate and independent nations in my judgment ought to be abandoned. I therefore never will vote to send a commission out there to negotiate with roving tribes of Indians as free and independent nations. Let the Commissioner of Indian Affairs, or the Secretary of the Interior, or the President of the United States, or some authority, prescribe laws or rules or regulations, subject to the action of Congress, for the government of these poor people who are dependent upon our bounty. Let us help them and aid them; but do not let us continue the two systems. We have now with many Indian tribes arrangements by which we give them help upon their farms; send women to teach their children; send schoolmasters and blacksmiths and laborers to them. That is the proper way to dispose of the Indians. In the present condition of affairs I am not in favor of making any more Indian treaties. If the Senator says to me that the Indian service requires \$10,000 or \$20,000 to relieve these Indians temporarily, to enable them to obtain homes for themselves, I will feel myself bound to vote for whatever he says is necessary in that respect; but to negotiate any more Indian treaties, it seems to me, is simply to enable some people to rob and plunder the Indians, and prescribe laws for them without our sanction or supervision.

Mr. DOOLITTLE. I am quite sure that the attention of my honorable friend from Ohio has not been drawn to the consideration of the present relation of the Government of the United States to the Sioux nation of Indians and the hostile tribes upon the plains that are allied with them. I say to my honorable friend that he is voting here upon the appropriation bills millions and millions of dollars for transportation and subsistence to carry on a warlike expedition against these very Sioux. They are in hostility with the Government of the United States, and trying to ally with them all the Indians of the plains. It is believed

by the superintendent of Indian affairs of Dakota Territory, that for the little sum of \$20,000, by which he can furnish the kind of presents that may be necessary to induce their chiefs to come in and hold a talk or a treaty, peace can be obtained between the Government of the United States and these Sioux, and thus put an end to this immense expenditure. I say to my honorable friend that while I have not the slightest doubt that under the Indian department there are many expenditures which never ought to be incurred, and there are undoubtedly men who are interested in contracts for provisions and supplies and transportation who may be making money out of it, yet as compared with what is going on in relation to the army which is dealing with this very question, they are not one drop in the bucket.

While I am on the floor I may as well call the attention of the Senate to another amendment that will immediately occur, and I can discuss them both at once; and that is, in relation to what is proposed concerning the Navajos in New Mexico. The Department recommend the appropriation of \$350,000 for them. The House bill provides for \$100,000. Our committee after consultation have determined not to ask that the appropriation be increased, but to change that appropriation, to authorize the Department to employ the money appropriated under the provision of the House bill in furnishing wool to these Navajos to be manufactured by them into blankets for their own clothing; and I will state to the honorable Senator from Ohio the true condition of things there.

These Navajos, to the number of nearly ten thousand, have been taken by the Military Department of the Government from their homes, and moved nearly five hundred miles and established upon the Pecos river, in New Mexico, at what is called the Bosque Redondo, without any treaty. That is dealing with the Indians without treaty. They were taken without treaty by the military forces, and moved away and put upon the Bosque Redondo; and I have not a particle of doubt that that very thing will cost this Government millions of dollars. But when the Indian Department asks \$100,000, as they did last year, for the purpose of enabling these Indians, after the War Department had put them on this river, to dig canals so that they can irrigate a little portion of the land to raise corn to feed themselves, the Indian department is denounced from beginning to end, and from the beginning of the world down to this day.

Now, in relation to this matter, the reason why the Indian department do not ask any more is because the War Department are feeding those Indians now. The War Department, under the powers which are possessed by the officers connected with the Army, have purchased a million pounds of corn to be delivered there in New Mexico to feed these Indians. They have got the corn on hand, or contracted for the corn which will feed them for a year. We hope that these Indians, under the administration of the Department, will be able to irrigate this land and raise their own corn for another year.

My honorable friend from Ohio, I know, is very much prejudiced against Indian treaties. I do not think that an Indian treaty is like a treaty between the Government of the United States and Great Britain; but certainly these Indian tribes have treaties with one another. They make war and they make peace with one another. They form alliances with each other. They perform, to be sure in a semi-civilized way, what the great nations of the earth do: they make war and peace; and do it by compact, by alliance, and make peace by treaty; and whether you say these treaties are to be regarded in the same light as a treaty between us and Great Britain or not, still they are treaties between us and these Indian tribes. The best and most economical way to have peace with the Indian tribes is to enter into some kind of stipulation with them.

But I agree with the honorable Senator from Ohio in one thing. I am opposed to putting into these Indian treaties stipulations binding this Government to pay money annuities. I know it has been the steady policy of the Indian Committee to prevent the payment of money annuities to the Indians. In this very treaty which was lately made in Minnesota, there are hardly any money annuities; and in the treaties which were negoti-



ated by the honorable Senator from Nevada [Mr. NYE] with the Shoshonees, and in the treaties that were negotiated in Utah with the Indians there, the stipulation was to supply them with provisions, with agricultural instruments, and not to give money; for the purpose is to treat with them, and accomplish just what the honorable Senator from Ohio desires; to lead them to agriculture if possible, as they are driven from their hunting grounds by the rushing of our white population. Our people go into the valleys of the mountains and go all over the plains; the buffalo is destroyed; the game is driven away; and the question is, what is to be done with these Indians? When you reduce them to such a position that they must either steal or starve, of course wars are the consequence. The policy which has been adopted, it seems to me, is the best policy: to come to some arrangement with them; and it is much cheaper and more economical to agree with these Indians, to feed them rather than fight them, even if there are some contracts made under which unscrupulous men may sometimes overreach the Government.

But, sir, I do not desire to take up the time of the Senate.

Mr. HARLAN. I have no doubt this amendment ought to be made. It is a trifling expenditure compared with the expenditure we are now incurring in that direction in relation to these same Indians. The members of the Indian Committee were of opinion that with a small appropriation of this kind, the Governor of Dakota Territory will be able to arrange terms of peace with the large tribes of Indians that have been making war on the Government for the last two years; and although it does cost a little money to arrange these matters, it is a mere drop in the bucket compared with the expense of a military campaign. It is said to me, on authority that I think reliable, that the campaign up the Missouri river during the last summer will cost from fourteen to fifteen million dollars; and if we by an appropriation of a few thousand dollars can arrange terms of peace, it will certainly be a great economy to the Government.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Indian Affairs.

The amendment was agreed to.

Mr. DOOLITTLE. On page 51, after the word "dollars" in line twelve hundred and forty-nine, the committee have instructed me to move to insert the following:

*Provided, That any part of said sum may be used to furnish wool or other necessary materials to said Indians to be by them manufactured into clothing and blankets.*

So that the clause will read:

For subsistence for the Navajo Indians, and for the purchase of agricultural implements, seeds, and other articles necessary for breaking the ground on the reservation upon the Pecos river, \$100,000: *Provided, That any part of said sum may be used to furnish wool or other necessary materials to said Indians to be by them manufactured into clothing and blankets.*

Mr. NYE. I should like to hear the chairman of the Committee on Indian Affairs explain why this appropriation of \$100,000 is necessary for New Mexico. I know but very little of Indian affairs in that Territory; but it is entirely disproportioned to the number of Indians there and the result that is expected to be produced in any other State or Territory. I should like to ask him also whether the same appropriation was not made last year.

Mr. DOOLITTLE. Perhaps the honorable Senator was not in the Chamber when I addressed myself to the Senator from Ohio on the subject of these Navajos.

Mr. NYE. You were addressing him so entirely that I could not hear you.

Mr. DOOLITTLE. Those Navajos were brought by the Military Department and placed upon a reservation on the Pecos river. There were about seven thousand of them last year, and there are now about ten thousand. The military forces have them there under their control. One hundred thousand dollars was appropriated last year toward aiding them in making a canal to irrigate the land, furnishing them with necessary seeds, agricultural implements, &c. We now propose to vary the appropriation, to authorize the Department to furnish them the wool or other necessary materials for the Navajos to manufacture into clothing and blankets. The Navajos are

the most ingenious manufacturers of blankets in the world. The girls of the Navajo nation will make a blanket which, held by the four corners, will hold water; and water can be carried and transported on horseback in one of the blankets that they make. I only speak of that to show that these Indians are not altogether savages; they are almost in a condition of the more advanced Pueblos of New Mexico; and this amendment is to enable them to make their own clothing.

Besides, I stated to the Senator from Ohio, the War Department are feeding them at a very heavy rate of expense to the Government for the present year. I have before me the letter of the Secretary of the Interior, and of the Commissioner of Indian Affairs on this subject. They urge upon us to appropriate \$350,000 for the clothing of these Indians. Under the circumstances, the Committee on Indian Affairs have determined not to ask an additional appropriation, but to enable this appropriation provided for by the House to be diverted so as to furnish them with material to make their own clothing as they have heretofore.

Mr. NYE. The general rule, I believe, is that the nearer civilized these Indians are, the better able they are to take care of themselves. Now, I understand—the gentleman did not answer me on that point; I presume it slipped his memory—that there was \$100,000 appropriated last year for this same purpose. Was that expended by the military, or by the superintendent of Indian affairs; and what proportion of it was expended and what result was produced?

Mr. DOOLITTLE. I believe the money was expended under the direction of the Commissioner of Indian Affairs for that purpose. I have not gone into all the details of the subject so as to be able now to state to the Senator from Nevada precisely what was done with the \$100,000.

Mr. McDUGALL. I have been in the Nevada country and know something about that nation of Indians. They lived on their own lands, they had flocks and herds, and cultivated their own ground. They were the most powerful enemy we had on the frontier of New Mexico. After a war against them, which had been carried on for years, they were subjugated about two years since, I think. They were taken down to a country where they did not belong, to a new and strange country, away from their houses, away from their lands, away from their flocks and herds; and there, under the force of the Government, compelled to begin life anew.

The Navajos are a very ingenious race of Indians. It is my impression, from all I know of the Indian tribes, that the Navajos are superior to any race of Indians that I have ever had intercourse with. It is true they were at war with us, and they maintained successful war; and the only Indian tribe that dared to be their adversaries were the Camanches. They would go down hundreds of miles and fight the Camanches on their ground, and the Camanches would make war parties to go back and fight them upon their ground. We had not force enough in New Mexico until recently to make successful war against them. To secure peace they were brought more directly in contact with our Government; their location was changed, and they were brought down close to the valley of the Rio Grande that they might be supervised by the military forces of the United States. They require everything, if we are to treat them as fair adversaries whom we propose to protect, for we said to them, "Come down and settle in this new country and make your new homes, and we will furnish you the materials for starting in the way of self-subsistence." The amount here is nothing like equal to what might be justly demanded, to do full justice to them, according to the compact with them when they agreed to leave their own homes, two or three hundred miles distant, and make their homes where they would be within the reach of our Government. I think the appropriation a very small one for the purpose of rendering exact justice to those Indians.

Sir, they are not savages. They are highly intelligent Indians of the Aztec race. They are warlike, but only so for the purpose of self-protection as a rule. They cultivate the ground; and, as was said by my friend from Wisconsin, they are the best spinners and weavers in the world. I have lain

many a night under a Navajo blanket when the storm was high and the rain fell fast, and their blankets are impervious to the rain. They understand a number of the mechanic arts, sufficient for their purpose. There are no Indians on the continent that have any relation to us that are anything like their equals. We have promised them protection if they would change their homes, and \$100,000 is not anything like equal to their necessities.

The amendment was agreed to.

Mr. DOOLITTLE. On page 48, line eleven hundred and sixty-seven, I move to strike out "thirty" and insert "fifty-five;" so that the clause will read:

For the purchase of cattle for beef and milk, together with clothing and food, teams, and farming tools for Indians in California, \$55,000.

I will state to the Senator from Ohio, or any gentleman who desires an explanation, that this is the amount that was estimated for by the Department; it is the amount that has been appropriated for several years past; and now that our currency has become so inflated, as we pay in currency, the amount in California is substantially reduced to one half or even more than one half. It seems to me very bad policy now to make this reduction when no reason is given for it. California once embraced two superintendencies. It has since been consolidated into one; and this is the sum which was allowed to take charge of the Indians there, and keep the peace.

The amendment was agreed to.

Mr. DOOLITTLE. I have another appropriation in relation to California. It is the same appropriation which was contained in a bill passed by the Senate the other day, but which has failed to become a law from its not having passed the House. I move to insert, on page 48, after line eleven hundred and sixty-seven, the following:

For the purpose of enabling the Secretary of the Interior to pay the settlers in Hoopa valley, California, for their improvements on the Indian reservation thereon, \$60,000, or so much thereof as may be necessary: *Provided, That before the same, or any part of the money hereby appropriated, shall be paid, the said improvements shall be appraised by the superintendent of Indian affairs, the Indian agent at said reservation, and the surveyor general of California; and if, in the opinion of the Secretary of the Interior, their appraisement shall be reasonable, and shall not in the aggregate exceed the sum herein appropriated, the said Secretary is hereby authorized to apply the same, or so much thereof as may be necessary, in payment for the said improvements, taking proper releases therefor: And provided further, That the moneys hereby appropriated be reimbursed from the proceeds of the sales of Indian reservations in said State under the provisions of the "act to provide for the better organization of Indian affairs in California," approved April 8, 1864.*

Mr. SHERMAN. I raise the point of order that this is an appropriation for a private claim.

Mr. DOOLITTLE. I desire to state simply a fact to the Senator from Ohio, and then let the sense of the Senate be taken on the question whether it is within the rule or not. I understand the facts to be that in the north part of California for several years past we have had some seven or eight companies of United States soldiers at war with some Indians there. They have come at last to an arrangement for peace, the basis of which is that they are to go into the Hoopa valley and live there and be at peace. But in this Hoopa valley there are certain persons residing, our own citizens, who are upon some lands there; and the bill to which this proposition was reported as an amendment a year ago provided for appraising those claims; but from the disturbed state of affairs there it was not carried out. The bill provided that commissioners should be appointed to appraise the claims and they should report to Congress, and then Congress should pass a law on the subject of those claims. But this has occurred since the treaty was made, and now the provision in this amendment is that these lands are to be appraised by the superintendent of Indian affairs, the surveyor general of California, and the agent of the Indians residing in this Hoopa valley; and from all the information I can obtain of those gentlemen, if the judgment of any man in California can be taken on any such question we can take theirs. We limit the whole amount of appropriation not to exceed \$60,000, which is the statement made of the value of this property. Now, here is the difficulty. How can you carry out the arrangement with those Indians and have those settlers still remain in the valley and occupy the land? It is a necessity, as it

seems to me, that this arrangement should be made.

Mr. SHERMAN. That does not reach the point of order at all. The point of order is that this is money due to private individuals. The statement of the Senator from Wisconsin shows clearly that it comes within the rule.

The PRESIDING OFFICER. (Mr. POMEROY.) The Chair will submit the question whether the amendment shall be received to the sense of the Senate.

Mr. CONNESS. I am very much astonished that the chairman of the Committee on Finance should make this objection to this amendment. It is not to pay for a debt due, and therefore it is not a private claim. It is not in the nature of a claim. The main facts were stated by the honorable chairman of the Committee on Indian Affairs. I add this statement as I am particularly acquainted with the whole matter. Under the act which reduced the expenses of Indian affairs in California largely, and which is now rapidly carrying Indian affairs to a basis of self-support in that State, which we expect to reach very soon, it was necessary to abandon certain reservations in that State, and among them is what is known as the Nomee-Lackee reservation, where the lands are of great value. The act providing for the reorganization of Indian affairs in California, to which the Senator from Wisconsin refers, provided for the sale of that reservation. He states exactly the fact when he says that for three years past there has been a war carried on there; no matter of joke at all, but a very severe contest; and the United States have had six companies of regular soldiers employed in carrying on that war. Recently terms of peace have been made, and a treaty with the Indians, by which it was stipulated, or rather said, that if the Indians would give up their arms and submit to the authority of the United States the Government would purchase Hoopa valley, as it was their most immediate locality, for them to reside in. Now, the question is whether we shall make an appropriation to carry out the treaty and bargain made. It is not in the nature of a claim at all. We simply propose to pay the settlers in that valley for the improvements they have made there, and extinguish their title, while we propose to give to the United States the more valuable lands that are being abandoned as reservations. It can in no manner be subject to the Senator's point of order at all.

The PRESIDING OFFICER. The Chair will have the 30th rule of the Senate read.

The Secretary read, as follows:

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

Mr. CONNESS. This is to carry out the terms of an existing law.

Mr. SHERMAN. No.

Mr. CONNESS. I will call the attention of the Senator to the law.

Mr. SHERMAN. Read the law.

Mr. CONNESS. I will, sir.

Mr. SHERMAN. If there is a law making an appropriation, where is the necessity of a new law? If there is a law on the subject, why introduce a bill at this session and send it to the other House? We must enforce the rule in every case, or not enforce it at all.

Mr. HARLAN. This case is about as follows. I think: about a year ago a law was passed by Congress authorizing the Secretary of the Interior to appraise the improvements made on the land by settlers in this Hoopa valley, and to report the appraised value of those lands to Congress, with a view of the purchase of the lands, and with a view of the location of the Indians in that valley. This has not been done. A war has been going on between the Government and these Indians, and, as we are informed by the Department, it has become absolutely necessary for the purpose of preserving peace that they should be immediately located in the valley, perhaps before this appraisement can be made, and be submitted to Congress at its next session; and this amendment offered

by the chairman is to enable the Secretary to buy the improvements.

I might say to the Senator from Ohio that these men own the improvements they have made on this land. They have a right to settle on it under the preemption law, and if not taken by the Government they would have a right when the land is surveyed. I do not know whether they are or not.

Mr. CONNESS. No, sir.

Mr. HARLAN. They would have a right as soon as the lands were surveyed, to enter the lands at \$1 25 an acre. This proposition is to extinguish at once the inchoate right of these settlers under the preemption law; and it is intended that the money shall be refunded so soon as the lands now or hereafter occupied by the Indians can be sold under the law of Congress to which I have referred. The operation of this amendment will be a temporary loan to the Indian department by the Treasury.

Mr. CONNESS. I will now read for the information of the Senator from Ohio from page 43 of the Statutes of the last Congress, the proviso to the second section of an act entitled "An act to provide for the better organization of Indian affairs in California:"

"And provided further, That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction."

The amendment is in exact contemplation of this law and carrying out its provisions; and I beg to say to the Senator that the Treasury will not lose a single dollar of this appropriation. It is true this money is to be now appropriated, but the sale of the lands in Nomee-Lackee reservation, which is to be paid into the Treasury, will pay for it three or four times over.

The PRESIDING OFFICER. The Chair will take the sense of the Senate on the question of order submitted by the Senator from Ohio unless it is withdrawn.

Mr. SHERMAN. It is not withdrawn. I have no doubt at all that this is a private claim intended to furnish money to particular individuals designated and described by the amendment. It is so regarded by the Senator from California, who introduced a bill which has passed the Senate, as I am informed, and gone to the other House; and if we are to put all such bills on appropriation bills I am in despair of ever getting through with this bill in time to pass the tax bill.

Mr. DOOLITTLE. Allow me to state for the information of the honorable Senator—his mind is so much occupied with regard to the business of his own committee that he could not have given attention to this subject—that the bill introduced by the Senator from California embraced matters in relation to all these reservations in California, and it was general in its nature. But here is the point, and herein is where this is not, in my judgment, a private claim: these settlers are now upon the lands in Hoopa valley, unwilling to leave until they are paid. How are you going to get them out? There was a provision under that law last year which provided that the Secretary of the Interior might enter into a contract with them for their improvements, but the contract should not be binding until it came back to Congress. Then the war with these Indians was still going on. Now, as I understand, it has been terminated, with the express understanding that this Hoopa valley should be theirs. They want to go in, and many of them have been taken into this valley already. I do not understand that the Secretary has made a contract for the purchase of the lands, but this amendment provides that, with this \$60,000, he may purchase the improvements of these settlers; but in making that purchase he is to have the superintendent of Indian affairs, the surveyor general of the State of California, and the Indian agent to appraise the property, and \$60,000 is the limit.

Mr. CONNESS. Will the Senator permit me to say in addition, as I do not want to take up time, that this valley has been selected and confirmed by the President of the United States as a reservation, and there is left nothing to do but to appraise the improvements and pay for them; and it has been selected and ratified by the President in pursuance to law.

Mr. GRIMES. I should like to know, if that is so, why this is not a private claim. It seems, according to the statement of the Senator from California, that this Government has entered into a contract with certain individuals residing upon a piece of land, and has agreed to pay them a certain amount.

Mr. DOOLITTLE. No such contract has been made.

Mr. McDougall. If the Senator from Iowa will allow me, it is not a private claim, for this reason: the Government have undertaken to locate the Indians in that valley, and have so treated with them; but they are not in possession of the valley, for legal rights exist there on the part of persons in possession under the preemption laws of the United States. The Government, not having possession of it, cannot carry out its contract or treaty. Therefore it is a matter not for individuals, but for the Government. It is acting directly to furnish the means to the Government officers to carry out its own foregone obligation. That is not a private claim. It is merely giving power to the Government to perform obligations already contracted.

Mr. GRIMES. Admitting it to be a fact that the President, or any one of his subordinates, has made an express contract with the parties who are in possession of these lands to pay them for their improvements, I think this state of facts is agreed on all hands: that a portion of the public domain was occupied by certain settlers upon it who had made improvements; those settlers claim to be reimbursed for the value of those improvements; and we are told they refuse to leave the public domain and surrender their possession until they are reimbursed. It is asserted by the Senator from California, [Mr. CONNESS,] and by others, that these persons who have made the improvements refuse to leave until what they say is their valid subsisting claim against the Government for their improvements shall have been paid to them; and now it is proposed by the proposition under consideration to pay those claims for improvements. If it is not a private claim I do not know what is.

Mr. CONNESS. It is not a private claim in any sense. The United States have undertaken to locate a reservation for public uses. They have accomplished that. The act has been ratified by the President. A part of that business, in pursuance of law, is yet to be done. What is it? The appraisement of the value of the improvements there is to be ascertained. This is an appropriation asked to meet that appraisement when it shall be made in pursuance of public policy and law. Senators in their anxiety to oppose this, raise a point of order that it is a private claim which ought to go into the Court of Claims or to the Committee on Claims. I think it is not in any sense a private claim.

Mr. McDougall. The Government undertook to locate the Indians on this land, assuming that the Government would be able to relieve the valley from their presence. The obligation is charged on the Government. Individuals are not coming here and claiming \$60,000, but it is an appropriation asked to enable the Government to carry out its own action. It is not a private claim, and cannot be so denominated in any proper sense.

Mr. GRIMES. Let me ask what is to be done with the money sought to be appropriated by this amendment? Is it not to go to pay claims of the individuals settlers on this reservation? If it be not to pay for those claims, why do they ask for an appropriation?

Mr. McDougall. Does that make it a private claim? Of course all the money that is appropriated by this Government in any bill is to pay some existing obligation or some anticipated obligation on the part of the Government. John Smith, and John Doe, and Richard Roe do not in this instance come here claiming anything, but the Executive Department of the Government having done certain things, ask that they may be enabled to carry out their contracts in good faith, and to put in possession of this land the Indians to whom they promised possession. The land there is possessed by citizens of the United States who have rights of property, and the appropriation is to pay them for surrendering those rights, like all appropriations are made to pay somebody. It is for a public purpose, to carry out a public contract for the public good, and does not

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go to individuals, but goes to the administration of the Government for the purpose of carrying out a Government contract.

**THE PRESIDING OFFICER, (Mr. POMEROY.)** The Chair will take the sense of the Senate whether this amendment shall be received under the rule.

**Mr. McDUGALL** asked for the yeas and nays; and they were ordered, and being taken resulted—yeas 22, nays 10; as follows:

**YEAS**—Messrs. Chandler, Collamer, Conness, Dixon, Doolittle, Farwell, Foot, Foster, Harlan, Henderson, Hendricks, Lane of Kansas, McDougall, Nesmith, Nye, Ramsey, Richardson, Riddle, Ten Eyck, Van Winkle, Wilson, and Wright—22.

**NAYS**—Messrs. Anthony, Brown, Grimes, Hale, Howe, Morrill, Pomeroy, Sherman, Sprague, and Willey—10.

**ABSENT**—Messrs. Buckalew, Carlile, Clark, Cowan, Davis, Harding, Harris, Howard, Johnson, Lane of Indiana, Morgan, Powell, Saulsbury, Stewart, Sumner, Trumbull, Wade, and Wilkinson—18.

So the Senate decided to receive the amendment.

The amendment was agreed to.

**Mr. DOOLITTLE.** I now move the following amendment for the Shoshonees of Ruby valley, to come in on page 46, after line eleven hundred and thirteen:

Western bands of Shoshonees:

For the first of twenty installments in such articles, including cattle for herding or other purposes, as the President shall deem suitable for their wants and condition either as hunters or herdsmen, per seventh article of the treaty of October 1, 1863, for the fiscal year ending June 30, 1865, \$5,000.

For the second of twenty installments for the same objects for the fiscal year ending June 30, 1866, \$5,000.

**Mr. SHERMAN.** I should like a little explanation. This is not included in the estimates.

**Mr. DOOLITTLE.** I understand that it was by mistake omitted in the estimates. There were four of these treaties; one with the eastern Shoshonees, one with the northwestern bands, one with the western Shoshonees, and one with the Goshop bands of Shoshonees—treaties which were negotiated by the Senator from Nevada [Mr. NYE] in association with the superintendent of Utah. These items were not in the estimates, but the Secretary of the Interior sent in a communication from the Commissioner of Indian Affairs with his recommendation.

The amendment was agreed to.

**Mr. DOOLITTLE.** I offer the following amendment for the Territory of Montana, to come in after line twelve hundred and eighty-four, on page 53:

To enable the Secretary of the Interior to negotiate a treaty with the Black Foot and other tribes of Indians to relinquish so much of their reservation as lies south of the Missouri river, \$15,000.

**Mr. SHERMAN.** I ask for the yeas and nays on that. It is for another Indian treaty. I shall not take time on it.

The yeas and nays were ordered.

**Mr. DOOLITTLE.** I do not know but that it is a misfortune that our country is extending as it is, and our Territories are being opened as they are; but within a few years the Congress of the United States have organized a large number of Territories, and the discovery of the mines in all those Territories, and perhaps, too, the existence of war in the United States, led thousands of men to go into them. Perhaps many men have not gone for the purpose of escaping the draft, but they find them to be very convenient places when the drafts occur in the States. I have no doubt that some are there for that reason. All these facts have thrown a large emigration into the Territories, and they are going in among the Blackfoot Indians, and the Assiniboin. These Indians are of a very different character from some Indians lower down. They live in the higher regions; the colder regions. They are stronger men, and bolder men, and more difficult men to deal with if you get engaged in a conflict with them.

**Mr. President,** it is a question of economy as well as a question of duty, in my judgment, whether we shall not by the expenditure of a small amount of money induce the Blackfoot In-

dians in the Territory of Montana to come across the Missouri river and occupy the country which is on the north side of the Missouri river. These Blackfeet and the Assiniboin range from the British possessions on the north down into our Territory of Montana, mingling up with the miners and citizens who are going into that Territory, exposing us to constant danger of conflict, and you may have Indian wars on your hands growing out of the fact that the miners rush into the valleys and take possession of the fertile spaces, open the mines, and you cannot resist it. The Government may as well acknowledge the facts that it cannot control. I say there are laws governing this emigration, like the laws of trade or the laws of the winds or the laws of the seas, that human legislation cannot control. We must recognize these great facts. It is our growth, our development, our being brought in contact with these great tribes, that compels the necessity of entering into some kind of arrangement. I am not in favor of negotiating a treaty providing for paying to them money, but for inducing them by offices, by something in the shape of agricultural implements if you please, presents, or whatever you will, to keep the peace and persuade them to go to the north side of the Missouri river. There is country enough for them there.

I hold in my hand a letter of the Secretary of the Interior which recommends this appropriation in the very strongest terms. It is, however, a question for the Senate to decide. If we do not make any arrangements of this sort we must run the chance of difficulty with the Indians, and we must run the risk of an Indian war and its attendant expenses. I think you can negotiate with them at a great deal less expense than you can fight them. There is not much honor in Indian wars at any rate.

**Mr. SHERMAN.** We have been negotiating with the Indian tribes for about fifty years, and every year we have an Indian war. The more treaties we have with them, the more wars. The question with me is where the poor Indian will go. You make a treaty with him to have him go west of a range of mountains, and next year a treaty to make him go still further. The scheme ought to be abandoned. It has been discussed often in the Senate, and I think a majority of the Senate are opposed to any further treaties with Indian tribes. I simply want a vote to be taken by yeas and nays, and if the Senate are in favor of authorizing new treaties, as a matter of course I shall make no further resistance, and the Senator may have as many treaties made next year as he chooses.

**Mr. DOOLITTLE.** The Senator from Iowa [Mr. GRIMES] asks me how many bands of Indians we propose to treat with. There are four, the names of all of which I cannot pronounce. One is the Blackfeet proper. I do not profess to know all these Indian names, but there is a very large number of them, and they are a really powerful set of men; and I think it better to have peace with them and to negotiate. Men with provisions in their hands will secure peace much more readily with Indians than men wearing blue coats and carrying swords and guns. I am satisfied of that. The undertaking, by means of warfare, to have peace with the Indians, is not the best policy. Sometimes, it is true, it is necessary to show your power, to let them know that you have power, but as a general rule it is much better to negotiate and feed them rather than fight them. Our people are rushing into Montana. You cannot hinder their going there. By organizing the Territory you in substance invited them to go there and develop it. You are projecting railroads through it. Our people are on their way there, and they flow there from all those laws which control human events and human action, like, as I said, the laws of nature.

**Mr. HARLAN.** I desire the attention of the chairman of the Committee on Finance to one fact. These Indians claim to have a right to all that country. I believe no treaty has been made extinguishing their title or supposed title to any of it. The white people who are going in there

are all trespassers on their right, as they understand, and it is a right that we have recognized heretofore—not a right to the soil in fee simple, but a right to the use and occupancy of the land. Heretofore we have extinguished this claim of theirs, which we have admitted to be valid, by entering into a contract with them to abandon certain portions of it for the use of white people who may desire to settle near them. I understand the Senator from Ohio proposes to prohibit all treaties hereafter being made with any of the Indian tribes. I desire consequently to be informed by him by what process he will propose hereafter to extinguish their supposed right to the use of the lands.

**Mr. SHERMAN.** I do not want to enter into a discussion of this Indian question now; but my own idea is that the control of Indian affairs ought to be put on an entirely different basis, that they should be gathered into reservations by a general system; that in the States they should be put under the State governments, leaving to the State governments their regulation, and in the Territories they should be put on reservations under some general system of discipline, and they should be protected and defended for the time being. I object to making treaties with them, to treating these wandering Indian bands as independent Powers. I have no objection to providing the necessary food and clothing, care, maintenance, and nurture for them; I have no objection to gathering them into reservations; but the idea of treating them as independent nations ought to have been abandoned years ago. I believe that is the conclusion of nearly all those who have had much experience in our Indian affairs, and I believe it is the opinion of the honorable Senator himself. I object to continuing treaty stipulations which are made sometimes without reflection and without supervision, and which we are compelled subsequently to carry into execution, although the Indians themselves disappear.

**Mr. HARLAN.** The question is not as to the policy that ought to be adopted in relation to the Indians. I have no doubt that their possessory right ought to have been extinguished to a part of the soil before the territorial governments were organized. Unfortunately this was not done. Congress in its wisdom proceeded to organize territorial governments embracing the Indian lands without first having extinguished their title. That they ought to be gathered together on smaller portions of land I believe is conceded by all. How are they to be collected? You have to treat them as rational beings with volition, or as animals. You must either run them down and by physical force collect and confine them on the reservations, or you must induce them to go, persuade them to go, make them believe that it is their interest thus to abandon a part of their lands and collect together on smaller tracts of country. What are denominated treaties with the Indians are nothing more nor less than bargains made by the Government agents with the Indians that the Indians will abandon their supposed right to a portion of the land and take something as a consideration. I do not know of any other way of accomplishing this end unless we attempt to run them down by the employment of soldiers and others as we run down wolves and other wild animals. How can you induce them to go on to these reservations voluntarily unless you make them feel that it is their interest to go? How can you make them feel that it is their interest unless you treat them as voluntary agents, people who have wills of their own, who must be consulted in any arrangement of this kind? If they are to be consulted as to where they will go and the part of their country they will abandon to the occupancy of white people, and we do thus consult them and write down the result of this understanding, it becomes in the common legal parlance of the country a treaty with that particular Indian tribe; and that is all there is of it. This amendment proposes to make a small appropriation to enable the proper agents of the Govern-



ment to enter into an arrangement with the Indians in Montana Territory to abandon a part of it for the use of white people and to occupy by their tribes a smaller portion of the whole of the Territory. I know of no other way of doing it. If this is not done they will, of course claim that they have a right to go everywhere and occupy the whole of it, and conflicts will grow up between them and the white people.

The question being taken by yeas and nays, resulted—yeas 27, nays 9; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Davis, Dixon, Doolittle, Farwell, Harlan, Harris, Henderson, Hendricks, Howe, Lane of Kansas, McDougall, Morgan, Nesmith, Nye, Pomeroy, Powell, Ramsey, Riddle, Sumner, Van Winkle, Wade, Wiley, Wilson, and Wright—27.

NAYS—Messrs. Anthony, Brown, Foot, Foster, Grimes, Lane of Indiana, Sherman, Sprague, and Ten Eyck—9.

ABSENT—Messrs. Carlile, Clark, Collamer, Cowan, Hale, Harding, Howard, Johnson, Morrill, Richardson, Saulsbury, Stewart, Trumbull, and Wilkinson—14.

So the amendment was agreed to.

Mr. DOOLITTLE. Our committee has received a communication from the Secretary of the Interior, in which he states that by mistake an omission was made in the regular estimates in relation to the insurance and transportation of goods and provisions for the Flathead Indians. His letter is here and can be read if desired. I offer in conformity with it this amendment, to come in on page 39, after line nine hundred and twenty-eight:

Insurance and transportation of annuity goods and provisions for the Flathead Indians, per fifth article of treaty of July 16, 1855, for the present fiscal year, \$11,920 41.

Insurance and transportation of annuity goods and provisions, per fifth article of the treaty of July 16, 1855, for the fiscal year ending June 30, 1866, \$11,920 41.

The amendment was agreed to.

Mr. DOOLITTLE. The next amendment is to come in after line four hundred and twenty-four, on page 18:

Omnibus:

For pay of miller and assistant miller, farmer, blacksmith, and assistant; for iron and steel; supplying smith shop with tools, and keeping the same in repair; keeping in repair grist and saw-mill; and for pay of engineer and assistant engineer for the fiscal year ending June 30, 1866, \$3,840: *Provided*, That all tolls or profits arising from the working of the mill or shops shall be accounted for to the agent and by him applied to the use and benefit of said Indians.

The amendment was agreed to.

Mr. DOOLITTLE. I move to insert after line four hundred and thirty-six, on page 19:

Quotes and Missourians:

For pay of miller, blacksmith and assistant, and for iron and steel for smith shop; for pay of farmer; for repair of grist and saw-mill; supplying smith's shop with tools, and keeping the same in repair; and for pay of engineer, \$3,840: *Provided*, That any tolls or profits arising from the working of the mill or shops shall be accounted for to the agent and by him applied to the use and benefit of said Indians.

Mr. BROWN. I should like to inquire of the chairman of the Committee on Indian Affairs whether the provisions of the treaty with those Indians in regard to a miller, &c., have not expired.

Mr. DOOLITTLE. The provision in the treaty has expired, but the mill is still there for the benefit of the Indians, and this appropriation is recommended by the Secretary of the Interior, and I have no doubt it is a wise appropriation. It is not a very large one. It is to keep this mill going for the benefit of these Indian tribes, although the treaty requiring it has expired. We are not now compelled to keep up the mill, but it is there, and perhaps it is better for us to continue it.

The amendment was rejected.

Mr. DOOLITTLE. The next amendment is to insert after line six hundred and ninety-nine, on page 29:

For the payment of goods purchased for the Winnebagoes, Mississippi Sioux, and Yankton Sioux, to replace those lost by the burning of the steamer Welcome, at St. Louis, on the 15th of July, 1864, \$54,771 83; and to replace the goods destroyed for Indians in New Mexico which were burned on the steamer Welcome at St. Louis on the 15th of July, 1864, \$2,745 83; and to replace the goods destroyed for Indians in the Territory of Utah, which were burned on one of the wagons transporting the same from Nebraska City to Utah, on the 22d of August, 1864, \$6,331 38: *Provided*, however, Any moneys to be recovered for insurance upon said goods shall be refunded to the Treasury of the United States.

The facts are, as appears to the committee and as is stated by the Commissioner of Indian Affairs and the Secretary of the Interior, that on the 15th of July last, at St. Louis, the steamer Welcome was burned, with goods amounting to \$64,086.

They were insured, and protest was duly made, and the wreck being taken possession of by the underwriters, a considerable amount of property was recovered, and the sum of \$9,314 72 has been received at the Indian Office on account of the loss. A demand for reimbursement of the balance was made on the insurance company, and upon failure to comply with the demand suit was commenced.

Mr. GRIMES. Where was the property insured?

Mr. DOOLITTLE. In the city of New York, I am informed; I do not know the name of the company.

The amendment was agreed to.

Mr. DOOLITTLE. The committee instruct me to offer the following amendment, as an additional section:

*And be it further enacted*, That the Secretary of the Treasury is authorized to pay in gold and silver coin such of the above annuities as may be necessary to fulfill the treaty obligations of the United States to the friendly Indians, upon specific requisitions made upon him by the Secretary of the Interior for the same, with the approval of the President.

Mr. SHERMAN. I move to amend that by inserting, "wherever by said treaties the money is to be paid in coin." The appropriation is in coin now made in such cases, I believe, and therefore this section is not necessary.

Mr. DOOLITTLE. I accept the modification.

Mr. SHERMAN. I think that in all cases where there is a specific requirement to pay in coin, the money is so appropriated by this bill.

Mr. DOOLITTLE. All I ask is that where you agreed to pay in coin you shall pay in coin; but the provisions of the bill as it is do not allow it to be done.

The amendment, as modified, was agreed to.

Mr. DOOLITTLE. I move the following as an additional section:

*And be it further enacted*, That to provide for the usual distribution of medals among the chiefs of the Indian tribes, \$5,000 is hereby appropriated.

The amendment was agreed to.

Mr. DOOLITTLE. There is an amendment proposed by the Secretary of the Interior to which I would especially call the attention of the Senators from West Virginia. There is no appropriation of money in it. It authorizes the Secretary of the Interior to enter into arrangements with the State of West Virginia to exchange with her her share of the bonds of old Virginia that are held by the Government. The amendment is to add as an additional section:

*And be it further enacted*, That the Secretary of the Interior is hereby authorized to surrender to the State of West Virginia the bonds and obligations of the State of Virginia held by the Secretary of the Interior in trust for various Indian tribes, for a like amount of the obligations of the said State of West Virginia, to be issued in accordance with the eighth clause of the eighth article of the constitution of West Virginia.

Mr. WILLEY. Of course that imposes no obligation on the State of West Virginia now. It only authorizes an arrangement to be made. A little reflection will convince the Senator from Wisconsin that it would be entirely nugatory at this time. West Virginia proposes at a proper time to assume an equitable proportion of the public debt of Virginia. She has bound herself to do so by her fundamental law, and it is right and proper that she should discharge that obligation; but what her due proportion is cannot be ascertained at this time. There must be an arrangement with the State of Virginia; there must be some process resorted to for the purpose of adjusting what will be the equitable share of the public debt of West Virginia. The amendment at this time will amount to nothing practically, and I respectfully suggest to the Senator from Wisconsin whether it is necessary for him now to offer it. I should have been glad to have been advised of the intention to do so. It is sprung upon us just at this moment without notice. I remember very well the provision in the constitution of West Virginia, and know very well that West Virginia proposes to pay and discharge her proper share of the public debt of Virginia; but no arrangement has been made between the State of West Virginia and the State of Virginia for the purpose of ascertaining what that just share of the public debt of Virginia will be. It cannot now be ascertained; but when it is so ascertained it is very likely the Senator from

Wisconsin will find it proper to modify the legislation which he now proposes to adopt. There can be nothing gained on the part of the United States Government by present action on the matter, that I can see.

Mr. VAN WINKLE. In addition to what my colleague has said, I will state I have just seen a report of the Secretary of the Interior sent to the House of Representatives and laid on our tables to-day. I think it rather remarkable that neither the Secretary of the Interior nor the chairman of the Committee on Indian Affairs should have thought it worth while to ask us something about this question. I was going to say that I perceive in that report that the United States hold not only bonds of the State of Virginia for which we might be in some sort implicated under this provision of our Constitution, but certain guaranteed bonds of the State of Virginia. With these of course we have nothing to do until the remedy against the parties making them has been exhausted. I notice a certain amount of bonds of the city of Wheeling, which I believe were guaranteed by the State of Virginia, and were secured by a pledge of stock of the Baltimore and Ohio Railroad Company. Of course we shall never have anything to do with them.

I will state further that we proposed in our constitution to pay an equitable proportion of the debt of the State of Virginia. The debt on the 1st of January, 1861 was perhaps forty million dollars, of which considerably upward of thirty millions had been contracted for the construction of railroads and the James river canal, and other internal improvements. After we had separated from old Virginia and came to look about us we found that there was not within the whole territory of West Virginia one mile of railroad, one mile of canal, a single public building, or anything of the kind, for which any portion of the debt had been issued. All we have there is a few dirt turnpikes and a very insufficient and common canal, indeed a mere sluice navigation on a part of the Big Kanawha river. The gentleman and the Secretary of the Interior may calculate how much of that thirty or forty millions our equitable proportion would be.

Mr. DOOLITTLE. I had no purpose to press the passage of this amendment if it was opposed by the gentleman from West Virginia. It contains nothing but a provision authorizing the President to enter into that negotiation when the State of West Virginia shall be ready to do it. I do not suppose it is of any great practical moment to pass it at this session; but it is supposed that before any arrangement can be made by the United States, which holds some of these bonds in trust for the Indians, we must give authority to the President to make the arrangement. I will not insist upon it against the objection.

Mr. VAN WINKLE. If we are liable for any portion of the State debt, we are liable only for our proportion; and most certainly we shall make no arrangements to pay any holders anything if they are not able to give us a release on paying our equitable proportion of the whole debt. I think, therefore, any legislation on the subject at this time is perfectly nugatory. Until the State of Virginia is in a situation to appoint commissioners to meet commissioners from our State and settle what that debt will be it is utterly impossible to do anything.

Mr. DOOLITTLE. I withdraw the amendment.

The VICE PRESIDENT. The amendment is withdrawn.

Mr. DOOLITTLE. I offer an amendment in relation to the Stockbridges and Munsees of Wisconsin that does not contain any money appropriation. It is to add, as an additional section:

*And be it further enacted*, That each of the chiefs, warriors, and heads of families of the Stockbridge and Munsee tribes of Indians residing in the county of Shawano and State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of an act entitled "An act to secure homesteads to actual settlers on the public domain," approved March 20, 1862, free from any fee or charge whatever. Any part of the lands being a part of their present reservation, which may be abandoned under the foregoing provisions, may be sold under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on said homesteads to aid them in improving the same. The said homestead thus secured shall not be subject to any tax-levy or sale whatever, nor shall the same be sold, conveyed, mortgaged, or in any manner encumbered, except upon the decree of the dis-

strict court of the United States as hereinafter provided. Whenever any of the said chiefs, warriors, or heads of families of said tribes, having filed with the clerk of the district court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations within any Indian tribe, two years prior thereto shall appear in said court and prove to the satisfaction thereof, by the testimony of two citizens of the United States, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs—the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties of other citizens of the United States; but nothing herein contained shall be construed to deprive them of annuities to which they are or may be entitled.

Mr. HENDRICKS. Mr. President—

Mr. DOOLITTLE. I will say to the Senator from Indiana that if there is any opposition to this measure, I shall not insist on its going upon this bill. I will state to the Senator from Indiana that the reason why I offer the amendment here is, that the measure has been pending before the House of Representatives, and unable to pass there. It is a question of legislation, it is true, in relation to the Stockbridge tribe of Indians in the State of Wisconsin. They are a tribe very far advanced in civilization. By an arrangement which was formerly made with them the reservation which was made for them on Lake Shawano is a very poor reservation, and this authorizes them to go and take homesteads like other settlers, and there is also a provision which, I admit, is in the nature of legislation rather than appropriation, which provides that on their proving certain things they may become admitted citizens of the United States, and cease any longer to be members of Indian tribes. I did not wish to present them to raise discussion, nor will I press it to a vote if it is resisted.

Mr. HENDRICKS. I do not rise with a view of opposing it, but to make some inquiry of the chairman as to its merits. It seems to me that it is a measure which ought to be considered by some other committee as well as the Committee on Indian Affairs. It is a modification of the homestead law, and in that respect it ought to go to the Committee on Public Lands. It also relates to a question of citizenship, which I think ought to go to the Judiciary Committee. But if the Senator will declare that his committee have so thoroughly examined it in connection with the land system, which I know from his location he is familiar with, as to say it is all right, I am not going to interpose an objection.

Mr. DOOLITTLE. I have no doubt the provisions are all right as applied to these Indians. The only objection I see is that it is something in the nature of legislation on an appropriation bill, which I desire as much as possible to avoid. If there is no objection to it, I would like to have it passed.

Mr. SHERMAN. I hope the Senator from Wisconsin will proceed as rapidly as possible. I have given way on the tax bill for the Indian bill. I have no objection to this amendment if the Senator desires it to be put on, but I know nothing about it. I hope he will press forward, as time is very precious.

Mr. HENDRICKS. I ask the Senator from Wisconsin what consideration this measure has received; how thoroughly has it been examined by his own committee in connection with the question of the public lands to which it relates in part?

Mr. DOOLITTLE. It has been discussed several times in our committee, and so far as I know meets the unanimous approval of the committee.

Mr. HARLAN. It will not affect the homestead law at all, except in relation to these particular Indians. There are very few of them. They are pretty well civilized. Their annuities have all expired, except about five hundred dollars to the whole tribe, payable annually. They have settled on a piece of land that is very poor, and on which it is impossible for them to make a living. This is to enable them to get land they can cultivate.

Mr. HENDRICKS. I see the chairman of the Committee on Public Lands understands the measure and approves it. Of course I shall make no opposition.

The amendment was agreed to.

Mr. DOOLITTLE. On page 19, after line four hundred and thirty-six, I move to insert:

For the balance due the confederated tribes of the Kaskaskias, Peorias, Weas, and Piankeshaws, arising from the sale of their trust lands by William Brindall, late receiver of the land office, as reported by the Commissioner of the General Land Office held by said late receiver Brindall, unaccounted for and not deposited in the United States Treasury, \$6,818 30: *Provided*, That when said sum shall be received it shall be paid into the Treasury of the United States.

Mr. SHERMAN. I ask the decision of the Chair if that is not a private claim.

Mr. DOOLITTLE. The Senator from Iowa has given his special attention to this, and will explain it.

Mr. SHERMAN. I make no objection to it, but simply wish to know whether it is a private claim.

Mr. HARLAN. It is not a private claim. It is an amount of money due by the Government to these Indians for their land held in trust for them. This portion of the proceeds of sale has been held by the receiver, and which he claims is due to him for extra services, and the Government has not yet recovered it from him; but it is due to the Indians, and the Committee on Indian Affairs propose that it shall be taken from the Treasury temporarily, and if the Government recovers it from him the money will go into the Treasury.

Mr. SHERMAN. I think it is a private claim. It is for the Chair to decide.

Mr. DOOLITTLE. This money belonged to these Indians by treaty. The lands were to be surveyed and sold, and the proceeds go to the Indians. This man whom we have employed pockets the money, and what is to be done with the Indians? That is the question.

The VICE PRESIDENT. In the impression of the Chair it is not a private claim within the meaning of the rule. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOOLITTLE. I will now present an additional section in relation to the clerical force of the Indian Office, which, upon the statement of the Secretary of the Interior, reduces, in fact, the expense of the clerks in the office by \$3,200. It is a reorganization of the clerks.

Mr. SHERMAN. The Committee on Finance have examined that matter thoroughly, and rejected it already. There has been a proposition to reorganize several bureaus of the Treasury Department. All are postponed to the next session by the action of a committee of conference. I trust, therefore, this will not be acted on.

Mr. DOOLITTLE. If the Committee on Finance have rejected it, I shall not insist on its passage; but these papers were handed to us with no information that they had been considered by that committee, and as it appeared to be a better organization of the Indian Office than now exists, and costs less money, our committee recommended it.

Mr. SHERMAN. It increases the grade of clerks, and we were not prepared to act now.

Mr. DOOLITTLE. I shall not press the amendment if the Committee on Finance have discussed this question in committee and rejected it, because it would raise a question for discussion and division upon a matter which is not of sufficient importance. I therefore withdraw the amendment. I was not aware of the fact that it had received any consideration in that committee. I now offer another amendment. I am not, in my own mind, quite clear whether it can be objected to on the ground taken by my friend from Ohio as a private claim or not. I will state precisely what it is. In 1856—

Mr. GRIMES. Let it be read first.

The Secretary read the amendment, as follows:

Insert at the end of page 18:

For refunding to Jacob White Crow, and others, the trustees or stewards of the Wyandotte mission of the Methodist Episcopal Church of the Wyandotte nation of Indians in Kansas, for the destruction of their church buildings, parsonage, and library, \$9,000, to be applied in the rebuilding of said building and improvement of said parsonage for the use of the said Wyandotte tribe of Indians.

Mr. DOOLITTLE. These church buildings and parsonage belonging to this mission of the Wyandottes were on their lands in the State of Kansas. We were under treaty stipulations with them to prevent them from being depredated upon by the whites. The border ruffians went in there

and burned them down, and they have been from that day to this deprived of them, and the money honestly belongs to them and should be paid. They are not our own citizens, private individuals making claims against the Government; they stand in the nature of an Indian tribe through their stewards representing their mission. I state just the facts.

Mr. POMEROY. I know very well the facts of which the Senator from Wisconsin has spoken. The treaty was not made when Kansas was a State, but when we were a Territory. When I first went there I found these Wyandottes the most loyal and radical anti-slavery men I could find anywhere, and they incurred early the hostility of the pro-slavery party, who came over there and burned their church. That is a simple statement of the facts. I have always hoped and prayed that the time would some time come when they could be recompensed. They suffered immeasurably, as we all did, but on account of there being treaty stipulations with them, it was thought the Government should pay them for their church.

Mr. GRIMES. Is not this a private claim?

The VICE PRESIDENT. In the opinion of the Chair it is a private claim.

Mr. GRIMES. Then it comes within the rule, and cannot be received.

The VICE PRESIDENT. It was not for the Chair to raise the question.

Mr. SHERMAN. I do not want to stand here as a perpetual objector. I am disposed to let the Senator from Wisconsin put on this bill, if he desires, all the Indians and all the burnt houses and burnt churches. I do not want to raise any objection, because I know one or two of this Indian tribe, and they are worthy people, and I know something about these depredations because I happened to be in Kansas at the time they were committed.

Mr. DOOLITTLE. I do not look upon it as a private claim.

The VICE PRESIDENT. In the opinion of the Chair it is a private claim, but it will be received if there be no objection.

Mr. GRIMES. I object.

The VICE PRESIDENT. Objection being made, the Chair must rule that it is a private claim, and therefore the amendment cannot be received.

Mr. DOOLITTLE. I move to insert after line twelve hundred and seventy-six, on page 53, these words:

All that part of the public domain in the Territory of Arizona lying west of a direct line from Half-way Bend to Corner Rock, on the Colorado river, containing about seventy-five thousand acres of land, shall be set apart as an Indian reservation for the Indians of said river and its tributaries.

The amendment was agreed to.

Mr. DOOLITTLE. I will state to my honorable friend from Ohio that there were two other propositions in relation to this appropriation bill as to which the Committee on Indian Affairs have not determined precisely upon the amount they will propose to offer as amendments. We supposed the bill would come up to-morrow morning, and this morning our committee had a meeting and concluded upon the various propositions which have been offered, and they were compelled to offer so many amendments from the fact that these matters were not acted upon in the other House. There is one other amendment in relation to refugees in the Indian territory and one in relation to Arizona which I am not prepared to offer.

Mr. SHERMAN. I hope this bill may be closed to-night. I gave way on the tax bill to take up this bill, so that it might be got ready for enrollment. We are now so near to the close of the session that we must look at the clerical labor of preparing the bills. I hope, therefore, the Senator will offer his amendments and let us act on the bill now.

Mr. DOOLITTLE. There is one other amendment which I will offer now:

For balances due claimants under the third article of the treaty of September 10, 1853, with the Rogue river Indians for improvements made by the claimants on the Indian reserve, \$814 82.

Mr. SHERMAN. Is not that a private claim? If so, I object to its going on the bill. If it is not, I have nothing to say.

Mr. NESMITH. I beg to call the attention of the Senator from Ohio to the third section of the treaty of September 10, 1853, which provides

for the payments of these particular claims. It was provided in the treaty that \$5,000 of the fund should be appropriated to pay these claims, and I have a report of the Secretary of the Interior which shows that \$2,836 25 has been paid.

Mr. SHERMAN. It is still money due to private individuals, and I take it, therefore, the amendment is not in order.

Mr. NESMITH. I call the attention of the Senate to the language of the treaty under which this obligation arises:

"And for the payment of such permanent improvements as may have been made by land claimants on the aforesaid reserve, the value of which to be ascertained by three persons appointed by the said superintendent."

This provision is in the treaty of September 10, 1853, with the Rogue river Indians. The Secretary of the Interior sends us a report showing that \$2,836 25 has been appropriated and paid *pro rata*, and that there has not been a sufficient sum appropriated to carry out the provision of the treaty. The language of the rule is that "no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation." The treaty stipulation is plain; it provides for these identical cases. The Secretary of the Interior recommends the payment, and the Committee on Indian Affairs have reported favorably upon it, so that it comes completely within the exception contained in the rule.

The VICE PRESIDENT. The Chair thinks the amendment is in order. It is to carry out a treaty stipulation.

The amendment was agreed to.

Mr. GRIMES. I understand that the chairman of the Committee on Indian Affairs wants a little time to prepare his other amendments, and as we have but about ten minutes left before the recess, I propose to take up some bills on the table which have come from the House of Representatives.

Mr. SHERMAN. I object to anything taking the place of this bill. We have got this bill and the tax bill before us, and I insist upon going on regularly.

Mr. DOOLITTLE. I appeal to the Senator from Ohio to allow this bill to lie over informally until after the recess. The truth is, as I stated, it was forced on us within a day or two, and we have been devoting day and night to it.

Mr. SHERMAN. I move, then, that the Indian appropriation bill be postponed till to-morrow. I cannot allow it to interfere with the tax bill to-night.

The VICE PRESIDENT. The Chair asks the indulgence of the Senate to state that there are several House bills on the table which have not been referred.

Mr. SHERMAN. Let them be disposed of.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 4, 1864, was read twice by its title, and referred to the Committee on Commerce.

The following bills were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 535) to regulate the appointment of admirals and for the appointment of certain volunteer officers to the regular Navy;

A bill (H. R. No. 605) to increase the pay of midshipmen and others;

A bill (H. R. No. 801) to amend certain acts relating to the naval service, and for other purposes; and

A bill (H. R. No. 803) to revive in part the act approved March 3, 1857, making appropriations for the naval service for the year ending June 30, 1858.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, in reply to a resolution of the Senate of February 14, transmitting a communication from the Sec-

retary of War forwarding a copy of the report of the court of inquiry in respect to the explosion of the mine in front of Petersburg.

The message was ordered to lie on the table and be printed, and a motion of Mr. HARRIS to print five thousand additional copies was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, copies of the accounts of the superintendent of Indian affairs, and agents having charge of the Refugee Creek, Choctaw, Chickasaw, and Seminole Indians, for the fourth quarter of 1864; which was referred to the Committee on Indian Affairs.

#### ACCEPTANCE OF PRESIDENT LINCOLN.

Mr. TRUMBULL, from the joint committee of the two Houses appointed to wait upon Abraham Lincoln, of Illinois, and notify him of his election as President of the United States, reported that the committee had performed the duty assigned them, and that the President-elect, in signifying his acceptance of the office to which he had been chosen by the people, said:

"Having served four years in the depths of a great and yet unended national peril, I can view this call to a second term in nowise more flatteringly to myself than as an expression of the public judgment that I may fitter finish a difficult work in which I have labored from the first, than could any one less severely schooled to the task. In this view, and with assured reliance on that Almighty Ruler who has so graciously sustained us thus far, and with increased gratitude to the generous people for their continued confidence, I accept the renewed trust with its yet onerous and perplexing duties and responsibilities."

#### PAUL S. FORBES'S CONTRACT.

The joint resolution (H. R. No. 176) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war, was read twice by its title.

Mr. GRIMES. The Senate a few days ago passed a resolution in the precise words of this and sent it to the House of Representatives, but the House, instead of acting on our resolution, took and passed the one reported by the Naval Committee of the House and have sent us a transcript of the one we sent to them. I ask to have it put on its passage now.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. No part of the \$250,000 is to be paid without the assent in writing of Forbes's sureties, and the payment is not to affect or vary the contract except as to the time of making the payment.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### NAVAL JUDGE ADVOCATE.

The bill (H. R. No. 800) to establish the office of Solicitor and Naval Judge Advocate was read twice by its title.

Mr. GRIMES. That is in the same category with the joint resolution just acted on, except that the House bill fixes the salary at \$3,500 instead of \$4,000, as provided by the Senate bill. I ask for the consideration of the bill at this time.

By unanimous consent, the bill was considered as in Committee of the Whole. It provides for the appointment, for service during the rebellion and one year thereafter, of a Solicitor and Naval Judge Advocate General for the Navy Department at an annual salary of \$3,500. It also provides, that the fees for records in naval courts-martial shall not in any one case exceed \$200.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### POSTAL LAWS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill of the Senate (No. 390) relating to the postal laws, disagreed to by the Senate and insisted on by the House; and,

On motion by Mr. COLLAMER, it was

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill insisted on by the House, and agree to the further conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. COLLAMER, Mr. STEWART, and Mr. POMEROY.

#### CRIMINAL PROCEEDINGS.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill of the Senate (No. 88) regulating proceedings in criminal cases and for other purposes; and,

On motion by Mr. TRUMBULL, it was Resolved, That the Senate agree thereto.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 169) to provide for the publication of a full Army Register, and an enrolled bill (H. R. No. 772) to provide ways and means to support the Government.

#### ARMY PAY DEPARTMENT.

Mr. SPRAGUE. I now move to take up Senate bill No. 419. It was amended, and we had reached the question of its passage, upon which the yeas and nays were ordered.

Mr. DOOLITTLE. Let it be taken up by unanimous consent, not displacing the Indian appropriation bill.

Mr. SPRAGUE. The bill to which I have called attention is a bill for the better organization of the pay department of the United States Army. It was reported unanimously from the Committee on Military Affairs, has been amended in the Senate, and all that is required to dispose of it is a vote by yeas and nays on its passage.

The VICE PRESIDENT. The Chair hears no objection to taking up the bill indicated by the Senator from Rhode Island. It is before the Senate, and the question is upon its passage, on which the yeas and nays have been ordered.

Mr. SHERMAN. I move that the session be extended ten minutes so as to enable us to get this matter out of the way. ["Oh, no!"]

Mr. HALE. I object to that.

The VICE PRESIDENT. The motion cannot be received, objection being made.

Mr. HALE. I should like to hear an explanation of this bill.

Mr. SPRAGUE. The explanation is simply this: it organizes a department of this Government that has never been organized since the beginning of this war. While every other department has received the attention of Congress and has been organized efficiently, this department has been neglected. The opposition to the bill is not in consequence of any increased appropriation that it provides for, but in consequence of some prejudice against those who it is supposed may fill the new offices. Now, I pledge myself to those who suppose they may have reason to think that suitable men will not be appointed, that I will fight with them to prevent such men from occupying the places. This bill is necessary for the efficient organization of the department.

Mr. CONNESS. Will the honorable Senator give way so that we may extend the session for a few minutes in order to dispose of this bill?

Mr. SPRAGUE. Certainly.

Mr. CONNESS. I move that the session be extended for ten minutes.

The VICE PRESIDENT. Is there any objection to that motion?

Mr. HALE. I object.

The VICE PRESIDENT. Then the motion is not in order. The hour fixed for that purpose having arrived, the Senate will now take a recess till seven o'clock, p. m.

#### IN SENATE.

WEDNESDAY, March 1, 1865.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock, p. m.

#### AGRICULTURAL COLLEGE LANDS.

Mr. LANE, of Kansas. The Committee on Agriculture have directed me to report a bill to extend the time for selecting agricultural college lands by the different States, and I ask for its present consideration.

By unanimous consent the bill (S. No. 483) to amend "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" was read three times, and passed. It proposes to extend for two years from the time mentioned in that act the period for the perform-



ance of the condition on which the land and land scrip authorized by the act were granted.

#### ENROLLMENT LAWS.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 678) to amend the act entitled "An act further to regulate and provide for the enrolling of and calling out the national forces, and for other purposes," approved July 4, 1864, and the other acts relating to enrollment and draft, reported it with amendments.

#### MILITARY AND NAVAL ASYLUM.

Mr. WILSON. As I have to be out upon a committee of conference this evening I desire now to call up a little bill to which there can be no objection. It is a bill to provide for a home or asylum for totally disabled volunteers. It costs the Government nothing. I move that it be taken up.

The motion was agreed to; and the bill (S. No. 479) to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States was considered as in Committee of the Whole.

The bill was reported to the Senate.

Mr. GRIMES. I should like to know what is in the bill. It has not been read.

Mr. TRUMBULL. We ought to know what is in it.

Mr. WILSON. The first section simply makes a hundred eminent citizens of the country a body politic and corporate. I do not think anybody will wish to take up time with reading them; let the rest of the bill be read.

Mr. CONNESS. I move to dispense with the reading of the names.

The motion was agreed to.

The residue of the bill was read. It provides that the corporation shall consist of one hundred members, with power to fill all vacancies created by death, resignation, or otherwise, and to make by-laws, rules, and regulations; but these by-laws, rules, and regulations are not to be repugnant to the Constitution or laws of the United States. The business of the corporation is to be managed by a board of twelve directors, who shall elect from their number a president, two vice presidents, and a secretary; and seven of the directors, of whom the president or one of the vice presidents shall be one, are to form a quorum for the transaction of business at any special meeting of the board of directors.

The board of directors are to have authority to procure for early use, at a suitable place, a site for a military asylum for officers and men of the volunteer forces of the United States who have been or may hereafter be totally disabled by wounds received or sickness contracted while in the line of their duty during the present rebellion; and to have the necessary buildings erected, having due regard to the health of the location, facility of access, and competency to accommodate the persons provided for.

For the establishment and support of this asylum there are to be appropriated all stoppages or fines adjudged against volunteer officers, soldiers, or seamen, by sentence of courts-martial or military commission, over and above the amounts necessary for the reimbursement of the Government or of individuals; all forfeitures on account of desertion from the volunteer service; and all moneys due deceased volunteer officers, soldiers, or seamen, which now are, or may be, unclaimed for three years after the death of such officers, soldiers, or seamen, to be repaid upon the demand of the heirs or legal representatives of such deceased officers, soldiers, or seamen. The directors may receive donations of money or property, made by any person or persons, for the benefit of the asylum, and hold or dispose of it for its sole and exclusive use.

The selection of the site for the asylum, and the plan of the buildings, and the rules and regulations for the general and internal direction of the asylum are to be made by the directors, and they may do all other acts necessary for its government and interests; but no selection of a site or adoption of any plan of buildings is to be agreed upon until after the sum of \$500,000 shall have been first subscribed or donated and paid into the treasury of the corporation.

The officers of the asylum are to be a governor, a deputy governor, a secretary, and a treasurer, and these officers are to be appointed from the pensioned officers of the volunteer service, and they may be appointed and removed from time to time, as the interests of the institution may require, by the board of directors.

The following persons only are to be entitled to the benefits of the asylum, and may be admitted upon the recommendation of the board of directors: all volunteer officers, soldiers, and seamen who have served during the present war, who have been or who may be totally disabled by wounds received or sickness contracted in the line of their duty, and such persons on becoming inmates of the asylum are to assign thereto their pensions during the time they shall remain therein and receive its benefits.

The directors are to make an annual report of the condition of the asylum to the War Department, which shall be communicated to Congress on the first Monday of every January. The directors are to examine and audit the accounts of the treasurer of the asylum quarterly, and to visit and inspect them at least six times a year.

All inmates of the asylum are to be subject to the rules and articles of war, and will be governed thereby in the same manner as if they were in the Army or Navy of the United States.

Mr. HALE. I move this as an additional section:

And be it further enacted, That Congress may at any time hereafter alter, amend, or repeal this act.

The amendment was agreed to.

Mr. HENDRICKS. One provision seems to be omitted, which I suppose the committee intended to insert. I think that after the words "body corporate" the words "in the District of Columbia" should be inserted. I suppose it is intended to make this a corporation in the District of Columbia. If it is intended to make it a corporation for the whole country, it is rather a new proceeding on the part of Congress.

Mr. WILSON. If the Senator thinks we have not the power to make a general corporation for this purpose, a matter of benevolence, let him put in that it shall be for the District of Columbia.

Mr. HENDRICKS. I supposed the committee intended to do that. I did not suppose the committee intended to assert power to establish a corporation of the United States for this purpose.

Mr. WILSON. This is a corporation of a hundred individuals in different parts of the country for a purely charitable object, the relief of totally disabled soldiers.

Mr. HENDRICKS. The purpose I do not question. It is simply a question of power.

Mr. DOOLITTLE. Let the words proposed be inserted, because I have serious doubts about our power to incorporate anything outside of the District.

Mr. HALE. Let me suggest to the Senator from Wisconsin that two years ago we created an institution called, I believe, the National Academy of Sciences, covering the whole country, and we have printed their reports.

Mr. DOOLITTLE. They had their seat of operations here in Washington, I understand. I do not wish, however, to raise a discussion.

Mr. SUMNER. Have we not created the Pacific railroad corporation by act of Congress?

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The Senator from Indiana [Mr. HENDRICKS] moves to amend the bill by inserting after the word "corporate," at the end of the first section, the words "in the District of Columbia."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### ARMY PAY DEPARTMENT.

Mr. FOSTER. There are two or three little bills from the Committee on Pensions which I should like to have passed. They will not take long.

Mr. SHERMAN. I call for the regular order of business. I object to anything else being entertained unless the Senate decide to postpone it.

Mr. FOSTER. It will not take long to pass the bills which I desire to call up.

Mr. SHERMAN. Every other Senator has bills which he desires to have passed.

Mr. FOSTER. If any gentleman offers an amendment or makes opposition to the bills which

I wish to call up, I shall withdraw the application.

Mr. SHERMAN. I want to get rid of the Indian appropriation bill and the tax bill.

Mr. FOSTER. In one or two of these cases there are amendments merely to correct names, which will cause the bills to go back to the other House; and whether the Indian appropriation bill is passed at half past seven o'clock or at thirty-five minutes past seven o'clock is of very little importance, but whether these bills pass or not is important to the parties.

The PRESIDING OFFICER. The unfinished business is called for. It is the bill (S. No. 419) for the better organization of the pay department of the United States Army, the question being on its passage.

Mr. POWELL. I object to taking that up. That was not the unfinished business.

The PRESIDING OFFICER. The Chair is so informed by the Clerk.

Mr. TRUMBULL. I should like to call the attention of the Senator from Ohio. Is the bill about the pay department of the Army the bill which he designed to call up?

Mr. SHERMAN. I called for the unfinished business. I want to proceed with the order of the day.

The PRESIDING OFFICER. The Chair has called up the unfinished business.

Mr. SHERMAN. The bill was only called up informally, subject to be laid aside at any moment. It was taken up informally by consent.

Mr. HENDRICKS. We can pass it while we are discussing this question.

Mr. SPRAGUE. This bill had better be considered; otherwise it will interrupt legislation from this time until Congress adjourns. It is a bill that has been considered in committee and before the Senate. It is understood thoroughly. There can be no objection to it. All I ask is a vote upon it. I wish, however, to perfect the bill in one respect, by striking out the word "infantry" in one place and inserting the word "cavalry," to conform to all the other bills of the same character that have been enacted by Congress from time immemorial. It only occurs in one place.

Mr. DOOLITTLE. I believe the present occupant of the chair was not in the chair at the time the recess was taken.

The PRESIDING OFFICER. The present occupant was not in the chair, and depends upon the Clerk as to what was the unfinished business.

Mr. DOOLITTLE. When that bill was asked to be taken up this afternoon, I addressed myself to the President and said that if it came up I supposed it would be by unanimous consent, so as not to displace the Indian appropriation bill, and I received his affirmative response.

The PRESIDING OFFICER. The Chair understands that when a bill comes up by unanimous consent, it is as if everybody voted to take it up, unless the other bill be laid aside merely informally.

Mr. SHERMAN. I submit a motion that I believe is in order. I move to postpone all pending and prior orders, with a view to take up the tax bill. I will state, before the question is put, that I gave way with great reluctance for the Indian appropriation bill, supposing it would take only about an hour. I know now that it will take much longer. I must, therefore, insist upon going on with the regular business, which is the tax bill, which I agreed for a time to waive for the consideration of the Indian appropriation bill.

Mr. SPRAGUE. I hope that motion will not prevail. I have endeavored, without any personal interest whatever, to obtain the consideration of the Senate to this bill, not private, not personal, but concerning the whole people of the United States. It affects a portion of the military department more important almost than any other, the officers who disburse the money to your soldiers; and if there is any department of this Government that in my opinion should receive the attention of the Senate, it is a department that comes so closely to the soldiers who have received more of the attention of Senators, who have received more of the attention of the country in legislation, and in every other respect, as they deserve, than anybody else. I do not know the reason why this obstruction should be put in the way of the passage of this bill. Personally I have no interest in it; and when I assumed to be the advocate

of this bill at the suggestion of those who were interested in it, and being assured, too, of the cooperation of the chairman of the Committee on Military Affairs as well as the members of that committee, I thought that I was doing a duty here in my position as a Senator, and as a member of that committee, and as a citizen. And, sir, so long as this session lasts I shall deem it my duty to bring to the attention of the Senate this bill, believing that I am thereby doing my duty, and that I am neglecting my duty if I do not so bring it to their attention; and I shall avail myself of every opportunity to ask, to solicit, to beg the attention of Senators to this bill. If it had not received the assent of the committee, if it had not received the assent of the War Department, if it had not received the assent of the very department that it is to improve, and if it had not received the consideration of and been adjusted by the Military Committee, I should have great hesitation in urging it. Indeed if I did not believe it important and necessary, even if it had received their assent, I would not advocate it.

But, sir, here is a department of the Army that has received no attention from the Government and from Congress since the rebellion. It was an organization for fifteen thousand men, and you have now a million. There are several hundred paymasters now, when before their number might have been counted by tens and twenties. There is no gradation, there is no difference in the grade, they all are established as one grade. There is no opportunity for advancement, no pride, no opportunity for emulation. One man if he discharges his duty thoroughly, patriotically, better than his companions, has no opportunity to reach a position above his comrades, above his associates. There is no other such department in this Government. There is no department where, by attention to duty and by good conduct, there is not an opportunity for advancement; but there is no supervision of this department as there is in all others; there is no inspection; there is nothing except one general level, and no one to care for it, no one to have pride in it, no one to perfect it.

This bill establishes as its head a brigadier general. It is so in all the inferior sub-departments of the War Department. It does not advance the salary of this brigadier general a dollar. The service rations of the occupant of that office now make his salary equal to that of a brigadier general. The increased amount of expense the bill will involve over and above the present system is something like four thousand four hundred dollars a year. There will be some twelve or fifteen gentlemen who will be appointed to fill these new vacancies, but they do not increase the corps one member, and all the additional expense drops at the close of the war or one year after. It will require at the end of this war a year to adjust the accounts of the paymaster's department, and this bill provides that those who are now appointed shall, at the end of one year after the war, drop from the list of officers. It is a plain, simple, compact arrangement for this department, and I trust that the Senate will at any rate, if they do not concede its value and its necessity, concede me a vote, which is all I ask.

Mr. SHERMAN. Mr. President—

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair will take this occasion to state that, while the present occupant of the chair shall be called to preside over the body, he will hold members strictly in debate to the question under consideration.

Mr. SHERMAN. The lesson that is now taught me to-night will make me at least adhere to the rules more strictly. My friend from Rhode Island stated to me just as we were about taking the recess that he desired to move to take up a bill which would take but a moment. I did not dream that he would press it afterward, after the recess was over, against two of the most important bills of the session, especially by arguing and discussing the question before the Senate. I trust that we shall proceed in order to dispose of the bill which was first in order, the tax bill, and then proceed with the Indian appropriation bill. After that, I will do all I can to enable Senators to call up bills in which they take especial interest.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, to postpone the present and all prior orders and pro-

ceed to the consideration of the tax bill, so called. That motion does not admit of debate on the merits of any question aside from the mere motion.

Mr. DOOLITTLE. Before the motion is put I ask the unanimous consent of the Senate and of my friend from Ohio to offer one amendment to go on the Indian appropriation bill, which will lead to no discussion, and is precisely in the language of the provision passed in the last Indian appropriation bill, that the annuities appropriated for the benefit of the rebel Indians or those in hostility to the United States may be used for the benefit of the loyal Indians. Senators will remember the provision.

Mr. SHERMAN. I think we had better go on regularly.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio.

The motion was agreed to.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, the pending question being on an amendment of Mr. RAMSEY to an amendment reported by the Committee on Finance. The Committee on Finance proposed to strike out the fifth section of the bill, which is as follows:

SEC. 5. And be it further enacted, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association, paid out by them after the 1st day of January, 1866.

Mr. RAMSEY's amendment was to add to the section proposed to be stricken out the following proviso:

Provided, That banks incorporated under State authority whose circulating notes are secured wholly by bonds of the United States, at their par value to the amount of ten per cent. beyond the amount of their circulating notes, shall be taxed upon their circulation and deposits in the same manner and at the same rates as are or may be prescribed for the taxation of national banks.

Mr. RAMSEY. In support of the amendment I have suggested to this fifth section of the bill, I have this to say: the tax of ten per cent. upon the circulation of the State banks is obviously designed to drive these institutions into the adoption of the national banking system. This is manifestly unjust to the banking institutions of the States with a capital less than \$50,000; for them there is no provision; on the contrary, they are prohibited.

With us, a capital of \$25,000 in many instances is all that is wanted. We have not yet the great accumulations of wealth that stimulate banking in the East, and why should we be denied this convenience?

Again, sir, the circulation of the banks of Minnesota is as perfectly secured upon the bonds of the State or of the United States, as is the circulation of any national or State system—secured upon a pledge of the bonds of the State or of the United States.

Now, what object is gained by driving out of existence a circulation based upon the General Government bonds? What is gained by annihilating these institutions, when they absorb your bonds equally with the national banks to the extent of their circulation. Is it not a wanton, objectless piece of mischief?

In point of fact, seven banks of Minnesota are secured wholly by bonds of the United States, and of a total of \$507,627 of securities deposited by all the Minnesota banks, \$430,907 are bonds of the United States.

These banks, by the investment of capital in United States bonds, furnish every benefit to the Government which is derived from the national banks.

With this amendment, I shall vote for the section. Without it, I shall do so with great hesitation, if at all.

Mr. McDUGALL. I hold, Mr. President, that the provisions of this section are not only unjust in themselves but against fundamental law and tend to disorganization. We are undertaking here by this legislation to deny to the States the right to control their own financial affairs in their own way. It is not many years since a majority of the people of the Republic entertained,

or at least indorsed, the opinion that the United States Bank was unconstitutional, that we had not a right to establish an institution that should raise itself in the various States as a great money power and be a corporate body under the influence of this Government. Now a further proposition is made—it goes much further—that no State may organize a banking institution; for although in form of words this is not said, it is substantially expressed by this Machiavellian style of language, not saying the thing but providing for the thing being done. In the State in which I live we have a gold and silver currency, and we have banks, and so we have on all the coast of the Pacific. Now it is proposed to say that they cannot do business without paying a tax of ten per cent., which of itself would be a large profit per annum, yes more than could be distributed ordinarily to the stockholders by a bank doing an honest business and conducting its affairs with prudence.

I cannot understand what all this means unless it means the upturning of our institutions, the affirmation that the States have no rights, and that the men who established this Republic in the light of all the ancient States and those of the middle ages and of modern Europe were ignorant of what they were about when they laid the foundations of this Republic and established the Constitution under which as I think we still live.

I should like to ask some person conversant with law by what right does the Federal Congress say that State institutions may not exist under the laws of the States, issuing a currency without being subject to a taxation of ten per cent. per annum? I should like to hear some person conversant with the law answer me the question I now put. Perhaps there may be learned men who affirm this doctrine that can instruct me, and I am always willing to be instructed. Perhaps some learned men who advocate this doctrine can give me a reason why banks in the city of San Francisco who pay gold and silver and deal in the precious metals shall be taxed ten per cent. for their business, to force upon them a currency which they repudiate; for, sir, men who have an opportunity to handle gold and silver every day are not willing to take a mere fragmentary, false representative of them. I have not since I have been in this Senate Chamber seen or read a proposition so absolutely false and wrong as this, as a question of public policy.

Mr. President, I assure the gentlemen of the Senate that the people of my country will not submit to such legislation. It is one of the false expedients of ignorant philosophers in political science. If it obtains for a day, it produces the evils of the day; it may produce evils that will continue beyond the day. I fear it will. There is no justice in it, there is no policy in it; and in it there is infinite mischief. I have an intense desire to maintain the integrity of our people. It is the feeling that lies nearest to my heart. But if you adopt such a rule as this, and it shall be enforced, its effect must be to force apart the men beyond the mountains from the men on this side by the necessary force of necessary interest. Are you going to force national banks into the city of San Francisco, are you going to force national banks into the city of Sacramento, are you going to force national banks into the city of Stockton, and drive out of those cities the institutions that do their business now, and others throughout the State, by the compulsive power of the votes of the House of Representatives and the Senate and the approval of the President? I assure Senators that this thing cannot be done without more sacrifices than will be compensated by any promise of good they may see in the proposition.

There is no one on this Senate floor more anxious to support this Government intact than myself. I think so, although some Senators may call it in question; but allow me to warn Senators against this false legislation with regard to finance. If a man undertakes to deal with finance who lives in a town or city, and whose learning has been circumscribed by his local opportunities, and he undertakes to make laws here, supposing that those laws will adapt themselves and be adapted to the people of a great country embracing the lines of two oceans, he is unfit for place in Senate hall. I do not wish to take the time of the Senate in elaborating the subject, because I think that suggestion should be equal to argument upon a

question of this kind. I say this thing cannot be executed as a matter of law, and will not be submitted to as a matter of law; and then again, recurring to another matter, (I say this particularly as to my own course,) do we propose really to abandon our system of Government as it was established? Do we intend to ignore the States in their proper sovereignty? Do we intend to make in all respects the Federal Government supreme? That should be boldly affirmed by those who propose such a measure.

I will not affirm that we have become so depraved since the days of our fathers that we are unequal to the Republic they founded and incorporated in 1787, but I doubt it much. If so, and we have to make a new departure, let us make a bold and open departure, and say that we are not equal to the Government established by our fathers, and that we will found another one sufficient to control the corruptions, the iniquities, and the sins that have grown out of office under the Republic within the last thirty years.

I know that I am impinging upon the time of the Senate at a period of importance, but I desire to speak what I think important words. This proposition itself is a proposition to usurp the powers of the States, to exercise them here where they do not properly belong. That has been understood always; it never has been questioned until now; and if such things as these can be done, all things can be done. It is a revolutionary proposition, and if revolution is demanded let us have a full revolution; let us commence at the foundation stone. No State should organize a bank or transact business in that way, for it is a denial of the right by indirection. It says a State has not this power, the Federal Government has it, and will exercise it. These things had better be outspoken. If they can be justified, if necessity demands them, well; because revolutionized revolution may be justified by necessity, by the demands of a country. I am not sure but that revolutionized revolution is demanded here, but I am not prepared for revolution myself. I think yet the laws laid down by our fathers are good laws; I know they are good laws to sustain a true, upright, and just people. The only reason why we should change them, at all is that we have been corrupted. It may be so, but I cannot understand how any Senator can vote for this proposition in the light of his learning, as he must have possessed himself of it before he took the oath as Senator, for he should have been somewhat instructed in public law and in the Constitution of our Government; and then having taken the oath of a Senator, I do not see how he can vote for this amendment, for I say it is false in principle, false in policy, and cannot be justified as a mere expedient.

Mr. HENDRICKS. I feel some reluctance in submitting any remarks to the Senate on this question after the Senator from Ohio, as chairman of the Finance Committee, has said that it is our duty to let the whole bill go to a committee of conference without discussion, and let that committee legislate for us; and especially after the patronizing suggestion of the Senator from California [Mr. CONNESS] with which he favored the Senate last night, that it was our duty to vote, and not to speak; in other words, that the examination of the committee room should take the place of the deliberations of the Senate upon one of the most important bills that ever occupied the attention of the body. I will say to those two Senators that if they bring in a revenue bill, strictly a revenue bill, they will probably not meet with much discussion; but if they seek on a revenue bill to carry propositions of a general sort affecting the policy of the Government, and affecting the rights of the States, not really germane to the bill, they must expect them to be discussed. Especially does the Senator from California occupy a position in reference to this question that does not peculiarly authorize him to lecture us upon the subject of discussing the particular question that is before the body. He comes from a State that is not plagued with paper money. Gold and silver are the standards of value in California now as before the Government flooded the country with paper money. Values there are not measured as in the eastern States by a paper currency, and it is a matter of no concern to him or his constituents whether State banking institutions go up or go down. California and her prosper-

ity goes on all the same whether there be a commercial crisis in Indiana or commercial prosperity. Without banks in his own State, with a currency exclusively metallic, he says to us when the proposition is made to legislate our State banks out of existence that we ought to have nothing to say, let the committee have its way, and banks go down.

Mr. President, what is this proposition? "That every national banking association, State bank, or State banking association shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866." Is that for revenue? I suppose the chairman will scarcely claim that it is for revenue. I suppose in the other House it was not claimed as a revenue measure, but as a penalty to prevent the circulation of State bank paper. I submit whether we have a right to legislate for such a purpose as that. I submit to the Senate that the Congress of the United States has no power to legislate State institutions out of existence. The Committee on Finance of this body have not recommended the adoption of this section. They have recommended that it be stricken out, but the chairman insists that the section shall be retained. The recommendation of the committee is that this be stricken out, and I hope the Senate will adopt the recommendation of the committee.

Mr. SHERMAN. I ought to inform the gentleman that in my opinion—and I have no doubt that he will find it so on the vote—a majority of the committee were in favor of the House proposition, but reported in favor of striking it out so as to submit the question to the Senate.

Mr. HENDRICKS. That may be so, though I do not so understand it. If the Senator understood that to be the view of his committee, it is all right.

Mr. SHERMAN. The committee were so evenly divided that they thought it better to submit the question to the Senate, and hence proposed to strike out the section.

Mr. HENDRICKS. It is certain that the committee, as the representative of the body for the examination of this measure, has said to the Senate that the section ought to be stricken out. I think so too. I suppose no Senator questions the right and the power of a State to establish banking institutions. That is too well established to admit of discussion any longer. It is one of the rights, one of the prerogatives of the States to establish banking institutions and to authorize them to issue paper money. The States have exercised this power. In the State of Indiana it has been exercised very beneficially to the trade and prosperity of the people. If a State have the power to establish State banking institutions, has Congress the power to forbid it? If not to forbid it directly, has Congress the power to defeat the purpose of the State in the exercise of one of its powers by indirect legislation? I claim, Mr. President, that to some extent this question was considered by the Supreme Court in a case very familiar to all Senators, of *McCulloch vs. the State of Maryland*. It may be recollected that the question there was whether the State of Maryland had the power to tax the branch of the United States Bank established within the limits of that State, and the Supreme Court decided that it could not be done; that the State of Maryland could not tax the branch bank of the United States within her limits as a branch; could tax its property, its real estate, and could tax the stockholders, but could not tax it as a branch. The court said:

"That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance, in conferring on one Government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. But all inconsistencies are to be reconciled by the magic of the word confidence. Taxation, it is said, does not necessarily and unavoidably destroy. To carry it to the excess of destruction would be an abuse, to presume which would banish that confidence which is essential to all government."

"But is this a case of confidence? Would the people of any one State trust those of another with a power to control the most insignificant operations of their State government? We know they would not. Why, then, should we suppose that the people of any one State should be willing to trust those of another with a power to control the operations of a government to which they have confided their most important and most valuable interests?"

That is the reverse now of the proposition I am discussing. There the Supreme Court was discussing the question whether a State could materially by taxation interfere with the General Government in the exercise of any of its powers; but in another passage in the decision the court is more pointed:

"We are relieved, as we ought to be, from clashing sovereignty; from interfering powers; from a repugnancy between a right in one Government to pull down what there is an acknowledged right in another to build up; from the incompatibility of a right in one Government to destroy what there is a right in another to preserve. We are not driven to the perplexing inquiry, so unfit for the judicial department, what degree of taxation is the legitimate use, and what degree may amount to the abuse of the power. The attempt to use it on the means employed by the Government of the Union, in pursuance of the Constitution, is itself an abuse, because it is the usurpation of a power which the people of a single State cannot give."

The language to which I wish particularly to call the attention of Senators is the following:

"We are relieved, as we ought to be, from clashing sovereignty; from interfering powers; from a repugnancy between a right in one Government to pull down what there is an acknowledged right in another to build up; from the incompatibility of a right in one Government to destroy what there is a right in another to preserve."

It is conceded that the States have the right and the power to establish State banks. The Supreme Court, in the decision of this case, do not base their decision upon any peculiar power possessed by the General Government, but they hold the broad doctrine, the doctrine necessary to be held in maintaining the proper relations among the States themselves and between the States and the Federal Government, that one Government cannot pull down that which another Government has a right to establish. Does the Senator from Ohio claim that a State has not the right to establish a State bank? That is conceded, so well is it established by the judicial decisions of the country. Then if the State of Indiana, as an illustration, has the power to establish a State bank, I ask Senators if Congress has the power to forbid it? If Congress has not the power to forbid it directly, has Congress the power to defeat the State by indirect legislation in an effort to exercise the power which it is conceded she possesses?

But I do not desire to discuss the question of power further. I wish to refer to some other considerations. Why is it claimed, not as a matter of revenue—for from this section there will come no revenue; no Senator believes there will come a revenue from this section—why is it asked, that if a bank in any one State, after the time mentioned in this section, shall not issue, but pay out a State bank bill, that bank shall be taxed ten per cent. upon that payment? It is for the purpose of driving from the commercial channels the circulation put there by the States, and to give the occupation of the whole field to the national banks. That, to strip it of all words covering it up, is the purpose of this proposition, to drive State circulation from the field, and give the field entirely to the national banks.

What cause of complaint has the Government of the United States against the State banks, Mr. President? A great many men are charged with being disloyal in those times, but I have not heard that any of the banks have been charged with that offense. I have not heard that the State bank of Indiana was charged with that offense when she furnished money to get regiments into the field. I did not understand that the President questioned the loyalty of the New York banks when, in the most trying hour of the Government, money was obtained from them upon a loan perhaps to the extent at one time of \$50,000,000. What is the offense of the State banks that war must here be made upon them? I ask Senators, what have they done? They have furnished the Government money whenever called upon, to the full extent of their ability, in some instances interfering seriously with the commercial operations of their ordinary customers. I understood the Senator from Ohio, the chairman of the committee, in his speech the other evening, to intimate that the banks had been extending their circulation. Is this proposition, then, to prevent too large a circulation? Is that the idea? Let us see how that is. I will take up first the State bank of Indiana, as a blow is aimed at this bank, which, as one of the representatives of that State, it is my duty to see is dealt fairly by. I will state to the Senate now the history of that bank's circulation within the last four years. In December, 1861, the cir-



ulation of the State bank of Indiana was \$5,979,419; at the same date in 1862 the circulation was \$4,922,951, making a reduction in the year 1862 of \$1,056,468. The amount in circulation on December 31, 1862, was \$4,922,951; and in December, 1863, \$2,563,845, reducing in 1863, \$2,359,106. The amount of circulation on December 31, 1863, was \$2,563,845; in 1864 it was \$1,524,948, making a reduction in that year of \$1,038,897, making a total reduction since 1861 of \$4,454,471, and leaving in the field only \$1,524,948. I give that one bank and its history during these three years past as an illustration. She has reduced her circulation from above five millions to a little above one million; and yet it is claimed that that is not a reduction sufficiently rapid to give the entire field to the national bank circulation.

I recollect that the debate of last year on the revenue bill showed that the entire circulation of the State banks was about one hundred and sixty-nine millions. The Senator from Ohio, in his speech the night before last, stated to the Senate that the circulation of the State banks was now about one hundred and thirty-six millions, so that within the last year the State banks have in fact reduced their circulation about thirty-three million dollars, and that does not yet satisfy the demands of the national banks. If a reduction of \$33,000,000 has been made in one year by the State banks, is not that sufficiently rapid to answer the purposes of the national institutions? Mr. President, I ask Senators if they think the circulation in the country ought to be reduced much more rapidly? Ought the circulation of the country be reduced more rapidly than \$33,000,000 a year out of \$169,000,000? Is it for the good of commerce and trade that it should be reduced more rapidly?

The next consideration to which I wish to call the attention of the Senate is the effect of this measure upon the circulation now in the field. Senators all know that it is not possible for the State banks immediately to call in their circulation. I believe the State bank of Indiana at any hour has been able to call in her entire circulation if the people would give it up. She has offered premiums of from one to five per cent. for her circulation since this war, and yet has not been able to call it all in, because the people have confidence in that circulation and prefer to lay it by rather than the national bank circulation.

One hundred and thirty-six million dollars of State bank circulation is now in the channels of trade and commerce of the country, and it is proposed to say by this section that any bank which after the 1st day of January next shall pay out any note of these \$136,000,000 of currency shall be liable to a penalty of ten per cent.; and what will be the immediate effect? The banks are not going to lose this ten per cent. It was never known yet that legislation striking at banks caused the banks to lose anything. The effect of the proposition is to depreciate \$136,000,000 of currency in the pockets of the people ten per cent. In other words, if the reduction does not go on so as to bring the currency down below \$136,000,000 by the 1st of January, the effect will be to make the people lose in their pockets ten per cent. upon \$136,000,000 of currency. I have five dollars of this currency; you have; it is in the pockets of everybody. You say we cannot go to a neighboring bank and pay it in upon our debts; it can only be used by us in passing it from hand to hand; it ceases to be bankable paper. It can only be received by the bank that issued it, and that bank can only receive it for the purpose of redemption. You make it by an act of Congress not bankable paper, and what is the effect? To strike it down ten per cent. at once and to make the people lose just exactly ten per cent. upon \$136,000,000, and what for? Not to bring in a revenue, for there is no mode by which you collect this revenue. How are you to know when a bank pays out five dollars of another bank's paper? What is the machinery by which this tax is to be collected? It is a penalty without a remedy to enforce it; but it will have the effect to depreciate the currency as I have stated.

But, Mr. President, I ask Senators if the national banks have not advantages enough already? What are the advantages that national banks have over the State banks? First, they have the advantage of banking upon Government bonds, the interest payable in gold. A national bank buys

\$100,000 of United States bonds bearing six per cent. interest; they are deposited in the Treasury. Every six months that interest is received from the Treasury, and it is worth at the rate of twelve per cent. per annum, the gold being worth 200. That is the first advantage a national bank has. The next is not specially provided for in the law, but a practice that has grown up in the Department, as I understand, that the Government borrows the notes from the bank and instead of that gives to the bank interest-bearing Treasury notes. I know that was done in respect to some of the western banks. Bonds were deposited in the Treasury Department, ninety per cent. of currency issued upon the bonds, and that currency was never taken West, but was borrowed in this city by the Government, and the banker received instead thereof five per cent. interest-bearing Treasury notes. The gold interest is worth to the bank twelve per cent., and the interest-bearing note is worth five per cent., and without doing any legitimate banking at all the bank can thus make seventeen per cent. It has the advantage, next, of the Government deposit as a means of doing ordinary banking upon a reliable deposit, a very important deposit, which is drawn out only gradually. The next advantage the national banks have is that their currency is receivable in payment of Government taxes and State bank paper is not. The Government taxes are intended to go to between three and four hundred million dollars, and the State bank paper cannot be received in payment of those taxes. Here is a very large field occupied exclusively by the national bank paper and by the Treasury notes. How important that is to the national banks can be appreciated by Senators.

These notes are also, as I understand, receivable at the Treasury in payment for the Government bonds; and last, the capital of the national banks is not taxable as the capital of State banks is—I mean the bonds that are on deposit. The basis of all this business, the bonds that are filed here, out of which grows a profit, as I have shown, of seventeen per cent., are not taxable by the State and local authorities, while the State bank capital is liable to taxation by State and local authorities. Now, I appeal to Senators if there need be a penalty to drive the State circulation from the field and to give it up exclusively to the national bank currency, when there are such great advantages given by present legislation to the national currency.

As a matter of fact I suppose Senators know the enormous profits that these national banks are making. Having a very trifling interest in one, having no interest whatever in any State bank, I do know a little of the profits made by the national concerns, while I know nothing of the profits made by the State banks. And, sir, with the advantages that the laws on your statute-book now give to them, these national banks can make at the present time twenty-five per cent. every year. I know of instances in which from April last up to November they made at the rate of over thirty per cent. per annum.

Then, sir, if you give such great advantages to the national circulation by legislation already adopted, why is it proposed arbitrarily to say that the State banks shall not issue their paper? I ask Senators if it is fair. If the people wish to use the State bank circulation, if they have more confidence in it and give it the preference, as a matter of confidence and commercial credit, have they not a right to do it? If I have my money invested in a State bank, and another Senator has his (I speak in this way simply as the representatives of our people) in a national bank, is it fair to say that my capital shall be taxed out of the field, so that unreasonable and extraordinary profit shall be made by the capital invested in another direction? I say this is legislation not becoming this body. If revenue is wanted, let that revenue be collected. I do not raise the question upon the decision to which I have referred, that no taxes can be collected off the State banks by the General Government. I do not here question it. I am willing that the State banks shall be taxed, dollar for dollar, as the national banks are; and any person engaged in the national banking institutions that is not content with that is not satisfied with fair play. If a man has his money in a national bank and he says, "I am not willing to trust in the struggle for business to my credit

before the people; I invoke the arbitrary aid of Congress to drive my competitor from the field, to give the entire commercial world up to me, that I may make large gains out of it," it is not an address that the Congress of the United States ought to heed. As one humble representative of an interest, (not a large interest, as is shown to the Senate by the figures I have given,) all I ask is equality.

These institutions have been established by the States, according to the authority that the States have; that is not questioned. This currency is now in the pockets of the people; it is important to them. It is proposed now, not as a measure of revenue, but arbitrarily, first to depreciate it in the pockets of the people, and then to drive it out of the field that the national banks may make a larger profit. I say to Senators that the national banks are making enough now. It cannot last and the commercial prosperity of the country continue. When banks can make from twenty to thirty per cent. on their capital, there is something wrong in the commercial world that will show itself at some time. They are making such profits as no banks ever made before; yet they are not content.

I know Senators pretend that the Government has got some interest in this. I have looked on all sides to see how the Government is interested in it. The Government is interested, of course, when she sells her bonds, to sell them and get currency such as she receives; but why is she interested in driving the State bank circulation out of the field? Why is the Government interested in that? If she borrows from a national bank the issues of that bank she has to pay interest for them; she has to pay just as much interest as if she borrowed from a State bank. If there were any machinery by which a national bank could make money and give it to the Government without any interest, I could see some advantage in this business; but as these national banks simply make money for the stockholders, I cannot see how the Government of the United States is interested in the question. I can see how the Government would have saved a good deal of money by issuing the ordinary Treasury notes, the legal tenders, instead of establishing this banking system, because she pays no interest on those notes, and they will pass if the people have faith in the ability of the Government to pay the money. But instead of that, the Government has adopted the policy of issuing bonds bearing interest payable in coin, receiving the bonds back as security, and then issuing bank paper to the national banks, and that paper is to take the place of the circulation of the country. I am not able to see how the Government has made money out of that transaction; and yet it is claimed that it was a sharp thing, that the Government made money somehow. I am not able to see it; but that is past; the national banks are established, and they are now being increased, as I notice in an evening paper, at the rate of \$3,000,000 of capital a week; they are in the field; and the State banks are in the field trying to reduce their circulation, reducing it in one year \$33,000,000, and we are called upon to clear the field for the national banks, not to make money for the Government, for it does not do it; it is simply to give the national banks an opportunity to make all the money that it is possible to make out of the trade and commerce of the country.

Mr. McDougall. And centralize power here.

Mr. Hendricks. I spoke of that very briefly awhile ago. At the last session this subject was somewhat discussed, and Congress decided that the tax should be the same upon the national banks and upon the State banks, the same upon their circulation and upon their deposits. Have Senators changed their views on the subject? Senators gave their vote when the circulation of the State banks was one hundred and sixty-nine millions. Now that they have reduced it to one hundred and thirty-six millions, why are Senators asked to change the policy? There is something about this that I cannot understand. Equality in this matter is justice. But of all the modes of striking at the State banks, this is the most objectionable. It brings no revenue, but depreciates the currency now in the pockets of the people to the extent of one hundred and thirty-six millions, bringing upon that

sum a depreciation of ten per cent. The bank will say to a man who brings home that paper, "Yes, we will take it, deducting the penalty to which we are liable." After this provision is adopted, a farmer goes to the neighboring bank in Indiana with an Indiana bill, which to-day has better credit than your greenback or your national bank paper, and he says, "I want to pay off my note; here is \$100 of State bank paper." The bank officer says "We cannot receive it at the bank; it is not upon our branch; we cannot receive it unless at the rate of ninety cents on the dollar; we cannot afford to give you any more, because it is not bankable paper any longer;" and yet the Government makes nothing out of it. It is a loss to the people, makes no money to the Government, and gives the field to the national banks who are to-day making money more rapidly than the true interests of the country justify. I simply ask, Mr. President, that now when the State banks are reducing as rapidly as they can, we shall decide, as we did at the last session, that equality is justice and right.

The amendment of Mr. RAMSEY was rejected.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CLARK. I ask the unanimous consent of the Senate to be allowed, at this time, to submit a report from a committee of conference.

No objection being made,

Mr. CLARK, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first, second, fifth, twenty-seventh, thirty-fifth, forty-fifth, and forty-eighth amendments of the Senate, and agree to the same.

That the Senate recede from their amendments to the bill of the House numbered thirteen, fourteen, fifteen, twenty-eight, and twenty-nine.

That the Senate recede from their disagreement to the amendments of the House to their third amendment, and agree to the same with an amendment, as follows: strike out all of said amendment of the House, and insert in lieu thereof the following: "Provided, however, That any Senator who has already, as a member of the House of Representatives, received a portion of a set of the Congressional Globe, shall only be entitled to receive, as such Senator, the additional volumes required to complete one full set."

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same with an amendment, as follows: add to the end of said amendment the words "so much thereof to be expended under the direction of the Secretary of the Interior as may be necessary for the erection of said addition."

That the House recede from their disagreement to the tenth amendment of the Senate, and agree to the same, with an amendment, as follows: strike out the word "ninety" and insert in lieu thereof the words "seventy-five."

That the Senate recede from their disagreement to the amendments of the House to their twelfth and twenty-fourth amendments, and agree to the same.

That the House recede from their disagreement to the twenty-sixth amendment of the Senate, and agree to the same with the following amendment: insert in lieu of the words stricken out the words "for legal assistance, and other necessary, and special, and extraordinary expenses in the disposal of private land claims in California, \$10,000."

That the House recede from their disagreement to the forty-third amendment of the Senate, and agree to the same, with an amendment, as follows: strike out of said amendment all after the word "appropriated," and in the eighth line, and insert in lieu thereof the following: "and for the purpose of furnishing and fitting up suitable rooms for him to remove from the Treasury Department, the sum of \$10,000 is hereby appropriated, or so much thereof as may be necessary."

That the Senate recede from their disagreement to so much of the amendments of the House to their forty-sixth amendment as is contained in the last two sections of said amendment of the House, and agree to the same.

That the House recede from their disagreement to the forty-seventh amendment of the Senate, and agree to the same with an amendment, as follows: add to the end of said amendment the following: "and the sum of \$43,000 is hereby appropriated to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House."

DANIEL CLARK,  
IRA HARRIS

J. W. NESMITH,  
Managers on the part of the Senate.

JOHN A. KASSON,  
R. MALLORY,

H. WINTER DAVIS,  
Managers on the part of the House.

Mr. CLARK. I am ready to explain the action of the committee on the amendments serially or to answer any question of any Senator in regard to any particular amendment, just as may be the pleasure of the Senate.

Mr. ANTHONY. I should like to know what was done with the appropriation for extending the printing establishment.

Mr. CLARK. It was kept as the Senator desired it.

Mr. STEWART. What was done with Judge Field's mileage?

Mr. CLARK. He was kept as the Senate left him.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior; and

A joint resolution (H. R. No. 178) to authorize the continuation of the Joint Committee on Commerce of the Senate and House after the 4th day of March, 1865, to complete their investigations and make their report on the subject of trade with the rebellious States.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, the pending question being on the amendment of the Committee on Finance to strike out the fifth section of the bill, in the following words:

Sec. 5. And he it further enacted, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866.

Mr. JOHNSON. The question before the Senate, I suppose, is whether they will concur with the amendment suggested by the Committee on Finance; for, although we hear from the chairman of the committee that a majority of the committee were in favor of retaining this fifth section, their report shows that they were against retaining it, for they have suggested to us the propriety of rejecting the section altogether. The question, then, I suppose, before the Senate is whether that section is to be stricken out or not. I think I am right as to that.

The PRESIDING OFFICER. (Mr. FOSTER.) That is the question.

Mr. JOHNSON. It is too late in the session, and therefore would be altogether improper, to do more than state the objection which I entertain on this question as to the reason why I shall vote in favor of the amendment. I think it involves a constitutional question, free, in my judgment, of all real difficulty. From the beginning of the Government to the present time the authority of the States to establish banks and to clothe these banks with the authority to issue notes has never been seriously questioned. When the charter of the original Bank of the United States was before Congress, and when the subsequent charter of the bank of 1816 was before Congress, and when its constitutionality was before the Supreme Court of the United States in the case of *McCulloch vs. The State of Maryland*, the only question about which there existed any difference of opinion was whether Congress had a right to establish a bank. The discussion in both branches and the argument in the Supreme Court conceded that the authority existed in the States. But when the Supreme Court affirmed the authority of Congress to establish a bank, and Maryland imposed (what she had not the authority to do) a tax upon the exercise of that franchise within her limits, the Supreme Court, by a unanimous opinion, and they reaffirmed it in a subsequent case from Ohio, declared that the State had no authority to impose that tax, not because the particular tax in that instance would have been any serious impediment to the business of the bank or its office of discount and deposit in Maryland; but because it in-

volved a principle, which, if carried out, would be fatal to the right of Congress to establish a bank at all.

I have said that neither in Congress nor in the court has the authority of the States to establish banks been questioned. This section on its face assumes the right of the States to establish banks. It is not a provision declaring that it shall not be in the power of the States to establish banks and to give them the authority to issue notes, but it professes to tax the notes, so far as the particular section is concerned in this bill, for the purpose of raising revenue. The bill itself upon its face is a supplement to the original act, which was an act to raise revenue exclusively. But I understand the honorable member, with the frankness which characterizes him, to say that the purpose of the friends of this section is to drive out of existence State bank notes; in other words, to deny to the State banks the authority to issue notes by imposing upon them a tax which will render that authority absolutely futile. That is precisely the question upon which the Supreme Court of the United States unanimously declared that the tax proposed by Maryland upon the Bank of the United States could not be maintained. I shall be compelled, therefore, upon constitutional grounds, to say nothing of the question of policy, to deny my assent to this section upon the ground of an absolute want of power.

Mr. POWELL. It is not my purpose to detain the Senate more than a few moments; but as the State which I have the honor in part to represent is very deeply interested in this matter, I will say a few words. After the very able speech of the Senator from Indiana, and the pointed remarks of the Senator from Maryland, it is not really necessary indeed to say anything.

The sole object, and I suppose it is on all hands the avowed object of those who desire to place this ten per cent. tax on the State banks, is to drive out their circulation. No person contends that it is for the purpose or raising money. That purpose is clearly in my judgment unconstitutional. Mr. President, if I were not in council chamber with grave Senators, I should suppose that persons who desired by legislative enactment to drive out a better in order to substitute a meaner currency, were a council of persons who had probably taken leave of their wits; but of course the surroundings forbid my entertaining any such notion as that. I dare say gentlemen have good reasons for this measure, but I regret to say they have not made them manifest.

This proposition is to tax all the State bank issues after a certain day in January next ten per cent. What is the condition of these banks? I am not accurately advised about the condition of the State banks throughout the country, but I do know that the banks in Kentucky, every one of them, are much better and safer institutions than any of the national banks. The bank issues of every bank in the State of Kentucky to-day command a premium over the issues of the national banks, or the greenbacks, as they are commonly called, and I will say further that there is not a State bank in Kentucky that, if the law was repealed authorizing greenbacks to be a legal tender, could not to-morrow resume specie payments. They never did suspend specie payments until the passage of that law, and then they availed themselves of course of it to pay greenbacks instead of coin when their notes were presented for redemption.

The distinguished Senator from Ohio, the chairman of the Committee on Finance, has changed his views, I think, somewhat, about this national bank system. I remember distinctly, when the first national bank bill was under consideration, that the Senator spoke most earnestly and most ably in its favor, and he declared over and over again that it would be the best currency in the world, the best in the Union certainly, and I believe he went so far on one occasion as to say it would be better than coin. The Senator might before last, however, in some remarks he made seemed to have changed his views somewhat, for he announced to the Senate that the Government had now to pay more than twice as much in this paper money for articles it was necessarily compelled to purchase than it would have to pay if the currency were gold, and hence he desired heavy taxes to pay off the debt now.

It is, as I remarked before, strange indeed that

wise and sensible men should be engaged in the work of so forming a bill ostensibly for the purpose of raising revenue as to affix a provision to destroy the institutions of the States, and by that destruction to drive out a much better currency than the one they propose to substitute. If they succeed in this, carrying their principle out, after they shall have by their legislation prevented the issue or circulation of notes of any State bank, however good or solvent that bank may be, I should not be astonished if I were to find these same gentlemen introducing a bill to tax the national bank issues out of existence in order to substitute shavings as a currency. I venture to say that in the history of no people on earth who understood anything of finance and commerce and circulation was there ever such a proposition before. The avowed object of this section of the bill, as it came from the House of Representatives, was and is to drive the circulation of the State banks out of existence for the purpose of substituting that of your national banks. Does any gentleman here pretend to say that your national bank currency is as good as that of the larger portion of the State banks? If any gentleman in this Chamber entertains any such opinion as that, I shall be most happy if he will bring me a million or two of the notes of the State banks of Kentucky and allow me to give him for them greenbacks at par. The State bank notes in all my region of country are better than your national bank currency. Those banks are formed and organized on principles that have been approved by wise bankers for the last five hundred years; they have been eminently successful, and to-day their paper is much better than your national bank paper; it is much better than your Government paper in any form whatever. And yet, sir, those institutions that have been established by the State of Kentucky and other States, that our people know to be safe and solvent and that they desire to retain, are to be taxed out of existence by the Congress of the United States. You have no constitutional power to do it. If you wish to raise revenue from these banks, tax them precisely as you do the national banks, and tax them no more.

The result of this course of legislation is utterly to destroy all the rights of the States. It is asserting a power which if carried out to its logical result would enable the national Congress to destroy every institution of the States and cause all power to be consolidated and concentrated here. Instead of doing this, in my judgment, if you were to act like wise and sensible men, you would pass a law repealing your national bank system entirely, for it has so far proved an utter failure, and the longer it exists the more manifest its rottenness will be. Talk not to me of the success of a banking system that has not been in existence two years and the notes of which are already at fifty per cent. discount. It is rotten to the very core; it violates every sound principle of finance and every correct principle of banking. If we do anything in this matter let us repeal the law creating the national banks, repeal the law making your greenbacks a legal tender, and then all the good State banks in the country will resume specie payments, and you will come to something like a healthy currency, and then the chairman of the Committee on Finance will not be under the necessity of appealing to the people to pay large taxes now when they have a worthless currency in which to pay them, because by and by they will have to pay in gold.

Sir, I have a fear of the concentrated power that is claimed by some gentlemen to exist here. So shape your legislation under the asserted power of taxation (not to raise revenue, but to destroy existing institutions) that no State in the Union can have a bank of issue, and then you have a grand consolidated system of centralization so far as your finances are concerned, with a controlling power in this capital. Every man knows the power of money. It is dangerous to the liberties of the people, and I fear will ultimately be used as a lever by which to overthrow and destroy those liberties. For one, I look on this system of consolidation with the greatest fear and apprehension.

In my judgment there never was a more unjust or unwise proposition, never one more utterly destructive of the principles of the Constitution of our country, and when you shall have accom-

plished what is proposed, you will by your law have driven out a better for the purpose of substituting a meaner currency. When the Senator from Ohio was urging upon us the national bank bill, if we could have believed the arguments he adduced and the proclamations he made about the glory and the grandeur and the greatness of the system and the excellence of the currency it would give us, we must have supposed that by this time it would command a small premium over gold instead of being at fifty per cent. discount as it is.

Mr. President, I hope the Senate will long pause before they claim the power to tax the institutions of the States out of existence, or claim power to destroy the local institutions of the States which it is admitted on all hands they have the power to create. No man doubts the power of the States to create State banks. It is a power that never was and I suppose never will be questioned. I believe there are one or two States in which banks cannot be established. I think in the constitution of Arkansas there is a provision that there shall be no banks in that State; but where a constitutional provision of the State does not intervene there can be no doubt of the power.

The honorable Senator from Ohio spoke of the very great issues of the State banks; he said that they had increased their circulation. The Senator is mistaken in that. About the New England banks I am not so particularly advised, but I know there is not a bank in Kentucky which has not been retiring its issues as fast as it could during the last two years. I have not the tables before me, but I know every bank in Kentucky has been retiring its issues as fast as it possibly could, and for a very sound financial reason, because the greenback which they give for their notes when they redeem them is of less value than their own circulation. Their own bank paper is better than the greenback with which they redeem; and while that is the case the State banks will continue to retire their circulation. Two or three years ago we had many millions more of local circulation than we now have, and perhaps at one time some banking institutions availed themselves of the fact that they were not required to redeem in coin in order to make greater issues than before, but I think the solvent, good banks throughout the country have not done so. I do not believe the banks of New York have done so, and I know that the banks in the West, at least in Kentucky and Indiana, have not so acted.

Mr. President, it was not my purpose to detain the Senate, for I know that time is precious, but I could not allow this proposition to be acted upon without saying a few words in regard to it.

Mr. HENDERSON. Mr. President, I shall not detain the Senate very long; but before the vote is taken on this amendment I wish to say a few words. The proposition contained in this section is simply a proposition to wind up the State banks. In fact the proposition might be put in different language altogether, and should declare that after the date named no State bank in the United States shall be permitted to issue paper as a circulating medium. We all know very well that no bank can afford to issue its paper if it has to pay upon that issue a tax of ten per cent. So it is, as the chairman of the Committee on Finance says, a proposition simply to get rid of the State banks.

I know the unwillingness of the Senate to hear anything upon this subject now; we are getting very near to the end of the session, and time is precious; but the measure is one of the most important ever presented to this body, and this must be my excuse for trespassing at all. What do you propose to do? You propose to divert all the capital now in the State banks into national banks; to break down the one system and to build up the other; and if time permitted, it would be well to inquire what is the one and what is the other? I know there is a prejudice against State banks, but why is it? What creates that prejudice? What have the State banks done against the Government? Can any Senator tell me? I should be very glad to know. Are they disloyal? Are they in the hands of disloyal men? Have they refused to sustain the Government? Have they refused to purchase the bonds of the Government? Mr. President, I make the assertion before the Senate that the local banks of this country to-day have in their hands, purchased

from the Government of the United States, and from individuals who had obtained them from the Government, double the amount of United States securities that the national banks have. You have succeeded in incorporating \$190,000,000 of capital in the national banks, and, delighted with the success, you propose now to drive all the bank capital of this country into a system of banking that has never been tried except to be condemned.

I deny, first, the constitutional power of Congress to do the thing proposed. Is it any longer a doubted question that a State may incorporate a company to issue paper, a company called a banking company? The Supreme Court has again and again decided the question. It was thought to be settled in the days of Chief Justice Marshall and no longer subject to dispute. Then if it be a constitutional power of a State to charter a bank to issue circulation, I desire to know what power Congress has to break it down. I will admit the power of Congress to tax the State banks; I have no doubt about it; but I deny the power, under the plea and pretense of taxation, to destroy those institutions. Congress may tax for purposes of revenue, but not with the direct and avowed purpose of destroying an interest created and built up under a power legitimately belonging to the States. Congress may lay and collect taxes, duties, imposts, and excises, but all duties, imposts, and excises should be uniform. If any one interest may be specially and without limit subjected to the burdens of excise tax, with our present public debt, that interest may be entirely destroyed. The supposed guarantees of the Constitution, securing equality of right and an equitable and just distribution of public burdens, would prove wholly unavailing.

The chief pretext under which you now propose to destroy the State banks is that they stand in the way of successful financial operations by the General Government. Let me tell Senators, and especially those from States proposing to tear down these institutions, because, forsooth, they are in the way of a good currency, in the way of the proper adjustment of the financial concerns of the Government, that in the course of a few years from now the great West, which is putting State after State into the American Union, will have the power in this body and in the other House to say that a great many things stand in the way of the prosperity of the country. Suppose they should say that the great manufacturing establishments of the northern or New England States have received bounties and premiums at the hands of Congress long enough, and that it has become the duty of the West, for the general good, to force the immense amount of capital aggregated in Massachusetts, in New York, in Connecticut, in Vermont, New Hampshire, and other States, to abandon the avocations in which that capital is now invested and compel it to go West and seek employment with us; can it not be done? I insist that there is no trouble in accomplishing it if this precedent be followed.

You say the money power of the local banks is too strong for the success of a banking scheme having only the merit of being incorporated by Congress. The national bank system upsets every principle of finance which time and experience, through peace as well as war, have proved to be correct; but Congress in its wisdom has chosen to adopt it. The people, the trading, commercial classes, do not seem to be so well satisfied with it as Congress. They deposit their surplus means with the old institutions. They discount their notes with them, and receive their issues and pay them out. The national banks hunger for this business. They are already made the depositories of the Government funds, but that will not do. The State banks may survive even with this advantage against them. They next seek private deposits and the exclusive privilege of furnishing to the country a circulation. If the people will not cease to keep their deposit accounts with the local banks and obstinately refuse to transfer them to the new banks; if they will receive and circulate the notes of the old banks, believing them to be a safe medium of exchange, there is nothing left but the course now proposed. Experience condemns the new system; the commercial and trading people will not trust it. No country has ever tried an irredeemable currency without great loss, and very often finan-



cial ruin. Yet the Government has determined to inaugurate the policy, and now, to make it succeed against the fixed judgment of the people, it is proposed to drive out of existence all rival systems. The new system cannot live on its own merits. It cannot brook competition. Hence the strong arm of the Government must be brought up to the rescue—not to sustain by favors and privileges the new system, but to crush out the old.

Let us see how these principles proposed to be established will operate. Peace will come after awhile. When it does come it will find a large public debt to be liquidated. Each section, with more vigilance even than now, will endeavor to protect its peculiar and local interests against the burden. In order to do so, as revenue needs must be had, each will find excuses for placing the tax upon the interests of the other. It may also be safely assumed that each will use, as it may properly do, the conceded powers of the Government to bring the wealth of the country to itself.

That being the case, the West may say that its tobacco and whisky are taxed several hundred per cent. on its value, while the manufactures of the northern States are taxed but six per cent. and protected by increased tariff duties of at least fifty per cent., thus enabling the manufacturers to feel that the excise tax is a blessing to them and a curse to the country. It is easy for us to believe what we want to believe. Were this not the case few persons would think it proper to drive out the issues of State banks, bad as they may be, to give place to the irredeemable circulation proposed by the national currency. It may be easy and very convenient for the West to believe that northern and eastern productions and manufactures should pay more of the public burdens. It may be equally as convenient to believe it just and constitutional to divert a part of the accumulated capital of the East to seek investment in the West.

If I believed, as some seem to believe, why could I not in my legislative capacity hereafter say to our western friends, "There is a large amount of capital in Massachusetts, an immense amount in New York and other States; let us tear it down, make it remove out West, settle upon our rich and teeming lands, and there prosper and build up our States; we want it to dig out the ore from the Iron mountain; to draw out the native ore of the Pilot Knob; to go to Newton county in my State and dig up the lead ore of that country." How can we do it? Put twenty-five per cent. instead of six per cent., as proposed by this bill, on the manufactures of New England and the investments of New York. Can you oppose it on constitutional grounds? What objections have you to it? Did you not tax out of existence a bank in the State of Missouri? Did you not crush the banks of Iowa and Wisconsin? It was no uniform or ordinary tax you levied; it was a tax of ten cents on every dollar they issued. You levied no such tax on national banks. Why cannot I say twenty-five per cent. on you? Is it not an analogous case? What right have you to say I am restrained or forbidden to do this thing? Why cannot I do it? Cannot I lawfully put even fifty per cent. on your manufactures? If this should not destroy your business we can repeal the tariff and give you no drawback when you export. I think you would pick up your capital and go to farming or digging lead and iron in my State and others of the West. Will you not? Surely so. I think Senators ought to think what they are doing.

Mr. WILSON. Will the Senator allow me to ask him a question?

Mr. HENDERSON. Certainly.

Mr. WILSON. I wish to put a question to the Senator because I cannot comprehend the kind of argument he is making, as though the East was forcing this system on the West. If I understand it, and I ask the Senator if it be not correct, the policy going against the State banks has been from the beginning a policy against the eastern States and has found its strongest supporters in the western States. It is a measure that we have supported for the good of the country peculiarly against our section and in favor of the West.

Mr. SHERMAN. I trust my friend from Missouri will allow me to make an appeal to him. He and I are both members of the same committee, and I am no more responsible for this bill than he is. It is manifest if these various propositions are discussed at great length we shall never get through.

Mr. HENDERSON. I assure the Senator that I shall not speak many minutes longer. In answer to my friend from Massachusetts I will say that if he understands me as speaking against the New England States, or as being hostile to them in any particular, or if he understands me to be otherwise than friendly to the New England States, he is very much mistaken. I am only endeavoring to show the dangerous conclusions of our present legislation. I am exemplifying what I think may be improperly done on this precedent. When I say that I am friendly to all the interests of the New England States, I do not express my true feelings. I am more than friendly. I admire as much as the Senator from Massachusetts, and perhaps more, the sacrificing spirit of those States since this war commenced. I have always admired the energy, the industry, the learning, the greatness of their people. No American should feel otherwise than proud of the New England States. He cannot speak of his country and forget them. They constitute a large part, and perhaps the noblest part, of the American Union.

I cannot give point to my argument so well in any way as by showing the great enormity that might be perpetrated upon the industry and earnings of an active, energetic, and frugal people, by mere force of numbers. Their shield is the Constitution. If we disregard it in one case, others will come after us ready to use the precedent.

But I cannot delay.

Now, Mr. President, I say in the first place, this thing is unconstitutional; in the second place, it does not aid the Government. Tell me wherein it aids the Government. If some Senator will tell me I will give up my opposition. If Senators see no constitutional objection, and have no fears that dangerous legislation may be predicated upon it, I am willing they may urge it; but no such radical change should be made in the business relations of a country, whether the act be constitutional or not, unless the highest considerations of public policy can be urged in its behalf.

If the Government proposes to borrow money, I presume each system of banks will loan if the loan be thought advantageous. Capital seeks investment wherever dividends can be assured. The mere conversion of State bank capital into national bank capital will not induce it to serve the Government without fee or reward. State banks invest in Government bonds because of the hope of profit. National banks, or rather those who control them, are operated upon by the same motives. Senators seem to admit this view of the case, but insist that the State banks are continually inflating the currency, and a wise policy demands that bank circulation be curtailed.

Let us look at this argument. On the 1st of January, 1863, the State bank circulation, in round numbers, was \$173,000,000; on the 1st of January, 1864, it was \$169,000,000, and on the 1st of December, 1864, according to a report which the honorable chairman of the Finance Committee has just received from the Treasury Department, it was \$136,965,902. Is not the State bank circulation being decreased instead of being increased? Unquestionably so. But if it be the desire to decrease the circulation, I submit to Senators why it was that they sat here this morning and contentedly permitted a bill to pass authorizing the Secretary of the Treasury in his discretion to issue \$600,000,000 more of Treasury notes. Do you dare to tell me that you want to curtail the circulation? Is there any Senator here who raises his head this evening and says so? Why then did he vote for the proposition that was passed authorizing the Treasury Department to issue \$600,000,000 more of Treasury notes?

But aside from the Government issues which we have authorized without a division, and for which excuse may be rendered, we are asked, under pretense of contracting the currency, to foster and encourage a system which can do nothing but expand in bulk and depreciate in value. The argument in favor of curtailment may be good, but I fear it is only urged against the State banks.

I will state the result of the contracting process in several States. The bank capital of Missouri is \$8,929,220. The circulation of the banks of that State on the 1st of January, 1863, was about \$4,000,000; on the 1st of January, 1864, about \$2,000,000; on the 1st of November, 1864,

\$1,460,000, and on the 1st of January, 1865, only \$965,372. The object now is to drive all that capital into national banking associations, and when you do it what will be the result? You tell me that you are attempting to curtail the circulation, but the very moment you do what you propose you actually put in circulation \$8,026,298 instead of the \$965,000 now outstanding. And yet you tell me that you wish to decrease the circulation, and thereby enable the Treasury Department to get along with its financial affairs.

Now, let us look at the great State of New York. It has a banking capital of say \$108,000,000. What is its circulation? It was \$28,000,000 until you went there with your national banks, under the pretext that you intended to curtail the circulation, and you have issued \$13,000,000 more, so that, including both State and national bank circulation in New York, there are now \$41,500,000 circulation in that State.

How is it in Massachusetts? On the 1st of December, 1864, there was \$20,000,000 of circulation in that State. You were not satisfied with that; you said you wanted to curtail the circulation in the State of Massachusetts, and you authorized national banks, and now you have there \$19,958,050 of national bank circulation, making a total circulation of \$40,303,486. You have increased the circulation nearly \$20,000,000, and yet you tell me you are trying to decrease it, and that unless you succeed the Government will be greatly injured.

Pennsylvania was complained of for increasing her bank circulation. How is it in that State? Pennsylvania, on the 1st of December, 1864, had a State bank circulation of \$20,323,390. You wanted to decrease the currency, and through your national bank system you have authorized \$16,544,160 of national bank paper in that State, making a total circulation in Pennsylvania of nearly \$37,000,000 instead of the \$20,000,000 that existed there previously, and you tell me that you do it in order to decrease the circulation!

How is it in Vermont? On the 1st of December, 1864, the banks of that gallant little State had a circulation of \$5,415,600. You wanted to curtail it. I remember well that it was stated upon this floor less than a year ago that Vermont was expanding her circulation, that Maine was doing so, that all the New England States were doing so. In order to curtail the circulation in Vermont you have established your national banking system, and authorized to be put in circulation by the national banks in that State \$1,579,200, making now an aggregate circulation of \$6,994,800. All this is done under the plea that you must curtail the circulation of the country!

How is it in Wisconsin? That State, too, I remember, was complained of. Wisconsin, on the 1st of January, 1863, had a circulation of \$2,235,105, and on the 1st of December, 1864, \$2,248,492; just about the same at each date. But you wanted to curtail the circulation in Wisconsin, and you have authorized to be issued to the national banks \$840,000 more, and still the work goes on. You have now an aggregate circulation in the State of Wisconsin of \$3,088,492.

You have already in circulation \$96,000,000 of the national bank currency, while the State banks have decreased \$33,000,000, and you have authorized by a law of the last session \$300,000,000 to be issued, and yet all this is done under the plea that it is necessary to curtail the circulation! If the real excuse were given for this legislation I should not object so much, but it is monstrous, in my view, to give such reasons as have been urged upon the floor of the Senate in favor of it.

Then look at the great State so ably represented by the chairman of the Committee on Finance—the great western State of Ohio. I find that on the 1st of January, 1864, the State banks there had a circulation of \$5,936,333. I recollect that some time ago the Senator said the State banks in his State had expanded their circulation. I find on the 1st of December, 1864, instead of having expanded their circulation since the 1st of January of that year, they had decreased it to \$4,135,439. Since the Senator has got the national banking circulation in operation they have not only \$4,000,000 of State bank circulation, but in addition thereto \$8,579,870 of national bank circulation, making an aggregate circulation in

that State of \$12,715,309, nearly three times as much circulation as existed before we began the national bank system; and yet we are told the object of that system is to decrease the circulation!

Mr. President, the State banks, as I have said, are bound at some time to redeem their issues in coin, and they have the coin with which to redeem them. The coin account in the State banks to-day is much larger than the circulation, taking them altogether throughout the Union. How is it with the national banks? How is it with that system which you have established and now declare shall override everything else in this country? I should like to see the coin account of the national banks, having already a capital of \$190,000,000, and rapidly increasing. I dare Senators to tell me how much coin there is in those banks. I said, when the national banking system was established, the word "coin" is not known in the act, and coin will not be known in their vaults.

How do the national banks in any other way benefit the operations of the Government? Will some Senator tell me? I want that question answered this evening before this vote is taken. We have been told that if we drive all the State banks out of existence the Government will then get along with its financial operations. Will some Senator tell me how it facilitates the operations of the Government? Shall I be told that individuals will purchase the bonds of the Government provided you authorize those individuals to deposit them with the Treasurer and to receive circulating notes to the extent of ninety per cent. of their par value? Is that the answer? Then I have already declared, and I reassert it, that the State banks in this country hold to-day more of the bonds of the United States than do the national banks. Then why not let capital alone? I have said that you have no constitutional power to go into the States, and to tear down their institutions of banking, any more than I have the right to go into New England and tear down the cotton factories. You have no more authority by your act to do this thing than I have to break up the manufacturing of New England, the sugar-growing interests of Louisiana, or the agricultural interests of the West.

I am well aware that this proposition is going to carry. I feel perfectly confident that it will prevail. I am unable to give any arguments against it which will have any weight with those whose opinions are fixed. I can but submit and leave the future to furnish that conviction which in some cases experience alone can bring. I am no advocate of bank issues, even the best of them. But among systems of banking there is a choice, and the issues of some are infinitely better than those of others.

Sir, this is not the first time that a banking system of this sort has been forced on a community. England went crazy about banking on one occasion. The trouble is that when a nation commences a career of wild and reckless banking no man knows the end thereof. The limit can never be reached. New issues stimulate speculation, and speculation creates demand for additional circulation. Destroying the State banks concentrates the money power and makes it strong in its demands. After the amount now authorized is issued will you not authorize more? Do you suppose you will ever stop the issue of a circulating medium on the public securities of this country? No; you have already passed the point at which you can do it. In less than five years from to-day the legislation of this country will be greatly warped by a moneyed power called the national banking system. You and I will live, if we live but a few years more, to see it a power in the land. We shall be unable to resist it. When they come to Congress to make a demand that their circulation shall be increased, that their capital shall be increased, that new and more favorable acts of incorporation shall be passed, you and I and all of us will have to bow down and acknowledge the superiority of the money power. Nations once were jealous of it. We have ceased to be. We have trampled under foot all such fears. We imagine the nation was once weak. We want it stronger, and to make it so we will give the Government to the money power.

I said there was a rage for banking once in England immediately preceding the South Sea bubble. They got their satisfaction of it. There

was a rage for banking in France upon one occasion, and John Law gave the French satisfaction. There is a rage for banking in America, and the national banking system will nauseate the stomach of every man in less than ten years. Every dollar of the public credit of this country is to be made capital upon which you are to issue paper. The public debt of the country is to become the substratum of a circulating medium.

The old prejudice in favor of the precious metals is to be abandoned. Money is the same as public debt. Debt therefore is a public blessing and not a calamity. But for the war we should have had no debt and therefore no safe and sound currency. This new era of prosperity and wealth proposes to give each holder of public indebtedness ninety per cent. of its par value in circulating notes, and by ostracizing all other circulation force the community to take it. During the prevalence of the disease in the English mind on this subject, and before the public debt was created which shortly thereafter gave the South Sea bubble its origin, it was supposed that the lands of the kingdom constituted the proper capital for banks. The rage for bank issues demanded more than the precious metals could redeem, and learned statesmen yielded to the fascinating idea that the Government impress on a piece of paper gave it the intrinsic value of metal, and that wealth increased as bank issues expanded. They did not abandon the thought that the paper should be the representative of something valuable. Having no considerable public debt, each man was to be called on to put in his land as bank capital, and this entitled him to its appraised value in circulating notes. In our case we take the public debt as bank capital, which instead of being wealth or money is the want of either, and to each holder we give circulating notes. England was luckily saved from the consequences of this humbug, only to be tempted into a system scarcely less fatal—I mean the system of issuing notes on the public debt. The assignats of France were based on the confiscated lands of the nobility and clergy falling under the penal decrees of the Revolution, and were a failure.

The land-bank system proposed by Briscoe and Chamberlayne, in England, was ridiculed by Macaulay in one of his essays, as follows:

"Prominently conspicuous among the political mountebanks whose busy faces were seen every day in the lobby of the House of Commons, were John Briscoe and Hugh Chamberlayne, two projectors worthy to have been members of that academy which Gulliver found at Lagado. These men affirmed that the one cure for every distemper of the State was a land bank. A land bank would work for England miracles such as had never been wrought for Israel, miracles exceeding the heaps of quails and the daily shower of manna. There would be no taxes, and yet the exchequer would be full to overflowing. There would be no poor rates, for there would be no poor. The income of every land-owner would be doubled. The profits of every merchant would be increased. In short, the island would, to use Briscoe's words, be the paradise of the world. The only losers would be the moneyed men, those worst enemies of the nation, who had done more injury to the gentry and yeomanry than an invading army from France would have had the heart to do.

"These blessed effects the land bank was to produce simply by issuing enormous quantities of notes on landed security. The doctrine of the projectors was, that every person who had real property ought to have, besides that property, paper money to the full value of that property. Thus, if his estate was worth £2,000, he ought to have his estate and £2,000 in paper money."

We have only deducted ten per cent.

"Both Briscoe and Chamberlayne treated with the greatest contempt the notion that there could be an over-issue of paper as long as there was for every £10 note a piece of land in the country worth £10."

Our political doctors now tell us that there is no danger of an over-issue provided the national banks make the issues, and in order that the national banks shall have full sway, you must remove the State banks. You will not for a great while maintain any limit on the national bank issues. Are they any better than the issues of the banks of my State with a capital of upward of eight millions, and only \$965,000 of circulation, and \$2,000,000 of coin in those banks with which to redeem their circulation?

"Nobody," they said, would accuse a goldsmith of over-issuing as long as his vaults contained guineas and crowns to the full value of all the notes which bore his signature. Indeed, no goldsmith had in his vaults guineas and crowns to the full value of all his paper. And was not a square mile of rich land in Taunton Dean at least as well entitled to be called wealth as a bag of gold or silver? The projectors could not deny that many people had a prejudice in favor of the precious metals; and that, therefore, if the land bank were bound to cash its notes, it would very soon

stop payment. This difficulty they got over by proposing that the notes should be inconvertible, and that everybody should be forced to take them."

That was a necessary consequence; and now I submit in all reason, that if the object of gentlemen be to stop the inflation of the currency they should commence somewhere else than upon the pitiful amount issued by the State banks. Those banks, with a capital of \$400,000,000, have a circulation of only \$136,000,000; and they are reducing it all the time. They have reduced it \$33,000,000 in the last twelve months; and yet gentlemen say they do not reduce it fast enough. It is very much like the wolf in *Æsop's* fables, that complained of the lamb for muddying the water above him. It should be confessed that we are determined to sell Government bonds at par. If they fall below that standard, the Government wants the power to pour in upon the country additional circulation until the bonds can be floated. It is upon the same principle that the canal-boat is floated through the lock. The bond can be sold for fifty cents in gold. It is true that the fifty cents will purchase as much as the one hundred cents in paper, but it is thought better to sell the bond for paper apparently at par, but really at a discount. If the bond had always been sold for gold, the Government credit would have been at par to-day; but a vicious system was adopted, whereby we purchase on Government account at currency prices, agreeing ultimately to pay in gold. A great Government, the most powerful on earth, ashamed to sell its bonds at a discount of perhaps five per cent. for gold, is led into a false position, and forced to pay two prices for the subsistence and transportation of its armies and the construction of its navies, because it has to seek a short credit.

But the error is to be continued. I have no power to resist it. This banking system is the legitimate fruit of the first mistake. It will have to run its course. Some things never cease to be used until they blow up. A vicious banking system is one of them. Every system that does not redeem its issues in coin is vicious and corrupt. Every such system will fail. It will bring distress and bankruptcy; but the world will move on. Storms come and darken the skies, but the sun shines again. All will be well at some time. Looking at this banking system I feel as the prophet felt when he gazed on Hazael. Hazael committed his crimes, but the world lived on. This is my consolation now. I hope the world may be wiser when one more attempt to make something out of nothing shall have failed.

The question being taken by yeas and nays, resulted—yeas 20, nays 22; as follows:

YEAS—Messrs. Anthony, Buckalew, Collamer, Davis, Dixon, Doolittle, Foot, Foster, Harris, Henderson, Hendricks, Howe, Johnson, McDougall, Powell, Riddle, Ten Eyck, Van Winkle, Willey, and Wilson—20.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Farwell, Grimes, Harlan, Howard, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, Wilkinson, and Wilson—22.

ABSENT—Messrs. Carlile, Cowan, Hale, Harding, Lane of Indiana, Nesmith, Richardson, and Sausbury—8.

So the Senate refused to strike out the section.

Mr. HENDRICKS. I move after the word "association" in the second line of the section to insert the words "or broker."

The PRESIDING OFFICER. The Chair will entertain the motion if the Senator makes it, though it has been thus far the understanding that the amendments proposed by the Committee on Finance to the bill were first to be gone through with.

Mr. HENDRICKS. I do not insist on it. The PRESIDING OFFICER. The reading of the bill will be continued and the amendments of the committee will be acted on as they are reached in their order.

The next amendment was in line four of section six, to strike out "six" and insert "two," so as to make the tax on crude petroleum two cents a gallon.

The amendment was agreed to.

The next amendment was in line ten of section six, to strike out "five" before "days" and insert "ten."

The amendment was agreed to.

The next amendment was in line nine of section seven, after "oil" to strike out the words "produced and also the number of gallons," and to insert "barreled or."

The amendment was agreed to.

The next amendment was in lines eighteen and nineteen of section seven, to strike out the words "produced and also of the number of gallons."

The amendment was agreed to.

The next amendment was before the word "re-moved" in line twenty of section seven, to insert "barreled or."

The amendment was agreed to.

The next amendment was in line five of section nine to strike out "tank" before "or," and after "or" to strike out "other."

Mr. VAN WINKLE. The word "tank" is proposed to be stricken out in several places in that section. I suppose one vote will answer.

The PRESIDING OFFICER. It will be so understood, and that word will be stricken out to make the bill consistent.

The amendment was agreed to.

The next amendment was on page 51, section twelve, line eight, to strike out the word "act" and to insert the word "law," and in line ten to insert the word "competent" before "jurisdiction;" so that the section will read:

Sec. 12. *And be it further enacted*, That all persons and every person who shall engage or be concerned in the business of a lottery dealer without having first obtained a license so to do, under such rules and regulations as shall be prescribed by the Secretary of the Treasury, shall forfeit and pay a penalty of \$1,000, to be assessed by the assessor of the proper district and collected as assessed taxes are collected, subject, nevertheless, to the provisions of this law relating to erroneous assessments, and shall, on conviction by any court of competent jurisdiction, suffer imprisonment for a period not exceeding a year, at the discretion of the court. And it shall be the duty of all managers and proprietors, and their agents, to keep or cause to be kept, just and true books of account wherein all their transactions shall be plainly and legibly set forth, which books of account shall at all reasonable times and hours be subject to the inspection of the assessor, assistant assessor, revenue agent, and inspector of the proper district; and any manager, proprietor, agent, or vender under this act, who shall refuse or prohibit such inspection of his or their books, as aforesaid, shall pay a penalty of \$1,000 or suffer imprisonment for a term not exceeding one year for every such offense.

The amendment was agreed to.

The next amendment was on page 52, section thirteen, line three, to insert the word "ceased" before the word "or," and after the word "has" to insert the word "been;" in lines four and five to strike out the words "was intended to be and shall be assumed to be;" and in line six, after the word "amendment" to insert the words "shall be assumed to be;" so that the section will read:

Sec. 13. *And be it further enacted*, That the capital of any State bank or banking association which has ceased or shall cease to exist, or which has been or shall be converted into a national bank, for all the purposes of the act to which this is an amendment, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid.

The amendment was agreed to.

The next amendment was on page 52, at the end of section thirteen, to add the following:

And whenever the outstanding circulation of any bank, association, corporation, company, or person, shall be reduced to an amount not exceeding five per cent. of the chartered or declared capital, said circulation shall be free from taxation. And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per cent. of the capital before such conversion of such State bank or banking association.

Mr. LANE, of Indiana. I move to amend this amendment by striking out "five," wherever it occurs, and inserting "ten;" and also by inserting after the word "capital," in the eleventh line, the words "existing at the time the same was issued." The effect of the amendment will be this: when a State bank shall have reduced its whole circulation to an amount not exceeding ten per cent. of its capital then the tax is not to be assessed, and the tax is to be upon the amount of the capital existing at the time of the assessment. The State Bank of Indiana, for instance, has within the last three years decreased its circulation three fourths, and its capital has decreased precisely the same amount. It certainly would not be proper to tax the capital that existed three years ago, and which does not now exist at all; and it seems to me, when they reduce their circulation to an amount not exceeding ten per cent. of the whole capital stock, the tax should not be

imposed; and that is the effect of the amendment that I now propose.

The VICE PRESIDENT. The first question is on striking out "five" and inserting "ten."

Mr. GRIMES. I confess that I do not see the propriety of the original proposition as it comes from the committee. It is not the capital the committee propose to tax; it is the circulation of the banks.

Mr. SHERMAN. I will explain to the Senator, and he will see the necessity of it. This section only applies to those State banks that are going into the national system. By the present law, in taxing circulation, we put a tax of one per cent. upon the circulation to the extent of ninety per cent. of the capital, and three per cent. on all above that; and where a bank has become a national banking association, and consequently has ceased to exist as a State bank, except for the purpose of closing up the old bank, the question arose whether the State bank was entitled to pay one per cent. or three per cent. on ninety per cent. of its capital; whether the capital was in existence for the purpose of ascertaining the amount of the tax. That is the only thing in the section. The latter clause of the section is to require a national bank, when it takes the place of a State bank, to pay the taxes and assessments imposed on the State bank. A case occurred, I am told, in Massachusetts where a State bank ceased to exist, and the bank claimed, after having ceased to exist, that it was no longer subject to tax, as it had gone into the national association. The purpose of this section is to make the national association pay the tax on the outstanding circulation of the State bank.

Mr. GRIMES. The latter part of the amendment may be all well enough; but as I read the first clause it directs that where a bank which has had, say half a million of circulation, shall undertake to wind up, and \$25,000 of that circulation is still outstanding not collected, that bank, although it may be deriving a profit from this circulation, shall not be compelled to pay any tax upon that amount.

Mr. SHERMAN. The reason of that I neglected to explain to the Senator, and it is this: it is presumed, from long experience, that five per cent. of the circulation of a bank of ten or twenty years' standing is about the amount that has been lost or destroyed in the process of business, and therefore it would be unjust to tax circulation which really did not exist. That was the theory of it. My friend from Indiana thinks that five per cent. is too little. I do not think it is. I think five per cent. would cover the average outstanding circulation of a bank which has been lost or destroyed, and which is therefore no longer in circulation.

Mr. GRIMES. I suppose the bank gets the advantage of this \$25,000 that is lost; and I do not think it would be any very great hardship for them to pay five per cent. on it to the Government.

Mr. COLLAMER. How long?

Mr. GRIMES. For a reasonable length of time; until after an opportunity for further legislation on the subject.

Mr. JOHNSON. But the effect of this amendment, whether you make it five or ten per cent., is to say that the State banks may issue five or ten per cent. on their capital without any liability to tax it. It does not follow that they are to wind up because the circulation is reduced.

Mr. GRIMES. Take, for instance, the Bank of Commerce of the city of New York that we by special legislation invited into the national system or to take a national charter. If my recollection is not in error it had a capital of \$9,000,000, and the whole amount of its circulation last year was but \$1,700.

Mr. SHERMAN. Really they had not any.

Mr. GRIMES. Exactly; but under this provision I suppose they can issue five per cent. or ten per cent. (if the amendment proposed by the Senator from Indiana shall be adopted) upon that \$9,000,000 of capital, and they will not be compelled to pay any tax on it.

Mr. SHERMAN. If they have a circulation not exceeding five per cent. of their capital they do not pay a tax; but they are taxed for every dollar over five per cent.

Mr. GRIMES. Exactly; and if the amendment proposed by my friend from Indiana shall be adopted they will be allowed to issue ten per cent. on their capital; and ten per cent. on \$9,000,000

will be a very considerable circulation for a bank; or it would be in my State. I am not disposed to enact anything into a law here that will enable that bank to have a circulation to the amount of \$450,000 without paying any tax on it.

Mr. FARWELL. By an amendment which has been adopted to this bill by the Senate, if this bank shall pay out one of their bills they are to pay ten per cent. upon it. That is tax enough to keep them from paying it out. No other banks can pay them out, and of course the bank must redeem its own notes as fast as they come in. This is only providing for those cases where they do not come in. The bills cannot circulate and go to the bank if they are not in existence; that is certain.

Mr. LANE, of Indiana. The difficulty suggested by the Senator from Iowa is all obviated by a simple statement. By the fifth section of this bill these banks after the 1st of next January will be charged ten per cent. upon all their issues. Now, the Senator seems to suppose that if they are exempt from taxation to the amount of ten per cent. of their capital they may issue to that amount; but there is no danger of that, because they are taxed ten per cent. for every dollar they issue after the 1st day of January next; and that will obviate the difficulty. I suppose that when a bank has reduced its circulation to ten per cent. of its whole capital, with a view to go into the national banking association, it ought to be taxed; but I think the other branch of the amendment more important, that they shall only be taxed upon the amount of the capital existing when the issues are made; and I understand the chairman of the Committee on Finance is willing to agree to that. I do not know whether five per cent. is too little, or ten too much, to cover the loss of notes not in existence, which have gone out of circulation, been destroyed, or obliterated; but the idea that this proposition may authorize a large increase of circulation is obviated entirely by the fifth section, because the bank has no inducement to issue when they are taxed ten per cent. for every dollar they do issue.

Mr. JOHNSON. But I ask the honorable member whether he is perfectly certain that that would be the effect of the fifth section if the eleventh section is adopted. The fifth section provides:

*And be it further enacted*, That every national banking association, State bank, or State banking association, shall pay a tax of ten per cent. on the amount of notes of any State bank, or State banking association, paid out by them after the 1st day of January, 1866.

Then this provision is, that when the circulation is reduced to five per cent. of the capital, the circulation shall be free from taxation; that is, free from taxation under this act.

Mr. GRIMES. The fifth section only applies to notes paid out after a certain time.

Mr. JOHNSON. But that does not apply to this. The effect of this will be to exempt from taxation circulation not exceeding five per cent., or ten per cent., if the amendment suggested is adopted.

Mr. HENDRICKS. I know the Senator from Iowa would not wish to do an unjust thing. It is not the purpose to tax the banks that are trying to bring their circulation in. They cannot bring all in; for some is lost, some is destroyed, some not presented. I am informed by a banker of our State, in whom I have great confidence, that in winding up the old Bank of the State of Indiana there was ten per cent. that could not be got in; and the bank had to make provision by making a contract, taking a bond from certain parties running far into the future, to redeem about that amount, which has never come in, because it is lost. Ten per cent. is about the amount that the winding up of that bank showed. It would be outrageous to charge them upon that. This amendment is a very fair proposition.

The VICE PRESIDENT. The question is on striking out "five" wherever it occurs in the committee's amendment and inserting "ten."

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question now is on the second amendment proposed by the Senator from Indiana, in line eleven of the committee's amendment, after the word "capital" to insert "existing at the time the same was issued."

The amendment to the amendment was agreed to. The amendment of the committee, as amended, was adopted.



The next amendment was to add at the end of section fifteen, page 54, the words "unless otherwise provided by this act;" so that it will read:

Sec. 17. *And be it further enacted*, That this act shall be in force and effect on and after the 1st day of April, in the year 1865, unless otherwise provided by this act.

The amendment was agreed to.

The next amendment was to insert the following at the end of the bill as a new section:

Sec. —. *And be it further enacted*, That all persons licensed under the provisions of this act or the act to which this is an amendment, and who are engaged in the sale of goods, wares, or merchandise, or of articles produced or manufactured, whether foreign or domestic, shall, within ten days after the 1st day of each and every month, make return, under oath or affirmation, of the amount of goods, wares, and merchandise, or articles sold during the month preceding, and shall pay thereon a tax of one half of one per cent.; and all such persons, in the assessment and collection of the tax imposed by this section, shall be subject to the provisions of law relating to the assessment and collection of taxes of manufacturers, mentioned in the eighty-second section of the act to which this is an amendment, as far as the same are applicable. And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to make all needful rules and regulations for the assessment and collection of the tax imposed by this section.

Mr. GRIMES. I move to amend the amendment in line nine by striking out the word "half" and inserting the word "fourth," making the tax one fourth of one per cent.

Mr. SHERMAN. I do not intend to debate this question. This is the tax on sales. We have put the tax at one half of one per cent. only on the sales of persons engaged in trade. It does not apply to all sales, but only to the sales of persons engaged in trade. This was as near an approximation of the view of the House as it was possible to obtain. I think a tax of one half of one per cent. is small enough. One fourth of one per cent. might in many cases be too insignificant to collect. I hope, therefore, that amendment will not be made.

Mr. COLLAMER. Is this tax to be imposed on all sales?

Mr. SHERMAN. No; it is to be imposed on all sales made by persons who have to take out a license under this law. There is no minimum.

The VICE PRESIDENT put the question on the amendment to the amendment, and declared that the "noes" appeared to have it.

Mr. GRIMES. I think this question important enough to have a division of the Senate upon it. I am satisfied that a tax of one half of one per cent. on sales will be the most onerous measure ever passed by Congress; but I think a tax of one fourth of one per cent. could be borne by the people of the country.

Mr. HOWE. It would not pay for collecting.

Mr. GRIMES. Has the Senator ever made any calculation as to the amount that would be derived from a tax of one fourth of one per cent.? Will he tell us how much it would be upon all the sales that are made by the persons who are required to take out licenses in this country?

Mr. HOWE. You tell us.

Mr. GRIMES. More than fifty million dollars would be realized. I know that these gentlemen who are members of the Finance Committee imagine that any calculation or any statement made by gentlemen who are not connected with it is necessarily unsound; but I think a tax of one fourth of one per cent. on all sales made in this country is just about as much as the people are prepared to stand.

Mr. POWELL. I am opposed to the adoption of this section. I concur with the honorable Senator from Iowa that it would be one of the most odious measures that could possibly be passed. It is not my purpose to make any extended argument on the subject. This is simply a tax on sales. It is a revival of the doctrines that prevailed in Spain some two hundred years ago under the rule of Philip II. I believe there are but two nations on the face of the earth that ever indulged in such a tax as this: one was Spain, and the other was Naples; and they have both abandoned it. The proposition of the Committee on Finance is this:

That all persons licensed under the provisions of this act or the act to which this is an amendment, and who are engaged in the sale of goods, wares, or merchandise, or of articles produced or manufactured, whether foreign or domestic, shall, within ten days after the 1st day of each and every month, make return, under oath or affirmation, of the amount of goods, wares, and merchandise, or arti-

cles sold during the month preceding, and shall pay thereon a tax of one half of one per cent.

That provision would send the tax-gatherer once every month into the house of every business man in this whole country. The whole doctrine is odious, and one that never should be permitted to exist for one moment on the statute-book of any enlightened commercial people. I am aware that this tax was recommended in the report of the honorable Secretary of the Treasury, a gentleman for whom I entertain the most profound respect; and I regret, for the fame of that distinguished man, that he ever made such a recommendation. I believe it was recommended by the Committee of Ways and Means of the House of Representatives, but was voted down by that body. At this late period of the session I will not attempt any elaborate argument upon it. I know that under it articles may be taxed twenty times before they reach the consumer. Those who buy from the importing merchant will have to pay the tax. They sell to the wholesale dealers, and they will have to pay it. They sell again to the jobbers, and they will have to pay it; and then when the consumer buys, he will have to pay one half of one per cent.; and at last the whole tax falls on the consumer. Every commodity that comes from one of your manufacturing establishments and is sold has to pay this tax. Then the wholesale dealer pays it when he sells it. The various merchants throughout the country to whom he sells it have to pay it also; and so, perhaps, the tax may be paid twenty times over on the same article before reaching the consumer.

Senators who desire the commercial prosperity of this country should not entertain for one moment such a proposition as this. I will read to the Senate the opinions of two or three men on the subject who I suppose are entitled to some consideration; and I beg Senators to listen to what these men say. I will first read an extract from Adam Smith's *Wealth of Nations*. Speaking of a tax on sales, Mr. Smith says:

"In consequence of the notion that duties upon consumable goods were taxes upon the profits of merchants, those duties have in some countries been repeated upon every successive sale of the goods. If the profits of the merchant importer or merchant manufacturer were taxed, equality seemed to require that those of all the middle buyers who intervened between either of them and the consumer should likewise be taxed. The famous alcavala of Spain seems to have been established upon this principle. It was at first a tax of ten per cent., afterward of fourteen per cent., and is at present only six per cent., upon the sale of every sort of property, whether movable or immovable; and it is repeated every time the property is sold.

"The levying of this tax requires a multitude of revenue officers, sufficient to guard the transportation of goods, not only from one province to another, but from one shop to another. It subjects not only the dealers in some sorts of goods, but those in all sorts, every farmer, every manufacturer, every merchant and shopkeeper, to the continual visits and examination of the tax-gatherers. Through the greater part of a country in which a tax of this kind is established, nothing can be produced for distant sale. The produce of every part of the country must be proportioned to the consumption of the neighborhood. It is to the alcavala, accordingly, that Ustaritz imputes the ruin of the manufactures of Spain. He might have imputed to it, likewise, the declension of agriculture, it being imposed not only upon manufactures, but upon the rude produce of the land.

"In the kingdom of Naples there is a similar tax of three per cent. upon the value of all contracts, and consequently upon that of all contracts of sale. It is both lighter than the Spanish tax, and the greater part of towns and parishes are allowed to pay a composition in lieu of it. They levy this composition in what manner they please, generally in a way that gives no interruption to the interior commerce of the place. The Neapolitan tax, therefore, is not near so ruinous as the Spanish one."—*Adam Smith's Wealth of Nations*, vol. 3, page 493.

Now, sir, we are about to enact that odious policy of Spain. It is a fact, I believe, that during the whole time that tax existed in Spain they had no bank of issue in that country; their commerce was stricken down; their agricultural wealth destroyed; and they became poorer and poorer every day. It is further true that when the cruel Duke of Alva attempted to enforce this policy on the Netherlands the Hollanders revolted against it more than against any other imposition attempted by that cruel and narrow-minded bigot. They resented the imposition of this law more fiercely than they did the attack on their religion. The Hollanders were then the wisest commercial people on the face of the earth, and they understood the ruinous and destructive policy that was sought to be imposed upon them by their Spanish rulers.

M. Say, another eminent author, in his work

on political economy, speaks quite as pointedly against the imposition of such a tax as this. He says:

"Taxes upon transfer, besides the mischief of pressing upon capital, are a clog to the circulation of property. But has the public any interest in its free circulation? So long as the object is in existence, is it not as well placed in one hand as in another? Certainly not. The public has a perpetual interest in the utmost possible freedom of its circulation, because by that means it is most likely to get into the hands of those that can make the most of it."—*Say's Political Economy*, page 259.

Thus speaks M. Say, an eminent political economist, on this subject. I will now, with the indulgence of the Senate, read a very short extract from another distinguished writer, John Stuart Mill, who is certainly one of the greatest intellects that has written on this or any other subject in this century. Mr. Mill says:

"Of taxes on contracts, the most important are those on the transfer of property, chiefly on purchases and sales. Taxes on the sale of consumable commodities are simply taxes on those commodities. If they affect only some particular commodities they raise the prices of those commodities, and are paid by the consumer. If the attempt were made to tax all purchases and sales, which, however absurd, was for centuries the law of Spain, the tax, if it could be enforced, would be equivalent to a tax on all commodities, and would not affect prices; if levied from the sellers, it would be a tax on profits; if from the buyers, a tax on consumption; and neither class could throw the burden upon the other."—*Mill's Political Economy*, book 5, chapter 4.

I do not believe there is a writer on political economy of any note whatever but what has denounced in the strongest terms this idea of a tax upon sales. It is utterly at war with the free circulation of property. It is utterly at war with the commerce of any nation on earth. The Senate are now about to trick themselves out in the old, effete garments that were worn by the Spaniards, that destroyed their commerce, destroyed their agriculture, and destroyed all their industrial pursuits. Why, sir, all other nations have long since abandoned it; and yet we are recommended here to assume this policy. I shall never cast my vote for such a proposition, or for any bill that has such an odious feature in it. We are evidently a great commercial people as well as a great agricultural people, and we should foster those great interests. We should not with such an odious tax as this ruin our commerce, ruin our agriculture, and ruin all our industrial interests.

I know this tax is said to be small. It is smaller than those the Spaniards imposed, a great deal smaller than those the rulers of Naples imposed; but the wise commercial nations of the earth have long since abandoned all such taxes. Why, sir, if you collect that tax strictly (but that would be impossible) you would get tribute from one single article perhaps twenty times within one week. It is utterly wrong; it is wrong in principle, and will work injuriously to the country. I could not allow it to pass without entering my protest against it.

Mr. JOHNSON. I desire to ask what is the question.

The VICE PRESIDENT. The question is on striking out "one half" and inserting "one fourth."

Mr. POWELL. I understood that question was decided.

The VICE PRESIDENT. The Senator from Iowa asked for a division, and then the question came up.

Mr. POWELL. I made my remarks against the whole section.

Mr. GRIMES and Mr. CONNESS called for the yeas and nays upon the amendment to the amendment; and they were ordered.

Mr. SHERMAN. As the yeas and nays are called, I desire to say a word. I do not defend this tax on principle; but if we are to collect it at all, I believe one half of one per cent. is the least sum that it is worth while to collect. This tax will be universally distributed over a vast number of persons, and if we reduce it to one fourth of one per cent. it would then be only one forty-eighth of one per cent. per month, as it is to be collected monthly, and it would be too insignificant to collect. It is deemed best to collect it every month; but a tax of one forty-eighth of one per cent. would be too small and too insignificant to collect. I hope therefore the Senate will try the experiment with a tax of one half of one per cent.

Mr. HENDRICKS. I desire to make an inquiry of the Senator. I understand this section

to be the imposition of a tax of one half of one per cent. upon the amount of sales. If there is a sale of \$100, the tax upon that would be fifty cents.

Mr. SHERMAN. Certainly.

Mr. HENDRICKS. Then I want to know what the Senator means by saying it is a tax of one forty-eighth of one per cent.

Mr. SHERMAN. I say that the monthly tax will only be one forty-eighth of the aggregate yearly sales; that is one fourth of one per cent. per month is equivalent to one forty-eighth of one per cent. on the aggregate sales in the year.

The question being taken by yeas and nays, resulted—yeas 16, nays 25; as follows:

YEAS—Messrs. Collamer, Cowan, Davis, Grimes, Harlan, Hendricks, Johnson, Lane of Indiana, Morgan, Powell, Riddle, Sumner, Ten Eyck, Van Winkle, Willey, and Wright—16.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Conness, Dixon, Doollittle, Farwell, Foster, Harris, Henderson, Howard, Howe, Lane of Kansas, Morrill, Nye, Pomeroy, Ramsey, Sherman, Stewart, Trumbull, Wade, Wilkinson, and Wilson—25.

ABSENT—Messrs. Carlile, Foot, Hale, Harding, McDougall, Nesmith, Richardson, Saulsbury, and Sprague—9.

So the amendment to the amendment was rejected.

The VICE PRESIDENT. The question now is on agreeing to the section as reported from the Committee on Finance.

Mr. JOHNSON. Before the vote is taken on that section I wish to say a single word. I am opposed to the tax on sales altogether. I think it is unjust in every way and pernicious; that it will give more trouble to citizens than any other form of taxation you can adopt; and, in my judgment, will be exceedingly obnoxious. It will be obnoxious not only to the man who is engaged in buying and selling, but obnoxious to the producer and manufacturer.

You first provide by this bill that nobody shall be engaged in buying and selling except he takes a license, and now you provide that whoever takes a license and engages under the license in buying and selling is to pay a tax of one half of one per cent. on everything he sells. In the first place, what is the effect of that upon the producer, because this is applicable to articles produced here, to our cereals, tobacco, and everything that grows in the country that gets in the hands of the commission merchant? He cannot carry on his business as a commission merchant without taking out a license, and when he sells it he is to pay the one half of one per cent. What is the effect on the producer? He will say to the producer, "You ask me to buy \$10,000 worth of tobacco or corn; I am willing to give you \$10,000 for it, provided I can sell it without being subject to a tax; but when I do sell it I am required to pay one half of one per cent. upon the amount of the sale; and I will just deduct that in advance out of the sum that I pay you; in other words, I will pay you \$10,000 less one half of one per cent." And so in relation to the manufacturer. The manufacturer is charged now with almost every form of taxation, as is the producer. You tax us all on our incomes, and you tax the men who are engaged in these sales on their income; but when the manufacturer goes to his commission merchant and wants to sell the product of his factory, he gets the same answer from his commission merchant that I suppose would be given, and must be given, by the commission merchant who deals in selling the productions of the country. He will tell him, "I will give you \$10,000 for your manufacture willingly, because it is worth that, and I could sell it at a profit that would be amply sufficient to compensate me for the trouble of sale; but here I am liable to a tax of one half of one per cent. upon it; and I will give you the \$10,000 less that one half of one per cent."

But over and above that, even supposing the tax was all right in itself, the idea of having an officer of the Government going every month into every house which may be engaged in buying and selling, I think will be exceedingly odious; and although the tax falls, in the first instance, upon the producer or the manufacturer, it eventually falls upon the consumer.

Mr. COWAN. I agree to every word that has fallen from the lips of the Senator from Maryland. I think, if there is anything in the world we can learn from the experience of the past, it is that this tax would be not only odious and mischievous, but actually ruinous to ourselves. I am

willing to do anything to raise revenue for the support of the Government in any way that will not insure to ourselves our own destruction and the destruction of our commerce. Sir, what is commerce? It is the transfer from hand to hand of all commodities freely in the community. What do you propose to do here? To catch it precisely at the instant of that transfer, and incubate it, and therefore prevent it; and not to do that fairly, but the further it goes the greater the burden it has to bear.

Mr. President, I do not know but that for the purpose of raising money now at this conjuncture, I would agree to almost anything, but I am unwilling to render myself ridiculous and absurd to no purpose. I am unwilling that we in this, the nineteenth century, in this age of light and knowledge, in this age when we have the experience of the past to guide us, should clothe ourselves in the cast-away garments of bygone generations and attempt to do that which the experience of all nations heretofore has taught us is a fallacy and a delusion.

I have no doubt that for every dollar we should get by this means of taxation we should lose a dozen. I cannot conceive of any scheme which would be better calculated to destroy the commerce of the country than this. Why not? I have said that the further the commodity travels from the producer to the consumer the greater the burden that it bears. Why should that be? Why should the man who procures a commodity after a dozen transfers be taxed twelve times as much as the man who procures it from the producer immediately? How is commerce to endure these burdens? How is it to regulate itself under these inflictions? Why, sir, it is to produce stagnation and death; it is to tie the arteries of commerce; it is to tie its nerves; it is to destroy its motive power and check its vitality; and what then? Repentance will come too late. I hope that this scheme at least, of all the wild, mad schemes that are suggested in this, the hour of our pecuniary trouble, will not be adopted.

The VICE PRESIDENT. The consideration of the bill will be suspended temporarily to enable the Chair to receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had agreed to the resolution of the Senate to authorize the continuance of the joint committee on the conduct of the war for thirty days after the termination of the present session of Congress, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866; and that it had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 600) for the better organization of the subsistence department.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution, which thereupon received the signature of the Vice President:

A bill (H. R. No. 800) to establish the office of Solicitor and Naval Judge Advocate; and

A joint resolution (H. R. No. 176) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war.

#### ARMY APPROPRIATION BILL.

Mr. COWAN. The message which has just been received from the House informs us that they have concurred in the report of the committee of conference on the Army appropriation bill. I desire now to submit that report, and I ask that it be concurred in.

Mr. HOWE. I should like to know what that report is.

The VICE PRESIDENT. It will be read.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes

of the two Houses on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their fourth amendment.

That the House of Representatives recede from their disagreement to the second and third amendments of the Senate.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate and agree to the same with amendments, as follows: In line three of said amendment strike out the words "any railroad" and insert in lieu thereof the words "the Illinois Central railroad;" and strike out all of said amendment after the word "States" in line five; and that the Senate agree to the same as so modified.

EDGAR COWAN,

HENRY WILSON,

Managers on the part of the Senate.

THADDEUS STEVENS,

E. B. WASHBURN,

Managers on the part of the House.

Mr. POWELL. The Senator from Illinois [Mr. TRUMBULL] desires to be heard on this report, and I suggest that it be laid over until he comes in. He is now out of the Chamber.

Mr. COWAN. I am aware that the Senator from Illinois desires to be heard, and I am perfectly willing that he shall be. I desired to make the report at the same time that the bill came from the House.

Mr. POWELL. I have sent for the Senator from Illinois, and I presume he will be here in a moment.

The VICE PRESIDENT. The report will be passed over informally.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, the pending question being on the amendment of the Committee on Finance proposing a tax on sales.

Mr. VAN WINKLE. This tax has been spoken of as a light tax; but when it reaches my constituents it will have been imposed two or three times; and every time it is imposed the former tax will be added to the capital upon which it is to be levied and the profit on the goods made by the middleman and the jobber. I do not understand, or I may have misunderstood, the remark made by the chairman of the Committee on Finance just now, that if we reduced this tax to one fourth of one per cent. it would be only one forty-eighth of the amount of the annual sales. I think if you put a tax of one half of one per cent. this month, and a half per cent. next month, and a half per cent. the next month, and continue on to the end of the year, he will have to pay the half per cent. on the whole amount sold during the year.

Mr. SHERMAN. My friend must have misunderstood me. I said the tax was a monthly tax of one forty-eighth of the aggregate sales for the year.

Mr. VAN WINKLE. What application had that?

Mr. SHERMAN. Showing that it was a very small tax.

Mr. VAN WINKLE. I think the argument was used by the chairman of the committee to convince the Senator from Iowa that it was an exceedingly light tax and only amounted to one forty-eighth upon the sales of the year. Otherwise I do not see that it had any application.

My great objection to this section and to this mode of taxation is that it taxes every resale. It may be remembered by many Senators that when this question of levying internal duties was first agitated, or about that time, the Chamber of Commerce of the city of New York and the Board of Trade of the city of Boston proposed that the whole tax, I believe, should be levied by a tax upon sales. They stated that in that way the tax would be paid primarily by those who were able to advance it, and they resembled it to our former mode of collecting taxes on duties by an impost upon goods imported, so that the consumer had it in his power to pay it or not by taking or rejecting the goods, and that in many instances he scarcely felt it. When I read that proposition I attached a meaning to it, and I do not know whether it was right or wrong; but it

is very easy to see that if I had the right view of it, a tax upon sales might be a beneficial tax in the end by saving us from these numerous excises and prevent the tax-gatherer from entering into our houses to watch us and pry upon us, and many other inconveniences that always do attach to such taxes.

But, sir, I understood the proposition made by the Chamber of Commerce of New York and the Board of Trade of Boston (two most respectable bodies, and certainly composed of gentlemen whom we may suppose to be as well acquainted with these subjects as anybody else) to be, that this tax on sales should only be laid upon goods when they were sold from first hand; so that the tax would not be repeated every time the goods changed hands; and I think I can see that the benefits which it was alleged would flow from it might be realized in that way. We should certainly be enabled to collect the taxes easier, and so far as I perceive, it would operate in that gentle way in which the old collection of our duties upon imports did.

It must be observed that the taxes, to which allusion has been made, which were laid on sales in Naples and Spain were respectively of eleven per cent. and fourteen per cent., and that those taxes were laid upon every resale of the goods, and it is probable in the condition of things that existed in those countries many years ago that goods changed hands more frequently than they now do. It is conceded that the effect of the tax then was to break up all their business, to break down their manufactures, and to throw the nations that persisted in it a great ways back in the march of civilization.

Another objection that I have to this section is, that this tax on sales will reach every article manufactured in this country, and, so far as I perceive, will also reach every article imported. This bill proposes to tax every description of manufacture twenty per cent. additional. The article that before paid five cents is required to pay six cents under this bill, and now it is proposed to add another tax of one half of one per cent. on the sale of all these articles. Are gentlemen so clear that many of these articles can bear this additional tax? Are they so clear that they are going to put more money in the Treasury by increasing taxes so rapidly? The chairman of the committee stated that this was in its nature an obnoxious tax; and I agree that if it is to be imposed upon every resale it is certainly an obnoxious tax; but notwithstanding that he considers it an obnoxious tax he says he is willing to try the experiment. I am not. A tax may not be the best tax that can be proposed, and yet we may find it proper to lay it; but if there are such objections to it as would entitle it to be called obnoxious, I think we had better let it alone. The true principle of taxation would be to levy our taxes alone on property; but it has always been held that in a state of war, such as we are now in, other descriptions of taxes may be resorted to; and the income tax is one of them. It is considered, or has been considered heretofore, a war tax; and when the British Chancellor of the Exchequer proposed the present income tax of Great Britain it was at the breaking out of the Crimean war, and it was laid under his express promise that when the war was over the tax would be taken off.

If this tax is to operate, as I suppose it will, as a tax upon every resale I think it will be utterly a very obnoxious tax; and nine tenths, if not ninety-nine hundredths, of my constituents, if they do not have to pay four times, will at least have to pay it three times over.

Mr. CONNESS. All taxes are obnoxious and odious, and taxation is obnoxious and odious in proportion to its extent.

Mr. WILKINSON. Including the whisky tax.

Mr. CONNESS. I do not even except the whisky tax. There are no class of men who cry out so loudly as the men who deal in whisky when we undertake to tax them.

Now, Mr. President, there has been a great deal said of the extent of our taxes; the burden that they are upon the people; and yet it is a fact that there has been no period in the history of this country when the people generally were so well off as they are now; when so much wealth has been made and accumulated in the face of all this

taxation. The time may come when we shall be called upon to take off some of these burdens; to lighten the taxes; but in my opinion this is the time for imposing them, if ever such a time is to occur.

Of all taxes I think this is the most equitable. It will work in this way: here, we will say, is a poor man whose entire earnings through the year do not exceed from three hundred to five or six hundred dollars. He cannot purchase more than three or five or six hundred dollars' worth of goods, and his tax is very small; he scarcely feels it. But here is a citizen of wealth and affluence, who lives luxuriously and spends \$25,000 a year. He pays a tax proportionably, and can afford to pay it. Here is your corner grocery at which the poor deal, and if the entire yearly business or sales of the man reach ten or twenty thousand dollars he is doing a good business; it is as much as he expects to do; and yet a tax of one half of one per cent. on that is not a great amount of money for him to pay. But here again is Stewart, of New York, who sells over forty millions a year, and within whose door poor persons never enter to deal, for they have no business there. Those who enter there pay a tax; they pay a tithe; and who are more able to pay a tithe than they?

The country, you say, wants money. Of course it does. Is there any way in which it can be more equitably collected than by a tax of this kind? Gentlemen say you impose it over and over again by every sale. That is the nature of nearly all taxation where commodities are changing hands constantly. I apprehend that the country can bear this tax. In my opinion, there is no kind of tax that can be imposed so equitably as this. Let us try to fill the Treasury. Let that be done if possible; and then we shall have an approximation to an equal value between the paper money of our country and gold, the standard value; and then the prices of all commodities will decrease; the cost at which the Government can conduct its affairs will decrease, and we can lighten the burdens of taxation; but I cannot understand, in view of the general prosperity of the country, why there is resistance to a tax of this kind that must necessarily fall most severely upon those who can best afford it.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

Mr. JOHNSON. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. FARWELL. I propose to offer an amendment to the amendment, and I do not propose to say anything in advocacy of it. I have considerable doubt about the propriety of this tax, but the amendment that I propose would make it entirely satisfactory to me, and perhaps the chairman of the committee will accept it. After the word "applicable" in the fifteenth line, I move to insert:

*Provided, That all sums received under this section shall be used for retiring from circulation the national currency.*

Mr. SHERMAN. That will be inconsistent with the section we adopted yesterday, which requires all this money to go into the national Treasury, to be disbursed on warrant, and would create confusion in the system. I hope it will not be adopted.

The amendment to the amendment was rejected.

The question being taken by yeas and nays on the amendment of the committee, resulted—yeas 20, nays 20; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Doolittle, Farwell, Foster, Harris, Howard, Howe, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Stewart, Trumbull, Wilkinson, and Wilson—20.

NAYS—Messrs. Brown, Buckalew, Collamer, Cowan, Davis, Grimes, Harlan, Henderson, Hendricks, Johnson, Lane of Indiana, Powell, Riddle, Sprague, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wright—20.

ABSENT—Messrs. Anthony, Carlile, Dixon, Foot, Hale, Harding, McDougall, Nesmith, Richardson, and Saulsbury—10.

The VICE PRESIDENT. On this question the yeas are 20 and the nays are 20, and the Chair decides affirmatively.

Mr. SHERMAN. The twelfth section of the bill should be stricken out. At least the committee reported that it should be stricken out; but it is not so printed; it is not included in brackets.

The VICE PRESIDENT. The twelfth section will be stricken out if there be no objection.

Mr. SHERMAN. The Committee on Finance beg leave to withdraw the next two amendments.

Mr. JOHNSON. Why?

Mr. SHERMAN. One of them is to provide for a new Auditor. We are satisfied that a new Auditor is not called for at present. If any Senator desires it, the two sections can be read; but I do not think it necessary. They are not very material. We ask leave to withdraw them, or they might be voted down. Perhaps it would be just as well to take the vote and negative them. That would probably make the record better.

The VICE PRESIDENT. Those two sections will be considered as withdrawn, and the next section reported by the committee will be read.

The Secretary read the next amendment, which was to insert the following as a new section:

SEC. —. *And he it further enacted, That the Secretary of the Treasury is hereby authorized to appoint a commission, consisting of three persons, to inquire and report, at the earliest practicable moment, upon the subject of raising, by taxation, such revenue as may be necessary in order to supply the wants of the Government, having regard to, and including, the sources from which such revenue should be drawn, and the best and most efficient mode of raising the same; and that such commission have power to inquire into the manner and efficiency of the present and past methods of collecting the internal revenue, and to take testimony in such manner and under such regulations as may be prescribed by the Secretary of the Treasury. And such commissioners shall receive for their services \$300 a month for the time necessarily employed, and their necessary traveling expenses.*

Mr. HENDRICKS. I think the attention of the Senate ought to be called to this section. It is a provision to appoint three commissioners to make a report to Congress about what taxes ought to be levied, to instruct Congress about what taxes ought to be levied, three commissioners at \$300 per month each, \$900 a month, and the machinery connected with such a commission. It is the same as saying that the officer in charge of the collection of the internal revenue is not fit for his place. We obtain information through the heads of Departments. That is the constitutional mode of getting information before Congress. If the Commissioner having charge of this business is not competent, after having had practical connection with the business during the course of a whole year, to inform us on this subject, the opinion of men who make up speculative opinions simply upon their reasoning, without having practical knowledge of the operation of the law by administering it, will not be very valuable.

Mr. SHERMAN. This is the same question we had up here the other day, and it is regarded by the present Secretary as of the highest importance. I know, from my own experience in connection with this tax bill, that although there is a great deal of wisdom in Congress, yet for the want of information that could be derived from such a commission as this we are not the wisest legislators upon all the details and practical workings of the tax bill. Such commissioners are provided in England and France. In England there is a board of permanent commissioners. The expense is comparatively trifling. These commissioners will no doubt institute examinations in New York, and other places, of the highest importance. It is impossible for the Commissioner of Internal Revenue to devote his time to this class of business. His time is constantly employed in deciding legal questions, and other questions arising in the course of business in his bureau, construing the law, and it is impossible for him to consider fully the particular rules of trade, the mode and manner of levying taxes, the mode and manner of avoiding deceptions and frauds and evasions of the tax.

Mr. HENDRICKS. Is not the board in England composed of a number of officers connected with the administration of the law?

Mr. SHERMAN. I am not sure how it is composed; but in my deliberate judgment such a board of commissioners as this, organized one year ago, would have saved us more than a million dollars. I am not saying anything against the Commissioner. He has enough to do to administer the law. I hope, therefore, that this amendment, which I look upon as more valuable than any tax in the bill, will be adopted. It will cost but little. The President ought to select three of the best men in the United States, the most practical and successful business men in the United States, to perform this duty, and I have no doubt he will do so.

Mr. COLLAMER. I do not think it necessary



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for me to add anything as regards the merit of this proposition. I have no doubt of its value; but I wish to have it amended by saying that they shall report the facts and report a bill.

Mr. SHERMAN. They are obliged to make a report, but can they report a bill in the technical sense?

Mr. COLLAMER. The report can be made in the form of a bill and communicated to us. I move to add the words "and report the facts and a bill in pursuance thereof."

The VICE PRESIDENT. Where will the Senator have his amendment inserted?

Mr. SHERMAN. I do not see where it can come in.

Mr. COLLAMER. If there is no other place, I will put it at the end of the section: "and that they report the facts and a bill in pursuance thereof."

Mr. FOSTER. I suggest that the amendment be made after the word "report," in the third line, so as to make it read, "to inquire and report the facts and a bill."

Mr. COLLAMER. That will do.

The VICE PRESIDENT. It will be put in after the word "report," in the third line.

Mr. LANE, of Indiana. I shall vote cheerfully for this committee of three. Twenty minutes ago I should have voted against it; but after the vote of the Senate to tax all sales, I am satisfied some commission of sensible men is necessary on this subject. [Laughter.]

Mr. COWAN. It must be obvious to every reflecting man who for one minute will consider the mode in which we get up a revenue bill here, that nothing better than we produce could be expected. In every other civilized country that I know of, there is a minister whose business it is to frame, fabricate, and put before the legislative assembly, these bills. He is a man supposed to be specifically and particularly acquainted with the subject upon which he acts. That bill is carefully framed and elaborated; it is a whole; it is one entirety; all its parts accord; and it operates as a system; and he demands that that be passed; and if it is not passed he goes out of office. That should be the way here. It should be the business of the Secretary of the Treasury, or somebody under him, to send down his revenue bills here carefully framed and made up; and if the Congress of the United States refuses to pass those bills he should withdraw and retire at once from office, because we cannot expect him to carry on the finances of the Government without giving him that which he desires. But how is it done now? Here are two or three hundred men in this and in the other House, none of whom know much about this subject, and yet all of them know as much as men ordinarily, and it is left to them to concoct a bill; and what have we? Why, such an incongruous monster as this revenue bill, particularly when you attach to it such amendments as we now make, perhaps the world has hardly ever seen. It is exactly what the poet called the "disjecta membra;" that is, the beast with his legs, and arms, and limbs of every kind; lying about in confusion. All that could be avoided, and can be avoided, by this commission; and I have no doubt that instead of saving \$1,000,000, we shall gain \$50,000,000 by it, if we are willing to accept it in its true spirit and act upon it.

Mr. JOHNSON. Has it been amended in the way suggested by the Senator from Vermont?

The VICE PRESIDENT. It has not. The Senator from Ohio suggests that the amendment come in at line eight.

Mr. JOHNSON. Is the effect the same?

The VICE PRESIDENT. It is.

Mr. COWAN. I thought it was to come in after the word "report"—"to report the facts and by bill."

Mr. SHERMAN. Then the following words do not jingle.

The VICE PRESIDENT. The question is on the amendment of the Senator from Vermont to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was to add the following as a new section:

SEC. —. And be it further enacted, That from and after the 1st day of April next, and during the present war, and for one year thereafter, all acts and parts of acts granting allowances or bounties on the tonnage of vessels engaged in the bank or other cod fisheries be, and the same are hereby, and during the time aforesaid shall have no force or effect.

Mr. POWELL. I move to amend that section by striking out in the second and third lines the words "and during the present war and for one year thereafter," and also to strike out in the sixth and seventh lines the words "and during the time aforesaid shall have no force or effect," and to insert the word "repealed;" so that the section will read:

That from and after the 1st day of April next, all acts and parts of acts granting allowances or bounties on the tonnage of vessels engaged in the bank or other cod fisheries be, and the same are hereby, repealed.

Mr. MORRILL. I demand the yeas and nays on that.

Mr. FARWELL. I hope my colleague will not object to the amendment to the amendment. Perhaps the amendment to the amendment may as well be adopted.

Mr. MORRILL. I withdraw the call for the yeas and nays for the present.

The amendment to the amendment was rejected. The VICE PRESIDENT. The question is on the amendment of the committee.

Mr. FARWELL. I desire to say a word on this subject. I know it is a very unreasonable hour, and I certainly shall occupy but very little of the time of the Senate upon this question. I am willing to make this proposition to the Senate and to the country: that if the chairman of the Committee on Finance will provide a drawback of the amount of duties paid by these fishermen for the salt to cure their fish, the bounties shall be repealed. I dislike the word bounty. It used to be a pretty good word, but it has been brought to terribly mean uselately. [Laughter.] I do not wish to have it understood that Massachusetts and Maine have a bounty from anybody. Massachusetts has sand at one end and rocks at the other, and the center is a mixture of the two; but still her people have managed to accumulate a great deal of property without much bounty from anybody. Why, sir, the sands of Cape Cod are to-day producing a crop more valuable than the best lands in Iowa or Illinois, through the industry, ingenuity, and persevering spirit of the educated yeomanry of Massachusetts. They have discovered that the cranberry would grow on those sands, and they are raising a crop more valuable to them and to the country than is produced upon the most fertile soil. They do not need any bounties, and my State does not need any.

But, sir, you have adopted the policy everywhere that you will not tax an interest that you cannot protect. Here you have a reciprocity treaty with Great Britain. You tax none of the products of her fisheries. Not one cent of tax can you lay upon the product of the fisheries of Great Britain; and the British provinces have the fishing grounds right at their door. They get their salt at the lowest possible cost without any duty upon it; but upon the salt which our fishermen use to-day they pay much more in duties to the Government than this bounty amounts to. Will you destroy this interest which is bringing into the country three or four million dollars' worth of food, and most acceptable food, too, to many of us? Mr. President, I am sure you would not like to be deprived of your fish. You would go down and catch them yourself, if you could not get them in any other way. I should, certainly. I say again, will you destroy this interest which is taking up out of the deep four or five million dollars' worth a year and annihilate it, as you must do, so far as it is an American interest, if you adopt this section without amending your revenue laws by either giving them protection or striking off the duties upon the foreign articles they consume?

There are a great many men engaged in this

pursuit. If there is any poor class of men in New England it is the fishermen of New England; men who endure everything; men who are engaged this very winter, with the thermometer at zero, along George's bank in more hazard of their lives than they would be in front of the enemy at Petersburg. The loss of life is larger in these fisheries every winter, compared with the number engaged in it, than it is in the Army of the United States; and they get barely a support for their families. Why do they do it? Because, sir, it is an occupation that every man loves. You recollect the story of Franklin, who went out one day and found a man fishing, and asked him what kind of luck he had. He said "Pretty good." "How many have you got?" "I have not got any yet." "But I suppose you have had several good bites." "No," he replied; "I have not had any bites, but I had a glorious nibble a little while ago," [laughter;] and he thought that was pretty good luck. That is the luck of fishermen. As a class, they are poor. There are a great many engaged in it, and a great many interested in it. A great many men have built up establishments for curing these fish, for storing them, and wharves for the accommodation of fishermen, and have built little vessels to carry on this business for the sake of the trade. These men go out and do not make upon an average more than \$250 for a year's work. Now it is proposed to take this little pittance which the Government has been giving them from them, and to tax them upon the salt they use, and their necessary outfits; for everything is taxed; cordage, duck, salt, everything they use is taxed at a very high rate; and you propose to make them go down upon the Newfoundland and George's banks and compete with these Nova Scotia fishermen, and let them come into our market and sell upon equal terms with our fishermen. I do not believe the Senate has any idea of doing that.

I know my colleague has discussed this question before in the Senate almost exhaustively, and it has been discussed by other gentlemen, and therefore I do not propose to go into the question in a national aspect. I only wish to state these plain matters of fact. The chairman of the committee knows what the tax on salt is, and he knows, or ought to know, that it takes a bushel of salt to cure a kente of fish; and if one of these vessels gets \$300 bounty and has procured but three hundred kentes of fish, she has not made any fare; she has not got anything to divide for the owners; nothing hardly to pay the men; and the duty upon the salt itself, which must be paid in gold, when you reduce it to currency is more than the pittance you have given to divide among these men as a bounty. But, sir, I have said all I choose to say on this subject at this time.

Mr. MORRILL. I regret to be obliged to trouble the Senate at this late hour, but I am not inclined to allow this amendment to pass without some opposition.

I insist, Mr. President, that according to the ordinary principles of legislation, this provision ought not to be on this bill. It is not a question for the Committee on Finance. It is not a question of finance. It is a maxim, I believe, that he is a wise chancellor who magnifies his jurisdiction; and on that principle the Committee on Finance of the Senate will come to be very famous. During the present session there have been three or four bills reported from the Committee on Finance which have very slight reference to the subject of finance. This is one of them. Within a few days, an elaborate bill, touching the whole question of navigation, was reported from the Committee on Finance, a bill having no possible reference whatever to the subject of finance.

Mr. SHERMAN. What bill was that?

Mr. MORRILL. The bill regulating the importation of foreign immigrants.

Mr. SHERMAN. That was referred to the Committee on Finance by a special vote.

Mr. MORRILL. Referred on the special motion of the honorable Senator, the chairman of the committee, and reported back by him.

Mr. SHERMAN. If the Senator will allow me, I was referred to the Committee on Finance, because I had been the chairman of the Committee on Agriculture that introduced the original bill, and the very moment the chairman of that committee returned from his canvass in Kansas, that moment I ceased to have anything to do with the bill, and he took charge of it. It was a mere matter of personal consideration, because I had introduced the bill to which it was an amendment. I hope the Senator will not charge that sin to the Committee on Finance. I voluntarily assumed it at the moment, and I voluntarily assume it now; but I turned the bill over, the very moment the honorable Senator from Kansas came back, to him.

Mr. MORRILL. And that is precisely what I complain of; that the Committee on Finance will interfere with matters that do not belong to them.

Mr. SHERMAN. The Committee on Finance had not anything to do with it.

Mr. MORRILL. The Committee on Finance did receive the bill and did report upon it. It is a subject of commerce and navigation, over which the Committee on Finance have no control and no jurisdiction. It is this system of legislation that I object to; and what I am arguing about now is obnoxious to this charge.

But, sir, that is not all. At a more recent period, on a mere question of appropriation, the ordinary appropriations made up by the Departments of the Government, to whom the appropriations belong, the Committee on Finance undertook to change the whole policy of this Government in regard to the national defenses, and told the Senate and the country that your national defenses, involving an expenditure of \$150,000,000, were useless, and worse than useless.

Now, sir, I stand here to object to the Committee on Finance taking cognizance of subjects that belong elsewhere; and this question falls precisely within that category. This is not a question belonging to the Committee on Finance in any respect whatever. It is a question of national policy. It affects your commercial marine and your Navy, and the element of finance in it is secondary and subordinate. When questions of national policy are to be considered they are to be considered by the appropriate committees; and the Committee on Finance is not to dash in our faces here by a stroke of the pen these policies of the nation which have stood for half a century.

I stand here to object; and I am not to be told when the committee load down their bills with measures which do not belong to them that the time of the session is precious, and that we are not to consume it in the discussion of these measures. If the Committee on Finance desire that their bills should run lightly, they must load them lightly. If they choose to load them with measures which belong elsewhere, which they have not the capacity to consider, which they were not constructed to consider it, does not lie in their mouths to object if Senators who feel charged with the consideration of interests which affect them and their constituents are obliged on these questions, contrary to their inclination, to examine them.

Now, sir, what is the ground upon which the Committee on Finance present this subject to the Senate? It is said they will save to the country some three or four hundred thousand dollars. I believe last year about four hundred thousand dollars was paid to this interest. If this was vital I would not object, or if other interests were discriminated against I would not object; but how is that? In the appropriation bill passed the other day I noticed one hundred and fifty or two hundred thousand dollars, more or less, for the surveys of the lakes. Are surveys of the western lakes necessary to the prosecution of this war? I do not stand here to object to them; but I stand here to criticize, and I stand here to point out these invidious discriminations and distinctions made against great interests. One hundred and fifty or two hundred thousand dollars more were appropriated for the coast survey, contradistinguished from the lake surveys. Why is that? I do not object to it. I point it out to show the invidious discrimination that is made against this interest. If it is necessary, if the public exigencies demand this discrimination, why do not the Committee on Finance make thorough work of it? What do

you say of the appropriations for the Naval and Military Schools running up to two and three hundred thousand dollars? We are pretty much through with the war, it is supposed; we have pretty thoroughly educated our sailors and soldiers, and why not abolish those schools?

Then, again, in the very bill to which I had occasion to refer a few moments ago, from the Committee on Finance, you will find an appropriation contemplated to be expended in the importation of immigrants from abroad; and if you will look into the bill of last year you will find that this system of importation is to be carried on through agents to be sent to Europe at an expense of God only knows what, to induce, under contracts to be made by the Government agents, the pauper population of Europe to immigrate to this country. I do not know what the appropriation will be this year; but it was \$50,000 last year.

On what ground is it that this Committee on Finance find no difficulty in making appropriations to induce foreign immigration into this country, find no difficulty in appropriating money for the survey of the lakes, of which I make no complaint, but find it necessary to strike at this great interest of the country? I say that this discrimination is invidious. In the first place, I object that the whole subject is foreign to this bill. I insist upon it that when a great interest is to be affected, it is not to be dashed at by the Committee on Finance. This is eminently a commercial question, and should be referred to the Committee on Commerce, and have the consideration of a committee, and be reported to the Senate.

Now, how does this question stand? The honorable Senator, the chairman of the Committee on Finance, knows very well that this subject was discussed last year in the Senate, and after a thorough discussion and consideration of the subject, the vote stood, according to my recollection, 26 to 11—26 against and 11 for—and I have no reason to doubt that that is the judgment of the Senate to-day; and I do not know what reason the honorable Senator has to suppose that that is not the judgment of the Senate to-day. And yet, with that record of the Senate, the Committee on Finance feel authorized to bring in a bill to strike down this interest, to suspend it during the war and for one year thereafter.

I trust, therefore, Mr. President, that it will be the sense of the Senate that there is no such exigency in our public affairs that renders it necessary in this way to strike at this great interest, an interest which for eighty years has been the cherished, uniform policy of this Government. I trust that the Senate will believe that it is better it should stand, for the present at least. My colleague alluded to a fact which should be conclusive upon this subject. So long as the reciprocity treaty stands, if you strike down this bounty, you strike down this interest absolutely. It would be ruined past redemption with the discriminations which are against it. I therefore feel it my duty to object. I do not desire to prolong the debate; but I shall be obliged to call the yeas and nays on this subject now; and if the bill should be reported to the Senate with this provision in it, I may have occasion to trouble the Senate longer upon it.

Mr. SHERMAN. I very rarely take any offense at, or any notice of, remarks made by a Senator in the heat of debate; but I will not submit to the hectoring tone of the Senator from Maine. It is not the way to deal with me. His language was un courteous, unparliamentary, and unnecessary. It does seem to me that the feeling shown by the Senator from Maine, when I, in the discharge of my duty, am endeavoring to save to the Government \$400,000, is not creditable to him. He arraigns me—not the Committee on Finance, because he knows that the Committee on Finance was not responsible—for the conduct of the immigration bill. That was a bill prepared by the Secretary of State, and sent to me, because I had had charge of the bill of which it was an amendment. I introduced it, and I stated to the Senate that the Senator who ought to have charge of the bill was not present in his place, and I asked the Senate whether it would not be better to submit it to the only committee of which I was a member. The Senator from Iowa [Mr. GRIMES] objected; and after the objection was stated, it was referred to the Committee on Finance. We considered it; and the very moment the Senator from

Kansas [Mr. LANE] came back, we surrendered to him the care and custody of that bill. The bill did not contain a single feature, a single proposition, that the honorable Senator has stated. Every feature that he alluded to was stricken out of the bill by the committee. There was not a single dollar appropriated in it. There was not a single provision in it about sending men abroad to hire people to come here.

He arraigns us also for reporting the amendment to the fortification bill, because some of the fortifications happened to be in Maine. Did we think of that? Some of the fortifications were in my own section. Did I regard that? The bill was referred to the Committee on Finance, as it always has been. Are we limited in our power to amend that fortification bill? No; and I am astonished that the Senator should introduce that subject here as a matter of accusation; and I will not submit to it. When he did it the other day I did not reply to him, because I thought he was laboring under some heat on account of some fortifications up in Maine. I thought he evinced then a feeling of sectionalism that I never would allow myself to evince. Because we struck out of that bill a few forts up in his region of country he manifested a feeling that I was astonished at. I did not reply to it because I did not wish to show any feeling about it. When that fortification bill was sent to us we had the right to reduce it, to refuse it if we chose, subject to the will of the Senate. We did reduce it. It is true we reduced it in a form that was not sanctioned by the Senate. I assented to the amendment proposed substantially by the Senator from Massachusetts, [Mr. WILSON,] although I preferred that of the Committee on Finance. And yet we are to be assailed and the imputation is to be cast that we are influenced by sectional motives and sectional prejudices because we amended the fortification bill! It is absurd.

This bill, the Senator says, ought to have come from the Committee on Commerce. I will state this fact, that the Senator from Kentucky, [Mr. POWELL,] for two sessions introduced a bill, standing by itself, on this very subject, and had it referred to the Committee on Commerce, and that committee neglected and failed to report it back, either adversely or favorably. And now, when we are levying taxes upon the food of the living and the shrouds of the dead, when we are overlooking this broad country of ours to select objects of taxation, the honorable Senator comes here and arraigns me because I wish to suspend only for a year or two a bounty that is indefensible in principle; which the very fishermen of Massachusetts have abandoned and pray their Representatives to surrender; which the Senator from Maine [Mr. FARWELL] says he is willing to abandon if we will give him what I am disposed to give him, a drawback on salt until the reciprocity treaty is abolished. Are we, who have simply performed a conscientious duty to our country, to be arraigned thus?

I beg pardon of the Senate for showing so much feeling; and I would not do it but that this is the second time that the Senator from Maine has arraigned the committee, or rather me, its chairman, for doing our conscientious duty. Why, Mr. President, I am not to be hectorated, or bothered, or pestered in this way; and I did not show any feeling before, although I felt it at the time as unjust and improper.

Now, sir, this question is brought before the Senate. It is properly brought here; and I believe now, and I say it, that if there was any such indefensible bounty paid in the State of Ohio I would surrender it with the greatest freedom. The Senator complains that we did not strike out the appropriation for the survey of the lakes. Not a dollar of that is expended within five hundred miles of the State of Ohio. All those lake surveys are on Lake Michigan, Lake Superior, and in the upper region; and why are those appropriations made? Because certain military officers have been employed for years in making them, and it was not deemed wise to discontinue them. In regard to the coast surveys they have been continued for year in and year out. At one time we proposed to discontinue both the lake surveys and the coast surveys, but a representation was made to us from the Coast Survey Bureau that to discontinue the surveys and break up these organizations would be probably bad economy;

that it would probably cost more to commence the surveys again, and all the process of triangulation, or some technical name, would be lost; and thereupon it would be wiser to continue them and to use the coast survey maps in our military operations. When that argument was presented we at once abandoned the proposed reduction on this item of appropriation and gave it up.

Mr. President, I do not wish to continue this unpleasant discussion. I certainly have no hostility to the Senator from Maine, and I was astonished that he exhibited so much feeling on this subject; and certainly I have no hostility to the gallant State he represents. And here I will challenge any Senator present to show that I have in word or speech uttered a single sentiment or done a single act against any State of this Union because it was not my own State. I believe I have never shown any sectional feeling in legislation. If I have I ought to be rebuked for it; but I do not remember in any case that I have evinced any such feeling. If I have I hope the Senator will correct me at all times. I look upon this country of ours and all parts of it as one and the same, and I have the same affection for it; and certainly this attack upon the fishing bounties is not from any local opposition to the State of Maine or to the country of New England, in whose bosom rest all my ancestors for more than two hundred years.

Mr. MORRILL. What I complain of, what I have a right to complain of, and what I mean to complain of, and what I intend the Senator shall understand I make as a matter of complaint is, that he has pursued this subject with a hostility. Last year he gratuitously gave notice that he would move it on the appropriation bill if nobody else did. The Senator from Kentucky [Mr. POWELL] relieved him; and therefore he escaped that. It was moved and it was discussed; he had his hour in court and he was heard; and the judgment of the Senate was against him; and he avails himself of his chairmanship of the committee again to thrust it in the face of the Senate, and I say it is unauthorized.

Mr. SHERMAN. I say the statement of the Senator is not true. The report is sanctioned by every member of the Committee on Finance, with one possible exception; and the Senator shall not say of me what is not true.

Mr. MORRILL. It is here, and the Senator is chairman of the committee, and he has manifested this hostility from the beginning.

Mr. CLARK. I was not in the committee, but I was against it.

Mr. SHERMAN. One member was not there.

Mr. MORRILL. That I maintain and that I assert, and that is evident upon the record, and he may escape from it as he can.

Now, sir, it is said I do not know what I am speaking about. I am talking about the law in regard to immigration into this country of European paupers; to get up a grand system by which you are to go abroad and hunt through the alleys and purlieus of European cities and bring into this country pauper labor. It is said that I do not understand that subject. I think I do; and I think I did not misrepresent the Senator either when I was up before. The Senator from Ohio has the enviable distinction of having introduced and inaugurated that system. I noticed it when it was introduced last year, and called his attention to it, and told him I doubted the wisdom of it. Now, what is it? I did not misstate it or overstate it. Let us look at it. The bill of last year, to which I referred as containing the appropriation and other things, provides, in the first place, for a Commissioner of Immigration to reside at New York, and he is to have "three clerks of such class as the Secretary of State may indicate;" and what are they to do? They are to constitute a bureau, and their business is to get up some system for importing immigrants from Europe into this country. I want to read the second section of that bill, and see whether I am mistaken about it or not:

"SEC. 2. And be it further enacted, That all contracts that shall be made by immigrants to the United States in foreign countries, in conformity to regulations that may be established by the said Commissioner, whereby immigrants shall pledge the wages of their labor for a term not exceeding twelve months, to repay the expenses of their immigration, shall be held to be valid in law, and may be enforced in the courts of the United States, or of the several States and Territories; and such advances, if so stipulated in the contract, and the contract be recorded in the recorder's

office in the county where the immigrant shall settle, shall operate as a lien upon any land thereafter acquired by the immigrant, whether under the homestead law, when the title is consummated, or on property otherwise acquired, until liquidated by the immigrant; but nothing herein contained shall be deemed to authorize any contract contravening the Constitution of the United States, or creating in any way the relation of slavery or servitude."

Now, the scope of this bill is this: it inaugurates a system of importation of foreign paupers into this country, and it does it under the authority and at the expense of the Government of the United States; and it contemplates sending agents abroad to make contracts with these men by which they are to agree to pay the expenses of their importation, and they are to mortgage themselves soul and body, and all they have and hope to have, only it is provided it shall not be regarded as slavery. That is the alleviation of it; and this is to be done at the expense of the Government of the United States in a time of war!

The honorable Senator thinks it very offensive that I brought this up. I referred to it as an illustration that, while the Committee on Finance deemed it expedient to strike a great interest of the country to save money, they are getting up schemes for the importation of foreign paupers into this country at an expense no one can tell what. Therefore I did not speak without the book, and I did not misrepresent the record either. This year a most elaborate amendment of this bill is introduced, and it provides for an inspection of the revenue laws, and it puts this Commissioner of Immigration, joined to the Commissioner of Immigration for the State of New York, on a par, so far as the inspection of vessels at that port is concerned, with the collector of customs.

But I have no occasion to discuss that. I alluded to it in no offensive sense personally toward the chairman of the Committee on Finance; but I alluded to these facts as matters of history, as matters of legislation, to show the manifest injustice of this discrimination against a great interest which I cherish and which my people cherish. And when the honorable Senator tells me that I do not know what I represent; that the fishermen of Maine do not want this interest, and it is not essential to them—

Mr. SHERMAN. I did not say that.

Mr. MORRILL. I understood the honorable Senator to say the fishermen did not want the bounty.

Mr. SHERMAN. I said that I had seen in the papers the fishermen of a portion of Massachusetts had so expressed themselves.

Mr. MORRILL. That is a very remarkable discrimination; the fishermen of Maine want it, and the fishermen of Massachusetts do not want it! The truth is, Mr. President, that this interest is a vital interest in many respects. I am not going to argue it. I said last year all that I desired to say on the general subject. I confess, however, to no little feeling in regard to it. This proposition had a fair hearing, and had its day in court last year, and the judgment of the Senate was decidedly against it. After that I confess to some little feeling when I saw it thrust in our faces here at this late day in the session, and that, too, on the tax bill, when there is little opportunity without an unreasonable trespass upon the time of the Senate to discuss it.

Mr. WILSON. I move to amend this amendment by striking out the words "from and after the 1st day of April next and," and inserting after "thereafter" in the third line the words "from and after the abrogation of the reciprocity treaty with Great Britain;" so that, if amended in this way, it will read:

That during the present war, and for one year thereafter, from and after the abrogation of the reciprocity treaty with Great Britain, all acts and parts of acts granting allowances or bounties on the tonnage of vessels engaged in the bank or other cod fisheries, during the time aforesaid, shall have no force or effect.

Mr. SHERMAN. I ask at what time the treaty will terminate.

Mr. SUMNER. A year from the 15th of March.

Mr. FARWELL. I suggest to the Senator from Massachusetts [Mr. WILSON] that the bounty under his amendment will run for one year, until the termination of the reciprocity treaty, and Congress will be in session in the mean time.

Mr. COWAN. I suggest to the Senator from Massachusetts that he strike out more of the pre-

vious part of the section; so as to make it read "that from and after the abrogation of the reciprocity treaty all acts," &c.

Mr. WILSON. That goes further than the proposition of the committee.

Mr. COWAN. You may put a limit on it.

Mr. WILSON. The proposition itself is that the suspension shall go into effect on the 1st day of April next and continue during the present war and one year thereafter. The objection made is that it is fatal to that interest while the reciprocity treaty lasts. My object is not to affect the time during which the suspension shall run, that is, during the war and for one year thereafter, but to provide that the section shall not go into effect until the reciprocity treaty is abrogated, so that we shall not have that disadvantage to contend with.

Mr. COWAN. You can express that in this wise, "that from and after the abrogation of the reciprocity treaty, and during the present war, and for one year thereafter," &c.

Mr. WILSON. I am willing to have it go in that form, and I will so modify it.

Mr. COWAN. That will make it English, at any rate.

Mr. BROWN. I suggest to the Senator from Massachusetts that he had better modify it so as to abolish the bounty altogether after the notice takes effect for the abrogation of the treaty. If I understand the argument on which it is predicated and sustained now, it is that until the abrogation takes effect it would be unjust to repeal this bounty. If, therefore, it does not take effect until that time, the argument which sustains the bounty falls. I am opposed to the bounty altogether, and I think when gentlemen who are deeply interested in it say they are willing to give it up if they can get rid of the bad effects of the reciprocity treaty, they admit the whole argument against it, and therefore it should not be limited to one year after the war ceases, but should go altogether.

Mr. FARWELL. If you abolish this bounty while the reciprocity treaty lasts, the effect will be most disastrous. The fact is that the reciprocity treaty prevents legislation. The reciprocity treaty falls in March of next year, I believe. Consequently, if there was no legislation the fishermen would be in the same condition they are now, paying this high duty on their salt, and having no protection against the competition of the foreign article. I know very well what the feeling is in Maine, and I know what it is in Massachusetts. In the place of this bounty which has been thrown in their faces as a gratuity for years and years, here on this floor, they would much prefer to see such legislation as is had in regard to every other interest in this country. You would not think of taxing all the rags, the chemicals, and everything that comes from abroad and is used by our paper manufacturers, and then let foreign paper in free of duty. You would not think of doing such a thing. Neither should you tax at high rates the salt, the cordage, the hemp, and everything from abroad that is used by this trade, and then let the competing articles—fish, oil, and everything of that sort—come into the United States free of duty, as is the case under the reciprocity treaty. Therefore, I know the legislation of Congress would never be in that line, but I suggest that it will be necessary to have legislation. I suggest to the chairman to let the whole thing go over until next year. You will find no members here from Maine, or Massachusetts, or anywhere else in New England, opposing the repeal when you are ready to give what any gentleman is willing to say is fair legislation on the subject, and certainly it will not forward anything to say now that it shall be repealed a year hence after the reciprocity treaty is dead. Just let it lie until the reciprocity treaty is out of the way, and then adopt the proper legislation, and I shall certainly be glad. I do not want anybody to say that a bounty is given to my people, or my State, or even to New England, for I once was part of Massachusetts myself. I hope the chairman will consent to withdraw the whole thing.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the Committee on Finance.

The amendment to the amendment was agreed to. Mr. SHERMAN. The word "suspended,"



in the sixth line, ought to be inserted, so as to read "are hereby suspended." It is evidently omitted in the print.

The amendment to the amendment was agreed to. Mr. SHERMAN. The effect of the amendment now is to make this suspension of the bounties operate from the 15th of March, 1866, instead of the 1st of April, 1865, during the war, and for one year thereafter.

Mr. FARWELL. What necessity is there for saying anything about the war and one year thereafter when nothing will be done for a year at any rate?

Mr. SHERMAN. I think it much better to say that from and after the abrogation of the reciprocity treaty all acts and parts of acts allowing the bounties shall be repealed.

Mr. FARWELL. I suggest the difficulty I stated before; if we should not make any legislation next year, by that time the repeal would be ruinous.

Mr. SHERMAN. There is not a particle of doubt that when the treaty with Great Britain is abrogated, the ordinary duty will be given in favor of our own fish and in favor of our own productions against the Canadian articles. That is all the Senator desires, as I understand.

Mr. FARWELL. I suggest whether it would not be a very good time when that legislation is made, to make it part of the same act which repeals the bounty. Why should we haggle over it here at the very last hours of this session when there will be plenty of time to mature the whole matter next year?

Mr. SUMNER. Have not these very questions that have been presented brought us to an essential difficulty? Can we justly deal with the question now?

Mr. SHERMAN. I think so.

Mr. SUMNER. Excuse me. The Senate has already voted to postpone the action of this proposition till after the abrogation of the reciprocity treaty, which is one year from the 15th of March. Congress is to meet between now and then. Why not let the whole question go over to the next Congress, which will probably have to consider another reciprocity treaty or a modification of the present one, and let this be treated at the same time in connection with the kindred matter?

Mr. SHERMAN. I think since we have it up we had better dispose of it. The Senator from Maine says I persist in this matter. I do not know that I ever introduced this subject but once in the Senate; but since it is here now I think we had better end it and not have the controversy up at the next session. My impression is that since we have postponed the operation of the provision we ought to repeal the fishing bounties, leaving future legislation to come afterward; and I submit an amendment to the amendment, that after the abrogation of the treaty those bounties shall be repealed; and I think that would be the better way.

Mr. SUMNER. But you do not act definitely by your proposition as you have it now, and you have a session of Congress that is to meet before the proposition can go into effect. Why not, then, let the whole matter go over to the next Congress? Is not that the most practicable? Why load this bill down with a question which the next Congress can act upon in a different sense from yourselves?

Mr. CONNESS. I do not see that anything is gained by it.

Mr. SHERMAN. My impression is we had better leave it here, so that another reciprocity treaty may be made in view of the fact that the bounties are repealed. Since we have yielded to the Senator from Massachusetts, [Mr. WILSON,] and postponed the operation of the suspension for one year, I think we ought not to make that a reason why we should abandon the proposition. It does not seem to me exactly right. On a statement made by him that the reciprocity treaty might work to the injury of the interest referred to we have postponed the operation of the act until that reciprocity treaty is repealed. That yielding on our part ought not to be made the argument to induce us to abandon the proposition.

Mr. SUMNER. The Senator from Ohio complains that my colleague has introduced into the provision a postponement till after the abrogation of the reciprocity treaty, and that we now do not accept that as a definitive settlement; but does not

the Senator from Ohio see that the very fact that the Senator has thought it expedient to postpone the operation of this provision till after the abrogation of the reciprocity treaty is the best evidence in the world that this is not the time to act on the question? The whole proposition is premature. It is another case of leaping before you come to the stile.

Mr. DAVIS. That is very wrong.

Mr. SUMNER. Of course it is very wrong; and therefore I suggest that I hope the Senate will not do it.

Mr. FARWELL. It is better for another reason. If this amendment goes to the House of Representatives it will cause some discussion. There will certainly be time enough at the next Congress, because there will not be any 4th of March to close the next session peremptorily.

Mr. TRUMBULL. I never yet have known the time come to repeal these fishing bounties, and I believe the question has been up every session I have been here, and it has been put off on one pretense or another session after session. I do not think we shall ever get rid of it until we repeal fishing bounties squarely. I think it is time the whole thing was repealed. So far as salt is concerned, I suppose we use more salt in a week in my State in salting beef that goes abroad than is used to salt all these fish for a year. I should like to have a distinct vote upon repealing the fishing bounties without any of these pretenses of after the war, or when some other treaty is made. I look upon them all as subterfuges to hold on to the fishing bounties, and I think in this time of war, when we want all the money we can get, it is no time to be paying bounties to the fishermen. I should be very glad myself if we could get a direct vote on repealing the fishing bounties.

Mr. SHERMAN. I move to strike out the words "and during the present war, and for one year thereafter," and in lieu of the word "suspended," to insert the word "repealed," so as to read, "that from and after the abrogation of the reciprocity treaty with Great Britain, all acts and parts of acts granting allowances or bounties on the tonnage of vessels engaged in the bank or other cod fisheries be, and the same are hereby, repealed." That will make the matter plain, and then a treaty may be made in view of that tax and legislation.

Mr. WILSON. I hope the chairman of the committee will not press that amendment. I think he had better let the section stand as it now does, with the amendment that has been adopted. The reciprocity treaty will expire one year from the middle of this March. We shall meet in December next, and it may not be until the close of the session that we shall take any legislation or do what we may desire to do, and I think we had better just let it pass in the form the committee have reported it with the time this amendment fixes after the abrogation of that treaty. I think then all the practical result the Senator desires he will achieve in that form.

Mr. McDOUGALL. With regard to this matter of the fishing bounties, it cannot be supposed that, so far as their practical application is concerned, I should be conversant with them, for the reason that I never lived on the Atlantic, and I now live on the far-off coast of the Pacific, where we ask no fishing bounty. I long since heard the cause why these bounties were first allowed, and how they have been justified; and having been somewhat of a traveler upon the seas I have felt the force of the justification, and having seen what our men of the sea were capable of by their training along our northeastern coast, I have felt that the policy of the legislation was sound. We are not now lords of the sea, although we came very near being so. I think we are not so because of a false policy. We could have been if we had allowed the men who understand the seas of our northeastern coast to go and run down the Alabama and run down the Florida and drive all the pirates from the ocean. We would now be masters of the seas if we had allowed them to do it as Congress provided, but as the Administration did not permit.

Sir, I believe these fisheries are the cradle of sailors. You may talk of soldiers as you please, but there are no such people as the men who dare the wave, the storm, and the tempest. They are trained better there than elsewhere, and that is the reason why the policy of this legislation is

sound. It is not a fishing bounty properly speaking, although it is so denominated. It is to furnish a cradle for sailors, men who learn to understand and dare the waves, handle vessels, manage the tiller, and sheer with the wind, know where it comes from and know how to meet it.

I have always thought from my first calm reflection on the subject that this legislation was sound as a matter of public policy for the purpose of maintaining a body of men who at signal call would answer for maintaining our reputation among the nations of the world. We have two oceans on our borders, we have a great sea on the south, and we have all the lakes besides, making almost our boundary. They cultivate a class of men who understand navigation and the handling of vessels, and what is more, who have the particular quality that is developed by education at sea, that is that high quality of courage which belongs to the sailor particularly. To encourage that is one of the highest and most important prerogatives that can be exercised by us in the discharge of our part of the business of the Government.

We need that class of men; we shall need them more when this war is over; and I believe in continuing the policy of enabling our fishing fleet to maintain themselves, and keeping them up and protecting them, not as a matter of bounty, but just as I would have the School at Annapolis and the School at West Point. Although the fishermen do not wear fine jackets and are not called middies or cadets, this is the school of seamen, better seamen than they breed in any of your schools with mathematical teachers and instructors in various departments of science.

I myself have been and am in favor of these fishing bounties, so called, *per se*, as a matter of sound national policy, and I regret that gentlemen from the West, generally those from the interior part of the country, have such a disposition to make war on them. I think it is an old hackneyed question among politicians. A man who lived on the Wabash, or the Illinois, or the Miami, thought it was a very good way of talking for him to say, "Here these fellows got a law giving them fishing bounties; New England has done so and so;" and it has been made a question against New England. I am not a New England man nor am I partial to New England, but I say these bounties were not given to New England. This seems, however, to have become a popular question now in certain portions of the country, and every year a speech against the fishing bounties is repeated from Ohio, from Indiana, from Kentucky, none of these persons regarding the true reason why these bounties were conceded, the true philosophical and governmental reason why they were first established. I think they were right. I think they should be maintained, and I am opposed to the whole proposition of discontinuing them.

**THE PRESIDING OFFICER.** The question is on the amendment of the Senator from Ohio to the amendment of the Committee on Finance.

Mr. MORRILL. I call for the yeas and nays. The yeas and nays were ordered.

Mr. HOWE. I have paired off with the Senator from Iowa, [Mr. GRIMM.]

The question being taken by yeas and nays, resulted—yeas 19, nays 16; as follows:

**YEAS**—Messrs. Brown, Buckalew, Chandler, Cowan, Davis, Doolittle, Harlan, Henderson, Hendricks, Howard, Lane of Indiana, Powell, Riddle, Sherman, Trumbull, Van Winkle, Wilkinson, Wiley, and Wright—19.

**NAYS**—Messrs. Anthony, Clark, Conness, Farwell, Foster, Hale, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Ramsey, Stewart, Sumner, and Wilson—16.

**ABSENT**—Messrs. Carlile, Collamer, Dixon, Foot, Grimes, Harding, Harris, Howe, Nesmith, Pomeroy, Richardson, Saulsbury, Sprague, Ten Eyck, and Wade—15.

So the amendment to the amendment was agreed to, and the question recurred on the amendment as amended.

Mr. FARWELL. I hope the Senate will not adopt the amendment, and I believe that were it not for the little feeling got up between the chairman of the Finance Committee and my colleague the chairman would advise its withdrawal at present. Next year this whole question must come up; there will be a new reciprocity treaty, or else there will be legislation in regard to all these subjects. The chairman stated in the Senate in the early part of this session that there was a million dollars' worth of lumber produced in

this country which we could not tax, from the fact that the reciprocity treaty allowed lumber to come in from the British provinces without taxation. That will have to be provided for. This is a subject of the same kind. Why not say that after the reciprocity treaty expires there shall be a duty on lumber? I say there must be legislation on this whole subject; it will have to be arranged, and this is one of the matters that can then be arranged very well.

I know that Senators who understand this question do not wish to destroy this interest, in which there are two hundred thousand tons of little vessels engaged. Those vessels belong to poor men, scattered along the coast on the rocky points, where nothing can grow. They have perhaps a little patch, big enough for a garden, which their wives and children cultivate while they are away on the ocean, catching those fish, in the summer. It is not the intention of Senators to destroy this interest, to drive these men from their homes, by such legislation as shall prevent them from making the scanty living which they now get for their wives and families. Already the fishermen of the provinces bring into our market at least half as many fish as we catch ourselves and sell them every year. I ask you not to legislate so as to destroy these men and this interest, which you will do if you repeal this bounty without providing some protection to them, by either taking off the duty on salt or putting a duty on the product, the fish which the Nova Scotians bring in. I have been told by intelligent men, fishermen, that the duty which they paid upon salt this year was a great deal more than their bounty. They cannot go into Nova Scotia and buy it, because they have to take their salt on board and have their vessels inspected before they go away, and they have to make oath that the duty on every bushel of salt they have used in curing fish has been paid on it before they can get the bounty.

I know it is not the intention of the Senators here to destroy them; but what object in the world can there be in legislating at this time? It does not save any money to the Treasury this year. Congress will be in session again next year and will have abundance of time to consider the subject in all its aspects, and to make such legislation as is required to adjust the thing equitably, to consider the amount of duty that should be put upon the fish if that should be the course taken, and I think it will be best to put a little duty on the fish, sufficient to give our fishermen the necessary protection, so that they can pay the duty on their salt. If you should take off the bounty, I do not think it would starve the fishermen entirely. They might go down to the provinces and buy their salt, and you would gain nothing by the operation. Probably many of them would be obliged to you for that. They have got a class of vessels that are fit for nothing else. They are little narrow-shaped vessels built expressly for this business, entirely unsuitable to the coasting trade or any other business except the fishing business, and the effect of this legislation which it is here proposed to adopt, if carried out without other legislation, would be merely to transfer all the trade from the United States down to the British provinces. The fisherman would take his crew on board and his ballast in and go right down to Nova Scotia and buy his salt, and have his sails made there and buy there what cordage he wants, and buy his tea, coffee, and sugar there without any duty, as he has a right to do for consumption on board his vessel; and so the Government would actually be the loser by it.

There seems to be a great desire on the part of some gentlemen to make this repeal at this time. When the Senator from Illinois said this was a "pretense" I felt hurt. I did not get up to reply to him, but I felt hurt that the Senator should say that I was here under a pretense. I never act under pretenses. If there is anything that I pride myself on, it is that when you see me outside you see me all through. I would not for all the fishing bounty that has ever been paid to our fishermen stand up here and advocate a thing under a pretense. Nothing but a sense of right or wrong would induce me to state a thing to the Senate.

I suggested to the Senate that this whole matter be allowed to lay over. I am as much in favor of repealing this bounty as any Senator in this Chamber. I want to see it repealed. I have felt annoyed and humiliated for years when I have

read the debates of this Chamber and seen New England sneered at because she was getting a bounty! I do not want any bounty, but I plead for these poor men who have invested under the acts of Congress with the expectation of having some protection to their interests in some way. Do not destroy them and cut them up root and branch by your legislation. You would not for a moment think of taxing any manufactured article, and then allow the foreign article made in a country where labor is cheaper than in this to come in free. In England salt grows in the ground; they dig it out of the ground and they get it there for four shillings a pound, four shillings for thirty bushels, and our fishermen are paying seven dollars for a hoghead of eight bushels of salt to cure their fish. Does any Senator tell me that these men can pay seven dollars for eight bushels of salt, go down to the fishing grounds, cure their fish and salt them, and bring them into the market side by side with the fishermen of the British provinces who get their salt for twenty-five or thirty cents a bushel, and who get their tea and coffee and their cordage untaxed? It cannot be.

I know Senators do not mean to adopt such legislation. Then why not let the whole subject go over and be arranged hereafter? It will be a very good time for it when the question of re-arranging the question of the reciprocity treaty shall come up. Then we can consider the propriety of giving protection not only to this article but many other articles that are manufactured in the British provinces and which ought to be taxed in order to protect our own people. It will help to facilitate that adjustment, perhaps, if we leave this question to be settled then. I trust the Senate will let it go over till next year. Nothing will be forwarded by making this repeal now. Every Senator can see that.

Mr. ANTHONY. Let us vote.

Mr. FARWELL. I am ready to vote. I do not like to talk; it is the last thing I like to do. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I desire simply to say that I certainly did not mean any reflection on my friend from Maine. I do not think I used the word "pretense;" I spoke of "subterfuge."

Mr. FARWELL. Is that a better word?

Mr. TRUMBULL. I had reference to the moving of these amendments. I supposed they were amendments designed to defeat the measure. I did not speak of them as pretenses or subterfuges of the individuals. I only had reference to the parliamentary mode of proceeding, that when members are opposed to a particular measure they resort to motions and amendments to save as much as they can and to prevent action. I did not mean it in any personal sense.

The question being taken by yeas and nays, resulted—yeas 17, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Cowan, Davis, Henderson, Hendricks, Howard, Lane of Indiana, Powell, Riddle, Sherman, Trumbull, Van Winkle, Wilkinson, Willey, and Wright—17.

NAYS—Messrs. Anthony, Clark, Conness, Farwell, Foster, Hale, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Ramsey, Sprague, Stewart, Sumner, and Wilson—16.

ABSENT—Messrs. Carlile, Collamer, Dixon, Doolittle, Foot, Grimes, Harding, Harlan, Harris, Howe, Johnson, Nesmith, Pomeroy, Richardson, Saulsbury, Ten Eyck, and Wade—17.

So the amendment was agreed to.

Mr. BUCKALEW. I move that the Senate adjourn.

Mr. SHERMAN. There is but one more amendment. The last amendment to the bill is disposed of already by the action on the fifth section. I hope the vote may be taken on the postage question, and either voted in or out.

Mr. HENDRICKS. On that I wish to ask the chairman just one question—

The PRESIDING OFFICER. The motion is to adjourn.

Mr. HENDRICKS. The question I ask of the chairman is whether the language of the section in regard to postage is the language of the old law?

Mr. BUCKALEW. I withdraw the motion to adjourn.

Mr. HENDRICKS. Mr. President—

Mr. SHERMAN. Let the section be read.

The Secretary read the next amendment, which was to insert as a new section:

SEC. —. And be it further enacted, That, in lieu of the

present rates of postage on letters, there shall be charged, from and after the 1st day of July next, for every single letter in manuscript, or paper of any kind in which information shall be asked for or communicated in writing or by signs or marks, conveyed in the mails, five cents; and for a double or other multiple letter there shall be charged an increased rate according to the present rates, five cents being computed the unit instead of three cents.

Mr. SHERMAN. Now I can answer the question of the Senator from Indiana. The only change is increasing the rate of postage from three to five cents. The language is precisely the same.

Mr. POWELL. I have an amendment to the amendment to add:

And that from and after the 1st day of June, 1865, all acts or parts of acts granting or allowing the franking privilege be, and the same are hereby, repealed.

Mr. HALE. I move that the Senate adjourn.

The question being put, there were, on a division—yeas 16, nays 15.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 1, 1865.

The House met at eleven o'clock, a. m. Prayer by the Chaplain, Rev. W. H. CHANNING.

The Journal of yesterday was read and approved.

CHARLES A. FITCHER.

Mr. HALE. I ask unanimous consent that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill (S. No. 338) entitled "An act for the relief of Charles A. Pitcher."

Mr. ALLISON. I object.

Mr. HALE. I move to suspend the rules for the purpose of discharging the Committee of the Whole from the consideration of the bill.

The motion was not agreed to.

## SUSPENSION OF JOINT RULES.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had passed the following resolution, in which they requested the concurrence of the House:

*Resolved by the Senate, (the House of Representatives concurring), That the 16th and 17th joint rules of the two Houses be suspended during the remainder of the present session.*

The House proceeded to the consideration of the resolution.

Mr. HALE. Let those rules be read.

Mr. STEVENS. This is the resolution which is always passed at the end of the session.

The SPEAKER. The Clerk will read the 16th and 17th joint rules.

The Clerk read, as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

The SPEAKER. These rules are always suspended at this stage of the session. The Chair thinks that they might as well be abolished.

Mr. WASHBURN, of Illinois. I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was concurred in.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ORDER OF BUSINESS.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on bill H. R. No. 795, amendatory of certain acts imposing duties upon foreign importations.

Mr. ASHLEY. Will the gentleman yield to me a moment?

Mr. MORRILL. Yes, sir.

Mr. ASHLEY. I move that this evening, between seven and eight o'clock, bills on the Speaker's table be taken up and disposed of.

Mr. HOLMAN. I object.

Mr. MORRILL. Pending the motion I have already made, on conference with gentlemen on both sides of the House, learning that there is no disposition further to discuss the tariff bill except

on the part of two or three gentlemen, I ask by unanimous consent that the debate shall be limited to five minutes each to the gentleman from New York [Mr. Brooks] and the gentleman from Pennsylvania, [Mr. Stevens.]

Mr. WARD. I hope the gentleman will give me five minutes.

Mr. PIKE. Does the gentleman propose to limit the debate to ten minutes on the whole bill?

Mr. MORRILL. Yes, sir; on the whole bill, after the Committee of the Whole on the state of the Union shall resume its consideration.

Mr. PIKE. I want to be heard for five minutes on the next section.

Mr. DAWES. Before the gentleman makes his motion I desire to ask unanimous consent of the House to have an evening session for the purpose of considering the election cases.

The SPEAKER. That can be made pending a motion to go into the Committee of the Whole on the state of the Union.

Mr. DAWES. I do not intend to occupy more than an hour or an hour and a half.

Mr. STEVENS. We have some appropriation bills yet to dispose of, and unless we pass them to-day I do not know how they can be considered in the Senate. If we have an evening session it ought to be to consider the appropriation bills.

Mr. DAWES. I am willing to leave the matter to the House. I accept the condition of things as I find it. I only desire to discharge my duties to the claimants. If the House thinks that other business is of more consequence, I will accept the vote as an indication of that fact. I wish myself simply and solely to present those cases fairly to the House, and have its action in regard to them.

The SPEAKER. Questions in regard to the business of the House must be decided without debate.

Mr. DAWES. I move that two hours of this evening's session shall be set apart for action on the Louisiana election cases.

The motion was disagreed to.

Mr. MORRILL. I move that all debate on the tariff bill in the Committee of the Whole on the state of the Union be closed in thirty minutes, to be divided into ten minutes on each section.

The motion was agreed to.

Mr. MORRILL. I ask now that the vote be taken on the motion to go into committee.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LITTLEJOHN in the chair,) and resumed the consideration of the

#### TARIFF BILL.

The CHAIRMAN stated the pending question to be on striking out the words "On iron bars for railroads or inclined planes, fifteen cents per one hundred pounds."

Mr. GRISWOLD. Mr. Chairman, I desire to say a word or two on this motion in answer to the remarks of the gentleman from New York, [Mr. Davis,] and other gentlemen who discussed this subject yesterday previous to the adjournment. First, let me say to the gentleman from New York that the inferences he drew from the secret circular signed by the representatives of English manufacturers of railroad iron and circulated among the members of Congress were entirely incorrect and delusive.

Mr. DAVIS, of New York. Inasmuch as the gentleman has referred to a secret circular, I desire to say that I never saw it till this morning.

Mr. GRISWOLD. I meant no disparagement of the gentleman from New York. I know that a circular of that kind has been circulated among the members of this House, and that the gentleman's statements and arguments were so nearly identical with those of that circular that I was led to the inference that he drew his information from that source. I desire to say, Mr. Chairman, that so far from the requirements and consumption of railroad iron in this country being beyond the ability of production here, that many mills are in want of orders, and from indications will before the close of the year stand idle. The average annual consumption of railway iron in this country for the last ten years has been only one hundred and twenty thousand tons. The product last year of the rolling-mills of the country was three hundred thousand tons, and their

capacity this year, as reported from the proprietors of the mills, is over five hundred thousand tons. The capacity of our mills is therefore far beyond the consumption of the country. So much for this argument of the gentleman.

Now, then, in answer to my very enthusiastic free-trade friend from Ohio, whom I do not now see in his seat, [Mr. Cox,] I desire to say that he is making a mistake if he supposes that he is only assailing injuriously the State of Pennsylvania in his position upon this great interest. I desire him to understand that in other States of our Union the iron interest has become or is fast becoming an important one. His own State of Ohio stands prominent in this class; and there are furnaces to-day standing idle there because of the present depression in the prices of pig iron. The fires of other furnaces will soon go out under the system of legislation advocated by him. It is not Pennsylvania alone that demands consideration for this great branch of national business.

Mr. COX. Will the gentleman yield to me a moment?

Mr. GRISWOLD. The gentleman will have an opportunity when I get through. My time will not permit me to yield to the gentleman.

Mr. COX. The gentleman misrepresents me.

Mr. GRISWOLD. In reference to the position of the gentleman from Iowa, a member of the Committee of Ways and Means, [Mr. Kasson,] I desire to express my astonishment. That gentleman is usually clear and comprehensive in his views; and I repeat my amazement that upon a question of this kind, so important in its bearings upon a great interest of the country, he should permit himself to take a view so entirely narrow and inconsistent. Does the gentleman suppose that by striking down this great branch of the iron interests of the country he will promote the welfare of the great West which he represents? Does he think their ruins will prove an adequate foundation on which to build the great railway avenues of communication throughout the West, of which he says they stand in so much need? Does he believe the policy he now advocates will tend to develop the resources and extend the interests of the great West which he represents here?

The committee of which he is so prominent a member (Ways and Means) provided, at the last session of Congress, for a direct internal revenue of about seven dollars per ton of rails. They added other taxes which would indirectly increase the cost to the producer of rails in this country three dollars additional per ton, making in all ten dollars per ton, thus providing for the contribution of at least \$5,000,000 per annum to the Treasury of the country. At the same session the foreign duty on this product was reduced from \$13 50 to \$13 40 per ton, thus legislating a difference of ten dollars per ton in favor of the foreign producer. Under these laws the only protection which the American producer now has against the cheap labor of foreign manufactures is three dollars per ton.

Let me say to the gentleman from Iowa that he cannot extract from this great interest the large contribution to the Treasury of the country which he anticipates if the policy of our legislation shall be such as he advocates on this question. He will be able to deduct no new moral by killing the goose from which he anticipates his golden eggs.

[Here the hammer fell.]

Mr. BROOKS. The gentleman from New York [Mr. Griswold] talks about striking down the iron interest. Why, the iron interest is the most prosperous in the country. It is coining money absolutely faster than the Mint ever coined it, or any other interest. No interest is making money as the iron interest is this very day and hour. It is not Pennsylvania alone that is interested, but it is my own State also. I represent constituents who are making annually \$250,000 and \$500,000 out of the iron mines of Pennsylvania, the interest being mainly owned in New York. Strike down an interest like that, an interest before all others which exist in this country! I think sometimes I have returned to the barbarous ages instead of being in an American assembly; that I am in a Chinese body of deliberation, when I hear of a prohibition upon railroad iron, or of any other iron. This never was an American system, but a Chinese system. As an ancient

Whig, as a relic of the past, I protest against the doctrine of a prohibitory tariff, and I never advocated it. All that we asked was that protection to American industry which was incidental and never prohibitory. But the proposition here is a prohibitory one. That is not an American system, I repeat; it is a Chinese system which is now proposed to be introduced to the people of this country.

But there are other interests in this country beside iron, such as ships, commerce, and navigation. I plead for the sailor, for the merchant, for the flag they carry over the whole earth. Commerce has been mainly swept away, in a very great degree, by this war, and by an almost prohibitory tariff. There are few or no sailors but those on board of transports of war. And now here is a proposition, when the iron-mongers are absolutely coining money, to add three dollars additional protection. And in the names of the merchants upon the coast, in the names of the sailors who are hereafter to live by the freighting business, of iron as well as many other things, I call the attention of the House to that multitudinous class, and ask them to forget the oligarchy of the iron aristocracy who are this day coining money as no other interest in the country ever coined it.

Mr. STEVENS. That was not the voice that issued from a Whig gentleman of fifteen years. Then he stood with Henry Clay and the rest of us for protecting American industry against the pauper labor of Europe. But like many others, his conversion from one point to Locofocoism has involved his conversion to all of them; they have been carried over into the ranks of our old opponents.

I was not at all astonished yesterday at the doctrines promulgated by the gentleman from Ohio, [Mr. Cox,] who has always been a frank and free advocate of free trade. His course, therefore, was consistent and manly, however erroneous those on this side of the House may consider it. But I was a little surprised to hear my friend from Iowa [Mr. Kasson] who is on the Committee of Ways and Means, advocate free trade. But I was very much astonished at the course of the gentleman from New York, [Mr. Brooks,] who went, it seems to me, beyond John C. Calhoun himself, and that, too, without knowing all the facts about which he was talking.

I know that last year we added seven dollars a ton to the internal duty upon railroad iron, and as we did in all other cases, we in the committee reported a compensating duty upon the foreign article. But while it was adopted on every other article, we refused the twenty cents a hundred pounds which had been reported as a compensation upon railroad iron. What was the result? The result was that although before that our mills had commenced to be prosperous, and those who had large stocks on hand when the price was raised made large sums, yet the gentleman from New York [Mr. Brooks] is mistaken as to their now making money; for, on the other hand, they are now stopping operations, and the result was that one hundred and twenty-odd thousand tons of railroad iron were imported last year, requiring as they did over two hundred and fifty thousand tons of pig metal. Thus it took from our manufacturers the manufacture of two hundred and fifty thousand tons of pig metal and gave it to the manufacturers of Europe; and while our pig iron, under the excited gold market, was selling at seventy-five dollars a ton, it is now less than twenty-five dollars a ton, causing an actual loss of four or five dollars a ton upon the present cost of manufacture. Although for some one single year they may have made large amounts, yet when you take any large capitalist in the iron business for ten years, it will be found that he has not made three per cent. interest upon his capital.

Now, in regard to the facts of my friend from New York, [Mr. Brooks,] He speaks of its requiring three hundred thousand tons of railroad iron for the roads in the country. Now, the full estimate, made from actual data, by statisticians from all parts of the Union, never has carried it beyond one hundred and twenty-five thousand tons. Last year our mills had increased to a capacity of three hundred thousand tons; and this day I can show, from figures stating the capacity of every rolling-mill in the country, that the capacity of all the rolling-mills in the United States is six hundred and twenty-two thousand



tons, and the whole requisition of the country is not over three hundred and forty or three hundred and fifty thousand tons. In addition to that I know the fact that three or four mills within my knowledge, one of them so large as to cover almost ten acres of ground, one half of whose furnaces are now going out of blast.

Mr. COX. I ask the consent of the committee to make a statement of fact.

The CHAIRMAN. The committee cannot give consent; they are acting under order of the House.

Mr. COX called for tellers.

Tellers were ordered; and Messrs. Cox and STEVENS were appointed.

The committee divided; and the tellers reported—ayes 50, noes 69.

So the motion to strike out was not agreed to.

The fourth section was read, as follows:

*And be it further enacted*, That section fifteen of an act entitled "An act increasing, temporarily, the duties on imports, and for other purposes," approved July 14, 1862, be, and the same hereby is, amended so as to impose a tax or tonnage duty of thirty cents per ton in lieu of "ten cents," as therein mentioned.

Mr. PIKE. I move to amend by adding to this section the following:

*Provided*, That the receipts of vessels paying tonnage duty shall not be subject to the tax provided in section one hundred and three of "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864.

I know that the Committee of Ways and Means are not disposed to add to the burdens already borne by the tonnage of this country. There is this peculiarity about tonnage: the man who builds a vessel pays largely of the tariff duties upon the materials that enter into its formation—the iron, the copper, and other materials. In addition to this, which is computed to amount to \$9,000 in gold upon every thousand-ton ship, the ship-builder is obliged to pay a manufacturer's tax like other manufacturers of the country.

Mr. STEVENS. The Committee of Ways and Means are not opposed to this proposition; but it ought probably to be inserted in the internal revenue bill. I do not see, however, that the adoption of the amendment will do much harm. We do not intend, therefore, to oppose it.

Mr. PIKE. If the Committee of Ways and Means do not intend to oppose it, let it be adopted, and let the matter go to a committee of conference.

Mr. DAVIS, of New York. I rise to oppose the amendment of the gentleman from Maine, and I do so simply for the purpose of making a remark on another section of the bill. I yesterday stated the grounds of my opposition to the provision of the tariff bill in respect to duties on railroad iron; and I founded my remarks upon what I supposed to be the actual condition of the iron market at this time. I have since learned, on an investigation of the subject, that iron rails, instead of being held, as I supposed, at \$165 per ton, are reduced in the market to \$115 per ton, and that sales are offered even at a lower price. In the opposition which I made to the provision my object was not to inflict any injury whatever upon the manufacturers of my country. I desire to give them every protection which their interests and the interests of this country demand, and which shall be justified by the condition of the country. I believe it to be our duty to adjust our internal revenue and our foreign tariff in such a manner as to give the greatest possible amount of protection and revenue to the country. I desire to say that, with my present views, enlightened as I have been by the investigations to which I have referred, I shall sustain the proposition of the committee.

The amendment of Mr. PIKE was agreed to.

The fifth section was read, as follows:

*And be it further enacted*, That the term statutory, as used in the laws now in force imposing duties on foreign importations, shall be understood to include professional productions of a statutory or of a sculptor only.

Mr. KERNAN. I desire some explanation of this section. I should like to know what this unprofessional statutory is. Has this provision reference to those people who import leaden statues of Liberty, &c.?

Mr. MORRILL. I may state, in brief, that it has been found that parties have in many cases evaded the payment of duties by importing articles in the form of statutory, when they could not le-

gitimately rank as such. In some instances lead has been thus imported to a large extent. We had a law by which statutory was admitted free; and statutes of the "Father of his Country" and of the "Author of the Declaration of Independence" were brought over in that way. I believe that the gentleman is answered.

Mr. ELDRIDGE. I would like to know from the gentleman from Vermont whether this does not refer to one particular firm. I want to know whether this does not refer to Phelps, Dodge & Co., and that firm alone.

Mr. STEVENS. When statutory was admitted free we had statues of Webster and Clay and others in copper and lead imported, and so soon as they were landed and taken out of the custom-house they were melted down. It was a fraud upon the revenue.

Mr. ELDRIDGE. What firm did that?

Mr. STEVENS. Phelps, Dodge & Co.

Mr. WARD. I desire to move a new section, and I think it will be appropriate here. It is as follows:

That the Secretary of the Treasury be, and is hereby, directed to refund to the proper party or parties the tax of forty cents per gallon collected upon all spirits imported prior to the 7th day of March, 1864, under and in pursuance of section seven of an act entitled "An act to increase the internal revenue and for other purposes," approved March 7, 1864.

Mr. MORRILL. I rise to a point of order. This is a revenue bill, and the amendment makes an appropriation, and is, therefore, not germane.

The CHAIRMAN. The Chair is of the opinion that the point of order is well taken. This is a proper amendment, not to this, but to the internal revenue bill.

The Clerk read, as follows:

SEC. 6. *And be it further enacted*, That in all cases where there is or shall be imposed any *ad valorem* rate of duty on any goods, wares, or merchandise, imported into the United States, and in all cases where the duty imposed by law shall be regulated by, or directed to be estimated or based upon, the value of the square yard, or of any specified quantity or parcel of such goods, wares, or merchandise, it shall be the duty of the collector within whose district the same shall be imported or entered, to cause the actual market value or wholesale price thereof, at the period of the exportation to the United States, in the principal markets of the country from which the same shall have been imported into the United States, to be appraised, and such appraised value shall be considered the value upon which duty shall be assessed. That it shall be lawful for the owner, consignee, or agent of any goods, wares, or merchandise, which shall have been actually purchased or procured otherwise than by purchase, at the time and not afterward, when he shall produce his original invoice or invoices to the collector, and make and verify his written entry of his goods, wares, or merchandise, as provided by section thirty-six, of the act of March 2, 1799, entitled "An act to regulate the collection of duties on imports and tonnage," to make such addition in the entry to the cost or value given in the invoice as in his opinion may raise the same to the actual market value or wholesale price of such goods, wares, or merchandise, at the period of exportation to the United States, in the principal markets of the country from which the same shall have been imported, and it shall be the duty of the collector within whose district the same may be imported or entered to cause such actual market value or wholesale price to be appraised in accordance with the provisions of existing laws, and if such appraised value shall exceed by ten per cent. or more the value so declared in the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty per cent. *ad valorem*, on such appraised value: *Provided*, That the duty shall not be assessed upon an amount less than the invoice or entered value, any act of Congress to the contrary notwithstanding: *And provided further*, That the sections twenty-third and twenty-fourth, of the act approved June 30, 1864, entitled "An act to increase duties on imports, and for other purposes," and all acts and parts of acts requiring duties to be assessed upon commissions, brokerage, costs of transportation, shipment, transhipment, and other like costs and charges incurred in placing any goods, wares, or merchandise on shipboard, and all acts or parts of acts inconsistent with the provisions of this section, are hereby repealed.

Mr. COX. I move to add to that the following:

*Provided*, That the specific duty now assessed on tea and coffee be repealed, and an *ad valorem* duty be levied on tea of fifty per cent. and on coffee of twenty per cent.

Mr. Chairman, I understand from the point of order made by the gentleman from Vermont [Mr. MORRILL] that this was intended as a revenue measure. The amendment I have just offered, in my judgment, will not change the revenue so far as these two articles of tea and coffee are concerned. I believe, however, that if this really were a revenue bill, the amendment submitted by me in reference to railroad iron would have been adopted. But the gentleman from Vermont, and especially the gentleman from Pennsylvania, I think, regard this not so much as a revenue bill

as to protect the manufacture of iron. That is the basis of all their arguments.

I have not proposed any amendment to the tariff bill looking to the depletion of the Treasury. The rejection of my amendment, and gentlemen have boldly proclaimed it, will have the effect to prohibit foreign importation. If this had a proper title it should be this: A bill to prevent revenue to the Government.

The gentleman said that in spite of high protection to railroad iron by the present tariff there were one hundred and twenty thousand tons imported into the country during the last year. A most horrible condition of things! As if we get more revenue the less importation we have. According to that argument, when we have stopped importation we will get the greatest revenue.

Mr. MORRILL. I ask the gentleman whether we have not derived under the present tariff a greater amount of revenue than under any since the foundation of the Government?

Mr. COX. The gentleman said that he expected to get \$100,000,000.

Mr. MORRILL. We received \$102,000,000.

Mr. COX. I understand only \$70,000,000, according to the estimates of the Secretary of the Treasury. Even if this be a revenue measure, I do not think that my amendment in reference to tea and coffee will affect the revenue. As teas vary in price from say seventy-five cents to two dollars, the average is perhaps about one dollar per pound. This is, on a gold basis, fifty per cent. *ad valorem* upon every pound of tea costing only a dollar. I propose to amend by making all specific duties on tea, whatever the price, *ad valorem*. What will be the effect? The operation would be to relieve all who buy the cheaper teas, and put the tax on the rich men who buy dear teas. And why should not the man who indulges in the luxury of tea worth two dollars a pound pay the higher tax, twice as much as the poor man pays who buys tea worth only seventy-five cents or one dollar a pound? The great consumption of tea and coffee is by the poorer classes, who have large families and more children; and therefore, if gentlemen are friends of the masses of the people they will favor this *ad valorem* principle in opposition to the specific tax.

How is it as to coffee? The same arguments will apply. The tariff is now five cents a pound in gold, or ten cents in paper. That will be equivalent to fifty per cent. *ad valorem*. This amendment will relieve all who buy cheap coffee at forty cents a pound, and lay it upon the men who buy coffee worth sixty or seventy cents. It is just and fair that there should be an *ad valorem* tax upon all articles which vary in price. The gentleman from Vermont [Mr. MORRILL] has adopted almost exactly the same principle in respect to sugar. He does not lay the same specific tax upon sugar. He has a variety of taxes on that article, varying from three to five cents per pound. The tax varies with the quality of the sugar. Why not lay a tax on tea and coffee on the same principle? Why not favor the poor man, when you do no injustice to the rich man? At least do not discriminate in favor of the men who have money to buy the higher qualities of teas, and discriminate against the poorer classes of community by making them pay the same tax per pound that the rich man does.

[Here the hammer fell.]

The question recurring on the amendment of Mr. Cox,

Mr. COX called for tellers.

Tellers were ordered; and Messrs. MORRILL and Cox were appointed.

The committee divided; and the tellers reported—ayes 50, noes 70.

So the amendment was not agreed to.

Mr. MALLORY. I offer the following proviso, to come in at the end of the section:

*Provided*, That the duty on the cloth now in the custom-house in New York, and donated to and imported last fall for clothing for the Sisters of Charity in the United States is hereby remitted, and the same shall be admitted free from duty.

I will briefly explain the amendment.

The CHAIRMAN. Debate is not in order.

Mr. MALLORY. I hope by unanimous consent I shall be permitted to make a few remarks in favor of the proviso.

The CHAIRMAN. The committee is acting

under an order of the House that there should be no debate after the expiration of thirty minutes. That time has expired;

Mr. MORRILL. I make a point of order on that amendment. It is not germane to this bill, it being in the nature of an appropriation. A remission of duties.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MALLORY. I demand tellers on my amendment.

Tellers were ordered; and Messrs. MALLORY, and KELLOGG of Michigan, were appointed.

The committee divided; and the tellers reported—ayes 60, noes 61.

So the amendment was not agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. CORN, one of their clerks, announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, an act (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1863, and to amend an act amendatory thereof, approved July 2, 1864.

#### TARIFF BILL—AGAIN.

Mr. WOODBRIDGE. I move to amend by adding the following as a new section, to come in after the sixth section:

*And be it further enacted*, That in all cases since the 1st day of July, 1863, where the United States have been purchaser by contract made prior to the passage of the joint resolution entitled "Joint resolution to increase temporarily the duties on imports," approved April 29, 1864, increasing the import duty on articles embraced in such contract, and delivered prior to the passage of said joint resolution, the appropriate heads of the Department and accounting officers shall be authorized, at their discretion, to settle and adjust such contract up to the passage of said joint resolution, according to the contract prices specified therein; and on such portion of the imported articles as may have been delivered and purchased subsequent to the passage of said joint resolution there shall be allowed an additional sum equal to the increased duty on such articles.

Mr. MORRILL. I make the point of order that this amendment is not germane to this bill.

The CHAIRMAN, (Mr. LITTLEJOHN.) The Chair must overrule the point of order.

Mr. WOODBRIDGE. I ask consent merely to explain the amendment.

The CHAIRMAN. Consent cannot be given in committee; the committee are acting under the order of the House.

Mr. WOODBRIDGE. I will say to gentlemen that this is a very honest amendment.

The amendment of Mr. WOODBRIDGE was not adopted.

Mr. MORRILL. I desire to offer two sections to come in after the seventh section, which have received the assent of gentlemen on various sides of the House.

The sections were read, as follows:

Sec. 8. *And be it further enacted*, That so much of sections thirty-nine, forty, forty-one, forty-two, forty-three, and forty-four of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799, as require the branding or marking and certifying of casks, chests, vessels, and cases containing distilled spirits or teas, be and the same is hereby revived, to be executed under such rules and regulations as shall be prescribed by the Secretary of the Treasury.

Sec. 9. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to increase to any sum not exceeding \$1,500 the salary or compensation of any deputy collector of customs whose compensation is now limited by law to a lower sum.

The amendment was agreed to.

Mr. DAVIS, of Maryland. The seventh section of this bill is intended to secure freedom for exports. I wish to move an amendment which is in furtherance of that object, and which I have been directed to report by the Committee on Foreign Affairs, but which there will be probably no opportunity to consider at the present session unless it shall be considered at the present time. I move to insert the following as additional sections, to come in after the seventh section.

The amendment was read, as follows:

Sec. —. *And be it further enacted*, That the arms and munitions of war seized in or near San Francisco on or about the 19th day of August, 1864, under special order No. 174, and deposited in Benicia arsenal, (described in the report of J. S. Mason, acting assistant provost marshal of California, to R. C. Drury, assistant adjutant general, dated November 25, 1864,) be forthwith delivered, by any

officer having the same in custody, to the owner or owners thereof, or their agents, to be exported under the laws of the United States as they may see fit.

Sec. —. *And be it further enacted*, That any collector, or other officer, at any port from which vessels may by law clear for any foreign port, refusing a clearance to any vessel or cargo entitled thereto by the laws on that behalf enacted, under or by reason of any order of any officer, military or civil, of the United States forbidding the exportation of any arms, munitions of war, guano, or other merchandise, the exportation whereof is not prohibited by act of Congress, shall be liable to forfeit and pay to the party injured by such refusal twice the value of the property so unlawfully detained, to be recovered in any court of the United States having jurisdiction of the cause.

Sec. —. *And be it further enacted*, That any arms, munitions of war, guano, or other merchandise seized for violation of any statute of the United States in any State or district wherein the United States courts are open, by any officer, civil or military, or by any person acting for or on behalf of the United States, shall not be detained in any military or private custody, but shall be forthwith delivered into the custody of the marshal of the United States for the district where the seizure may be made, and submitted to the district court of the United States for the district where the said seizure was made, to be proceeded against according to law; and any officer, civil or military, making any such seizure and failing to deliver the property to the marshal as aforesaid, or failing to submit the same to the district court for adjudication as aforesaid; or any marshal of the United States making such seizure and failing to submit the same to the district court for adjudication, or failing or refusing to obey the judgment of the court for the delivery of such property according to the decree or judgment of the court, shall be liable to pay the party entitled to such property double the value thereof, to be recovered by action in any court of the United States having jurisdiction of the same.

Sec. —. *And be it further enacted*, That any officer of the United States, civil or military, who shall prevent any person from leaving the United States, by land or sea, or shall demand or require any passport or other license as a condition of permitting any person leaving the United States, by land or sea, unless the person so prevented shall be liable to arrest, and be actually arrested by due process of law, for crime, or shall be in the military or naval service of the United States, or shall be arrested by the order of the President, under and according to the act of Congress authorizing the suspension of the writ of *habeas corpus*, in the cases and subject to the conditions therein mentioned, or is engaged in rebellion against the United States, shall forfeit and pay to the party so detained not less than \$500 nor more than \$5,000, to be recovered by action in any court of the United States having jurisdiction of the cause.

Mr. DAVIS, of Maryland. I will merely say a word in explanation of the amendment.

The CHAIRMAN. The Chair must remind the gentleman from Maryland that no debate is in order at this stage.

Mr. COX. Would it not be in order to rescind that most ungracious rule calling off debate on amendments?

The CHAIRMAN. The Committee of the Whole can make no rules for itself.

Mr. COX. I move that the committee rise with the view to rescind that order. If we have amendments offered to this bill we must debate them.

On the motion that the committee rise, there were, on a division—ayes 51, noes 46.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MORRILL and Cox were appointed.

The committee divided; and the tellers reported—ayes 53, noes 57.

So the motion was not agreed to.

Mr. MILLER, of Pennsylvania. I raise the point of order that the amendment offered by the gentleman from Maryland [Mr. DAVIS] is not germane to the bill under consideration.

Mr. DAVIS, of Maryland. It is germane to the seventh section of the bill, which is designed to secure freedom of exports.

The CHAIRMAN. The Clerk will again read the amendment.

The amendment was again read.

The CHAIRMAN. The Chair sustains the point of order.

Mr. COX. If it be in order, I would suggest for the information of the Chair that the amendment has reference to the custom-house; and certainly it is germane to section seven.

The CHAIRMAN. The Chair has decided the point of order, and knows no mode of overruling that decision except by an appeal from the decision.

Mr. COX. I appeal from the decision of the Chair with the view to say one word.

The CHAIRMAN. Debate upon the appeal is not in order.

Mr. COX. I withdraw my appeal.

Mr. MALLORY. I move to amend by inserting the following as a new section:

*And be it further enacted*, That the duty on the cloth do-

nated to, and imported last fall for clothing for, the Sisters of Charity in the United States, is hereby remitted, and the same shall be admitted free from duty.

Mr. MORRILL. I raise the point of order that we have already acted on this proposition.

Mr. MALLORY. This is not the same amendment as that on which we acted.

The CHAIRMAN. The point of order is not well taken.

Mr. MALLORY. Cannot I say something in favor of that amendment?

The CHAIRMAN. Debate is not in order.

Mr. MALLORY. It is a good charity, and I hope that the amendment will be agreed to.

The committee divided; and there were—ayes 49, noes 57.

The amendment was disagreed to.

Mr. MILLER, of Pennsylvania. I will, if permitted, withdraw my point of order to the amendment of the gentleman from Maryland.

The CHAIRMAN. It is too late.

Mr. MORRILL moved that the committee rise and report the bill.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. LITTLEJOHN reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 795, amendatory of certain acts imposing duties upon foreign importations, and had directed him to report the same back with sundry amendments.

Mr. MORRILL. I demand the previous question.

Mr. COX. I ask the gentleman to permit me to have a vote on my amendment in reference to tea and coffee.

Mr. MORRILL. I cannot yield for that purpose.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments of the Committee of the Whole on the state of the Union were concurred in.

Mr. COX moved that the bill be laid on the table, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 43, nays 85, not voting 54; as follows:

YEAS—Messrs. James C. Allen, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chandler, Cox, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Herriek, Holman, Hutchins, Philip Johnson, Kalbfleisch, Keruan, Knapp, Law, Le Blond, Long, Mallory, Mayes, Middleton, Morrison, Nelson, Noble, Perry, Prayn, Rogers, Ross, John B. Steele, William G. Steele, Townsend, Voorhees, Ward, Chilton A. White, Joseph W. White, and Benjamin Wood—43.

NAYS—Messrs. Allison, Ames, Ancona, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blair, Blow, Boutwell, Boyd, Broomall, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Daves, Dawson, Deming, Dixon, Dumont, Eckley, Eliot, Farnsworth, Frank, Gooch, Grinnell, Griswold, Hale, Higby, Asabel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Littlejohn, Loan, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Sloan, Smithers, Stevens, Sutes, Strouse, Thayer, Thomas, Upon, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, and Woodbridge—55.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Blaine, Brandegee, William G. Brown, Ambrose W. Clark, Clay, Coffrodt, Cravens, Creswell, Henry Winter Davis, Denison, Donnelly, Driggs, Garfield, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hotchkiss, Hulburd, William Johnson, Julian, Kasson, Knox, Lazear, Longyear, McDowell, McIndoe, McKinney, James R. Morris, Odell, John O'Neill, Pendleton, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, James S. Rollins, Smith, Spalding, Starr, Stuart, Sweat, Tracy, Van Valkenburgh, Wadsworth, Winfield, Fernando Wood, Worthington, and Yeaman—54.

So the bill was not laid on the table.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POSTAL LAWS.

Mr. COLE, of California. I submit the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 230) relating to the postal

laws, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their amendment striking out the first section of the bill and agree to the same, with the following amendments: strike out of the sixth line the words "either wholly" and insert "on which the passage is;" strike out of the sixth and seventh lines the following words: "or short paid to the extent of more than a single rate of postage;" strike out of the ninth, tenth, and eleventh lines the following words: "with the stamps uncanceled, and notice of the amount of deficient postage thereon;" strike out of the fifteenth and sixteenth lines the words following, to wit: "which are short paid a single rate of postage only;" and strike out of the seventeenth line the word "single."

That the House recede from their third, fourth, and fifth amendments to said bill.

J. COLLAMER,  
W. WRIGHT,  
JOHN CONNESS,  
*Managers on the part of the Senate.*  
C. COLE,  
J. M. ASHLEY,  
*Managers on the part of the House.*

Mr. PRUYN. I would inquire of the gentleman from California whether this report proposes to change the single rate of postage from three to five cents.

Mr. COLE, of California. No, sir.

Mr. BROOKS. Will the gentleman explain the first amendment?

Mr. ASHLEY. The amendment which the House insisted on was that where a letter was deposited in the office without any prepayment whatever it should be returned to the writer if he could be known without opening the letter; if it could not be so ascertained, then that the letter should be opened and then returned. If the letter was put into the office and part postage paid thereon, then it should be sent, and the remaining unpaid postage should be charged and collected when delivered.

Mr. BROOKS. The point I make is that this allows the postmaster to open letters. That ought not to be done, but the letters should be sent to the dead-letter office.

Mr. ASHLEY. The letters would be opened the same in the dead-letter office.

Mr. BROOKS. Yes, but under secret responsibility.

Mr. KASSON. Do I understand the gentleman from Ohio to say that postmasters at the mailing office may open the letters?

Mr. ASHLEY. Yes, in case only the postage is not prepaid; but when the postage is paid only in part the letter shall be sent forward to its destination.

Mr. KASSON. Let me say that this is a power so delicate in its character, so important at times in its consequences, that there is no place but the highest, namely, the last resort here in Washington, where in my judgment that power should be exercised. And here it is opened only for the purpose of discovering whether or not there be valuables in it, and whether there is anything in it of such a nature as to require that it should be returned to the writer. But for the paltry consideration of three cents unpaid, often the result of accident, to allow such letters to be opened at the mailing office by any clerk, or by the postmaster himself, would be the most dangerous innovation ever perpetrated under the post office laws. I hope that under no circumstances the House will consent to the power of opening sealed letters. It would be enormously dangerous.

Mr. COLE, of California. This provision applies only to those cases where no postage is paid on the letters, and where the writers are not known. Its object is to relieve the dead-letter office from its great burdens.

Mr. KASSON. The returns of the dead-letter office show that letters on which no postage is paid are often the most important letters, sent by insurance companies and banks; and these, from the accident of not prepaying the postage, would be opened at the mailing office, and scattered, you know not where.

Mr. COLE, of California. The provision gives to postmasters alone the power of opening letters in cases where no postage is paid, and the name of the writer cannot be ascertained without opening the letter. Where any postage is paid the letters are to be forwarded to their destination, and the amount unpaid is charged and collected of the parties receiving them.

Mr. FINCK. I desire to state to the committee that this subject was deliberately considered by the Committee on the Post Office and Post Roads;

and they were unanimously of opinion that no power ought to be granted to postmasters or to deputies to open letters which were not prepaid or on which sufficient had not been paid. There ought to be no exception to the rule, and I hope the House will vote down this part of the report. It is a dangerous power to put into the hands of postmasters or clerks. I trust we shall have a united vote against it here, as there was in the committee.

Mr. COLE, of California. The gentleman will see that it will be a very great accommodation to persons who drop letters in the post office casually, without prepayment of postage, to have them treated in this manner, rather than have them sent to the dead-letter office. The postmaster is allowed to open a letter for the purpose of ascertaining who wrote the letter, and to whom it should be returned. If, however, the writer is known, the letter is to be returned unopened.

Mr. FARNSWORTH. How can that be ascertained without opening the letter?

Mr. ASHLEY. We all know that in large places business firms have their cards printed or stamped upon their envelopes; and where that is not done the handwriting of business firms is frequently known. But such is not the case where stray letters are deposited by ignorant persons.

Mr. BROOKS. They are as sacred as any.

Mr. KASSON. The existing law makes it a highly penal offense for anybody, except the person to whom it is sent, to open any letter. Even if you find a letter in the street and open it you subject yourself to punishment, and now you allow the postmasters and clerks in all the post offices in the United States, twenty-eight or thirty thousand of them, to open letters and violate a general principle. I am afraid a temptation will be opened to those men to go further and to open letters which they have no right to open, under this modification of the law. Do not break the seal in any case or allow it to be broken, and then you are saved from thefts and violations of law.

Mr. ASHLEY. The gentleman who heads the Post Office Committee in the other branch of Congress has had more experience than any member upon this floor, having been Postmaster General, and for a long time chairman of the Senate committee. That committee were unanimous in believing that it was safe to allow the postmaster in any locality to open those letters only that are not prepaid, and thus not only save time, which the parties writing the letters would be very thankful to have saved, if, by any carelessness or neglect they had dropped such letters, but it will reduce the labor now heaped upon the dead-letter office here. I think the House ought to adopt the report of the committee of conference.

Mr. COLE, of California. I think this matter has been pretty thoroughly discussed, and I call the previous question.

The previous question was seconded, and the main question ordered.

The question was taken; and the report of the committee of conference was disagreed to.

Mr. FINCK moved to reconsider the vote by which the report was disagreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. COLE, of California. I move that a new committee of conference be appointed.

The motion was agreed to; and the Speaker appointed Messrs. COLE of California, BROOKS, and ASHLEY, the committee on the part of the House.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. R. No. 169) to provide for the publication of a full Army Register; when the Speaker signed the same.

#### REFUGEE INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior transmitting the accounts for the fourth quarter of 1864 of the superintendent and agents in charge of refugee Indians; which was laid on the table, and ordered to be printed.

#### ENLISTMENT OF REBEL PRISONERS.

The SPEAKER also, by unanimous consent,

laid before the House a communication from the Secretary of War in answer to the resolution of the House respecting the enlistment of rebel prisoners; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### TRADE WITH REBEL STATES.

Mr. STEVENS obtained the floor.

Mr. WASHBURNE, of Illinois. I ask the gentleman to yield to me.

Mr. STEVENS. I understand that the gentleman desires to make a report from a committee of conference.

Mr. WASHBURNE, of Illinois. No, sir; it is a report which the Committee on Commerce had leave to make at any time.

Mr. STEVENS. Then I hope the gentleman will wait until we get through with the next appropriation bill.

Mr. WASHBURNE, of Illinois. I gave way yesterday to the gentleman from Vermont, [Mr. MORRILL] with the understanding that I should be permitted to make this report when the tariff bill was disposed of. That was the understanding I had with the gentleman from Vermont.

The SPEAKER. The Chair will state that the gentleman from Illinois gave way yesterday to the gentleman from Vermont with the understanding that after the tariff bill was disposed of he should be allowed to make the report.

Mr. STEVENS. Then, of course, I must yield to him.

Mr. WASHBURNE, of Illinois. I am directed by the Committee on Commerce of the Senate and the Committee on Commerce of the House, which have been made a joint committee for this purpose, to make a report and to report a bill for action at this time. I may say that it is the unanimous report of both of those committees. I will ask, in the first place, that the bill may be read, and then the report.

The bill to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between the loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, was read a first and second time.

The bill repeals the eighth section of the act recited in the title, provided that such repeal shall not affect any contracts and sales provided for by the section where actual delivery of products has been made.

Mr. WASHBURNE, of Illinois. I ask now for the reading of the report of the joint committee.

The report was read.

Mr. BROOKS. This is an extraordinary exposure, and one calculated to excite great attention. What remedy does the gentleman propose?

Mr. WASHBURNE, of Illinois. The committee propose to repeal the eighth section of the law under which these abuses have grown up.

Mr. BROOKS. Does not the gentleman propose to go further? Here are persons who have violated the laws of the United States in holding correspondence with rebels.

Mr. WASHBURNE, of Illinois. The gentleman will observe that this is merely a preliminary and partial report. The committee deemed it important that this report should be made and action had upon it. After action shall have been had I am directed by the committee to report a joint resolution to still further extend the examination so that there may be a further report.

Mr. BROOKS. I was about to remark that if any of us in civil life were to send a letter or hold any correspondence with anybody in the South, we should be subjected to very severe penalties. I have not dared to write a letter to any one there since the beginning of this war.

Mr. CHANLER. I would ask the gentleman from Illinois [Mr. WASHBURNE] if he proposes, by rescinding the section of the law to which he refers, to practically remove all means of punishment under that law for the offenses committed as related in this report.

Mr. WASHBURNE, of Illinois. Of course not. It does not affect the offenses already committed under that section.

Mr. CHANLER. If the gentleman's object is the punishment of these offenses, of course there will be no opposition to it. There has been no



ignorance as to the facts stated in this report for more than two months past, though no action has been taken. I do not rise to oppose it, of course. I am disposed to see the proposition now submitted carried out, and carried out effectually.

Mr. GARFIELD. I would like to have the section read which it is proposed to repeal.

Mr. WASHBURN, of Illinois. I will send it to the Clerk's desk. It is a portion of the act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864.

The Clerk read, as follows:

"SEC. 8. And be it further enacted, That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market value thereof in the city of New York at the latest quotations known to the agent purchasing; *Provided*, That no part of the purchase-money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase-money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to, and audited by, the proper accounting officers of the Treasury."

The question was upon ordering the bill to be engrossed and read a third time.

It was so ordered; and being engrossed, it was read the third time.

Mr. WASHBURN, of Illinois, called the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. WASHBURN, of Illinois. I am also instructed further to report the following joint resolution in connection with this matter. I will state that the House can do as they please with it. The committee have directed me to report it in order to enable them to go forward with this investigation and finish it up. I will ask to have the resolution read, and then the House can do as they please with it.

The joint resolution was read, as follows:

Be it resolved, &c., That the Committee on Commerce on the part of the Senate, and the Committee on Commerce on the part of the House, acting as a joint committee in the Thirty-Eighth Congress, for the investigation of trade with the rebellious States, by virtue of the resolutions of the House of Representatives and the concurrent resolution of the Senate and House, be continued after the 4th day of March, 1865, for the purpose of closing their investigation and making their report; and the report when completed, together with the evidence taken, and the report when completed by the Clerk of the House, and the same be printed; and the chairman of either of the said committees shall have power to issue subpoenas and compel the attendance of witnesses, in the same manner as the Speaker of the House or President of the Senate.

The joint resolution was read the first and second time; ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. WASHBURN, of Illinois. In connection with this same subject, I offer the following resolution:

*Resolved*, That the report and testimony taken and to be taken by the joint Committee on Commerce be printed.

The resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. CHANLER. I move that forty thousand extra copies be printed.

The motion was referred to the Committee on Printing, under the law.

#### SMITHSONIAN REPORT.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Smithsonian Institution for 1864.

Mr. COX. In connection with this subject, I offer the following resolution:

*Resolved*, That five thousand additional copies of the report of the Smithsonian Institution for 1864 be printed, three thousand copies for the use of the House, and two thousand copies for the use of the Smithsonian Institution.

The resolution was referred to the Committee on Printing, under the law.

Mr. BALDWIN, of Massachusetts, from the Committee on Printing, immediately reported back the foregoing resolution with a recommendation that it do pass.

The resolution was agreed to.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, for the purpose of going into Committee of the Whole on the state of the Union on the special order, being a bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and proceeded to the consideration of bill H. R. No. 786, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes.

The CHAIRMAN. If there be no objection, the first reading of the bill will be dispensed with, and the bill will be read by clauses for amendment.

There was no objection.

The Clerk proceeded to read the bill.

Mr. JENCKES. I move to amend by inserting after line eighty-four the following:

For a survey of and buoyings at Seekout river, from Pawtucket to India Point, in Providence, \$1,000.

Mr. Chairman, this is the revival of an appropriation made in the Thirty-Sixth Congress, which was never used. The same reasons that induced the appropriation in the first place are in its favor now.

The amendment was agreed to.

Mr. JENCKES. I move to amend by inserting after the amendment just adopted the following:

For improving the navigation of Providence river from Fox Point wharf to the Crook, so called, \$20,000.

The amendment was not agreed to.

Mr. FARNSWORTH. I observe in the bill the following item:

For protecting the foundation on which Waugoshance light-house is constructed, \$90,000.

I desire to inquire what is the necessity of this large appropriation.

Mr. STEVENS. We examined into the matter and found, by the representation of the parties having charge of this work, that unless this appropriation should be granted the whole light-house and all the improvements would go into the ocean. We thought it better that they should be saved.

Mr. FARNSWORTH. I rose only for the purpose of making the inquiry. The amount appeared to me very large.

Mr. STEVENS. So it appeared to us; and therefore, before reporting the appropriation, we applied to the proper officers for information.

Mr. GARFIELD. I move to amend by adding at the end of line one hundred the following:

For improving the harbor of Ashtabula on Lake Erie, \$10,000.

This is a very important harbor, and is made far more so by the railroad leading to it, which is now nearly completed. It is very important to the coal-mining and the iron interests that this small appropriation should be made.

Mr. STEVENS. I think that this is not the proper place to insert appropriations for improvements of that kind, which have not received the consideration of the committee. We have harbor bills in which such an appropriation might be proper.

The amendment was not agreed to.

Mr. RICE, of Maine. I move to amend by inserting after line one hundred and fifty the following:

For laying the gas-pipe, erecting lamp-posts and lamps, and lighting Franklin square, \$6,000.

This is a very important square. The inhabitants of this city have petitioned for an appropriation of this kind, and I think that their application should be granted. This square was granted by the city upon the condition that it should be kept lighted.

Mr. KASSON. There is, in a subsequent portion of the bill, an appropriation of two thousand and some hundred dollars for Franklin square.

Mr. RICE, of Maine. That is the usual appropriation.

Mr. KASSON. This appropriation, which the gentleman now proposes, was asked of the committee, and we thought it best to postpone making the appropriation for another year, as it was postponed a year ago. The improvement, although desirable in itself, ought to be postponed.

Mr. RICE, of Maine. I will ask the gentleman whether he understands the conditions upon which that square was granted.

Mr. KASSON. Yes, sir.

Mr. STEVENS. We investigated all that.

The amendment was not agreed to.

The Clerk read, as follows:

For refurnishing, repainting, and fitting up the President's house for the next presidential term, \$30,000.

Mr. KERNAN. I should like to have some explanation of that. I am informed that \$40,000 have been expended in furnishing the President's house during the past four years.

Mr. STEVENS. The usual appropriation heretofore has been \$20,000. That was the amount appropriated at the incoming of this Administration; but the Executive mansion is in such a bad condition that it was deemed necessary to report an increase to the appropriation. We believe that this amount of \$30,000 is necessary to make the Executive mansion habitable.

The Clerk read, as follows:

For repairing, reglazing, repainting, and putting in thorough order the green-houses at the President's, \$5,000.

Mr. HOLMAN. I move to reduce that appropriation to \$2,000. My purpose is to call attention to the manner in which these appropriations have swelled in amount. I have them before me. They are as follows: for annual repairs of the President's house and furniture, improvement of grounds, purchase of plants for garden, and contingent expenses incident thereto, \$6,000; for fuel, in part, for the President's house, \$5,000; for under-draining the President's garden and Capitol grounds, \$1,000; for refurnishing, repainting, and fitting up the President's house for the next presidential term, \$30,000; for repairing, reglazing, repainting, and putting in thorough order the green-houses at the President's, \$5,000; for painting the President's house inside and out, and the iron fences contiguous thereto, \$8,000; for carrying the Potomac water into that portion of the President's house occupied for offices, and all the necessary fixtures, \$3,000; making in all \$58,000. We have in this one bill appropriated for the President's house and grounds the very handsome sum of \$58,000. I hold in my hands the appropriations for this purpose during the corrupt and dishonest Administration that immediately preceded that of Mr. Buchanan. There were two appropriations, one of \$14,000 and another of \$6,000, making in all \$20,000, for the purpose of furnishing and refitting the President's house.

Mr. STEVENS. If the gentleman will look into the deficiency bill for that year he will find another appropriation for \$8,000.

Mr. HOLMAN. I examined the whole subject at the time, and I am pretty certain about the figures I have stated. And I wish to call the attention of the House to the fact that \$20,000 was appropriated at the outgoing of a very extravagant Administration and upon the incoming of a very extravagant Administration, the corruption and dishonesty of which had more to do with bringing the present party into power than anything else; and that that \$20,000 has swelled up to \$58,000 in the present bill. It is an appropriation unprecedented in the history of the country.

I now withdraw my amendment, for I do not expect that any attempt to diminish these appro-

priations will meet with the approval of gentlemen who control the action of the House.

Mr. STEVENS. I intend to astonish the gentleman from Indiana by saying that his amendment is a very proper one, and that I will vote for it.

Mr. HOLMAN. Then I renew it.  
The amendment was adopted.

The Clerk read, as follows:

To meet the expenditure made by the Commissioner of Public Buildings, in illuminating the Capitol and the Government portion of the City Hall, \$300, or so much thereof as may be necessary.

Mr. DRIGGS. I understand that all the candles used had been purchased and paid for before this illumination took place, and that all the labor was performed by the employes of the Capitol; and I do not see, therefore, any reason for this appropriation. I move that it be stricken out.

Mr. STEVENS. To be sure the candles were upon hand and they have not been charged for; but the fixtures had to be provided for putting the candles up, and this appropriation is to pay for them, as well as for other incidental expenses. I move to reduce the appropriation to \$250.

The motion was agreed to.

Mr. Driggs's motion to strike out was then agreed to.

The Clerk read, as follows:

For replacing all the worn-out and worthless hydrants on Pennsylvania avenue with hydrants known as the "McClellan hydrant," \$25,000.

Mr. HOLMAN moved to strike the appropriation out.

The committee divided; and there were—ayes 24, noes 33; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. HOLMAN and HOOPER.

The committee again divided; and the tellers reported—ayes 50, noes 43.

So the amendment was agreed to.

Mr. RICE, of Maine, moved to insert the following:

For making a permanent roadway from the north portico of the President's house to the new stable, \$2,000.

The amendment was disagreed to.

The Clerk read the following clause:

For publishing the annual report of the National Academy of Sciences, \$6,000.

Mr. HOLMAN. I must raise a point of order on that in the bill. It is a very clear case, as there is no law authorizing the publication of the report of the National Academy. This is the first time this has been sought to be done. There never has been any law authorizing it.

Mr. STEVENS. This appropriation is in furtherance of one of the branches of the Government and hence it comes under the rule.

Mr. HOLMAN. I suppose the same might be said with reference to the common-school system of the country or of any State in the Union. It is not a branch of the Government, and it has nothing to do with the Government. It is a private corporation.

Mr. PRUYN. By the terms of the act incorporating the National Academy of Sciences, it is made the duty of that Academy, without charge to the Government, to investigate all questions of a scientific character which may be referred to it by the officers of the Government, on such advice as the Academy is supposed to be able to give. I suppose that is what is meant by the obligation of Congress to pay the expenses of publishing its annual report. It is put on the ground that it has performed services for the Government, and is in reality a Government institution.

Mr. HOLMAN. That would not make the Government liable for its support.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PRUYN. I would ask that the item be passed over until we can ascertain whether there is any provision in the law authorizing the publication.

Mr. HOLMAN. I would prefer to have it decided now.

The CHAIRMAN. The Chair decides against it, because there is no law authorizing any such publication.

Mr. PRUYN. We might, if this could be passed over, find a reason for it in the law.

Mr. HOLMAN. There is no such provision in the law. That law has been passed since

both the gentleman and myself have been in Congress.

Mr. PRUYN. It has not been passed since I have been here.

Mr. KASSON. They have made such reports, and some have been printed. But I am perfectly content to leave it until we can see whether the appropriation is in accordance with the law.

Mr. HOLMAN. I object.

The CHAIRMAN. The Chair sustains the point of order on the statement of facts made, and rules the clause out.

Mr. RICE, of Maine. I move to amend by inserting after line three hundred and thirty-five the following:

For the improvement of the public grounds in the city of Washington, to be expended under the direction of the Commissioner of Public Buildings in the execution of such plan or plans as were made by A. J. Downing, with the approbation of the President of the United States, and in continuance of the same, with such alterations and amendments as the changes which have since occurred may suggest, \$10,000.

I offer this amendment by the direction of the Committee on Public Buildings and Grounds, and they deem it very important that it should pass. There is no system at all by which these grounds are managed and improved. We consider it especially necessary that the intention of Congress, when they made the appropriation for employing Mr. Downing to improve these grounds and beautify them, should be carried out, and that we should have some comprehensive plan to proceed by. A gentleman who made the plans for the parks in New York and Brooklyn came before the committee, and it was made evident to us that it was necessary to have some general plan by which these grounds should be improved as was originally designed. I trust that as long as this capital is to be the capital of the nation we shall do what we ought to do, bearing always in mind the heavy pecuniary obligations that are upon us, to put and keep these grounds in a proper condition. And in order to do that we must have some plan to proceed upon. I trust the recommendation of the Committee on Public Buildings and Grounds will be complied with.

Mr. STEVENS. I do not know what public grounds the gentleman refers to.

Mr. RICE, of Maine. I mean all the public grounds. I want also something to be done with this canal; something to improve the sanitary condition of the city.

Mr. STEVENS. The architect of the Capitol has made a long report upon this subject, and has told us what he thought ought to be done; but he thinks it can be postponed a little. I think there is no necessity for making an appropriation now. Now I know that the original plan contemplates a very large expenditure eventually, and the gentleman who now has the management of this whole matter can be relied upon. To employ a new man to lay out and expend this money now is wrong. There is an appropriation already in the bill for these grounds, and I cannot see the necessity for this amendment, and I am opposed to the improvement in the way now recommended, though it may be necessary eventually.

Mr. RICE, of Maine. I do not understand that any report has been made comprehending what was intended by the original action of Congress, which was not carried out in consequence of the death of Mr. Downing. I know that it was a great mistake that I did not go before the Committee of Ways and Means and urge this proposition there. I understand very well the importance of having everything stamped with the approval of that committee that is to be entertained by this House. I understand that all the other committees should go and bow down before them and present their propositions to them. But notwithstanding that our committee may not have the same weight as the committee of Ways and Means, I beg leave to state my opinions here, and the gentleman from Pennsylvania is very kind and courteous in listening to them. I trust the House will consider this matter and grant this small appropriation for a matter which we deem, with all due deference to the Committee of Ways and Means, of some little importance.

Mr. STEVENS. Do I understand that a new officer is to be appointed to do this work?

Mr. RICE, of Maine. I understand that some suitable person is to be appointed.

Mr. STEVENS. Then the object is to em-

ploy another officer for the purpose of making this estimate and this plan which has already been attempted by Mr. Walter, and others. I do not wish to say anything against the scheme of the gentleman, who has no doubt examined into this matter, but I think that just now there is no necessity for this appropriation. I think we had better postpone it for the present.

The question was taken on Mr. Rice's amendment, and it was disagreed to—ayes nineteen, noes not counted.

Mr. RICE, of Maine. I will offer one more amendment, and it is as follows:

The salary of the Commissioner of Public Buildings, from July 1, 1864, shall be \$3,000 per annum, and the sum of \$2,000 is hereby appropriated to pay the arrearage of the same for the present fiscal year and the increase of the same for the next fiscal year.

I am as much opposed to the increase of salaries as any man in this House, and I have voted against them almost invariably; still I do believe that from the duties devolved upon this officer, their great variety, and his constant employment under them, his salary should be raised to that of a bureau officer. This proposition is merely that his salary shall be brought up to that of the gentlemen who are at the head of bureaus in the Departments. In order that the House may understand what are the duties of this Commissioner, I send up a paper to the Clerk's desk and ask to have it read.

The Clerk read, as follows:

#### *Duties of Commissioner of Public Buildings.*

It is the duty of the Commissioner—

To see that all moneys appropriated for the public buildings and grounds are properly expended, and to keep all the accounts and vouchers relative thereto, and to superintend all the work.

To take special charge and care of the Capitol and President's house, and see that they are kept in order.

To appoint and oversee the police, laborers, watchmen, &c., in the Capitol and President's house, see that they perform their several duties, and pay them.

To appoint and oversee the public gardeners and all the laborers in the public grounds, and pay them.

To see that the Potomac, Anacostia, and Benning's bridges are taken care of, kept in proper repair, and the draws properly attended. [The Potomac bridge was taken possession of by the War Department in 1863, but the care of it is expected soon to revert to the Commissioner, who is, by law, its custodian.]

To take care of Pennsylvania avenue and all other streets and avenues improved in whole or in part by Congress.

To see that certain nuisances are abated, when there is money to the credit of the nuisance fund, provided his attention is legally called to them.

To examine and send all transient pauper patients to the hospital who come within the provisions of the acts of Congress appropriating money to take care of such as are sick.

To take care of, sell, and convey all city lots belonging to the United States in the city of Washington, and to take care of, and expend according to law, any money derived from the sale of such lots.

To keep up a constant and somewhat extensive correspondence relative to the official business of his office.

To make an annual report to the Secretary of the Interior to be laid before Congress; and to make special reports to the Secretary or to Congress whenever the same may be called for, at times requiring great research and much labor.

There is a law of the United States requiring that all contracts relating to the public buildings should be formed by the Commissioner of Public Buildings, but of late years it has become almost a dead letter. Some contracts are formed and executed by the Commissioner.

There is probably no office under the Government whose archives are more important than those in the office of the Commissioner of Public Buildings, and there is much care and responsibility required to keep them safe and in proper order.

The Commissioner is required to attend all public receptions at the presidential mansion.

There are many minor duties connected with the office that cannot be specified. They are incidental to other prescribed duties, and are continually occurring.

The Commissioner of Public Buildings is constantly engaged in official duties from early in the day until the usual dinner hour, and a day seldom passes when he is not called upon to perform official duties at his house after office hours.

The place is one of very great responsibility, and of constant labor.

B. B. FRENCH,  
Commissioner.

January 31, 1865.

The lighting of the Capitol and President's house, and all the street lamps belonging to the United States, and all repairs and labor incident thereto, are under the Commissioner.

Mr. RICE, of Maine. I ask for tellers on the amendment.

Tellers were ordered; and Messrs. RICE, of Maine, and KELLOGG, of Michigan, were appointed.

The committee divided; and the tellers reported—ayes seventeen, noes not counted.

So the amendment was not agreed to.

Mr. SLOAN. I move to amend the bill by striking out on line two hundred and eighty-eight the word "six" and inserting "eight" in lieu thereof, so that it will read:

For surveying the public lands in Wisconsin, at a rate not exceeding eight dollars per mile, \$6,000.

Mr. Chairman, my information is that this survey cannot, under the present prices and the increased expenses of all such work, be accomplished at the rate of six dollars per mile. There is very little of the public land yet remaining unsurveyed in the State of Wisconsin. When that work is completed the general land office for the States of Iowa and Wisconsin can be closed. There are at present no public lands to be surveyed in the State of Iowa, and when the small portion of work remaining to be done in the State of Wisconsin is accomplished, that land office can be closed. It is now being conducted at an expense of \$11,000 a year, and it will be economy on the part of the Government to finish up, even at the prices which it is now necessary to pay, the surveys of the public lands of the State of Wisconsin and have that office discontinued which is costing the Government ten or eleven thousand dollars a year. I therefore hope my amendment will be adopted.

Mr. FARNSWORTH. Unless these lands are very bad lands to survey there is no difficulty in getting them surveyed for six dollars a mile. The Government formerly paid only three dollars per mile.

Mr. SLOAN. At what time?

Mr. FARNSWORTH. I do not recollect at what time the price was changed, but I know what was formerly paid in the western country. That was what was paid for surveys in the State of Michigan many years ago, and in other western States.

Mr. SLOAN. I desire to say to the gentleman from Illinois [Mr. FARNSWORTH] that my information is that five dollars a mile is the cheapest rate paid for surveying for many years past, and that this additional dollar a mile is not at all commensurate with the general increase of the price of such work. With this small appropriation, costing less than the amount annually paid for the expenses of the surveyor general's office in these two States, we may finish the surveys and have the office discontinued. It is on the ground of economy that I urge the committee to fix a price sufficient to have the surveys completed in the present year, so that the surveyor general's office may be closed, and this large annual expenditure of \$11,000 be saved to the Government. I trust the amendment will be adopted.

Mr. DUMONT. I do not understand that the gentleman's amendment increases the appropriation at all. It simply provides that the rate paid shall not exceed eight dollars per mile.

The question was taken on Mr. SLOAN's amendment, and it was adopted.

Mr. BENNET. I move to amend on line three hundred and six, by striking out "ten" and inserting "fifteen"; so that it will read:

For surveying the public lands in Colorado Territory at rates not exceeding fifteen dollars per lineal mile for standard lines.

I see that in the succeeding clauses the rate per mile is increased in the other mining Territories; and there is every reason why Colorado should be classed with them, instead of with the Territories that are not mineral. All the necessities of life cost fully one third more in Colorado than in the Territories lying on the Missouri river. There are more reasons for increasing the surveying rates in Colorado than in New Mexico, for the former is the newer Territory, and its agricultural interests are less developed than those of New Mexico.

There is a further reason why this amendment should be adopted. It will facilitate the survey of the public lands in Colorado. Nine tenths of the settlements in that Territory are of unsurveyed lands. The settlements are far in advance of the surveys, which have gone on very slowly. I think it is the interest of the Government not only to increase the rates paid for surveys, but also to increase the appropriation for the purpose, so that the lands may be the earlier brought into market and sold.

Mr. STEVENS. Mr. Chairman, I do not, myself, know what would be a just compensation for this service. The Committee of Ways and

Means has taken the estimates sent in by the Department. The only doubt in my mind is whether the rates for Nevada and New Mexico should not be reduced to ten dollars a mile rather than the rates for Colorado increased to fifteen. I know that that would satisfy the gentleman from Colorado, because all that he wants is to have that Territory put on a par with the others. Colorado is a nice smooth Territory where the land is easily surveyed, and where there would not be, probably, such an expenditure in shoe leather and clothing on the part of surveyors as there would be in the wilds of New Mexico and Arizona.

Mr. BENNET. The gentleman's knowledge of Colorado must certainly be very limited if he thinks that it is a smooth Territory. The Rocky mountain range cuts it in two parts, running north and south. A large part of it is mountainous; and it is only in the narrow valleys that surveys for agricultural purposes are made.

Mr. STEVENS. I did not suppose they were going to survey these rocks at all. Colorado is a nice Territory. I like it very well so far as I have seen of it, [laughter:] but I did not suppose they intended to survey these mountains; I supposed it was only the fertile valleys, which are not as numerous as I wish they were, that they wanted to survey. But perhaps it is better the other way, for these rocks contain gold and silver, and if the people once get machinery there, so as to crush the rocks, it will be worth all the rest of the United States put together—these rivers of gold and mountains of silver.

I think, however, that the gentleman from Colorado had better allow these fertile valleys to be surveyed first, at the price estimated for, and when we come to the mountains we will see what can be done. It might be as well to equalize the rates downward, for I do not like Colorado to be worse dealt by than any of the other Territories.

The question was taken on Mr. BENNET's amendment, and it was rejected.

The following clause was read:

For surveying the public lands in Nevada, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$15,000.

Mr. STEVENS. In accordance with the suggestion I made a few moments since, I now move to amend this clause by striking out the word "fifteen" where it first occurs, and inserting the word "twelve" in its place.

Mr. COLE, of California. I hope this amendment will not pass. The sum of fifteen dollars per lineal mile is only a limit upon the surveyor general of the State. There are some portions of land in that State that cannot be surveyed even for that sum. It is true that part of the land can be surveyed at a less rate than that. There are deep gorges and mountain fastnesses over which the lines cannot be run even for that sum; some portions of them may be run for that sum. I think this amendment would work injustice and tend to keep the lands out of the market. I hope it will not pass.

Mr. WORTHINGTON. I hope this amendment will not prevail. I perceive that the same price is proposed for surveying lands in Nevada as is proposed for surveying public lands in the State of California. Now I am content to let it remain as it is. But I think it would be a great hardship and a great injustice to diminish the rate below the sum reported by the committee. It is now cut down to the lowest price, and will do scarcely anything more than pay for the survey of these public lands. I hope, therefore, the amendment will not be adopted.

The amendment was not agreed to.

The following clause was read:

For surveying the public lands in New Mexico, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$5,000.

Mr. PEREA. I move to amend by striking out "\$5,000" and inserting "\$15,000." I understand the Delegate from Colorado [Mr. BENNET] to make an issue upon the appropriation for New Mexico. It seems to me that he cannot have read the appropriations here. By reading them he will see that Colorado receives an appropriation of \$15,000, while New Mexico is given but \$5,000. I suppose he really does not object to New Mexico receiving \$5,000, while his Territory is to receive the sum of \$15,000. New Mexico is paying \$150,000 a year into the Uni-

ted States Treasury, while in Colorado, I believe, there is not even a collector of revenue yet; at least so far as I have heard.

Now, we of New Mexico are not asking for immense appropriations here. We from New Mexico are generally modest. Having a population of upward of one hundred thousand inhabitants, we gave up the Territory of Colorado with a population of twelve thousand. Yet we come here and ask for only \$5,000, while Nevada asks for \$15,000; yet there are as many lands to be surveyed in New Mexico as in Nevada.

Mr. BENNET. I do not rise for the purpose of opposing the amendment of the gentleman from New Mexico [Mr. PEREA.] I desire to say that I made no issue with him at all. If he so understood me he is entirely mistaken. I only alluded to the fact that while it is proposed to allow ten dollars a mile for surveying in Colorado it was proposed to allow fifteen dollars a mile in New Mexico. Now those two Territories lie side by side in the ranges of the Rocky mountains. New Mexico is a Territory some fifteen or sixteen years old, while Colorado was organized under the act of February 28, 1861. The facilities for living cheaply are not so great in Nevada as in New Mexico. I allude to that only as a reason for making the price of surveying fifteen dollars a mile in Nevada as well as in New Mexico. In regard to the amount of money appropriated for the service, I would say that surveys have not been ordered in Colorado but for two years previous to this appropriation. There is a large amount of land there to be surveyed, and that I suppose is the reason why the Department estimated for \$15,000 instead of \$5,000 for Colorado Territory. New Mexico has a large amount of private lands, and consequently there is less of the public domain in New Mexico than in Colorado.

Mr. PEREA withdrew his amendment.

The next clause was read, as follows:

For surveying the public lands in California, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, \$30,000.

Mr. COLE, of California. I move to strike out the words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines;" so that the clause will read: "For surveying the public lands in California, \$30,000." I deem it my duty to state here that in central portions of the State of California there are large tracts of the public lands that are unsurveyed even to-day, for no other reason in the world than that there have not been sufficient payments provided for their survey. I refer to mountain lands, not such mountain lands as are on this side of the continent, but such as are full of deep gorges that are most difficult to survey. These lands are valuable, nevertheless, for the timber that is on them. There are lands in California that can be surveyed at much less rates than those named in this clause. Under former Administrations appropriations have been made, and have been expended in surveying the Colorado desert, lands that will never be purchased by any persons, lands that are wholly valueless. Those surveys were easily made, and the appropriations were wasted on them. But the lands in California valuable for their timber have been left unsurveyed to this time. A great deal of litigation has resulted from this condition of affairs, growing out of disputes about boundaries, and these public lands have not been brought into market. Now, if this restraint is taken off, leaving the surveyor general for the State at liberty to go on and have these valuable lands surveyed, it will result in a great public benefit.

I hope, therefore, that this amendment will be adopted. I have heard many complaints on this subject. In my own county of Santa Cruz, in the central part of the State, complaints have been made by settlers upon the public lands, as well as others, who desire to have the land surveyed. The complaint is that there is no possibility of surveying those lands under the present restrictions. There is no proposition to increase the appropriation at all.

Mr. STEVENS. I hope the amendment will not prevail. If it should, whoever gives out the contracts there might expend the whole appropriation in surveying one fourth of the land that is surveyed by the standard rule.



Mr. COLE, of California. There are in the central part of the State valuable lands which will remain unsurveyed from year to year, unless some such proposition as this be adopted.

Mr. STEVENS. I suppose that they cannot be very difficult to survey.

Mr. COLE, of California. They are very difficult indeed.

Mr. STEVENS. Well, we should certainly name some definite sum by which the surveyor general is to be governed in giving out his contracts. If the gentleman's motion prevails it will leave the sum indefinite; and the whole amount of the appropriation might be expended upon one ranche.

Mr. COLE, of California. We have confidence in our surveyor general. He will do what is right.

Mr. McBRIDE. I will ask the gentleman from California whether this bill does not provide for increasing the former rates paid for surveying.

Mr. COLE, of California. If it does, the amount is not now sufficient; it does not begin to be sufficient. I think that it is a matter of economy to bring these lands into market. They will be bought for their timber.

The amendment was not agreed to.

Mr. WALLACE. I move to amend by inserting after line three hundred the following:

For surveying the public lands in Idaho Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$15,000.

In examining this bill I find that the Territory of Idaho has been entirely omitted; for what reason I do not know. As a reason for the adoption of this amendment I will state that no Territory, perhaps, belonging to the United States is settling more rapidly than the Territory of Idaho; and in none is there a greater demand for surveys. I hope, therefore, that the amendment will be adopted.

Mr. UPSON. Has the Indian title been extinguished?

Mr. WALLACE. It has with regard to a large portion of the lands, but not all.

Mr. STEVENS. I desire to inquire of the gentleman whether an appropriation for this purpose was not made last year.

Mr. WALLACE. Yes, sir.

Mr. STEVENS. Has that been expended?

Mr. WALLACE. I am not able to say.

Mr. STEVENS. I believe there is an unexpended balance which the Department thought sufficient. That is my recollection.

Mr. WALLACE. I know that there was a great necessity for the expenditure of that appropriation. Why it should not have been expended I cannot tell.

Mr. STEVENS. It was not done; and there remains an unexpended balance. If such should prove not to be the fact, I would have no objection to the amendment. I suggest that the gentleman had better withdraw the amendment for the present.

Mr. WALLACE. I withdraw the amendment with the understanding that I shall have an opportunity to offer it hereafter, if there should prove to be no provision in reference to this matter.

Mr. HIGBY. I move to amend by inserting after line three hundred the following:

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$10,000.

I introduce this amendment for the sake of making an inquiry. The chairman of the Committee of Ways and Means has stated that there was last year an appropriation of this kind for the Territory of Idaho. It is possible that a similar appropriation may have been made for Montana, and not expended. It is certainly best for the country that a survey of the mineral lands should be made as speedily as possible, so that they may be brought into market.

Mr. STEVENS. I deem that the land ought to be surveyed as fast as the Indian title to it becomes extinguished. But I think that there is an unexpended balance of appropriation for Montana.

Mr. HUBBARD, of Iowa. The gentleman is correct; there is an unexpended balance of appropriation for Montana.

Mr. STEVENS. Then let us use that up before we make another appropriation.

Mr. THAYER. I desire to say that I know there is an unexpended balance of appropriation in regard to Arizona, for I had occasion, as chairman of the Committee on Private Land Claims, to examine into the subject.

Mr. HIGBY. I withdraw my amendment.

Mr. KASSON. I think that this matter may be settled now, as I have found the communication for which I was looking. I find that the unexpended balances are as follows: for Arizona, \$10,000; for Idaho, \$10,000; and for Montana, \$10,000. These amounts have been left over from last year. So the three cases seem to be provided for, as that appropriation is good for two years.

Mr. WALLACE. The amount of \$10,000 is not enough to meet the wants of Idaho. There is, and has been, a great demand for lands upon which to settle, and the settlers want these lands surveyed, so that they may pay the price to the Government and secure their titles. Unless this appropriation is made that cannot be done. I know the immigration that is flowing into the Territory of Idaho; I know the wants of those people; and I know, sir, that this appropriation is needed.

Mr. KASSON. If they have not been able to expend there, because of the Indian title or other cause, the appropriation of \$10,000, I ask whether it is expedient for us to increase the amount so originally appropriated. It seems to me that that is enough until it has been expended. It is known that it does not interfere with the squatters' title, and that their rights will be preserved when the land is surveyed. Of course it is convenient to them to have the land surveyed so as to secure their title, but why appropriate more money when the \$10,000 has not been expended?

Mr. WALLACE. The squatters are not interfered with; yet so long as the lands are unsurveyed, and they cannot procure patents from the Government, the settlers are unwilling to go on and make the improvements that they otherwise would make. In order that the lands may be surveyed and these improvements may go on, I ask this appropriation may be made.

The question was taken on Mr. WALLACE's amendment, and it was agreed to.

Mr. BENNET. I move to insert the following:

For collecting statistics of the wealth and extent of the mineral resources of the States and Territories west of the Missouri river, under the direction of the General Land Office, \$25,000.

I ask the Clerk to read the letter which I send up.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, March 1, 1865.

SIR: In answer to your letter of to-day as to "some special effort" for a small appropriation to obtain data respecting the "immense mineral domain" as basis for a legislative system, I have to state that this office is impressed with its necessity to the public interest, and has brought the matter, time and again, with all the force at command, to the attention of Congress and the country, as shown in our annual reports of 1861, 1862, 1863, and 1864.

We have an auriferous and argentiferous region of a million square miles, interspersed with beds of coal and the useful metals—copper, iron, lead, and tin—and yet are absolutely left without means for taking the very first step for securing a system which shall make this magazine of wealth available to the United States Treasury, and that, too, when the taxing power inexorably invades every individual interest, and even now is inadequate!

Shall the enactment of such a system be deferred for two years longer because means are now denied or withheld to make explorations on the spot, gather up accurate information as to localities, values, local mining usages, so as to enlighten the public mind, submit to Congress a project for the great end in view, and yet not unnecessarily disturb local usages?

Let it be remembered that \$1,000,000,000 have already been extracted without a dime of revenue to the Treasury, and that, when the rebellion is crushed, a million and a half of armed men are to be restored to civil pursuits, and what more efficient in solving the problem of their easy business restoration than to open those inviting, magnificent fields of enterprise under a well-devised system which, while giving support to multitudes of individuals, will relieve the nation and diminish taxation?

To prepare the way to this end by personal explorations upon an economical basis of expenditure, and hasten results to be laid before Congress, an appropriation of \$25,000 should be at once made, as repeatedly recommended by this office.

With great respect, your obedient servant,  
J. M. EDMUNDS,  
Commissioner.

Hon. H. P. BENNET, House of Representatives.

Mr. BENNET. Mr. Chairman, this does not create any new office or any new officer, but simply enables the General Land Office with the

present officers to make inquiries in reference to the mineral resources of the country where surveys are now being made. It will afford ample and necessary information for the legislation which will be demanded at the hands of Congress at the next session. Every gentleman will admit that statistical information is absolutely necessary with a view to proper action on the subject. I do not ask for a large appropriation, and I hope that the amendment will be adopted.

Mr. STEVENS. I hope that the amendment will not be agreed to.

Mr. RICE, of Maine. I move to reduce the appropriation to \$15,000, in order to say a few words on the subject. The Committee on Territories have fully considered the matter, and we believe that this useful information can be better procured through the efforts of the Commissioner of the General Land Office than in any other way. He has already done a large amount of good, has collected a vast amount of statistical information, has gathered many specimens of ores and minerals, and has done this without expense to the Government. I hope and trust that inasmuch as two committees of the House, the Committee on Public Buildings and Grounds and the Committee on Territories, have recommended this appropriation, it will be adopted. We are looking to these vast Territories for the means of paying our public debt, and therefore let us deal liberally with them. I believe no more judicious thing can be done by this House and by Congress than to pass this appropriation. This officer is utterly unobjectionable, devoted to the interests of the Territories and of the Government as connected with the public lands, and has more information in reference to these matters than anybody else in the whole Government. I trust the amendment will be adopted. I will, however, move to amend by striking out "\$25,000" and inserting "\$15,000."

Mr. KASSON. I sympathize entirely with the gentleman who last spoke touching the importance of this subject, and the only objection I see to a moderate appropriation for this purpose is that in a miscellaneous appropriation bill, under a general direction simply for the collection of statistics, I fear we do not surround it with proper guarantees to know exactly in what direction the money is to be expended. I can see that it may be required for the transportation of the specimens alluded to, and their collection here in Washington; I can see that it may be wanted to pay somebody to go from one point where he is now, to another point, to make an inquiry touching some reported discovery of coal. I can see also that \$3,000 might in this general way be given to a particular man for some information for which he could otherwise get no equivalent. I would like to vote for it if it were in a separate bill, and my only apprehension is that this is not properly guarded.

Mr. RICE, of Maine. I will say that the Committee on Territories have instructed me to report a bill, and I intended to bring it forward but have had no opportunity. A bill of this kind passed the Senate, was referred to our committee, and the committee recommended that it do pass.

I will withdraw my amendment, and offer the following, which I think the gentleman from Colorado will accept as a substitute for his:

To enable the Commissioner of the General Land Office to continue investigations which he has instituted in relation to the mineral resources of the United States, and the minerals, their extent and locality in the public domain, and shall report his doings, as by law required in relation to other business of the General Land Office, \$15,000.

Mr. SLOAN. I believe that this amendment is one of very great importance to the public interests of the country. The subject to which this relates has been before the Committee on Public Lands, of which I am a member. We have given attention to it with a view of introducing a bill which should authorize either the Commissioner of Public Lands, or some new bureau to be created, to gather this information which the whole country demands.

I desire to say in reply to the gentleman from Iowa, [Mr. Kasson,] that considering the information which we have now, or which we might perhaps acquire during the present session, it would be almost impossible to impose any limitation, restriction, or condition to this appropriation that would be intelligent or wise. I deem it far better to allow this money to be expended

in the discretion of the Commissioner of Public Lands—a man, as has already been stated, of intelligence and integrity, one who has taken a deep interest in this subject, and who has collected very much information in regard to it. I believe every gentleman upon this floor who is acquainted with this gentleman believes he would expend the money wisely and economically. Give him a small appropriation that he may take the initiatory steps to acquire this information, to digest a plan, comprehensive in its scope, to give the whole country the information which is absolutely required in reference to mineral lands. I believe the proposition made by the gentleman from Maine [Mr. PIKE] is the proper mode of initiating the acquisition of this information which will ultimately be so valuable to the country.

I therefore hope that the Committee of Ways and Means will accept the amendment which was proposed by the gentleman from Maine, [Mr. RICE,] and that they will vote this small appropriation of \$15,000 for the furtherance of this important object, and the procuring of correct information in relation to the vast mineral resources of this country. It is better, in my judgment, that we should do that than that the committee should attempt, at this late period of the session, to pass an elaborate bill with restrictions and limitations.

Mr. STEVENS. I move that the committee rise, in order that we may stop this sort of talk.

Mr. ASHLEY. Let us get a vote on this amendment.

Mr. STEVENS. Well, if we can do so I will withdraw my motion.

Mr. BENNET. I accept, as a substitute for my amendment, that offered by the gentleman from Maine, [Mr. RICE.]

The question was taken, and the amendment, as modified, was agreed to.

Mr. STEVENS. I desire now to have the question of order finally settled in reference to the provision in relation to the National Academy of Sciences. I find that by the charter granted to them in 1863, they are required to report to Congress. Their report is made in pursuance of their charter.

Mr. HOLMAN. I hold in my hand the act organizing this Academy of Sciences. I ask that the second and third sections of it be read, as bearing upon this question. I insist that this appropriation has no authority of law, and that we are not required to publish this report to any further extent than we already have done.

The Clerk read, as follows:

"Sec. 2. And be it further enacted, That the National Academy of Sciences shall consist of not more than fifty ordinary members, and the said corporation hereby constituted shall have power to make its own organization, including its constitution, by-laws, and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign and domestic members, the division into classes, and all other matters needful or usual in such institutions, and to report the same to Congress."

"Sec. 3. And be it further enacted, That the National Academy of Sciences shall hold an annual meeting at such place in the United States as may be designated, and the Academy shall, whenever called upon by any Department of the Government, investigate, examine, experiment, and report upon any subject of science or art, the actual expense of such investigations, examinations, experiments, and reports to be paid from appropriations which may be made for the purpose; but the Academy shall receive no compensation whatever for any services to the Government of the United States."

Mr. HOLMAN. My point of order is that by the second section they are required to report their organization to Congress; and in the third section there is an express provision that they shall receive no compensation for their services. They have already made a report, which has been published. My point of order is that there is no authority of law for the further publication of their report.

The CHAIRMAN. The Chair having examined the subject, overrules the point of order.

Mr. HOLMAN. Then I hope the amendment will not be adopted. I trust that gentlemen will notice the character of this little report. It is of very little value to the Government, in my humble judgment, although I do not profess to be competent to decide upon such questions. It is simply another of those elements of expenditure which are growing upon the Government day after day. When this institution was organized, I think the debates will show that it was asserted that it would not cost the Government one cent, and now, after their report has been published in the

ordinary way, here is an appropriation of \$6,000 for a further publication of their work. We have already published the reports which they have made in a volume which I send up to the Clerk's desk; and now we are asked to appropriate \$6,000 for its publication.

Sir, I think we had better pension these men at once, instead of deceiving the country by this indirect way of sustaining a certain class of men at the public expense. It would be more honorable, and more consistent with the duty which the Congress of the United States owes to the American people, to put these men upon the pension list rather than to appropriate money for them year after year.

Mr. KERNAN. I would ask the gentleman one question: does he think these men would take pensions and stop? I have not the least idea in the world that they would.

Mr. HOLMAN. Neither have I. My experience is that the more you foster such enterprises the faster your expenses increase. The very first year after the organization of this society we are asked to appropriate, in addition to the ordinary expenses of publication, the sum of \$6,000 for such publications as they may see fit to make. It is not in accordance with the duty which the Congress of the United States owes to the American people thus to bolster up particular interests at the expense of the whole people.

Mr. CHANLER. My friend from Indiana [Mr. HOLMAN] is entirely mistaken in the character of the institution that he has just assailed, and in the object of the appropriation that he opposes. I do not believe that Congress can favor an institution more creditable to the country, or can do anything more beneficial to the interests of science or the dissemination of general knowledge. There is no deception used in this matter. There is nothing in the National Academy of Sciences that infringes on the rights of any class, or encourages one class to the injury of another. It is a purely scientific body of men, professors of learning in the chief colleges of the country, and men versed in the various departments of science, giving their experience and acquirements gratuitously for the general advancement of human knowledge. There are many questions arising from time to time in the administration of the Government that are elucidated by these means. We can look with pride and admiration at the records made in the history of American science by scientific labors like those of Franklin and other great minds.

Such an institution as this is a necessity for every great Government in the solution of important problems relating to coinage, to the alloys of metals, to commerce, to navigation, to astronomy, and to many matters involving abstruse calculation. Men who devote themselves to such studies are brought here at stated times to compare their views, and, by the collision of intellect, to develop and correct views. The reports of their meetings and the results of their labors and investigations should certainly not be hidden from the people. I look upon it as one of the best indications of the onward progress of our republican Government that we pay as much attention to these high scientific subjects as the older organizations of Government do. I call the attention of the gentleman from Indiana to the results of such scientific academies in Europe in regard to improving the health, the food, and the comfort of the humbler classes of society, so as to remove from his mind the impression which would certainly not coexist with an accurate knowledge of the facts. It was to such an academy as this that Napoleon referred for advice in relation to the best manner of feeding his armies, the simplest methods of transporting them, and for the scientific details necessary to carry on his great operations. I might debate on the usefulness of such an institution, on its practical benefits to the whole people; but the immediate question is, shall we suppress at this time the publication of the proceedings of this institution in its very infancy, before its capacity has been tested and proved? I hope not.

Mr. KASSON. Mr. Chairman, I wish to state two or three facts, without indulging in general debate, to show the character of the publications proposed by this society, and to show its relations to the practical business of the country. For example, here is one article that it wishes to publish:

"Note on the changes that have taken place in the bar of Charleston harbor since the sinking of obstacles in the main channel, as developed by the United States coast survey." Another is "On the dimensions and proportions of American soldiers," a subject which is connected, to some extent, with the military expenses of the Government. Another is on "A regulator for maintaining uniform motion, and an apparatus for recording time observations in type." "On the mineral lands of the United States, and the relations of the Government to their management." "On the origin and distribution of petroleum in the United States." I might go on mentioning the character of the papers proposed to be published by this society if time were allowed me to do so. I will cite only one additional fact: that experiments made under the direction of a committee of this Academy on the one article of oil resulted last year in the saving of \$40,000 in the expenditures for the light-house establishments of the United States. These are facts known to the Committee of Ways and Means, and which have induced it to recommend this small appropriation in order to perpetuate in type the important discoveries and observations of that national institution.

At the request of the chairman of the Committee of Ways and Means I move that the committee rise for the purpose of arranging for an evening session.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1866, and for other purposes, and had come to no resolution thereon.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 772) to provide ways and means for the support of the Government; when the Speaker signed the same.

#### DAILY RECESS.

Mr. STEVENS. I move that the House take a recess to-day from half past four till half past seven o'clock, p. m.

Mr. DAVIS, of Maryland. I rise to a privileged question: I move to reconsider the vote by which the House last night passed a joint resolution or bill authorizing the Secretary of the Navy to advance an additional sum of \$250,000 to Paul S. Forbes, under his contract for constructing a steam sloop-of-war.

The SPEAKER. That motion will be entered on the Journal.

Mr. STEVENS. I modify my motion, and now move to rescind the previous order of the House in regard to its daily sessions; and move that to-day and hereafter the House take a recess each day from half past four till half past seven o'clock, p. m., until otherwise ordered.

The motion was agreed to.

#### PORTAGE LAKE HARBOR, MICHIGAN.

Mr. DRIGGS. I now call up the motion submitted by me some days ago, to reconsider the vote by which the House recommitted to the Committee on Public Lands a bill (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage lake, Keweenaw Point, Lake Superior.

Mr. COX. I ask to have the bill read. I understand it is a substitute for the bill originally referred to the Committee on Public Lands.

The SPEAKER. The Committee on Public Lands, on the 16th of February, reported this bill back to the House, with an amendment in the nature of a substitute, which they asked to have printed, and then it was recommitted to the Committee on Public Lands.

Mr. DRIGGS. I can explain the bill in a few moments.

Mr. STEVENS. I would suggest to the gentleman from Michigan [Mr. Driggs] to let this go over for the present, and have it come up the first thing after we meet this evening.

Mr. DRIGGS. I will agree to that, with that understanding.

The SPEAKER. The Chair cannot say what

gentleman will have the floor when the House meets this evening.

Mr. DRIGGS: Then I prefer to go on now. This is a proposition to appropriate two hundred thousand acres of vacant land, in alternate odd sections, to aid in the construction of a harbor and ship-canal at Portage lake, Michigan. This bill has been before the Committee of Public Lands, and I believe has the approbation of every member of that committee. It was not regularly reported to the House, for want of time, the committee having only one hour in which to make reports. I made the motion to recommit the bill, and it is now before the House. It is a very simple proposition, but, in my opinion, one just as important as any measure for local improvement which has passed the House this session. It is a question in which not only Michigan, but the entire lake coast is interested. I have petitions in its favor from the Board of Trade of the city of Detroit, the Board of Trade of the city of Cleveland, the Boards of Trade of the cities of Buffalo and Milwaukee, and I think the Board of Trade of the city of Chicago; and I also hold in my hand joint resolutions of the Legislature of the State of Michigan asking for this grant; and also the joint resolutions of the State of Minnesota asking an appropriation of land for this purpose. Thus two States unite in making this request. They do not ask one foot of mineral lands; mineral lands are especially excluded from the grant by the provisions of this bill.

I think that explanation must satisfy every one, and I therefore call for the previous question.

Mr. HOLMAN called for the reading of the bill at length.

Mr. DRIGGS. I move to suspend the rule by which a member can demand the reading of the bill at length.

The motion was not agreed to; two thirds not voting in the affirmative.

The bill was read at length.

Mr. DRIGGS. I call for the previous question on the motion to reconsider the vote by which this bill was recommitted to the Committee on Public Lands.

The previous question was seconded, and the main question was ordered.

The question was upon the motion to reconsider.

The House divided; and there were—ayes 61, noes 31.

So the motion to reconsider was agreed to.

The question was upon agreeing to the substitute reported by the Committee on Public Lands.

Mr. HOLMAN moved to lay the bill on the table.

Upon this motion the House divided; and there were—ayes 12, noes 59; no quorum voting.

The SPEAKER appointed Messrs. DRIGGS and HOLMAN to act as tellers.

The hour of half past four o'clock, p. m., having arrived, the House took a recess till half past seven o'clock, p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock, p. m.

#### PAPERS WITHDRAWN.

Mr. COBB, by unanimous consent, asked and obtained leave to withdraw from the files the memorials presented by him at the last session for the impeachment of Judge Miller of the United States district court of Wisconsin.

#### NAVAL COMMITTEE REPORTS.

Mr. GRISWOLD, by unanimous consent, reported, from the Committee on Naval Affairs, adversely upon the petition for the relief of seamen on board the ship Nightingale, the petition of S. D. Carpenter, of Wisconsin, and the petition of Kendrick & Fisher.

The petitions were laid on the table.

Mr. GRISWOLD. The Committee on Naval Affairs, to whom was referred the petition of Lieutenant Selfridge for compensation for property destroyed on board United States vessels, have directed me to report in favor of granting the relief asked.

The petition was laid on the table.

#### NOTIFICATION TO PRESIDENT-ELECT.

Mr. WILSON. I rise for the purpose of presenting a privileged report.

The committee appointed by the House to act in conjunction with a similar committee on the part of the Senate, and inform Abraham Lincoln of his election to the office of President of the United States for the term commencing March 4, 1865, have directed me to report that the committee have discharged their duty by waiting on the President-elect and informing him of his election. I ask that his response to the committee may now be read.

The Clerk read, as follows:

"Having served four years in the depths of a great and yet unended national peril, I can view this call to a second term in nowise more flattering to myself than as an expression of the public judgment that I may better finish a difficult work, in which I have labored from the first, than could any one less severely schooled to the task. In this view and with assured reliance on that Almighty Ruler who has so graciously sustained us thus far, and with increased gratitude to the generous people for their continued confidence, I accept the renewed trust with its yet onerous and perplexing duties and responsibilities."

Mr. WILSON. I desire further to say that the committee have not yet received a response from the Vice President-elect, but will communicate it to the House when it is received.

#### PUBLIC EXPENDITURES.

Mr. HULBURD, by unanimous consent, presented from the Committee on Public Expenditures a report; which was laid on the table, and ordered to be printed.

Mr. HULBURD. I move that thirty-five hundred extra copies of the report just presented be printed.

The SPEAKER. The motion will be referred to the Committee on Printing under the law.

#### LAND GRANT TO MICHIGAN.

The SPEAKER. When the House adjourned this afternoon, it had under consideration the bill (H. R. No. 745) granting land to the State of Michigan to aid in the building of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior. The question was upon the motion of the gentleman from Indiana [Mr. HOLMAN] to lay the bill on the table. On that question no quorum had voted, and the Chair had ordered tellers.

Mr. HOLMAN. I withdraw the motion to lay the bill on the table.

The question recurred on seconding the demand for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time.

Being engrossed, it was accordingly read the third time.

Mr. STEVENS. I demand the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 33, not voting 88; as follows:

YEAS—Messrs. Allison, Ames, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boyd, Brooks, Cole, Thomas T. Davis, Driggs, Dumont, Eldridge, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, Hulburd, Kasson, Kelley, Francis W. Kellogg, Knox, Law, Littlejohn, Longyear, Mallory, Marvin, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Amos Myers, Patterson, Perham, Perry, Price, Pruyn, William H. Randall, Schenck, Shannon, Sloan, John B. Steele, Stevens, Stuart, Thayer, Upson, Whitely, Wheeler, Wilder, Wilson, Windom, Woodbridge, and Worthington—81.

NAYS—Messrs. Ancona, Bailey, Broomall, Crofford, Cox, Dawson, Denison, English, Finck, Ganson, Grider, Holman, John H. Hubbard, Philip Johnson, Kauffleisch, Long, Middleton, Morrill, Charles O'Neill, Orth, Pendleton, Rogers, James S. Rollins, Ross, Smithers, William G. Steele, Stiles, Strouse, Thomas, Elihu B. Washburne, William B. Washburn, Chilton A. White, and Winfield—33.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Allen, Anderson, Arnold, Augustus C. Baldwin, Blair, Bliss, Boutwell, Brandegee, James S. Brown, William G. Brown, Chanter, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Cravens, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Donnelly, Eckley, Eden, Edgerton, Eliot, Farnsworth, Hail, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hotchkiss, Hutchins, Ingersoll, Jenckes, William Johnson, Julian, Orlando Kellogg, Kernan, King, Knapp, Lazear, Le Bond, Loan, Marcy, McAllister, McBride, McDowell, McIndoe, McKinney, William H. Miller, Morrison, Leonard Myers, Nelson, Noble, Norton, Odell, John O'Neill, Pike, Pomerooy, Radford, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Edward H. Rollins, Scofield, Scott, Smith, Spalding, Starr, Sweat, Townsend,

Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—88.

So the bill was passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. COBB, one of its clerks, notifying the House that that body had concurred in the amendments of the House to Senate bill No. 88, regulating proceedings in criminal cases, and for other purposes; that it had passed without amendment House joint resolution No. 176, authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam sloop-of-war; and also that it had passed Senate bill No. 483, to amend an act donating public lands to the States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts; in which he was directed to ask the concurrence of the House.

#### SUBSISTENCE DEPARTMENT.

Mr. SCHENCK. I am directed by the Committee on Military Affairs to move to take from the Speaker's table the Senate amendments to House bill No. 600, for the better organization of the subsistence department, in order that they may be non-concurred in and sent back to the Senate.

There was no objection, and the amendments were taken up.

Mr. SCHENCK moved that the Senate amendments be non-concurred in.

Mr. HOLMAN. I see that the Senate propose to strike out the second section, and I would like to have that explained.

Mr. SCHENCK. As the bill was reported from the House Military Committee it provided that assignments in the subsistence department giving increased rank should be made from among the officers who are holding office by appointment in the volunteer corps. The Senate proposed that at least two thirds from the volunteer corps should be thus assigned, reserving one third for the officers of the regular subsistence department. There are thirty-nine officers of the regular subsistence department, and nearly six hundred in the volunteer corps.

Mr. HOLMAN. I am satisfied.

The Senate amendments were non-concurred in.

#### COMMITTEE ON THE CONDUCT OF THE WAR.

Mr. GOOCH. I ask to take from the Speaker's table the Senate concurrent resolution in reference to the joint committee on the conduct of the war.

There was no objection, and it was ordered accordingly.

The resolution provides that, in order to enable the joint committee on the conduct of the war to complete their investigation of certain important matters now before them, and which they have not been able to complete by reason of inability to obtain important witnesses, said committee be authorized to continue their sessions for thirty days after the close of the present Congress, and to place their testimony and reports in the hands of the Secretary of the Senate; and further, that the Secretary of the Senate shall cause to be printed of the reports and accompanying testimony of the committee on the conduct of the war five thousand copies for the use of the Senate and ten thousand copies for the use of the House of Representatives of the present Congress.

Mr. GOOCH. I move to strike out "thirty" and insert "sixty days."

Mr. GARFIELD. I move to make it ninety days. I only wish to say that one of a series of western campaigns has been placed before that committee, and I believe that not a single western campaign or a movement of the western armies has been investigated by the committee on the conduct of the war, all they have done having reference to the armies of the East; and, sir, it is deservedly due to the armies of the West that the investigation referred to the committee pertaining to those armies shall be carried out, and I think that ninety days will be sufficient.

Mr. ELDRIDGE. I would ask the gentleman if he does not think the success of this western



campaign is due somewhat to its not being interfered with?

Mr. GARFIELD. That may be true; but I would like to have the report of the committee on the conduct of the war to show that, if it is true.

Mr. GOOCH. I demand the previous question. The previous question was seconded.

Mr. PERRY. I move that the resolution be laid on the table; and upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 49, nays 80, not voting 53; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Augustus C. Baldwin, Bliss, Brooks, Chanler, Clay, Cox, Dawson, Denison, Edgerton, Eldridge, English, Finck, Ganson, Grider, Hall, Herrick, Holman, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Mallory, Marcy, Middleton, William H. Miller, James R. Morris, Nelson, Pendleton, Perry, Pruyn, Radford, Rogers, James S. Rollins, Ross, William G. Steele, Stiles, Strouse, Stuart, Tracy, Ward, Whaley, and Winfield—49.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Broomall, Freeman Clarke, Cobb, Coffroth, Cole, Thomas T. Davis, Dawes, Dixon, Dumont, Eckley, Eliot, Frank, Garfield, Gough, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moonhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Porham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smithers, Stevens, Thayer, Thomas, Townsend, Upson, Elihu B. Washburne, William B. Washburn, Wheeler, Wilder, Wilson, Windom, Woodbridge, and Worthington—80.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blair, Brundage, James S. Brown, William G. Brown, Ambrose W. Clark, Cravens, Creswell, Henry Winter Davis, Deming, Donnelly, Driggs, Eden, Farnsworth, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Hutchins, Ingersoll, Jenckes, William Johnson, Julian, King, McAllister, McDowell, McIndoe, McKinney, Morrison, Leonard Myers, Noble, John O'Neill, Samuel J. Randall, Robinson, Scott, Smith, Spalding, Starr, John B. Stead, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Webster, Chilton A. White, Joseph W. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—53.

So the House refused to lay the bill on the table.

Mr. GANSON. Would it be in order now to ask the Committee on Military Affairs to report in reference to the Old Capitol prison?

Mr. JOHNSON, of Pennsylvania. I object to any question being asked now.

Mr. GARFIELD. I call for tellers on ordering the main question.

Tellers were ordered; and Messrs. JOHNSON, of Pennsylvania, and GOOCH, were appointed.

The House divided; and the tellers reported—ayes 73, noes 26.

So the main question was ordered; and under the operation thereof the amendment to strike out "thirty" and insert "ninety" was agreed to.

The concurrent resolution, as amended, was passed.

Mr. GOOCH moved that the vote by which the resolution was passed be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MISSOURI AND KENTUCKY WAR CLAIMS.

Mr. MALLORY. I ask unanimous consent to report back from the Committee of Ways and Means with an amendment, a bill (S. No. 359) to reimburse the State of Missouri for moneys expended for the United States.

Mr. HOLMAN. Was that bill referred to the Committee of Ways and Means?

The SPEAKER. It was recommended to the committee.

Mr. HOLMAN. I object to reporting the bill.

Mr. MALLORY. I move to suspend the rules to enable me to do so.

Mr. STEVENS. I desire to know whether the object be to refer the bill to the Committee of the Whole on the state of the Union or to put it upon its passage.

Mr. MALLORY. Of course to put it upon its passage. I call for tellers.

Tellers were ordered; and Messrs. MALLORY and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 80, noes 20.

So the rules were suspended.

Mr. MALLORY thereupon reported the bill.

The amendment, which was read, appropriates the sum of \$2,300,000 to reimburse the State of Kentucky for moneys expended in raising, equip-

ping, and supplying troops for the United States, such sum to be disbursed by the commissioner under the same restrictions and upon the same conditions as are provided for the State of Missouri.

Mr. HOLMAN. I rise to a question of order. The rules were suspended to allow the bill to be reported only. My point of order is that this amendment, being an appropriation, it must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair stated to the House what the motion of the gentleman from Kentucky was; the gentleman from Kentucky also answered the gentleman from Pennsylvania, [Mr. STEVENS,] stating what his object was.

Mr. HOLMAN. The gentleman stated that he moved to suspend the rules to enable him to report the bill.

Mr. MALLORY. And to put it upon its passage.

The SPEAKER. The Chair overrules the point of order upon the ground that the rules were suspended in order to allow the committee to report the bill for consideration at the present time.

Mr. MALLORY. The amendment merely places Kentucky on the same footing precisely that the bill places Missouri. The bill authorizes the appointment of commissioners to examine and audit the accounts of Missouri for money expended in raising, arming, and equipping troops called out by the Governor of Missouri and the Federal Government to aid in the suppression of rebellion in Missouri. My amendment provides for just the same thing in relation to Kentucky. In both States men were called out by the State Executive, and then received into the Federal Army and used by the Federal Government. We provide in this bill that an accurate examination of the whole matter shall be had by commissioners appointed by the Government of the United States. Not a cent is to be paid unless those commissioners find, by undoubted evidence, that the money has been advanced by those States. It also provides that the Government shall be credited with the amount the State owes the Government by direct taxes, and the balance, if there be any balance, shall be paid by the State.

I do not know that it is necessary that I should detain the House further. The justice of the case is apparent; and the impossibility of defrauding the Government out of a cent is so well established by the bill that I can see no earthly objection that any man can have to voting for it. If I could I would try to remove it, but I cannot, and therefore I call the previous question.

Mr. GARFIELD. I ask the gentleman to yield to me for a moment.

Mr. MALLORY. I will do so; I withdraw the demand for the previous question.

Mr. GARFIELD. I wish to say to the gentleman from Kentucky that a bill has been referred to the Committee on Military Affairs in reference to the payment of the Missouri State militia, and a report on the subject has been directed by them to be made. I have prepared such a report.

Mr. MALLORY. I must claim the floor.

Mr. GARFIELD. I hope the gentleman will indulge me for a very few minutes.

Mr. MALLORY. I will yield for a few minutes to the gentleman from Ohio.

Mr. GARFIELD. I wish only to state the case as the Committee on Military Affairs understood it. The Missouri State militia were raised in pursuance of general order No. 96, which provided that the State militia of Missouri should be received into the service of the United States, and be paid, fed, and clothed, but no mention was made of bounties. They were not to go out of the State of Missouri, as provided by the exact terms of the order, except for the protection of that State. I have the order in my hand.

Mr. LOAN. These men were not connected with this matter.

Mr. GARFIELD. Well, I have the order before me which was sent to me by the Secretary of War in answer to the inquiry of the Military Committee in regard to the Missouri bill now before them. Now, by an act of March 25, 1862, the Secretary of War was ordered to pay these troops raised under this order the same pay and emoluments, including bounty, that other volunteers in the service of the United States received.

Mr. LOAN. Will the gentleman allow me one moment?

Mr. GARFIELD. Let me get through with my statement. A few weeks subsequently to that a joint resolution was passed by the same Congress ordering the Secretary of War to suspend all payments under the act of March 25, and to appoint three commissioners to go to the State of Missouri and make a full and complete examination of all the claims referred to in the act. The time allowed the commissioners was subsequently extended six months, and they continued their examination and made a full report on all the questions committed to them by the law appointing them. One of the earliest acts that the Thirty-Eighth Congress passed—the third, I think—was to authorize the Secretary of the Treasury to pay some \$700,000 in full for all claims for pay, subsistence, clothing, and bounties, in the department of the West known as "the department of the Missouri." It was understood at the time that that settlement, made in pursuance of the report of the commissioners, was a settlement in full of all dues to the troops in that department. A law was also passed putting the Kentucky troops upon the same basis as all other volunteers except as to bounty. The bounty was excepted in terms, and now it is proposed that another bill shall be passed doing still more for Missouri troops. This may be perfectly proper, but it is incumbent upon gentlemen from that State to show us what troops these are, whether they are the same that we have at least five times legislated for and appointed commissioners to adjust their claims. I make these remarks with no design to obstruct any just claim of Missouri, but to elicit some explanation of this bill. I think, with the gentleman from Kentucky, [Mr. MALLORY,] that we ought to appoint a commission to do as much for the Kentucky troops as we have done for the Missouri troops. But I do not understand how we can be called upon to do any more for the Missouri troops than we have already done without knowing what troops they are, and when, how, and where they have been employed.

These are my questions.

Mr. BLOW. Mr. Speaker, the gentleman from Ohio [Mr. GARFIELD] has certainly not examined the bill he is so harshly criticising, nor do I believe, sir, he has read the Senate report, which so clearly establishes the justice of the claim made by the State of Missouri. The gentleman is mistaken in considering the home guard claim with this bill. He is entirely mistaken in supposing that the laws and orders he has alluded to have any connection with the troops proposed to be paid by this bill. If I can get the undivided attention of the House for a few minutes I will make a statement and show so clearly the justice of its provisions, that I think even the gentleman from Ohio will be satisfied that he is entirely mistaken in every point he has made, as every question he has asked will be fully answered. This bill was introduced in the Senate on the 19th of December last, by Hon. Mr. HENDERSON, and on the same day referred to the Committee on Military Affairs and the Militia, and ordered to be printed. Since that time every member of the two Houses from Missouri has watched its progress with an interest which can only be appreciated by those who have lived in the midst of civil strife as we have, know what it has cost to advance the men and money as we do, and have witnessed the steady but inevitable decline of all those blessings which once rendered our State the most attractive portion of our country. On the 18th of January last the bill was ably reported from the Military Committee by Hon. Mr. BROWN to the Senate, and the report ordered to be printed, and on the 9th ultimo, after a brief presentation of its just and simple provisions, was passed by that body unanimously. It came to us, was promptly referred to the Committee of Ways and Means, and is now presented by that committee for the favorable consideration of the House. To say that few bills have been more carefully presented, examined, and considered than this, is only to announce the truth. In Missouri we had too much at stake to suffer a single error to be made, and hence the mass of information and evidence presented was such as demanded the confidence and respect which have been awarded.

I beg that the Clerk may read the following

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

FRIDAY, MARCH 3, 1865.

NEW SERIES.....No. 80.

extracts from the debate on the bill. Our Senators have stated the case so compactly that it will occupy but a few moments to obtain a perfect knowledge of it.

The Clerk read, as follows:

"Mr. HENDERSON. This bill provides for an appropriation of money, and therefore I know that there will be unwillingness on the part of Senators to pass it, as there has been; and it is proper, it is nothing but right, to examine carefully and critically all measures of this character. I do not come here asking for any bonus to the State of Missouri, or anything that is not perfectly and legally just. There is a report made by my colleague (report No. 107) from the Committee on Military Affairs, where the subject was thoroughly examined. That sets out all the facts connected with this matter. A bill was passed in 1862 to adjust affairs of this character in the State of Missouri, but no adjustment was ever made, and not one dollar has ever been paid under that bill. It provided that the direct tax which had been levied on the State by the act of 1861 should be set off against the moneys appropriated for the payment of our troops.

"The circumstances may be readily stated. In 1861, at the time of the beginning of the insurrection in the State, we had no Federal troops there, and large numbers of militia were called out, first by General Lyon, and afterward by General Frémont. There was an act passed that provided for the payment of these troops, and that has been settled; but the State convention passed a military bill in the fall of 1861; and in the spring of 1862 another invasion of the State was made under Coffee, Hughes, and various other parties, who had under their command a large force in northern Arkansas. They came into the State in large force, and we found ourselves entirely without the necessary military force to eject them. A provision had been made by which the military commander of the department of Missouri was to be the major general of the State militia. The design of this, the Senate will see, was to have entire and perfect cooperation between the State forces and the United States forces. The design was that the State militia should in no way be used in opposition to the commands of the United States officers. The United States officers called them out. The Senators will see, for instance, on page 14 of the report, what General Schofield says in regard to portions of this force:

"The 'ten provisional regiments' which the Governor organized for continuous service and placed under my command enabled me to relieve an equal force of United States troops, and send them to General Grant. On several occasions I have called out from one to four additional regiments for temporary service to meet the emergencies as they have arisen. With a few exceptions, they have responded with promptness and alacrity, and have done good service.

"As an example illustrating the value of this organization, on the 18th instant I called out the seventh regiment of St. Louis to relieve troops in the city which I wished to send after Shelby. Within six hours after the order was made the whole city was under the guard of this regiment and a few colored recruits, and the old troops were on their way to Jefferson City. The regiment was just as valuable to me, during the short time that its services were required, as a regiment of regular troops would have been."

"Senators will see on pages 9 and 10 of this report the number of regiments that have been called into the field under the militia laws of the State, and the time that they have actually served. There have been at various times as many as seventy or eighty odd regiments called out, because the militia organization in the State is perfect and complete. They have been called into service only at times of actual invasion or uprising in the State, when we could not do without them.

"They have always been called out under the orders of the major general whom the President has sent to take command of that Department. For instance, Senators will see on page 15 that General Curtis, under date of April 23, 1863, says:

"HEADQUARTERS DEPARTMENT OF THE MISSOURI, ST. LOUIS, April 23, 1863.

"I desire to strengthen my forces on the Southwestern Branch railroad, and also on the Iron mountain road.

"A formidable rebel force has entered southeast Missouri, which must be immediately repelled.

"I desire you to call out three or four regiments of enrolled militia on each of the three roads for thirty days' service, and that three regiments may be added to the strength of this city.

"I have the honor to be, Governor, your obedient servant,  
S. R. CURTIS,  
Major General.

"His Excellency Governor H. R. GAMBLE.

"And the Governor immediately gave the following order:

"St. Louis, April 23, 1863.

"The adjutant general will order General McCormick to call out three regiments for active service—say thirty-second, sixty fourth, and sixty-eighth. He will order Brigadier General Crawford to call out three regiments for active service, to be embodied at suitable points. He will order Brigadier General Edwards to call into service three regiments of his command. All for thirty days.

"H. R. GAMBLE.

"I have before me the figures showing the money that had been expended by the State up to July last; but General Rosecrans called a large force into the field during the

last fall, and in regard to that subject I have no figures. The State of Missouri is now called upon to pay that force. I have no figures either from the quartermaster's department or the pay department in regard to the troops called out by General Rosecrans.

"I will state, further, that General Dodge has called out a large force there very recently, under an order dated January 30, 1865. I notice that in his order he has embodied this provision:

"The troops when called out will be clothed and subsisted by the General Government, and armed, equipped, and paid by the State, as provided by the military bill."

"Though these men have been called out by the Federal authority, the State of Missouri has been required to pay the troops. Not only that, but in the early part of the war they compelled us to supply quartermaster's stores for these troops.

"Mr. JOHNSON. Was any settlement made under the act of 1862?

"Mr. HENDERSON. No further than to adjust the accounts so far as our direct tax was concerned. The Secretary of the Treasury was required, under the act of 1862, to offset our direct tax against the expenditures we had made for the militia.

"Mr. JOHNSON. Is that tax to be deducted out of this payment?

"Mr. HENDERSON. Yes. One of the provisions of the bill is that it shall be deducted. The pay department accounts show that the amount due to us up to July last was \$4,005,919 49, and the quartermaster's up to January 1 of last year was \$984,314 61, making an actual payment by the State of Missouri of \$4,991,234 10. Our direct tax under the act of 1861 was \$761,127 33, leaving an amount due of \$4,230,106 77; but, as I have stated, these figures do not include the expenses of the organization called out last fall by General Rosecrans.

"Mr. JOHNSON. I want to know whether the appropriation of \$4,000,000 made by this bill is in full of all the demands.

"Mr. HENDERSON. I ask no more, and I have asked no more because I cannot well do it. I have not the figures from the pay department and the quartermaster's department. The quartermaster's department will be able to send but few figures, because the United States have subsisted the troops that have been called out within the last year, and from the pay department I have no figures since the 1st of July, and have not attempted to include them. I do not want anything unless it be found by the commissioner to be appointed by the United States under this bill that the accounts are just and proper, that the troops were called out as specified in the bill by United States officers, under the command of United States officers, and acted in conjunction with the Federal troops, and acted only when they were absolutely needed, and not a dollar is to be paid out at higher rates than were allowed for the same service by the United States."

Mr. BLOW. Mr. Speaker, the people of Missouri are sound to the core, and have that kind of pride and energy which always commands respect and sympathy. We are no beggars, sir, and do not come here to ask the bounty of our Government, but to pray that justice may be done our loyalty, and that sacrifices for the Union cause may be recognized, at least so far as to repay into our impoverished Treasury the money advanced for furnishing and subsisting troops, under the command and control of the United States.

Perhaps some honorable member who lives in a part of our country where the misery and disaster of the last four years have not penetrated will conclude that we can do without this \$4,000,000 for a while longer. If there is such a gentleman in this body I beseech his attention while I state a few facts concerning our material interests alone; for the history of our sufferings, the bravery of our troops, and the earnest tone of loyalty in Missouri are, I trust, impressed upon the nation. We have lost four years of business, and most of this period in three fourths of our State there was no safety, peace, or happiness. We have had some forty counties so thoroughly desolated that I doubt to-day whether there are ten thousand Union men residing in them all. This ruin did not cost the people of Missouri less than \$30,000,000 to the 1st of January, 1864, and in a single month last fall, while Price was making his grand raid through the southern and central portions of the State, an additional loss was incurred estimated at \$13,000,000. This seems incredible, but is nevertheless a sound estimate. We have emancipated all the slaves in the State—loyalty demands nothing for its portion, and rebels of course are entitled to nothing. In my own county, as I stated the other day, and am proud to repeat on this occasion, much as we have suffered we did not hesitate to tax ourselves \$400,000 for bounties to regiments now serving in Tennessee, and in three months afterward ad-

vanced our credit for \$700,000 more to repair the damages inflicted by Sterling Price on the Pacific railroad, and to extend that iron highway to Kansas; and this great work, running through the very heart and center of Missouri and throwing protection far into the vast Territories to the west of us, will soon be completed by the enlightened liberality of a people who could only indulge it by practicing severe self-denial.

But language, Mr. Speaker, fails to convey any correct idea of how our noble people have suffered, and how bravely they stand up against all the misfortunes heaped upon us. Our State debt to-day, by official statements, amounts to \$32,907,549, of which there is due for moneys advanced the Government the following sums:

Amount borrowed by Governor Gamble.....	\$156,604
Defense warrants.....	244,279
Union military bonds.....	1,771,036

Amount.....	2,165,399
While there is yet due our soldiers at least.....	1,000,000

Say in all due to-day.....\$3,165,399

We are, therefore, in pressing need of this sum, and let me say in conclusion that the legislation which enables Missouri to advance to her destiny with sure and rapid strides will be repaid a thousand fold. This civil war has enlarged the mind of the nation, and few so dull as not to see that she is the key to an empire whose lands hold the treasure which is to restore the national credit, redeem the national currency, and over whose vast territory the wealth and travel of the eastern and western continents will in a few years commence a flow which will endure through all coming time. The Legislature of the State in Jefferson City, and the constitutional convention now assembled in St. Louis, have both memorialized Congress, in most earnest terms, to pay the amount now due and which is so necessary to furnish the means of public defense.

I pray you, therefore, to remember that whatever other States are claiming they have not adjusted their amounts as we have, are enjoying prosperity instead of the miserable uncertainty which hangs a dark cloud on every hope and interest we have, and that the relief so eminently due our people, if withheld, may intensify the fears that are now causing thousands to look to other portions of our country where greater safety and protection are afforded to life and property.

My friend from Kentucky has my thanks for the time I have occupied. I could not make my remarks shorter.

Mr. MALLORY. I have promised to yield the floor for a few minutes to the gentleman from Missouri, [Mr. HALL,] and I now do so.

Mr. HALL. I think, Mr. Speaker, that the gentleman from Ohio [Mr. GARFIELD] is entitled to a specific answer. The House should be satisfied that there is no effort to pay money over again by this bill, or to pay money which is not justly due. I will answer very briefly, specifically, and distinctly the questions which he has asked. The amount appropriated last winter—\$800,000, I believe—was to pay for this class of troops. When the President of the United States first called for volunteers we had in Missouri a Governor, C. F. Jackson, who was acting at the time in concert with the rebel government. He refused to supply any troops at the call of the Federal Government. General Lyon was in a strait. Patriotic citizens volunteered their services, and under the name of the home guards, aided General Lyon with troops that were not militia, because the Governor of the State, being himself a traitor, would not supply troops. They were not Federal troops. They were a class of troops unknown to the law, but they rendered valuable services. The \$800,000 that was appropriated last winter was to pay these home guards that were called out before the convention of Missouri deposed the traitor Jackson. So much for that.

The Missouri State militia of which the gentleman speaks—ten regiments—were simply volan-

teers in the United States service. But inasmuch as the State of Missouri herself was the seat of war, it was hard to require men to volunteer to go out of the State. Congress authorized the raising of ten thousand men for service exclusively in the State, and to be paid by the Federal Government. They were United States volunteers doing service in the State; but unlike United States volunteers they were called Missouri State militia. They were under the control of the Federal Government, were paid by the Federal Government, were commanded by Federal officers, and were just as much United States volunteers as any soldiers raised during this war. That is the second class of cases that the gentleman has inquired about, and this class has nothing to do with the class to which this bill relates.

The class to which the bill relates is this. In 1862 the Federal Government had withdrawn most of its forces from the State of Missouri. There was an invasion of the State from Arkansas, and the rebellion also broke out in the State. General Schofield, who was then in command in the State, applied to the Governor to call out the militia. The Governor did so, and placed those troops under the command of General Schofield. They continued under his command, and aided mainly and effectively in repelling the invasion of the State and in putting down the rebel bands in the State. After they had performed that service, General Schofield was called upon to send every man he could spare to Vicksburg. The Governor of the State asked that the militia should be relieved from service, but General Schofield, having sent away the United States troops to Vicksburg, insisted upon keeping the militia in the field. Some of that militia have served two years, and are still in the service, although called out in 1862. They have remained in service at the earnest solicitation of the generals in command—Generals Curtis, Schofield, and Rosecrans—each asking that they be retained. This bill is to authorize the payment of those troops, or of as many of them as may be shown to have been in the service at the request and solicitation and under the orders of the commander of the department. The bill has nothing to do with the other class of militia to which the gentleman refers.

Mr. MALLORY. I must now insist upon the previous question. I have only this to say in reference to the bill, that wherever payments have been made, either in Missouri or Kentucky, it is directed that no allowance shall be made by this bill. It is only where troops have served and have not been paid by the Federal Government that the commission is to allow payment to be made.

Mr. JOHNSON, of Pennsylvania. I desire to ask the gentleman a single question.

Mr. MALLORY. I will hear it.

Mr. JOHNSON, of Pennsylvania. Will the gentleman yield me the floor to move that the bill be referred back to the Committee of Ways and Means with instructions to add a provision to pay Pennsylvania and Indiana troops?

Mr. MALLORY. I cannot yield for that purpose. I must insist on the previous question.

The question being on seconding the previous question, the House divided, and there were—ayes 35, noes 80.

So the House refused to second the previous question.

Mr. STEVENS. I offer the following amendment as an additional section, to be added to the amendment reported by the gentleman from Kentucky [Mr. MALLORY] from the Committee of Ways and Means:

That, to reimburse the State of Pennsylvania for expenses paid in calling out the militia of said State during the recent invasion by rebel forces, the sum of \$750,000, or so much thereof as may be found necessary, the same having been audited by the proper Department, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. DAWES. I raise a point of order that this amendment has not been considered in Committee of the Whole, nor have the rules been suspended to allow its consideration in the House.

The SPEAKER. The Chair sustains the point of order. This is an amendment proposing to make an appropriation, and the rules not having been suspended, it must first be considered in Committee of the Whole. The rules were suspended only so far as was necessary to allow the gentleman from Kentucky [Mr. MALLORY] to re-

port an amendment from the Committee of Ways and Means. The amendment of the gentleman from Pennsylvania [Mr. STEVENS] is not in order.

Mr. MORRIS, of Ohio. I move to lay this bill and amendment on the table.

Mr. GRIDER. I call for the yeas and nays.

Upon the question of ordering the yeas and nays, the House divided; and there were—ayes 20, noes 93.

So the yeas and nays were not ordered.

The motion to lay the bill and amendment on the table was agreed to.

Mr. MORRIS, of Ohio, moved to reconsider the vote by which the bill and amendment were laid on the table; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced to the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866.

The message further informed the House that the Senate further insist upon their disagreement to the first, third, fourth, and fifth amendments of the House to the bill (S. No. 390) relating to the postal law, and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. COLLAMER, Mr. STEWART, and Mr. POMEROY the committee on the part of the Senate.

The message further informed the House that the Senate had passed a bill (S. No. 479) to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States; in which he was directed to ask the concurrence of the House.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. KASSON, from the committee of conference on the disagreeing votes between the two Houses on the amendments to the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1866, submitted a report.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending 30th June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first, second, fifth, twenty-seventh, thirty-fifth, forty-fifth, and forty-eighth amendments of the Senate, and agree to the same.

That the Senate recede from their amendments to the bill of the House numbered thirteen, fourteen, fifteen, twenty-eight, and twenty-nine.

That the Senate recede from their disagreement to the amendments of the House to their third amendment, and agree to the same with an amendment, as follows: strike out all of said amendment of the House, and insert in lieu thereof the following: "Provided, however, That any Senator who has already, as a member of the House of Representatives, received a portion of a set of the Congressional Globe, shall only be entitled to receive, as such Senator, the additional volumes required to complete one full set."

That the House recede from their disagreement to the ninth amendment of the Senate, and agree to the same, with an amendment, as follows: add at the end of said amendment the words "so much thereof to be expended under the direction of the Secretary of the Interior as may be necessary for the erection of said addition."

That the House recede from their disagreement to the tenth amendment of the Senate, and agree to the same with an amendment, as follows: strike out the word "ninety" and insert in lieu thereof the words "seventy-five."

That the Senate recede from their disagreement to the amendments of the House to their twelfth and twenty-fourth amendments, and agree to the same.

That the House recede from their disagreement to the twenty-sixth amendment of the Senate, and agree to the same with the following amendment: insert in lieu of the words stricken out the words "for legal assistance, and other necessary, and special, and extraordinary expenses in the disposal of private land claims in California, \$10,000."

That the House recede from their disagreement to the forty-third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment all after the word "appropriated," in the eighth line, and insert in lieu thereof the following: "and for the purpose of furnishing and fitting up suitable rooms for the office of the Attorney General, if it shall be necessary for him to remove from the Treasury Department, the sum of \$10,000 is hereby appropriated, or so much thereof as may be necessary."

That the Senate recede from their disagreement to so much of the amendments of the House to their forty-sixth amendment as is contained in the last two sections of said amendment of the House, and agree to the same.

That the House recede from their disagreement to the forty-seventh amendment of the Senate, and agree to the same with an amendment, as follows: add to the end of said amendment the following: "and the sum of \$43,000 is hereby appropriated to be added to the contingent fund of the House of Representatives, for the purpose of paying such contingent expenses as may be directed by resolution of the House."

DANIEL CLARK,

IRA HARRIS,

J. W. NESMITH,

Managers on the part of the Senate.

JOHN A. KASSON,

R. MALLORY,

H. WINTER DAVIS,

Managers on the part of the House.

Mr. KASSON. I do not know that it is necessary for me to recite item by item the action of the committee of conference, although I am ready to do so, if it is desired by the House.

Mr. BROOKS. We want to hear it.

Mr. KASSON. Very well. The first amendment of the Senate in which the House did not concur was the clause relating to the reporting of the Congressional Globe on the Senate side, for which the original appropriation was \$10,000, and which had been increased by amendment of the Senate to \$20,000. It was found that in consequence of an error in the estimate of the clerks of the Senate, \$10,000 had been put in the estimates instead of \$20,000, for the long session. It was found to be accurate, and was therefore yielded by the committee of the House.

The second item was in relation to paying the publishers of the Globe one cent additional for ever five pages, &c., which is an appropriation required by the existing law. It was made on the Senate side just as it has been made on the House side.

The third item related to providing a complete set of the Congressional Globe to each Senator. The House had amended that, so as to provide that no Senator should receive a set of these books who had received them as a member of the House. The committee of conference recommend in place of that provision one which will allow a Senator to receive enough volumes of the Congressional Globe to make, with those volumes he has previously received as a member of this House, a full set of the Congressional Globe. That was deemed right by the committee of conference.

The next item related to the appropriation of \$100 for the removal of the railing in the old Hall of the House of Representatives. It was found necessary to keep that railing up until some other fence was provided, for the preservation of the columns and other valuables in the old Hall of the House. Therefore the committee of the House receded from that amendment, preferring to allow that fence-railing to remain there during the vacation.

The next amendment related to the printing establishment, the appropriation for the additional building and Adams printing presses, of which the estimate was for eight. The Committee on Printing of the Senate, and a part at least of the House committee, had urged the matter as a question of economy upon both Houses. More careful estimates, and a reexamination of the Superintendent of Public Printing, satisfied the committee of conference that it was a measure required for an economical and reliable administration of the public printing, and actually necessary for satisfying the demand upon that office for some time to come.

It was found, for example, that the Agricultural Report could not be issued, except with great delay, without some additional facilities. It is desirable that we should be enabled in future to distribute this and other documents during the session. In that amendment, therefore, the committee concurred, with an amendment.

The next amendment related to the cost of lithographing and engraving. Both committees receded from the former amendment; and we took the basis of the actual expenditure during the last session of Congress, which was \$75,000, and added that amount to the other appropriations for the next year.

In reference to the extension of the Library the Senate concurred in the amendment of the House.

The next amendment related to the publication of the laws of the United States in pamphlet form. This appropriation was made to defray the



expense of printing the laws by Little & Brown, now going on, and was necessary to provide for the next fiscal year the payment for the publication by them of the laws of this session. The Senate, therefore, receded upon that point. The Senate had reduced the appropriation in consequence of striking out the appropriation for the publication of this pamphlet edition of the laws by Little & Brown, and the conference restored it. I ought to remark that this firm are now publishing the laws at a less cost than that at which the Public Printer can possibly do it, by reason of a contract made prior to the rise in the price of paper. The conference resulted in the restoration of the action of the House on that subject.

The next amendment related to the appropriation by the House for judiciary expenses. In this the Senate concurred.

The next amendment related to the expenses in the disposition of land-claims in California. On this both Houses receded, and they appropriated for the use of the office of the Attorney General \$10,000, in lieu of \$20,000, as proposed in the original bill, to be disbursed by him in the administration of the interests of the Government in California in connection with contested land-claims there.

The next point of difference related to the salary of the circuit judge of the Pacific circuit, and upon the showing made to the committee of conference they agreed with the proposition of the Senate to allow the amount of \$1,000 additional for his expenses in traveling over his largely increased district and also coming to Washington—a difference, by the way, that was recognized in the original law.

The next point in reference to which a difference occurred related to the repairing of the courthouse at St. Augustine, Florida. The House refused that appropriation, and the Senate receded from their action.

The next question related to the treasurer's office at Boston. On that also the Senate receded and concurred in the action of the House.

The next related to the note-printing presses of the Treasury Department. It was found that the present Secretary of the Treasury had himself prepared and submitted to the Senate the amendment which was adopted by that body and in which this House did not concur. It was found, however, that the proposition was so guarded in respect to expenditure, providing for paying simply for what the Government has taken and is using, payment to be made only when the title to the presses and their use was conferred fully upon the United States, that the conference committee concurred in the action of the Senate, as a matter of simple justice.

Mr. WASHBURNE, of Illinois. In order that this matter may be clearly understood, I hope the gentleman will have read the different propositions—the House proposition and the Senate proposition.

Mr. KASSON. The Clerk will read them if it is desired.

The Clerk read the Senate amendment, as follows:

Strike out the following:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law, and a distinct appropriation made therefor.

And insert these words:

*Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and adjust the accounts of Stewart Gwynne for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to award to him such sum as may be equitably his due, to be paid from the appropriation for the expenses of national loans: *Provided further*, That for items furnished or supplied under contract, no greater sum than the contract price shall be allowed: *And provided further*, That before any payment shall be made, the said Stewart Gwynne shall, in such form as shall be prescribed by the Secretary of the Treasury, fully convey and secure to the United States the right to use said presses and any additional number thereof, with their machinery and future improvements, in the Treasury building or any other buildings directed by the Secretary, for any and all printing the Government may desire for its own use and purposes.

Mr. KASSON. I will state that my colleague on the committee of conference, the gentleman from Maryland, [Mr. DAVIS,] has examined personally this matter and thoroughly, and I ask him to explain it more fully.

Mr. WILSON. I ask my colleague whether the committee, in determining this report in reference to printing took into consideration that in the loan bill one per cent. was appropriated for printing purposes?

Mr. KASSON. That is for another item of printing, the printing of bonds, &c. I yield now to the gentleman from Maryland.

Mr. DAVIS, of Maryland. I will endeavor to make this matter plain in a very few words. Mr. Gwynne was an employe, not exactly an office-holder, but an employe of the Treasury Department, for the purpose of executing under the authority given to the Secretary of the Treasury to print certain portions of the money authorized by the Government of the United States. He proposed to Secretary Chase a particular system of printing the money. That form was adopted by Secretary Chase. Mr. Gwynne was authorized to contract for requisite machinery to print the money, that which day by day we use, and which passes from hand to hand. Whether wisely or unwisely, it was done under the order of the Secretary of the Treasury in execution of a law of Congress, and was as legal as any other form of executing that law. All that the bill now proposes is that the expenses incurred for the machinery which was contracted for in Mr. Gwynne's name by the authority and with the assent of the Secretary of the Treasury, which has been accepted by the Secretary of the Treasury, which is to-day in operation in the Treasury Department, which is to-day printing the money which is being printed under the act of Congress, shall be paid. The amendment proposes, and all what the committee of conference has agreed to is, that the Secretary of the Treasury has recommended should be paid as having been contracted under his order, and it shall have the sanction of the House.

My friend from Iowa [Mr. Wilson] will be familiar with the subject, because he was a member of the investigating committee by which this was one of the subjects considered, and whether wise or unwise he will remember that every attempt to show there was no legality in the transaction entirely failed. Everything done is now sanctioned by the former letter of the Secretary of the Treasury, which is among the papers. I think no other explanation is now needed.

Mr. KASSON. I pass to the next point, in relation to providing accommodations for the Attorney General's office and for officers and employes of the State Department, if necessary, arising from the extension of the Treasury building over the site of the State Department, which it is anticipated will take place during the next year. In lieu of the arrangement proposed by the Senate, which seemed to compel the Attorney General to go to the Interior Department, where he did not wish to go, and where they do not want him, we have substituted a small appropriation for fitting up and furnishing, if necessary, an office for the Attorney General when it shall be required.

The next amendment related to the equalization of the salaries of the Assistant Secretaries. The majority of the conference committee thought that it was just, and concurred in the Senate amendment.

The next amendment related to the deficiency bill, in which the House had non-concurred *pro forma*, but the items of which had received its approval.

The last point was one on which a serious difference had existed between the two Houses. In lieu of the resolution proposed by the House and rejected by the Senate, the conference committee finally agreed to the resolution which was read at the conclusion of the report, providing for an addition to the contingent fund of the House, to be disposed of in payment of contingent expenses as may be directed by resolution of the House.

This is all I have to say. The bill is a very long one; a great deal of difficulty attended the settlement of its provisions; and as the time for engrossing it is very short I am compelled to ask the attention of the House to it as early as possible. I therefore feel constrained to demand the previous question.

Mr. WASHBURNE, of Illinois. I hope it will not be seconded. I want to discuss this printing matter a little.

Mr. BROOKS. I desire to ask the gentleman a question.

Mr. KASSON. I yield to answer any question which gentlemen may wish to propose.

Mr. BROOKS. I ask the gentleman whether this question of hydraulic presses is not the same that was discussed by this House, and voted down three to one, some time ago?

Mr. KASSON. Not upon the same facts. The facts now ascertained by gentlemen who have been appointed committees by the Senate, and those who have been on committees from the House, show that this experiment has approved itself, and that the Treasury Department cannot dispense with it. It is now the simple question of the payment of an honest debt.

Mr. BROOKS. I have to say in reply that there is not a practical printer in the country who would attempt to use these presses for any such purpose. And if they work well it is only when a Senator or a member of Congress comes in to see them, and break down in ten or fifteen minutes afterward. I have also to say that this is an attempt to ingraft a private bill on a general appropriation bill.

Mr. KASSON. I was aware that the gentleman from New York had committed himself by a former report touching that part of the Treasury Department, and I do not expect to be able to convert him upon the testimony of any sub-committees, or committees of both Houses. I demand the previous question.

Mr. BROOKS. I call for tellers.

Tellers were refused.

The previous question was seconded, and the main question ordered.

Mr. WASHBURNE, of Illinois. I call for the yeas and nays upon agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 87, nays 53, not voting 42; as follows:

YEAS—Messrs. Allison, Ames, Ashley, Baxter, Blaine, Bliss, Blow, Boutwell, Boyd, Broomall, Freeman, Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawson, Deming, Dixon, Briggs, Dumont, Eckley, Eliot, Farnsworth, Frank, Garfield, Good, Grider, Grinnell, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jencks, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Knox, Law, Littlejohn, Loan, Longyear, Mallory, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Patterson, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Seaford, Shannon, Smithers, Stevens, Stuart, Thayer, Tracy, Upson, Ward, William B. Washburne, Webster, Whaley, Williams, Wilder, Windom, Winfield, Woodbridge, Worthington, and Yeaman—87.

NAYS—Messrs. James C. Allen, Ancona, Arnold, Augustus C. Baldwin, John D. Baldwin, Beaman, Brooks, Chandler, Clay, Coffroth, Cox, Dawes, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Harrington, Herrick, Holman, Philip Johnson, Kalbfleisch, Kernan, Knapp, Le Blond, Long, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Orth, Pendleton, Perry, Pike, Radford, Rogers, Ross, Scott, John B. Steele, William G. Steele, Siles, Strouse, Sweat, Thomas, Townsend, Elihu B. Washburne, Chilton A. White, and Wilson—53.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Baily, Blair, Brandegee, James S. Brown, William G. Brown, Ambrose W. Clark, Cravens, Creswell, Donnelly, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Hulburd, Hutchins, William Johnson, Julian, Lazer, McAllister, McDowell, McIndoe, McKimney, John O'Neill, Prayn, Samuel J. Randall, Robinson, James S. Rollins, Sloan, Smith, Spalding, Starr, Van Valkenburgh, Voorhees, Wadsworth, Wheeler, Joseph W. White, Benjamin Wood, and Fernando Wood—42.

So the report was agreed to.

Mr. KASSON moved that the vote by which the report was agreed to be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS, from the committee of conference on the Army appropriation bill, reported that the committee on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, having met, after full and free conference, had agreed to recommend and do recommend to their respective Houses that the Senate recede from their fourth amendment; that the House of Representatives recede from their disagreement to the second and third amendments of the Senate; that the Senate recede from their disagreement to the amendment of the House to the sixth amend-

ment of the Senate, and agree to the same; that the House recede from their disagreement to the first amendment of the Senate, and agree to the same with amendments, as follows: in line three of said amendment strike out the words "any railroads" and insert in lieu the words "the Illinois Central railroad;" and strike out all of said amendment after the word "States" line five, and that the Senate agree to the same as so modified.

The report was signed by Messrs. COWAN and WILSON, managers on the part of the Senate, and by Messrs. STEVENS and WASHBURN, of Illinois, managers on the part of the House.

Mr. STEVENS. The only matter in which the House feels any interest, connected with this report, is that which relates to payments to railroads to which land grants have been made upon condition of their carrying the troops and munitions of war of the United States free of toll. Now, sir, the House inserted a general provision against all railroads. We find that only one single one of the roads is paying sufficiently to require that provision, and that is the Illinois Central railroad. We have therefore amended the provision so as to confine it to the Illinois Central railroad.

I move that the report be adopted, and demand the previous question.

Mr. J. C. ALLEN. As I was a member of this committee of conference, and as I could not concur with the committee, I ask the gentleman from Pennsylvania to yield to me for a few moments while I explain the reasons why I refused to concur.

Mr. STEVENS. For that purpose I will yield, certainly.

Mr. J. C. ALLEN. I was not able to agree with the majority of the committee of conference in this report, and I ask the attention of the House while I briefly state the reasons for that disagreement.

The House will recollect that some time since when this bill was pending in the Committee of the Whole we had some controversy as to the proviso added to the bill which prohibited the payment of any portion of the money appropriated by the bill to any of the land-grant railroads. It struck me then that the provision was wrong and ought not to be ingrafted on the bill. Reflection since that controversy has only confirmed me in the correctness of the views that I then entertained. I feel certain, whatever may be the law of the question, that nobody anticipated when these grants were made the condition of things that now exists in our country, or no company would have accepted a grant of this kind and undertaken to build the road year after year when the Government of the United States was to take possession of it and compel the company to furnish the rolling stock and operate the road.

Mr. Speaker, it is not the first time in the history of legislation that men have been mistaken as to the construction of a law, and those gentlemen who seem so confident that they are correct in their construction of these grants may possibly be mistaken. Very eminent jurists have differed in opinion concerning it. The gentleman from Pennsylvania seems to think that no man can doubt but what the true construction of these acts is that the railroad companies are bound to do all the business of the Government, and furnish the rolling stock and the men to operate the road just so long as the Government of the United States may desire it for the transportation of troops and munitions of war. But while that is his opinion, other eminent lawyers in the country have taken a different view. The Secretary of War, when this question was first presented to his Department, took a different view of it, and I have been informed, I do not know whether truly or not, that the then Attorney General of the United States took a different view of it. I know that the question was at any rate waived by the Secretary of the Treasury and the President of the United States, and that the Illinois Central Railroad Company entered into a contract with the Government to carry their troops and munitions of war. And, sir, in a debate which occurred in the Senate the other day that contract was presented, and is to be found in the Daily Globe of February 22. By the terms of that contract the Illinois Central Railroad Company agreed with the Government that they would carry troops and munitions of war at a reduction of thirty-three and a half per

cent. upon their ordinary charges. Since that time they have been doing the business of the Government, as their contract required them to do, at the reduced price. This House, however, ingrafted a provision on the bill which prohibits the payment of any portion of the money appropriated by this bill to any land-grant railroad company, and they did it under a clause which has found its way into all these grants, and which reads as follows:

"The same shall be and remain a public highway for the use of the Government of the United States, free from toll or other charge for the transportation of any property or troops of the United States."

I may be permitted to say that this is a transcript, as far as it goes, from certain grants to turnpike roads and canals. Now, I presume that no one will contend that where the Government has granted lands in this manner to a canal, it was ever contemplated that those to whom the grant was made should find the boats and men to man them.

But it is said that a railroad grant is different, that a railroad comprises not only the road-bed, but also the rolling stock of the company and the men to operate it, and that therefore the railroad is not complete until it is furnished with cars, rolling stock, and men to work it. I repeat that there may be yet some doubt on that question. It is said that the road would be useless to the Government without the rolling stock and without the men to work it. No such thing, sir. The road-bed itself, with the rails, is of vast importance to the Government. The Government has the right to take and use the railroad for the transportation of troops and munitions of war under the provisions of the charter; and this it may do without any material interference with the regular business of the road. It is sometimes said that it is impossible for the Government to run cars on the road for the transportation of troops and munitions of war without constant danger of collision. There is no such danger. If the Government see fit to put cars on the road and run them, it can do so by regulating the time-table with the company. There need be no conflict.

But, again, Mr. Speaker, it is said that the rolling stock and the force to operate it must be placed under the control of the Government, and that the company is not entitled to receive anything for transporting troops or munitions of war. If that construction of the law be correct I ask the gentleman from Pennsylvania what there is to prevent this company from withdrawing from its road all the rolling stock, and where would be the remedy of the Government? The company has the right to do it. It is its own property, and it can do with it as it sees fit. Unless there were something in the charter positively requiring the company to furnish the rolling stock and to man it, it does seem to me that it is a forced construction of the law to say that the company is required to furnish all this.

But it may be said that the Government derives no benefit from the road if the rolling stock is not furnished to it. Let us see. This is a great thoroughfare, a great highway between the lakes and the mouth of the Ohio, on which the Government may transport its troops and munitions of war much cheaper and easier than if there was no road there. It would be of vast benefit to the Government if the Government should see fit to take it and operate it at its own charge.

Mr. Speaker, the Government has received compensation fourfold the value of the lands granted to the Illinois Central railroad. This was a grant of about two and a half million acres of land to the State of Illinois. The land was at the time in a wild state—most of it prairie land. There was no settlement on it, and nothing to induce settlement on it. It was then, and had been for years and years, in the market at \$1 25 per acre. The Government granted each alternate section within a given space to the State of Illinois, requiring at the same time that the reserved sections should not be sold at less than \$2 50 per acre. The State granted these lands to the Illinois Central Railroad Company which undertook to construct the work. The lands have become very valuable, but their increased value has been in consequence of the opening of the railroad, which afforded facilities for reaching the market. The consequence is that the land which was then a desert is now blossoming like a garden. It also

enabled the Government to dispose of the reserved sections of land not at \$1 25 an acre but at \$2 50 an acre. Many sections brought more than that; for the land was offered at public auction, and in the land district in which I reside I know tract after tract that sold for from five to seven dollars an acre, and this within three years after the grant was made; so that this Government has received its equivalent for the grant in the rapid sale of the reserved sections at enhanced prices. The Government has been receiving from the time that road went into operation consideration for the grant in the transportation of troops and munitions of war. Since the breaking out of the rebellion the Government has saved by the contract with the Illinois Central over half a million dollars; so that it is constantly receiving, every time it transfers men, munitions of war, or provender for its artillery or cavalry horses, a consideration for this grant in the reduction that is made in the ordinary charges, in the contract made with the company.

Now, Mr. Speaker, I have shown that the Government has received consideration for that grant. Then I ask, upon what principle of equity can you adopt this report of the conference committee? If the construction is correct which is placed upon this railroad grant by the Government, by my colleague on the conference committee, the gentleman from Pennsylvania, [Mr. STEVENS,] then I ask, why make a distinction between the Illinois Central Railroad Company and other railroads which received similar grants? Why not include them all? Is it because it is determined to adhere to the law? Is it because it is so "nominated in the bond?" If that be the reason, then I ask again, why make a distinction between the Illinois Central Company and other roads which have received land grants from the General Government? It is an unjust distinction between these roads, and cannot be defended upon the ground upon which it is placed by the committee.

It is said they make this distinction because the Illinois Central Railroad Company is able to bear it. Now, why is it able to bear it? Simply because by their energy and by the expenditure of their capital they have made that road valuable, and have opened up what was a wilderness to a dense population. And they are transferring along their line daily millions of tons of produce raised in a region of country which, without their skill, energy, and capital, would have still been a desert. I repeat that if they are sticking upon the legal question they ought to apply it to all the railroads.

Mr. STEVENS. I would ask my colleague on the conference committee [Mr. J. C. ALLEN] if he has not already occupied a full share of my time?

Mr. J. C. ALLEN. I feel under a thousand obligations to the gentleman from Pennsylvania, [Mr. STEVENS.] But this is a question in which I feel a deep interest as a citizen of the State of Illinois. While I regret that I trespass upon the time of the gentleman and upon the time of the House, it does seem to me that this company is entitled to be heard here, and not thus be singled out as a mark for those who desire to break down one of the most important interests in the Northwest; certainly the most important in my State.

Mr. STEVENS. I must take the floor again. I will yield for a few moments to the gentleman from Illinois on my left, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. I will not argue the legal question which has been presented here by my colleague, [Mr. J. C. ALLEN.] I will not, in justice to the House, do so, because not only has this Congress passed upon it unanimously by its Judiciary Committee, but the last Congress passed upon this question upon the able and conclusive report of its Judiciary Committee. They decided that those railroad companies built by grants of land were bound to carry the property and troops of the United States free of all toll and other charge. So far as that is concerned, that is the law of this House, and I will not now argue that question.

I will speak for a moment upon the point raised by the report of the committee of conference, without arguing the legal question. The original proposition offered by the gentleman from Iowa [Mr. WILSON] was that in the cases of all roads to which a grant of land had been made there

should be no more money paid to them for the transportation of the troops and property of the United States. It was that proposition, in that broad sense, which was objected to by the Senate, upon this ground: that while such might be the law, yet it would operate harshly upon, not the Illinois Central Railroad Company—that bloated, and pampered, and merciless monopoly, and one of the most stupendous franchises the world has ever known—but it would operate harshly and unjustly upon the railroads in other States, the new roads, as it were, which are not fairly under way. They therefore struck out the whole provision. The question then came before the committee of conference for them to settle. In that state of the case that committee determined that they would make the provision apply only to the Illinois Central Railroad Company, and let the War Department go on and pay all those other roads for transportation, if it should see fit. The proposition of the conference committee does not propose to interfere with them. But they do propose that no more shall be paid to the Illinois Central Railroad Company.

They propose that for these reasons: that company has already been paid out of the money of the people, and without warrant of law, the sum of \$552,000, although this House has unanimously passed two resolutions directing the Secretary of War not to pay that company another cent, and to take measures to collect back the money already paid. And why should they be paid? And why should we not pay them any more? The reasons which apply to the other roads do not apply to the Illinois Central railroad. I can prove to this House that the Illinois Central Railroad Company is vastly better off to-day than it would have been if there had been no war, even had they carried these freights, these troops, and property of the United States free, as they were bound by the law to do. I have been fortunate enough to get hold of a report this company made of its business for 1863. And let me heresay I do not know why my colleague [Mr. J. C. ALLEN] should feel such a particular interest in this road. It is not owned by the people of Illinois, or by any part of the people of Illinois. It is not controlled by those living in Illinois. Among the list of directors published on the back of this report of the road there are only two or three names of persons who live in that State. The president of the road lives in the city of New York. It is a road that is owned, I believe, by British bondholders. And my colleague and myself have no particular interest in the people who own and control that monopoly so far as guarding the interests of our constituents is concerned.

Mr. J. C. ALLEN. Will my colleague yield to me one moment, simply that I may reply to that last point?

Mr. WASHBURN, of Illinois. I did not interrupt my colleague in his remarks, and do not want to be interrupted myself.

Mr. J. C. ALLEN. It is true, I believe, that most of this stock is owned in Europe. We had to go there to get men to build that road.

Mr. WASHBURN, of Illinois. I wish to call attention to some facts in regard to this road which my colleague cannot gainsay. I was fortunate enough to get, by a sort of "flank movement," one of the reports of the company, and I could get only one. When the president of the road was here a short time ago, lobbying and button-holing members in order that he might prevent Congress from interfering with a further raid upon the Treasury, I asked him to furnish me with all the reports of the company as necessary to assist members of Congress to judge in order to discharge their duties in this regard. He has neglected to do so, and I have not been able to get those documents. But I will show by the report that I have what has been the business of the road for one year, at least, since the war commenced. This report shows what has been the business of the road in 1863, as compared with the year 1862.

In 1862, while this war was going on, the amount of receipts for passengers was, in round numbers, \$900,000. In the year 1863 the receipts of this road for passengers were more than fifteen hundred thousand dollars, and that, too, was independent of what the Government paid to the company. Hence I say that this road has increased its business immensely in consequence of the war

by the increase of business which the war has brought. The statement in regard to the freight business exhibits very nearly the same proportion—an increase of thirty-three per cent.

I asked the president of the road to let me see the report for the year 1864. I wanted it that I might show Congress what equitable claim this company have upon Congress to take this additional amount of money out of the Treasury. He put me off with the statement that the report had not been published; but I have seen in the newspapers a statement, which I have no doubt is correct, showing the amount of the earnings of that road for the year 1864, and they are absolutely enormous. According to this statement the earnings of the road from May to October were \$3,363,000, making at the rate of nearly seven million dollars for the year!

But, sir, what else is shown by this report? Do gentlemen understand what they are doing when they propose to tax our constituents still further for the benefit of this corporation? Sir, I believe I am the only member of this House who has, I may say, in one respect, the misfortune to live upon the line of this road. Gentlemen around me who reside in States where the rate of fare on railroads is limited by law may not have had the same experience that I have had. There is no limitation of the kind in the charter of the Illinois Central railroad. When I travel on that road, I pay, as do my constituents, as local fare, six cents per mile, and sometimes more than that; and the charge on freight is in proportion.

Mr. J. C. ALLEN. If my colleague will yield to me a moment, I desire to state that the rate of travel on the Illinois Central railroad is four cents per mile. My colleague has doubtless taken a ride between local stations, when the charge is higher, as it is on all roads.

Mr. WASHBURN, of Illinois. I said "the local fare;" and I know what I state to be true, because I have paid the fare myself.

Mr. DAVIS, of New York. Did the gentleman pay six cents local fare? or did he pay four cents local fare with an addition because he did not buy a ticket at the office?

Mr. WASHBURN, of Illinois. No, sir. Let me tell the gentleman that from Galena to Scales-mound is a distance of twelve miles, and when you go to the office at Galena to buy a ticket you are charged seventy-five cents. How would you like that, living as you do on the line of the New York Central railroad? How would your constituents like it?

Mr. DAVIS, of New York. In our State the rate of fare is limited by law to two and a half cents per mile.

Mr. WASHBURN, of Illinois. And I trust that there will be virtue enough in the New York Legislature to refuse to remove that restriction.

Now let us look further at this report. Let us see what amount of the fertile and beautiful lands of our own prairie State are held by this company, who are putting them up to the people who want to emigrate to Illinois at fifteen and twenty dollars per acre. They say that there are one million two hundred and eighty-two thousand acres remaining of that land; and that during the last year their cash receipts for lands were \$6,749,000, contracts, \$9,914,000, making \$16,663,000 that this company was to have for that one year from their lands alone. This is the poor, suffering, half-starved corporation for which the gentleman pleads. A poor corporation! Let us look at the income of this abused, stinted railroad company.

Mr. J. C. ALLEN. Will my colleague have the candor to say what the construction of the road has cost, and also what the rolling stock has cost?

Mr. WASHBURN, of Illinois. I suppose that they cost as much and no more than other roads of the same length have had to pay.

Mr. J. C. ALLEN. Will my colleague yield to me to make a statement?

Mr. WASHBURN, of Illinois. I hold the floor at the pleasure of the gentleman from Pennsylvania.

Mr. STEVENS. Well, then, hurry on. [Laughter.]

Mr. WASHBURN, of Illinois. I will hurry on. I will read the result of the income account of this road. Let us see what it is for 1863. There is \$453,000 for a balance. The net collec-

tion from lands amounted in 1863, principal and interest, to \$1,278,000, and the net income from traffic amounts to \$2,118,000, making the gross amount of \$3,862,000.

Mr. J. C. ALLEN. I hope that my colleague will yield to make a statement in regard to that.

Mr. WASHBURN, of Illinois. I hold the floor by the courtesy of the gentleman from Pennsylvania, and he declines to permit me to yield.

I will give a little more information to my colleague, who seems to feel a great interest in this matter, as I certainly do. The president of the road in his report uses language like this, that it is worthy of note that when the interest due on many of the contracts is made up the total results of sales of half the lands will exceed \$17,000,000, the value placed upon the entire grant of lands ten years ago. Ten years ago they placed an estimate of \$17,000,000 upon the whole of the lands!

A MEMBER. It was a regular oil transaction. [Laughter.]

Mr. WASHBURN, of Illinois. Yes, sir, that company has "struck it."

Mr. J. C. ALLEN. I ask my colleague to yield to me.

Mr. WASHBURN, of Illinois. I will if the gentleman from Pennsylvania will permit me.

Mr. STEVENS. I cannot let the gentleman have the floor more than five minutes longer.

Mr. J. C. ALLEN. I desire to say that that company expended \$19,000,000 in laying the road-bed and putting down the rails, and that it has now \$12,000,000 of rolling stock in operation. And it has paid into the treasury of Illinois \$400,000.

Mr. WASHBURN, of Illinois. I have no desire to say anything further on the subject. I think I have brought the attention of the House to the claim that this railroad has to induce us to tax our constituents as they have taxed them over half a million dollars already by the money they have wrung from the Treasury. I make the prediction that if we permit this thing to go on, the amount this company will eventually get will amount to more than a million dollars. Sir, I deny our right to take this amount of the money of our constituents to pay this unjust and unjustifiable and impudent demand of this company. Let us save our money to pay our brave soldiers in the field instead of voting it as a gratuity to a mammoth monopoly that is grinding to the earth every interest of my State along the line of the road.

Mr. STEVENS. I have made up my mind after examination that the present stockholders never paid a dollar for the stock—that is, all they paid has been reimbursed—and they have land now worth \$25,000,000 which they will put into their pockets when it is sold. They can carry the Government troops and munitions of war and have a net profit of twenty per cent. I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. J. C. ALLEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 37, not voting 67; as follows:

YEAS—Messrs. Ames, Ancona, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boyd, Brumall, Cobb, Cole, Henry Winter Davis, Dawes, Dawson, Deming, Dixon, Driggs, Dumont, Eckley, Eliot, English, Finch, Frank, Garrison, Garfield, Griswold, Harrington, Herrick, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Kelley, Orlando Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perlman, Pike, Pomerooy, Radford, William H. Randall, Rogers, Edward H. Rollins, Schenck, Scofield, Scott, Shannon, Smithers, Stevens, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, Whaley, Williams, Wilder, Wilson, Windom, Winfield, Woodbridge, and Worthington—78.

NAYS—Messrs. James C. Allen, Arnold, Clay, Coffroth, Cox, Thomas T. Davis, Eden, Edgerton, Eldridge, Farnsworth, Grinnell, Ingersoll, Philip Johnson, Kernan, Knapp, Le Blond, Littlejohn, Long, Morrill, James R. Morris, Morrison, Noble, Odell, Patterson, Pendleton, Pruyn, James S. Rollins, Ross, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweet, Townsend, William B. Washburn, and Chilton A. White—37.

NOT VOTING—Messrs. William J. Allen, Alley, Allison, Anderson, Baile, Augustus C. Baldwin, Blair, Bliss, Blow, Boutwell, Brandegee, Brooks, James S. Brown, William G. Brown, Chanler, Ambrose W. Clark, Freeman, Clarke, Cravens, Creswell, Denison, Donnelly, Gooch,



Grider, Hale, Hall, Harding, Benjamin G. Harris, Charles M. Harris, Hotchkiss, Hutchins, William Johnson, Julian, Kabbelsch, Kasson, Francis W. Kellogg, King, Law, Lazear, Mallory, Marcy, McAllister, McDowell, Melndoe, McKinney, William H. Miller, Nelson, John O'Neill, Perry, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Robinson, Sloan, Smith, Spalding, Starr, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Wheeler, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—67.

So the report was adopted.

Mr. WASHBURN, of Illinois, moved that the vote by which the report was adopted be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bill of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 176) authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid him under his contract for building a steam screw sloop-of-war; and

An act (H. R. No. 800) to establish the office of Solicitor and Naval Judge Advocate.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the miscellaneous appropriation bill.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair), and resumed the consideration of the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes; the pending question being on the amendment of Mr. STEVENS, to insert the following:

For publishing the annual report of the National Academy of Sciences made to Congress under the act approved March 3, 1863, \$6,000.

Tellers were ordered; and Messrs. HOLMAN and ASHLEY were appointed.

The House divided; and the tellers reported—ayes 80, noes 16.

So the amendment was agreed to.

Mr. ASHLEY. I move to amend by inserting after line three hundred and twenty-eight, the following:

That from and after the passage of this act the chief justice, and the associate justices of the supreme court of the Territory of Colorado shall each receive the same salary now paid to each of the judges of the Territories of New Mexico, Utah, Arizona, Idaho, and Montana.

Mr. DAWES. I rise to a point of order. The salaries of these judges are fixed by law at a certain sum. If this appropriation pass the law will be changed. This is not one of the departments of the Government to be carried on.

The CHAIRMAN. The Chair sustains the point of order, and rules out the amendment.

Mr. DAVIS, of New York. I move to amend by inserting after line three hundred and thirty-one, the following:

For protecting and continuing the work on the Potomac aqueduct, \$100,000, to be expended under the direction of the Secretary of the Interior.

I introduce this amendment because I believe it to be due to the public interests of this city. The Potomac aqueduct, upon which we have expended a large amount of money, has never yet accomplished the purpose for which it was designed, and for which the expenditure already incurred has been laid out. I am told here incidentally that it never will. I do not know whether it ever will or not. It never will unless Congress shall appropriate the necessary funds for the completion of that work.

A MEMBER. How much will it cost?

Mr. DAVIS, of New York. It may cost a hundred and fifty or two hundred thousand dollars. But, sir, I am not unmindful of the fact that the people of this metropolis have now no water fit for consumption, except that which comes from the springs in the city, and I fear very much that unless we can supply them with water from the Potomac purer than that which now flows below the High Falls they will be drinking something else more deleterious, and I do not

know but members of Congress may get into the habit of doing the same thing.

Now, sir, the object of the Potomac aqueduct was to furnish the city of Washington with pure water from the Potomac, above the High Falls, but the expenditure already incurred has not been sufficient to complete the work for making the conduit from the dam below those falls down to the reservoir of the city.

Mr. HULBURD. What was the last appropriation last year?

Mr. DAVIS, of New York. The last appropriation was \$150,000, I believe. I believe all but \$30,000 and odd have been expended in that work, and that over \$30,000 was expended, under the language of the bill, under the interpretation of Senator MORRILL and the interpretation of the Secretary of the Interior, in paying liabilities already then existing, and which were a charge upon that fund by the very letter and words of the bill. That was \$150,000; and I understand it has all been expended except \$37,000 for that specific purpose, and that some money has been expended for the fees of arbitrators and other expenses incidental to the prosecution of the work, about the policy and justice of which I have nothing to say. I do not know whether there has been any misappropriation of money or not. All that I know is that the Secretary of the Interior is charged with the supervision of the disbursement of this fund. It is his duty to pay it according to law, and if we appropriate the fund and he refuses or neglects to pay it in conformity with law he is responsible to law, and I would hold him to his responsibility.

Mr. PRICE. I wish to ascertain from the gentleman from New York whether, in the present condition of the reservoir, when the gates are opened, the water will run in or out.

Mr. DAVIS, of New York. That is a matter with which I have nothing to do. This appropriation is for the purpose of completing the aqueduct to bring the water around the reservoir to the city.

In my own judgment the construction of that reservoir was a magnificent failure. I think it very likely that there have been other failures in connection with this work. But I hold it to be the interest and the policy of the Government not to fail again, but to go on and furnish the metropolis with pure and wholesome water for the consumption of its inhabitants.

Mr. WOODBRIDGE. How much money has been expended in the payment of arbitrators?

Mr. DAVIS, of New York. Seventeen thousand five hundred dollars have been expended under the direction of the Secretary of the Interior in the payment of arbitrators and expenses of witnesses and other expenses incident to important arbitrations arising under contracts for this work. I have no doubt as to the policy, expediency, and justice of this appropriation. The amount thus expended was expended under the provisions of the law directing the Secretary of the Interior to pay existing liabilities upon the work.

Now, sir, there may have been corruption even, there may have been wrong; but I ask the House if that is any reason why we should not furnish to the citizens of this metropolis this necessary beverage for health and domestic uses? It seems to me that we should be wrong in saying that no more shall be expended, and that a work partially completed shall be suffered to go to decay. And I desire to know why the Committee of Ways and Means, charged with the administration of the finances of the country and knowing the necessity of an appropriation for this work, have not reported to this House some appropriation for the purpose of completing this work.

Mr. PRICE. I oppose the amendment. I have a very distinct recollection that last session they asked for an appropriation of \$150,000 to complete this aqueduct. I remember that it was disclosed in the discussion of that matter that the \$100,000 expended prior to that time had been expended in making a reservoir, into which the water was to be let from the Potomac; but during its construction some water gathered in it, and when they opened the gates, instead of the Potomac water flowing into the reservoir the water in the reservoir flowed into the Potomac. [Laughter.] We were then asked to appropriate \$150,000 for the

purpose of correcting the error or mistake which had been made by the engineers who constructed the work. That appropriation was made for the purpose of correcting past errors and giving to the people of this metropolis a beverage conducive to health and happiness.

And now they come and ask \$100,000 more to "complete" the reservoir again. I am tired, for one, of completing this aqueduct. It never will be completed. It is always doing and never done, and I for one am opposed to making any such further appropriation.

Mr. MORRILL. Mr. Chairman, the gentleman from New York inquires why the Committee of Ways and Means did not recommend an appropriation for the completion of this reservoir and aqueduct. For one I am ready to answer the question. On a thorough examination of the engineer and of the Department the committee became dissatisfied with the vast expenditure of money for this purpose, and was unwilling to recommend an appropriation of another dollar until the whole matter should be thoroughly investigated. There was no time this session to do that.

Mr. KASSON. I inquire of the Chair whether the five minutes of the gentleman from New York are yet terminated.

Mr. DAVIS, of New York. I presume not.

Mr. KASSON. I should be glad to use part of his remaining time in answering his question.

Mr. DAVIS, of New York. I give way.

Mr. KASSON. I want to ask the gentleman from New York, who spoke about the danger of the work already constructed being lost, if he can name any specific danger that exists. I want also to answer the question he put as to the reason why the Committee of Ways and Means did not recommend an appropriation this session. During the last session the Committee of Ways and Means, at somebody's expense, I believe, went up and examined this work all the way to the Great Falls of the Potomac; and we found that the statement of the engineer was tolerably correct; that by the appropriation made last session he could conduct the real water of the Potomac around the reservoir which takes in the wash of the surrounding hills, and could give pure water to the city. They also wanted some clause put in about paying extra liabilities. That unfortunate clause was adopted, not in reference to any arbitration of awards, but to facilitate the actual, necessary, and immediate work.

The Committee of Ways and Means recommend an appropriation in good faith, believing that good faith was used in the representations made, and that pure water would be brought into the city. It is now said that it has not been done, and that it still requires \$100,000 to complete it. It seemed to the Committee of Ways and Means that there is so much doubt hanging over the disbursement of the appropriation for this purpose that it could not in good faith to the House recommend an appropriation of an additional \$100,000 which might not yet result in the accomplishing the purpose of the work.

Mr. DAVIS, of New York. I wish to ask the gentleman from Iowa whether the necessity for pure water for this metropolis is any less now than it was one year ago?

Mr. KASSON. I answer, sir, that I think there is a great deal more necessity for it now.

Mr. DAVIS, of New York. Very well, then.

Mr. GRINNELL. Whisky is higher. [Laughter.]

Mr. KASSON. There is more necessity for it, as the prices of other ingredients in drink are increased. [Laughter.] But I am not at all certain that we would get it for this \$100,000; for we should have to appropriate it on the same basis identically as we made the appropriation last year when we were disappointed.

Mr. DAVIS, of New York. Mr. Chairman, if the parties charged with the construction of the work have failed to perform their duty, it is competent for the House to interfere and to say that the work shall be constructed under another construction and another supervision. All that I insist upon here is that we shall give the people of this metropolis pure water to use; and it is no answer for us to make for refusing to do it that some contractor has failed to do his work, or has squandered the money appropriated for the purpose.

Mr. PRUYN. Mr. Chairman, as the facts of this matter are not fully understood, I should like to make a brief statement to the committee. Last year estimates were laid before Congress showing that it was necessary to appropriate a little over two hundred thousand dollars to complete the work. The House allowed only \$150,000. The estimate now is that \$72,000 would be required to complete the work, which is only \$22,000 in excess of the estimate of last year. That is all there is of this thing, if I understand it.

Mr. PRICE. The title of the law of last year is this: "To provide for the supervision, repair, liabilities, and completion of the Washington aqueduct." If that does not cover all the ground, then I do not understand language.

Mr. PRUYN. That is all very true that the act of Congress used that language. I am now referring to what we were told by the engineer this would cost, and I am comparing the estimate with the amount appropriated, in order to show that the charge of wasteful extravagance or of extravagance of any kind in regard to this matter arises from some misapprehension on the part of the Committee of Ways and Means.

We were told last year that this work would require \$200,000. We appropriated \$150,000, and it turns out now that the whole excess required over the estimate of last year is \$22,000 more. It is thought by some of my associates on the Committee of Ways and Means that part of the appropriation was used to pay legal expenses in connection with the aqueduct. Judge Curtis, late of Boston, and four others, I think, five in all, were appointed arbitrators in regard to certain claims arising in reference to taking the water at High Falls. Those arbitrators were paid from two thousand to twenty-five hundred dollars each, making, with the charges of the counsel, Mr. Bradley, some seventeen thousand dollars, which the Secretary of the Interior thought himself authorized to pay. Those were debts due by the United States, and it is no matter whether the money to pay them was taken out of one appropriation or another; we owed them and they ought to have been paid.

Mr. MORRILL. I do not desire to throw any imputation upon the integrity of the Secretary of the Interior, although I think he committed a great error of judgment in paying these claims. But I would ask the gentleman from New York [Mr. PRUYN] whether he thinks that a stale claim that has been before Congress for years and refused by committees of Congress was one that the Secretary of the Interior ought to have paid under the term of "liabilities" on account of this aqueduct.

Mr. KERNAN. And a claim that was offered for sale over and over again for \$3,000.

Mr. PRUYN. I only know this, that the proper officer of the Government asked those men to agree to act as arbitrators in this matter, that the Government was found to be indebted to this amount, and that it was paid out of this appropriation.

Mr. MORRILL. Does the gentleman suppose that a single member of Congress understood by this word "liabilities" that this stale claim would be paid out of that appropriation?

Mr. PRUYN. I do not know about its being a stale claim, for I was not here before. I know that the term "liabilities" is a very broad one, that these arbitrators deemed the claim to be a just one, and that an honorable Senator of the United States construed the term "liabilities" in the appropriation to include this claim. And another thing: if the committee meant to exclude any class of liabilities or claims they should have said so. But they used a broad term which in my judgment covered all these cases.

Here is a great national work, a work of the greatest importance to the interests of the public, to all our public buildings in Washington, to the health of the inhabitants of Washington, and, if you please, to the health of members of Congress; and the sum now asked for the purpose of finishing this work is comparatively but a little more than was estimated for last year. I am told that the water of the Potomac has never yet been brought into this city, excepting, I believe, to a very small extent at the time of a high flood; and I do trust that unless we have made up our minds to abandon this important work, after having

already expended so much money upon it, we will vote this small amount for its completion.

Mr. WASHBURN, of Illinois. I desire to recall to the attention of the House the circumstances under which the law approved July 4, 1864, was passed; I think I have a pretty clear recollection of them. I then supposed that the denouement would come in a reasonable time, but I confess I did not expect it would come quite so soon. I have been here in Congress for some years. I have seen immense sums of money appropriated for this work, year after year. At last, I believe, we put in some proviso that no more money should be appropriated for this purpose, and we also rejected some old claims. When this appropriation was proposed at the last session, I was advised of the true state of facts, and was told what would be the result if it was passed; and I resisted it by every parliamentary maneuver of which I was master. Of course I was beaten; there could not be got enough to give us the tellers on ordering the yeas and nays. The bill was passed making an appropriation for this work of \$150,000. We were told, over and over again, that that would be enough to complete the work. My honorable friend from Pennsylvania, [Mr. STEVENS.] I recollect, made this distinct statement, that unless that appropriation was made the soldiers in the hospitals in this city would not have water to drink. And under the appeals which were made, and upon the express understanding and the asseveration that the amount then proposed would complete the work, and that we would not be called upon for another dollar, the bill was passed.

Now these men come in here, after having used a part of that appropriation in the payment of old bogus claims, as I believe them to be—some of them having been before Congress and rejected as unjust—they now come in here and ask that we shall appropriate \$100,000 more. I hope it will not be given. I am very glad the Committee of Ways and Means seem to have got to the bottom of this matter, and have refused to recommend this appropriation.

Mr. STEVENS. I will say a few words upon this subject, and then I will ask for a vote upon it. Last year, having expended some \$3,000,000 upon this work, the committee thought they would stop making appropriations for it. We were taken, at somebody's expense, very politely all along up the work. For my part I could not see where a half a million had been honestly expended. But what did we find? Three miles out there was a dam built across a valley between two hills, where there was a small run, and forty acres of the surrounding country, including barnyards and stables, were drained into that reservoir. From the reservoir down was a conduit. The people here had supposed that they had been drinking the water of the Potomac. I can't say that I liked it; I could not tell what it was like, and I eschewed it pretty much as my friend here [Mr. WASHBURN, of Illinois] does other liquors, compounds, and mixtures. [Laughter.] We found the water in that reservoir to be about eight feet deep. We inquired a little into the history of it, for no report shows the fact, and found that there had been a tunnel brought from the Potomac at the falls into the upper end of this reservoir, near the "White House," coming out down at the gateway. The fact appeared upon cross examination, and was admitted, that when it was opened into this reservoir to let the water of the Potomac in, it drained the whole reservoir into the Potomac and muddied that stream, and they were obliged to put at the upper end of the reservoir a gate, which was there when we examined the work, to keep the water from running back into the Potomac. We therefore thought it better to stop all these reservoirs. They had made arrangements for the expenditure of \$3,000,000 more for reservoirs. We put an end to that plan. We concluded that it was best to construct a conduit which would avoid this reservoir altogether, so that we could get the Potomac water without its passing through this mud-hole. We inquired of the engineers there as to the expense of this arrangement, and they assured us that \$150,000 would do it. We included an appropriation for this purpose in a bill which we reported. We were told that there were some bills unpaid, for work, horses, carts, &c., and we were asked to put the appropriation in such a shape that those

charges could be paid. Nobody ever said a word about outstanding claims for fees. We were foolish enough, therefore, to put the appropriation in a form which would allow these charges, small, as we supposed, to be paid. The result is, that instead of applying that appropriation of \$150,000 for the work which we contemplated, a large portion has been paid out for purposes for which it was never appropriated.

Mr. MORRILL. Can the gentleman state whether the contract was given to the lowest bidder?

Mr. STEVENS. I am coming to that. They paid out of that appropriation an old claim of some very respectable lawyers, amounting to seventeen or eighteen thousand dollars, for what? For having examined the damages and awarded immense sums to the riparian owners above and below the Great Falls, entirely ignoring the established principle of American law that in our great rivers the tide-water does not limit the eminent domain of the Government, and that the riparian owners, instead of owning the bed of the river and the water of the river, own only to low-water mark. I had supposed that to be the common law of America; I suppose that no lawyer here will deny that it is. But there was awarded to these people I do not know how much, perhaps a million or two of dollars. The lawyers who some years ago made this award, charged for their services \$17,000. No Congress would ever pay this claim; but under the provision which I have mentioned, designed for the payment of a few poor workmen, these lawyers received \$17,000.

When the contract was to be given out for the conduit between the White House and the Gate House, bids were put in by parties whom the engineer admitted to be responsible in every sense of the word. When we asked him, "Did you give the contract to the lowest bidder?" he answered, "We gave it upon the lowest bid." That is, instead of giving it to the lowest bidder they took the lowest bid, and gave it at that rate to certain favored contractors.

Sir, I for one shall never vote a dollar for this work until it gets into other hands not less honest than those that now control it.

Mr. WASHBURN, of Illinois. I desire to know who it was that gave out this work in that manner.

Mr. STEVENS. I believe the name of the engineer was Seymour.

I now move that debate be closed on this section.

The motion was agreed to.

The question was taken on the amendment of Mr. DAVIS, of New York, and it was rejected.

Mr. DUMONT moved to amend by adding the following:

For fencing in, repair and completion of the United States court-house and post office at Indianapolis, Indiana, and paving the sidewalk in front of the same, the sum of \$5,000, or such part thereof as may be necessary, is hereby appropriated to be expended under the direction of the Secretary of the Interior.

Mr. STEVENS moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PRICE reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 786, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes, and had come to no resolution thereon.

An then, on motion of Mr. ANCONA, (at twenty minutes past eleven o'clock, p. m.,) the House adjourned.

## IN SENATE.

THURSDAY, March 2, 1865.

Prayer by Rev. B. B. EMORY, of Washington, District of Columbia.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal was dispensed with.

## PETITIONS AND MEMORIALS.

Mr. FOSTER presented a petition of Mrs. Mary E. Fitzpatrick, praying for a pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a memorial of persons engaged in the business of buying and selling, refining, clarifying, and rectifying wines and other liquors in the city of New York, praying that the present tax of fifty cents per gallon levied upon manufactured wines may be removed and a tax of five per cent. upon sales be substituted; which was ordered to lie on the table.

Mr. CHANDLER presented resolutions of the Legislature of Michigan in favor of a grant of land for the endowment of a mining school in that State; which were referred to the Committee on Public Lands.

#### REPORTS FROM COMMITTEES.

Mr. SUMNER, from the select committee on slavery and freedmen, to whom were referred the resolutions of the constitutional convention of West Virginia, in favor of an appropriation to aid that State in emancipating the slaves therein, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of officers of United States volunteers holding positions in the colored organization in Louisiana, praying for the abolition of slavery, and that colored men may be admitted to all the civil and political rights of white men, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred two petitions of citizens of Berrien county, Michigan, praying that one or more of the southern States may be set apart as a home for colored people, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Wisconsin, praying that colored soldiers may be placed on the same footing in all respects as white soldiers, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of Richard Foster, praying that Congress grant him the means to purchase a cork leg and enable him to attend school six months at the colored college in Oberlin city, Ohio, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred a petition of citizens of the United States, and a petition of citizens of Ohio, praying for an amendment of the Constitution of the United States more fully recognizing the obligations of the Christian religion, asked to be discharged from their further consideration; which was agreed to.

Mr. GRIMES. The Committee on Naval Affairs, to whom was referred two memorials of Norman Wiard, praying that the invention and fabrication of ordnance may be opened to public competition, have directed me to ask to be discharged from their further consideration. The Senator from Ohio, the chairman of the committee on the conduct of the war, submitted a very voluminous report on this subject which was before the Committee on Naval Affairs, but which has not yet been printed, and it is therefore desirable that the matter should lie over.

The committee were discharged from the further consideration of the subject.

Mr. GRIMES, from the Committee on Naval Affairs, to whom were referred three petitions of captains, commanders, and lieutenant commanders on the active list of the United States Navy, praying for a restoration of the pay allowed to their respective grades prior to the passage of the act "to establish and equalize the grades of line officers of the Navy," approved July 16, 1862, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 605) to increase the pay of midshipmen and others, reported it with amendments.

He also, from the same committee, to whom was referred the memorial of the American Medical Association, praying for an increase of the rank and pay of surgeons in the Navy, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred resolutions of the Chamber of Commerce of the State of New York relating to a

general tax on the sales of merchandise; to a ship-canal uniting Lakes Erie and Ontario; to the establishment of a line of steamers from San Francisco to Japan and China; and to fast-sailing ships of the Navy, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of R. B. Forbes, praying that the Secretary of the Navy may be authorized to purchase the steamship Meteor, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred a petition of officers of the United States Government employed in the Washington navy-yard, and a petition of acting assistant surgeons attached to the Mississippi squadron, praying for an increase of compensation, asked to be discharged from their further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge, reported it with an amendment.

Mr. DIXON, from the Committee on the District of Columbia, to whom was referred the petition of E. M. Dennison, crier of the supreme court of the District of Columbia, praying for an increase of compensation, reported a bill (S. No. 484) regulating the compensation of the crier of the supreme court of the District of Columbia; which was read, and passed to a second reading.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (H. R. No. 729) to amend the act relating to officers employed in the examination of imported merchandise in the district of New York, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of the president and secretary of the Board of Commissioners of the Soldiers' National Cemetery Association, praying for an appropriation to aid in the erection of a monument to the memory of the soldiers who fell in the battle of Gettysburg, submitted a report, which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (H. R. No. 566) for the relief of Francis Patterson, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 357) for the relief of Olivia W. Cannon, widow of Joseph S. Cannon, late a midshipman in the United States Navy, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 790) for the relief of Henrietta O. Gardner, have directed me to report it without amendment, and with a recommendation that the bill do not pass. The petitioner is no doubt meritorious, and her husband was a meritorious officer; but he was in the revenue service, and it is deemed contrary to the policy of the Government to pension those who are engaged in the civil service of the Government, or to pension their widows in case of their death.

#### REBECCA SCOTT.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 436) granting a pension to Rebecca Scott, widow of Major John B. Scott, late of the United States Army, have directed me to report the same back with an amendment, and recommend its passage. The amendment will require to be acted upon by the House. It merely changes the time when the pension is to commence, making it from the time of the application here instead of going back as the House bill does. I think the case a meritorious one. If it passes the Senate now, it may receive the action of the House and become a law; and as the bill consists of but three lines I ask the unanimous consent of the Senate to allow it to be acted upon at the present time.

Mr. COLLAMER. For three or four mornings I have endeavored to call the attention of the Senate to the annual post route bill; and I cannot but say that I feel it to be my duty to insist that a preference shall be given to that bill over any private bill whatever.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Objection being made, the bill cannot be considered.

#### PROPOSED CONSTITUTIONAL AMENDMENT.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a petition of citizens of the United States praying for an amendment of the Constitution more fully recognizing the obligations of the Christian religion, have directed me to report it back, and ask to be discharged from its further consideration.

In making this report I desire to state that the committee instructed me to make a report a few days ago in reference to some petitions both for and against this amendment to the Constitution, and I observe that it is reported in the newspapers that the Committee on the Judiciary reported against the recognition of God in the Constitution. The Committee on the Judiciary reported no such thing. The committee simply asked to be discharged from the consideration of the memorials both for and against the amendment of the Constitution as proposed, they being of the opinion that it was unnecessary and injudicious, at this time, at any rate, to make such an amendment. The committee believe that the Constitution of the United States does recognize the existence of a Supreme Being. It requires every officer to take an oath; and what is an oath but a promise corroborated or confirmed by an appeal to the Supreme Being? It also contains a clause providing that Congress shall make no law prohibiting a free exercise of religion, thereby recognizing the right of religion. The committee considered that such an amendment of the Constitution as was prayed for by those memorialists was unnecessary; and it is for that reason the committee ask to be discharged from the further consideration of this memorial.

The motion to discharge the committee was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and additional appropriations for the current fiscal year.

#### PRIVILEGES OF THE SENATE.

Mr. HALE. I rise to a privileged question, and I will state it by reading a resolution that I propose to submit:

*Resolved*, That the letter of G. V. Fox, accompanying the answer of the Secretary of the Navy to a resolution of inquiry of the Senate, be not received by the Senate, it being irrelevant to the subject-matter of inquiry.

I will read the first paragraph of that letter, so that the Senate may know what it is:

"Hon. GIDEON WELLES, *Secretary of the Navy*:  
"Sir: As part of your reply to the resolution of the Senate of February 3, 1865, in response to the allegations of Hon. JOHN P. HALE against me, in advocating said resolution I beg leave to submit the following statement."

And then follows a statement of about seventy pages of autobiography of Mr. Fox, stating how much sea service he has seen, and that it is more than some of the admirals now in command of squadrons, and vindicating the wisdom of his measure for relieving Fort Sumter. I think the Senate ought to take some action upon it, and as it is late in the session I shall be content if the Senate will simply rescind the order to print the document. If I make a speech I have to pay for its publication out of my own pocket, and I do not think it is right for the Senate of the United States to print Mr. Fox's answer to my speech as a public document; and I think it is an abuse of the privileges of the Secretary to send such a paper in here.

The PRESIDING OFFICER. Does the Senator ask for the present consideration of the resolution?

Mr. HALE. Yes, sir.

Mr. CONNESS. I object to its present consideration.

The PRESIDING OFFICER. Objection being made, the resolution cannot be considered to-day.

Mr. HALE. Does a question of privilege go over on a single objection?



The PRESIDING OFFICER. It can be introduced as a question of privilege; but it cannot be considered on the same day if objection is made.

Mr. HALE. If the Senator will consent to allow the order to print the document to be rescinded I shall be content.

Mr. CONNESS. I do not sufficiently understand the question to do that. It appears to me, from the reading of the resolution itself, that it is a very improper resolution, and I am not prepared to vote upon it.

Mr. HALE. I do not want a vote upon it now.

The PRESIDING OFFICER. Objection is made, and it cannot be considered.

#### PERSONAL EXPLANATION.

Mr. CLARK. I move that the Senate proceed to the consideration of the bill for the relief of Josiah O. Armes. I think it will take but a moment.

Mr. CONNESS. Will the Senator permit me to say one word upon a matter of privilege before that bill is taken up?

Mr. CLARK. Certainly.

Mr. CONNESS. I rise to a matter of privilege, not concerning myself, but concerning, as I now believe, a faithful public servant. About the 16th or 17th of January, it will be remembered, a bill or resolution was introduced by the honorable Senator from Vermont [Mr. COLLAMER] concerning trade in the rebel States, and there was considerable comment, made by myself among others, touching Treasury agents; and I read an extract from a letter received from an attorney at New York, named Hale, which concerned and involved Colonel Heaton, Treasury agent at Newbern, North Carolina. I hold in my hand a letter from that gentleman from which I desire to read one paragraph, in order that it may go into the Globe.

Mr. TRUMBULL. I desire to inquire what is before the Senate.

The PRESIDING OFFICER. The Senator from California is addressing the Chair on a question of privilege.

Mr. TRUMBULL. I should like to know what question of privilege.

The PRESIDING OFFICER. He has stated it.

Mr. CONNESS. I submit to the Chair whether it is entitled to consideration. I have stated it, I think, clearly; and I have never heard of such an interference as this before.

Mr. COWAN. I take it that is not a question of privilege. I understood this Senate to refuse to the honorable Senator from Indiana [Mr. LANE] the very same privilege at the last session that is now claimed by the Senator from California; that is, the privilege of defending some individual not connected with the Senate in any way whatever.

Mr. CONNESS. I am connected with the Senate.

The PRESIDING OFFICER. Will the Senator from California state the question of privilege?

Mr. CONNESS. The question is this: I now believe that I have misrepresented on this floor (of course innocently) a faithful public servant. I desire to do him justice, so that the report of what I shall say may go into the Globe.

The PRESIDING OFFICER. The Chair thinks the Senator from California has a right to make the explanation.

Mr. CONNESS. Now, I hope the Senators who have objected are satisfied. I will read a single paragraph from a letter of Colonel Heaton, an agent of the Treasury Department at Newbern, North Carolina. He says:

"The charges of this attorney of my being in collusion with Mr. Dibble, and being a partner with him in his profits, I brand as infamously and unqualifiedly false. There is no truth in the assertion. I have never been heretofore, and am not now, a sharer of profits with Dibble or any other man, in any manner whatever, directly or indirectly."

That is all that I shall trouble the Senate with. I wish simply to say, in addition, that I believe Colonel Heaton to be a faithful public servant and a high-minded gentleman.

JOSIAH O. ARMES.

Mr. CLARK. I now move that the Senate proceed to the consideration of the bill to which I called attention a moment ago. It is a House bill, and I think it will take but a few moments.

The motion was agreed to; and the Senate, as

in Committee of the Whole, proceeded to consider the bill (H. R. No. 161) for the relief of Josiah O. Armes, which requires the Secretary of the Treasury to pay to Josiah O. Armes the sum of \$9,500, in full for damages sustained by him in consequence of the burning of his buildings and the destruction of his property at Anandale, Fairfax county, Virginia, by the United States troops.

Mr. CLARK. I ask the Secretary to read the report of the committee. It is very short and will give a statement of the claim as succinctly as I can do it.

The Secretary read the following report:

The Committee on Claims, to whom was referred bill H. R. No. 161, entitled "An act for the relief of Josiah O. Armes," with the accompanying petition and documents, respectfully report:

At the breaking out of the present rebellion, Josiah O. Armes, the claimant, was the owner and in possession of a valuable house and out-buildings at Anandale, Fairfax county, Virginia. The house was a valuable one, and all the testimony in the case tends to show it to have been worth twelve or fourteen thousand dollars. It was built of stone, three stories high, with a cupola on top, fourteen feet high, with windows for lighting the stairway beneath. The house was octagonal in form, and about two hundred feet in circumference. There were two verandas extending around it, well latticed, and supported by two tiers of columns. The roof of the house was covered with tin, and the cornice was large and heavy. The house contained thirty rooms, some of which were large, including seven parlors. The building of the house was commenced in 1856 and completed in 1860, and was intended for a female seminary. There were in the house twenty-eight windows, and the rooms were well ventilated. The walls were fourteen inches in thickness, and there were four firmly-built brick chimneys. The foundation was good, and the wood-work painted, outside and in.

The master-builder of the house testifies that, from his knowledge, at the time, it cost the said Armes \$10,000. There were attached to it a servants' house, a granary, barns, sheds, and carriage-house.

The last of November or the first of December, 1861, this house and buildings were destroyed by order of Colonel R. J. Beige, of the sixty-eighth regiment New York volunteers.

Mr. Armes had been driven out from the house before its destruction; and the country about it seems to have been a sort of debatable or skirmish ground—sometimes held by Union troops and sometimes by the rebels. Mr. Armes was, and is, a thoroughly loyal citizen. In the commencement of the war he was of service to our troops in giving information of the movement and situation of the rebels; and General Heintzelman, in a letter submitted to the committee, acknowledges the valuable aid he afforded.

At or about the time the property was destroyed by order of Colonel Beige, the buildings seem to have been used by the rebel troops both as an observatory of the movements of the Union troops and as a stronghold from which they fired upon our men as occasion offered. To prevent its being longer so used Colonel Beige ordered it, as a military necessity, to be destroyed. General Heintzelman, in a letter dated January 18, 1862, says he heard of the matter at the time that the buildings were burned by our troops, and it was a military necessity. He also adds, that "the mother" (meaning Mrs. Armes, the wife of the claimant, and mother of a young man then in our Army) "came in one dark night last summer to give us information at the risk of her life."

The committee have not been able to obtain the evidence of Colonel Beige, who ordered the property to be destroyed, for the reason that he has left the service, and his place of residence has not been ascertained. There is, however, the testimony of several persons, officers in and members of his regiment, who say that they heard Colonel Beige give the order for the destruction of the property at the time it was burned.

The House of Representatives have reported a bill for the relief of Mr. Armes, to the amount of \$9,500, and the committee are satisfied that the property was of that value, and more; that it was destroyed by the Union troops as a military necessity, under order of their commander; they therefore recommend the passage of the House bill.

Mr. Armes is an aged man; he is utterly impoverished by the destruction of this property; he is patriotic, having had a son in the Union Army, and having exerted himself to aid the Union cause in various ways. His family was driven from their home, and the wife who risked her life to bring information to our troops in the darkness of the night is since dead. The case appeals strongly to our sympathies, but equally and more so to our sense of justice.

Mr. CLARK. As there was considerable noise in the Chamber, and perhaps all Senators did not listen to the reading of this report, I will ask the indulgence of the Senate for a few moments to state the merits of the claim as it appeared to the committee.

This bill was passed at the last session by the House of Representatives, appropriating to this Mr. Armes \$9,500 for the destruction of his house. The Committee on Claims of the Senate examined the claim to some extent at the last session, but were not entirely satisfied as to two points: first, the value of the house; and second, the order for its destruction by the officer in command of our forces. It lay over until this session, when the committee again took up the claim and examined it; and further proof was produced showing that the house was of more value, and by witnesses entirely competent in the judgment of the com-

mittee, and so competent and so conclusive as to bring the committee to a unanimous conclusion in regard to it that the house was of more value than stated in that report. The committee, however, did not increase the amount appropriated by the House bill.

As to the other point: from evidence from the War Department, from evidence from General Heintzelman, from evidence of persons who heard the order given—it was a verbal order—the committee had no doubt in coming to the conclusion that the house was destroyed as a military necessity by our troops. It had been used as a look-out, and a sort of stone fortification. It was a stone house, into which the rebels sometimes got, and fired upon our men. It became necessary to destroy it, and it was destroyed.

In regard to this claimant there is no doubt at all of his (I might say) almost undying loyalty; his devoted loyalty to the Government. At the breaking out of the rebellion, and while he maintained himself at this place, he was constantly employed in conveying information to our armies, and his services are recognized in a letter, in his own handwriting, of General Heintzelman. When it became necessary on one occasion that our troops should have some information that was in his possession, his wife left her house at midnight and went and conveyed the information to our troops. She has since died. He has a son in the Union army now before the fortifications at Richmond and Petersburg who has behaved so gallantly that the attention of the War Department has been called to his distinguished services. This man is aged; he is utterly impoverished; his whole property has been burned down by the action of the Government, voluntarily and with clear information as to what they were doing; and it seems nothing more than fair, in the opinion of the committee, that this claim should be paid. I do not desire to take up the time of the Senate; but I think these facts are undisputed, and the merit of the claim is equally so.

Mr. HARLAN. I desire to inquire of the chairman of the Committee on Claims in what this claim is different from a thousand other claims that may be presented within ten miles of Washington for property destroyed during the prosecution of this war against the rebels.

Mr. CLARK. It is impossible for me to tell how it differs from claims that I have not examined. I have examined this claim, and upon the merits of this claim alone I desire to base the action of the Senate. There may be other claims equally meritorious. If they are so, when they come before the Senate I shall be ready to give my vote for them. I desire to act upon this claim as a claim by itself. It may involve others, but the fact that it may involve others, if this is just, is no reason why we should not pay it.

Mr. HARLAN. I desire to ask another question: whether Congress has, up to this time, made appropriations to pay damages for property destroyed by the Army within the rebel districts.

Mr. CLARK. If the Senator means to inquire as to this war, I do not know that they have; I do not understand that they have; but if he means to inquire as to the past action of the Government, they have repeatedly done it. The books are full of cases of payments for property destroyed within the enemy's lines; I might say within the territory that was occupied by the enemy afterward, and about the same time perhaps; and that is as far as I should go.

Mr. FOSTER. The Government pays for property where the destruction is caused by order of our commanding officer—not where it is destroyed by the ravages of war generally. In that case, people must take the consequences; but if a citizen's property is so situated that it may be made use of by the enemy, and it is destroyed by an order of our commanding officer, the Government should pay for it.

Mr. HARLAN. I think that is probably true as a question of law within the loyal districts; but I am not sure but that the decisions of the Supreme Court on kindred subjects would establish the principle that the property of loyal men destroyed within rebel districts, where it was subject to the control of the rebel authorities, does not involve any liability of the belligerent party who destroys it. My objection is not, however, to the merits of this particular claim. We have up to this time, I think, made no appropri-

tion to pay any claim for property destroyed during the continuance of this war within the limits of the rebel districts, and I am not certain that we have paid any claim within the loyal districts. There has doubtless been hundreds of millions of property destroyed within the rebel districts during the last four years. Is it prudent for Congress at this time to set a precedent to commence the payment of this class of claims? Our Army has not been paid for nearly six months last past. If the revenue laws that are now enforced and those that are in contemplation should enable the Government to realize all the funds contemplated by the Committee on Finance, I suppose we shall not receive through the medium of taxation more than one half of the amount necessary to prosecute this war during the coming year. The Secretary of the Treasury will be compelled to go into the market with the credit of the Government for the purpose of raising \$300,000,000 or \$400,000,000 to defray the expenses of the Government during the coming fiscal year. Is it prudent for Congress, in the face of these facts, to commence the payment of a class of claims that will involve in the end, if this precedent shall be followed, hundreds of millions more? I would prefer to make a donation to this man for his patriotic services rendered to the Army, if he has rendered such services, as I think is probable from the reading of the report, than to say we will pay him \$9,000 or \$1,000 or \$1 as remuneration for property destroyed.

I move that this bill, and all prior orders, be postponed, and that the Senate proceed to the consideration of the Indian appropriation bill.

Mr. CLARK. I hope the bill will not be postponed. I hope Senators will bear in mind that this bill has been passed by the House of Representatives, and if it goes over now it will hardly be acted upon at the present session. I beg Senators to bear in mind also how I am engaged with the Committee on Finance and the business of the Senate. For the past week, I may say, I have been obliged to sit upon the Committee on Finance in the hours of the session of the Senate, by their permission; and I feel, as there are appropriation bills yet to be brought before the Senate, that this is the only opportunity that will be allowed me to take charge of this bill. I shall feel if it is postponed now that it goes by for the session; and I ask the yeas and nays on that motion, that we may determine the fate of the bill.

The yeas and nays were ordered.

Mr. COWAN. I hope that this bill will be postponed. I do not look upon it as a question of law or as a question as to the custom of the Government heretofore in paying this class of claims. I think it has always been done. But we are told now that \$1,000,000,000 of claims of this character are looking us in the face; and it then becomes a question of policy whether we had not better, for the purpose of preserving that which we have, to refuse payment of these claims at the present time, and not jeopard the whole by attempting to do justice to a part. This is the entering wedge; and if we pay for the destruction of this property, we cannot refuse to pay other claims equally meritorious. There have been no payments made I think, as yet, even for the destruction of property within the loyal States under military orders.

Mr. CLARK. I will say in answer to that that this claimant, Mr. Ames, is a very aged man; and since this house has been destroyed he has been without a home and been obliged to subsist upon the charity of his friends. If you postpone his case in order that you may act upon others, he perhaps will die from starvation or neglect. He appeals strongly to the charity—no, sir, not to the charity, but to the justice of the Senate, that a man who has been made homeless in the service of the country shall not be turned out and delayed that we may act upon a thousand others beside.

Mr. BROWN. I will inquire of the chairman of the Committee on Claims whether he did not a few days ago bring to the attention of the Senate claims which were presumed to be meritorious for damages sustained by loyal citizens in loyal States, and ask the decision of the Senate as to whether it was advisable to take up such cases and pass upon such claims at this time, and whether the decision of the Senate was not adverse to that consideration?

Mr. CLARK. If the Senator will allow me, I will state to him exactly how that was; and instead of being adverse, the decision of the Senate was in favor of it. I brought before the Senate the case of Cobb & Company, of Indiana; and for the purpose of ascertaining what was the opinion of the Senate on that question, we divided the claim into two parts: that part of the claim which embraced goods which the Government had contracted for, and that part of the claim which referred particularly to military damage. The committee proposed to strike out of the bill that part which referred to military damage, and the Senate refused to concur and would not adopt the amendment, thus keeping the claim for military damage in the bill. The bill has not been finally acted upon, and is still before the Senate, and no further judgment has been passed upon it; but the Senate did say they would not except the military damage from the rest of the case; and so far as the action of the Senate went, it was in favor of allowing for the military damage.

Mr. BROWN. I did not so understand the decision of the Senate.

Mr. CARLILE. I have but a remark to make. I do not think the passage of this bill can establish a precedent by which the large amount of money referred to by the Senator from Iowa and the Senator from Pennsylvania will be drawn from the Treasury. It will be remembered that this is not an ordinary case of damage resulting from the occupation of a country by the Army.

Mr. CLARK. If the Senator will allow me, as we are taking up the time of the Senate with this claim, I suggest to him, unless it is very necessary that he should debate it, to allow it to come to a vote.

Mr. CARLILE. I have no objection, and did not intend to discuss it further except to corroborate the statement of the chairman of the Committee on Claims that if this bill is postponed, I am satisfied the party whom it is designed to benefit, and who has this just claim on this Government, will not live to another Congress to receive justice.

Mr. HENDERSON. Before the vote is taken I wish to say one word. I will vote for no specific claim for damages until the loyal citizens of my State are provided for. We attempted at the last session to get a bill through for the purpose of adjudicating claims of this sort, but we could not succeed in doing it. I will pay the claim of no man until a general bill is passed. Why, sir, there are numbers of loyal men in Missouri who have had property destroyed and quartermasters' stores owing to the evacuation of certain towns in that State, but we can get no damages. Individuals have had their houses burned because they were in the way of the defense of a town. Numerous instances of that sort occurred in the town of Lexington, the town of Glasgow, and many other places. Such instances occurred last fall; and yet we can get no damages. We cannot get one dollar from the Treasury of the United States to pay the troops that were called out in the State of Missouri, and we were compelled to pay them ourselves. I will vote for no bill of this character.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa to postpone all prior orders and take up the Indian appropriation bill, upon which the yeas and nays have been ordered.

Mr. POWELL. I hope that motion will not be agreed to. Let us have until twelve o'clock to dispose of the morning business. I have a little bill that I have been trying to get up for some time. I hope the appropriation bill will be allowed to lie over for the present.

Several SENATORS. Vote! vote!

Mr. WILSON. I am ready to come to a vote if a vote is to be had; but we have reports to make and business concerning the nation to transact, and I want time to do it, and I do not think the time should be taken up with this private bill.

Mr. COLLAMER. Is it in order to move to amend the motion of the Senator from Iowa so as to postpone this bill and take up the post route bill?

The PRESIDING OFFICER. It is not.

Mr. HARLAN. It seems to be the pleasure of Senators here to proceed with the morning business; and therefore, with the consent of the

Senate, I will withdraw my motion to postpone, and now move to lay this subject on the table.

The PRESIDING OFFICER. By unanimous consent the motion to postpone may be withdrawn, the yeas and nays having been ordered upon it. The Chair hears no objection.

Mr. CLARK. On the last motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 27; as follows:

YEAS—Messrs. Brown, Chandler, Cowan, Doolittle, Hale, Harlan, Henderson, Howard, Morgan, Nesmith, Sherman, Sumner, Ten Eyck, Trumbull, Wilson, and Wright—16.

NAYS—Messrs. Anthony, Buckalew, Carlile, Clark, Conness, Davis, Dixon, Farwell, Foot, Foster, Harris, Hendricks, Howe, Johnson, Lane of Indiana, McDougall, Morrill, Nye, Pomeroy, Powell, Ramsey, Riddle, Sprague, Stewart, Van Winkle, Wade, and Wiley—27.

ABSENT—Messrs. Collamer, Grimes, Harding, Lane of Kansas, Richardson, Saulsbury, and Wilkinson—7.

So the Senate refused to lay the bill upon the table.

Mr. SHERMAN. I desire to offer an amendment to the bill. It is to strike out all after the word "that," where it first occurs, and to insert the following:

For special service rendered to the United States by Josiah O. Ames, there be paid to him, out of any money in the Treasury not otherwise appropriated, the sum of \$9,500.

Mr. CLARK. I hope that amendment will not be agreed to. It appropriates the same sum for a different reason; and we may as well stand upon the truth and the fact that we destroyed this man's property, and ought to pay him for it. He did render service to the Government; but the claim is based upon the property which our officers ordered to be destroyed. We have paid for property taken in districts which have been in rebellion time and again.

Mr. DOOLITTLE. I voted to lay this bill on the table, for I feel a very decided apprehension that if we enter upon the policy of paying for property destroyed in the course of this war, even if destroyed by the express order of our commanders, we shall involve ourselves in the greatest difficulty. In the first place, I do not think that Congress is a competent tribunal to hear the evidence in these cases and to pass upon these claims; and if Congress should undertake to enter upon them, and they should be in session every day for the three hundred and sixty-five days in the year, they could not perform the physical labor that would be necessary to examine all the claims that would be presented, and decide them justly.

But, sir, there is this other question which presses upon me. Even if this claim is a just claim against the Government of the United States, to be assumed and paid, another question arises, the question of our ability to pay in our existing circumstances.

Mr. CLARK. Will the Senator allow me to ask him, with the utmost kindness, to allow us to vote? I desire that we may pass upon this claim, but I do not wish to take up time.

Mr. DOOLITTLE. I never speak against time, but I must say that I have serious apprehensions of the result that will follow from the passage of this bill. I will conclude all that I have to say, and all I desire to say upon it, by saying that I look upon war, like pestilence, and famine, and earthquake, and the lightning, that destroy men and destroy their property, as the act of God; it is not within the control of man himself, and the Government cannot be responsible for all the damages which will result from these great calamities that come upon a people.

Mr. CHANDLER. I hope this bill will not pass the Senate. If it does I shall look upon it as one of the most dangerous precedents that was ever set by the Senate of the United States. We are to-day throwing our bonds upon the market by hundreds and almost thousands of millions of dollars. A doubt has been raised, not only in the moneyed circles of this country, but throughout the world, whether this nation will ever pay its liabilities. Let that doubt once be settled and you will see gold fall from 200 to 110 in ten days. Let the moneyed centers of Europe become satisfied that our bonds are good, and you will see a hundred millions of gold coming with the speed of steam and the wind across the Atlantic to be invested in the best paying security on earth. But if you pass this bill, if you set this precedent,

if you say to every rebel and every loyal man and every man throughout the South by the passage of this bill, that you intend to pay for every dollar of property that has been destroyed by order of our generals, you will give a more fatal blow to the credit of your Government than by any other act that you can perform in this body during this session. I should look upon the passage of this bill as a national calamity, and one which we cannot afford at this time to bring upon our heads. It will do more to shake the faith of your own citizens and of the moneyed centers of the world in the credit of your securities than any other act you could perform.

I hope, therefore, that this bill will not pass. I hope that no such dangerous precedent will be set. If it is deemed best by the Senate to make a gratuity to this individual for patriotic services, in God's name let it be made; but set no such dangerous precedent as this, which will stare us in the face for one hundred years to come. We will not hear the last of this precedent during the life of any member of this body. It will stare us in the face, and not only us but our children and our children's children, day after day, week after week, month after month, and year after year. Others believe that we are in justice and in law bound to pay for the destruction of any property within the enemy's lines. If we do pay it let it be done as a gratuity, and not as a just claim against the Government, until the question has been settled whether it be or be not a claim against the Government. I hope the amendment proposed by the Senator from Ohio will be adopted, and then that the bill will be defeated even after that. I call for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. POWELL. I desire to set a precedent, such as the Senator from Michigan thinks ought not to obtain here. There can be no doubt but that the claim presented by the chairman of the Committee on Claims is a just and equitable claim against this Government. I want no precedent set here of the Government repudiating or failing to pay an honest and just claim. There is no principle better settled than that property of a loyal citizen destroyed by our Army should be paid for. This case is clearly made out, and it is proven that the claimant is a loyal man and has rendered efficient service to the Union cause, and that this property was destroyed by one of our commanders in the field. There is no principle of law better settled than that cases of that class, where Government officers destroy property as a military necessity, are paid by the Government.

I cannot concur with my friend from Missouri who said a moment ago that he would vote for no private claim until justice was done to the loyal men in Missouri. I well remember the zeal and ability with which that Senator cooperated with us here to have a law passed for the purpose of providing for the payment of such claims in the border States. I drew up at very great labor a bill which I thought covered the whole case.

Mr. HENDERSON. I supported it.

Mr. POWELL. The Senator from Missouri says he supported it. That is true; and I supported propositions brought forward by him. I sent that bill to the Committee on the Judiciary and they reported against the whole of it except two sections giving us some little relief, and it was passed in that shape. I very much regretted then that we could not get a general law. But, sir, I cannot vote against an honest and just and lawful claim when it is presented here because Congress, in my judgment, is derelict to its duty, or fails to perform its duty in passing a general law. I will vote for this case; and I think the precedent that would be set by the Government failing to pay a just debt properly made out would be much more detrimental and injurious to the credit of the Government than its payment.

Mr. NESMITH. I move to amend the amendment offered by the Senator from Ohio by striking out "\$9,500" and inserting "\$1,000."

Mr. TRUMBULL. I have steadily voted against all these claims which have been presented; and I have done so often, I confess, with very great regret. My sympathies are with this individual. I have heard something of his case. I think it is a very hard one. But it has seemed to me that while the war was pending it was im-

proper to take up the cases of individual citizens in the rebel districts, and pay for their property which has been lost or destroyed by the casualties of the war; that we must first subdue the rebellion; ascertain whether we are to hold this country; whether this Union is to be restored. We are in a struggle now with an enemy seeking to overthrow the Government and dismember the Union. The strife is not yet over. Hundreds of thousands of our men are in the field. They have been unpaid for months. We are struggling in every way to raise the means to pay the soldiers who are fighting our battles and to determine the question whether our Government is to be preserved. While this struggle is upon us, while these patriotic soldiers are suffering for their pay, while their families are suffering, we propose to go into an investigation of the damage that has been done to persons in these rebel districts, and to commence that investigation by a committee of our own body! A Committee on Claims of the Congress of the United States is sitting down to investigate the thousands and hundreds of thousands of claims that may be presented here from all the States whither our armies have marched!

Mr. CLARK. The Senator will allow me to say that the Committee on Claims consider nothing except what the Senate order them to consider.

Mr. TRUMBULL. I am aware that in one sense that is true; but the right of petition extends to every person; and the only order the Senate ever makes for the Committee on Claims to consider these matters is this: when a petition comes in here it is presented, and as a matter of course, without any vote of the Senate, either for or against it, it is referred to the Committee on Claims, and it becomes their duty, in pursuance of the order of the Senate referring it, to examine it.

Mr. CLARK. This was a bill from the other House, referred to us for the very purpose of considering it.

Mr. TRUMBULL. Very well; it makes no difference in which House it is presented. It came there under the form of a petition, I presume. These claims usually come in the form of petitions. I care not in which House it was presented, nor is it material at all to the just disposition of the question now pending before us. It seems to me we must first subdue the rebellion before attempting to consider these cases. That we will hereafter have to pay in some particular cases, I doubt not; but, sir, when the time does come that we have to investigate the claims of these loyal persons in the rebel districts who have suffered in consequence of the acts of our own armies, we must have some better tribunal to make that examination than a committee of Congress with the hurry that we all know is upon them; we must have some tribunal that counter testimony can be taken.

The PRESIDING OFFICER. (Mr. ANTHONY.) The hour of twelve o'clock having arrived, it becomes the duty of the Chair to call for the special order, the unfinished business of yesterday.

Mr. CLARK. With the permission of the Senate, I will not attempt to antagonize this claim with public business; but I hope before the session closes the Senate will give me an opportunity of taking it up and passing it.

#### ARMY APPROPRIATION BILL.

Mr. WILSON. I move to pass over temporarily the order of the day that comes up at this hour with a view to take up the House joint resolution defining the meaning of the law in regard to officers' servants. I desire to propose an amendment to it, upon which I think we can act in a very short time.

Mr. SHERMAN. I hope we shall proceed with the tax bill, which I suppose can be passed in that very short time.

Mr. WILSON. I have no idea that we can pass the tax bill in a short time this morning. I sat here last night until one o'clock endeavoring to dispose of it. I think we can pass the joint resolution which I desire to take up in twenty minutes.

The PRESIDING OFFICER. Does the Senator from Massachusetts move to postpone the special order, or to pass it over informally?

Mr. SHERMAN. I call for the regular order

of business unless it is postponed by vote of the Senate. The easiest and quickest way to get along is to dispose of that.

Mr. WILSON. I desire to have this resolution taken up with a view of offering an amendment to it which contains some provisions that are important to be acted upon in the House of Representatives, in regard to clothing our soldiers and other matters. I think it can be acted upon in twenty minutes; and if the Senator will allow the tax bill to be passed over informally for twenty or twenty-five minutes and this resolution cannot be disposed of at that time, I will let it go over.

Mr. SHERMAN. The honorable Senator from Vermont [Mr. COLLAMER] has a bill just as important which he wishes to take up. I think we shall expedite business by getting on regularly. I think we can pass the tax bill in a very short time.

Mr. COLLAMER. I wish to make a single remark to the honorable Senator from New Hampshire. He said a few moments ago that he thought the public business should be considered in preference to private bills. I think so too; but after I had stated that I desired to take up the post road bill, which is a matter of public business, he got a regular vote of this Senate to prefer a private claim. That is all I have to say.

The PRESIDING OFFICER. The bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, is now before the Senate.

Mr. COWAN. With the leave of the honorable chairman of the Committee on Finance, I desire to call up the report of the committee of conference upon the Army appropriation bill, in order that it may be disposed of.

Mr. SHERMAN. That is a matter of privilege.

The Senate proceeded to consider the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th of June, 1865, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their fourth amendment.

That the House of Representatives recede from their disagreement to the second and third amendments of the Senate.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

That the House of the Senate, and agree to the same with amendments as follows: In line three of said amendment strike out the words "any railroad" and insert in lieu thereof the words "the Illinois Central railroad;" and strike out all of said amendment after the word "States" in line five; and that the Senate agree to the same as so modified.

EDGAR COWAN,  
HENRY WILSON,  
Managers on the part of the Senate.  
THADDEUS STEVENS,  
E. B. WASHBURN,  
Managers on the part of the House.

Mr. TRUMBULL. Mr. President, I feel it my duty to object to the adoption of this report of the committee of conference; not that I desire to defeat the Army appropriation bill, nor do I suppose that that will be the result if we should refuse to agree to this report. Another committee would be appointed, and I trust would arrive at a just conclusion. If I can get the attention of the Senate for a very few minutes I think I can satisfy them that this is one of the most unjust propositions ever submitted to the American Senate; and that, if it should be adopted, the effect would be to discredit the public securities more than any act ever passed by Congress.

It will be remembered by the Senate that a few days ago a discussion took place upon a proposition which came to us in connection with the Army bill, that no part of the money appropriated by the bill should be used for the payment of the transportation of the property or troops of the United States. That proviso read in this way:

Provided, That no money appropriated by this act shall be used for the purpose of paying any railroad company for the transportation of property or troops of the United States, where such company may have accepted a grant of land from Congress upon condition of furnishing said transportation free of toll or other charge, except in such cases as have been modified by act of Congress.

In the discussion of that proposition it was a matter of some disagreement in the Senate as to



what the meaning of the act of Congress making these donations of land was. Some insisted that by the terms of the act these railroad companies undertook to furnish the machinery and rolling stock and the men to transport the property and troops of the United States without any charge whatever. Others, and that was my opinion, insisted that the law which declares that these roads shall be a public highway for the use of the United States simply made them highways for the use of the Government in the same way that turnpike roads and canals were made highways for the use of the Government, which the Government might use without paying anything for the use of the road. This was the construction which had been put upon these acts by the Government. The Government, it seems, had agreed with all these land-grant railroad companies to pay them two thirds of the amount which it paid to other railroad companies; that is, sixty-six and two thirds per cent. Those who insisted that the companies were bound to transport, under the law, free of expense, conceded that when these land grants were made it could not have been in the contemplation of Congress or anybody else that such a state of things should exist as we now see in the country; and that, at any rate, it was no more than equitable or just to these companies to make the arrangement with them by which they were to receive one third less than other railroad companies; and the Senate by a vote of, I think, some five to one rejected this proviso.

The bill went to a committee of conference. Notwithstanding this decided vote of the Senate, what does our committee of conference do? With a vote, if I remember aright, of five to one against this provision, the committee of conference go out and agree to the provision in the most objectionable shape you can imagine. What do you suppose they do? They strike out of the proviso all roads but one; and they say that all the land-grant railroads shall be paid excepting one; and as to that one no money appropriated by this act shall be used for the purpose of paying for the transportation of troops. Upon what principle can you make such an invidious distinction as this? The language of the acts of Congress which granted these lands to the railroad companies is precisely the same. I inquired of one of the committee of conference why they disregarded the vote of the Senate and agreed to such a proposition as this, why they made this invidious distinction, upon what principle, and I suppose he will answer to the Senate what I may be permitted here to say was his answer to me, that this company was rich and the others were poor, this company can afford it, and the others cannot. Suppose that is so, does this great Government deal thus with parties? If a man by his thrift, his enterprise, and his industry, has husbanded his resources, is that a reason for punishing him? If a railroad company has managed its affairs well and prosperously, is that a reason for exacting the pound of flesh from it, while a company that has not managed its affairs so well is not to have meted out to it the same even-handed justice?

I ask Senators, what is the obligation which these companies incurred when they accepted the land grant? I stated the other day that when the Government of the United States gave these lands to these companies they doubled the price of the land which they did not donate. The particular company which is excepted by this bill, and to which nothing is to be paid for transporting the troops and property of the United States, is the Illinois Central Railroad Company. That is the principal company in my State. What was the donation of land to that company? The Government of the United States donated to the State of Illinois every alternate section of land along the line of the proposed road, doubling the price of the other alternate section which it held. These lands had been in the market for years, some of them for a quarter of a century, and no purchaser had been found at \$1 25 an acre. The Government gave half of them to the State of Illinois to build this road, and doubled the price of the other half. The other half which the Government held, in consequence of the building of this road has been sold at \$2 50, and there has been paid into your Treasury just as much money, and at a much earlier day than you would have received it but for this grant. Then where is this great donation? The Government of the United States

has been benefited by the early sale of its lands. The people of Illinois and the whole country have been benefited by the construction of this road, which has cost, let me say, as I understand, \$30,000,000.

Again, sir, what was this land worth? There were about three million acres given to the railroad company, which was held at \$1 25 an acre, so that it was worth between three and four million dollars; and yet the rolling stock upon the Illinois Central railroad cost, I understand, between eleven and twelve million dollars; and you propose to take it and use the whole of it without paying for it. In addition to receiving double price for your lands, I am informed that this company has transported the property of the Government of the United States since this war began to an extent which if paid for as other railroads are paid, would amount to \$500,000 more than they have received. Suppose you have got the power; suppose the construction of this law be as Senators contend, and you have the power, are you going to grind to the earth a company in this way? Can any company exist and do this?

I wish to say in this connection that I have not, and never did have, any connection with this Illinois Central Railroad Company. I scarcely know one of its officers. I do not think I know by sight three of the officers connected with the road. I oppose this proposition not from any sympathy that I have with the Illinois Central Railroad Company more than with any other railroad company; but I wish to do justice to that company as well as to all other companies.

Now, sir, there can be no sort of foundation for this discrimination. I wish the Senate to notice how this proviso will read as the committee of conference have agreed to it. I will read it; and I hope Senators will pay attention to it:

*Provided, That no money appropriated by this act shall be used for the purpose of paying the Illinois Central Railroad Company for the transportation of property or troops of the United States.*

That is the whole of it. No reason is given. It is simply a proviso put upon an appropriation bill, for the purpose of forcing it through Congress, it would seem, providing that no money shall be paid to the Illinois Central Railroad Company for the transportation of the troops or property of the United States. Why not? You do not say here that it is a land-grant company; you have stricken all that out; and the proviso now reads that a certain railroad company in the United States shall have no pay whatever for transporting the property of the United States. That is the report of the committee of conference. Is it possible that the Senate, understanding this, can do such an act?

What will be the effect upon your other securities? I said that I was informed that \$30,000,000 had been invested in this enterprise. What will be the value of its stock when you legislate in this way? What will be the value of the stock of the other land-grant roads? What do you say by this bill? You say to every one of the land-grant companies—and I ask my friends from the new States to observe this—"The moment your road is completed, and you are able to bear it, you shall not have a dollar from the Government of the United States for all this work." How many bonds do you think you can sell with such a provision as that adopted as the legislation of Congress? I should like to know how many bonds you expect to sell going to the world with such a provision as that.

I am astonished that this report should be brought in here. In the first place, this provision has no business on an appropriation bill; it does not belong to it. If you want to legislate on this subject do it on a separate bill, and not on an appropriation bill in this way. Here is an unjust discrimination, an invidious distinction, put as a proviso to an appropriation bill, that a certain railroad company shall not be paid for doing the work of the Government.

But it is said this company is wealthy. I think it is immaterial whether it is or not; but let me ask my friend from Pennsylvania who made this report, how does he know that this company is rich? I suppose he has seen some report that the Illinois Central Railroad Company has made of the extent of its business and its receipts. If he would consult the Senator from New York, [Mr. MORGAN,] he would tell him that it would be dan-

gerous to invest in a railroad company on a report made and casually examined. It would take an expert weeks to look into all the machinery of these railroad companies. The dividends this company has declared do not show it to be so very rich. It never declared a dollar of dividend, I understand, until within the last two or three years. The value of its stock, I think, is about 112, or somewhere along there; I do not know the precise sum.

Mr. HOWE. One hundred and eighteen.

Mr. TRUMBULL. My friend from Wisconsin says 118; but that is in the currency of the country, of course. It has never paid any dividends, I understand, until within two or three years, and the average dividends during that time have not been more than six per cent.; and I apprehend those dividends, like the dividends of most railroad companies, have been just as much as the ability of the company would enable them to make for the purpose of keeping up the stock and the credit of the company.

If you pass this bill, with this provision in it, you will stop this great work. An officer of the company informs me—I am not posted in regard to these statistics—that the Illinois Central Railroad Company cannot do this work for the Government for nothing. It is the great road leading north and south over which your supplies go. The army of the Southwest receives a great portion of its supplies over the Illinois Central railroad; and I understand that the whole rolling stock of that road for weeks at a time has been used by the Government for the purpose of transporting supplies to the Army. Chicago is the great grain-purchasing market. The oats and corn and forage for that army go over this road.

As I said before, it makes no difference whether the road is rich or poor. The Government of the United States can legislate upon no such principle, and make an invidious distinction against a company because it is prosperous or because it is not prosperous. It cannot stand upon such a position; and let me say to my friends of the Committee on Finance that such legislation as this will do more to strike down the credit of your Government than all the tax bills you can pass during the remaining days of the session will do to support it. I trust, sir, that the Senate will refuse to concur in this report, and that we shall have another committee of conference to carry out the views of the Senate as heretofore expressed.

Mr. COWAN. In the first place, Mr. President, it is proper to consider what my honorable friend from Illinois in his very able and elaborate argument constantly keeps out of sight; and that is, that by the terms of the creation of this corporation it bound itself by the contract to do this work for the General Government. Let that be remembered. This is not a matter of grace or a matter of favor, but it is a matter of right upon which the Government of the United States stands in its dealings with this corporation in Illinois. To give any other construction to that contract than the one given by the Senate the other day, as I understood most of those who addressed themselves to that question, is not to make the contract avail, but to destroy it. If it be a contract at all, and if it have any meaning, then this road bound itself when the emergency arose, the contingency happened, that it would carry the troops and munitions of war of the United States free of charge. Why should not the United States insist upon it? Is there any reason which can be given? There is no reason unless it is that the company is unable to comply with the terms of its contract. As I understand, there are several land-grant roads in the same situation, and they came forward and said, "It is true we are bound by the obligation of this contract; but at present, in the imperfect condition of our roads, we are not able to comply with it;" and therefore the Government advanced to them a certain sum. The Illinois Central railroad came in in precisely that way, and they are now receiving from the Government, not full pay for carrying the troops and munitions of war of the United States, but they are receiving four-ninths of the whole amount paid to other roads. For instance, all the railroads joined together and agreed to carry for the Government for two thirds of the ordinary fare, in consideration of the quantity, and in consideration of the whole cargoes required to be transported by the Government. Then the land-

grant railroads came forward, and they said they would be satisfied with two thirds of that amount, which would be four ninths, and that with that they could keep themselves in running order.

The Illinois Central railroad at the present time is capable of performing its contract beyond any doubt or question. Why? Because its receipts are shown to be this last year something over seven million dollars, and the amount of fare and freight that it received from the United States is not half a million dollars, and therefore that which it receives from the United States is not one fourteenth of the whole. Does anybody believe that by taking away that one fourteenth it will stop, that it will transfer its road to the Government of the United States, and allow the Government to work it? Nobody can possibly believe it.

It is said this is discriminating against the rich. Is not that exactly what every creditor does? If half a dozen men are indebted to A, one of whom is able to pay at any time, he enforces his claim against him. What right has he to say, "You should make all those people pay?" It does not lie in his mouth to say that. It is enough for the creditor to say, "I choose to enforce my contract against you, and when it suits my pleasure I shall enforce it against the others; and if I do not it is none of your business."

The United States have given to this road (and it is all the capital, I believe, that ever was invested in it) some two or three million acres of land. It did not sell the land; but it went into the money market and hypothecated its lands and procured money upon which to start the road and build a portion of it, and then began to sell its lands. It has already sold over seventeen million dollars' worth of those lands, and it has over thirty million dollars' worth still in the market, not desiring to sell, and not desiring even now to sell its mortgages. It is in such a good condition that it does not want to take legal-tender currency for mortgages, because that currency has depreciated fifty cents on the dollar. It would rather extend the time of those mortgages for ten years than allow the mortgagors to pay in the present currency, and from a very prudent reason: it advanced the money, and it expects to realize on its lands; and it does not declare very large dividends for the same reason. The dividend goes to pay for the construction account. It expects to realize eventually in the sale of the lands.

The next question to be asked is, where is this corporation? I understand there is not half a dozen citizens of Illinois who have the smallest interest in it; that perhaps there are not twenty American citizens that have the smallest interest in it. This stock is owned almost entirely abroad, almost every dollar of it. Why, then, should it not keep its contracts with this Government when it is able to keep them?

But it is said we receive our information as to its resources from its reports. Suppose that to be true. It cannot come upon this floor and allege the falsehood of those reports, and their inflated nature, for the purpose of urging us to discredit them. They are good as against itself at least.

Then, Mr. President, the question comes back to this: here is a road which has contracted to carry our troops and our munitions of war free of charge. It is able to do so without injury to itself. Shall we in this crisis insist upon its performing its contract? That is the whole of it. Have we four hundred and fifty or five hundred thousand dollars annually to give away to this corporation, (even supposing we made it account afterward,) almost entirely foreign in its nature, with its enormous wealth and its enormous capital; or shall we simply stand upon the ordinary equal footing of justice which exists between man and man, and say to them "Do that which you have contracted to do?"

As to the other and feebler roads we may need them hereafter; and if we should need to use them in some future war, when they are built, when they are in running order, when they have \$12,000,000 of rolling stock upon their roads, I should not wonder if we should enforce our contracts against them.

But it is said we will ruin the sale of the stock in the market in New York, and thereby ruin, I suppose, the sale of five-twentieths or seven-thirtieths. I really do not see any connection between the two. If by withdrawing four or five hundred thousand dollars from this company we reduce its stock,

(and we shall not reduce it one per cent. by this means,) how that will affect the credit of the Federal Government I do not know; but I do know that if we save \$500,000 by this operation, if we show to capitalists that we are determined to make people stand upon their contracts in this wise, we will raise our credit just so much. Instead of injuring the Federal credit, we will improve it. I do not know of anything that would be so well calculated to destroy the credit of this Government as to pay people for doing that which they had contracted to do for nothing or for a former consideration.

But it is said this railroad has enhanced the value of these lands. Mr. President, that is an old railroad dodge. No railroad enhances the value of the lands. It is the progressive march of civilization that enhances their value, and the railroad is merely a part of that. If the pioneer did not precede the railroad, if the farmer did not precede it, if trade and travel did not precede it, the railroad would be worth nothing; and the railroad only comes upon the heels of those who carry the flag of civilization, and are its advance guards. But suppose it did; if it has enhanced the value of our lands, we paid for it; and we paid them exactly what they asked. It was their bargain; and if we made a good bargain, so far as the lands are concerned, they cannot complain, because they now hold lands they have in reserve at twenty dollars an acre—fifteen dollars for the lowest and twenty dollars for the highest. I do not see, therefore, that there is any reason in the world why we should not now at this time say to this Illinois Central railroad, as the giant of these land-grant corporations, as the one with Atlantean shoulders broad enough to bear the burden, "You must bear it."

Not a reason can be given why this contract should not be enforced, but there are thousands why it should. When there is machinery at work all over the nation wringing out of the rich and poor money in every conceivable form and shape, I should like to know why this gigantic corporation, that paid the other day to the State of Illinois taxes upon seven millions of receipts, should not perform its contracts. The Senator from Illinois says it is invidious. I suppose it will soon become invidious in this country, and particularly in Congress, for the Government of the United States to insist upon the performance of contracts as against anybody. We make a bargain, and then we must release it and forego all the advantages of it; and we must do that in a crisis of the country's history which is unparalleled, and which I hope may never be paralleled.

I trust, therefore, that the Senate will concur in this report. This was the only difficulty there was between the two Houses. If the report is concurred in I do not think there will be the least danger of having the smallest difficulty with the Illinois Central railroad on that behalf. If they can get rid of this burden of course they have a right to do it, and they have a right to have arguments made on this floor to show us why we should do it; but if we can enforce our contract it is our duty to do it.

Mr. JOHNSON. The honorable member from Pennsylvania seems to have been very clear—

Mr. SHERMAN. I suggest, in order to save time, whether this report had not better be sent to another committee of conference, as the speediest way of getting at it. This controversy will lead to a debate for hours, and we shall make no progress.

Mr. JOHNSON. I have no objection to that.

Mr. SHERMAN. As there is a disagreement about it, I trust it will be sent to another committee of conference.

The PRESIDING OFFICER. The question is on concurring in the report of the committee of conference.

Mr. SHERMAN. Well, let us have a vote directly on that question.

Mr. TRUMBULL. I hope the vote will be taken, and I trust we will vote it down, and appoint another committee.

Mr. McDOUGALL. I trust we may, for to adopt this proposition would be an outrage and act of legislative tyranny.

Mr. COWAN. I call for the yeas and nays on concurring in the report.

The yeas and nays were ordered.

Mr. POWELL. I do not think the report of

this committee of conference ought to be adopted by the Senate. It strikes me the arrangement made by the Secretary of War with the railways that received land grants is just and equitable. I do not believe the condition under which the railroads accepted the land grants was ever intended to apply in times like these. If it were strictly executed upon these roads it would ruin every railroad that has accepted a land grant. Hence I am willing and desire to continue the arrangement made by the Secretary of War with these corporations. That seems to be the general proposition entertained by the committee of conference, because they do not interrupt that arrangement with any of the roads except one. The roads that have received land grants are very numerous. Nearly all the northern and northwestern roads have had more or less land grants. The committee have singled out the Illinois Central railroad and proposed to make them carry the immense transportation of the Government for nothing, and not allow them to receive any pay, while they allow all the other land-grant railroads in the country to receive compensation upon the basis of the agreement made by the Secretary of War with them. This kind of legislation is certainly wrong. We insulate the Illinois Central road simply because its affairs have been managed skillfully and properly, and because the corporation has more wealth than other roads. Had it been managed badly perhaps it would have had no wealth by this time. I think we should give them a premium for their management rather than otherwise. I think the proposition is very unjust, and should not be adopted by the Senate. I hope, therefore, that the Senate will vote down this report and ask for another committee of conference.

Mr. MORRILL. I feel pretty liberal this morning, having been essentially whipped last night, and I suppose I feel the better for it. [Laughter.] I rise particularly to congratulate my friend from Illinois upon the appreciation which he seems to have this morning of the impropriety of general legislation on a particular subject. I thought so last night; but he seemed to feel quite otherwise. He voted as coolly and as deliberately to place upon a specific measure of finance a matter of general legislation as if it never was likely to be commended to his lips. I thought it was wrong then, and I think so now. Therefore I am quite willing, and think I shall vote, to send this back to a committee of conference. But I rose simply to congratulate my friend that he has at last got an illustration which makes him sensible of the propriety of keeping this kind of legislation from these bills.

Mr. TRUMBULL. If the Senator from Maine will allow me, if I know myself I have never voted for a measure because it was in my State, or against it because it was out of my State; and the Illinois Central railroad is no more to me than the fishing bounties. It has never been a favorite with me. I have had no connection with it; and for fear somebody should make such a speech as the Senator from Maine has made I took occasion to say that I do not know by sight three men belonging to that company, though I have lived in the State of Illinois before it was started and ever since. I have no feeling about it as an Illinois measure at all, if I know myself; but I think this is an unjust proposition.

Mr. MORRILL. It was far from any purpose of mine to ascribe anything of the sort to the Senator; and I am sure nothing of that sort can be inferred from what I said; but I do know this: that interests over which we feel a particular care are more likely to give us a particular solicitude than those which are remote; and the difference between this subject and the one we had under consideration last night is not so great as that the interest the honorable Senator takes in it could be accounted for on any other principle. If I understand it, we can afford to be a little liberal on this occasion. We saved \$400,000 last night, and the Senator from Pennsylvania says that this will not cost us more than \$400,000; and so we make a clean thing of it if we release this Illinois Central road from its contract; for that is the question. We release it from this contract, and therefore give it \$400,000, and we make a clean thing of it, because we have taken that amount from a national policy. If that is the judgment of the Senate, I do not stand here to complain; and I am inclined to think, as the Senator from Illinois is so

anxious on this subject, I shall vote to have the matter recommitted to the committee, with a view of seeing whether there is any reason in that direction.

The question being taken by yeas and nays, resulted—yeas 13, nays 29; as follows:

YEAS—Messrs. Anthony, Collamer, Cowan, Dixon, Doolittle, Foster, Grimes, Nesmith, Sherman, Sumner, Ten Eyck, Wade, and Wilson—13.

NAYS—Messrs. Brown, Carlile, Clark, Conness, Davis, Farwell, Foot, Hale, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Nye, Pomeroy, Powell, Ramsey, Riddle, Sprague, Stewart, Trumbull, Van Winkle, Wilkinson, Willey, and Wright—29.

ABSENT—Messrs. Buckalew, Chandler, Harding, Harlan, Howard, Morrill, Richardson, and Saulsbury—8.

So the report of the committee of conference was non-concurred in.

On motion by Mr. TRUMBULL, it was

*Resolved*, That the Senate further insist upon its amendments to the said bill disagreed to by the House of Representatives, and upon its disagreement to the amendment of the House to the sixth amendment of the Senate thereto; and that it ask a further conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice President; and

The VICE PRESIDENT appointed Messrs. TRUMBULL, FARWELL, and POWELL.

#### CONDITION OF THE INDIAN TRIBES.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the amendments of the House of Representatives to the joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, reported a recommendation that the Senate disagree to the amendments of the House of Representatives to the said resolution, and ask a conference on the disagreeing votes of the two Houses thereon.

The Senate proceeded to consider the amendments of the House of Representatives to the said resolution; and

On motion of Mr. DOOLITTLE, it was

*Resolved*, That the Senate disagree to the amendments of the House of Representatives to the said resolution, and ask a conference on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice President; and

The VICE PRESIDENT appointed Mr. DOOLITTLE, Mr. HARLAN, and Mr. BROWN.

#### CREDENTIALS.

Mr. POWELL presented the credentials of Hon. JAMES GUTHRIE, chosen a Senator by the Legislature of the State of Kentucky for the term of six years, commencing on the 4th day of March, 1865; which were read, and ordered to be placed on the files.

Mr. DOOLITTLE. I have received and been requested to file with the Secretary of the Senate a certificate, under the seal of the State of Louisiana, of the election of Michael Hahn as a Senator of the United States, from the State of Louisiana, for six years from the 4th of March next. It seems to be a certificate of the proceedings of the election, and as it is somewhat lengthy, perhaps it is not necessary to read it. I move that it be laid on the table and filed.

Mr. DAVIS. I object to the reception of that paper.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Kentucky objects to the reception of the paper. It is necessary, then, to take the sense of the Senate upon the question.

Mr. DOOLITTLE. I am willing to take the sense of the Senate as to whether it shall be received and put on file.

Mr. SHERMAN. I object to its being interposed here where it may create division and involve debate.

Mr. DOOLITTLE. We can vote without debate. If there is any debate I will not press it.

Mr. SHERMAN. I think the Senator from Kentucky can have no objection to its lying on the table for consideration at the next session.

Mr. DAVIS. I have no objection to its lying on the table; but I object to the Senate receiving the paper.

Mr. SHERMAN. That is all there is of it. It is only asked that it be laid on the table. It is liable to be called up at some future time.

Mr. DAVIS. I object to the Senate receiving that paper for any purpose whatever.

Mr. TRUMBULL. I move that the motion be laid on the table, and that carries with it the whole of the papers and all the other motions.

The PRESIDING OFFICER. The Senator from Illinois moves to lay on the table the motion of the Senator from Wisconsin to receive the paper just presented.

The motion was agreed to.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 178) to authorize the continuation of the joint Committee on Commerce of the Senate and House of Representatives after the 4th day of March, 1865, to complete their investigations and make their report on the subject of trade with the rebellious States, was read twice by its title, and referred to the Committee on Commerce.

#### PORTAGE LAKE SHIP-CANAL.

The bill (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage lake, Keweenaw Point, on Lake Superior, was read twice by its title.

Mr. HOWARD. I really hope that bill will not be referred. I wish the Senate would grant me the favor to take it up now and pass it. It is a matter which is to cost the Government nothing whatever, and will be a great accommodation to the people of my State.

Mr. SHERMAN. I object.

The PRESIDING OFFICER. Objection being made, it cannot be considered.

Mr. HOWARD. I hope the Senator from Ohio will withdraw his objection.

Mr. SHERMAN. I make a standing objection. I insist on the order of business, and I have the right to do it.

Mr. HENDRICKS. I want to make an appeal to the Senator from Ohio. This bill occupies a peculiar position—

Mr. SHERMAN. I object, and state my objection, and after that there is no debate.

The PRESIDING OFFICER. The consideration of the bill being objected to, it is not debatable.

Mr. HENDRICKS. I merely wish to state that the Legislature of Michigan is about to adjourn, and if this bill is to pass at all it should pass at once. It provides for a very important work. The Senate committee are unanimous on the subject, and it ought to be passed before the Legislature of Michigan adjourns.

The PRESIDING OFFICER. This debate is out of order. Objection being made, the bill cannot be considered.

Mr. HOWARD. I appeal to the Senator from Ohio to allow the bill to be considered.

Mr. SHERMAN. I have objected. There is no use of appealing to me. This tax bill must be passed as well as the Senator's bill.

The PRESIDING OFFICER. This debate is entirely out of order. The special order is now before the Senate.

#### INTERNAL REVENUE.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; the pending question being on the amendment of Mr. POWELL to the amendment of the Committee on Finance. The amendment of the Committee on Finance was to add the following as a new section:

Sec. —. *And be it further enacted*, That, in lieu of the present rates of postage on letters, there shall be charged, from and after the 1st day of July next, for every single letter in manuscript, or paper of any kind in which information shall be asked for or communicated in writing, or by signs or marks, conveyed in the mails, five cents; and for a double or other multiple letter there shall be charged an increased rate according to the present rates, five cents being computed the unit instead of three cents.

Mr. POWELL proposed to amend the amendment by adding the following:

And that from and after the 1st day of June, 1865, all acts or parts of acts granting or allowing the franking privilege be, and the same are hereby, repealed.

The amendment to the amendment was rejected.

The PRESIDING OFFICER put the question on the amendment, and declared that the yeas appeared to have it.

Mr. SHERMAN. The Senate probably is not aware of the question. The amendment of the committee is to increase the rate of postage from three to five cents. I wish to leave that matter substantially to the honorable Senator from Vermont, who is at the head of the Committee on Post Offices and Post Roads. I am satisfied that this increase is demanded by the exigencies of the public service. The Post Office Department will be in arrears from one to three million dollars next year, and perhaps a larger sum, if the jurisdiction of the Post Office Department should be extended over the rebel States. This measure was intended to cover that deficiency. If the honorable Senator from Vermont says that he thinks it would be unwise to make this legislation, we do not propose to press it; although I think the measure is demanded, and the Committee on Finance, with scarcely an exception—

Mr. CLARK. There was one certainly.

Mr. SHERMAN. Then with the exception of the Senator, reported this as an amendment, with a view to increase our revenue from the Post Office service.

Mr. POWELL. I think the best method to relieve the Post Office Department would be to repeal the franking privilege. I have no doubt that this Government loses, one way or another, at least three or four million dollars by the exercise of this franking privilege. It has been very much abused. I think if we should repeal the franking privilege and allow the cheap postage to continue it would be much better for the country; and hence I offered the amendment that I did; and if that had carried I would have offered another amendment giving the franking privilege to a limited extent, and so modified this section as to reduce the postage.

The PRESIDING OFFICER. The question is on the amendment of the committee.

Mr. CONNESS. Has that amendment been amended?

The PRESIDING OFFICER. It has not.

Mr. CONNESS. I have but a word to say upon this amendment. I had great doubts in the committee as to its wisdom. The worst feature of it is, that it looks like taking a backward step; for when postage has been reduced it has always been regarded as a forward step; a step in the right direction; the encouragement of correspondence; the cheapening of it to that end. The worst feature of this amendment is that it proposes really to take a backward step. I would sooner endeavor to obtain the same amount of revenue from almost any other source; and if we retain the amendment we have already adopted taxing sales, I think we shall get a sufficient revenue without pressing this amendment.

Mr. CLARK. In addition to what the Senator from California has said, that this is a step in the backward direction, I do not believe that the present is a proper time to increase the postage. Senators should remember the vast number of people who are now in the Army and away from their homes, and the immense Army correspondence that is carried on. I suggest, therefore, whether we ought to double the postage at this time, and whether we had better not raise our two cents in some other way.

Mr. COLLAMER. As I have been appealed to on this subject, I desire to say a few words upon it. I have no settled opinions that I should wish the Senate to take upon this subject. In the first place, it is somewhat problematical whether you would raise very much more revenue by increasing the postage to five cents. The general notion has been that an increase of postage decreases the amount of correspondence, though not perhaps in precisely the same ratio. I have no doubt that increasing the postage from three to five cents would diminish the amount of correspondence somewhat; precisely how much I cannot say. The difficulty now is the condition of affairs in the country at this time. The condition of affairs in the country at this time in relation to our money is such that we cannot tell precisely how the people appreciate it. It is undoubtedly true that five cents is not any more now than the three-cent postage was when we laid it. It probably is not as much; but it certainly is not any more. It therefore is not, really and strictly speaking, an increase, only as it increases with the condition of the circulation. I am rather inclined to think that raising it to five cents would increase the rev-



enue somewhat. I do not think it would diminish the amount of correspondence precisely in proportion to the amount which is laid upon the postage. I do not believe in the doctrine that the lower your postage the more you will receive. I do not think if you carry it down to two cents that you would get any more letters to make it up. It seems to me that that mode of reasoning has its limitations.

But the great objection to this proposition is the one suggested by the honorable Senator from New Hampshire, and that is the amount of correspondence to and from the Army. It is certainly very great now; and it is carried on in a great measure between people not very well able to pay an increase of postage. How it would be received and what would be its effect in relation to that large branch of the present correspondence, I am unable to say. I am not sufficiently convinced of its impolicy to throw any objections in the way of the Senate adopting it, if in their opinion it ought to be adopted. I think it somewhat a doubtful problem, a questionable policy. That is all I can say about it. I am not so far convinced of it as that I would say it ought to be rejected. I have not come to any such definite conclusion about it. I am willing to leave it entirely to the wisdom of the Senate, and not have it referred to me for decision.

Mr. CONNESS. Let us have the yeas and nays upon it. ["Oh, no."] I withdraw the call. The amendment was rejected.

Mr. SHERMAN. I believe that is the last amendment of the committee. The next printed amendment is not an amendment from the committee, but one that I proposed offering myself, and I ask leave to withdraw it.

The PRESIDING OFFICER. No objection being made, that amendment will be considered as withdrawn.

Mr. CLARK. I offer, from the Committee on Finance, the following amendment as an additional section:

*And be it further enacted, That the Secretary of the Treasury may at any time prior to the 1st day of July, 1866, assign to the office of the Commissioner of Internal Revenue such number of clerks as he may deem necessary, or the exigency of the public service may require; and the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents, is hereby extended to said Commissioner.*

This amendment is rendered necessary by the expiration of a provision of the law as it now stands. The present law is:

"That the Secretary of the Treasury may at any time prior to the 1st day of July, 1865, assign to the office of the Commissioner of Internal Revenue such number of clerks as he may deem necessary," &c.

And as no other provision has been made for the internal revenue department, unless we extend this act for another year from July next, the whole provision in regard to clerks will expire at that time.

Mr. JOHNSON. Does that extend the franking privilege?

Mr. CLARK. It extends the franking privilege with it. It stands like the old law for one year.

The amendment was agreed to.

Mr. CLARK. I move to amend the bill on page 26, by striking out lines six hundred and twenty-four, six hundred and twenty-five, six hundred and twenty-six, and six hundred and twenty-seven, in the following words:

On tobacco twisted by hand, or reduced from leaf into a condition to be consumed, without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, thirty cents per pound.

And to insert in lieu thereof the following:

On tobacco put up in the twist or rolled, either for chewing or smoking, and so sold, whether prepared by hand or machinery, and whether sweetened or not, thirty-five cents per pound.

Mr. HENDERSON. I will suggest a little alteration in the language simply of that amendment. I have consulted with an inspector in my State since the Senator and myself prepared this amendment, and I forgot to show it to the Senator. It is this:

On tobacco put up in twist or rolls as chewing and smoking tobacco, and sold for consumption in that form, whether prepared by machinery or by hand, or whether sweetened or not, thirty-five cents per pound.

Mr. CLARK. I do not see that that varies it any.

Mr. HENDERSON. No, it does not; but I think the language is better.

Mr. CLARK. I have no objection to taking that amendment in lieu of mine; it is nothing but a mere verbal alteration.

The PRESIDING OFFICER. The question is on the amendment as modified.

The amendment as modified was agreed to.

Mr. CLARK. I move to amend the bill further in line six hundred and thirty-one by striking out "thirty-five" and inserting "forty," so that the clause will read:

On fine-cut chewing tobacco, whether manufactured with the stems in or not, or however sold, whether loose, in bulk, or in rolls, packages, papers, wrappers, or boxes, forty cents per pound.

Mr. JOHNSON. That is the House provision.

Mr. CLARK. "Forty" is the House provision, and it is necessary to bring it up to make it correspond with certain others.

The PRESIDING OFFICER. The question will be put in the other form, of agreeing to the printed amendment of the committee, striking out "forty" and inserting "thirty-five."

The amendment was not agreed to.

Mr. CLARK. I move further to amend the bill by striking out lines six hundred and thirty-two and six hundred and thirty-three, in the following words:

On smoking tobacco of all kinds not otherwise herein provided for, thirty-five cents per pound.

And to insert in lieu thereof:

On smoking tobacco made with all the stems in, the leaf not having been butted or stripped from the stem, and on refuse tobacco known as fine-cut shorts, including all scraps produced in the handling or manufacture of tobacco and cigars, and all imitations of tobacco or substitutes therefor, and on all kinds of smoking tobacco not herein otherwise provided for, thirty cents per pound.

On all smoking tobacco made exclusively of leaf, forty cents per pound.

The amendment was agreed to.

Mr. CLARK. On page 28, line six hundred and eighty-one, I move to amend the amendment of the committee, that amendment not having been adopted, by inserting after the word "cigarettes" the words "not otherwise herein provided for."

The amendment was agreed to.

Mr. CLARK. Now, I hope the amendment of the committee, striking out from line six hundred and forty to line six hundred and eighty, inclusive, and inserting the words in italics will be agreed to.

The PRESIDING OFFICER. The Chair will put the question upon that amendment.

The amendment was to strike out the following clause:

"On all cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitutes therefor, whether imported or of domestic manufacture, sixty cents per pound; and no tare for the box or package in which any cigars or cigarettes are packed shall be allowed in ascertaining the weight. And the duty as aforesaid on all cigars, cheroots, or cigarettes imported shall be levied, collected, and paid under such regulations as the Secretary of the Treasury shall prescribe;" by inserting in the last paragraph relating to cigars, after the words "imprisonment not exceeding thirty days," the words "and any person furnished with such permit may apply to the assistant assessor or inspector of the district to have any cigars of their own manufacture weighed; and on receiving a certificate of the weight, for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the duty. A copy of the certificate shall be retained by the assistant assessor, or by the inspector, who shall return the same to the assistant assessor of the district. The purchaser shall pack such cigars in boxes, and have the same inspected and marked or stamped according to the provisions of this act, and shall make a return of the same as inspected to the assistant assessor of the district, and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them to the collector of the district wherein they were manufactured, and before the same have been removed from the store or building of such purchaser, or from his possession; and any such purchaser who shall neglect for more than five days to pack and have such cigars duly inspected, and pay the duties thereon according to this act, or who shall purchase any cigars from any person not holding such permit, the duties thereon not having been paid, shall be deemed guilty of a misdemeanor and be fined not exceeding \$500, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars shall be forfeited and sold, one fourth for the benefit of the informer, one fourth for the officer who seized or had them condemned, and one half shall be paid to the Government."

And to insert in lieu thereof the following:

On cigarettes not otherwise herein provided for, made wholly of tobacco or any substitute therefor, on cheroots

or short stixes, and on all cigars valued at fifteen dollars or less per thousand, with the tax included, five dollars per thousand; and on all cigarettes or cigars valued higher than as aforesaid, fifteen dollars per thousand.

The amendment was agreed to.

Mr. CLARK. That completes the amendments in regard to tobacco, I believe.

Mr. HENDERSON. There is one other amendment upon the subject of tobacco. On page 20, line four hundred and sixty-one, I desire that the words "except into a bonded warehouse" shall be stricken out.

Mr. CLARK. I think we agreed to that.

Mr. HENDERSON. The effect of that will be to require that all tobacco shall be inspected before it leaves the place where it is manufactured.

The amendment was agreed to.

Mr. RIDDLE. If the committee have got through with their amendments I have one to offer which I believe meets the approbation of the chairman of the Committee on Finance, and I am confident will be an increase of revenue to the Government. It is to insert at the end of the provision in regard to lotteries the following:

*Provided, That no license shall hereafter issue until the managers of a lottery now drawn in the States adhering to the Union shall give bond, in the sum of \$1,000, that the person receiving such license shall not sell any ticket or supplementary ticket which has not been duly stamped according to law.*

Mr. SHERMAN. I do not like the expression "adhering to the Union." "Represented in Congress" would be better.

Mr. RIDDLE. Well, move that amendment.

Mr. SHERMAN. I make that motion.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, was agreed to.

Mr. COWAN. I move to amend the bill on page 23, line five hundred and thirty-five, by inserting after the word "railroad" the word "bolt," and after the word "spikes" in the same line the words "and tubes;" so that it will read:

On railroad chairs, and railroad, bolt, and ship spikes, and tubes made of wrought iron, five dollars per ton.

So as to put these articles all in the same class.

Mr. GRIMES. I will inquire of the Senator what the effect of that will be.

Mr. COWAN. The effect of the amendment is to class bolt spikes and ship spikes together, in the first place. They are the same kind of material, and there is the same amount of work upon them. It will also put the same amount of tax upon tubes, such as the tubes out of which gas pipes are made. That is about the whole of it.

The amendment was agreed to.

Mr. COWAN. I now move to amend the bill by striking out the eighth section, on page 47, the one requiring the appointment of inspectors for petroleum.

The VICE PRESIDENT. Does the Senator desire to have the section read?

Mr. COWAN. Yes, sir.

The Secretary read it, as follows:

Sec. 8. *And be it further enacted, That all petroleum or rock-oil, before the same is used or removed for any purpose, shall be inspected and gauged by some inspector appointed for the performance of such duties, who shall mark upon the cask or vessel containing such petroleum or rock-oil, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity of the contents of such cask or vessel, with the date of inspection and the name of the inspector, and shall make a return of all petroleum or rock-oil so inspected, with the name of the producer, to the collector, and a duplicate thereof to the assessor of the district. And any person who shall attempt fraudulently to evade the payment of the duty upon any petroleum or rock-oil by changing in any manner the mark upon any such cask or vessel, shall forfeit the sum of \$100 for each cask or vessel so altered or changed, to be recovered in the manner provided for the recovery of penalties imposed by the act to which this act is an amendment; and any inspector or other person who shall knowingly put upon any such cask or vessel any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask or vessel so fraudulently marked; and any person who shall purchase or sell any empty cask or vessel with the inspection marks thereon, or who shall use the same without removing the inspection marks therefrom, for the purpose of selling any other petroleum or rock-oil than that so inspected, shall be subject to a like penalty for each cask or vessel so purchased, sold, or used.*

Mr. COWAN. I will endeavor to explain, if I can, why I think the section is entirely useless; and not only so, but absolutely mischievous and burdensome to the country and to the producer. When petroleum is produced from a well, either by pumping or by flowing, the oil passes into large tanks, which are perhaps fifteen feet high, and

twelve or fourteen feet in diameter, and it remains there till it is removed for consumption and sale. When a dealer wants to buy a hundred barrels of oil, he calls on the owner of the oil, and makes a bargain for so much. On the next day the barrels come there in wagons, and the oil is drawn from these tanks, and filled into the barrels, and they are hauled off. Now, by the provisions of this bill the owner of the well is required every ten days to make a return of the amount that he sells in that way, or removes for consumption and sale; and within five days after he has made his account he is bound to pay the tax levied upon it. I think that is a sufficient security, and I do not see that there is any additional security from the fact of inspection.

But there is this difficulty about it: no man can sell unless he has an inspector at his elbow at the time of making the sale; because where the oil is not kept in barrels or casks, but is kept in these tanks, the producer of the oil will not furnish the barrels. It is the purchaser that furnishes the barrels and brings them there at the time of sale. I cannot conceive of anything that would be so inconvenient as to require, every time a hundred barrels of oil are sold, the inspector to be there to inspect it the moment it is put in barrels. These barrels are used over and over again, times without number; and it would be almost impossible to carry out this provision. The barrels would be worn out with the number of inspectors' marks made on them every time they came back to the well.

The Senate will observe the enormous number of inspectors that must necessarily be appointed under this section. No one single man could attend to more than five wells, and those wells must all be in the area of a single square mile; and when you come to reflect upon the number of wells and the area of territory covered by these wells, the inspectors would have to be almost as numerous as the locusts of Egypt to attend to this business. I think it is better to rely on the provisions of the two preceding sections and the penalties which are there fixed for attempting to evade the law.

I may remark, also, that there is such a publicity in regard to these wells and their sales that it would be impossible almost for them to make false returns. Every sale is watched with great care, and the exact price that is paid is known to everybody for a considerable distance around; so that, I will venture to say, in an oil-producing region where there are wells all about, if a man made a false return, it would be readily detected. The dealer is always in the neighborhood, and it could be detected through the medium of his testimony. I hope, therefore, that this section, requiring the appointment of such a large number of inspectors as this will necessarily involve, will be stricken out, and that we shall rely on the previous sections of this bill.

Mr. SHERMAN. In my judgment this section ought not to be stricken out. It is the same provision precisely as is contained in regard to the inspection of whisky and other articles of that class. The Senator explained to me his purpose in offering this amendment; but I am afraid of the effect of it. I am afraid that if this section is stricken out we shall get no revenue from petroleum. There would be no guard at all except the oath of the producer. There are but two guards now in regard to this tax: one is the oath of the producer, who is required to make the return; and the other is the inspection of the officer; and these guards are applied to all this class of taxes. I do not think now, since we have introduced this tax in regard to petroleum, that we ought to strike out the mode of ascertaining the amount.

Mr. COWAN. I do not make this motion in the interest of the oil producers so much as I make it in the interest of the country. I am satisfied that it will require all the taxes you will get from the crude petroleum to pay the inspectors under this section. It is utterly impossible that you can provide any system of this sort without multiplying these officers so as to have one for every four or five wells; because, no matter what our power may be in the premises, we cannot stop the business of the country; and I know myself that there is no one thing so mischievous and such a nuisance in the administration of the present existing law in regard to spirits as just that thing of inspection. But there is this advantage there: when

whisky is made it is put in barrels, and it remains in those barrels until it is carried away for consumption and sale; and it can remain for ten, twenty, or thirty days, as it sometimes has to do, till the inspector comes around. But with regard to petroleum, the whole system of carrying on the business will have to be changed if you adopt this section. You cannot inspect petroleum in a tank; it is utterly impossible. Before it can be inspected it must be put in barrels; and it is put in barrels at the moment of sale and at the moment when it goes away from the well. I should be very glad if there could be some means adopted by which the people could be relieved from the burden of waiting until the inspector comes around to inspect their whisky; because it frequently happens that a man having a distillery will have to wait ten or fifteen days and sometimes a month before the inspector comes around; and there have been cases where men have really suffered because they could not get their whisky to market on account of it not being inspected, it being impossible to get an inspector to attend to it; and we cannot appoint an inspector for every establishment. Everybody knows that that would utterly destroy all the tax we should receive; and we would waste it in paying this useless horde of officers.

The VICE PRESIDENT put the question on the amendment, and declared that the yeas appeared to have it.

Mr. HENDERSON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. If there be any objection to the levying of this tax upon petroleum we had better strike out the tax at once; but if there be no objection to the levying of the tax, then of course it must be inspected in some way in order to ascertain the quantity. We cannot leave it to the parties themselves to determine. Surely the object of the Government is to procure the tax, if it is levied; and if so, we ought to have some check upon the parties themselves. I do not understand how we are to determine the quantity of the oil unless we have this inspection.

Mr. COWAN. If the honorable Senator will allow me, I intended, if this amendment carried, to amend the other sections by imposing the tax on the barrel of petroleum. The barrel there used ranges from forty to forty-five gallons. No barrel is beyond forty-five gallons. I propose to raise the tax somewhat. I propose to amend the previous sections by imposing a tax of one dollar on every barrel. The oil men agree to that. It is now two cents a gallon; but they say if they are freed from this nuisance of inspection, they are willing that the tax should be raised to one dollar a barrel, and that no barrel shall exceed forty-five gallons. Then it will all be done by the barrel. If they choose to pay a dollar for a barrel containing less than forty-five gallons, as they will do for a long while until the lesser barrels are worn out, it will be all the better for the country; and in that way the objection of the Senator from Missouri will be obviated.

Mr. GRIMES. I voted with the Senator from Pennsylvania in favor of this amendment. I do not know whether I did it rightfully or wrongfully. The reason was I wanted to avoid creating another batch of office-holders if I could. I suppose the Senator from Missouri, or some other gentleman of the Committee on Finance, can tell us how many would probably be required if we do not strike out the section that is proposed to be stricken out by the Senator from Pennsylvania. I seek, so far as my vote is concerned, to avoid paying as much for officers' salaries as the tax on petroleum will amount to. I see in addition to the number of officers to be created by this section, that another section provides for an additional lot of tobacco inspectors; and probably the Senator from Missouri is able to inform us how many would be likely to be required under these various provisions of the law.

Mr. HENDERSON. I cannot answer the Senator from Iowa; I can only state to him this, that with the present high rates of duty levied upon the various manufactured articles in this country, and especially the one he alluded to on tobacco, unless there is an inspection, and a very close inspection of the article, every honest manufacturer of the article will be driven from the market. It is utterly impossible for a man who

intends to manufacture and pay his tax honestly to do business unless the tobacco is inspected. I have positive information that it is manufactured to a very large extent by individuals who defraud the Government, and in defrauding the Government they can undersell the honest manufacturer, there being such inducements to fraud with the high taxes levied; and the honest manufacturer is thereby driven from the market. I cannot tell how many inspectors it will take; but if you intend to keep up these high rates, and protect the honest men in the country, I do not care how many it takes, you must furnish them. I am as anxious as the Senator from Iowa to avoid the appointment of unnecessary officers. I am sure I do not want a single inspector in this country if it can be avoided; but if you will impose the tax, there ought to be some machinery by which you will protect the honest man against the rogue.

I confess I know nothing about this question of the inspection of petroleum, for it is an article I know nothing about; but I suggest to the Senator from Pennsylvania that, as I understand, it is not always the case that petroleum is removed from the well in the barrel; and unless the inspection is made in a short time after it is removed from the well there will be danger of their avoiding the tax entirely. It is a very extensive business; and I suppose the oil is removed in other ways besides barrels.

Mr. COWAN. It is true that at one time in the history of this trade the oil was removed in boats; but I think that perhaps that will never be the case hereafter. No doubt barrels will now be used in all cases. They have adopted the plan of placing the oil in barrels from the tank at Oil creek in Pennsylvania, where a great portion of the oil is produced.

Mr. VAN WINKLE. I can furnish some of the elements with which a calculation can be made as to the number of inspectors which will be required under this section. The oil region in western Pennsylvania and West Virginia extends about two hundred miles, and is, I think, from fifty to one hundred miles in width. Over this region, at great distances frequently, these wells are scattered. The whole country is mountainous, with high ridges, where of course no oil is produced. The oil is procured in the valleys lying between these mountains; generally along the water courses, and most frequently at present in remote neighborhoods. Of course but a very small quantity of this oil is consumed in the country; but it all finds its way from both sides of the Ohio river to that river for the purpose of being shipped to the places where it is refined, or it is perhaps refined at those places on the Ohio river. What is taken into the refineries there can be no difficulty about. The assessor can ascertain that beyond a question and without any difficulty. The assessor will therefore have it in his power to collect the tax; and the assistant assessor of the district will always be there, and none of this oil can be shipped without his knowledge. The streams upon which this oil is found are small, and if it descends them by water, it comes down in flat-boats which can go no further than the Ohio river, unless they are taken in tow by the steamboats, or the oil is transferred to a steamboat; and therefore there must be an inspection on all these points of shipment on the Ohio river.

The gentleman from Pennsylvania alludes to the removal of it in bulk-boats. The conditions there are precisely the same. The oil is frequently turned into these boats, which when once gauged of course answer forever. It is necessary to ascertain how far the oil may be below the top line; but the conditions are the same with reference to them. They cannot proceed after they get to the Ohio river; that is, in the condition in which the oil is usually transported. They might be floated down the river; but very few will go down that way. They must be taken in tow by a steamboat, as they usually are; and when those boats are used it is usual to take them to Pittsburg for the use of the Pittsburg refineries. There is no difference in quality in this article as is the case with tobacco, of which the Senator from Missouri speaks. It is not an article of that kind where there is any temptation to fraud except the simple evasion of duty. It is generally sold in large quantities. There is very little

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use for it in the crude state. It must go to some refinery in order to be refined; and the chances of detection in any attempt to cheat the revenue will be as forty to one against it. My impression, therefore, is, from the detached condition of these wells—they may often be found in bunches, and then again none may be found for several miles—it will require a great number of inspectors on that account alone; and extending as this region does over so large a strip of country and places that are not readily accessible by the ordinary roads, it will of course require a still larger number. On the other hand, every provision is made in the preceding section to procure the return under oath of the amount produced; and the assessor will have it in his power, with a little care, to verify those returns, made under oath, without much difficulty; and all this in addition to what I have said, that all this oil must go either to a point of shipment where it will reach the seacoast and be transported to Europe, or go to some refinery where it will be manufactured into an illuminating oil. There is, therefore, the possibility of having every check which could be desired upon it without the intervention of these inspectors.

Mr. HENDERSON. It strikes me that if we rely upon the assessors in the district where these oil wells are to determine the quantity of oil that may be obtained from the different wells, we shall never get a true return of the quantity. I know full well that my friend from West Virginia would not advocate any policy whatever that would be calculated to deprive the Government of a cent; but we all know that it would be impossible for an assessor for a whole congressional district in West Virginia or Pennsylvania, where these oil wells are, to attend to this matter himself.

Mr. VAN WINKLE. He has assistants.  
Mr. HENDERSON. My friend says he has assistants. I appeal to him and ask him if any three or four assistants of an assessor in one of the congressional districts where these oil wells are, could inspect all this oil. I will take for instance his own district in Wirt county and the counties adjoining in the State of West Virginia, where there are a great many wells, and I undertake to say it will take the assessor and fifteen or twenty assistants properly to inspect this oil. We all know that the assessor will have something else to do besides attending to these oil wells. As I understand it some of them produce from eight hundred to fifteen hundred barrels of oil per day; a great many of them are flowing wells; and there is not room enough there for the oil to be retained. It is carried off immediately; put into barrels and sent off; and in the thousands of barrels that are daily sent off from the oil region it would be utterly impossible for the assessor and assistants to see that it was properly inspected. We should have to rely entirely upon the honor and honesty of the individuals who are shipping it from the vicinity of the wells. But I am not disposed to put any obstacle in the way of the desire of these gentlemen, who certainly understand this question much better than myself. It strikes me, however, that we had better have an inspection; no matter what the cost may be.

Mr. VAN WINKLE. The remark of the gentleman referring to my own neighborhood enables me to illustrate what I said better than I could without such reference. He states the number of wells in Wirt county. Now, every barrel of oil that is produced in Wirt county must seek the Little Kanawha river, either to be floated down that river or to be wagoned by its side, because such is the topography of our country that the roads must lie along the water courses. There are very few exceptions to that, and therefore all that oil does concentrate at Parkersburg in order to be shipped up or down the Ohio river, or at the first point it touches on the Northwestern Virginia railroad, which is but eleven miles from Parkersburg. At these two points an assessor will have it in his power to know of every barrel of oil which is produced from all that section of country.

Mr. COWAN. A single word. As long as the tax is levied on the gallon, of course there must be some mode of ascertaining how many gallons there are, and that seems to have given rise to the sixth section to provide for an inspection; but if, as I shall propose to amend the previous section, we impose the duty on the barrel, then the measurement by the inspectors does not become necessary, because the barrels will be readily counted and easily arrived at by everybody.

The VICE PRESIDENT. The question is on the amendment striking out the section.

The question being taken by yeas and nays, resulted—yeas 28, nays 9; as follows:

YEAS.—Messrs. Anthony, Carlile, Collamer, Cowan, Davis, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harris, Hendricks, Johnson, Morrill, Nye, Pomeroy, Powell, Ramsey, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey and Wright—28.

NAYS.—Messrs. Brown, Chandler, Clark, Conness, Henderson, Howe, Morgan, Sherman, and Ten Eyck—9.

ABSENT.—Messrs. Buckalew, Harding, Harlan, Howard, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Richardson, Riddle, Saulsbury, Wilkinson, and Wilson—13.

So the amendment was agreed to.

Mr. COWAN. Now, in order to make the fourth section of the present bill (the sixth section of the House bill) conform to the position in which the bill is, I move to strike out on page 46, line four of the section, the words "two cents on each and every gallon" and insert "one dollar on each and every barrel of not more than forty-five gallons," as the duty on crude petroleum.

The amendment was agreed to.

Mr. SHERMAN. I am in favor of the spirit of the amendment; but suppose other casks are used, not barrels, will there not be a ground for debate?

Mr. COWAN. I made particular inquiry about that. The barrels range from forty to forty-five gallons; forty is the lowest, and forty-five the highest.

Mr. SHERMAN. Suppose it is put in casks.

Mr. COWAN. There are no casks used.

Mr. HENDERSON. But suppose after this tax is levied they should be used? Suppose the oil men should obtain casks holding sixty-five gallons, and ship the article in that way?

Mr. COWAN. Very well then; they have to pay on that quantity.

Mr. HENDERSON. Not if the Senator is done amending the section.

Mr. COWAN. You will see when I get done. I want to get one thing at a time. I now move, on the 47th page, in line eight of section five, as the bill stands, (section seven as it came from the other House,) to strike out the word "gallons" and insert "barrels," and in lines nineteen and twenty to strike out the words "gallons barreled or" and insert the word "barrels."

The amendment was agreed to.

Mr. COWAN. I now move to add this proviso to the section on page 46:

Provided further, That when casks or barrels are used holding more than forty-five gallons the excess shall be paid for at the rate of one dollar for every forty-five gallons.

Mr. HENDERSON. I move to amend the amendment by inserting the words "or other vessels."

Mr. COWAN. I accept that modification.

The amendment, as modified, was agreed to.

Mr. FOSTER. I wish to move a slight amendment on the 24th page of the bill, at line five hundred and seventy-nine. It is after the word "paid" to insert "or a sum paid equal thereto." It does not, I think, change the meaning of the text, but the object is to make it a little more clear.

Mr. SHERMAN. Let the proviso be read as it will read if it be amended as now proposed.

The Secretary read, as follows:

Provided, however, That brass made of copper and spelter, on which a duty of three per cent. *ad valorem* shall have been assessed and paid, or a sum paid equal thereto, shall be assessed and pay a duty of three per cent. on the increased value only thereof.

Mr. HENDERSON. I should like to have an explanation of that amendment. I do not understand it.

Mr. FOSTER. As the proviso now stands, "brass made of copper and spelter, on which a duty of three per cent. *ad valorem* shall have been assessed and paid, shall be assessed and pay a duty of three per cent. on the increased value only thereof." If the tax has been assessed in some other form than *ad valorem*, if it has been a specific duty, which is the case in this instance, although it would be more than three per cent. *ad valorem*, there might be a question whether it came technically within the expression. My amendment is simply to make it clear that if a tax has been paid equal to the amount of three per cent. *ad valorem*, although it was paid in the form of a specific duty, it shall be the same as though it was an *ad valorem* tax.

Mr. HENDERSON. I understand.  
Mr. FOSTER. It is not intended to evade the law in any way.

The amendment was agreed to.

Mr. ANTHONY. I desire to offer an amendment, to be added to the fifth section, to come in after line six of that section, on page 46:

Provided, That any existing bank organized under the laws of any State having a paid up capital of not less than \$75,000, which shall apply before the 1st day of July next for authority to become a national bank under the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and shall comply with all the requirements of said act, shall, if such bank be found by the Comptroller of the Currency to be in good standing and credit, receive such authority in preference to new associations applying for the same.

The object of the section as it stands of course is to destroy the State banks, or to compel them to come into the national system.

Mr. SHERMAN. Perhaps the Senator had better offer this as a new section.

Mr. ANTHONY. I offer it, then, as a new section, striking out the word "provided" and inserting the words "and be it further enacted." I propose, as the State banks are to be forced into the national system, to give them the preference over new associations in coming into it, provided they apply before the 1st of July next.

Mr. VAN WINKLE. I have an amendment which I intended to offer to the banking system. I intended to offer it as a proviso to the fifth section, but probably it would come in more properly as a proviso to this amendment of the Senator from Rhode Island. Its object is to enable the State banks of West Virginia to avail themselves of the privilege of becoming national banks, though it is not confined to that State. I offer my amendment as a proviso to the amendment of the Senator from Rhode Island, in this form:

Provided, That it shall be lawful for any bank or banking association organized under State laws and having branches, the capital being joint and assigned to and used by the mother bank and branches in definite proportions, to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches or such one or more as it may elect to retain, the amount of the circulation redeemable at the mother bank and each branch to be regulated by the amount of capital assigned to and used by each.

It may be perhaps that the law as it now stands would not forbid banks of the character here described becoming national banks and retaining their branches; but there has been some misconception in relation to the character of these branches. It is not the system that prevails I believe in Indiana and Ohio where there are in fact a number of affiliated banks regulated by a central board of control, and the objection to their being transferred in a bunch and made national banks is that there cannot be two controlling powers. But the banks of the character described in the amendment that I have offered are found in our State, in Missouri, in Pennsylvania, I believe, and in some other States, and they amount simply to one bank having two or more offices at which it transacts its business. In the case of our banks the State owns about one half of the stock and in granting an additional subscription of stock on the part of the State—I will take a specific case with which I am more familiar—in granting an additional subscription on the part of the State



they made it a condition that the Northwestern Bank at Wheeling should establish a branch with a capital of \$100,000 at Parkersburg. That branch was long since established, twenty years ago, and has been in operation under a renewal of the charter ever since, and is now in operation. The point that I desire to accomplish here is to make it certain that these banks retaining this organization with a branch, may become national banks. They will be wholly under the national banking law; they will be wholly under the control of the Comptroller of the Currency as much as any other banks, and they will not in fact differ from any other banks that are created by the national law except in the single fact that they will have two or more offices where they transact business. The mother banks generally have a large capital while the branches have a smaller capital. In our case you could not withdraw those branches without withdrawing the benefaction, if you choose to call it so, of the State to neighborhoods not so wealthy and not so well able to have banks of their own.

I understand that there is no objection to this amendment. The objection of the Comptroller of the Currency, as I understood, only applied to the system of affiliated banks of which I have spoken. Now you have determined, so far as you have gone, to impose a tax of ten per cent. on the circulation of these banks which have been desirous and are authorized by a law passed at the present session of our Legislature to become national banks. I propose to let them do it without throwing off their branches, which perhaps they cannot do unless this additional authority is afforded. I cannot see any objection that can be made to it, and I trust that it will be adopted.

Mr. ANTHONY. I suggest to the Senator from West Virginia whether his proposition had not better come in as a separate amendment, instead of being offered as an amendment to mine.

Mr. VAN WINKLE. I do not want to obstruct the Senator's amendment, but there seemed to be a general acquiescence in my proposition, and therefore I saw no objection to offering it as an amendment to the amendment.

Mr. ANTHONY. If there is no objection to the amendment of the Senator from West Virginia, I have no objection to its being attached to mine; but if there is any objection, I think they had better be separate.

Mr. VAN WINKLE. My amendment has the approbation of the Committee on Finance, and I see no objection to it.

The amendment to the amendment was adopted, and the amendment as amended was agreed to.

Mr. ANTHONY. I wish to offer another amendment, and I shall have to ask the chairman of the Finance Committee or some member of the committee, who I believe understands this bill, where it ought to come in. I suppose, perhaps, it should come in in section three, page 45, the section which increases by twenty per cent. the duty upon all articles enumerated in section ninety-four of the act to which this is an amendment. I wish to place among the exceptions to the operation of that section contained in the proviso to it, the article of wood-screws. This article now pays double the tax paid upon all similar articles. The tax upon all manufactures of the class to which this product belongs is five per cent., while upon wood-screws it is ten per cent. This section, as it reads, will make the tax on all other articles six per cent., and the tax on wood-screws twelve per cent. I desire that the wood-screws shall be excepted from the operation of this section, and be left at ten per cent., while the other articles are put at six per cent.

I do not know why it is, but there seems to have been in Congress a desire for vindictive legislation upon this class of industry. I have heard but two reasons assigned. One is, that the men who have engaged in it are rich, and the second that the business is a monopoly. I hope that the Senate will not, when we are imposing such enormous and necessary burdens upon the industry and the wealth of the country, make it a crime for people to make money. The men who are engaged in this branch of industry invented or purchased the invention of a machine for the manufacture of screws, the result of which is to produce a better and a cheaper article than was ever introduced into the country before. If you now remove the taxes which they pay on the articles which they use, they will ask no protec-

tion whatever. They pay to the Government annually \$180,000 excise, and they pay \$100,000 in gold upon that portion of the raw material which they are obliged to import. I think it would be perfectly fair to place their product on the same basis and in the same class with all other manufactures of the kind, but I shall not ask for that; I only ask that this branch of industry may not be discriminated against more than four per cent. in the rate of duty, that is, that it shall not be taxed sixty per cent. more than articles of the same kind.

In regard to the monopoly, that objection, if it were one, has ceased. There are now two other establishments making the article, and the three together can produce one third more than the country can take, and with the taxes imposed on the business it is utterly impossible to compete with foreign countries for foreign trade. The only monopoly they ever had was the same monopoly that any man or any business obtains by producing an article or rendering a service better and cheaper than his neighbor. If the Senator from Ohio will tell me where to put in the words "wood-screws," I will move to except the article, the effect of which will be to make the tax on wood-screws ten per cent. instead of twelve per cent., when all other manufactures of the same kind are put at six per cent.

Mr. SHERMAN. I think a wood-screw would go into the exception without any trouble anywhere. [Laughter.] I am opposed to the exception. The Senator can make a much stronger argument for a hundred articles that might be named among the manufactured articles of the country.

Mr. ANTHONY. I do not ask that the article shall be excepted from the uniform burden, but from a still greater burden beyond what any other interest is subjected to, and beyond the very large burden it already suffers.

Mr. SHERMAN. I ought to explain the reason why so many articles are excepted in the proviso to the third section. That section of the bill makes a specific increase of the duties imposed by the ninety-fourth section of the law of last year, and then proceeds to make specific exceptions of certain articles, for instance, Jobacco, illuminating oil, &c. They are excepted from the general increase in this section because they are provided for specifically. No other articles are excepted from the general increase. If this exception is made in favor of wood-screws, which I suppose can bear a tax as well as everything else, efforts will be made to secure other exceptions.

Mr. ANTHONY. They can bear a tax as well as all other articles of the same kind, but I do not see why there should be one class of industry selected out for vindictive legislation. Why should this article pay sixty or seventy per cent. more than other articles of the same kind produced from the same material? I cannot get the Senator from Ohio to tell me where to put in my amendment, and I shall have to put it in at random. I do not know that it makes much difference, for I do not suppose any one will understand this bill after it is passed.

Mr. SHERMAN. Put it in after the word "coal."

Mr. ANTHONY. Very well. I move after the word "coal," in line eleven of section three, to insert "wood-screws."

Mr. JOHNSON. The Senator proposes to leave them subject to the tax imposed in the law of last session.

Mr. ANTHONY. Yes; ten per cent.

Mr. JOHNSON. The Senator does not mean to except them from the tax imposed by the law to which this act is an amendment.

Mr. ANTHONY. Certainly not. I mean to leave them at ten per cent., while all other articles of the same class pay but six per cent.

Mr. CONNESS. I wish to say to the Senator from Rhode Island, in regard to the legislation of last year, that I took some part in the discussion when it took place and the ten per cent. was imposed on wood-screws. It was not intended by me certainly as vindictive or oppressive legislation. I happened to have some knowledge in regard to the subject that guided me to this judgment, namely, that without injury to the interest that was engaged in producing this article, because of the remarkable invention of which they

were in possession, and the superior article they produced, the consumption would bear the increased tax without injury to the producers. They have gone into universal use; nothing can compete with them; and my idea was that those who used wood-screws the world over could afford to pay the increase. I think, though, that the exception the Senator now asks for is equally reasonable, and I shall vote with him for it; but there was no intention of oppressing that industry.

Mr. ANTHONY. I will explain what I meant by vindictive legislation. It was that you put on this article double the tax that you did on similar articles, and then when the tariff bill came the Senate refused to make a corresponding increase of the duty on the foreign article.

Mr. CONNESS. That I think was a mistake.

Mr. ANTHONY. That was vindictive legislation, as though there was something wicked in this article of manufacture, and you wished to put it down.

Mr. CONNESS. I have no recollection of the Senate refusing to give a corresponding protection, although I believe that the protection found in this invention is sufficient of itself.

Mr. ANTHONY. They steal our patents in England.

Mr. CONNESS. The Senator replies that they have stolen the patents in England. I shall vote with him on the tariff bill to give the necessary protection, and I think his present amendment is a reasonable one and ought to be adopted.

Mr. GRIMES. I am sorry that I cannot concur with the Senator from California. There is nothing vindictive about this legislation. I suppose the reason why an extra amount was levied upon these articles was, first, that it could be collected, as the Senator from Rhode Island has already told us, off three persons, and hence there is very little expense attending its collection. Then, in the second place, it is more equally distributed over the country and among the citizens of the country than probably any tax that can be conceived of on any iron manufacture. There is not a hovel or a palace in the whole country that does not use these wood-screws, and exactly in proportion to the value of the mansion or whatever may be erected. These manufacturers in Rhode Island are merely our agents in collecting the amount that we levy upon them, and they collect it off everybody in the world more uniformly and more universally and more equally than any other tax is collected.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island.

The amendment was agreed to; there being, on a division—ayes 18, noes 13.

Mr. VAN WINKLE. I offer an amendment to come in on page 25, line six hundred and six, after the word "articles," in the beginning of the line:

And by inserting in the same proviso, after the words "thread, yarn, or warps," the words "imported or."

Mr. SHERMAN. I should like to have that explained.

Mr. VAN WINKLE. The original act in the second proviso to the paragraph referred to in this part of the bill reads:

"Provided further, That any cloth or fabric as aforesaid, when made of thread, yarn, or warps upon which a duty as aforesaid shall have been assessed and paid, shall be assessed and pay duty on the increased value only thereof."

This amendment is intended to place on the same footing the same class of goods which have paid an import duty. By looking to the previous clauses the words "duty" and "tax" are employed and used in such a way as if it was meant to discriminate between the two, but afterward the same two words are used, evidently applying only to the internal revenue tax. This amendment is simply to correct the interpretation of the assessors, that goods which have paid an import duty should not have the benefit of this proviso.

Mr. MORRILL. I should like to know whether I understand this amendment. Take a single instance for illustration, the article of bur-laps, which pay an import duty of twenty-five per cent. When they come to be manufactured, will this duty apply to the whole manufactured article or only to its increased value?

Mr. VAN WINKLE. This is the tax or duty on the thread, yarn, or warps out of which goods are made. I offer the amendment principally in

the interest of an infant manufacture here—the silk manufacture. In several descriptions of silks that are made in this country the thread or yarn from which the warps are made cannot be made in this country and is always imported.

Mr. SHERMAN. On reflection I am convinced that this is a very important and a very dangerous change. Under the present law, when a duty is paid on an imported article, that duty cannot be deducted from the value of the imported article in this country into which it goes, in estimating the internal tax. That is the construction put upon it by the Department. This amendment of the honorable Senator, although probably he does not so design it, would extend the proviso so as to enable the manufacturers here to deduct the duty on the imported article which has been paid probably by the importer from the article manufactured in this country out of material on which an import duty has been paid. If the purpose is to make such a radical change as that, it is a very important provision, because many articles of importation form a part of articles manufactured in this country. Under the law as now framed, a duty on an imported article cannot be deducted from the internal tax. If that is provided for in this case, it will be the only case in our whole system of internal taxation.

Mr. VAN WINKLE. Perhaps I did not state the case exactly, as I was a little confused about it when I parted with the amendment itself and sent it to the desk. The idea is to provide that the tax upon the manufactured article shall only be on the increased value thereof, and the amendment only goes so far as this, that the duty which has been paid on the importation shall be taken into consideration as well as the internal tax, if the goods have been imported. It may be liable to the objection made by the chairman of the Finance Committee, but I do not think so.

Mr. SHERMAN. Let me take the case of silk spoons which I believe enter into the manufacture of worsted goods. We had some specimens before us. These silk spoons pay an import duty of twenty or thirty per cent. They form a part of the manufactured article of worsted goods, of which a large quantity is made in this country. Does the Senator suppose that from the tax on the worsted goods when manufactured the duties paid by the importer of silk spoons shall be deducted? That is the effect of the amendment. It changes the whole theory of the law. By the second proviso any duty paid in this country under the internal revenue act, on the thread, yarn, or warp, may be deducted from the duty on the completed article, but to extend it beyond that and allow a deduction to be made of the duty on the imported article which goes into and forms a part of the manufactured article would be introducing a new and very dangerous principle. The whole of our duties on imported goods might then be deducted from the duties on the completed articles of which they form part.

Mr. VAN WINKLE. The amendment does not propose to deduct the import duty. It only provides that in assessing this internal duty it shall be laid on the increased value. That is all our artisans will have had to do with it. They manufacture it from these imported warps, and they ought to pay duty only on the value they have added to it. I confess that I have not sufficient practical knowledge of this subject even to state it as it appears to my own mind, but it strikes me that it is only just to this infant branch of manufacture to which I have alluded, and which is now struggling for existence, to adopt this amendment. To make them pay a duty upon a duty that has already been paid, it seems to me is going too far.

The amendment was rejected.

Mr. DAVIS. I offer this amendment as an additional section:

*And be it further enacted,* That one fourth part of the proceeds of the revenue that may be collected under this act and under all laws of the United States imposing taxes or raising revenue, be, and the same is hereby, declared to be set apart and pledged to pay all debts, claims, and demands which any loyal State, citizen, or other person friendly to the United States may have against the United States, or any such State, citizen, or person may sue the United States in any of their circuit or district courts for such debts, claims, or demands, and such suit shall be heard, adjudged, and determined according to the principles and the forms and modes of proceeding that are applicable in suits between private individuals.

The amendment was rejected.

Mr. CONNESS. I offer a slight amendment which I think the chairman of the Finance Committee will accept. It is to insert after the word "act," in line two hundred and eighty, on page 13, this proviso:

*Provided,* That this shall not apply to any miner whose receipt from his mine shall not exceed annually \$1,000.

The object is not to tax those who are absolutely poor and searching for ore.

Mr. SHERMAN. I do not see why the Senator wants to put that in. If he thinks it makes the law any stronger than it is at present I have no objection, but the exemption now under the old law extends to all employments where the amount realized is less than \$1,000.

Mr. CONNESS. Will the chairman call my attention to that particular part of the law?

Mr. SHERMAN. It is the eightieth section, which says that no license shall be required in cases where the amount of sales is less than \$1,000.

Mr. CONNESS. This is not a matter involving sales.

Mr. SHERMAN. It is a license tax. The Senate will see it is the license on miners. Now the section which is here proposed to be amended, the eightieth section of the present law, provides that no licenses shall be required where the amount of sales or products is less than \$1,000. However, I have no objection to the amendment.

Mr. CONNESS. Very well. It is a matter of doubt, and I prefer to have the proviso in to remove the doubt.

The amendment was agreed to.

Mr. JOHNSON. The ninety-fourth section of the existing law contains a clause which I understand has been construed, and I suppose properly construed, to include fertilizing manures—an article very much in demand in all the middle States, particularly in my own State—and the tax is ten per cent. This supplementary bill does not exempt fertilizing manures from the increased tax it imposes on articles included in the ninety-fourth section of the present law. I move to amend the bill by inserting after "benzole," in line eleven of section four, page 45, the word "fertilizers." The effect of this amendment, if adopted, will be to let fertilizers remain subject to the tax imposed by the original act.

Mr. HENDERSON. Why exempt them any more than various other articles?

Mr. JOHNSON. Wood-screws have already been excepted from the operation of this section.

Mr. HENDERSON. If we listen to Senators we shall get most of the articles in the exception, and there will be no use in making any increase.

Mr. JOHNSON. The reason I offer the amendment is that this tax falls exclusively on the agriculturists; it increases the price of the fertilizers, and they are now complaining very much of the practical operation of the five per cent. which is imposed on fertilizers by the original act. It is now proposed to increase that tax twenty per cent., and it will be so increased unless this exception be made. I submit that when you are taxing the agriculturist on all he eats and wears, and looking to the benefits which the country derives from the fertility of the soil, this is an impolitic tax. My own view is that they ought not to be taxed at all, but they are able to get on now with the tax imposed by the original act; but the information I have is that perhaps the whole business will be stopped if it is increased as proposed here. It amounts to very little in point of fact to the Treasury, but a good deal to the farmers.

Mr. HENDERSON. I do not know that I shall make any special opposition to the Senator's proposition, but I will make one remark. The farmers of the country are less taxed under this bill than any other class, except, perhaps, beer drinkers; I think they get off very lightly. We are afraid to tax anybody that drinks beer or manufactures beer, and we do not tax farmers as much as other individuals.

The amendment was agreed to.

Mr. SUMNER. I move to insert after "twenty-eight," in line two hundred and seventy-six, on page 12, the words, "by striking out paragraph twenty-nine." If I can have the attention of the Senate for a moment they will see the effect of this amendment, and I think will be disposed to agree with me. The paragraph which I propose to strike out is as follows:

29. Foreign insurance agents shall pay fifty dollars for

each license. Every person who shall act as agent of any foreign fire, marine, life, mutual, or other insurance company or companies, shall be regarded as a foreign insurance agent under this act.

The previous paragraph provides that insurance agents shall pay ten dollars for each license. The Senate will observe that here is a discrimination against the agents of foreign insurance offices, or, as they are called, "foreign insurance agents." In point of fact, there is but one foreign office acting through agents in this country; that is the London, Liverpool, and Globe Insurance Office, having an agency in New York, with other agents throughout the country; but the gentleman representing this office in New York are all Americans, and the agents appointed by them throughout the country are all Americans; so that this tax falls upon American citizens. It has actually happened that the agents of this company, particularly in the State of Ohio, where they were numerous, have been obliged to give up their agency, because their business was not enough to justify the payment of this tax. They could have paid ten dollars, but they could not pay ten dollars. The consequence is that the revenue has actually lost from this provision instead of gaining.

Then again, sir, I understand that this discrimination is the only one in the whole bill as against foreigners. In every particular the bill from beginning to end, with this exception, treats all alike, puts them on the same footing. If you go to England for an illustration, I am told that there is no discrimination there, and that in point of fact there are at this moment two leading insurance companies of New York operating in Liverpool and in London through agents, and those agents pay nothing in England which the agents of English insurance companies do not also pay. Therefore, I might ask that foreign agents here should be put on the same footing with the agents of domestic insurance offices, on grounds of reciprocity as between England and the United States; but I put it on two distinct grounds: first, that nothing is gained to the revenue by this discrimination; and secondly, that the discrimination, so far as it takes effect, operates upon American citizens. I think there can be no objection to the amendment.

The amendment was agreed to.

Mr. CHANDLER. I move to insert on page 30, after the word "transportation," in line seven hundred and twenty-four—

The PRESIDING OFFICER. The Senator from Michigan proposes to amend an amendment already adopted. That is not now in order. It will be in order when the bill shall have been reported to the Senate.

Mr. HENDERSON. I offer an amendment as an additional section:

*And be it further enacted,* That section one hundred and ten be amended by inserting after the words "1st day of July, 1864," the words "Provided, That on and after the 1st day of July, 1865, in addition to the duties on circulation prescribed in said section, there shall be levied, collected, and paid by all banks, associations, corporations, companies, or persons issuing circulating notes and having a capital of more than \$300,000, a duty of one eighth of one per cent. each month upon the average amount of circulation issued by any such bank, association, corporation, company, or person in excess of eighty per cent. of its authorized capital; and after the 1st day of July, 1865, a duty of one fourth of one per cent. each month upon the average amount of its circulation as aforesaid, in excess of sixty per cent. of its authorized capital;" and that said section be further amended by striking out all of the first proviso to said section down to and inclusive of the words "redemption thereof."

Senators will see by reference to section one hundred and ten of the existing law that it imposes a duty upon bank deposits of one twenty-fourth of one per cent., upon bank capital one twenty-fourth of one per cent., and upon bank circulation one twelfth of one per cent. per month. The first proviso to that section declares that it "shall not apply to associations which are taxed under and by virtue of the act to provide a national currency," &c. It applies only to the State banks. We have now determined to blot out the State banks and to convert them into national banks. The amendments adopted this morning, I presume, will force all the State banks in the country into the national system. My idea in offering this amendment is simply to restrict the circulation of the country. We authorize the national banks when they are organized to issue a circulation of ninety per cent. upon their capital. My opinion is that you will have too much circulation.

Mr. JOHNSON. What is the whole amount of circulation authorized?

Mr. HENDERSON. Three hundred million dollars.

Mr. JOHNSON. Is that too much?

Mr. HENDERSON. I think so. I will state to the Senator that if I understand the matter properly, a great many of the State banks that have been converted into national banks have a State bank circulation and a national bank circulation also, both out to-day.

Mr. JOHNSON. What I wanted to suggest to the honorable member was this: if he is right in supposing that the State banks will go out of existence, if they are all to become national banks, then the entire circulation which the national banks will be at liberty to issue will be \$300,000,000.

Mr. HENDERSON. Let me suggest to the Senator that the whole circulation of the State banks and of the national banks to-day does not exceed \$250,000,000.

Mr. SHERMAN. There is \$136,000,000 of State bank paper and \$84,000,000 of national bank circulation.

Mr. HENDERSON. Then there is but a little over two hundred millions of both in circulation. I believe the Comptroller of the Currency himself believes that the banks with large capital ought to be restricted in the amount of their circulation. That is my opinion. I do not think that a bank like the Bank of Commerce in New York ought to be authorized to issue a circulation of ninety per cent. of its capital stock; a bank with \$10,000,000 of capital issuing \$9,000,000 of circulating notes! The Comptroller of the Currency, as I understand, recommended to the committee to restrict banks of large circulation in the amount of their circulating notes.

Mr. JOHNSON. And you effect that by taxing the surplus?

Mr. HENDERSON. By taxing the surplus over a certain amount, and the amendment only taxes those banks which have a capital as large as \$300,000. There are but few country banks that have a capital of that amount; and my understanding is that the Comptroller of the Currency desires to have some limit put on the large banks in the cities; and I believe he sent to the House of Representatives a bill, which was introduced there, limiting materially the circulation of these banks. My proposition is that after the 1st day of July of this year one eighth of one per cent. each month, that is three per cent annually, shall be levied on the average amount of circulation issued by any bank in excess of eighty per cent. of its capital; and then after the 1st of July, 1866, to levy one fourth of one per cent each month, that is six per cent. annually, on the average amount of circulation in excess of sixty per cent. of its capital.

Then the latter part of the section I offer strikes out the first part of the proviso to section one hundred and ten, so as to make the provision applicable to all banks, the national banks and the State banks.

I have no idea that the amendment will be adopted. I suppose my friend from Ohio will object to it, and if so, he being chairman of the committee, it will go by the board. I desire only to suggest now that inasmuch as we have gone into this banking system heels over head, and determined to make everything a national bank, we ought to limit in some way the circulation of the banks we authorize. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 25; as follows:

YEAS—Messrs. Buckalew, Carlile, Collamer, Davis, Doolittle, Farwell, Foot, Henderson, Hendricks, Johnson, Powell, and Wright—12.

NAYS—Messrs. Chandler, Clark, Conness, Cowan, Dixon, Foster, Grimes, Hale, Harlan, Harris, Howe, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Ramsey, Sherman, Sprague, Stewart, Sumner, Ten Eyck, Trumbull, Wade, and Wilson—25.

ABSENT—Messrs. Anthony, Brown, Harding, Howard, McDougall, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Van Winkle, Wilkinson, and Willey—13.

So the amendment was rejected.

Mr. HOWE. I want to offer two or three amendments, one of which is not strictly in order now. I propose to insert at the end of the seven hundred and thirty-sixth line, on page 31, these words: "by inserting the word 'net' before the words 'deposits of money,' and." This is an amendment to a clause already adopted as an

amendment. If I were to propose to add these words to the clause, the amendment would be in order; but it would be a little better to have it come in where I propose, and as I suppose the amendment itself is not objected to, I presume there will be no objection to entertaining it now.

The PRESIDING OFFICER. It may be entertained by unanimous consent.

Mr. SHERMAN. I trust the Senator will let the bill be reported to the Senate.

Mr. HOWE. I have been brooding over these three amendments. The Senator understands the effect of the one I now offer. It is simply to insert the word "net" before "deposits" in the one hundred and tenth section of the existing law.

Mr. SHERMAN. Yes, and I have been brooding over it, and I cannot agree to the amendment. I may as well state the difficulty. What are "net deposits?" I have inquired of two or three bankers what they meant by "net deposits," since the Senator suggested the matter to me. A deposit in a bank is a deposit. We know what net profits are, but what are net deposits? It is a term introduced in New York for the purpose of deducting a large portion of their deposits, and if the words "net deposits" are used it will be very difficult to tell what are the deposits of a bank on a particular day. I have conversed with two or three intelligent bankers about it, and I am satisfied that the introduction of the word "net" before "deposits" would reduce the amount of the tax very largely. I ask the Senator from Vermont if he knows what net deposits are.

Mr. COLLAMER. I do not.

Mr. SHERMAN. I have made inquiry and I do not know.

Mr. COLLAMER. I do not understand what is meant by it. I suppose the Senator from Wisconsin can define what he means.

Mr. JOHNSON. We can ascertain what the average deposits of the year are, but I do not understand what net deposits are.

Mr. HOWE. As soon as I find out how many Senators do not know what it means, I will try and tell the Senate what I understand it to mean. The bank returns in our metropolitan cities uniformly give a return of what they call their net deposits; and I understand that those net deposits are ascertained by the settlement which takes place at the clearing-house, and represent the sum of money as distinguished from the checks which are on deposit in the several banks during the day. One man may have deposited in one bank \$100,000, he may then go into the street and make a purchase for which he draws a check for \$50,000 against that deposit; his vendor deposits that check in another bank, so that the gross deposits in the banks growing out of that deposit of \$100,000 would be \$150,000. He may make another purchase of \$50,000 more and draw a check for it, and that check may be deposited, so that really he has no money on deposit, there is no money due to him in the bank, but there are \$100,000 deposited in two or three other banks. Both the representative and the principal are counted as gross deposits. The object of this amendment is to have only the net deposits counted, the deposits of money not checked against. That is really what I understand it to be.

The reason why you tax deposits at all, I understand, is because it is a sum of money deposited to the use of the bank holding it, though it is subject to payment on demand. The law assumes, what is known to be the fact, that it is an advantage to the bank to hold that money, and therefore you impose a tax upon it. But it is of no sort of advantage to the bank after it is actually checked against; and whether it is checked against or not you cannot tell until the settlement has taken place at the clearing-house. I suppose the only advantage of my amendment would be in those cities where there is a clearing-house established. Evidently it is just, and I cannot see the slightest danger in it. Bankers know what it means; our metropolitan journals know what it means; the Comptroller of the Currency knows what it means; and they all agree, I believe, that it is entirely just and proper. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COWAN. I am rather inclined to think I should favor the amendment of the Senator from Wisconsin if there was any practicable way of getting at it. I feel, I think, as sensibly as he

does, the absurdity of taxing both the principal and the representative at the same time, because the representative may be multiplied indefinitely; but in the case of outstanding checks and money on deposit which may represent the same basis or sum as a principal, I do not see how the net result can be arrived at. There may be some method by which it can be achieved, but I do not know what it is. If I was satisfied or could understand how it could be arrived at, I might favor the amendment, because I see the hardship of taxing not only the thing itself, but that which represents it in half a dozen places, perhaps, all over town the same day.

Mr. HOWE. I can only say to the Senator from Pennsylvania that this is ascertained every morning when the statements take place; is known and is published. I hold in my hand the returns of the banks in New York for the week ending the 18th of February. It gives the net deposits of the banks during that week.

The question being taken by yeas and nays, resulted—yeas 15, nays 21; as follows:

YEAS—Messrs. Anthony, Doolittle, Farwell, Foot, Grimes, Hale, Harris, Hendricks, Howe, Morgan, Powell, Sprague, Trumbull, Van Winkle, and Willey—15.

NAYS—Messrs. Buckalew, Chandler, Clark, Collamer, Conness, Cowan, Davis, Dixon, Foster, Harlan, Henderson, Lane of Kansas, Morrill, Nye, Ramsey, Sherman, Stewart, Sumner, Ten Eyck, Wade, and Wilson—21.

ABSENT—Messrs. Brown, Carlile, Harding, Howard, Johnson, Lane of Indiana, McDougall, Nesmith, Pomeroy, Richardson, Riddle, Saulsbury, Wilkinson, and Wright—14.

So the amendment was rejected.

Mr. HOWE. I now move to amend on the 3d page by inserting after the word "accounting" in the forty-fifth line and by adding after the first proviso in the same section the following:

*Provided further,* That no more shall be allowed to any assessor for clerk hire than seventy cents for each hundred names assessed in his district, and no more shall be allowed to any assessor or assistant assessor for stationery than one cent for each name assessed in their respective districts.

Mr. CONNESS. I do not know the propriety of adopting that. Does the Senator mean that there shall be but seventy cents allowed to an assessor in a country district for assessing a hundred names?

Mr. HOWE. For clerk hire, and one cent a name for stationery.

Mr. SHERMAN. Has the Senator consulted the Commissioner of Internal Revenue whether it is sufficient? I should like to know the basis.

Mr. CONNESS. It may stop the whole assessment.

Mr. SHERMAN. I ask the Senator from Wisconsin if he has computed the matter or relies on the statement of the Commissioner of Internal Revenue?

Mr. HOWE. I have not been governed by the estimates of the Commissioner of Internal Revenue. In point of fact, the purpose of the amendment is to correct the estimates or to endeavor to correct them. I am satisfied he has been very much mistaken in his estimates. I have paid considerable attention to this subject. That there is no danger that this amendment will limit the allowances for clerk hire too closely I think is manifest by one statement which I will make to you, that, although it will save \$50,000 in the expenditures for clerk hire in the aggregate, it will increase the allowances in more than half the districts in the United States. It will increase the allowances made in ninety-five districts to the amount of \$20,870, but it will decrease the allowances made in seventy-eight districts \$78,620.

Mr. CONNESS. And that is its very danger.

Mr. HOWE. That, I am told, is its very danger. That I think is its essential grace. There can be no possible occasion for any such difference; and gentlemen who have investigated the matter, who are most familiar with the character of the work and the amount of work to be done in the offices of the assessors, say that the number of names to be assessed in a district does furnish the best possible test of the amount of clerical labor required. I have a schedule here giving the present clerk hire and the number of names assessed in each district in the United States and the allowances for stationery in each district of the United States. If you look at the discrepancies it will be manifest to every one that some correction is absolutely demanded. I am not going to read this table at length, but to give some figures from it. In the third Massachusetts dis-



strict forty-five thousand names are assessed and they are allowed \$3,800 for clerk hire. In the fourth district of New York and the thirty-second district of New York there are twenty-four thousand names assessed in each, but little more than half as many as in the third Massachusetts, and they are allowed \$5,000 each for clerk hire. In the eighth New York district twenty-one thousand names are assessed and \$4,200 are allowed for clerk hire. In the third New Jersey twenty-one thousand, precisely the same number of names, are assessed, and \$1,000 is allowed for clerk hire, less than a quarter as much. In the third Pennsylvania and second Pennsylvania nineteen thousand names are assessed in each district, and \$4,000 is allowed to each assessor for clerk hire.

The chairman of the Finance Committee, who called on me for this explanation, now begs me to stop, and as I only took the floor to indulge him I will surrender it to indulge him. I am bound to indulge him.

Mr. SHERMAN. I was only suggesting to the Senator that this is probably the last day for this bill and I do not want it blocked up.

Mr. HOWE. I only want to give one or two more figures. I have just given you two districts assessing nineteen thousand names each and where \$4,000 is allowed for clerk hire. The District of Columbia assesses the same number of names, and there is allowed \$800 for clerk hire.

The inequalities in the allowances for stationery are just as remarkable, perhaps more so. There is not only an immense difference made in the allowances to districts having the same amount of work to do but there is an enormous difference made in the same districts for different years. For instance, my eye just lights here on the first Illinois. The first year up to the 30th of June, 1863, before they had learned how to do things, they only required \$183 19 for stationery. The next year there was required and paid \$926 11, and the same district had the same work.

These allowances for stationery run from the twenty-eighth New York district, which assesses seventeen thousand names and was allowed sixty-nine dollars for stationery last year, to the second Pennsylvania, nineteen thousand names assessed, only two thousand more, and they were allowed for stationery \$2,181 77.

Mr. SHERMAN. But a word in regard to this amendment. It is so material that I am afraid to adopt it. I want to say a word to my friend from Massachusetts and to my friend from Wisconsin. We have changed the whole mode of making allowances for stationery and clerk hire by this bill. Let us try its operation. Those accounts are hereafter to go to a different class of officers. I hope we may have a vote on this amendment without further debate.

Mr. WILSON. I do not understand this proposition. There is a great mistake about this matter.

Mr. HOWE. Let the amendment be returned to me.

Mr. WILSON. I have prepared an amendment on the same principle, but making certain allowances, especially for the Pacific coast, and I will read it:

That the general rate of allowance for clerk hire to assessors of internal revenue, except the assessors in California, Oregon, Nevada, and the Territories, shall not exceed the rate of seven dollars per one hundred persons assessed upon the monthly and annual lists as aforesaid, for the fiscal year ending June 30, 1865, and each fiscal year thereafter; and in consequence of the increased cost of living and the additional labor required in large cities and towns, there shall be allowed, in addition to the above rates, as follows: to assessors whose offices are in cities which, by the census of 1860, contain a population of not less than one hundred thousand, \$1,500; to each assessor whose office is in a city of not less than fifty thousand inhabitants, \$1,200; to each assessor whose office is in a city of not less than twenty-five thousand, \$800; to each assessor whose office is in a city of not less than twelve thousand inhabitants, \$500; to each assessor in a town of less than twelve thousand inhabitants, whose lists contain the names of fifteen thousand persons or upward, \$100, and the same rate for any portion of time served less than one year. And the assessors in California, Oregon, Nevada, and the Territories, shall be allowed double the above-named rates.

If the number of persons assessed be fifteen thousand, at seventy dollars a thousand, it is very easy to calculate what it would be, \$1,050 for clerk hire, an addition of \$100 would make \$1,150. Then take a district where there were twenty thousand names, and that is as large as they will average in New York, it would be

\$1,400 for clerk hire, where they now get \$5,000. A district of twenty thousand names, at seventy dollars a thousand, would be \$1,400, and \$1,500 added would make \$2,900, which would be a reduction of \$1,100, and that is as much as they ought to have. On the basis of this proposition one hundred and sixteen offices would be increased and about seventy diminished—some a small amount and some a large amount. They would be equalized by it, and the aggregate cost would be about four thousand dollars more than it is now. But the proposition of the Senator from Wisconsin shuts up every one of the large offices, for they could not get along in any large city under it.

Mr. CONNESS. What the honorable Senator has just stated shows the danger of this class of amendments. We are all, I presume, equally anxious to diminish the expenses of collecting the revenue. As far as locality is concerned, with which I have no feeling, I could make no objection (if the amendment of the honorable Senator were right in the nature of it) to the provision he proposes to apply to our country; but that is not the question; that is not what I am at. I am afraid of these arbitrary rules that are proposed for governing what must vary to a very remarkable extent according to the place, circumstances, and other conditions that we cannot be always aware of here. I have a very extensive statement here which I cannot trouble the Senate with, but I will read from it upon one point. It has been made since the honorable Senator from Massachusetts made a speech the other evening, and if the statement made by the Senator was true, this is certainly very false and incorrect, and vice versa.

Mr. WILSON. I want to get that statement. I have heard about it. I should like to know what it is.

Mr. CONNESS. The Senator cannot have heard of this, for I have not named it to anybody. I will read one item; it is in regard to the stationery for the thirty-second district in New York, the allowance being as stated by the Senator, \$3,070 for stationery for one year.

Mr. WILSON. For twenty-two months.

Mr. CONNESS. Then certainly the statement of the Senator does not show a very remarkable state of things, considering that that is one of the wealthiest districts that we have in the country. Again, much of that stationery, I am told, has been distributed from that office to the offices of other assessors. If that be the case, it materially reduces even the statement the Senator made. The Senator will understand—

Mr. WILSON. I happen to have a few documents about that. The statement I made is absolutely correct.

Mr. CONNESS. The Senator will understand me that my purpose is not to make an issue with him.

Mr. WILSON. I understand the Senator. I know he would not do that.

Mr. CONNESS. I only wish to call attention to the danger of these arbitrary conditions that we are proposing to affix here, applicable to other conditions that we cannot possibly understand, particularly, as suggested by the chairman of the committee, since we have made other corrections which will undoubtedly check any irregularities that may have occurred. I regard it as a very dangerous procedure to attach this amendment now.

Mr. WILSON. I will simply say that at the present time, and with this pressure upon us, I have no desire to take up time. I made a few remarks the other evening on the subject. I had prepared myself for a two or three hours' speech of statistics, and I can stand here ten hours and detail facts and never make a mistake as to the facts, because they are founded on official records. I made a few statements. I made an allusion to that thirty-second New York district—

Mr. GRIMES. I want to know if the difficulty is in a defective law or a defective execution of it.

Mr. WILSON. In a defective law primarily, and in a faulty execution. In the first place, the law was based on no principle. The whole matter should be equalized and properly regulated. As it stands now the man who is most persevering in urging an increase gets it.

But I will not detain the Senate further. The other evening I quoted a few facts here, and I soon heard that my speech was sent for to the Globe office, that the reporter's notes were hunted after, and a great parade was made of some mistake that it was alleged I had made in regard to one particular district, no other fact stated by me being attacked. I am right about that district; I have seen the official accounts.

Mr. CONNESS. It was not unnatural to look to the Globe after the Senator had spoken.

Mr. WILSON. I have restrained myself from presenting facts in regard to this office which I have in my possession, because to present them would do no good. I merely stated enough to show that we ought to do something, that in the first place we ought to correct the law; but more than all and above all put the office into the hands of men qualified to administer it so as to protect the great interests of the country.

Mr. HOWE. I must say another word. I am not going to take much time of the Senate. It is a little embarrassing and a little discouraging to see a Legislature, conscious of defects and wrongs, and so persistently reluctant to make an effort to correct them. Indulge in no declamation either about the character of the present internal revenue law or of the administration of that law. I am bound to say that in my judgment the administration is a great deal more honest than the law itself, so far as I know about it; and I do not mean to be flattering to the administration of the law at all when I make that remark. There are two or three features in that law that I cannot think of without a shudder. The Finance Committee, as a body, know of them perfectly well to-day, and did know of them perfectly well during all the last session.

Mr. SHERMAN. The Senator now says that the Committee on Finance, of which he is a member, as a committee know of something outrageous in the law, and they have failed to correct it. I do not want to be led off into an argument about this matter, but such a declaration made by a member of the committee is certainly a very startling one. If I knew anything wrong in the law, certainly I should be willing to correct it, as one member of the committee. I had but very little hand in framing this law, but I should be willing to correct any defects found in it.

Mr. HOWE. I want to test the Senator's disposition on one single proposition which is pending. During the last session an effort was made to get rid of more than one exchequer, to get rid of more than one Treasurer, to direct the payment of the immense sum that is collected from the internal revenue into that very Treasury where your law has thought it absolutely essential your duties should be paid for twenty years, and where they have been paid. The amendment was adopted here in the Senate, but was abandoned in a committee of conference at once.

Mr. CLARK. That was not the Finance Committee.

Mr. HOWE. That was not the Finance Committee.

Mr. SHERMAN. We adopted the amendment this session.

Mr. HOWE. I am aware that after a year's further experience the same amendment has been voted upon favorably in the Senate. Here is, however, a proposition to restrict the expenditures for clerk hire—one single abuse. The Senator from Ohio says that he is willing to correct these errors when they are presented to his attention.

Mr. SHERMAN. We have corrected that error by transferring the whole of these matters to another officer.

Mr. HOWE. Mr. President, we did that very thing last winter. Your law was made as explicit as it needed to be, so explicit that no member of Congress, I think, misunderstood it, no member of either of the committees misunderstood it, and none of the officers of the Treasury Department misunderstood it, as I am informed, until within the last sixty days.

Mr. SHERMAN. Then I ask the Senator how the Committee on Finance is responsible? They adopted it last year and they adopted it again at this session.

Mr. HOWE. I do not charge that fault on the Committee on Finance. But even with that amendment the abuse is not entirely corrected.

This is a fatal mistake. You have voted here that \$1,500, or \$2,000 or \$3,000 must be allowed to the assessor who lives in a city more than is allowed to one who lives in the country. That is wrong. There is no reason in it; there is no justice in it; and I prove it to you by these very tables. Here is the District of Columbia, which is all city nearly, and they are allowed but \$800 for clerk hire; and they do the work. There is the first district in Wisconsin, the assessor of which lives in a city of fifty thousand inhabitants, and they are allowed only \$800 for clerk hire there. You see that clerk hire can be furnished, and is furnished for that sum, and so far as I know these assessors are perfectly content with the amount allowed them. I have never heard of any extra allowance in the first district of Wisconsin. If any has been made it has not been brought to my notice. The work is done there; it is done for that money; and what is done there can be done elsewhere, and just as cheap elsewhere.

I want to tell the Senate one thing, and I will conclude with that remark. Either you must bring these heavy allowances down to what your ninety-eight districts are doing the work for, or those ninety-eight districts, just as certain as time lasts, will go up to what the seventy-five are doing the work for. They are not going to be content to work for thirty-three per cent. of what is allowed to the same class of officers elsewhere; and when you get them all up to the maximum that will not be the happiest time to effect a reform. I wish the Senate would adopt this amendment. I have done my duty, however, in calling their attention to it. If you will give me the yeas and nays, and vote it down or up, I shall be content.

The PRESIDING OFFICER, (Mr. Foot in the chair.) Does the Senator demand the yeas and nays on this amendment?

Mr. HOWE. Yes, sir; I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WILSON. I move to amend the amendment of the Senator by striking out all after the word "that" where it first occurs, and substituting the amendment I send to the Chair, which makes some allowance for the larger cities where an allowance ought to be made.

Mr. GRIMES. Why should that be?

Mr. WILSON. Because it costs more.

Mr. GRIMES. I should like the Senator to explain why it is more expensive in a city where the population is dense and easily accessible to these clerks and these assessors? You can employ a man cheaper there than in Milwaukee or Chicago.

Mr. WILSON. We make an allowance in Chicago.

Mr. GRIMES. Well, any other town of ten thousand inhabitants.

Mr. WILSON. But that is very different from a place in the country.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Massachusetts that his amendment is in the form of a separate and independent section, and is not in conformity with the body of the bill where it is proposed to be inserted. The amendment moved by the Senator from Wisconsin is a partial amendment to the body of the bill at a certain point. It would make it incongruous if the amendment of the Senator from Massachusetts were adopted at that point.

Mr. WILSON. I do not desire to press it out of place; nor would I press it at all but that I want something that will equalize this matter and correct these abuses; but I know the proposition pending is not a just one, and I cannot vote for it. The proposition I have offered is based upon the figures; and if I had time I could demonstrate that it would equalize and make this matter right. I will withdraw it; but I cannot vote for the amendment offered by my friend from Wisconsin, for I know that will not do justice.

Mr. GRIMES. Why not point it out?

Mr. WILSON. I have not time to do it.

Mr. HOWE. I had the misfortune to be born without the capacity of knowing a great many things; and another misfortune befell me, perhaps quite as great, that I had the capacity for believing some things. [Laughter.] If I had either had the faculty of knowing things, or of not believing, it might have been a great deal better

for me. I can only say now, not to protract this debate any longer, that I have no manner of belief that this extra allowance is demanded for clerks in cities because I know no reason for it in the nature of things, I having been in cities and country both; and because I show you the tables here where the work is being done in your cities without the extra allowance; and I look at these facts as more conclusive evidence than any theory I have heard yet, either in the revenue office or here.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Wisconsin.

The question being taken by yeas and nays, resulted—yeas 12, nays 25; as follows:

YEAS—Messrs. Collamer, Davis, Doolittle, Grimes, Harlan, Hendricks, Howe, Lane of Indiana, Morrill, Powell, Ramsey, and Ten Eyck—12.

NAYS—Messrs. Buckalew, Carlile, Clark, Conness, Dixon, Farwell, Foot, Foster, Harris, Henderson, Howard, Johnson, Lane of Kansas, McDougall, Morgan, Nye, Riddle, Sherman, Sprague, Stewart, Sumner, Trumbull, Wiley, Wilson, and Wright—25.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Hale, Harding, Nesmith, Pomeroy, Richardson, Saulsbury, Van Winkle, Wade, and Wilkinson—13.

So the amendment was rejected.

Mr. MORGAN. There seems to be an amendment necessary on the 24th page of the bill, line five hundred and eighty-three. After the words "brass nails" I move to insert "or rivets." It seems to be necessary, to put them in the same category as the others; and I therefore move that amendment.

Mr. CONNESS. Why not say "and rivets."

Mr. MORGAN. "Or rivets" is better.

Mr. CONNESS. There are brass nails and rivets both.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The Chair will now, in accordance with the custom of the Senate in such cases, put the question on concurring in all the amendments made in Committee of the Whole in the aggregate, except such as by indication of any member shall be reserved for a separate vote.

Mr. COLLAMER. I desire to have a separate vote upon the subject of taxing the savings banks.

The PRESIDING OFFICER. That will be reserved for a separate vote.

Mr. COLLAMER. I desire, also, a separate vote on the fifth section; that is the bank tax.

The PRESIDING OFFICER. That will be reserved.

Mr. POWELL. I desire a separate vote on the section imposing a tax on sales.

Mr. SUMNER. And I desire one also on the section relating to fishing bounties.

The PRESIDING OFFICER. These amendments will be reserved for a separate vote.

Mr. JOHNSON. I request a separate vote on the amendment in relation to the exemption from tax of teams transporting logs, ore, &c.

The PRESIDING OFFICER. That will be reserved for a separate vote.

Mr. SPRAGUE. I desire a separate vote upon the drawback on cotton goods exported.

The PRESIDING OFFICER. That will be reserved for a separate vote. The question will now be put on concurring in all the amendments with the exception of those reserved.

Mr. MORRILL. I desire to move an amendment to the bill as amended in committee at the proper time; and I wish to inquire of the Chair whether it will be in order for me to move an amendment to one of the amendments made in committee after it has been concurred in in the Senate.

The PRESIDING OFFICER. It will be too late then. Any amendment that is reserved for a separate vote will be open to amendment when it is under consideration.

Mr. MORRILL. Then I should reserve the amendments I desire to amend now. I wish to reserve the amendment on page 29, line seven hundred and three, imposing a tax of two and a half per cent. upon gross receipts; and also the amendments to section four, page 45. I desire to offer an amendment to that section.

The PRESIDING OFFICER. Those amendments will be reserved for separate action.

Mr. GRIMES. There was an amendment proposed by the Senator from Massachusetts [Mr. SUMNER] exempting foreign insurance companies

or agents from taxation; that I wish to have reserved.

Mr. CHANDLER. I wish to reserve the amendment on page 30, lines seven hundred and seventeen to seven hundred and twenty-nine.

The PRESIDING OFFICER. Those amendments will be reserved; and the question now is on concurring in all the amendments made in Committee of the Whole, except such as have been indicated for a separate and distinct vote.

The remainder of the amendments were concurred in.

The PRESIDING OFFICER. The amendments that have been indicated for a separate vote will now be considered in their order.

The first excepted amendment was on page 31, after line seven hundred and thirty-five, to insert the following:

That section one hundred and ten be amended by striking out after the words "and redemption thereof" the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking."

Mr. HALE. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. COLLAMER. I desire merely to have a vote on this question. I shall not debate it. Those who are in favor of the savings banks will vote "nay," and those who are in favor of taxing them, I suppose, will vote "yea."

The question being taken by yeas and nays, resulted—yeas 22, nays 20; as follows:

YEAS—Messrs. Brown, Chandler, Conness, Cowan, Davis, Doolittle, Grimes, Harlan, Harris, Henderson, Hendricks, Howard, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Powell, Ramsey, Sherman, Stewart, Ten Eyck, and Trumbull—22.

NAYS—Messrs. Anthony, Buckalew, Clark, Collamer, Dixon, Farwell, Foot, Foster, Hale, Johnson, McDougall, Morrill, Nye, Riddle, Sprague, Sumner, Van Winkle, Wiley, Wilson, and Wright—20.

ABSENT—Messrs. Carlile, Harding, Howe, Pomeroy, Richardson, Saulsbury, Wade, and Wilkinson—8.

So the amendment was concurred in.

The next reserved amendment was on page 45, in the fifth section, which was as follows:

Sec. 5. And be it further enacted, That every national banking association, State bank, or State banking association, or broker shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1866.

Mr. COLLAMER. The amendment reported by the Committee on Finance was to strike out that section.

Mr. SHERMAN. That failed, and that is the end of it. There is no amendment to this section reported from the Committee of the Whole to the Senate. I have no objection, however, to a vote being taken on the section, because any Senator can move to strike it out.

The PRESIDING OFFICER. That being the case, the mode of reaching it would be by offering the amendment anew.

Mr. COLLAMER. I move to strike it out.

Mr. SHERMAN. It is a little out of order at present, but I am perfectly willing to consider it now.

Mr. COLLAMER. We have arrived at this portion of the bill, and we may as well take a vote on the section.

The PRESIDING OFFICER. The Chair will state that there was a slight modification made in the section by adding the words "or broker" after the word "association," and the question is on concurring in that modification. It will be concurred in if there be no objection. The Senator from Vermont now moves to amend the bill by striking out this section.

Mr. HALE. Is that in order at this time?

Mr. COLLAMER. Nobody objects to it; the question is before us; and we might as well consider it now as at any time.

The PRESIDING OFFICER. If there be no objection the question will be taken on the amendment now. The usual course is to offer amendments after the amendments made as in Committee of the Whole have been acted upon.

Mr. ANTHONY. I hope the amendments made as in Committee of the Whole will first be acted upon, because there was another section added on my motion which, in my view at least, materially modifies this; and if that amendment is adopted in the Senate it will make a difference in my vote.

Mr. SHERMAN. That is not in this section.

Mr. ANTHONY. It is not in this section; but if we should adopt the section that I offered by way of amendment, it would affect my vote upon this question.

Mr. SHERMAN. I do not think there is any objection to the amendment offered by the Senator.

Mr. ANTHONY. I think we had better pursue the usual form, go through with the amendments made in Committee of the Whole first, and then other amendments can be offered.

Mr. COLLAMER. I think this is the usual form. I understand, when we come to a subject-matter in the bill, whatever action is to be had upon it is had then. This is the subject-matter that I desire to have action upon.

Mr. SHERMAN. I do not think there is any use in consuming time about the order of business. As the motion to strike out this section failed in committee, there was nothing reported back to the Senate, as a matter of course; and consequently the bill is still open for a motion to strike out; but that motion cannot be put until after the amendments reported from the committee are acted upon, according to strict parliamentary law.

The PRESIDING OFFICER. There is no rule on the subject except that of strict parliamentary law; and the practice is to act on the amendments made in Committee of the Whole first, and then the bill is open to general propositions of amendment.

Mr. JOHNSON. I think we might as well take the question now.

Mr. COLLAMER. If Senators will indulge me, I desire to have the vote taken on this subject now; I shall be compelled to leave the Chamber presently. This question was raised and settled in Committee of the Whole, and it was decided that this section should not be stricken out. I want to know whether that question is not before us now; whether we shall concur in that vote in committee?

The PRESIDING OFFICER. No question is presented upon that proposition except a separate motion is made—a motion to renew that amendment. No modification was made in Committee of the Whole; the amendment was not agreed to in Committee of the Whole; and it leaves nothing for action except upon a separate and independent motion to amend.

Mr. CLARK. Perhaps the Senate will allow me to state what the Senator from Vermont does not quite like to state; he does not expect to be here this evening and he would like to have the vote taken now.

Mr. SHERMAN. There is no objection to that, and I think we had better do it, as we have now a full Senate.

The PRESIDING OFFICER. That course will be pursued.

Mr. DAVIS. I do not wish to detain the Senate; but I will make a remark or two in relation to a tax of ten per cent. on the issues of State banks.

It is a principle of our Government that any franchise belonging to the General Government cannot be taxed by State law, and any franchise belonging to a State government cannot be taxed by a law of Congress. It is an established power of the State governments that they have a right to institute State banks. They have the same right to institute their State banks to perform the same functions for the States that the Supreme Court decided in the case of Maryland and McCulloch. Congress had to organize a United States Bank to collect and disburse the revenue of the General Government. The reasoning of the Supreme Court in the case of Maryland and McCulloch, by which the power of the General Government to establish a United States Bank was—

The PRESIDING OFFICER. The Chair must ask the Senator from Kentucky to suspend his remarks until there is order in the Chamber.

Mr. DAVIS. Mr. President, I am not speaking to these people.

The PRESIDING OFFICER. The Chair requires the Senate to be in order. It is not only the province but the duty of the Chair to enforce order.

Mr. DAVIS. I remarked that I was not speaking to the Senate. I was speaking to the Presiding Officer of the Senate, because the Presiding Officer of the Senate was the only member of the

Senate that was giving me any attention. I would as soon speak to pandemonium as to the Senate when the Senate is indisposed to hear; but still I will speak. I speak to the Presiding Officer of the Senate; I speak, through the newspapers, to the country, or endeavor to do so.

Now, Mr. President, I have stated that the reasoning and logical proposition upon which the Supreme Court established the power of the General Government to organize a United States Bank in the case of McCulloch and the State of Maryland was this: that that bank was necessary and convenient in the fiscal operations of the General Government; it furnished the General Government with a depository of its money; it furnished it with an agency by which it could transfer its money from one section of the United States to another; and it furnished the General Government with a safe depository of its public funds. A State, by the decisions of the Supreme Court, has the undoubted and recognized power to organize a State bank; and the very reasoning that establishes the power of Congress to create a United States Bank for the United States Government, authorizes the States to establish State banks for the convenience of the States. The State banks are organized to aid in the collection of State revenue. They are organized to be the depositories of the State revenue. They are organized to facilitate the operations of the State in the transfer of its funds, by the payment of debts and other operations, from one part of the State to another. There is not a solitary argument by which the conclusion is drawn that the General Government has the power to organize a national bank as a power necessary and proper to carry into execution other powers positively vested, that does not apply with equal force to and authorize as logically and as conclusively a State government to establish a State bank.

In the very case of McCulloch and Maryland, Chief Justice Marshall in his reasoning states these propositions: that any power which the General Government may constitutionally exercise, cannot be taxed by State law; and *eo converso*, he says that no power which the State governments may exercise can be taxed by the General Government. Now here is a State institution and a United States institution. Both of them are franchises. The Bank of the United States is a franchise given by Congress. The State bank is a franchise given by the State Legislature. The reasoning and logical conclusion of Chief Justice Marshall is express, that neither of these can be taxed by the Government of the other; because he lays it down as a legal and constitutional proposition, as it is a proposition of logic and common sense, that where either the State or General Government have a right to execute a power, the exercise of that power cannot be taxed by the other Government.

Mr. SHERMAN. I will ask my friend from Kentucky to allow me to take the sense of the Senate as to whether they will require a recess to-day. My own impression is that we had better continue along without a recess.

Mr. DAVIS. I have no objection.

Mr. TRUMBULL. I hope not. We shall get a vote directly. I understand that the Senator from Kentucky does not intend to make a prolonged argument.

Mr. DAVIS. I have only a word or two more to say.

Mr. TRUMBULL. We shall get a vote in a moment.

Mr. SHERMAN. If there be objection the motion cannot be made.

Mr. HENDRICKS. I shall object.

Mr. DAVIS. Now, Mr. President, I put this proposition: the States have their treasuries; they have their treasurers; money is received into the State treasuries; and the banks are sometimes used as substitutes for these treasuries. Let me ask gentlemen this question: suppose there was a provision in this bill that proposed to tax all the money that is received by the States into their State treasury ten per cent.; would not its absurdity and its unconstitutionality strike every mind? Where is the difference in principle between taxing a State bank that is created by the State and performing State offices by imposing a tax upon the issue of its money of ten per cent. per annum and taxing all the moneys received in the State treasury the same amount? I put the question in

this form again; suppose this was not a tax upon the issue of State banks but was simply a prohibition against the State banks; that hereafter no State banks should be authorized, and all State banks now authorized should cease to exist from and after the 1st of July next; would it be competent for Congress to pass a law containing such a provision as that? Certainly not. Why not? Because the States, according to the decisions of the Supreme Court, have the recognized power to establish State banks; and possessing that power to organize State banks Congress would have no power to repeal the State banks which they had organized by law. Every Senator will admit that Congress could not do it directly.

If a direct repeal, a direct abrogation by law of Congress so as to destroy the existence of all the State banks be admitted to be unconstitutional, upon what principle can Congress pass a law that will have precisely the same effect by a vote of taxation that will render it impossible for the State banks to live? Can Congress do an act indirectly that it cannot do directly? Can it pass a law which by indirect operation would be as fatal to the existence and to the organization of all State banks in the future as though they were to pass a bill directly prohibiting the enactment or organization of State banks by State legislation? If they can do it in the first and indirect and circumlocutory form, they can do it in the honest, straightforward, direct form. If they cannot do it in the latter form they cannot do it in the first form; and, sir, they cannot do it in any form without a flagrant violation of the Constitution.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Vermont, which is to strike out the fifth section of the bill on page 45.

Mr. HENDERSON. I suppose the vote of the Senate will be against my views on this subject, as it has been heretofore; but before the vote is taken I move to strike out in the second line the words "State bank or State banking association." Senators will perceive that that discredits with the national banks all the State bank notes; the national banks cannot receive them any longer; and it leaves the State banks then to operate upon their own credit and by their own solvency. I think if the State banks are left to operate upon their own credit, it is as much as the Senate ought to ask. You can prohibit, I suppose, the banks that you create by your authority from receiving the paper of State banks. I will not doubt; for the sake of the argument, your power to do that. If your national banking system is a better system than the State bank system it will ultimately override it. You have discredited the State banking system so far as your legislation goes; but if it is a system that the people prefer to your national banking system it will live. If it does live it will only be because the people do prefer it; it will only be because they believe it to be a better currency than the national currency, that it can live after the legislation of Congress discrediting it. I hope that the amendment to the amendment will be adopted. I ask that the section be read as it will stand if amended.

The PRESIDING OFFICER. The section will first be read, and then the amendment.

The Secretary read the section, as follows:

Sec. 5. And be it further enacted, That every national banking association, State bank, or State banking association, or broker, shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1865.

Mr. HENDERSON. I was not aware that those words "or broker" had been inserted. I will modify my motion, and move to strike out the words "State bank, or State banking association, or broker;" so that the section will read:

That every national banking association shall pay a tax of ten per cent. on the amount of notes of any State bank or State banking association paid out by them after the 1st day of January, 1865.

That will discredit the State bank paper. It will be equivalent to saying that the national banks shall not deal in this discredited paper at all.

Mr. HENDRICKS. I sympathize with the desire of the chairman to pass this bill at this time; and I think we can do it by five o'clock. I therefore move that the time for taking a recess be changed to five o'clock, and that will give us over half an hour to go on with this bill.

The PRESIDING OFFICER. The motion can only be entertained by unanimous consent.



Mr. TRUMBULL. I object; and I do it on this ground: if Senators are determined to debate over again all these questions this bill cannot be passed; you can do no business; and if Senators will—

Mr. GRIMES. I rise to a point of order. The Senator has objected to the motion, and he has no right to go on and discuss it.

Mr. TRUMBULL. I am discussing the measure before the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri to the fifth section of the bill.

Mr. TRUMBULL. On that question I take it I am in order; and the speech I wish to make is simply this: that we never can dispose of this bill if all these questions are to be debated over again. I think Senators should have some respect for the intelligence of each other, and should suppose that we can understand these questions when they are stated, without a reproduction of the arguments in reference to them. I do hope we may be permitted to vote on these questions.

Mr. McDOUGALL. I do not think these questions are understood by all the members of the Senate. I do not think that this pending question is understood by many members of the Senate; and I am fearful that it is not well understood by the Senator from Illinois, whose comprehension is equal to almost every subject, although it does not comprehend the whole. The effect of the measure pending would be to destroy everything that is organized in the way of capital on the coast of the Pacific, where we deal in gold and silver. That is not understood. That must be corrected; that must be perfectly legislated upon here, or—

Mr. SHERMAN. If the Senator from California will give way for one moment, the Senator from Illinois withdraws his objection to the motion I made a few moments ago, and I hope, therefore, that the recess will be dispensed with for to-day. The Senator from California, I think, is in favor of that; and I hope, therefore, that we will go right on. I move that the recess be dispensed with altogether.

Mr. HENDRICKS. Can that be done if there is objection?

The PRESIDING OFFICER. It can only be done by unanimous consent.

Mr. HENDRICKS. Will the Senator consent to give us a recess, when the bill is passed, until seven o'clock?

Mr. SHERMAN. As soon as the bill is disposed of I shall have no objection to the Senate taking a recess.

The PRESIDING OFFICER. The Chair hears no objection to the consideration of the motion; and it is moved that the Senate rescind the order directing a recess for this evening from half past four until seven o'clock.

The motion was agreed to.

Mr. COLLAMER. Now let us have a vote.  
Mr. McDOUGALL. After I have got through my remarks, with the consent of the Senator from Vermont.

The PRESIDING OFFICER. The Senator will proceed with his remarks.

Mr. McDOUGALL. The proposition involved here is one of the most mischievous that has been advanced since I have had the honor to occupy a place on this floor. I do not know that it is understood to be so mischievous; for it is not the habit of Senators, as I have observed, to take care to inquire into things in detail belonging to subject-matters of this kind. They have adopted the maxim long since expressed—

Several Senators. Question! Question!

Mr. McDOUGALL. Call the question, gentlemen, as loud as you please. I have the privilege of the floor. When I get through my observations the question can be taken. I have been disturbed by the noise—

Mr. CLARK. I rise to a point of order. The Senator from California is not addressing the Chair; and I call for the enforcement of the rule that a member when called to order shall take his seat and not go on without permission of the Senate.

Mr. McDOUGALL. When the Chair calls me to order I will take my seat. I cannot be called to order by Mr. CLARK.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Chair considers the point of

order to be well taken. No Senator can occupy the floor without addressing the Chair.

Mr. McDOUGALL. I have the floor; I have not left it; and wherein have I departed from the rules of the Senate?

The PRESIDING OFFICER. The Senator from California is occupying the floor, but not addressing the Chair.

Mr. McDOUGALL. I made my proper address to the Chair before I addressed the Senate. Who questions that as a matter of fact?

Mr. CLARK. I ask for the enforcement of the 6th rule of the Senate, that

"If any member in speaking or otherwise transgress the rules of the Senate, the Presiding Officer shall, or any member may, call to order; and when a member shall be called to order by the President or a Senator, he shall sit down, and shall not proceed without leave of the Senate."

The Senator is called to order, and the Chair sustains the point of order.

Mr. McDOUGALL. Ah, indeed! I will see if I am out of order.

The PRESIDING OFFICER. The Senator from New Hampshire will state his point of order.

Mr. CLARK. I understood the Chair to rule that the point of order was well taken. The point of order was that the Senator was not addressing the Chair, and the Chair having sustained that point of order, it is the duty of the Senator to take his seat, and he cannot go on without leave from the Senate.

The PRESIDING OFFICER. The question is, Shall the Senator have leave to proceed in order?

Mr. McDOUGALL. Allow me to make an inquiry. This is a somewhat singular proceeding to me. I addressed myself to the Chair—

Mr. CLARK. I again call the Senator to order. The point of order must be decided without debate, and there is no appeal taken from the decision of the Chair.

The PRESIDING OFFICER. The question is, Shall the Senator from California be allowed to proceed in order?

Mr. COLLAMER. Who raised that question?

The PRESIDING OFFICER. The rule requires that when a Senator has been called to order he shall not proceed without the consent of the Senate.

Mr. CLARK. Nobody has moved that he shall be permitted to go on.

Mr. HENDRICKS. I make that motion.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senator from California have leave to proceed in order.

The motion was agreed to.

Mr. McDOUGALL. Now, Mr. President, I have something to say about that. I addressed myself to the Chair and then to the Senate. The Senator from New Hampshire called me to order.

Mr. CLARK. I again raise the point of order that the Senator is not addressing the Chair on the subject before the Senate, but is addressing the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from California was not certainly addressing the Chair on the subject under debate; but it has been the custom of the Senate to allow some latitude in debate.

Mr. CLARK. It becomes necessary at this stage of the session and in the condition of the public business to enforce the rule strictly.

The PRESIDING OFFICER. The Chair will do so.

Mr. McDOUGALL. I will abandon the right I have as a Senator because I am forced to do so at the present moment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri to the fifth section, after the word "association," in the second line, to strike out the words "State bank or State banking association or broker."

The amendment was rejected.

Mr. HENDRICKS. I move to strike out in the fourth line of the fifth section the words "paid out" and to insert the words "issued or reissued." I will explain this amendment in two words. The effect of it will be to restrict the State banks in their further issue of paper.

Mr. COLLAMER. Is not "paid out" the same thing?

Mr. HENDRICKS. No, sir, it is not. The issue of a paper is the act of the bank itself whose

note goes out. A bank issues its paper and puts its bills in circulation. It pays out the bill of another bank when it is in its possession and in the ordinary course of business.

Mr. COLLAMER. How can a bank issue paper without paying it out?

Mr. HENDRICKS. Ordinarily, and I suppose nearly always, a bank bill is issued by being paid out. Perhaps the word "issue" includes the words "pay out," but the words "pay out" do not mean the same as "to issue." This amendment, I suppose, will accomplish what the chairman of the committee and the advocates of this section have said to the Senate they desire to accomplish; that is, to prevent the increase of the circulation of the State banks. I am not in favor of the restriction itself, but I prefer it to the section as it now stands.

The amendment was rejected.

Mr. RAMSEY. I desire to propose the following amendment, to come in immediately after the close of the fifth section:

*Provided, however, That the circulation of State banks secured by a deposit of bonds of the Government of the United States shall be exempt from this tax.*

The amendment was rejected.

Mr. CLARK. I move to amend the section in line five by striking out the word "January" and inserting "April." [Say "July."] At the request of some Senators I will move to insert "July." That will give these banks a little longer time. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. RIDDLE. I have paired off on this question with the Senator from Illinois, [Mr. TRUMBULL.]

The question being taken by yeas and nays, resulted—yeas 28; nays 11; as follows:

YEAS—Messrs. Anthony, Bucklew, Clark, Collamer, Cowan, Davis, Dixon, Doolittle, Farwell, Foster, Grimes, Harris, Hendricks, Howe, Johnson, McDougall, Morgan, Morrill, Nesmith, Nye, Powell, Sprague, Ten Eyck, Van Winkle, Wade, Willey, Wilson, and Wright—28.

NAYS—Messrs. Brown, Chandler, Conness, Harlan, Henderson, Lane of Indiana, Lane of Kansas, Ramsey, Sherman, Stewart, and Sumner—11.

ABSENT—Messrs. Carlile, Foot, Hale, Harding, Howard, Pomeroy, Richardson, Riddle, Saulsbury, Trumbull, and Wilkinson—11.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment to strike out the fifth section as amended.

Mr. COLLAMER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17; nays 21; as follows:

YEAS—Messrs. Anthony, Bucklew, Collamer, Davis, Dixon, Doolittle, Foster, Henderson, Hendricks, Howe, Johnson, McDougall, Powell, Ten Eyck, Van Winkle, Willey, and Wright—17.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Farwell, Grimes, Harlan, Harris, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Nye, Ramsey, Sherman, Sprague, Stewart, Sumner, Wade, and Wilson—21.

ABSENT—Messrs. Carlile, Cowan, Foot, Hale, Harding, Howard, Pomeroy, Richardson, Riddle, Saulsbury, Trumbull, and Wilkinson—12.

So the amendment was rejected.

The next reserved amendment was to add the following as a new section:

SEC. —. *And be it further enacted, That all persons licensed under the provisions of this act or the act to which this is an amendment, and who are engaged in the sale of goods, wares, or merchandise, or of articles produced or manufactured, whether foreign or domestic, shall, within ten days after the 1st day of each and every month, make return, under oath or affirmation, of the amount of goods, wares, and merchandise, or articles sold during the month preceding, and shall pay thereon a tax of one half of one per cent.; and all such persons, in the assessment and collection of the tax imposed by this section, shall be subject to the provisions of law relating to the assessment and collection of taxes of manufacturers mentioned in the eighty-second section of the act to which this is an amendment, as far as the same are applicable. And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to make all needful rules and regulations for the assessment and collection of the tax imposed by this section.*

Mr. POWELL. I call for the yeas and nays on the question of concurring in that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 20; nays 17; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Doolittle, Farwell, Foster, Harris, Howe, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Ramsey, Sherman, Sprague, Stewart, Wilkinson, and Wilson—20.

NAYS—Messrs. Brown, Bucklew, Davis, Dixon, Harlan, Henderson, Hendricks, Johnson, Lane of Indiana, Nesmith, Powell, Sumner, Ten Eyck, Van Winkle, Wade, Willey, and Wright—17.

ABSENT.—Messrs. Carlile, Collamer, Cowan, Foot, Grimes, Hale, Harding, Howard, Pomeroy, Richardson, Riddle, Salsbury, and Trumbull—13.

So the amendment was concurred in.

The next reserved amendment was to insert the following as a new section:

Sec. —. *And be it further enacted*, That from and after the abrogation of the reciprocity treaty with Great Britain all acts and parts of acts granting allowances or bounties on the tonnage of vessels engaged in the bank or other cod fisheries be, and the same are hereby, repealed.

Mr. SUMNER. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. FARWELL. I do not propose to go over the arguments we had here last night, although there are several Senators now present who were not present then, who I think should fully understand the subject. I shall make only a single statement in regard to it. The proposition now is to repeal at this time the laws allowing the fishing bounties, that repeal to take effect when the reciprocity treaty expires, a year from the 15th of this month. The men who believe that this great interest cannot live without some different arrangement than there would be if the bounties were repealed without other legislation, and I am one of them, think the matter will be better adjusted by letting the whole question go over to the next Congress, because some legislation will then necessarily take place on the termination of the reciprocity treaty. Then let the fishing bounties be repealed and let such legislation be adopted by Congress as will give these men a reasonable chance to live. That is all we ask, and we think it can be better accomplished by letting the whole subject go over. Certainly no good can be done by acting upon it at this time. Senators all admit, the chairman of the committee admits, that it is necessary to have some legislation, that it will not do to repeal the bounties without adopting some other legislation. Why not have it all at once? I regret exceedingly that the Senate is so thin.

The question being taken by yeas and nays, resulted—yeas 18, nays 20; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Davis, Doolittle, Harlan, Harris, Henderson, Hendricks, Lane of Indiana, Nesmith, Powell, Riddle, Sherman, Van Winkle, Wilkinson, Willey, and Wright—18.

NAYS—Messrs. Anthony, Clark, Conness, Dixon, Farwell, Foster, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Ramsey, Sprague, Stewart, Sumner, Ten Eyck, Wade, and Wilson—20.

ABSENT.—Messrs. Carlile, Collamer, Cowan, Foot, Grimes, Hale, Harding, Howard, Pomeroy, Richardson, Salsbury, and Trumbull—12.

So the amendment was non-concurred in.

The Secretary read the next reserved amendment made as in Committee of the Whole, which was to strike out from line seven hundred and eight on page 29 to line seven hundred and sixteen on page 30, as follows:

That section one hundred and three be further amended by adding the following after the word "vehicle" where it occurs the second time in the section: "Provided, That this section shall not apply to those teams, wagons, and vehicles used in transporting logs for lumber from the forests to the place or places of manufacture, or to the teams or vehicles used in the transportation of ores from the mines where the same is excavated to the place where they are reduced or worked."

Mr. JOHNSON. I propose to amend the words moved to be stricken out by inserting after the word "used," in the seven hundred and twelfth line, on the 30th page, the word "Nevada," and after the word "used" in the seven hundred and fourteenth line, the words "in the same State." The effect of that amendment would be that this tax would not apply to those wagons, &c., employed in Nevada.

Mr. CONNESS. I have no objection to this amendment of the Senator from Maryland, of course, but I should like to know what rule of justice applies to Nevada in this respect that does not to California.

Mr. JOHNSON. I can state to the Senator that I except Nevada alone, because I suppose Nevada is not in a condition to bear the tax as well as California. I rather think California can bear it as well as Pennsylvania or Ohio. I understand from the Senators from Nevada, indeed I think I know independent of their statement, that those engaged in that particular business in Nevada are hardly able to get on at all without any tax; they make very little money anyhow; but I think you are doing very well in California.

Mr. POWELL. Allow me to suggest that in my judgment the proposition is clearly unconstitutional. All taxes must be uniform throughout the United States. We cannot exempt the State of Nevada or any other State. I do not think there can be any doubt about that.

Mr. CONNESS. While the honorable Senator from Maryland is correct in saying that the tax on vehicles engaged in the transportation of ore, &c., affects Nevada more than it does California, at the same time, as I explained the other day, the tax applies very severely to our people who are engaged in making lumber, because it is a tax imposed on those who are hauling the logs to the mill, and we are competing now in the making of lumber with the greatest lumber country in the world, the Puget sound district on the Pacific coast. I think that the tax as applied to that industry is a very severe and onerous one. I dislike to stand here as the advocate of an exceptional amendment, but I think that interest ought to be included.

Mr. FOSTER. The Constitution provides, article one, section eight, that Congress shall have power "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States."

Mr. CONNESS. I think that settles the question.

The amendment of Mr. JOHNSON was rejected.

The PRESIDING OFFICER. The question recurs on concurring in the amendment made as in Committee of the Whole to strike out the clause.

The amendment was concurred in.

Mr. SPRAGUE. I called for a separate vote on the third section, but I am willing to withdraw that call; I desire the Senate to conform to the action of the committee.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, striking out the third section of the bill.

The amendment was non-concurred in.

The next reserved amendment was that made on page 29 by striking out lines seven hundred and three, seven hundred and four, seven hundred and five, seven hundred and six, and seven hundred and seven, as follows:

That section one hundred and three be amended by striking out the words "two and a half per cent. upon the gross receipts" and inserting "two and a half per cent. upon net receipts under \$3,000, and five per cent upon the excess."

The amendment was concurred in.

The PRESIDING OFFICER. Will the Senator from Massachusetts indicate the amendment that was reserved on his motion on page 29?

Mr. SHERMAN. There was an amendment reserved by the Senator from Iowa [Mr. GRIMES] about the license fee of insurance agents.

Mr. SUMNER. The Senator says he does not care much about it. Let it go.

The PRESIDING OFFICER. It is necessary to take the vote on it.

The amendment was concurred in.

The next reserved amendment was the following, to come in after line seven hundred and sixteen, on page 30:

That section one hundred and three be amended by inserting after the words "and any foreign port" the words "but such duty shall be assessed upon the transportation of persons and property shipped from a port within the United States, through a foreign territory to a port within the United States, and shall be assessed upon, and collected from, persons, firms, companies, or corporations within the United States receiving such freight or transportation." And that section one hundred and three be amended by adding at the end of said section the following: "And provided further, That no tax under this section shall be assessed upon any person whose gross receipts do not exceed \$1,000 per annum."

Mr. CHANDLER. I move to amend that amendment by inserting after the word "transportation," where it occurs the second time, the following words:

And every railroad company in the United States, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies on their way from any State to another State, and to receive compensation therefor.

Mr. GRIMES. I hope the Senator from Michigan will postpone that until the Senator from Illinois [Mr. TRUMBULL] is present, because he

told me that if this was offered he desired to propose an amendment to it.

Mr. CHANDLER. The Senator is not present. I hope there will be a vote. I do not propose to make any remarks.

Mr. SHERMAN. I desire to say a word about this matter. I am one of those who, if the vote had been taken on the bill in regard to the Camden and Amboy railroad, as it is commonly called, should have voted for it; but it is manifestly improper to put such a controverted question, which will lead to debate, on a bill of this magnitude, at this hour of the session. I trust that no one who desires to expedite the legislation of Congress will trouble us with this controverted matter. I am very sorry that the Senator from Michigan has done so. It will lead to debate and controversy. I hope it will be voted down, in the present condition of affairs certainly.

Mr. CHANDLER. It is perfectly germane to this bill. You propose to tax railroads; I propose to give them certain privileges. I do not want to discuss it. I ask for the yeas and nays. The amendment is perfectly germane; I offer it in its proper location, and I think it the proper time. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. MORRILL. It is pretty obvious—

Mr. COWAN. Will the honorable Senator from Maine allow me to say a word?

Mr. MORRILL. I yield.

Mr. COWAN. I am not certain that I would not have voted with the honorable Senator from Michigan for his measure; but I shall certainly vote against putting it on this bill.

Mr. SHERMAN. Let us try the vote. If Senators want afterward to reconsider the vote, any one can move it.

Mr. CONNESS. The Senator from Pennsylvania [Mr. COWAN] occupies very nearly the position perhaps that I do. I simply state that in explanation of my vote.

Mr. MORRILL. This is a matter of altogether too much importance by any possibility to slip through in this way. It has been pretty thoroughly debated upon one side. In the relation I held to it upon the committee I deemed it my duty to ask to be heard. I have not interposed to take up any of the time of the Senate, content to speak on it when it came up in its regular order on the general bill. I am content to do so now, but I am willing to meet it here if the Senate choose to put it upon this bill. I only want to reserve that right on a reconsideration.

Mr. SHERMAN. That can be done on a motion to reconsider.

Mr. MORRILL. I acquiesce in that.

The question being taken by yeas and nays, resulted—yeas 6, nays 27; as follows:

YEAS—Messrs. Chandler, Farwell, Nye, Ramsey, Sumner, and Wilkinson—6.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Cowan, Davis, Foster, Grimes, Harlan, Harris, Henderson, Johnson, Lane of Indiana, McDougall, Morgan, Morrill, Powell, Riddle, Sherman, Sprague, Stewart, Ten Eyck, Van Winkle, Willey, Wilson, and Wright—27.

ABSENT—Messrs. Carlile, Collamer, Dixon, Doolittle, Foot, Hale, Harding, Hendricks, Howard, Howe, Lane of Kansas, Nesmith, Pomeroy, Richardson, Salsbury, Trumbull, and Wade—17.

So the amendment to the amendment was rejected.

The amendment made as in Committee of the Whole was concurred in.

The PRESIDING OFFICER. This completes the amendments that were reserved. The bill is still open to amendment.

Mr. WILSON. I desire to move an additional section, and I do it on the notice I gave at the suggestion of the chairman of the Finance Committee when the Army appropriation bill was up:

*And be it further enacted*, That from and after the passage of this act, and during the existing rebellion, the pay and emoluments of all officers in the military and naval service of the United States shall be exempt from all income and war tax.

I moved this provision on the Army bill, and the Senator from Ohio thought it was not proper to put it on that.

Mr. GRIMES. It is in it now.

Mr. WILSON. No, sir. The House of Representatives has put it in their increased pay bill; that bill is in the hands of our committee. Therefore I move this section on this bill as I suggested I should do.

Mr. SHERMAN. I shall content myself with simply voting against it. We have increased since then, or have so far as the action of the Senate is concerned, the pay of the officers of the Army who were most grievously affected by the old pay. I do not think we ought to make exceptions. If we do, efforts will be made constantly to make other exceptions to the income tax.

Mr. WILSON. We have made but a very small increase, increasing the commutation value of the ration from thirty to fifty cents; but the bill that passed the House of Representatives is a large increase, and increases the compensation of the officers who receive fuel and quarters so largely that we have not passed that and shall not. I hope this small allowance will be made. This tax has been put on since the mass of the Army was raised, and it goes pretty hard with them. Especially did it go hard on them to be called on for the extra tax of last year. Some of them have not paid it yet and cannot pay it, have not the means to pay it. I think with the small compensation our officers have we should not tax them.

Mr. JOHNSON. Is the amendment to except officers from the operation of this bill?

Mr. WILSON. That no war or income tax shall be imposed on officers of the Army and Navy during this rebellion, after the passage of this act. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I have had a good deal of intercourse with officers, and I have never heard any great complaints that they have made against the income tax so far as it was prospective. They did object, and I think they had reason to object, to the law we passed here on the last night of the last session, I think, by which we declared that the incomes of the preceding year should be taxed, and they should take out of their last year's salary a certain amount, and a pretty respectable and large amount, to pay a tax on the preceding year's salary which they had already spent. The hue and cry among the officers in the public service about that law grew out of the fact that it was retrospective and not prospective, that it required them to take out of their current year's salary an amount of money to pay tax on the preceding year's salary, all of which had been spent.

Mr. WILSON. I will modify the amendment so as to apply simply to the income tax, striking out the phrase "war tax" because that is not definite. I put the section in the form it passed the House of Representatives, except that I confine it to the present rebellion. I hope it will be adopted because it is a small matter and will be a great aid to the line officers of the Army.

Mr. CONNESS. I call for its reading as it is now.

The amendment, as modified, was read, as follows:

*And be it further enacted, That from and after the passage of this act, and during the existing rebellion, the pay and emoluments of all officers in the military and naval service of the United States shall be exempt from all income tax.*

Mr. HARLAN. I had supposed that such a law would be unconstitutional. On that subject, however, I would be advised by those who know more than I do. If all taxes are to be "uniform throughout the United States" I do not perceive how you can tax one class of officers on their salaries and exempt another class. I merely suggest it. That view of the case will control my vote. If the officers are not receiving enough pay, I will vote to increase their pay. If the chairman of the Committee on Military Affairs will say that their pay ought to be increased, I will vote to increase it reasonably; but I think that a tax ought to be uniform; if it is an income tax it ought to be levied in a uniform mode on the incomes of all the people of the United States.

Mr. CONNESS. There are no votes that I have given since I have had a scat here with more pleasure than those that have gone to the benefit of the men who are engaged in fighting our battles; but that feeling and disposition, as well as all others, must necessarily have a limit, and I think that considering the condition of the country, the condition of its finances, the efforts that we are making to obtain money and to levy taxes, the law-making power has acted with a great deal of liberality toward the soldiers and officers. As

suggested by the chairman of the Committee on Finance, there has been a considerable increase made recently to the salaries of officers. Last year there was a considerable increase made to the pay of private soldiers. I have also an objection to this as attaching to this act, and for these reasons will vote against it.

Mr. McDOUGALL. I am in favor of the proposition as offered, and for a reason which relates not merely to this particular subject, but to the whole subject-matter of official relations and of official compensation. We employ men in office; we are engaged here by our people to take office in the Senate Chamber. The President in his mansion and the soldier in the field have a certain compensation. That compensation is not a just subject of taxation and never should have been made a subject of taxation. If their pay is too large, it should be reduced. That is in the power of the legislation of the country. The idea of deducting a tax from official compensation is one of the falsehoods of a false policy. The proposition now is right to the extent to which it is proposed, in my judgment; that is, that the officers and soldiers in the field should not be taxed out of their compensation; nor do I think that other persons serving the Government should be taxed out of their assigned compensation. The Government has the power to reduce that compensation at any time at its pleasure, but compensation in its just sense is just payment by the Government. I think it a hard thing to call out of the payments due to officers and soldiers this per cent., and it is, I say, false as well as impolitic legislation. The same rule that is involved in this present proposition should be extended to all officers in the employ of the Government, for now the Government pays and the Government then takes back. It is like an Indian gift.

I will not take time to discuss this thing, but it is palpable that it is false to any person who thinks carefully on the subject. I am in favor of the proposition, only I think it should be universal instead of being special; but being special it is an approximation toward the truth.

Mr. HENDERSON. It is a very ungracious thing to vote against a proposition to increase the pay of officers of the Army, because their pay is really not sufficient. But a short time ago we passed a bill to increase the pay of all officers below the grade of brigadier general. I do not know what has become of that bill.

Mr. WILSON. Allow me to suggest that on the Army appropriation bill a section was put increasing the ration of all officers below a brigadier general from thirty to fifty cents, and a section was also put upon it giving those officers who should remain in the service to the close of the war three months' pay proper. The committee of conference on the Army bill agreed to the first section but not to the last; that was thrown out.

Mr. GRIMES. What will be the increase by the addition to the price of the ration?

Mr. WILSON. The increase of the ration for a line officer will be eighty cents a day, for a colonel of a regiment \$1 20 a day, which would be an increase of something more than twenty per cent. My intention was to put this section upon this bill. I stated it at the time, and I supposed there would not be any opposition to it, but that we should relieve these officers from taxation and give the increased ration. The House of Representatives passed this provision in a bill making a large increase to Army officers, larger than we can support.

Mr. HENDERSON. I would very gladly vote for this proposition provided I could see my way clear; but really there is a constitutional objection to it in my opinion. "All duties, imposts, and excises shall be uniform throughout the United States." I cannot see that we can exempt any officers from an excise tax. It is certainly against the spirit of the Constitution, if not directly against the letter, to make this exemption. In the next place it is a very great impolicy to commence exempting anybody from a tax. Then, again, I would suggest to the Senator from Massachusetts that inasmuch as he has included all officers in this amendment, the officers receiving the largest salary will be the parties who will receive the largest increase of pay under this amendment, because in proportion to the size of his salary of course the tax is greater. Therefore

the proposition will only increase the salary of those whose salary already is large. For these several reasons I cannot support the proposition.

Mr. McDOUGALL. The question of compensation for services established by law belongs to Government, and when the Government offers compensation to a certain extent and undertakes to pay, it is not properly subject to taxation; it does not fall within the range of this kind of taxation.

Mr. HENDRICKS. Does this exempt any income of an officer except his salary?

Mr. McDOUGALL. I think only his pay; that is, his pay provided for by the Government, which does not fall within the range of legitimate taxation.

The amendment was rejected.

Mr. HENDRICKS. I wish to offer an amendment. On page 22, after the word "thereof" in line five hundred and fifteen, I move to insert:

*Provided, That Bibles and Testaments not costing more than two dollars shall be exempt from any duty or tax, any provision of law to the contrary notwithstanding.*

I desire to say simply that Bibles and Testaments of the cheaper qualities are published by benevolent institutions and associations, the Bible Society mainly, and the Methodist Book Concern. I do not think they ought to be taxed.

Mr. SHERMAN. Since the subject was up the other day I have received a letter from a very intelligent and one of the leading publishers in New York, in which he recommends that no discrimination be made. He says that in regard to his own business it is difficult to distinguish between the classes of books exempted by this proviso; that it is impossible to tell how much the Bibles cost, how much the Testaments cost, and how much school-books cost. It is true some houses do not publish all these classes of books, but all of them publish more or less Bibles and Testaments, and any attempt to make a discrimination would be dangerous. Those who read the Bible, as some one remarked the other day, are most willing to pay the tax.

The amendment was rejected.

Mr. HENDRICKS. I offer to add as another section to the bill the section which was reported by the committee on page 57—the second section as found on page 57.

The Secretary read the section, as follows:

*Sec. — And be it further enacted, That in lieu of the present rates of postage on letters, there shall be charged, from and after the 1st day of July next, for every single letter in manuscript, or paper of any kind in which information shall be asked for or communicated in writing or by signs or marks, conveyed in the mails, five cents; and for a double or other multiple letter there shall be charged an increased rate according to the present rates, five cents being computed the unit instead of three cents.*

Mr. HENDRICKS. While all the interests of the country are so heavily burdened with taxation I think the Post Office Department ought to be self-supporting. It is on that principle that I offer the amendment.

Mr. CONNESS. This proposition was voted upon to-day by yeas and nays.

Mr. SHERMAN. We did not vote by yeas and nays.

Mr. CONNESS. I thought we did. Let us have the yeas and nays now. We are not now a full Senate either.

The yeas and nays were ordered.

Mr. CONNESS. I wish to say that it is an important proposition which was presented before, and there was a fair vote on it when the Senate was full. I think it ought not to be pressed again now.

Mr. SPRAGUE. It seems to me that when you are taxing everything, when you are seeking out for purposes of taxation all sorts of trades and interests, the postage should bear some portion of the burden of this war; that there should be equality in taxation in this respect as in all others. You have just refused the proposition to exempt Bibles and all sacred books; and it seems to me there should be no exemption in favor of the postage, and I do not believe that the people who write would feel the additional burden it is proposed to put on them. I trust the proposition of the Senator from Indiana will prevail.

The question being taken by yeas and nays, resulted—yeas 13, nays 20; as follows:

YEAS—Messrs. Buckalew, Cowan, Foster, Grimes, Henderson, Hendricks, Howe, Lane of Indiana, McDougall, Ramsey, Sherman, Sprague, and Stewart—13.  
NAYS—Messrs. Anthony, Clark, Conness, Davis, Doo-



little, Farwell, Foot, Harlan, Johnson, Lane of Kansas, Morgan, Morrill, Nye, Powell, Riddle, Sumner, Ten Eyck, Van Winkle, Wiley, and Wilson—20.

ABSENT—Messrs. Brown, Carlile, Chandler, Collamer, Dixon, Hale, Harding, Harris, Howard, Nesmith, Pomeroy, Richardson, Saulsbury, Trumbull, Wade, Wilkinson, and Wright—17.

Mr. STEWART. I offer this amendment, to come in after the word "section," in line seven hundred and ten, on the 30th page:

*Provided*, That this section shall not apply to teams, wagons, or vehicles used in transporting silver ores from the mine where the same are extracted to the place of reduction.

I hope this amendment will prevail. It will obviate the principal difficulty we have in Nevada, and prevent the putting of an impediment in the way of opening new mines and trying experiments, which is the great business of the country. It will not operate in any other State. While silver mining is in its infancy it will do no harm to the revenue, and it will enable the teamsters to bring the rock from the desert for the purpose of experimenting. I think it will be a great relief to our people; it will allow them to go ahead with their experiments. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. McDUGALL. This is a desirable amendment, and a just one. I wish not to argue, but merely to affirm that as a matured opinion from a knowledge of the country, and the Senator from Nevada understands it much better than I do myself, and much better than any of us. I trust the amendment will be adopted.

The question being taken by yeas and nays, resulted—yeas 20, nays 11; as follows:

YEAS—Messrs. Buckalew, Conness, Cowan, Doolittle, Farwell, Foot, Harlan, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Sprague, Stewart, Sumner, Van Winkle, and Wright—30.

NAYS—Messrs. Clark, Davis, Foster, Grimes, Lane of Indiana, Powell, Riddle, Sherman, Ten Eyck, Wiley, and Wilson—11.

ABSENT—Messrs. Anthony, Brown, Carlile, Chandler, Collamer, Dixon, Hale, Harding, Harris, Howard, Howe, Nesmith, Pomeroy, Ramsey, Richardson, Saulsbury, Trumbull, Wade, and Wilkinson—19.

So the amendment was agreed to.

Mr. MORRILL. On page 45, section four, after the word "ninety-four" in line two, I move to insert "and fifty-five," so as to read: "That in addition to the duties imposed in sections ninety-four, and fifty-five," &c.

Mr. JOHNSON. What is the effect of that?

Mr. MORRILL. I will explain in a word. As the bill now stands section four imposes an additional tax of twenty per cent. upon the present tax on manufactures generally. This amendment will impose the same increase of tax on manufactured liquors. I see no reason why the same rule should not apply. I do not wish to argue the question.

Mr. SHERMAN. The effect would be to increase the tax on whisky to \$2 40 a gallon instead of two dollars. I am satisfied the article will not bear that. I am satisfied that the present duty is almost driving its distillation into such secret places that it is very difficult to avoid frauds. I believe it would be very unwise to attempt to increase the tax on whisky. At any rate, at this

period of the session, it is very unwise to introduce that controversy into the other House.

Mr. MORRILL. I was told that they contemplated an additional tax of fifty per cent. in the other House, which led me to make this suggestion. I do not know how it is, but it seems to me very difficult to see why it is there should be a discrimination in favor of the manufacture of whisky.

The amendment was rejected.

Mr. SPRAGUE. I move to amend the bill by striking out the fourth section. That section taxes all kinds of manufactures twenty per cent. in addition to the tax now assessed. The present tax is five per cent., and this is one per cent. in addition, making it six per cent. The manufacturing interest in this country and in England is satisfied with two and one half per cent. profit. The Government of the United States propose by this bill to take from that interest in this country two profits and a half. The Committee on Finance have suggested, and the Senate has confirmed their suggestion, that one half per cent. be taxed upon all sales. That proposition was rejected by the other House. It has struck me, on examination of the question, that the proposition to tax sales, which is eminently proper and judicious, would be more sure to prevail in that House if this increased tax on manufactures was stricken out of the bill.

I tell the Senate in good faith, in as good faith as it is possible for one man to tell another anything, that the present tax of five per cent. is destroying an interest that is producing very much income to the Treasury. I tell you that those who are employed in the manufacture of cottons—and it is in regard to that interest that I speak more particularly—are not half as well paid as they were before this war, but they have been obliged to continue in that employment because they have no means to remove from it. I tell the Senate, too, that during the greater period of the war cotton manufacturing has been a losing business to those engaged in it, but they have employed their machinery and tried to keep their capital intact for the purpose of being ready when the war closes to continue their business. Throughout the country to-day not one fourth of the capital or of the machinery employed before the war is employed; and those engaged are not half so well paid as they were before the war. The Government derives every mill of profit and more upon that interest.

I should not feel that I had done my duty if I did not protest against and resist this exaction. It has appeared to me that Senators do not comprehend this question at all. They have not exhibited any information on this important interest, for look at it: they impose a high *ad valorem* tax on cotton manufactures when the war has made the value of cotton ten times what it was before, and this taxation falls on those who are least able to bear it; men who get their one or two dollars a day are taxed by this bill more than any tax that was ever levied in the history of any civilized country.

I tell you, sir, this policy is destroying this great interest. I tell you that the three per cent. tax which

you put upon the manufacturers in the beginning gave to you more revenue than the five per cent., and the five per cent. has given you more revenue than you can get from the six per cent. now proposed. You tax it at that rate, though previous to the war it would have been satisfied with two and a half per cent. profit. I tell you one fourth of the capital invested in this interest is dead capital. I tell you that the operatives engaged in this employment are engaged at one half the compensation they received previous to this war. And I tell you the capital invested in it receives no compensation, but is losing money, and has been for two years past.

These facts are known to me, and they must be apparent to everybody who is obliged to buy cotton fabrics, and to any one who examines the question. It seems to me that there should be some discrimination for an article of prime necessity, an article which the masses of the people are hardly able to procure now, and yet that article is taxed three or four times the amount that any other article which is consumed is taxed.

I move that this section be stricken out. That motion may not prevail. If not, I shall move that cotton manufactures be included in the proviso to the section so as to exempt them from the increase.

The amendment was rejected.

Mr. SPRAGUE. I now move to amend the fourth section by inserting "cottons" among the list of manufactured articles in the proviso to that section.

The amendment was rejected.

Mr. HENDRICKS. I offer the following amendment as an additional section:

*And be it further enacted*, That whenever distilled spirits shall be taken from a bonded warehouse for consumption, the spirits shall, if the owner shall require it, be again inspected and gauged, and the duty shall be paid on the number of gallons thus ascertained to be in the barrels taken from the bonded warehouse.

This amendment is just to this effect: as the law now stands the barrels are gauged when taken from the distillery to the bonded warehouse, otherwise they would be gauged when taken from the distillery for sale, if not to the bonded warehouse. This proposition is that they shall be gauged for the purposes of taxation at the time they are taken out of the bonded warehouse for sale; that that quantity solely shall be the quantity taxed.

The amendment was rejected.

Mr. HOWE. For the purpose of getting an amendment that I wish to be adopted before the Senate, as I want it acted upon, I will offer it once more. It is after the word "accounting," in the forty-fifth line on the 3d page, to add:

And by adding after the first proviso in the same section the following: "Provided further, That no more shall be allowed to any assessor for clerk hire in any one year than seventy cents for each hundred names assessed in his district, and no more shall be allowed to any assessor for stationery in any year than one cent for each name assessed in his district."

I gave some figures on which I was induced to move this amendment; and now, not to detain the Senate by reargument of the question, but in order to inform the country of my reasons for urging this amendment upon the Senate, I ask leave to present some tables that they may be printed in the Globe.

No.	District.	Number of names.	Present clerk hire.	Proposed clerk hire.	Increase.	Decrease.	No.	District.	Number of names.	Present clerk hire.	Proposed clerk hire.	Increase.	Decrease.
3.	Massachusetts.....	45,000	\$3,890	\$3,150	-	\$650	4.	Brought forward.....	564,000	\$68,300	\$39,480	\$2,630	\$31,450
3.	Maryland.....	33,000	2,400	2,310	-	90	4.	Massachusetts.....	19,000	2,300	1,330	-	970
1.	Missouri.....	32,000	3,600	2,240	-	1,360	4.	California.....	19,000	2,600	1,330	-	1,270
5.	New Jersey.....	30,000	3,000	2,100	-	900	1.	California.....	19,000	6,000	1,330	-	4,670
1.	Illinois.....	29,000	3,000	2,030	-	970	4.	Louisiana.....	18,000	5,000	1,260	-	3,740
3.	Missouri.....	27,000	1,000	1,890	\$890	-	4.	Pennsylvania.....	18,000	4,000	1,260	-	2,740
1.	Pennsylvania.....	26,000	4,100	1,830	-	2,260	1.	Rhode Island.....	18,000	2,500	1,260	-	1,240
4.	New York.....	24,000	5,000	1,680	-	3,320	10.	Massachusetts.....	18,000	1,700	1,260	-	440
32.	New York.....	24,000	5,000	1,680	-	3,320	3.	New York.....	18,000	4,000	1,240	-	2,740
1.	Ohio.....	24,000	3,000	1,680	-	1,320	3.	Ohio.....	18,000	1,500	1,260	-	240
6.	New York.....	24,000	4,200	1,680	-	2,520	7.	Ohio.....	18,000	1,000	1,260	260	-
30.	New York.....	23,000	2,900	1,610	-	1,290	2.	Massachusetts.....	17,000	1,700	1,190	-	510
1.	Michigan.....	22,000	1,000	1,540	540	-	7.	Massachusetts.....	17,000	1,400	1,190	-	210
8.	New York.....	21,000	4,200	1,470	-	2,730	8.	Massachusetts.....	17,000	1,800	1,190	-	610
14.	New York.....	21,000	2,600	1,470	-	1,130	18.	New York.....	17,000	900	1,190	290	-
5.	Massachusetts.....	21,000	1,500	1,470	-	30	28.	New York.....	17,000	1,000	1,190	190	-
3.	New Jersey.....	21,000	1,000	1,470	470	-	4.	Kentucky.....	17,000	1,200	1,190	-	10
3.	Kentucky.....	20,000	1,200	1,400	200	-	18.	Ohio.....	16,000	2,000	1,120	-	880
5.	New York.....	20,000	4,000	1,400	-	2,600	1.	Wisconsin.....	16,000	800	1,120	320	-
22.	Pennsylvania.....	20,000	3,000	1,400	-	1,600	5.	Illinois.....	16,000	900	1,120	-	220
	District of Columbia.....	19,000	800	1,330	530	-	6.	Massachusetts.....	15,000	1,700	1,050	-	650
3.	Pennsylvania.....	19,000	4,000	1,330	-	2,670	2.	Connecticut.....	15,000	1,200	1,050	-	150
2.	Pennsylvania.....	19,000	4,000	1,330	-	2,670	7.	New York.....	15,000	4,000	1,050	-	2,950
	Carried forward.....	564,000	\$68,300	\$39,480	\$2,630	\$31,450		Carried forward.....	942,000	\$117,500	\$65,920	\$3,910	\$55,470

No.	District.	Number of names.	Present clerk hire.	Proposed clerk hire.	Increase.	Decrease.	No.	District.	Number of names.	Present clerk hire.	Proposed clerk hire.	Increase.	Decrease.
	Brought forward.....	942,000	\$117,500	\$65,920	\$3,910	\$55,470		Brought forward.....	1,694,000	\$176,310	\$118,560	\$13,360	\$71,090
15.	New York.....	15,000	1,600	1,050	-	550	11.	Pennsylvania.....	9,000	800	930	230	-
29.	New York.....	15,000	1,000	1,050	50	-	1.	Virginia.....	9,000	400	930	230	-
6.	Pennsylvania.....	15,000	800	1,050	250	-	4.	Indiana.....	9,000	400	630	230	-
3.	Illinois.....	14,000	600	980	380	-	8.	Indiana.....	9,000	500	630	130	-
9.	Massachusetts.....	14,000	1,600	980	-	620	6.	Illinois.....	9,000	350	630	280	-
23.	New York.....	14,000	1,800	980	-	820	9.	Illinois.....	9,000	400	930	230	-
2.	New Jersey.....	14,000	800	980	180	-	5.	Michigan.....	9,000	400	630	230	-
10.	Pennsylvania.....	14,000	700	980	280	-	6.	Michigan.....	9,000	600	630	30	-
7.	Pennsylvania.....	14,000	1,200	980	-	220	4.	Wisconsin.....	9,000	175	630	455	-
1.	New York.....	14,000	1,700	980	-	720	1.	Iowa.....	9,000	500	630	130	-
20.	Pennsylvania.....	14,000	800	980	180	-	3.	Iowa.....	9,000	500	630	130	-
2.	New York.....	14,000	3,500	980	-	2,520	4.	Iowa.....	9,000	300	630	330	-
5.	Indiana.....	14,000	500	980	480	-	12.	Illinois.....	8,500	350	595	245	-
4.	Connecticut.....	13,000	1,000	910	-	90	1.	Maine.....	8,000	1,150	560	-	590
10.	New York.....	13,000	1,800	910	-	890	3.	New Hampshire.....	8,000	550	560	10	-
12.	New York.....	13,000	600	910	310	-	2.	Vermont.....	8,000	500	560	60	-
9.	Pennsylvania.....	13,000	800	910	110	-	31.	New York.....	8,000	400	560	160	-
23.	Pennsylvania.....	13,000	500	910	410	-	16.	Pennsylvania.....	8,000	400	560	160	-
2.	Maryland.....	13,000	800	910	110	-	24.	Pennsylvania.....	8,000	500	560	60	-
2.	Ohio.....	13,000	1,500	910	-	590	4.	Maryland.....	8,000	450	560	110	-
3.	Michigan.....	12,000	600	840	240	-	6.	Ohio.....	8,000	500	560	60	-
1.	Connecticut.....	12,000	1,200	840	-	360	15.	Ohio.....	8,000	400	560	160	-
9.	New York.....	12,000	4,000	840	-	3,160	8.	Ohio.....	8,000	350	560	210	-
13.	New York.....	12,000	600	840	240	-	3.	Indiana.....	8,000	400	560	160	-
8.	New Jersey.....	12,000	800	840	40	-	7.	Indiana.....	8,000	350	560	210	-
8.	Pennsylvania.....	12,000	850	840	-	10	9.	Indiana.....	8,000	350	560	210	-
	Delaware.....	12,000	1,200	840	-	360	10.	Illinois.....	8,000	400	560	160	-
1.	Maryland.....	12,000	600	840	240	-	4.	Maine.....	7,000	500	490	-	10
4.	Ohio.....	12,000	500	840	340	-	13.	Pennsylvania.....	7,000	600	490	-	110
17.	Ohio.....	12,000	400	840	440	-	5.	Maryland.....	7,000	490	490	90	-
1.	Massachusetts.....	11,000	1,300	770	-	530	5.	Ohio.....	7,000	350	490	140	-
20.	New York.....	11,000	700	770	70	-	10.	Ohio.....	7,000	650	490	-	160
22.	New York.....	11,000	800	770	-	30	11.	Ohio.....	7,000	200	490	290	-
1.	New Jersey.....	11,000	600	770	170	-	19.	Ohio.....	7,000	600	490	-	110
5.	Pennsylvania.....	11,000	3,300	770	-	2,530	11.	Indiana.....	7,000	-	490	490	-
2.	Missouri.....	11,000	600	770	170	-	7.	Illinois.....	7,000	700	490	-	210
12.	Ohio.....	11,000	650	770	120	-	4.	Michigan.....	7,000	300	490	190	-
1.	Indiana.....	11,000	600	770	170	-		Kansas.....	7,000	-	490	490	-
2.	Illinois.....	11,000	350	770	420	-	2.	California.....	7,000	1,800	490	-	1,310
2.	Michigan.....	11,000	600	770	170	-	5.	Maine.....	6,000	500	420	-	80
2.	Iowa.....	11,000	200	770	570	-	3.	Vermont.....	6,000	400	420	20	-
9.	Ohio.....	11,000	700	770	70	-	2.	Rhode Island.....	6,000	800	420	-	380
2.	New Hampshire.....	10,000	800	700	-	100	17.	New York.....	6,000	-	420	420	-
19.	New York.....	10,000	300	700	400	-	17.	Pennsylvania.....	6,000	350	420	70	-
21.	New York.....	10,000	1,200	700	-	500	18.	Pennsylvania.....	6,000	400	420	20	-
25.	New York.....	10,000	500	700	200	-	10.	Indiana.....	6,000	350	420	70	-
26.	New York.....	10,000	600	700	100	-	3.	Wisconsin.....	6,000	400	420	20	-
27.	New York.....	10,000	700	700	-	-	2.	Maine.....	5,000	500	350	-	150
12.	Pennsylvania.....	10,000	750	700	-	50	3.	Maine.....	5,000	500	350	-	150
14.	Pennsylvania.....	10,000	1,000	700	-	300	16.	New York.....	5,000	400	350	-	50
15.	Pennsylvania.....	10,000	500	700	200	-	19.	Pennsylvania.....	5,000	600	350	-	250
4.	Virginia.....	10,000	600	700	100	-	13.	Illinois.....	5,000	150	350	200	-
2.	Kentucky.....	10,000	1,000	700	-	300	5.	Wisconsin.....	5,000	600	350	-	250
13.	Ohio.....	10,000	650	700	50	-	6.	Wisconsin.....	5,000	300	350	50	-
14.	Ohio.....	10,000	200	700	500	-	5.	Iowa.....	5,000	150	350	200	-
6.	Indiana.....	10,000	500	700	200	-	1.	Minnesota.....	5,000	400	350	-	50
4.	Illinois.....	10,000	400	700	300	-	2.	Minnesota.....	5,000	500	350	-	150
8.	Illinois.....	10,000	600	700	100	-	3.	California.....	5,000	1,800	350	-	1,450
2.	Wisconsin.....	10,000	400	700	300	-	16.	Ohio.....	4,000	300	220	80	-
1.	New Hampshire.....	9,000	550	630	80	-	2.	Virginia.....	4,000	500	220	-	220
1.	Vermont.....	9,000	250	630	380	-	11.	Illinois.....	4,000	200	220	80	-
3.	Connecticut.....	9,000	1,000	630	-	370	6.	Iowa.....	3,000	-	210	210	-
21.	New York.....	9,000	600	630	30	-	3.	Virginia.....	3,000	600	210	-	390
31.	Pennsylvania.....	9,000	600	630	30	-	5.	California.....	3,000	1,500	210	-	1,290
	Carried forward.....	1,694,000	\$176,310	\$118,560	\$13,360	\$71,090		Grand total.....	2,130,500	\$206,885	\$149,135	\$20,870	\$78,620

These tables illustrate the question of clerk hire; they give the number of names in thousands assessed in each district, the present rate allowed for clerk hire in each district, and the amount which would be allowed for clerk hire in each district, calculated after the rate named in the amendment, seventy cents for each one hundred names. I have already stated that this amendment would save to the Treasury about fifty thousand dollars, and yet I have said and the tables will show that it will increase the allowance for clerk hire in more than half the districts of the United States. With reference to the question of stationery, I only wish to say that I have been furnished with a list of thirty-eight districts in different States of the United States assessing in the aggregate three hundred and eighteen thousand names, where the whole amount allowed for stationery is \$3,110 99; and I have been given another district, a single district, in the State of New York, the thirty-second district, where twenty-four thousand names are assessed, and \$3,071 40 is allowed for stationery, within a few dollars of the amount allowed in the other thirty-eight districts.

I could give some further curious illustrations of the way this amendment will affect the expenses in different districts. I will mention two or three. It would decrease the amount allowed for clerk hire in every district in Massachusetts, I think, but one, and it would increase that \$890. In the State of Maryland it would decrease the cost in one district \$90, and increase the cost in every other district, one \$110, one \$240, one \$110, and one \$90. In the State of Illinois it would decrease the cost in two districts and increase the amount in all the other districts of that State. In

the State of Michigan it would increase the amount allowed to the assessors, in one district \$540, in another district \$240, in another district \$170, in another district \$230, in another \$30, in another \$190, and would not decrease it in a single district. It would increase it in every district in the State of Iowa; it would increase it in every district but one in the State of Wisconsin; it would increase it in every district in Vermont; it would increase it in the District of Columbia; but it would decrease the cost in some districts in the State of New York very heavily; in one district \$3,320, in another \$3,320, in another \$2,520. It would decrease it in the State of Pennsylvania in a large number of districts, and make very heavy discounts on the present cost. In the State of Indiana it would increase the cost in every district in the State.

Mr. SPRAGUE. Will the gentleman give way for a motion to take a recess?

Mr. HOWE. I will give way for a vote on the question in one moment. It is a matter that interests me no more than it does every other Senator and every other tax-payer. I thought it proper, however, inasmuch as these tables had been furnished me and I understood them to be correct, to lay them before the country and let them see what it is the Legislature will not agree to correct.

The amendment was agreed to.

Mr. SHERMAN. There are one or two verbal amendments to which my attention has been called since the action of the committee.

Mr. SPRAGUE. I move that the chairman be authorized to make the corrections.

Mr. SHERMAN. I would not take that liberty.

I have not got them now. They are not very material at any rate; they are verbal. Let the bill proceed.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The question is, Shall the bill pass?

Mr. POWELL. I am opposed to the bill. I am for no bill taxing the State banks ten per cent. and taxing sales.

Mr. McDUGALL. Mr. President, I do not rise to discuss anything at length, but simply to make some few affirmations.

Mr. SHERMAN. Will my friend allow me to insert the words "meters and other apparatus" after "hydrometer" in a certain place?

Mr. McDUGALL. Certainly.

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. SHERMAN. I move after the word "amended," in line two hundred and ten, to insert "by inserting after the word 'hydrometer' the words 'meters and other apparatus.'"

The amendment was agreed to by unanimous consent.

Mr. SHERMAN. I move before "by," in line four hundred and ninety-nine, to insert "by striking out of the first paragraph relating to sugar the words 'brown or muscovado,' and by striking out of the second paragraph relating to sugar the words, 'clarified or refined,' and by striking out of the third paragraph relating to sugar the words 'or clarified or refined.'"

Mr. CLARK. These words were omitted by mistake.

The PRESIDING OFFICER. These corrections will be made in the bill unless objected to. The Chair hears no objection. They will be made.

Mr. McDOUGALL. It is known to many Senators that I disagreed with the system or policy adopted in regard to the collection of internal revenue, thinking it might, with better advisement, have been better done; but I acquiesced in the action of the majority and supported it because it was the only thing that could then be done, although I did not think that wisdom governed the councils of those who had to do with the drawing from our people the means whereby to support our war.

The first rude legislation of 1862 has not been improved upon, but has been made more disintegral from that time to this time, and this legislation which is proposed now, and which will receive the sanction of the Senate, and to which it would be folly for me to offer any particular opposition, is, of all, the farthest from the right. This bill is full of wrong—wrongs to individuals, wrongs to organizations, wrongs to the Constitution, and to all principles of right. I have given always my support, and given it cordially, to bills introduced for the purpose of collecting revenue, although I differed as to the policy; but to this I cannot give my support, for it is a bill that has elements in it that strike at the foundations of our Government. It means disruption, and that involves destruction, and who will make the reconstruction—who? Echo answers, who.

I am sad that I am compelled to acquiesce, without the power of resistance, in the legislation that will be the result of this action. It is the tiger's claws taking hold of the blocks that lay at the foundation and turning them over, and not the hyena's claws. There is more of danger and of death in this bill than any measure that has been brought before the Federal Congress since 1787. Gentlemen may not see it now; it may not be in their mind's eye; but it will come to them before they are many years older. I say that one single provision in which I have no interest myself personally, that simple ten per cent. provision driving the States out of their authority to conduct their own financial affairs, is a piece of usurpation that amounts to tyranny, and it is the affirmation of a power in the central Government absolute in itself, ignoring all rights in the States, and inaugurates—no, does not inaugurate, because the policy has been inaugurated *sub modo*, but this is the first bold, wicked assertion of it, and upon those who do it must the consequences fall. Upon them they will fall, and fall as the deluge came out of heaven and as the waters of the great deep break up.

I want to say these things though gentlemen may smile at the consequences. Some men only live for a day, or think they only live for a day. Some think they live for eternity. I, at least, think in my place here I ought to live the age of my country and do it full justice. If gentlemen propose to establish a hierarchy, or a monarchy, or an absolutism here in Washington and maintain it, very well. If that has become a thing necessitated by the condition of our people, by the want of public morality, by the want of public justice, let it come; I am prepared to meet it. As long as I believe in the faith of my fathers, as long as I believe in the faith in which I was instructed, as long as I believe in the faith in which I was educated by the lessons of old antiquity and of modern ages, I will not believe it. This bill contains such features as tend to destroy the foundations of the Government. I will vote against it.

The bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had further insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, insisted on by the Senate; and upon its amendment to the sixth amendment of the Senate, disagreed to by the Senate; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. F. WILSON of Iowa, Mr. W. S. HOLMAN of Indiana, and Mr. THOMAS T. DAVIS of New York, managers at the conference on the part of the House.

The message also announced that the House

of Representatives insisted upon its amendments to the joint resolution of the Senate (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM WINDOM of Minnesota, Mr. J. D. BALDWIN of Massachusetts, and Mr. PHILIP JOHNSON of Pennsylvania, managers of the same on its part.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice President:

A bill (S. No. 88) regulating proceedings in criminal cases, and for other purposes;

A bill (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and additional appropriations for the current fiscal year; and

A bill (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; and to amend an act amendatory thereof, approved July 2, 1864.

#### INDIAN APPROPRIATION BILL.

Mr. SHERMAN. I move that the Senate resume the consideration of the Indian appropriation bill. I believe that is the unfinished business, and then I shall move that we take a recess until half past seven o'clock.

Mr. WILSON. I hope we shall take no recess.

Mr. SHERMAN. Then I move to postpone the consideration of the Indian appropriation bill until half past seven o'clock, and that it be made the special order at that hour; and in the mean time I will not interfere with the business of other Senators.

Mr. POWELL. I hope we may have a recess. Let us go and have some dinner. We have had none to-day.

Mr. SHERMAN. I move to postpone the Indian appropriation bill—I believe it is now in order as the unfinished business—and make it the special order for half past seven o'clock.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The bill has not yet been taken up.

Mr. GRIMES. I move to postpone all prior orders, with a view of taking up a little naval bill.

Mr. SHERMAN. I believe my motion is pending.

The PRESIDING OFFICER. The Senator from Ohio is entitled to the floor.

Mr. SHERMAN. Has my motion been put to take up the Indian appropriation bill?

The PRESIDING OFFICER. It has not. It is moved that the Senate proceed to the consideration of the Indian appropriation bill.

The motion was agreed to.

Mr. GRIMES. I now move that it be postponed until seven o'clock.

Mr. SHERMAN. Let it be made the special order.

Mr. GRIMES. And that it be made the special order for seven o'clock.

Mr. WILSON. I move that it be made the special order for eight o'clock. ["Oh, no!"] I have some other business that I want to dispose of in the mean time.

Mr. SHERMAN. You will have an hour.

The PRESIDING OFFICER. Eight o'clock is named; and the Chair will put the question on the longest hour first, according to the rule.

The motion was agreed to.

#### PAY OF MIDSHIPMEN.

Mr. GRIMES. I now move that the Senate proceed to the consideration of House bill No. 605. This is a House bill, and as the Committee on Naval Affairs propose an amendment to it it must go back to the House in order to become a law.

The motion was agreed to.

Mr. POWELL. I now move that the Senate take a recess until half past seven o'clock.

The question being put, there were, on a division—ayes 9, noes 14; no quorum voting.

Mr. WILSON and Mr. RAMSEY called for the yeas and nays, and they were ordered; and being taken, resulted—ayes 5, nays 21; as follows:

YEAS—Messrs. Davis, Henderson, Powell, Riddle, and Sprague—5.

NAYS—Messrs. Clark, Cowan, Doolittle, Farwell, Foot, Foster, Grimes, Harlan, Howard, Johnson, Lane of Indiana, McDougall, Nyc, Ramsey, Stewart, Sumner, Ten Eyck, Trumbull, Van Winkle, Willey, and Wilson—21.

ABSENT—Messrs. Anthony, Brown, Buckalew, Carille, Chandler, Collamer, Conness, Dixon, Hale, Harding, Harris, Hendricks, Howe, Lane of Kansas, Morgan, Morrill, Nesmith, Pomeroy, Richardson, Saulsbury, Sherman, Wade, Wilkinson, and Wright—24.

So the Senate refused to take a recess.

Mr. SPRAGUE. I ask the Senate to consider Senate bill No. 419.

The PRESIDING OFFICER. There is another bill now before the Senate.

Mr. SPRAGUE. I believe the Chair recognized me.

The PRESIDING OFFICER. The Chair did so.

Mr. GRIMES. But this bill was taken up before the motion for a recess was made.

Mr. SPRAGUE. But I do not suppose it takes precedence of all others.

The PRESIDING OFFICER. House bill No. 605 is before the Senate, and the Secretary was about to read the bill when the motion for a recess was made. That bill is now before the Senate, subject to the decision of a majority of the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 605) to increase the pay of midshipmen and others. It provides that midshipmen, after their final academic examination and until their promotion to the grade of ensign, shall be paid at the rate of \$800 per annum while on sea service; that acting masters' mates shall be styled mates, and the Secretary of the Navy is to be authorized to increase their pay not exceeding sixty dollars per month. And hereafter mates may be rated, under authority of the Secretary of the Navy, from seamen and ordinary seamen who have enlisted in the naval service for not less than two years, but such rating of an enlisted man, or his appointment as an officer, is not to discharge him from his enlistment. No person appointed or rated an officer or clerk in the Navy is to receive any bounty while holding an appointment.

The Committee on Naval Affairs reported the bill with two amendments. The first amendment was in section two, line three, after the word "pay" to insert the words "to a sum;" so that it will read:

That acting masters' mates shall be styled mates, and the Secretary of the Navy is hereby authorized to increase their pay to a sum not exceeding sixty dollars per month.

The amendment was agreed to.

The next amendment was to add the following as an additional section:

SEC. 6. And be it further enacted, That acting passed assistant surgeons and acting surgeons may be appointed in the same manner as acting assistant surgeons are now appointed, who shall receive the compensation of their respective grades.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed. The bill was ordered to be read a third time, and it was read the third time.

Mr. FARWELL. I do not think I am in favor of this bill, which proposes, as I understand, to increase the pay of midshipmen after they have graduated. That is one of the main features of it. Am I right?

Mr. GRIMES. Yes, sir.

Mr. FARWELL. Perhaps it is a small matter; but I do not think, when we are reaching around in every direction, trying to get a little money, that we should increase the pay of these young gentlemen.

Mr. GRIMES. If the Senator will permit me, perhaps he does not exactly understand what the bill is.

Mr. FARWELL. I want some explanation of it.

Mr. GRIMES. The first section of this bill proposes to increase the pay of midshipmen after they shall have left the Academy and while performing sea duty and before they are promoted to the grade of ensigns. Under the organization



as the Department has heretofore existed, these midshipmen, when they graduated, became ensigns and received \$1,200 a year. Now it is proposed, not to make them ensigns immediately, but to allow them to go to sea in the capacity of midshipmen, and to give them a mean pay between that which they would receive if they were immediately promoted and that which they are receiving at the Academy. The truth is, that it is a saving of the difference between \$1,200 and \$800 over the system that has prevailed during the last four years. It is proposed now to send these young men to sea as midshipmen. During the last four or five years when they graduated they became ensigns, and being ensigns they received \$1,200. It is now proposed that they shall have some experience in the grade of midshipmen; and if they go to sea in that grade they are to have \$800 in place of the \$1,200 they would receive as ensigns.

Mr. FARWELL. Does this bill change the position they hold when they go to sea?

Mr. GRIMES. No, sir; this bill does not say that they shall go to sea in any grade. That is a matter that is regulated by the Navy Department, and has been from the foundation of the Navy.

Mr. FARWELL. I observe that the bill proposes to increase their pay.

Mr. GRIMES. It proposes to increase their pay while they are at sea and obliged to keep up their mess, over what they now receive at the Academy, where they are not compelled to furnish their provisions. They receive at the Academy \$500. This bill proposes to give them \$300 more, if they go to sea, to support them while at sea.

Mr. FARWELL. After they have graduated?

Mr. GRIMES. After they have graduated, while they are at sea as midshipmen.

The bill was passed.

#### NOTIFICATION TO VICE PRESIDENT-ELECT.

Mr. TRUMBULL, from the joint committee of the two Houses appointed to wait upon Andrew Johnson, of Tennessee, and notify him of his election as Vice President of the United States, reported that they had performed the duty assigned them, and that Mr. Johnson replied that he acquiesced in the will of the people, and that he was ready at the proper time to take the oath of office and enter upon the discharge of his duties.

#### MILITARY SERVICE.

Mr. WILSON. I move to take up House joint resolution No. 170.

Mr. HOWARD. What is it?

Mr. WILSON. The title of it is, "A joint resolution declaring and defining the meaning of the law in regard to officers' servants," to which I desire to propose an amendment of some eight or ten sections which it is very important to pass, and it is very important that it should go back to the House of Representatives as early as possible. I consulted with the Committee on Military Affairs of the House, and told them I would get it down there last night, and I expected to be able to do so then, or early this morning. I do not think it will take more than ten or fifteen minutes.

Mr. HOWARD. I hope it will not be taken up. We have a great many bills of much more importance to act upon.

Mr. WILSON. You have none at all. It involves in it the organizing of six regiments of engineers; it involves in it the clothing of our volunteers; and it involves several other important things which we will all agree upon if they are only read and considered. I think we can settle it in ten or fifteen minutes, and it is of great importance that it should be passed.

Mr. SPRAGUE. I should like to ask the indulgence of the chairman of the committee to permit us to take a vote upon the paymaster's bill before that resolution is taken up.

Mr. WILSON. That bill cannot pass Congress at this late hour in the session. It is a Senate bill, and if passed here it would have to go to the House of Representatives, and it is a trifling affair compared with one single item in this proposition. The amendment that I shall propose to this resolution makes provision for the clothing of our volunteers, which the Quartermaster General of our Army says is essential. They received forty-two dollars when the war opened, and the regulars now receive about sixty dollars, and they have to pay the difference out of their own pocket.

etc. There are several just provisions in the amendment.

Mr. SPRAGUE. Does the Senator decline to permit me to take up this bill?

Mr. WILSON. I cannot give way to a measure of this character for the one the Senator desires to take up, because there is no comparison between the two. This is a House resolution upon which I propose to offer an amendment of great importance, and the bill of the Senator, if it should pass here, may reach the House and may not pass at this session; but this is of vital importance, and I am very anxious to have it passed.

Mr. HOWARD. I beg to inquire of the chairman of the Committee on Military Affairs whether the measure to which he alludes has been before the committee?

Mr. WILSON. It has been before the committee, and has been reported as a bill; but in order to save it, as we are pressed for time, I propose to offer the bill which we have reported as an amendment to this resolution, so that it may have a better chance of passing. If we were to pass the original bill now, it would have no more chance to become a law than this paymaster's bill.

Mr. SPRAGUE. I hope this measure will not be taken up. From the remark made by the Senator from Michigan I do not believe it has received the attention of the Committee on Military Affairs, and at this late period of the session I do not believe that it is a proposition that should pass.

Mr. WILSON. I am utterly amazed at the declaration made by the Senator from Rhode Island and that this has not received the consideration of the Committee on Military Affairs. It has received that consideration, and I know it, whether the Senator knows it or not. Now, sir, I propose to show what this bill is.

The PRESIDING OFFICER. The Chair will suggest that the merits of the measure are not strictly in order on a motion to proceed to its consideration. Reasons may be given why it should be taken up; but that does not involve a debate on its merits.

Mr. WILSON. Well, sir, without discussing it, I hope the Senate will take it up. We could have passed it before this if there had been no opposition.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants.

Mr. TRUMBULL. I observe that the committee report an amendment to strike out all of the original resolution, and insert a substitute; and I presume the Senator from Massachusetts does not wish to have the original resolution read.

Mr. WILSON. No, sir; I only desire to have the substitute read.

The PRESIDING OFFICER. The reading of the original resolution will be dispensed with if there be no objection, and the substitute only will be read.

The Secretary proceeded to read the amendment, as follows:

That the measure of allowance for pay for an officer's servant is the pay of a private soldier as fixed by law at the time; that no non-commissioned officer shall be detailed or employed to act as a servant, nor shall any private soldier be so detailed or employed except with his own consent; that for each soldier employed as a servant by any officer there shall be deducted from the monthly pay of such officer the full monthly pay and allowances of the soldier so employed; and that, including any soldier or soldiers so employed, no officer shall be allowed for any greater number of servants than is now provided by law, nor be allowed for any servant not actually and in fact in his employ.

Sec. 2. *And be it further resolved*, That non-commissioned officers and privates in the volunteer service shall receive the same amount of clothing as non-commissioned officers and privates of the same arm of the regular Army.

Mr. HOWARD. I notice that the Secretary omitted to read section two of the printed amendment, reported by the Committee on Military Affairs, in these words:

Sec. 2. *And be it further resolved*, That hereafter the bread ration shall be fourteen ounces of hard bread or twenty ounces of soft bread, or its equivalent in flour; or, in lieu of an increase of the bread ration, the allowance may be made in vegetables.

I beg to inquire of the chairman whether that is not a part of their amendment.

Mr. WILSON. That is a part of the bill that was originally reported, and which I now propose as an amendment to this resolution; but I con-

cluded to leave that out, because, on investigation and consultation with the committee in the House who had the same subject under advisement, they thought it was doubtful whether it could carry, and that it had better be abandoned. I have a letter from the commissary department, stating that it was not necessary.

Mr. HOWARD. I was merely inquiring for information; that is all.

The Secretary continued the reading of the amendment; as follows:

Sec. 3. *And be it further resolved*, That if a soldier, discharged for wounds received in battle, die before receiving the bounty provided by the act of March 3, 1863, entitled "An act to amend an act to authorize the employment of volunteers, and so forth," the bounty due shall be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow, or child or children, then, and in that case, such bounty shall be paid to the following persons, provided they be residents of the United States, to wit: first, to his father; or, if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier, and if there be neither father nor mother, as aforesaid, then such bounty shall be paid to the brothers and sisters of the deceased soldier resident as aforesaid.

Sec. 4. *And be it further resolved*, That every non-commissioned officer, private, or other person who has been, or shall hereafter be, discharged from the Army of the United States by reason of wounds received in battle, on skirmish, on picket, or in action, or in the line of duty, shall be entitled to receive the same bounty as if he had served out his full term; and all acts and parts of acts inconsistent with this are hereby repealed.

Sec. 5. *And be it further resolved*, That the legal heirs of those persons who shall have become entitled to the bounty under the preceding section of this act, and shall have died before receiving the same, shall be entitled to receive the bounty upon making application for the same, as in the case of the heirs of those who die or are killed in the service.

Sec. 6. *And be it further resolved*, That all persons of color who were enlisted and mustered into the military service of the United States in South Carolina, by and under the direction of Major General Hunter and Brigadier General Saxton, in pursuance of the authority from the Secretary of War dated August 25, 1862, "that the persons so received into service, and their officers, to be entitled to and receive the same pay and rations as are allowed by law to other volunteers in the service;" and in every case where it shall be made to appear to the satisfaction of the Secretary of War that any regiment of colored troops has been mustered into the service of the United States, under any assurance by the President or the Secretary of War, that the non-commissioned officers and privates of such regiment should be paid the same as other troops of the same arm of the service, shall, from the date of their enlistment, receive the same pay and allowances as are allowed by law to other volunteers in the military service; and the Secretary of War shall make all necessary regulations to cause payment to be made in accordance therewith.

Sec. 7. *And be it further resolved*, That the President is hereby authorized to enlist or organize, out of troops already in the service, six regiments of volunteer engineers, to be organized by existing regulations, to have the same pay and allowances of engineer troops of the regular Army and to be subjected to the rules and articles of war.

Sec. 8. *And be it further resolved*, That the President is hereby authorized to enlist two additional companies, to be added to the regiment of volunteer engineers raised under the provisions of an act approved May 30, 1864, entitled "An act to organize a regiment of veteran volunteers," and said regiment shall be considered one of the regiments authorized in the preceding section of this act.

Sec. 9. *And be it further resolved*, That whenever a regiment in the regular Army is reduced below the minimum number, no officer shall be appointed in such regiment beyond those necessary for the command of such reduced number.

Sec. 10. *And be it further resolved*, That "acting assistant surgeons" and "contract surgeons," while in the military service of the United States, shall hereafter be exempt from all liability to be drafted under the provisions of this act and the acts to which this is an amendment.

Mr. GRIMES. I ask for the rereading of the eighth section, providing for volunteer engineers.

The Secretary again read it.

Mr. WILSON. Does the Senator want an explanation of that section?

Mr. GRIMES. Yes, sir.

Mr. WILSON. Last year the House of Representatives passed a bill for a regiment of volunteer engineers, and provided that it should be composed of ten companies, when it should be twelve; and they desire now to have the same number of companies as other regiments.

Mr. GRIMES. Is that in addition to the six regiments that are provided for?

Mr. WILSON. This regiment was ordered last year, and instead of having twelve companies was composed of but ten, and this section proposes to make it uniform.

Mr. GRIMES. I understand that; but there is a section in the amendment which proposes to make six new regiments of engineers. Does that stand?

Mr. WILSON. Yes, sir.

Mr. GRIMES. These two companies are in addition to that?

Mr. WILSON. Yes, sir; to be added to another regiment.

The PRESIDING OFFICER. The question is on the amendment to strike out all of the original resolution and insert what has been read.

The amendment was agreed to.

Mr. TRUMBULL. I offer the following amendment as an additional section:

*And be it further enacted*, That officers by brevet in the regular Army shall receive the same pay and allowances as brevet officers of the same grade or rank in the volunteer service, and no more.

The amendment was agreed to.

Mr. SPRAGUE. The chairman of the Committee on Military Affairs has proposed to me to offer Senate bill No. 419 as an amendment to this resolution; and I therefore move to add the following as additional sections:

*And be it further resolved*, That the Paymaster General of the United States Army shall hereafter have the rank, pay, and emoluments of brigadier general.

*And be it further resolved*, That there shall be added to the pay department of the United States Army, as now organized, two Assistant Paymaster Generals, who shall be, *ex officio*, inspector generals of the department, with the rank, pay, and emoluments of colonels of infantry. And, in addition to the two Deputy Paymaster Generals now authorized, there shall be added ten others, subject to the same conditions and provisions as by existing laws provided for Deputy Paymaster Generals.

*And be it further resolved*, That the appointment to the offices herein created shall be made by selection from the officers from the pay department of the United States Army, including the additional paymasters and the chief clerk, and who shall have had at least two years' service and experience in the duties of the pay department: *Provided*, That at least two thirds of such appointments shall be made from the additional or volunteer paymasters; and after such appointments have once been filled, all vacancies occurring shall be supplied as now required by law prescribed for other staff departments of the Army.

*And be it further resolved*, That the Assistant and Deputy Paymaster Generals shall give bond in the manner now required of Deputy Paymaster Generals, and shall be subject to any duty in the pay department to which they may be assigned by the Secretary of War.

*And be it further resolved*, That whenever a pay district shall be established, for the charge, superintendence, and command of which no Assistant or Deputy Paymaster General shall be available as chief, the Secretary of War may detail any paymaster or additional paymaster of the Army to do the duties of such chief; and during the continuance of such detail and duties, and no longer, the officer so detailed shall have the rank, pay, and emoluments of a Deputy Paymaster General: *Provided*, That the total number of such acting deputies shall not at any one time exceed ten.

*And be it further resolved*, That the Secretary of War shall have authority to detail officers of the pay department for duty as inspectors of such department, not exceeding four at any one time, who, during the continuance of such detail and duties, shall have the rank, pay, and emoluments of Deputy Paymaster Generals. And they, together with the inspector generals herein provided for, shall have the powers and authority within their own department now by law and regulations conferred upon inspector generals of the Army.

*And be it further resolved*, That the provisions of this resolution shall continue and be in force during the continuance of the present rebellion, and one year thereafter, and no longer: *Provided*, however, That when this resolution shall expire all officers who have been promoted from the pay staff of the Army under this act shall retain their respective rank in the Army, with such promotion as they would have been entitled to.

Mr. GRIMES. In the second line of the second section of this amendment, before the word "pay," I move to insert the words "volunteer or additional;" so that it will read:

That there shall be added to the volunteer or additional pay department of the United States Army, as now organized, &c.

Mr. SPRAGUE. That is all right.

The PRESIDING OFFICER. That amendment to the amendment being accepted by the mover of the amendment, will be considered as a part of the original amendment.

Mr. SPRAGUE called for the yeas and nays on the amendment, as modified; and they were ordered; and being taken, resulted—yeas 10, nays 19; as follows:

YEAS—Messrs. Buckalew, Davis, Henderson, Lane of Indiana, Lane of Kansas, Morrill, Pomeroy, Powell, Sprague, and Wilson—10.

NAYS—Messrs. Clark, Cowan, Dixon, Doolittle, Farwell, Foot, Foster, Grimes, Hale, Harlan, Howard, Howe, Ramsey, Sumner, Ten Eyck, Trumbull, Van Winkle, Wade, and Wiley—19.

ABSENT—Messrs. Anthony, Brown, Carlile, Chandler, Collamer, Conness, Harding, Harris, Hendricks, Johnson, McDougall, Morgan, Nesmith, Nye, Richardson, Riddle, Sausbury, Sherman, Stewart, Wilkinson, and Wright—21.

So the amendment was rejected.

Mr. HENDERSON. I offer the following amendment as a new section:

*And be it further resolved*, That in all cases where non-commissioned officers, privates, musicians, or artificers of cavalry shall have furnished, previous to the 20th day of June, 1864, horses and equipments for the military service, as provided by the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and who shall have continued in the service with such horses and equipments after the date first aforesaid, such non-commissioned officers, privates, musicians, and artificers shall be entitled to receive the pay allowed by the said act of July 22, 1861, for the use and risk of such horses and equipments so long as the same remained the private property of such persons, and were actually used by them in the military service; and nothing contained in the act of June 20, 1864, entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," shall be construed to prevent the payment thereof up to the period of time when horses and equipments shall have been furnished by the Government to such persons so engaged in the service.

This amendment is in the words of a bill reported from the Committee on Military Affairs. The act of 1861, which authorized the employment of volunteers provided:

That the allowances of non-commissioned officers and privates for clothing, when not furnished in kind, shall be \$3 50 per month, and that each company officer, non-commissioned officer, private, musician, and artificer of cavalry shall furnish his own horse and horse equipments, and shall receive forty cents per day for their use and risk, except that in case the horse shall become disabled, or shall die, the allowance shall cease until the disability be removed or another horse be supplied.

The act of July 17, 1862, repealed that portion of the act of 1861. The tenth section of that act is in these words:

"Sec. 10. *And be it further enacted*, That so much of the fifth section of the act approved July 22, 1861, as allows forty cents per day for the use and risk of the horses of company officers of cavalry, and the tenth section of the aforesaid act, approved August 3, 1861, be, and the same are hereby, repealed."

That repealed so much of the act as allowed company officers to receive pay. The ninth section of the act of June 20, 1864, provided:

"That so much of the fifth section of the act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, as provides that each company officer, non-commissioned officer, private, musician, and artificer of cavalry, shall furnish his own horse and horse equipments, and shall receive forty cents per day for their use and risk, is hereby repealed, except only so far as the same may hereafter be made to apply and relate to mounted troops called into the service of the United States for a term not exceeding six months."

At the time that act was passed, during the last summer, there were some cavalry regiments in my State in active service and the exchange of their horses could not be made. They were in active service pursuing the enemy in the State, and they were unable to make the exchange until Price was driven out of the State. It will be observed that this amendment does not exempt company officers; it only refers to the non-commissioned officers and men who furnished their own horses. I addressed a letter to the quartermaster, Colonel Myers, in order to ascertain why it was that these men were not paid. Great complaint has been made on this subject. They were not paid for their horses after the passage of this act; and I think, perhaps, under the strict terms of the act, it was right that they were not paid. The quartermaster replies to me in this way:

"I have the honor to acknowledge the receipt of your communication of the 16th instant. The raid of the rebels into the State last fall occasioned some delay in purchasing the horses of enlisted men belonging to cavalry regiments serving in this department. The matter, however, was attended to as early as practicable. The men have, as far as possible, been given an opportunity to present their animals for inspection, and the purchase is now complete."

I need not read any further. It shows that there was a delay in this matter in consequence of the activity of these men in service at the time. As the men had their own horses in the service, and could not be mustered to some rendezvous in order to have their horses exchanged and purchased by the United States, in accordance with this law, I think they ought to be paid during the short time that intervened until it was done.

The PRESIDING OFFICER put the question on the amendment, and declared that the yeas appeared to have it.

Mr. HENDERSON. I will withdraw the amendment. I consider it but a simple act of justice; but if the Senate is prepared to say that they will not pay these men in the service for three or

four months that they were thus actively engaged so that this exchange could not be made, I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. LANE, of Kansas. I offer the following amendment as an additional section:

*And be it further enacted*, That whenever the head of any bureau in the War Department accepts any position of a higher rank than that provided for by law for the head of said bureau, then and in that case he shall be deemed and held as having vacated his position as head of said bureau, and shall be subject to detail for field and other duty as other military officers.

Mr. NESMITH. I should like to understand the object of this amendment. I presume it is all right. I do not know, though.

Mr. LANE, of Kansas. We have by law provided that the heads of these bureaus in the War Department shall have the rank of brigadier generals. The heads of these military bureaus aspire to obtain higher rank, and we are called upon here to elevate them to higher military rank. This amendment provides that whenever they shall accept this higher rank they shall thereby vacate their positions as heads of bureaus. I hope it will be adopted. These men obtain higher rank, and still retain the positions to which they are appointed, which positions give them the rank of brigadier general. I think this is a matter of sufficient importance for the Senate to place it as an amendment to this resolution. Let us stop somewhere this continual aspiring for promotion contrary to law and in the face of law.

Mr. POMEROY. I do not know of any case to which this amendment can apply unless it be the case of General Meigs, and I do not think we ought to make any special law on that subject. If General Meigs has rendered such distinguished service that the President thinks he is entitled to the rank of brevet major general, I do not know of anything that should prevent it. He has been nominated as brevet major general, and I do not think we should pass a law vacating his position on that account. The President appoints him, and I am for acquiescing in the will of the President in that matter.

Mr. LANE, of Kansas. I do not know why my colleague makes an application of this amendment to any particular officer. This provision is so important that I desire at least a division of the Senate upon it. If it applies to General Meigs, well and good. Let us hold these officers to the law.

Mr. DOOLITTLE. I wish simply to inquire whether this amendment has been considered by any committee?

Mr. WILSON. It has not; but it is very plain, and I do not think there is any opposition to it.

Mr. HALE. What is it?

Mr. TRUMBULL. The amendment is simply this, that when the head of any bureau accepts an office of a higher grade than the law allows to that bureau, he shall thereby vacate his position as head of the bureau, and be liable to be sent to the field in the grade which he has accepted. If he takes the higher grade he cannot remain in a bureau that does not allow that grade.

Mr. POMEROY. What I said was that I did not think it necessary for us to make a special law upon this subject, as there was but one case that would be affected by it; and as the President himself wanted that officer where he was, I was for acquiescing in the will of the President.

Mr. TRUMBULL. I will say to the Senator from Kansas that this provision is not retrospective; it would not operate back; it is prospective.

Mr. POMEROY. I have no objection to it if that is so.

Mr. LANE, of Kansas. The Senator from Wisconsin asked if this amendment had been submitted to a committee. I submitted it to the gentlemen who had charge of this measure in advance, and they were content with it, and there was no objection to it; and I hope the Senate will pass it. It simply provides for holding these officers to the law.

The amendment was agreed to.

Mr. HALE. There is one provision in the first section of the substitute to which I wish to call the attention of the chairman of the Committee on Military Affairs. It is in these words:

That the measure of allowance for pay for an officer's servant is the pay of a private soldier as fixed by law at the time; that no non-commissioned officer shall be detailed or

employed to act as a servant, nor shall any private soldier be so detailed or employed except with his own consent.

I want to strike out all of that section after the word "employed," because it is very easy for a commanding officer if he wants a servant out of the ranks to get his consent. If a general or a colonel wants one of the privates for a servant it is very easy to get his consent, and the private ordinarily would not withhold it. But we do not enlist and pay men and give them bounties to be servants for officers. They are privates and put into the ranks, and they ought to serve there, and they ought not to be subjected to this servile duty, even with their own consent. I move to strike out all of the section after the word "employed."

The PRESIDING OFFICER. It is not in order now to move to strike it out, because the amendment has just been adopted as a substitute. As soon as the bill is reported to the Senate, it will be in order to agree to the amendment with an amendment.

Mr. WILSON. I will say to the Senator from New Hampshire that at the last session of Congress we made the law in regard to the employment of soldiers as servants very stringent, and from that time to this hour we have had a great deal of difficulty about it. It is said that down at the front it is with the greatest difficulty that servants can be obtained at all, and it is very important to make this modification and this change. The House of Representatives made a construction of the act of last year that would cost the Government \$1,000,000. We have saved that amount by striking out the original resolution, and this provision simply applies to the employment of these persons in the future; and I hardly see how they can get along without it.

Mr. TRUMBULL. Is it in order to offer to amend a single word in the amendment of the committee?

The PRESIDING OFFICER. A verbal change can be made by common consent.

Mr. TRUMBULL. The sixth section provides, in the seventeenth line, that the persons referred to in the former part of the section shall receive the "same pay and allowances as are allowed by law to other volunteers in the military service." It ought to be in the past tense, "as were allowed by law to other volunteers in the military service." The law has since been changed; but I presume it is not proposed to pay them a different sum from what other persons in the service at that time received.

The PRESIDING OFFICER. That change will be made, if there be no objection.

Mr. BUCKALEW. I offer the following amendment as a new section:

*And be it further resolved, That where any revised enrollment in any congressional or draft district has been obtained or made prior to any actual drawing of names from the enrollment districts, the quota of such district may be adjusted and apportioned to such revised enrollment, instead of being applied to, or based upon, the enrollment as it may have stood before revision.*

Mr. GRIMES. I should like to know something about that amendment.

Mr. BUCKALEW. It is to authorize the proper officer to apply the quota to the actual enrollment as revised and existing at the time when the draft is made. He finds some difficulty in the question of his power to do so. There is no question about the propriety of it; and I desire to add it to this resolution for the purpose of relieving him from all question on the subject of his power; that is all.

Mr. WILSON. I suppose we have got to abandon the enrollment act passed by the House of Representatives. The Senator from Pennsylvania intended to move this amendment on that bill, and I see no harm in it.

The amendment was agreed to.

Mr. WILSON. I ask the unanimous consent of the Senate to strike out the fifth section of the amendment as it is included in the first section, and I supposed it was marked out.

The PRESIDING OFFICER. No objection being made, that section will be stricken out.

Mr. GRIMES. I wish to move an amendment to this resolution that has passed the Senate once or twice, and which I believe met the approval of everybody. It ought to be adopted, and it would have saved a vast number of men to the Army, probably one hundred thousand, if it had been adopted a year ago:

*And be it further resolved, That no person owing military*

*service shall be exempted from liability to perform the same on account of furnishing a substitute for the Navy, unless the substitute is presented in person to the board of enrollment by which the principal is enrolled, and is accepted by said board of enrollment.*

The amendment was agreed to.

The joint resolution was reported to the Senate as amended.

The PRESIDING OFFICER. The Senator from New Hampshire suggested an amendment in committee which will be in order if he desires to offer it.

Mr. HALE. No; I do not care about it. The chairman says the section is right as it is.

The amendment was concurred in, and ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time, and passed.

On motion of Mr. WILSON, the title of the joint resolution was amended by adding the words, "and for other purposes."

#### VERIFICATION OF INVOICES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 697) further to provide for the verification of invoices, have directed me to report the same back without amendment and recommend its passage; and I will ask the indulgence of the Senate to pass this and two or three other short bills that are very important to the interests of commerce, and will take no time. I do not think it will take more than ten or fifteen minutes to dispose of them; and I will ask the indulgence of the Senate for that space of time.

The PRESIDING OFFICER. The Senator from Michigan asks the unanimous consent of the Senate to consider the bill just reported at the present time.

Mr. TRUMBULL. I have several House bills that have been reported for some time from the Committee on the Judiciary, which I have been struggling, I think for a week, to call the attention of the Senate to; and they are bills of a public character. I think there would be no objection to any of them. I think they ought to have precedence over a bill that is reported at this time and is not in order. My friend from Michigan had the floor the other day and I think passed six bills in about as many minutes.

Mr. CHANDLER. Only five.

Mr. TRUMBULL. If the Senate will allow me a few minutes, I think I can get rid of, not six, but three or four bills that ought to be passed.

The PRESIDING OFFICER. Any objection to this bill carries it over. The Chair hears no objection.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes all consular officers of the United States to require, before certifying any invoice or invoices under the provisions of the first section of the act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March 3, 1863, satisfactory evidence, either by the oath of the person or persons presenting such invoices or otherwise, that such invoices are correct and true; but in the exercise of the discretion hereby given they are to be governed by such general or special regulations or instructions as may from time to time be established or given by the Secretary of State.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### CALIFORNIA LAND CLAIMS.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to take up Senate bill No. 238.

Mr. CHANDLER. I hope the Senator will let me go on with my bills.

Mr. HENDRICKS. This bill, if not passed now, cannot pass at this session. It is reported from the Committee on Public Lands.

Mr. CHANDLER. If the Senator will allow me, in ten or fifteen minutes I can pass two or three bills from the Committee on Commerce, and I hope I shall be permitted to go on for that length of time.

Mr. HENDRICKS. I think the bill that I propose to take up will occupy but very little time. It is simply to authorize a party to appear in the courts, waiving the statute of limitations, in Cal-

ifornia, respecting one of the California claims. It has been thoroughly examined by the Committee on Public Lands.

Mr. CHANDLER. It is a private bill; and I move that that and all prior orders be postponed.

The PRESIDING OFFICER. The bill is not before the Senate yet. The Senator from Indiana moves that the Senate now proceed to the consideration of the bill indicated by him.

Mr. HENDRICKS called for the yeas and nays; and they were ordered.

Mr. HALE. Will the Chair please tell us what the title of the bill is?

The PRESIDING OFFICER. It will be read for information.

The SECRETARY. "A bill to ascertain and settle certain private land claims in the State of California."

Mr. TRUMBULL. I think the Senator from Indiana ought not to insist upon taking up a private bill now when there are so many bills of public importance that have passed the House of Representatives that ought to be acted upon. That consideration governs me entirely. If his bill were a public bill, I would vote with him to take it up.

Mr. HENDRICKS. I will explain to the Senate the difficulty about this bill. It has been elaborately considered by the Senate at a former session. A very elaborate report was made by Senator Bayard, representing the Committee on the Judiciary at the time, and the bill passed the Senate upon discussion, I believe, by an almost unanimous vote. The point is just this: this particular claimant was kept out of the courts by the invention of another claim that at first was supposed to be right. It was afterward decided by the Supreme Court that that other claim was not a correct claim against the Government of the United States.

Mr. HARLAN. I suggest to the Senator from Indiana that the Senator from California [Mr. Conness] is opposed to this bill, and as it affects people in his State, perhaps it would be courteous not to call it up at this time.

Mr. TRUMBULL. That being the case I hope the Senator from Indiana will withdraw his motion and let me take up two or three public bills.

Mr. HENDRICKS. As the chairman of the Committee on Public Lands makes that suggestion, I of course have no interest in this matter, and I will not press the motion.

#### PRESTON STARRETT.

Mr. POWELL. I move to take up the resolution reported from the Committee on the Judiciary for the relief of Preston Starrett. It will take but a single moment.

The motion was agreed to; and the following resolution was read a second time and considered as in Committee of the Whole:

*Resolved, That Preston Starrett be paid out of the contingent fund of the Senate the amount of his compensation as messenger of the Senate from the 23d of July, 1861, until the 17th of December, 1861, at which time his office is considered as vacated.*

Mr. TRUMBULL. That is a simple resolution of the Senate. Does it require three readings?

The PRESIDING OFFICER. It does, as it proposes to take money from the Treasury.

The resolution was reported to the Senate without amendment.

Mr. MORRILL. It has been suggested to me that the rule of the Senate requires that a resolution of this sort should be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. I make that suggestion. I do not know how the fact is.

Mr. POWELL. This resolution is reported from the Committee on the Judiciary. It is to pay this little pittance to a poor old man who was appointed a messenger by a resolution of the Senate and then was turned out.

Mr. MORRILL. I make no motion but merely the suggestion.

The resolution was ordered to be engrossed for a third reading, read the third time, and passed.

#### DEPOSITIONS IN THE DISTRICT.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 779.

Mr. HENDRICKS. What is the title of it?

Mr. TRUMBULL. "A bill to regulate the taking of depositions in certain cases." It is reported unanimously from the Committee on the



# THE CONGRESSIONAL GLOBE.

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Judiciary, and it provides for the taking of depositions by a defendant in a criminal case in the District of Columbia.

Mr. HENDRICKS. With the Senator's permission I should like to ask him a question.

Mr. TRUMBULL. Certainly.

Mr. HENDRICKS. At an early period of the session I felt it to be my duty to introduce a bill regulating the right of giving testimony in one's own case, so that a man should not swear in a case where he was litigating with an administrator or a guardian, the other party being dead. I introduced that bill at a very early period of the session, but have been unable to ascertain what the Committee on the Judiciary intend to do with it.

Mr. TRUMBULL. I have it in my bundle now, and hope to be able to get attention to it if the Senate will allow me to pass these bills.

Mr. HENDRICKS. Very well; that is satisfactory.

The PRESIDING OFFICER. The question is on taking up the bill indicated by the Senator from Illinois.

Mr. DOOLITTLE. If that is a bill which will lead to discussion it will hardly be worth while to take it up, as there is a special order for eight o'clock this evening, and it is very near that time now.

Mr. TRUMBULL. I do not suppose there will be any discussion upon it. I am not going to offer any bill that will lead to discussion if I know it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 779) to regulate the taking of depositions in certain cases.

It provides that any defendant in a criminal case, in the District of Columbia, either after preliminary examination, indictment, or information, may examine witnesses on commission in such manner as is hereinafter prescribed. A defendant wishing to take the deposition of a witness residing more than one hundred miles from the city of Washington may select any of the following officers as a commission to take such deposition: the clerk or judge of any court of record, or any notary public, or any consul of the United States, either by the name of office of such officer, or by his individual name and official style; and the name of the court of which such constituted commissioner is clerk or judge, and the name of the State and county, or if without the United States, the name of the State and town, or city, in which such notary or consul resides, must be stated in the notice and in the commission.

Five days' notice must be given by a defendant, or his or her attorney, of the time when a commission will be sued out of the office of the clerk of the criminal court for the District of Columbia for taking the deposition of the witness, (giving the name of the witness,) which notice must be accompanied with a copy of the interrogatories to be asked such witness. At or before the time fixed in the notice the district attorney may file cross-interrogatories; but if he fail so to do, the clerk shall file the following:

First, Are all of your statements in the foregoing answers made from your personal knowledge? and if not, do your answers show what are made from your personal knowledge, and what from information, and the source of that information? If not, now show what is from information, and give its source.

Second, State everything you know concerning this case favorable to either the Government or the defendant.

The notice and copy of interrogatories may be served and returned in the same manner and by the same officers or persons as is provided by law for the service and return of a summons or subpoena in civil actions within the District of Columbia.

The commission is to issue in the name of the criminal court, and under its seal, and must be signed by the clerk, and need contain nothing but the authority conferred upon the commis-

sioner and instructions to guide him, a statement of the cause in which the testimony is to be used, and a copy of all the interrogatories filed appended. The person before whom any of the depositions above contemplated are taken must cause the interrogatories appended to the commission to be written out, and the answers thereto to be inserted immediately underneath the respective questions; the whole, when completed, being read over by or to the witness, must be by him or her subscribed and sworn to in the usual manner. All exhibits produced before the person taking the deposition, or proved or referred to by any witness, or correct copies thereof, must be appended to the depositions, and returned with them, unless sufficient reasons be shown for not so doing.

The person taking the deposition is to attach his certificate thereto, stating that it was subscribed and sworn to by the defendant at the time and place therein mentioned; the whole, including the commission and interrogatories, must then be sealed up and returned to the clerk of the criminal court of the District of Columbia, by mail, unless the defendant and the district attorney agree upon some other mode; and, when received by the clerk, he is to open the package and place the deposition on file in his office. Unimportant deviations from any of the above directions are not to cause the depositions to be excluded where no substantial prejudice could be wrought to the Government by such deviation; and subject to these regulations, the court may establish further rules for taking depositions and all other acts connected therewith.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## OPINIONS OF ATTORNEYS GENERAL.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 707) to provide for the publication of the opinions of the Attorneys General of the United States. It authorizes the Attorney General to contract on behalf of the United States with a suitable book publisher for the printing and publishing of the unpublished opinions of the Attorneys General of the United States, delivered since the 4th of March, 1857, on the following terms: the opinions are to be published in as many volumes as may be necessary, which are to be, as to the quality of paper, printing, and binding, of uniform style and appearance with the eighth volume of the opinions published by Robert Farnham in 1858, and, as nearly as possible, of uniform size with that volume, and numbered in regular order after that; the copyright to be taken out by, and be for the use of, the publisher, who is to deliver to the Attorney General, for the use of the United States, within one month after the publication, three hundred sets of volumes, at the price of three dollars per volume, payable after they are so delivered. The Attorney General is also authorized to employ a competent person to edit and prepare the opinions for publication, with proper head notes, and a full and complete index, and to supervise the publication. When the three hundred sets have been delivered for the use of the United States, the Attorney General is to cause them to be distributed as follows: for the President of the United States, two sets; for the Department of State, ten sets; for the Department of the Treasury and the heads of bureaus thereof, twenty-five sets; for the Department of War and the heads of bureaus thereof, twenty-five sets; for the Department of the Navy and the heads of bureaus thereof, fifteen sets; for the Department of the Interior and the heads of bureaus thereof, twenty sets; for the Department of the Post Office, ten sets; for the Attorney General's office, ten sets; for the judges of the Supreme Court of the United States, one set each, and the library of the court, three sets; for the judges of the Court of Claims, the solicitor, assistant and deputy solicitors of the court, one set each; for the Library of Congress, fifty sets;

for the use of both Houses of Congress; the residue of the three hundred sets to remain in charge of the Librarian of Congress, at the future disposal of Congress. The bill appropriates the sum of \$7,000 to pay for the editing of the opinions and the price of the three hundred volumes, which money is to be disbursed on vouchers approved by the Attorney General.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## ATTORNEY GENERAL'S OFFICE.

Mr. TRUMBULL. I now move to take up the PRESIDING OFFICER. The hour specified by the Senate for the consideration of a special order, the Indian appropriation bill, has arrived.

Mr. TRUMBULL. I ask that that be laid aside informally until I can get through with these bills. It will not take more than fifteen minutes. I will not ask for more than a quarter of an hour; and as we are on these bills at this time, I trust the Senate will allow me to proceed with them.

The PRESIDING OFFICER. The special order can be laid aside by unanimous consent only.

Mr. DOOLITTLE. If the Senator can get through with his bills in fifteen minutes I shall not object.

The PRESIDING OFFICER. No objection being made, the special order will be laid aside for the present.

Mr. TRUMBULL. I now move to take up House bill No. 758.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistants and clerks. It provides that hereafter the salary of the Assistant Attorney General shall be raised to the sum of \$3,500 per annum. In lieu of the provisions of law prescribing the Attorney General's powers as to the employment of clerks in his office, the Attorney General is to be authorized to employ in his office one chief clerk at a salary of \$2,200 per annum, two fourth-class clerks (being one "pardon clerk" and one "opinion clerk") at annual salaries of \$1,800 each, two third-class clerks at annual salaries of \$1,600 each, and one first-class clerk at an annual salary of \$1,200, besides such temporary clerks as may from time to time be needed; but the allowances to such temporary clerks is in no one year to exceed \$1,000. For the purpose of paying for the current fiscal year the increased compensation provided for in the bill, the Attorney General is to be authorized, in addition to the amounts already appropriated for the payment of salaries in his office in the appropriation bill for the current fiscal year, to draw on and use from the unexpended balance of moneys standing on the books of the Treasury on the 1st of July last, to the credit of his office for the pay of clerks and messenger, or from any other appropriation then standing to the credit of his office, and yet subject to his control and unexpended, a sum not exceeding in the whole \$2,400, toward such additional compensation for the current fiscal year.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## JUVENILE OFFENDERS.

On motion of Mr. TRUMBULL, the bill (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge, was considered as in Committee of the Whole. According to its provisions, juvenile offenders against the laws of the United States, under the age of sixteen years, who may hereafter be convicted of crime by any court of the United States, the punishment whereof shall be imprisonment, shall be confined during the term of sentence in some house of refuge to be designated by the Secretary of the Interior, and shall be transported and delivered to the warden, or keeper of such house of refuge by the marshal of the district where the conviction shall

have occurred; or if such conviction be had in the District of Columbia, then, and in such case, the transportation and delivery shall be by the warden of the jail of said District, and the reasonable actual expense of the transportation, necessary subsistence, and hire, and transportation of assistants and the marshal or warden, only, shall be paid by the Secretary of the Interior out of the judiciary fund.

It is also provided that it shall be the duty of the Secretary of the Interior to contract with the managers or persons having control of such houses of refuge for the imprisonment, subsistence, and proper employment of all such juvenile offenders, and to give the several courts of the United States and of the District of Columbia notice of the places so provided for their confinement, and such offenders shall be sentenced to confinement in the house of refuge nearest the place of conviction so designated by the Secretary of the Interior.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### LAW OF EVIDENCE.

On motion of Mr. TRUMBULL, the bill (H. R. No. 657) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States was considered as in Committee of the Whole. The bill as passed by the House of Representatives provided that the third section of the act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1865, and for other purposes, should be amended by adding to it the following proviso:

*Provided further, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with, or statement by, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court.*

The Committee on the Judiciary reported the bill with an amendment to strike out all after the enacting clause, and insert the following:

That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to, or interested in, the issue tried: *Provided, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with, or statement by, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court, except in cases arising upon contracts made with the executor, administrator, or guardian of such estate.*

Sec. 2. *And he it further enacted, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.*

Mr. HENDRICKS. I wish to suggest that if the amendment be adopted it is doubtful whether it can be acted on by the House of Representatives and secure the sanction of the House so as to become a law, and as the measure is in legal effect precisely the same, I ask that the House bill be passed without the amendment. The Senator from Connecticut [Mr. FOSTER] who has examined this measure in the Judiciary Committee will say, I think, that the legal effect of the House bill and of the committee's amendment is precisely the same; and I ask that the House bill be allowed to pass, inasmuch as there is danger of its being lost if it be sent back.

Mr. FOSTER. The Senator from Indiana, I think, is right in regard to the legal effect of the House bill and of the amendment proposed by the Committee on the Judiciary. I did not agree with the report of the committee, and am opposed to that part of the amendment which limits the testimony of the witness. That portion of it I will read: "that in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction," &c. In my opinion the wiser and better way is to allow all persons interested to testify, although the opposite party is deceased, and the action is by or against his administrator or executor. The theory on which the testimony of parties interested is admitted is that they will tell the truth. It is true that that theory is sometimes contradicted by the fact, for certainly it sometimes happens that they do lie;

and so do witnesses who are not parties and not interested. This proviso goes upon the ground that they always will at least avoid telling the truth, and will impose a false claim upon the estate of a deceased person if their testimony is admitted. As I say, the theory on which we allow interested witnesses to testify is that they will tell the truth, or if they do not that a cross-examination will expose their falsehood; and that is equally applicable to cases where the opposite party is dead, and where the action is by or against the executor or administrator of the deceased party, and to cases where both parties are living. I think it is better to allow the person in interest to testify, leaving him of course subject to cross-examination, which I think in all ordinary cases will test his truth or falsehood; and it will certainly be a wiser administration of justice than will be secured by closing the mouth of a party because the other party to a contract is dead.

I do not think there will be any danger—certainly there has been none in States where the experiment has been tried—in allowing all parties in interest to testify; and where witnesses, parties to a cause, are disposed to falsify if they are allowed to give testimony, their disposition to tell a falsehood and to impose upon the tribunal before which they appear will be more certain to be found out where they testify than where they do not. It is safer to allow a party that is a dishonest man to testify than it is to allow him to proceed with his cause and not testify; his purpose to cheat and defraud will be the more likely to be discovered.

When this change in the old law of evidence was first adopted in this country, I believe that Connecticut was the first State—certainly among the first—that allowed witnesses to testify in all cases without regard to interest, and the law was so general that even parties accused of crime could, if they pleased, come forward and testify; and they did so. The consequence was that every man who was guilty almost always convicted himself by his own testimony, and the law was altered so as to except criminal cases. It was not deemed fair that a criminal should have the opportunity of coming upon the stand to testify where his testimony was almost sure to convict him. It is true the law did not compel him to testify; but where he had an opportunity to testify and did not, it always created a prejudice against him in the mind of the jury. If there was even slight proof against him, and he did not come forward to purge himself, they would infer his guilt, and the consequence was that the law was repealed so far as it was applicable to criminal cases, and was confined to civil cases, leaving it, in them, entirely open to all parties interested to testify. I believe the result has been, in all States where the experiment has been tried in the most liberal manner, to do justice and promote the ends of justice. I now move that the amendment of the committee be amended by striking out all after the word "tried" in the fifth line of the first section to the end of the section, so as to leave that section to provide simply—

That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to or interested in the issue tried.

Such a law will be short, simple, and intelligible.

Mr. TRUMBULL. That is the law now, is it not?

Mr. FOSTER. The proviso restrains it.

Mr. DOOLITTLE. I must interpose, unless this debate is arrested and the vote at once taken, and call up the Indian appropriation bill.

Mr. TRUMBULL. The time that I asked for has expired, and I will not insist on going further if the Senator from Wisconsin desires to go on with the Indian appropriation bill.

Mr. DOOLITTLE. I do.

Mr. HOWARD. I venture to appeal to my friend from Wisconsin to allow me to call up a House bill relating to a ship-canal at Portage lake, which is of great interest to his State and mine.

Mr. DOOLITTLE. I cannot yield.

Mr. HENDRICKS. I appeal to the Senator from Wisconsin to allow us to pass the bill which we have been considering. I shall not want more than two minutes to reply to the Senator from Connecticut.

Mr. DOOLITTLE. I understand from gentlemen around me that that bill will be opposed and will be further discussed. I must insist, therefore, on going on with the Indian appropriation bill.

The PRESIDING OFFICER, [Mr. HALE.] The bill referred to by the Senator from Wisconsin is the regular business before the Senate.

#### CONTINUATION OF WAR COMMITTEE.

Mr. WADE. There is a resolution on the table to enable the committee on the conduct of the war to complete their investigations. I desire to have it taken up, so that the amendment of the other House may be concurred in. There will be no discussion on it.

Mr. DOOLITTLE. As that is a matter pending between the two Houses I give way to it.

Mr. WADE. The Senate resolution allowed the committee to sit thirty days after the adjournment of Congress. The House amendment is to strike out "thirty" and insert "ninety." I move that the Senate concur in the amendment.

The motion was agreed to.

#### REPORTS FROM COMMITTEES.

Mr. CLARK, from the Committee on Finance, to whom was referred the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign merchandise, reported it with amendments.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a motion to print five thousand extra copies of the report of the Committee on Indian Affairs in relation to the condition of the Indian tribes, reported in favor of the motion, and it was agreed to.

#### INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1866.

Mr. DOOLITTLE. I offer an amendment to which there can be no objection. It is the same provision that was contained in the last two Indian appropriation bills, authorizing the Secretary of the Interior to employ the money annuities which belong to the rebel Indians for the purpose of aiding in the sustenance of the loyal Indians. The amendment is a new section:

*And he it further enacted, That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amounts herein appropriated to carry into effect any treaty stipulations with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Creeks, the Choctaws, the Chickasaws, the Seminoles, the Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes, or reduced to want, on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof; and all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement in appropriate newspapers: *Provided also, That the said Secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided further, That no part of said annuities shall be expended for Indians outside of the Indian Territory South of Kansas, except in providing for such Indians or families as are sick or unable to remove to that Territory, and such as may be driven out of that Territory by armed rebels, after the passage of this act.****

The amendment was agreed to.

Mr. DOOLITTLE. I also offer the following amendment, which is precisely in the words of a bill passed by the Senate some days ago:

*And he it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and directed, in lieu of the bonds for the sum of \$250,000 appropriated for the use of the Choctaw Indians by an act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1862," approved March 2, 1861, to pay to the Secretary of the Interior \$250,000 for the relief and support of individual members of the Cherokee, Creek, Choctaw, Chickasaw, Seminole, Wichita, and other affiliated tribes of Indians who have been driven from their homes and reduced to want on account of their friendship to the Government, as contemplated by the provisions of an act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1863," approved July 5, 1863.*

The amendment was agreed to.

Mr. DOOLITTLE. I now offer two additional sections:

*And be it further enacted,* That for subsistence, clothing, blankets, shoes, and for transportation of clothing, &c., for fifteen thousand seven hundred destitute refugee Indians in the Indian Territory and Kansas, for the six months ending June 30, 1865, there be, and hereby is, appropriated, \$500,000.

*And be it further enacted,* That for subsistence, clothing, blankets, shoes, and for transportation of supplies, clothing, &c., for destitute refugee Indians in the Indian Territory and Kansas, for the fiscal year ending June 30, 1866, there be, and hereby is, appropriated, \$250,000.

This amendment is so important that I desire very briefly to call the attention of the Senate to the facts. The estimates of the Department are for the quarter ending March 31, 1865, \$244,015; for the quarter ending June 30, 1865, \$371,000; and for the next fiscal year, \$830,000, if the same object of expenditure shall occur.

Mr. POMEROY. If there is no objection, let the amendment be adopted.

Mr. DOOLITTLE. Some gentlemen inquired of me the nature of the amendment, and I deemed it my duty to the Senate to call their attention to it, for there may be some gentlemen who are doubtful of its propriety.

Mr. BROWN. I desire to call the attention of the Senate to this appropriation in a very few words, and then I shall ask for a vote by yeas and nays. The appropriation proposed amounts to \$750,000 for the purpose of clothing, feeding, and paying Indians on our border who are just as well able to take care of themselves as any of the families in any of the States on our border. There are in the State of Missouri to-day hundreds and thousands of white persons who are more in need of appropriations of this kind than these Indians; and I think, at a time when we are straining every nerve, when we are stripping ourselves to the girth to raise money, when our armies are six months behindhand in pay, it is not proper that we should here donate nearly a million dollars, three fourths of which I believe will go in the shape of fraudulent contracts. I trust that the Senate will not assent to this amendment.

Mr. DOOLITTLE. Mr. President, I must call the attention of the Senate dispassionately but briefly to some of the facts. When this war began, the Indian Territory was a flourishing Territory. The Cherokees, about twenty-one thousand in number, occupied the northern portion of the Territory; the Creeks immediately adjoined them. When the rebellion opened the Indians were divided. The Indians below the Canadian joined the rebels. The Choctaws and Chickasaws almost unanimously united their forces with rebels. Joining with Magruder and the rebels from Texas, they entered the Creek territory, and a portion of the Creeks joined with the rebels. Pressing through the Creek territory they entered into the territory of the Cherokees, and a portion of the Cherokees also united their fortunes with the rebels, and Stand-Watie, one of the Cherokee chiefs, has been a rebel and is to this day in alliance with the rebels and fighting against the Government of the United States. But the large majority of the Cherokees, and a majority of the Creeks, and a large portion of the Seminoles, remained true and loyal to the Government of the United States; and after the war had progressed, with a unanimity which I believe has existed nowhere else among the loyal Indians the male Indians, boys and men, have been enlisted into the armies of the United States; and from the withdrawal of our troops in the Indian country, the rebels and their Indian allies have been let in upon the Creeks and the Cherokees; and they drove out twenty thousand old men, women, and children, into the State of Kansas. There they were refugees in that State, and we were compelled, as they were upon our hands, to provide for them. Since they have been driven out of their own country the rebel armies have been fed upon the flocks and the herds that belong to these Indians in the Indian Territory. Our own forces on going back into that Territory have supplied themselves also, until now that country is to a very great extent stripped of its resources and laid waste.

Mr. President, better than any language I can use is the description which is given by the agent of the Cherokees, Mr. Justin Harlan, a gentleman who is well known in the State of Illinois,

and upon whose statement every man who knows him will certainly rely. Mr. Harlan says:

"As near as I have been able to ascertain from all the sources at my command, I judge there are not far from twenty-one thousand Cherokees, properly called the nation. Of these, about eight thousand, in the year 1862, joined the rebels, and almost all the men have since entered the rebel army, and are now beyond the Arkansas river. Most of their women and children have also left the Cherokee territory, most likely never to be allowed to return to or form part of the Cherokee nation. The balance of the nation are loyal; almost all the men and large boys are in the Union Army, and doing good service. Many have been killed in battle, and died of wounds, sickness, and exposure.

"The women and children have been still more exposed to sickness and death than the men, and great numbers have died. Robbed by the rebel army and driven from their houses, some took refuge in the mountains, and others fled out of the Territory in inclement weather, and by exposure contracted disease of which they died; and many others, no doubt, are yet alive who will die from the same cause.

"It is believed that there are many now in the rebel army who were loyal but were forced into the rebel service. I have, however, very serious doubts whether that is true to any considerable extent; but of this I am satisfied, that there are more disloyal Cherokees in the nation, who adhere to the rebels, than there are of those who are loyal. From all sources of information in my reach, I think there are left nine thousand loyal Cherokees, and that they are determined never to forgive the disloyal, or permit them to live in or form a portion of the Cherokee nation. They have a clear majority and have possession. If they remain firm, and I believe they will, I do not doubt that that portion of the Cherokees now absent will never return, or be any part of the Cherokee nation in future.

"Their condition is the most pitiable imaginable. They were, only a few years ago, the most powerful, wealthy, and intelligent Indians in the United States, and were proud of their power, wealth, and intelligence. They are now reduced to a third-rate power among Indians, and their wealth all gone. They fully understand their position, and are humbled. At the breaking out of the present rebellion the Cherokees assumed a neutrality, but the rebel army forced them to take sides, and they joined the rebellion; but when the Union army drove the rebels out, the loyal portion returned to their allegiance and still remain loyal.

"During the summer of 1862 our Army drove the rebels out, and enlisted almost all the able bodied Cherokees into the Union Army, and immediately left the country, and took the Indian soldiers with them, and left the women more exposed than they were before."

This is a fact which should not be forgotten.

"The rebels, maddened at their conduct, followed up the retreat of our Army, and robbed the women and children of all they wanted, and destroyed without hindrance large amounts of property valuable to the families. The Union Army again, in the last fall and winter, advanced and fought several successful battles and drove the enemy across the Arkansas river, and again retreated into Missouri and Arkansas, and again left the rebels to their revenge on the women and children, of which they took advantage, and again robbed and plundered.

"During the last winter (1862-63) the military authorities became much interested in the welfare of the Indians and in their early removal to their homes, and, by public proclamation, assured them that they had protected and would protect them there. The Indians believed it, if I did not. They fretted at the delay in removing them home, complained, and the military encouraged them to press the matter upon me. I promised the military as soon as they drove out the rebels I would take them home, and would follow them in a week at the furthest. The military seemed absurd, and the Indians also. Tardy as I was charged with being, I beat the army to Tahlequah by about two hours. Induced by military promises, the Indians scattered themselves over the entire Territory. Colonel Stand-Watie (the rebel Indian chief) then entered the Territory in three different raids and drove the women into Fort Gibson, took everything he could ride or drive or carry off, and destroyed their crops, and prevented the tending of everything planted. Seeds of all kinds and farming tools were furnished by the Government, and all lost, nothing saved. What wheat was sown was not saved; there was nobody to save it but the military, and they were holding Fort Gibson. Three thousand five hundred men, a strong fort, and six cannon were all required to hold Fort Gibson and the Territory as far as the cannon would reach.

"Watie, with seven hundred ragamuffins, was permitted to rob at will over the whole Territory. If anything was left by Watie, it has not yet been found. Destitution, total and entire, followed his last raid."

This is the description given by Mr. Justin Harlan as to what occurred up to that period in the history of this war in relation to that people. They were then driven out into Kansas. Subsequently they were removed when it was believed they could be safely removed to their own Territory; but the failure of the Red river expedition—you will remember that the Indian Territory reaches down to the Red river—reopened that country again to the ravages of the rebels. The truth is that in the Indian Territory beyond the Arkansas river we have never yet taken and held military possession. The rebel Indians and their allies hold the country below the Canadian.

We were under treaty stipulations with the Cherokees and Creeks by which we bound ourselves to defend them against invasion and against all depredations to be committed upon them. We took their warriors into our Army, and as soon

as we enlisted them we withdrew the very Army into which we had enlisted them and left the women and children to be the prey of merciless savages and rebels; and they were driven out under circumstances beyond all power of language to describe, and they came in the midst of winter, half-clothed, with bleeding feet and frozen limbs and starving, into the State of Kansas, where they remained for a considerable time upon some of the Indian reservations in that State.

Mr. BROWN. Permit me to ask the Senator a question. Were not these very Indians driven out by those Indians whom he claims we are bound to protect? Were they not driven out by members of their own tribe?

Mr. DOOLITTLE. Some. I agree that a portion of the Cherokees are in hostility against the United States.

Mr. LANE, of Kansas. Our treaty stipulations required us to protect them against their own people.

Mr. DOOLITTLE. Our treaty stipulations bound us to protect these people, to protect them in the enjoyment of peace, to protect them against invasion, and we have by a law of Congress directed them to be removed from Kansas into their own Territory. Driven out as a people they were becoming demoralized. They were driven out in a herd together, families broken up, all their houses and arrangements broken up. They were becoming demoralized, and it was felt that there was a necessity upon us, if it were possible, to send them back to their own homes. We have sent them there, but, as I have said, the failure of the Red river expedition has not given that kind of peace to the Indian Territory which has allowed them to cultivate the soil, to raise what is necessary for their own sustenance. They are upon our hands, and the simple question is whether they shall starve or whether they shall be supplied. When you look into the estimates which are made for supplying these people you find that they are upon this basis:

For the subsistence of fifteen thousand seven hundred destitute refugee Indians in the Indian Territory and Kansas from the 1st day of January to March 31, 1865, both inclusive, ninety days, at the rate of fifteen cents per day each, fourteen thousand one hundred souls in the Indian Territory and one thousand six hundred in Kansas at ten cents a day.

Mr. Coffin, the superintendent, who makes this estimate, puts their daily support at the rate of fifteen cents a day in the Indian Territory and ten cents a day in Kansas. The committee, however, in the report which they make and in the amendment which they have moved, do not come up to the estimates which were made by Mr. Coffin and by the Interior Department. They estimated for the quarter ending March 31, 1865, \$244,000, and for that ending June 30, 1865, \$371,000, amounting in all to over \$600,000 for the present fiscal year; whereas the committee have recommended but \$500,000 for that period. For the year to come the superintendent estimates \$830,000, and the Department recommends an appropriation of \$600,000; but at the same time the Secretary of the Interior expresses the hope that some good turn of fortune may intervene and we may be saved from the necessity of the expenditure of that money or a considerable portion of it. The committee recommend an appropriation for the next year of only \$250,000. Under the action of Congress directing the removal of these Indians, under the action of the Secretary of the Interior, under the state of the case as it exists, I think that these appropriations are necessary to be made.

The honorable Senator from Connecticut (Mr. Foster) the other day made a remark in relation to these Indians which, if he were present, I should be glad to notice for a single moment; but he is absent, and I shall not take up the time of the Senate any further than to say that one of the reasons why the committee reported the bill for the organization of a civil government over the Indian Territory grows out of the facts which I have stated in the course of my remarks on this occasion. The fact is that anarchy reigns throughout that Territory; the Indians, who were once rich and powerful and were a nation, and worthy to be regarded as an independent nation, have been peeled and stripped and impoverished and broken down; and we think that some kind of governmental organization which will give moral force, and at the same time secure the Territory for the Indians and only for the Indians, may put



them upon their feet once more and establish them again in their nationality. But, Mr. President, I do not wish to go into that subject.

Mr. HOWARD. I should be glad to ask a single question of the chairman of the Committee on Indian Affairs. If I understand rightly, there are about fifteen thousand Indians in Kansas now who are in some sort provided for by the United States.

Mr. DOOLITTLE. Not in Kansas. There are fourteen thousand one hundred souls in the Indian Territory and sixteen hundred souls in Kansas still of these Indians.

Mr. HOWARD. It is not at all material to my purpose where they are. What I rise to inquire about is whether these fifteen thousand Indians are now supported chiefly or wholly by the Government of the United States; whether they are dependent on our contributions, our charity, our benevolence, or whether they provide for themselves in some degree? I wish to ascertain how they have been supported during the last two or three years, and how long this state of things is to exist. I inquire merely for information.

Mr. DOOLITTLE. If we had peace, and the Indian Territory was at peace, I believe they could begin this season and raise their own support after this season; but they are in such a condition, the very Territory where they are in such a condition, that it is impossible for them in peace to cultivate the soil at present.

Mr. HOWARD. Then this follows, I suppose, that we are now actually supporting these fifteen thousand Indians, we are paying for their bread and meat, or for their subsistence. My question is, how long it is probable we shall be compelled to do this. It is a very heavy charge on the Treasury.

Mr. DOOLITTLE. My hope is that we shall not be compelled to do it after this year; but if the war continues we shall have to do something toward their subsistence or allow them to starve.

Mr. SHERMAN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I have heard so much of a painful character in regard to the manner in which these Indians have been cared for in Kansas—

Mr. POMEROY. There are none of them in Kansas.

Mr. SHERMAN. I have heard so much in regard to their treatment there, and since they have been sent back to their own country, that the subject is a painful one to me. I do not know but that common charity compels us to do something for these Indians; but I believe that if we could protect them from our own race, if we could leave them alone without a dollar, with no white man, woman, or child within fifty miles of them, they could take better care of themselves than we could of them with all our appropriations for them. Their troubles have grown out of their contact with the white men. They were driven out of their own Territory into Kansas first by the rebel whites and by the rebel Indians. They were there impoverished, and if the statements I have heard often made by persons from that State are to be relied upon, they were in many cases cheated and badly treated.

Mr. POMEROY. They were badly treated in Ohio before they ever came into our State.

Mr. SHERMAN. They were badly treated there, no doubt; the Wyandotte Indians were driven from their home; I remember well their emigration from Ohio to Kansas, when I was quite young. I believe that tribe is now nearly extinct. The Chickasaws and the tribes from the Arkansas are, I believe, gradually fading away; perhaps we ought to appropriate some money to take care of them. It is always a painful subject to me whenever I hear anything about the Indians, because I believe their worst enemies are those of our own race who are brought in contact with them.

I do not myself see any proper basis for this very large appropriation. The statement before me, which is furnished to me by the honorable Senator from Wisconsin, among the other items to make up the sum of \$830,000 for the next fiscal year, under the head of "contingencies," has this: "one thousand bushels of seed-corn, at twelve dollars per bushel." When I was in Iowa not many years ago seed-corn was worth about

fifteen cents a bushel, and now it is probably worth fifty to sixty cents a bushel. It is here estimated at twelve dollars a bushel west of Arkansas.

Mr. HARLAN. What does the Senator quote from?

Mr. SHERMAN. From a document giving the detailed estimates which make up this sum.

Mr. HARLAN. I can give the Senator the elements in the calculation by which he can arrive at the value of corn in the country where the Indians are.

Mr. SHERMAN. I should like to hear the Senator on that point. Probably he is better informed than I am.

Mr. HARLAN. At the request of the chairman of the Committee on Indian Affairs, under a resolution of the Senate passed at the last session, I visited Kansas near the present location of these Indians, preceding the commencement of this session. I learned there that persons were hired to haul goods and corn to these Indians at the rate of five dollars a day, the party defraying his own expenses for a wagon and two horses; that a team would haul on an average one thousand six hundred pounds; that they would on the average be about thirty days in making the round trip. Corn at that time was worth in Kansas about a dollar a bushel; it is, I understand, now worth about a dollar and a half. Estimating, then, the cost of the hauling and the cost of the corn, connected with the number of pounds that a team will draw down through that country, it will make the current cost about twelve and a half cents a pound at the present price of corn, a bushel of corn weighing about fifty-six pounds.

Mr. SHERMAN. I do not know but that we had better bring these fifteen thousand Indians to the city of New York, and send them to the Astor House or some other comfortable place and take care of them. The same rule, applied to the support of all the people of the United States would ruin us as a nation in six months. These fifteen thousand seven hundred destitute Indians are to cost us \$1,000,000, and this in addition to other appropriations. The ordinary appropriations to carry into effect the Indian treaties are contained in the bill as it came from the House of Representatives. This is a special appropriation. They are exhausting all their Indian fund. One amendment before offered by the honorable Senator from Wisconsin appropriates \$250,000, the principal of bonds upon which they were to draw interest. Instead of continuing to draw the interest, the principal is now to be paid to them.

I am not prepared to say that there ought not to be some appropriation made for the care and maintenance of these Indians, but it seems to me that the principle of spending \$1,000,000 for the care of fifteen thousand seven hundred Indians, at a time when we are involved in war, is a very erroneous one. If the able-bodied Indians of this tribe are employed in the Army, as it is said they are, they are paid precisely like white soldiers; they draw their clothing, and they draw their pay, and they can support their families. It seems to me there is no just basis for so large an appropriation. I am not, however, prepared with facts, nor have I access to facts, on which I can oppose it.

Mr. BROWN. If the Senator from Ohio will give way, I desire to offer a substitute for the amendment proposed by the chairman of the Committee on Indian Affairs. I move to amend the amendment by striking out all after the enacting clause of its first section, and inserting the following:

That the Secretary of War be, and he is hereby, authorized to furnish the so-called refugee Indians in the Indian Territory such temporary relief as may be absolutely necessary during the residue of the fiscal year ending June 30, 1865, to be furnished out of any funds that may be at his disposal for the support of refugees.

This amendment of mine proposes to place the care of these Indians, so far as it may be necessary, under the Secretary of War, who is far more competent to judge and direct in this matter, I think, than the Indian department itself. If most of these Indians, as is stated here, are enlisted in the Army of the United States, they are drawing pay, and their families can be better provided for and better supplied by the Secretary of War in cognizance of all the facts that come within the range of his observation and that of the military authorities, than they possibly can through the

Indian Office. I trust, therefore, as this is proposed to be merely a temporary matter, that these refugees will be placed upon the same footing and upon no other footing than the white refugees of the border States, and that the Secretary of War may have the opportunity which this amendment will give him of extending to them the same relief which is occasionally extended to white refugees by the military authorities, and no other.

Mr. DOOLITTLE. I wish the Senate fully to understand the question. These Indians are to be cared for; I do not suppose that any person would propose to allow them to starve to death, and unless the Indian department, which by law has charge of the Indians, is intrusted with their care and with furnishing the means by which to provide for them, the War Department must as a matter of course do the same thing; but I venture this prediction, that every expenditure made by the War Department in the care of Indians will cost the Government three times as much as a proper administration of the funds in the hands of the Indian Bureau. Of all the expensive and extravagant modes of providing for or dealing with an Indian people the attempt to do so through the commissary department and the quartermaster's department of the Army is the most so. In relation to this matter of these very refugees, last year the Indian department asked for the appropriation of four hundred or four hundred and twenty-five thousand dollars. That was denied; some two hundred thousand dollars was given, and it has involved the department and the Government in the deficiency necessary to provide for their support, because sufficient appropriations were not made. In relation to the Indians of New Mexico, the Indian department asked last year for an appropriation large enough to produce irrigating canals, and so arrange matters that the Navajos could provide for themselves. Only a small appropriation was given. The War Department, however, had those Indians upon their hands, and have contracted, through the commissary department for the supplies to feed them, at the rate of nearly twenty-two cents per pound, amounting to more than a million dollars, and nobody raises any question of it. Run this affair through the commissary department and the quartermaster's department, where you make your appropriations not specific for a given purpose, but where you make them in a general form of fifty million or one hundred million dollars without any specific estimates, not for any specific purpose, and allow them to draw upon the general fund that is appropriated and put at the disposal of the department; do that in this case and you will not make it as economical an affair so far as the Government is concerned.

I tell you, Mr. President, that if the commissary department and the quartermaster's department of the Army were compelled, as the Indian department is, to make specific estimates for each specific appropriation, the people of this country would ascertain where the money goes. The truth is that there is no control whatever practically over the expenditure of money through these great departments, the commissary and the quartermaster's department. You come in here and pass for them bills appropriating two, three, four hundred millions at a time without any question; but if a proposition is made to provide for fifteen or sixteen thousand starving men, women, and children who are on our hands, on the hands of the department where you have placed them, when you have not only authorized but directed that department to look after them, and an appropriation of \$1,000,000 is asked for, we always meet with just this opposition.

So far as I am concerned personally I have no greater interest in it than any other Senator here. I do not believe it will be a measure of economy to support these Indians by rations from the War Department. The estimates for these Indians in the Indian Territory are at the rate of fifteen cents a day. Will fifteen cents a day answer if the commissary department takes care of them? If the Senate are so disposed, they can try it; turn the Indians over to the War Department, if you choose; take them away from the Indian department; direct the Indian department to bring home their superintendents and their agents; change the whole system, if you will, but I do not think it would be wise.

Mr. HARLAN. Some three years ago, when

Congress was asked to divert annuities which were due to the hostile Indians under former treaties to the use of these refugees, amounting to some two hundred and fifty or two hundred and sixty thousand dollars per annum, it was believed that that amount would be sufficient in addition to the regular annuities paid to these tribes themselves and what subsistence they might be able to derive from their own herds, for some of them were known to be owners of herds of cattle. Since then it has been found necessary, as it seems from the report of the superintendent of Indian affairs in that country, to expend a vastly larger sum of money. I think we have expended at least three quarters of a million of dollars during the last year, and the estimates now before the Senate for the residue of the present fiscal year amount to some six hundred thousand dollars, I think, and for the coming fiscal year about eight hundred thousand dollars. I must be frank and say that I do not believe that any such sum of money ever was or is now necessary; I cannot figure up any such result from any elements that I have been able to collect; and I therefore am not averse to turning this matter over to the War Department. It will not be necessary for the superintendent of Indian affairs for that district and the agents to come home. They will still have control of the regular annuities and the \$200,000 which has been diverted from year to year from the hostile portion of these tribes, and they might, as I believe, derive a very large proportion of the support of these Indians from their own cattle.

I must say, Mr. President, that I believe nearly the whole of the amount necessary for the subsistence of these Indians might be derived from their own herds. I was told when I was in Kansas last autumn that there probably had been during the preceding two years driven from the Indian country not less than sixty thousand head of beef cattle. One of the Senators from Kansas in private conversation—I am almost sure he will not object to my naming it—says that the estimate is entirely too low, that in his opinion the number of cattle driven out will not fall short of one hundred thousand head.

Mr. DOOLITTLE. And I will inquire of my friend if those cattle did not really belong to these Indians. Have not those cattle gone to the use of the Army of the United States?

Mr. HARLAN. I think some of them have. Perhaps I ought not to utter a mere belief without proof, but still I do believe that a large number of these cattle have been taken from the Indians by contractors and sold to the quartermasters, and a large number of them have been bought at nominal sums, and stolen and driven out through Kansas, and sold on private account. I have no doubt of this. I am therefore not averse to putting this whole matter for the time being, so far as the application of extra means is concerned, into the hands of the Secretary of War. As I understand, it is merely a temporary matter for the residue of the present fiscal year. I would suggest to my friend, the Senator from Missouri, that I think an additional sum probably would be necessary for clothing, but I leave that to the wisdom of the Senate.

Mr. LANE, of Kansas. The Legislature of our State has just got through investigating this question of cattle stealing from the Indian Territory, and I desire to say to the Senator from Iowa that the people of Kansas denounce that practice as vindictively as he can. Our Legislature unanimously passed a resolution denouncing it as demoralizing to our own people. They estimate the number of head of cattle taken from the Indians, not by Kansas men, but by the employees of the General Government, at one hundred thousand within the last two years.

I desire, and I hope I have the ear of the Senator from Missouri, to state a fact that perhaps he is not aware of. Recently the Committee on Indian Affairs, to enable the heads of these Indian families to become self-sustaining, has requested the War Department to muster out of service the Indian regiments, and they are probably by this time ordered to be mustered out. The Senate should understand that these fifteen thousand Indians are now cooped up around Fort Gibson covered by the guns of that fort, and unless some provision is made they must starve, and starve to

death; we may look it in the face, they will starve to death. The Committee on Indian Affairs, of which I form a part, have recommended to the Senate \$500,000 for the first six months and \$250,000 for the fiscal year thereafter, hoping that the Senate will pass the territorial bill now pending before this body, and through that territorial government make these Indians self-sustaining.

One other suggestion and I have done. The Indian Committee in moving this amendment have estimated the ration at about twelve cents on the average—twelve cents per head each day for the Indians. If you turn them over to the War Department they will issue to each Indian a ration, and that ration will cost the Government from thirty to fifty cents for each Indian. As a matter of economy I think it would be much better to allow them to remain in the custody of the Indian Department. I think you will save a large sum of money by permitting them to remain in the Indian Department.

Mr. POMEROY. I understand the amendment of the Senator from Missouri as a substitute for the pending amendment of the Senator from Wisconsin to mean that the War Department shall take into custody and meet the expense of these Indians for the residue of this fiscal year. I hope that is not urged on the score of economy. If that amendment is to be urged, let it be on some other ground, for I think there is hardly a Senator who has not seen the wasteful and profligate manner that the War Department undertakes to do anything, much less to feed and take care of Indian women and children. I submit to the Senator from Missouri that it seems to me it can hardly be urged in good faith that the women and children of these tribes should be thrown on the War Department. I would ask, what has the War Department done that it is to be charged with such an incumbrance as this in a time of war? The contracts for the quartermaster's department in my State have been as high as \$2.03 a bushel for corn this year, and yet, as the Senator from Iowa says, it was purchased by private parties out there for \$1.50. Then think of assigning officers of the Army and the volunteers to this service, distributing food to the Indians. The proposition either means that these Indians are not to be taken care of, that they are to be left without care, or else that they are to have the most profligate and expensive system that was ever inaugurated. I venture to say that if the care of these Indians is undertaken by the War Department, \$3,000,000 in its hands will not go as far as the \$750,000 proposed by the committee to be expended by the Indian department. The Indian department has machinery organized for this purpose. The War department must inaugurate an organization at great expense.

So far as I am concerned, the only feeling or interest I have in this matter is on the score of economy and philanthropy, for it is really a question of philanthropy to some extent. These poor people are dependent, helpless wards. They are on the hands of the Government. The only question is whether you will turn them over to the tender mercies of the War Department or allow them to be taken care of in the manner they have been taken care of for the last two years. I think every Senator who reflects candidly on the subject will never vote for this amendment of the Senator from Missouri on the score of economy. I do not think the War Department can manage a philanthropic enterprise any better than a Department inaugurated partly for the purpose. For one, I cannot vote for the amendment of the Senator from Missouri, and I hardly think it could have been offered in good faith either to the Indians or to the economy of the Government.

Mr. BROWN. I can assure the Senator from Kansas that it was offered in good faith, and it was offered believing that it would result in a great economy to the Government. I believe the fact to be that very little relief will be needed for these Indian tribes from this time forth until Congress shall assemble again. I believe that the cases of destitution and starvation of which Senators speak will be exceptional, will be cases that occur in consequence of the immediate presence of hostilities, and that those cases can be better judged of by the War Department through its officers operating on the spot than they can be here at a long distance with contracts being made in

advance for supplying these Indians from day to day, to the tune of fifteen thousand, with rations and clothing. I do not believe that it will be necessary to issue rations to these Indians any more than I believe it will be necessary to issue rations to the wives and children of our soldiers engaged in our armies to-day. At all events the War Department, which is most in need of money of all the other branches of the Government, which is most desirous of using it for warlike purposes, will see that they are protected from invasion, and that their cattle and other perquisites are appropriated to the proper use, which it is said is not now done under the protection of the Indian department; and the result of it will be that instead of having \$750,000 expended, and probably \$100,000 of it reaching the Indians in the shape of relief, you will probably not expend over \$50,000, perhaps not over \$10,000, and that will be administered exactly where it may be necessary. It is for this reason that I have offered the amendment, believing that if it is a case of destitution which may occur the War Department is better capable of judging of it, and better capable of administering relief on the spot than this system, which proposes to put them on the bounty of the nation and keep them there all the year round with a premium on doing nothing.

Mr. LANE, of Kansas. I should like to ask the Senator from Missouri a question before he takes his seat. How are these fifteen thousand Indians to become self-sustaining if it is true that they are cooped up around Fort Gibson, within the range of the guns of that fort? And I desire him to answer me another question. A few months ago this War Department made an order to evacuate Fort Smith and Fort Gibson, which would have turned over these helpless women and children to massacre. That order, he is aware, was suspended by the prayers of the Indian Bureau. Now, I ask him as a philanthropist, as a man of feeling and heart, how he can, with that knowledge before him, hand these helpless women and children over to that Department?

Mr. BROWN. I will say, in answer, that if the War Department see fit to evacuate any portion of the country I presume it will be done for sound and substantial military reasons; and until it does that thing, and presents those reasons, I am not here to prejudge it. But I will say that if it should do such a thing the wives and children of my constituents will be entitled to just as much relief as these Indian tribes whom it is now proposed to pension upon the Government.

Mr. LANE, of Kansas. The Government of the United States had military officers at Fort Gibson. This order was made here without a knowledge that these starving Indians were dependent upon those officers and soldiers for protection; and it was not until the attention of the proper officials here was called to it that they were aware of the fact. I have as much confidence in the head of the War Department as in any officer of this Government; but I am confident that it requires a Department framed to deal with Indians to manage their affairs correctly; and if the Indian department is not as we desire we shall soon have an opportunity for a new deal, and we can have officers who will treat the Indians in a proper, honest, and philanthropic manner. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 16, nays 14; as follows:

YEAS—Messrs. Anthony, Brown, Cowart, Farwell, Foot, Foster, Grimes, Harlan, Howard, Lane of Indiana, Nye, Sherman, Sumner, Ten Eyck, Trumbull, and Wilson—16.

NAYS—Messrs. Buckalew, Clark, Dixon, Doolittle, Harris, Howe, Lane of Kansas, Morrill, Nesmith, Pomroy, Powell, Ramsey, Wilkinson, and Willey—14.

ABSENT—Messrs. Carlile, Chandler, Collamer, Conness, Davis, Hale, Harding, Henderson, Hendricks, Johnson, McDougall, Morgan, Richardson, Riddle, Salisbury, Sprague, Stewart, Van Winkle, Wade, and Wright—20.

So the amendment to the amendment was agreed to.

The question recurred on the amendment as amended.

Mr. DOOLITTLE. I inquire whether the form of the amendment as it now stands is such that the War Department can supply these Indians with clothing; if not, I want to have it so amended.

Mr. BROWN. I have no objection to inserting the word "clothing," but the phrase "temporary relief" embraces it, all to be furnished by the War Department when necessary.

Mr. DOOLITTLE. Let the Secretary read the language of the amendment as it stands.

The Secretary read, as follows:

*And be it further enacted, That the Secretary of War be, and he is hereby, authorized to furnish the so-called refugee Indians in the Indian Territory such temporary relief as may be absolutely necessary during the residue of the fiscal year ending the 30th of June, 1865, to be furnished out of any funds that may be at his disposal for the support of refugees.*

Mr. DOOLITTLE. I would suggest to the Senator from Missouri that he insert the words "provisions and clothing."

Mr. BROWN. I have no objection.

The VICE PRESIDENT. It is not in order to make that amendment, the Senate having just agreed to the amendment in its present form.

Mr. DOOLITTLE. It may be done by unanimous consent.

The VICE PRESIDENT. Those words may be inserted by unanimous consent. The Chair hears no objection.

Mr. POMEROY. I would inquire whether the Secretary of War has any fund out of which he can pay anything for this purpose. The amendment says that the payment is to be made out of any funds the Secretary of War may have at his disposal for the support of refugees. I think there is no fund in his hands for that purpose, and therefore the amendment means nothing.

Mr. BROWN. He does it every day for white refugees.

Mr. DOOLITTLE. I should like to inquire of the chairman of the Committee on Military Affairs whether there is any fund in the hands of the Secretary of War to supply the wants of refugees, Indians or others.

Mr. WILSON. I do not know that any appropriation is made for that purpose, but if he wants to do a thing of that kind he will find the money.

Mr. DOOLITTLE. The answer of the honorable Senator is just what I anticipated, that the War Department, by the manner in which money is supplied to it, has the power to get hold of money for any kind of purpose. There is nothing specified particularly about it. There is so much appropriated for the grand quartermaster's department, four or five hundred million dollars, and for the commissary department three or four hundred millions, and so on. It is not stated that he shall have a certain sum of money for a certain purpose.

So far as this question is concerned, if it is the determination of the Senate to take these refugee Indians entirely from the Indian department and put them upon the War Department, if the Secretary of War has the funds by which he can take care of them, it will be a great relief to the Indian department, I have no doubt. It will be a great relief to me at the head of the Committee on Indian Affairs, for I shall not have to struggle any more with the Senate for appropriations for the benefit of these Indians, but they will come in under those general heads that cover four or five hundred millions in a single bill which is passed without any discussion some morning in the morning hour. But, Mr. President, I wish to make certain of the fact that there is a fund in the hands of the Secretary of War for refugees. The chairman of the Military Committee says that if that Secretary is directed to provide for these Indians he has a fund out of which he can do it. I wish to know whether that is the fact.

Mr. WILSON. I think I answered the Senator's question fairly. He asked me a question. I answered it as I understood it, that no appropriations had been made for this object, but if we directed the Secretary of War to support certain persons I supposed that out of the commissary and quartermaster's department appropriations enough could be used for that purpose. I suppose that to be the case.

Mr. DOOLITTLE. I ask the Secretary to read the last clause of the amendment.

The Secretary read the following words: "to be furnished out of any funds that may be at his disposal for the support of refugees."

Mr. DOOLITTLE. I move to strike out the words "for the support of refugees."

The VICE PRESIDENT. That is not now in order.

Mr. POMEROY. It will be in order when the bill shall have been reported to the Senate.

The VICE PRESIDENT. The Senate have just agreed to the amendment in this form, and it is not in order now to strike out words which the Senate have agreed to.

Mr. DOOLITTLE. I think there can be no objection to the modification I have proposed.

Mr. HARLAN. I move a reconsideration of the vote on the adoption of the amendment of the Senator from Missouri in order that we may hear the Senator from Wisconsin. I was not aware that the word "Indian" did precede the word "refugees;" I inquire of the Secretary if that is so.

Mr. WILSON. I think we had better say "out of any money appropriated for the quartermaster's or commissary's department."

The VICE PRESIDENT. The Senator from Iowa moves to reconsider the vote just taken agreeing to this amendment.

Mr. HARLAN. The modification suggested by the Senator from Massachusetts might be made by common consent, I think, and save time. I think no one will object to that amendment.

The VICE PRESIDENT. What is the proposed amendment?

Mr. HARLAN. To insert "out of any funds appropriated for the commissary or quartermaster's department."

The VICE PRESIDENT. If there be no objection these words will be inserted, and the question is on agreeing to the amendment as amended.

Mr. DOOLITTLE. I would like to add at the end of the amendment a proviso that the officer in command or having charge of the Indians shall report to Congress the expenditures made under this amendment specifically.

The VICE PRESIDENT. The Senator will reduce the amendment to writing.

Mr. DOOLITTLE. I will put it in this form:

*Provided, That a detailed report shall be made to Congress at its next session of all expenditures made for their relief.*

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

Mr. HARLAN. I desire to offer the following amendment as an additional section:

*And be it further enacted, That any person who may drive or remove, except as hereinafter provided, any cattle, horses, or other stock from the Indian Territory for purposes of trade or commerce, shall be guilty of felony, and on conviction be punished by fine not exceeding \$5,000, or by imprisonment not exceeding three years, or by both such fine and imprisonment. That the agent of each tribe of Indians lawfully residing in the said Indian Territory be, and he is hereby, authorized to sell, for the benefit of said Indians, any cattle, horses, or other live stock belonging to said Indians, and not required for their use and subsistence, under such regulations as shall be established by the Secretary of the Interior: *Provided, That nothing in this and the preceding section shall interfere with the execution of any order lawfully issued by the Secretary of War connected with the movement or subsistence of the troops of the United States.**

The amendment was agreed to.

Mr. WILKINSON. I offer the following amendment to come in after the amendments that are printed at the end of the printed bill:

For payment of awards made by the Secretary of the Interior, to be paid as damages growing out of the loss and destruction of improvements made upon the land known as the Winnebago reservation, in Blue Earth county, Minnesota, by the bona fide actual settlers thereon, under the preemption laws of the United States, before the same was selected and set apart as an Indian reservation, and which award was made pursuant to an act of Congress entitled "An act for the relief of preceptors on the home reservation of the Winnebagoes, in the Blue Earth region, in the State of Minnesota," approved July 14, 1862, and to be paid to the several parties named in the said award, \$7,302 06.

Mr. BROWN. Will the Senator explain the amendment?

Mr. WILKINSON. I will. Prior to the establishment of this reservation in Minnesota the preemption laws were applicable to this region of country, and there were some settlers on the land. The Government took possession of the land, and the settlers were driven off; and in 1862 a law was passed for their relief, authorizing an investigation in a certain land office in Minnesota, with the direction that an inquiry should be had as to the amount of damages, and also as to whether their preemption right had been established, and authorizing the Secretary of the Interior to make an award of the damages. That award has been

made by him in pursuance of the act of Congress of July 14, 1862.

The amendment was agreed to.

Mr. NESMITH. I am directed by the Committee on Military Affairs to move to amend the bill by striking out "twenty-five" in line twelve hundred and twelve on page 50, and inserting "fifty;" so as to make the clause read:

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory not parties to any treaty, and for pay of necessary employes, \$50,000.

In relation to this proposed amendment, I will state that in Oregon and in Washington Territory, in the portions of country that are settled, the Indians have been gathered up and placed on reservations. With some tribes in 1855 treaties were made, but not with all. A large portion of the Indians on these reservations are obtaining the assistance of the Government under the annuities provided for by treaty stipulations, but there are five or six thousand Indians who are now in these reservations, where the Government is endeavoring to have them taught the pursuits of agriculture, that get no assistance from the Government. They cannot be released from the reservations and permitted to return to their own country because it is occupied by the whites, and their presence has been a fruitful source of the war which has desolated that country. The Indians who have been gathered up and taken into the reservations without any treaties, compose some four, five, or six thousand, embraced within Oregon and Washington Territory. But in order to explain the matter more fully, I shall read a paragraph from the last annual report of the superintendent of Indian affairs for Oregon:

"In my last annual report I set forth the reasons why a treaty should be made with these tribes, or the one made by General Palmer in 1855 should be ratified.

"These reasons still exist with increased force. About half the Indians in the superintendency, who are under the control of the Government, are located upon this reservation. Their number is about three thousand. Except the small tribe of Shasta Scoton, none of them are entitled to annuities, nor are appropriations made for their benefit. They were induced to remove to the reservation by late Superintendent Joel Palmer in 1855, and a treaty for the purchase of their lands concluded. The Senate failed to ratify the treaty, and they have consequently never received anything under it. But their part of the stipulations have all been complied with. They gave up their lands, and they have since been occupied by whites. Common justice requires that some provision be made for them. They have no means of procuring clothing, are not in reach of any market where agricultural products can be sold, and they are consequently discontented, and eager to leave the reservation whenever they can elude the vigilance of the agent. I still think, as I expressed it in my report for 1863, that a new treaty can now be made with them more economical to the Government, and more suited to their wants and present condition. I recommended that course as best; but whether that is adopted or it is preferred to ratify the treaty of 1855, it is very important that some action be taken without longer delay."

I will state that they have surrendered their country and are now kept upon the reservations without the means of subsistence. I have not complied with the recommendation of the superintendent of Indian affairs by inaugurating a system of making a treaty for this purpose, for the reason that I believe they can be more cheaply subsisted on reservations by a small annual appropriation and avoid the expense which will be incurred and the delay which will ensue from making a treaty. An appropriation of this sum of \$50,000 was recommended by the Secretary of the Interior and embraced in the estimates submitted to Congress. It was stricken out of the bill in the House of Representatives without any reason being offered, and I now move simply to restore it. I have here a lengthy argument from the Commissioner of Indian Affairs and the Secretary of the Interior, both recommending that that sum be reinstated. I ask that the amendment be made inserting "fifty" in place of "twenty-five."

The amendment was agreed to.

Mr. HARLAN. I am instructed by the Committee on Indian Affairs to offer the following amendment to come in on page 53, after line twelve hundred and seventy-six:

To supply deficiencies in the Indian service in Arizona Territory, \$12,900, for the present fiscal year.

The amendment was agreed to.

The bill was reported to the Senate, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill read a third time. The bill was read the third time, and passed.



## SUPPLEMENTARY PENSION ACT.

Mr. FOSTER. I have in my charge from the Committee on Pensions a single general bill making a slight alteration in the pension laws, and four or five little bills of a private character which will not affect the public materially, but are of great importance to the individuals concerned. The whole together, I pledge myself, will not take over fifteen minutes. I ask as a favor of the Senate that they grant me that time to dispose of these bills.

Mr. HARLAN. If the Senator's bills can be acted on in so short a period I will not stand in his way, but I have been waiting a long while to ask the Senate to vote on the bill for the organization of a government over the Indian Territory. I believe no member of the Indian Committee desires to discuss the question. They desire, however, a vote of the Senate on the passage of that bill. I give notice that when these bills of the Senator from Connecticut have been acted on I shall attempt to get the floor to call up that bill.

Mr. SUMNER. I also give notice that I have a bill which I am very anxious to get a vote on to-night, and I have risen more than thirty times in the hope of securing the attention of the Chair that I might move to take up the bill which I have in my hands.

Mr. CONNESS. I suggest that we allow the Senator from Connecticut to have his bills passed, and then we can get to our bills; we are all in the condition of the Senator from Massachusetts. I hope we shall go right on and work.

Mr. POMEROY. There is one item that was ruled out of the Indian appropriation bill because it was not in order; there was no objection to it except on the point of order on which it was ruled out. I wish to introduce it and have it passed as a separate bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut.

The motion was agreed to.

Mr. FOSTER. The Committee on Pensions, to whom was referred the bill (H. R. No. 756) supplementary to the several acts relating to pensions, report it back with an amendment. The amendment is to strike out the fifth and sixth sections.

The bill was considered as in Committee of the Whole. It provides in the first section that no pension shall be allowed to any person as an invalid for any period of time during which he received, or has become entitled to receive, for services rendered to the United States Government in any capacity, the full pay which able-bodied officers or employés rendering like services are allowed by law.

The second section declares that acting assistant or contract surgeons disabled by any wound received or disease contracted while actually performing the duties of assistant surgeons or acting assistant surgeons, with any military forces in the field or *in transitu*, shall be entitled to the benefits of the pension laws in the same manner as if they had actually been mustered into the service with the rank of "assistant surgeon," and the widows, minor children, or the dependents of acting assistant surgeons dying while performing such duty, shall in like manner be entitled to the same benefits of the pension laws as if the deceased had been actually mustered into the service as assistant surgeons.

The third section provides that all persons now by law entitled to a less pension than twenty dollars a month, who shall have lost one foot and one hand in the military service of the United States, and in the line of his duty, shall be entitled to that sum.

The fourth section provides that if any officer or other person named in the first section of the "act to grant pensions," approved July 14, 1862, has died since the 4th of March, 1861, or shall hereafter die by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or if there be no widow, or in case of her death or marriage, without an allowance to her of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to under that act had he been totally disabled, to commence from the death

of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of sixteen years, and no longer; but when such pension has been, or shall hereafter be, allowed to the widow, such child or children shall only be entitled to receive it to commence from the death or marriage of such widow. Nothing contained in this section is to be construed to repeal or modify the tenth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864.

The fifth and sixth sections, which it is proposed to strike out, are as follows:

SEC. 5. *And he it further enacted*, That the Secretary of War be, and he is hereby, required, on request of the Commissioner of Pensions, to furnish such proof as may be within his possession or control of the death of any person dying in the military service who may be entitled by law to the benefit of the pension laws, together with such other information touching the term of service of such person as may be required to enable the Secretary of the Interior to adjudicate such cases, and the information so furnished, properly authenticated by the signature of the Secretary of War, under the seal of the War Department, shall be held by the Secretary of the Interior to be sufficient evidence of the fact stated.

SEC. 6. *And he it further enacted*, That the eleventh section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be so amended as to apply to commissioned and non-commissioned officers who shall have actually served as such and were actually in the service as such at the time of their death or disability, and to all officers and enlisted men killed or disabled while actually engaged in the military service in repelling invasion from any loyal State.

The motion to strike out was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time. The bill was read the third time, and passed.

## EZEKIEL DARLING.

Mr. FOSTER. The Committee on Pensions, to whom was referred the bill (H. R. No. 556) granting a pension to Ezekiel Darling, report it back without amendment, and recommend its passage.

The bill was considered as in Committee of the Whole. It proposes to allow to Ezekiel Darling a pension of four dollars a month during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

## ELIZABETH B. LEPPEN.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 567) granting a pension to Elizabeth B. Seppien, report it back with an amendment. The amendment is simply to change the initial letter in the surname of the party from S to L. It should be Leppien and not Seppien.

The bill was considered as in Committee of the Whole. It proposes to allow a pension of thirty dollars a month from May 24, 1863, to continue during widowhood.

The amendment was agreed to.

The bill was reported to the Senate and the amendment was concurred in. The bill was ordered to a third reading, and was read the third time, and passed.

## SOPHIA BROOKE TAYLOR.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor, directed me to report it back without amendment and recommend its passage; and I ask for its present consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Interior to place the name of Sophia Brooke Taylor, widow of the late Francis Taylor, major of the first regular United States artillery, who died of yellow fever while in command of the post at Fort Brown, Texas, on the 12th of October, 1858, upon the pension roll, at the same rate of pay which he would have been entitled to if he had been totally disabled at the time of his death, for and during the period of her natural life or widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## RACHEL MILLS.

Mr. FOSTER. The same committee, to whom was referred the bill (H. R. No. 565) granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army, have directed me to report it back without amendment, and recommend its passage; and I ask for its present consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Secretary of the Interior to place upon the pension roll the name of Rachel Mills, of Binghamton, New York, widow of Peter Mills, deceased, late a major of the United States Army, at the rate of twenty dollars a month from April 1, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## IRA B. CURTIS.

Mr. FOSTER. The same committee, to whom was referred the petition of citizens of Decatur, Illinois, praying that a pension may be granted to Dr. Ira B. Curtis, of that place, have instructed me to ask to be discharged from its further consideration, the general law which has been passed providing for that case.

The motion was agreed to.

## CHARLES A. HICHBORN.

Mr. FOSTER. The same committee, to whom was referred the memorial of William W. Thayer, guardian of Charles A. Hichborn, son of Alexander Hichborn, acting assistant surgeon "on contract," who was killed at the battle of Chancellorsville, May 3, 1863, praying for the passage of an act defining the rank said Alexander Hichborn held in the Army at the time of his death, and the amount of pension that should be paid to his son, have instructed me to ask to be discharged from its further consideration, the same general law providing for that.

The motion was agreed to.

Mr. FOSTER. The same committee, to whom was referred the bill (S. No. 303) for the relief of Charles A. Hichborn, which passed the Senate and was returned by the House of Representatives to the Senate at its request, and re-committed to the Committee on Pensions, have instructed me to ask the Senate to reconsider its vote passing the bill, and also to reconsider the vote ordering it to a third reading, for the purpose of moving the indefinite postponement of the bill, it being provided for now by the general law.

The VICE PRESIDENT. The question of reconsideration will be considered as agreed to; and the question will be taken on the indefinite postponement.

Mr. FOSTER. I move its indefinite postponement for the reason given.

The motion was agreed to.

## CONSOLIDATION OF THE INDIAN TRIBES.

Mr. HARLAN. I move that the Senate proceed to the consideration of the bill (S. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory.

Mr. SUMNER. That is a good bill; I am for that.

Mr. CLARK. I do not want to interpose against the business of the Senator from Iowa; but it is very necessary that the tariff bill should come up and be acted upon, as amendments have been reported to it by the Committee on Finance, and if they are adopted it will have to go back to the House of Representatives to enable them to be acted on in the House. I hope Senators will allow me to take that up. It is not a long bill.

Mr. CONNESS. I hope the Senator from New Hampshire will let us get through the few bills that we are all agonizing in regard to, and then we shall come to the tariff bill.

Mr. CLARK. I am afraid Senators will agonize more if they come here the day after tomorrow and find that the public business is not done.

Mr. CONNESS. I am prepared to sit here all night.

Mr. TRUMBULL. I am not.

Mr. CONNESS. Then the Senator can go home.

Mr. HARLAN. I insist on my motion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory.

Mr. DOOLITTLE. There is a verbal amendment that I desire to make to the bill. It is to insert after the word "tribes," on page 2, line sixteen, the words "by a treaty stipulation duly negotiated for that purpose." The section now provides that this act is not to take effect "without the consent of said tribe or tribes." The tribes there are in amity and peace with us. Our treaty stipulations forbid the extension of territorial government over these Cherokees and Creeks without their consent, and I therefore move to insert these words.

The amendment was agreed to.

Mr. DOOLITTLE. On page 3, section two, line ten, after the words "United States," I move to insert the words "and suspend from office any Indian agent or employé in said Territory." This will authorize the Governor of the Territory to have power to suspend any of these Indian agents or employés until the decision of the President can be made known. I wish to give the Governor who shall go there full power to control all the Indian agents in the Territory.

The amendment was agreed to.

Mr. DOOLITTLE. On page 6, section six, line fourteen, after the word "Governor," I move to insert the following:

And any and all laws, rules, and regulations adopted by said Council may be modified or annulled by Congress.

The effect of the amendment is to give power to Congress to annul any law that may be passed by that Legislative Council.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. FOSTER. Mr. President, this bill was before the Senate four or five days ago, perhaps a little more than that. It has been introduced into the Senate since the 20th of February, and printed since that time. It was not laid upon our tables until the 23d or 24th of February. It is a long bill; I have it not before me; but I think some fourteen or fifteen pages folio, and fourteen or fifteen sections. It changes, I believe, very materially and radically our whole Indian policy. It violates our treaties. It will be very injurious at least to some of the Indian tribes; and worse than all, it will be a stain upon the national honor, a breach of the national faith. These are a portion of its evils.

One of the tribes that this bill contemplates to bring within territorial jurisdiction is the Cherokee tribe of Indians. I am old enough to remember the time when the people of the United States were very considerably exercised, and I may say agitated, on account of what seemed to be a most cruel and unjustifiable course pursued by our Government toward that tribe; or, if not directly by the Government, at least they were accessory to the cruelty and injustice perpetrated by the State of Georgia upon that tribe. This tribe had its home in what I believe made a portion of the States of Georgia, Tennessee, and North Carolina; and the section occupied by them was among the very finest portions of those States. A portion of that Cherokee country was as attractive and beautiful as any within the limits of the United States. It was looked upon with desire, it was coveted by the surrounding whites, especially in the State of Georgia. They determined that these people should be expelled from those lands, and they carried that determination into effect. The United States for a time struggled against that effort on the part of Georgia, and seemed disposed to protect the tribe in their rights; but very soon our Government yielded, and the State of Georgia triumphantly drove those Indians beyond the Mississippi, took their lands, disposed of them by lottery, and hanged some of our citizens within the Territory, on the charge that they were attempting to impede or thwart the laws of Georgia and the purposes of that State against the Cherokees. In the case of one of those men, after a decision by the Supreme Court of the United States that the conviction was erroneous, and after a writ of error had been issued to bring up the record to the Supreme Court for revision, the State of Georgia, by her authorities, proceeded to exe-

cute the man, notwithstanding the pendency of the writ of error, thus flinging defiance in the face of the Government of the United States in the most odious and offensive, and, I will add, in the most savage manner.

These Indians were driven off, under these circumstances, west of the Mississippi. The United States made a treaty with them within a few years after this; I believe in the year 1835. These events occurred in the years 1829 and 1830, and so on up to 1835, when the United States made a treaty with these Indians which is in our volume of treaties. We had previously made treaties with this same tribe. In this treaty of 1835 we entered into very solemn stipulations as to their rights to the country west of the Mississippi river, over which we now propose to extend our jurisdiction and create a Territory. One of the stipulations in that treaty is short, and I will read it, in order that we may see whether or not it is consistent with good faith for us now to incorporate a Territory taking in this tract of country which we then covenanted in the most solemn manner should remain to this Cherokee tribe. The fifth article of that treaty is as follows:

"The United States hereby covenant and agree that the lands ceded to the Cherokee nation in the foregoing article shall in no future time without their consent be included within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them: *Provided always*, That they shall not be inconsistent with the Constitution of the United States."

That is one of the stipulations which the United States entered into with these Indians.

Mr. BROWN. Will the Senator permit me to interrupt him?

Mr. FOSTER. Certainly.

Mr. BROWN. I will state to the Senator that the bill which is pending provides that this territorial government shall not extend over that tribe except their assent be first obtained through treaty stipulation.

Mr. FOSTER. Yes, Mr. President; and therefore what is the necessity or propriety of passing this territorial bill until we first obtain that consent?

Mr. DOOLITTLE. If my honorable friend will allow me, this country held by the Cherokees is larger than the State of Massachusetts. Immediately below the Arkansas lies the country of the Creeks, which probably is larger than New Jersey. Then below that, south of the Canadian river, is the country of the Choctaws and the Chickasaws and the affiliated Indians that were put in there from Texas, which is larger than both the others put together. Those Indians, by their hostilities against the United States, have forfeited all treaty stipulations with the United States, and we are therefore not bound to regard the treaties which we entered into with the Chickasaws or the Choctaws on that subject, they having broken them by open, flagrant war for three or four years against the United States.

Mr. CONNESS. Will the Senator from Connecticut permit me a single word?

Mr. FOSTER. Certainly.

Mr. CONNESS. I do not wish to break in upon this discussion; but I beg the Senator to be as short as possible, so that we can get some work done. The Senator will excuse me for saying that.

Mr. FOSTER. Certainly. It would have been shorter if the Senator had not said anything.

Mr. CONNESS. It will not be much longer from what I said.

Mr. FOSTER. The time the Senator has taken up, if occupied by myself, would have got me along so much farther in my remarks, which will be brief anyway.

In reply to the suggestion of the Senator from Wisconsin, as to the Creeks, Seminoles, and Chickasaws, who are at war with the United States, I will remark that I have said nothing whatever about them. I speak of the Cherokee tribe, which, as a tribe, has remained true and faithful to the Government of the United States. No doubt a portion of the tribe have joined the rebels; but they were a small portion comparatively, and they did so under duress and compulsion.

Mr. LANE, of Kansas. The Cherokee tribe

of Indians, as a tribe, received annuities from the confederate government for two years.

Mr. FOSTER. That may be. If they have received annuities from the confederate government they have not been paid for a tithe of the property which the confederate government have stolen from them. The confederate government overran their country, took their property, and committed many depredations; if they have had manliness, or honor, or justice enough to restore them anything, either by way of annuities or otherwise, I am glad of it.

Mr. LANE, of Kansas. I said the confederate government undertook to carry out with the Cherokee nation the agreement we had made with them; and the Cherokee tribe of Indians received from the confederate government the annuities which were due from the United States Government as a nation.

Mr. FOSTER. The difficulty then is that the confederate government have taken a portion of the obligations of the United States upon themselves, and have paid to the Cherokee nation for two years the annuities which the Government of the United States were bound to pay. I do not see that the Cherokees sinned greatly in that.

As it respects the other tribes, to reply, as I was replying, to the honorable Senator from Wisconsin, I say I have said nothing about them; and so far as this treaty which I have appealed to is concerned, it has nothing to do with them. With this Cherokee tribe I say, however, this treaty has to do; and when the Senator from Missouri suggested that this bill provides that we shall first obtain the consent of the tribe before we extend this territorial government over them, does not every Senator know what that means, and what the passage of this territorial bill creating these officers to go there means? Is there any doubt that these tribes will consent? Does not everybody know that their consent under these circumstances is a mere farce? How would it be if we had a treaty like this with any foreign Power that had sufficient strength to avenge an insult of this sort? If we had made this treaty with such a nation, and then undertook to extend jurisdiction over it, provided we could get their consent after we had thus exerted our authority and created a Territory, what would be the result?

Mr. President, how would we bear it if a foreign nation undertook to adopt this policy toward us? Take the case of Louisiana: it was ceded to this Government by France many years ago, no more solemnly than we have ceded to the Cherokee nation this tract of country west of the Mississippi. Suppose Louis Napoleon should send to Louisiana, as governor or viceroy, Duke Gwin or some other person, to take control of the territory, and he, with all the paraphernalia of an imperial Government, should sail from France for the mouth of the Mississippi; would it make much difference in the character of the proceeding if Duke Gwin should call at the capes of Virginia, and say to the officer in command at Old Point, in the most polite terms ever employed by that gallant and polite nation, "I am on my way to our ancient territory of Louisiana to resume jurisdiction over it; but my imperial master instructed me to obtain the consent of the Government of the United States before commencing my government over the country; of course you will accede to the wishes of the emperor, and give your consent." Would not that bring war between us and France at once? Would not the French Government understand it to be war? If this treaty was with any nation in the world which had any power to resent an insult would we not understand that the passage of this bill was a declaration of war, and would it not be war, certainly and speedily?

I know it will not be war with these poor Cherokees, because they are a powerless tribe; that is, powerless as against the United States. They have sent two regiments into your Army, a greater number of men in proportion to the number of fighting men belonging to the tribe than has gone from any State in this Union; and those men are now fighting as gallantly and as bravely in the ranks of the Union Army as any other men in it, as I am informed. Now, we propose, in violation of these treaty stipulations, to extend our government over this Indian Territory, putting in, by way of parenthesis, "provided they consent." If that parenthesis means anything, we should not pass the bill, because we should

first get their consent; and it will take us from now to December at least to make such a treaty, and arrange as between us and them, so that we can establish a territorial government. Let us therefore lay aside the bill; let us make a treaty with these Indians authorizing us to carry into effect this bill as we now propose; and next December will be in abundant time to pass it, if the Indians do consent.

Mr. HOWARD. Move to lay it on the table.

Mr. FOSTER. It would not be fair for me to submit that motion after making the remarks I have against it. I do not wish to be tedious; but I wish Senators would look at this bill.

Mr. CLARK. I move that the further consideration of the bill now before the Senate be postponed, and that the Senate proceed to the consideration of the tariff bill.

Mr. HARLAN. I hope this may not be done. I have frequently regretted, in listening to discussions on this floor, that other Senators had not the charge of every committee on which I serve. I have no doubt that the Senator from Connecticut would make a much better member of the Indian Committee than I make at least, and perhaps better than any other member of it. It is a little remarkable that of the seven Senators who have been appointed, in the wisdom of the Senate, to serve on that committee, not one has dissented from this bill; but a Senator who has not been detailed especially to look into this subject deems this bill especially cruel to the very people whom it is intended to protect. The design of the bill is to protect these Indians from utter annihilation—not to establish a government there for white men, to introduce white men, but to prevent them from entering the Territory or becoming inhabitants of the Territory. The very object of the bill is to protect the Indians. The very object of this proposed government is to enable the Federal Government to enforce the laws and usages of the Indian tribes. The bill itself provides in express terms that it shall not operate in any way on any Indian tribe until that Indian tribe shall first give its consent by express treaty stipulation. If the Cherokees should not give their consent, then they will not be affected by it.

But is it fair to keep all the other Indian tribes, many of whom are very feeble, in a condition little short of anarchy, because a chief of the Cherokees, now a pensioner of the Federal Government in the city of Philadelphia, remonstrates against the passage of such a bill? The chief of that tribe, from whom these objections originally emanate, is now a pensioner on the Federal Government to the tune of \$10,000 a year; and of course he objects to any organization that might in the end take from him any of the despotic power that he now attempts to wield over these helpless people. A majority of the Cherokee nation have been in rebellion against the Government of the United States; they have forfeited all their rights; but this bill does not propose to confiscate their property or to deprive them of any rights until, by express treaty stipulation, they shall have agreed to the provisions contained in this bill; and even then, with the adoption of the bill, it is intended to protect the Cherokees, and every other tribe within the limits of the Indian country, from aggression from the white man, those from whom the Senator himself fears encroachment.

We were told a day or two ago by the Senator from Ohio [Mr. SHERMAN] that he was opposed to making any more treaties with the Indian tribes. He believes that Congress ought to pass laws for the government of the Indian tribes; and a number of leading Senators expressed their conviction that he was right; that we ought to discard the idea of making treaties with these feeble people. The Indian Committee have not recommended this course, but they have recommended that these Indians shall be consulted, and if they give their consent to an affiliation of all the Indians within the Indian country, or a number of these tribes, to establish such judicial proceedings there as will exclude aggression from without. The Committee on Indian Affairs believe that it will tend to improve the welfare of these feeble people. I have no doubt of it myself; but unless some such policy as this shall be adopted I shall lose all hope of saving a fragment of the people that once controlled this vast country. They are wasting away rapidly now like the snows before

a morning's sun, and unless this Government makes some systematic effort to save them they will speedily all be gone. I have no hope for them if we leave them in the condition of anarchy in which we now find them in that Territory. I believe some effort should be made on the part of this Government for their protection and preservation. This bill is intended for this purpose. Hence I think it is unfair for a Senator here who has not given especial attention to this subject, as I believe—I do not think it is possible he could have done so and use the language he has in reference to this bill—to denounce it as he has tonight.

I promised the Senate, however, that I would not discuss this subject; and I would not have done so had it not been for the very severe remarks made by the Senator from Connecticut in relation to this matter. I will now ask that a vote may be taken on the passage of this bill.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question before the Senate is on the motion of the Senator from New Hampshire. The Chair feels obliged very reluctantly to remind Senators that a discussion of the merits of the bill is not in order on a motion with regard to the order of business.

Mr. BROWN. I hope the Senator from New Hampshire will withdraw his motion. I think we can take a vote as quick on this bill as on his motion.

Mr. CLARK. If I supposed that was so, I would withdraw my motion; but I desire to give notice to Senators that unless they give an opportunity of passing the business now pressing upon the Senate, an extra session of Congress becomes inevitable.

Mr. BROWN. Let us have a vote.

Mr. POMEROY. I think we can now have a vote on the bill.

Mr. CLARK. I withdraw the motion, if there is to be no discussion.

Mr. HOWARD. What is the motion before the Senate?

The PRESIDING OFFICER. The motion to postpone being withdrawn, the question will be on ordering the bill to be engrossed for a third reading.

Mr. FOSTER. It was certainly unnecessary for the honorable Senator from Iowa, as it seems to me, to intimate that I was arrogating to myself skill superior or judgment better than the gentlemen on the Indian Committee, or that I was imputing to him, or to the chairman, or to any member of that committee any lack of all the ability requisite for the proper performance of their duties on that committee, and on every other committee, and in every other position to which this body or their constituents may assign them. I can assure that honorable Senator that I have for him and for the committee of which he is certainly a distinguished member the highest personal respect, and in nothing that I have said have I reflected in any manner upon any member of that committee. As it regards the measures which that committee bring forward, I have yet to learn that they are not open to every member of the Senate as a matter of comment. If the day has arrived or is about to arrive when it is understood that after a committee, detailed as the honorable Senator says to perform a certain duty, have performed that duty, that closes up the matter, and it is no longer open to doubt or question, this body becomes one of very simple character. It consists of so many committees who perform certain duties, and when performed by them there is an end of the matter. This is not a legislative or deliberative assembly; it is a collection of committees. I do not so understand the character or constitution of this body.

I certainly make no boast that I understand this subject even as well as the honorable Senator does; but as it appears to me, I say again, this bill is fraught with danger and dishonor to the country. It may be because I do not understand it that I hold and avow that opinion. It has been before the Senate less than a week, or about a week; and a week spent, as we all know how, in sessions from eleven o'clock in the morning until twelve at night and one in the morning, and in committee meetings from half past nine until eleven o'clock. Under these circumstances, if a bill such as this, laid on our tables for the first time on the 22d or 23d of February, some four-

teen or fifteen pages long, has not been well understood by this body, I do not think we are to be charged with great negligence in attending to our public duties. It is not strange that we do not understand it. It is a little strange that that committee did not bring forward a bill so important as this a little earlier in the session; or, if they brought it forward at this period, at least that they did not suggest that it go over until another session in order that it might be understood.

Mr. HARLAN. Will the Senator allow me to interrupt him?

Mr. FOSTER. Certainly.

Mr. HARLAN. The Senate passed a solemn resolution instructing the Committee on Indian Affairs to inquire into the propriety of establishing just such a government as we propose here. The committee therefore acted under the instruction of the Senate itself.

Mr. LANE, of Kansas. A month ago.

Mr. HARLAN. Not quite a month ago. In the course of six or eight days after that resolution was received by the chairman we reported this bill. I do not think, therefore, that the committee is justly chargeable with negligence. The Senate instructed them to inquire into the subject. They did it with reasonable dispatch, and reported a bill, and the bill was printed and laid on the tables of Senators. The Committee on Indian Affairs are not culpable for the inception of this bill, nor for delay, at least in introducing it. They did it with reasonable promptness.

Mr. FOSTER. I am not charging the committee with negligence. I am only saying that if they introduced this bill at a late day of the session they ought not to charge the members of the body, who are not members of the committee, with their ignorance of it, however prompt the committee may have been in their action, and however clearly impossible it may have been for them to have acted earlier, or to have avoided acting under the direction of the Senate. I make no complaint, I repeat, of the committee.

Mr. HARLAN. I think it is due to me to say that I do not intend to charge anybody with ignorance; but the Senator said he thought this bill would inflict cruelty, and used other similar words, which I think were a reflection on the humanity, or at least the care and attention of the committee to the subject that had been intrusted to them. That was the occasion of my remarks, but if I was so unfortunate as to make the impression on the Senator's mind which it seems I have made, I will take great pleasure in withdrawing any such remark.

Mr. FOSTER. I did not understand the Senator to say anything offensive. It is simply a difference of opinion between us, an honest difference of opinion. He, from his superior knowledge of the subject, has perhaps the better opinion; but mine is as sincere and as honest as his. The only question is, which of us is in the right? He no doubt believes that he himself is. I believe that I am; and I yield, so far as better opportunities for understanding the matter are concerned, to him. But there are certain principles which it does not require a great length of time to understand; and one is that we have made a solemn treaty with these people which this bill which we are about to pass violates. It does not do to say that if the Cherokees consent to this it will be right. It is not all right.

Mr. BROWN. I will ask the Senator if the stipulation to which he refers does not say it shall not be done without their consent; and if they give their consent I ask him if it is in violation of the treaty stipulation?

Mr. FOSTER. None whatever; but the consent should be had before the legislation.

Mr. BROWN. It does not follow.

Mr. FOSTER. It does not follow, in the judgment of the Senator; it does in mine, if we keep our faith. Get the consent of the tribe, and then legislate. Why this haste about the legislation? Do we mean to send our officers there to organize a territorial government? What is the purpose of the bill? Is it honest? I ask again, do we mean to send these officers there to organize this government, and are these officers, after they get there with commissions in their pockets, to negotiate with the Indians first whether they may stay and organize the government?

Mr. BROWN. I will explain to the Senator. There is abundance of territory outside of the



Cherokee nation which will require this organization. Their territory will not be included in it in any sense; it will not be part of it until they give their assent any more than it is now included in the Government of the United States.

Mr. FOSTER. Mr. President, the bill which is reported from the Committee on Indian Affairs by lines and limits takes in this very Territory. It extends north to the south line of the State of Kansas; it extends west to our other territorial possessions; it extends east to our recognized possessions, and south to our recognized possessions; and it takes in the whole Territory.

Mr. LANE, of Kansas. Will the Senator permit me to interrupt him?

Mr. FOSTER. Certainly; only I hope the Senator from California will not think my speech long.

Mr. CONNESS. I certainly shall, and do.

Mr. LANE, of Kansas. Have we organized a territorial government since the passage of the Kansas-Nebraska bill, including that bill, that does not contain that same provision, and does not include Indian reserves? When the Kansas-Nebraska bill was passed there was more territory in Indian reserves provided for by a similar stipulation than there was soil belonging to the United States Government. We could not extend our jurisdiction over those Indian reserves, and have not to this day; and yet we exercise power over all other portions of the Territory.

Mr. FOSTER. If we have learned by experience, as the honorable Senator says we have, that when we undertake to violate our pledged faith we cannot really carry out the violation, I think it is time we stop the attempt. The honorable Senator appeals to certain things done in the State of Kansas when it was a Territory. He is much more familiar with all that than I am. I presume there were a great many things done there that were disgraceful. We have heard enough of matters disgraceful in regard to legislation about Kansas—Leecompton constitutions and all. I do not suppose the honorable Senator wishes to quote those as a precedent for legislation like this. They may be like it; but they had better be quoted by way of admonition than by way of example.

Mr. LANE, of Kansas. Every territorial government since, and those passed last winter, contain the same clause.

Mr. FOSTER. It may be so. All I have to say is that it did not happen to attract my attention; this does. If the honorable Senator from Missouri is right, and we do not mean under this bill to meddle with this Cherokee country, alter the lines in this bill; except this Cherokee country from the operation of the bill. It is pretty easy to point out that portion which belongs to the Cherokee nation. Let the boundaries of this new Territory that is to be organized be amended, and let the boundaries be of a Territory that we intend to take possession of and to govern, and not extend it over that which it is avowed we have no right to govern, and do not intend even to attempt to govern. Then why do it?

Mr. President, it certainly is not for me to interpret the judgments of Providence; but in my opinion, the people who seized and occupied the territory of this Cherokee nation in the State of Georgia and the adjacent regions have been visited within the past six months in a retributive manner for the wrongs done these Cherokees thirty years ago. We have heard of the passage of an army over that country from Chattanooga down to the city of Savannah, near the mouth of the Savannah river in the State of Georgia. It passed over this Cherokee country—a beautiful country, containing some of the fairest land on the face of the earth. The Cherokees were driven from it by the cupidity of Georgia; their lands were disposed of by lottery among her citizens, and the Cherokees compelled to migrate beyond the Mississippi, almost at the point of the bayonet. Bayonets have visited that section of country since; and the people occupying the old homes of the Cherokees have recently fled before the march of the destroyer. Chattanooga, famous in this war, was one of the central points in the old Cherokee nation. That, and the region around it, has felt the iron heel of the soldier. I believe my honorable friend from Iowa has faith in an overruling Power and in the retributions of Providence; and I have thought—it may be a fancy—that there was something of retribution upon these people

who were occupying the lands of these Cherokees so unjustly, so wickedly obtained. When the army of Sherman marched over that country, perhaps these people thought of the poor Cherokees who had been driven away thirty years ago. I believe the honorable Senator from Iowa will agree with me in thinking that Providence sometimes visits nations and communities for past transgressions. Let us pause before we drive these Cherokees from their last earthly resting-place—for they have now reached it—to gratify the insatiable desire for land, which, like an evil spirit, seems to possess the minds of our people. You may pass this bill—you may exterminate these Indians and obtain the lands which you solemnly covenanted should be theirs forever—but a day of reckoning will come. It came in fire and in blood upon those who drove them from Georgia. Beware lest it come upon us.

Mr. President, I have no desire to prevent a vote on this bill. If it is the pleasure of the Senate to pass it I certainly shall submit to it, and shall resort to no measures whatever to postpone it except in rather a desultory manner to bring these points which strike my mind to the consideration of the Senate. If they are entitled to no consideration let it be so, and let the bill pass. I was not on the Indian Committee. I have been spoken to by some of the men connected with this tribe, and told by them that this bill would be most disastrous, ruinous, as they believed, to that tribe. The honorable committee may have other and better information. That is the opinion I have; and I am perfectly willing to give the authorities. John Ross, whom the gentleman characterized as a pensioner of this Government, who is at the head of the Cherokee nation, and has been for years, is one. I believe him to be a trustworthy man. The Rev. Mr. Jones, who has been laboring with that people as a chaplain more than thirty years, is another. He tells me that the passage of this bill will be most disastrous and ruinous to that people, as he believes.

Mr. DOOLITTLE. Will my friend allow me to interrupt him?

Mr. FOSTER. Certainly.

Mr. DOOLITTLE. Since the discussion the other evening, when the honorable Senator expressed himself so strongly against this bill, Rev. Mr. Jones, who has been for forty years a missionary among the Cherokees, called on me in the committee-room and I had a conversation with him. I called his attention to the provision of the bill that it should have no effect over the Cherokees without their consent, and I showed him the amendment which I intended to offer to the bill from the committee, that that consent was to be obtained by treaty stipulation. He said that gave altogether a different aspect to the question, and he went on to speak of the Cherokees. I mentioned to him the fact that by this bill no one in the Territory could have any vote in the choice of members of the Council but the Indians and members of the tribe. He said that the rule of the tribe was that no white man could be admitted unless he was married into the tribe. After these facts were called to his attention he expressed to me a very different state of opinion from what my honorable friend understood him to express in the first instance.

Mr. FOSTER. I do not know but that this gentleman has altered his opinion. I have seen him, however, since the honorable Senator has, and he gave no intimation to me of a change of opinion. The great danger he apprehended was that the organization of this territorial government would bring in the whites and surround the Indians there with what are called the "blessings of civilization," which are the curse and the bane of the Indians.

Mr. HARLAN. The purpose of the bill is to prevent that very thing; to avoid it.

Mr. FOSTER. If the intention and object of the organization of a territorial government on the part of the United States is to prevent our people from going into such a Territory and settling upon it, it certainly is a novel idea in a territorial bill.

Mr. HARLAN. It is not called a territorial bill. The title of the bill is, "A bill to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory."

Mr. FOSTER. Exactly; "to establish civil

government in the Indian Territory;" and it goes on to ascertain that Territory by boundaries; and it organizes that Territory by the appointment of a Governor and other officers just like our other Territories; and if it is to exclude citizens of the United States from it, I repeat again, that it is a novel organization; it is one that will never work out its purpose. The moment the Territory is organized our people will go upon the Territory, and there will be no power to stop them. Who will have the right to stop them? Who will have the jurisdiction there, the Indians or the United States? Isay the United States. And what right have the United States to keep citizens of the United States out of the territory of the United States? Where will the power be?

Mr. HARLAN. They have agreed to do so in the treaties to which the Senator himself has referred, and this bill is intended to carry out faithfully the stipulations of those treaties.

Mr. FOSTER. The honorable Senator from Kansas tells us, and I think the honorable Senator, the chairman of the committee, tells us, that the Indians have broken their faith with the United States; that these treaties are all abrogated.

Mr. HARLAN. No; but some of the Indian tribes that reside in the Territory have forfeited their rights. This bill does not confiscate their property or take away any of their rights.

Mr. FOSTER. No, it does not. I was not upon that subject. I was upon the subject, however, that the effect of this territorial organization would be to have this Territory overrun by the population of the United States, and that population surrounding these Indians would be certain to bring all the evils and curses which civilization brings to Indian tribes when it comes in contact with them.

Mr. WILSON. Will the Senator from Connecticut allow this subject to be passed over to allow me to take up a report of a committee of conference which I should like to dispose of tonight?

Mr. FOSTER. Certainly.

Mr. HARLAN. I hope we may be permitted to come to a vote on this bill.

Mr. WILSON. Do you think a vote can be taken?

Mr. HARLAN. Certainly. Why not?

The PRESIDING OFFICER. The report of a committee of conference is regarded as a privileged question.

Mr. WILSON. I move to take it up for consideration.

Mr. POMEROY. It can be received only by unanimous consent at this time.

The PRESIDING OFFICER. The report of a committee of conference has always been regarded as a privileged question.

Mr. POMEROY. I do not consent to any business being done that interferes with this bill.

The PRESIDING OFFICER. The Chair will receive the report under the practice of the Senate.

Mr. WILSON. The report has been made, and I desire to call it up.

Mr. HARLAN. The report is on the table, and I hope it will not be taken up until a vote is had on this bill. I know not of any other Senator who intends to speak upon it; and all that the committee ask is a vote.

Mr. LANE, of Kansas. Does it require unanimous consent to take up the report?

The PRESIDING OFFICER. It does not. A report of a committee of conference has uniformly been regarded as a privileged question; and if the Senator from Massachusetts calls it up it is before the Senate and will be read.

Mr. WILSON. The Senator from Connecticut gave way for that purpose. The debate on this bill will go on for some time if we continue its consideration, and I should like to get through with this report to-night.

Mr. CONNESS. When we began this evening's work we gave way by unanimous consent to the Senator from Connecticut, and he had four or five bills passed. Surely he has spoken on this subject until we all pretty well understand it. Everybody is anxious to vote. The clock has very nearly made its hour since it was begun. I hope we shall finish this bill, and then let us take up the conference report, and we will get to each other's business directly.

Mr. SUMNER. I have a bill that I want taken up.

Mr. CONNESS. Do not thrust that in here now.

The PRESIDING OFFICER. Does the Senator from Massachusetts insist upon calling up the report of the committee of conference?

Mr. WILSON. If the vote can be taken on this bill I will give way. I want to accommodate everybody if I can.

Mr. CLARK. I move to postpone all prior orders and proceed to the consideration of the tariff bill.

Mr. HARLAN. I must ask for the yeas and nays upon that motion, if it is insisted upon.

The yeas and nays were ordered.

Mr. GRIMES. On what question were the yeas and nays ordered?

The PRESIDING OFFICER. On the question of postponing the pending orders and proceeding to the consideration of the tariff bill.

Mr. HOWE. I should like to know when the tariff bill was reported to the Senate.

Mr. GRIMES. About half an hour ago, and has never been printed.

Mr. CLARK. And not designed to be.

Mr. GRIMES. Exactly; and here we are asked to vote on the tariff when there is plenty of time to consider it. There is not any trouble about disposing of that bill and all the appropriation bills before twelve o'clock on Saturday. If the Committee on Finance will allow this tariff bill to be printed, when we come here at eleven o'clock to-morrow we can take it up and pass it.

Mr. CLARK. I have only to say that there are several amendments reported to the tariff bill, and if they are adopted by the Senate, the bill must go back to the House; and the Senate can judge whether, with the miscellaneous bill not yet reported from the House to the Senate, and which must then be referred to the Committee on Finance, we can get through with that business by Saturday noon. I leave Senators to judge which measure should give way. It is a matter of necessity that the tariff bill should be acted upon. But Senators can determine the question as well as I can.

Mr. HOWE. I desire simply to say that I find this tariff bill here. It was referred yesterday to the Committee on Finance, and I understand now that it was reported back about thirty minutes ago.

Mr. CLARK. An hour and a half ago.

Mr. HOWE. My first information was incorrect by an hour. I was informed that there was to be a meeting of the committee at six o'clock this evening. I did not attend the meeting because the Senate was in session; and I did not know that there had been a meeting of the Committee on Finance on this measure. I do not think it ought to be pressed upon the attention of the Senate now. I have not seen the amendments reported by the committee, but I have looked over the bill, and I am inclined to think it spends more money than it makes, authorizes the expenditure of more money than it earns; and I do not think it ought to be pressed at this stage of the session to the exclusion of other business.

Mr. CLARK. I desire to have a vote upon it; and if the Senate do not choose to take it up, and it falls, or there is an extra session of Congress, it will not be my fault.

Mr. GRIMES. I trust there will be a vote; but I want it to go out in connection with that statement that this tariff bill only reached us yesterday; that it has been in the hands of the Committee on Finance until an hour or an hour and a half ago, according to the statement of the Senator; that it has not been printed; half the Senators are absent; and there is no man in the Senate that knows what is in it, I apprehend, except the Senator from New Hampshire himself. Certainly his colleague on the committee [Mr. Howe] says he does not know anything about it. I have no fears of an extra session of Congress. I have seen this thing now for six years. We have always been threatened with an extra session, and there never has been any difficulty in getting through all the appropriation bills, and a great deal more of private legislation than the interests of the country required.

Mr. CONNESS. I wish simply to say to the Senator from New Hampshire that I, too, a member of the committee, have never looked at this bill and could not until now. I am willing to

meet the Senator here to-morrow morning at nine o'clock or ten.

Mr. DOOLITTLE. Say ten o'clock, and let us adjourn now.

Mr. CONNESS. At ten o'clock, and go on with these important bills; but I ask him to give us this night for legislation that to us is of the greatest consequence. I hope the Senator will withdraw his motion.

Mr. CLARK. If I could feel certain that the Senate would be ready at ten o'clock or even eleven o'clock to-morrow to proceed at once to the consideration of the tariff bill I would not insist on my motion; but I desire to say here to the Senator from Iowa, and to any other Senator who has been here as long or longer than I have, that I have never seen the public business in the condition in which it now is. It is no fault of the Senate, it is no fault of the Finance Committee, that this bill was not reported to the Senate earlier. It is no fault of the Senate that the miscellaneous bill is not yet reported, and cannot be, and will not be here until to-morrow unless we sit here to-night and receive it. I submit to Senators how the public business is to be done. I will withdraw the motion.

Mr. CONNESS. I move that when the Senate adjourns it adjourn to meet to-morrow morning at ten o'clock.

The PRESIDING OFFICER. The motion can only be considered by unanimous consent.

Mr. CONNESS. I do not think there will be any objection.

Mr. POWELL. I object.

Mr. CONNESS. I hope the Senator will withdraw his objection.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I now move to take up the conference report on the Freedmen's Bureau bill.

The PRESIDING OFFICER. The Senator from Massachusetts can call up the report, according to the usage of the Senate, without a motion.

Mr. HARLAN. I think not. He can make the report, but he has no right to call it up unless it be the will of the Senate that it be taken from the table. If it can be done by unanimous consent, so as not to displace this bill, I shall not object to it.

Mr. WILSON. Let us have a vote. Nobody objects to it.

The PRESIDING OFFICER. The report of the committee is before the Senate and will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) entitled "An act to establish a Bureau of Freedmen's Affairs," having met, after full and free conference have agreed to recommend to their respective Houses as follows: that the Senate recede from their amendment to the said bill, and the committee agree to the following as a substitute:

An act to establish a Bureau for the Relief of Freedmen and Refugees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a Commissioner, to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be \$3,000 per annum, and such number of clerks as may be assigned to him by the Secretary of War, not exceeding one chief clerk, two of the fourth class, two of the third class, three of the second class, and five of the first class. And the Commissioner and all persons appointed under this act shall, before entering upon their duties, take the oath of office prescribed in an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. And the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of \$50,000, and the latter in the sum of \$10,000, conditioned for the faithful discharge of their duties respectively, with securities to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party, upon any breach of the conditions thereof.

Sec. 2. And be it further enacted, That the Secretary of War may direct such issues of provisions, clothing, and fuel as he may deem needful for the immediate and temporary

shelter and supply of destitute and suffering refugees and freedmen, and their wives and children, under such rules and regulations as he may direct.

Sec. 3. And be it further enacted, That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the States, declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the Commissioner, aid in the execution of the provisions of this act; and he shall give a bond to the Treasurer of the United States in the sum of \$20,000, in the form and manner prescribed in the first section of this act. Each of said assistant commissioners shall receive an annual salary of \$2,500, in full compensation for all his services. And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. The Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings, with exhibits of the state of his accounts, to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress. And the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

Sec. 4. And be it further enacted, That the Commissioner, under the direction of the President, shall have authority to set apart for the use of loyal refugees and freedmen such tracts of land, within the insurrectionary States, as shall have been abandoned, or to which the United States shall have acquired title by confiscation, or sale, or otherwise. And to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than fifty acres of such land; and the person to whom it is so assigned shall be protected in the use and enjoyment of the land for the term of three years, at an annual rent not exceeding six per cent. upon the value of said land as it was appraised by the State authorities in the year 1860, for the purpose of taxation; and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the Commissioner may, by regulation, prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land, and receive such title thereto as the United States can convey, upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent as aforesaid.

Sec. 5. And be it further enacted, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

HENRY WILSON,  
JAMES HARLAN,  
W. T. WILLEY,  
*Managers on the part of the Senate,*  
ROBERT C. SCHENCK,  
GEORGE S. BOUTWELL,  
JAMES S. ROLLINS,  
*Managers on the part of the House.*

Mr. POWELL. I cannot agree to this report. This is a matter of very great importance, indeed, and I move that the report be laid upon the table to allow Senators time to examine it; and let us have a vote upon it when we have a full Senate. That bill will involve an expense to this Government of millions upon millions of dollars, and put these freedmen, as they are called, in a state of peonage. I do not think a more offensive bill has been presented to this Congress, or one that requires greater deliberation and more mature consideration. It will create a multitude of officeholders. It will send them upon these States as the locusts were sent upon Egypt, and they will be quite as destructive to the people there. In my judgment, this report ought to lie upon the table to enable Senators to look at it, and then, to-morrow morning, if the Senate be full and they choose to pass it, very well. I move that it be laid on the table.

The motion was not agreed to.

Mr. HOWARD. Mr. President, I cannot vote in favor of this report of the committee of conference. It places this whole subject in the control and under the superintendence of the Secretary of War. It becomes a sort of appendage to the War Department; and the government, if there shall be anything in the shape of government, established among the negro population, will be a sort of military government. For one, I am not in favor of extending that peculiar jurisdiction any further than is required by absolute necessity, and I do not think it is required by necessity to be extended among the blacks. The report is full of imperfections. It is wanting in specification of the powers and authorities given to the commissioners and other officers who are required to act under it. It is a loosely drawn statute—one which, in my opinion, is capable of great abuse, furnishing perpetual occasion for construction and interpretation; wanting in certainty and in precision in all points; and, sir, rather than vote for such a bill as that, anxious as I am to establish a good and salutary system over the freedmen, I prefer to have none at all. This is all I have to say on the subject.

Mr. POWELL. Mr. President; I regret that

we are forced to enter upon the discussion of this bill at this time of night with so thin a Senate. We have had no opportunity to look at it. I hope the Senator from Massachusetts will agree to let it lie over until we can look into it and be prepared to make our remarks upon it. I will agree not to discuss it at any length to-morrow.

Mr. WILSON. It has been forty-eight hours before the Senate.

Mr. POWELL. Does not the Senator know that every minute of our time has been employed; so much so that I did not know this report was printed until it was sent up to the desk to be read? The Senator from Massachusetts knows very well that we have had no time to look into this bill at all; and I doubt whether there is a Senator here, except those who were on the committee of conference, that has even read it over. It is certainly not proper to force a vote on such a bill as this at this time of the night, without giving us one moment to look at it. I can say to Senators who advocate this bill that if they pass it, the time will come very quickly when they will regret it. It will do the poor negro no good. It will do the white man that they attempt to relieve no good. But the result will be that you will send and fasten upon this country a swarm of office-holders who will eat up the substance of the people. Why, sir, it establishes a new bureau; and it places all the abandoned lands in all the rebel districts under the control of these persons, to be rented out and leased out for three years. These overseers and negro-drivers that you are to send down there will be your broken-down politicians and your dilapidated preachers, half theologians and half worldlings. Under this system the southern country will be very much like the carcass when the carrion crow and the buzzard come about. The men who are to go down there and become overseers and negro-drivers will be that description of men who are too lazy to work and just a little too honest to steal. That is the kind of crew that you propose to fasten upon these poor negroes.

Sir, I have more sympathy for the negro than those who desire the passage of this bill. If you make him a free man, and he is worthy of being a free man, allow him to go forth and attend to his own interests in his own way without putting up a set of overseers over him to rent him out, and lease and contract and supervise and superintend him. Why, sir, you had better put these negroes in the poor-house at once than do that. All these officers will have large salaries. The bill is accompanied with a great many details, and, as has been very justly and aptly remarked by the Senator from Michigan, it seems to be wanting in form; it seems to be wanting in particularity. The duties and responsibilities of these officers are not particularly or sharply enough defined. In every respect, from the hasty reading that I have heard at the Secretary's desk, it is imperfect. It is wrong in principle and will work badly in practice.

Sir, I am astonished that the honorable Senator from Massachusetts, who has preached so much for negro equality and negro intelligence, now that some of these negroes are turned loose by the policy of his party, thinks so poorly of them as to put masters over them to manage them. I am opposed to placing overseers over freedmen. It would be far better for those poor negroes if you allowed them to stay in a state of slavery than to treat them thus. The master has care for them; he has consideration for them. It is certainly to his interest to protect them so far as to preserve them and feed them and clothe them well. It is their labor that he desires. But, sir, all that care and thoughtfulness that will make the master watch closely over them will not animate these overseers and office-holders you send down there. They will give them that kind of care that the wolf gives the lamb.

In the name of God, sir, do you want one half the people of this country to become salaried officers? Do you wish a bureau for every purpose? Do you intend that every interest of the people of the country shall be managed by bureaus in your War Office and your other Departments? This is a step far in that direction. Here you give up the whole of these abandoned lands to these overseers, or commissioners, or by whatever name you call them. You send them down there, and say they may lease them out for three

years to these freedmen. I venture to say that if you pass this bill you will have a thousand of these office-holders hanging about here; when you get sick and tired of this scheme, telling you the negroes cannot be maintained at all unless you have this kind of system upon them. I entreat Senators not to enter upon this kind of legislation without giving time for consideration. The Senate is very thin to-night. Let this report lie on the table. Let us have time to look at it. Let us have time to consider it. Let us have time to vote intelligently upon it.

Mr. COWAN. With the consent of the Senator from Kentucky, I will move that the Senate do now adjourn.

Mr. SUMNER. I hope not.

Mr. COWAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Farwell, Harris, Morrill, Nesmith, Pomeroy, Powell, Trumbull, Van Winkle, and Willey—12.

NAYS—Messrs. Brown, Clark, Conness, Foster, Harlan, Howard, Lane of Kansas, McDougall, Morgan, Nye, Ramsey, Sprague, Stewart, Sumner, Wade, and Wilson—16.

ABSENT—Messrs. Carlile, Chandler, Collamer, Davis, Dixon, Doolittle, Foot, Grimes, Hale, Harding, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Wilkinson, and Wright—22.

So the Senate refused to adjourn.

Mr. CONNESS. I understand that the honorable Senator from Kentucky withdraws his objection to the motion I made that the hour of meeting to-morrow be ten o'clock.

Mr. POWELL. Yes, sir; I withdraw my objection to that motion.

The PRESIDING OFFICER. It can be entertained only by general consent. The Chair hears no objection. It is moved that when the Senate adjourns to-day it adjourn to meet to-morrow at ten o'clock.

The motion was agreed to.

Mr. CONNESS. I now move to postpone the pending subject—

Mr. SUMNER. I hope not.

Mr. CONNESS. We cannot get a vote to-night upon it, and we can do other business if this is laid aside; and I ask my friend to be reasonable in this matter.

Mr. SUMNER. I ask the Senator to be reasonable in this matter. [Laughter.]

Mr. CONNESS. I voted with my friend on this subject; but I am satisfied we cannot dispose of it to-night; and I therefore move that the further consideration of this report be postponed until to-morrow.

The PRESIDING OFFICER put the question, and declared that the motion was agreed to.

Mr. WILSON. If the understanding is that the report goes over informally, I shall not object.

Mr. GRIMES. The Chair has the faculty of deciding so promptly to-night that it is impossible for those who are dissatisfied with the decisions to rise in time to call for a division.

The PRESIDING OFFICER. If the Senator calls for a division, the Chair will consider the vote as not being taken.

Mr. GRIMES. I call for a division.

Mr. COWAN. It is too late. The Chair decided it, and no objection was made.

The PRESIDING OFFICER. It is not too late. If the Senator from Iowa objected, the Chair did not hear it; but Senators must be aware that at this stage of the session it is necessary to transact business as rapidly as possible. The question is on the motion of the Senator from California to postpone the further consideration of this report until to-morrow.

The question being taken, there were, on a division—yeas 13, nays 8; no quorum voting.

Mr. WILSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Anthony, Buckalew, Conness, Cowan, Harlan, Howard, Nesmith, Pomeroy, Powell, Stewart, Van Winkle, and Willey—12.

NAYS—Messrs. Clark, Foster, Grimes, Harris, Lane of Indiana, Lane of Kansas, McDougall, Morgan, Morrill, Nye, Ramsey, Sprague, Sumner, Trumbull, Wade, and Wilson—16.

ABSENT—Messrs. Brown, Carlile, Chandler, Collamer, Davis, Dixon, Doolittle, Farwell, Foot, Hale, Harding, Henderson, Hendricks, Howe, Johnson, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Wilkinson, and Wright—22.

So the motion was not agreed to.

The PRESIDING OFFICER. The question is on agreeing to the report of the committee of conference.

Mr. POWELL. I move that the Senate adjourn.

Mr. WILSON. If the Senator will withdraw that motion I will make a statement.

Mr. POWELL. I withdraw the motion.

Mr. WILSON. The Senator from Kentucky is very anxious to examine this report, and our friends here are very anxious to act on some other bills to-night. I wish to have as little time as possible taken in acting on this measure; I am very anxious to get a vote on it, and a vote to-night if possible; but if the Senator and those who act with him will agree to let us have a vote to-morrow I will let it go over.

Mr. SUMNER. Make it the special order for half past ten o'clock to-morrow morning.

Mr. CONNESS. Do not make it a special order.

Mr. SUMNER. Make it the special order at half past ten o'clock merely to take the vote.

Mr. CONNESS. We cannot afford to make special orders in view of the condition of the appropriation bills. We will do the best we can.

Mr. WILSON. I believe a conference report has a preference, so that it is in order to call it up at any time. I will let it go over, if the Senator from Kentucky wishes to examine it further, with the understanding that we take the vote to-morrow.

Mr. POWELL. I do wish to examine this report and the new bill it presents, and I want to have it voted upon in a full Senate. I will say to the Senator from Massachusetts for myself that I will make no factious opposition against it. I cannot covenant, however, for others; but for myself I will make no factious opposition, and I will advise none. That is as far as I can go. I wish to keep all covenants that I make, and I will do so, and I want to make none that I cannot keep.

Mr. GRIMES, (at half past eleven o'clock.) I move that the Senate adjourn.

Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 20; as follows:

YEAS—Messrs. Cowan, Farwell, Foster, Grimes, Lane of Indiana, Morrill, Powell, Trumbull, Van Winkle, and Willey—10.

NAYS—Messrs. Anthony, Brown, Buckalew, Clark, Conness, Doolittle, Harlan, Howard, Lane of Kansas, McDougall, Morgan, Nesmith, Nye, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Wade, and Wilson—20.

ABSENT—Messrs. Carlile, Chandler, Collamer, Davis, Dixon, Foot, Hale, Harding, Harris, Henderson, Hendricks, Howe, Johnson, Richardson, Riddle, Saulsbury, Sherman, Ten Eyck, Wilkinson, and Wright—20.

So the Senate refused to adjourn.

Mr. WILSON. Now, to accommodate the Senator from Kentucky, I move to postpone the further consideration of the report until to-morrow. I shall then call it up at eleven o'clock; he says he will not want to speak over ten minutes.

The motion was agreed to.

CONSOLIDATION OF INDIAN TRIBES.

Mr. CONNESS. I ask the indulgence of the Senate—

Mr. LANE, of Kansas. We can dispose of the bill before us while the Senator from California is calling up his bill.

Mr. CONNESS. If there will be no discussion on that bill I will yield to it.

Mr. LANE, of Kansas. Let us try.

Mr. CONNESS. I give way.

Mr. LANE, of Kansas. I call for the regular order of business.

The PRESIDING OFFICER. The bill (S. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory, is before the Senate, the question being on its passage.

Mr. CONNESS called for the yeas and nays; and they were ordered.

Mr. HOWARD. Mr. President, I wish to say a word on this bill before the vote is taken. This bill proposes a complete revolution in the principles which lie at the bottom of our Indian policy. Hitherto the United States have not assumed to possess political power over the Indian tribes; hitherto we have regarded the Indian tribes in most respects as independent nations. The Confederation treated each of the independent tribes as possessing political sovereignty. That principle was regarded and acted upon by the gov-



ernments of all the colonies even before the formation of the Confederation. It was acted upon by England in all her intercourse with the Indian tribes. And the principle of the tribal independence of the Indian nations is consecrated by a clause in the Constitution of the United States which declares that Congress shall have power to regulate commerce with foreign nations, among the several States, and with the Indian tribes—a plain recognition of the nationality; if you please, of each one of those Indian tribes; a nationality which is as distinct and independent of us as is the nationality of any foreign country, subject to this limitation and qualification; that as to the lands owned and occupied by the Indian tribes the United States claim and enforce the right of becoming the first purchasers—in that respect, and I believe in no other respect, treating the Indian tribes merely as their wards and friends.

Now, sir, what does this bill propose? It proposes to institute over the Indian tribes, or certain of them, a government established by the authority of Congress, enforced within certain geographical limits by the power of Congress, and enforced over the Indians individually and over their tribes as tribes. I deny that Congress have any power to exercise political authority over the Indian tribes as such. They are as independent of us in this respect as we are of them. This bill declares that "said government," that is the consolidated government, "shall not be permitted to interfere with or to affect in any way the rights of any Indian tribe at peace with the United States residing and being in said Territory, secured by treaty between the United States and such Indians, without the consent of said tribe or tribes, or to affect the authority of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the United States to make if this act had not taken effect." Let me not be misunderstood, Mr. President, on this subject, and let not Senators be misled as to the effect of this clause:

"That said government shall not be permitted to interfere with or affect in any way the rights of any Indian tribes at peace with the United States residing and being in said Territory, secured by treaty between the United States and such Indians, without the consent of said tribe or tribes."

Leaving all other rights, all other relations which are not affected by a treaty to be regulated by the authority of the United States and not by the authority of the tribes as has always existed heretofore.

Again, sir, this bill, after providing for the appointment of a Governor and secretary of the Territory by the President of the United States, proceeds to declare that the affairs of the Indians within the geographical limits mentioned shall be regulated by a Legislative Council, and that Legislative Council to be composed of Indians elected, and if they cannot be elected for certain reasons stated in the bill, to be appointed by the Governor of the Territory.

Mr. HARLAN. The Legislative Council may be elected by the tribes; but if for any cause they shall not elect the chiefs, to be taken in the order of their authority in the tribe, are to be members of the Council.

Mr. HOWARD. I think I am not mistaken as to the clause to which I refer; but it is not material; I do not mean to misrepresent the bill, nor have I any doubt of the pure intentions of the very competent Indian Committee of this body who reported the bill. I do not rise to find any fault with them, or censure them in any degree, or impute anything but the best intentions to them; but, sir, the bill proceeds:

"That the legislative power of the Territory shall extend to all rightful subjects and matters pertaining to the intercourse of the Indian tribes in said Territory, and the administration of internal justice and the punishment of crimes, and the civilization and improvement of the people, consistent with the Constitution and laws of the United States."

Now, sir, I ask the honorable committee who reported this bill where in the Constitution they find authority given to the Congress of the United States to enact penal laws for the punishment of Indians, members of Indian tribes? Of course none whatever. That principle has been decided often by the courts.

Mr. HARLAN. With the Senator's consent, I will explain. It is not intended that Congress

shall pass laws on that subject, but that the Indians themselves shall do it; and the bill proceeds in another clause to declare that the rules and regulations of the Indian tribes themselves shall be recognized.

Mr. BUCKALEW. Has the Governor a veto?

Mr. HARLAN. He has a veto on the bills the Council pass, to prevent them making any law which would be in conflict with the civil policy of this Government, and I will say to the Senate that it is not new so far as that feature is concerned. We have heretofore provided repeatedly for the consolidation of Indian tribes by their consent; this only provides for it with their consent.

Mr. HOWARD. There is the distinction: this bill provides for the coercive consolidation of these Indian tribes.

Mr. HARLAN. Not at all.

Mr. HOWARD. Yes. The consent of the Indians is not to be given to the appointment of the Governor, is it? Nor to the appointment of the secretary, is it? The consent of the Indians has nothing to do with the passage of the bill here. We send a Governor among them, and a secretary of the Territory. This is the excuse upon which this new Indian government is passed.

Mr. HARLAN. If it is not annoying to the Senator to be interrupted by me, I think we shall get to a proper understanding in that way. The Governor is superintendent of Indian affairs; we have him there now exercising the same authority substantially that this bill provides for.

Mr. HOWARD. Undoubtedly; but let me proceed with my argument. By what authority is it that justice is administered or crime punished, in the language of the bill, in this Indian Territory? The answer plainly is the authority of the United States. The whole proceeding takes place in pursuance of act of Congress, under the authority of Congress, and without that act of Congress it would not take place. Now, the point which I make is that Congress has no power to interfere in this matter; it has no jurisdiction whatever.

Mr. HARLAN. Allow me to explain. This is being done now constantly in an irregular mode; the Indian agents do this now. If an Indian steals of another Indian, he is arrested by authority of the Indian agent, and he decides as between the parties. This bill proposes that it shall be done by a court regularly constituted, and not by an Indian agent, who is frequently appointed without reference to his judicial capacity.

Mr. HOWARD. It can hardly be said that this legal proceeding depends entirely on the will of the Indian, when in the same bill it is provided that any judgment rendered by that court may be taken by appeal to the Supreme Court of the United States. I take it that is a tolerably accurate test as to the source of the power which is exercised in this case.

It seems to me to be an attempt—for I wish to consume no time on the subject—to extend over the Indian tribes a jurisdiction which is entirely a stranger to them, which is unwelcome to them, inconsistent with their habits, and I fear destructive of their nationality, destructive of their interests and of their habits. Sir, I think we have no authority to intermeddle with their affairs in this way. We treat with them as independent nations; we have recognized them as such a thousand times; what right have we, then, to undertake to treat them as subject to our laws, or to subject them to a jurisdiction which emanates exclusively from us? It is a novelty, Mr. President; it has not been before the country at all. The bill was laid on our tables on the 20th of last month. I really have not had an opportunity to read the bill through even at this moment. I think it will take the whole country by surprise. I think instead of promoting the interests of the Indian tribes it will be destructive of those interests, and I am not prepared at this period of the session to embark in what is to me so dangerous a novelty as this consolidation Indian bill.

Mr. FOSTER. Mr. President, I was very much struck with the remark of the Senator from California [Mr. CONNESS] as to the length of the time which I had occupied in my remarks upon this bill. It is amazing how much longer a speech seems to those who hear it than it does to him who makes it. While the Senator from California, listening to my remarks, was under

the impression that I had been speaking an hour, I thought I had been speaking much less, and inasmuch as I am enabled to quote from the clock, I can show just how long I was speaking, and how much he was mistaken in this case. As a general rule I admit, having had some experience in this matter, that those who listen judge more accurately as to the time occupied than they who speak. I began to speak at twenty minutes past ten. I was interrupted occasionally, and the Senator from California was making his remarks as to the fact that the clock had not then quite got round to the hour; it was five minutes before eleven; so that I was on the floor from twenty minutes past ten until five minutes before eleven.

Mr. NESMITH. The Senator will permit me to say that I think I can decide that question, for I am a disinterested judge, because I did not listen to either of them. [Laughter.] I think the Senator from Connecticut spoke the longest. [Laughter.]

Mr. FOSTER. I am not comparing the length of time, I am only submitting to the Senator from California that he was mistaken. I was upon the floor just thirty-five minutes, during which time the Senator from California, the Senator from Iowa, the Senator from Wisconsin, the Senator from Kansas, and several others whom I have forgotten, occupied their two, three, four, or five minutes apiece, leaving me only about twenty minutes, which to the Senator from California seemed an hour. Now, I confess to him in all candor that I have frequently been as much mistaken when he has been speaking, and when he has not spoken more than twenty or twenty-five minutes it has seemed to me an hour at the very least. I presume it is the experience of all of us who listen that those who speak seem to speak about twice as long as they really do, and probably four times as long as they themselves think they do. But, sir, this is by the way. It is aside from the question.

I agree entirely with what the honorable Senator from Michigan has said in regard to the power of Congress to legislate over these Indian tribes. We have no power whatever. We have no more right to legislate for these Indians than we have to legislate for the people of Mexico; or of any European nation; and there is a kind of meanness in undertaking to exercise power over those who cannot resist which the United States ought not to be guilty of. If we want to try our strength in legislation or otherwise let us choose a Power, I will not say equal to us, for those Powers are rare, but let us choose one that has some ability to offer resistance. Do not let us fasten upon a poor Indian tribe who are subject to us and who are powerless in our hands.

Mr. President, as to the provision in this bill that no legislation of this sort and no power which this bill contemplates shall be exercised over these people without their consent, it is too transparent a humbug to receive any consideration here. How is this tribe to give consent? We appoint these officers and make this a Territory of the United States, with the Indians' consent. Who is to ascertain whether they give their consent or not, and how is this consent to be obtained? Does the bill intimate the manner that they shall give their consent?

Mr. LANE, of Kansas. Expressly by treaty stipulations.

Mr. FOSTER. With whom shall that treaty be made?

Mr. LANE, of Kansas. With the tribe.

Mr. FOSTER. With the tribe. Who is the chief of that tribe?

Mr. LANE, of Kansas. Colonel Browning is the acting chief.

Mr. FOSTER. As I understand, he is not the chief of the tribe, but another man is chief.

Mr. LANE, of Kansas. Let me correct the Senator. The Cherokees elect a first chief and a second chief, and require them to take an oath. The election has taken place since John Ross has been in Philadelphia. He must be there to take oath. Browning is there and has taken the oath. Ross has not been there, and will not go there in my opinion; and the Senator is speaking in behalf of a man who is rejected by his people.

Mr. FOSTER. It happens very much as I anticipated. The man who will give his consent

to this legislation will be the organ of the tribe, and the man who refuses his consent will be the cast-off man of the tribe, and that will be the way the consent will be obtained.

I repeat it, the men who refuse consent will be the men without authority. They have not taken the oath, they are not in communion with the tribe! The men who do give the consent will be the men of authority, and when they give their consent, then the authority and jurisdiction under this territorial bill is complete and may be exercised; and, Mr. President, I will agree, with a barrel of whisky, to procure the consent of that tribe. Senators around me suggest it would take two barrels. I do not know in regard to the precise effect of one or two barrels. As it will be managed, it seems to me that this whole matter of consent is an outrage; it will be obtained to a certainty, and there will be no power on earth for these Cherokees to say "no" to this treaty. Those who say no will be disloyal, will be unfaithful, and any chief who attempts to stand in the way of this legislation will be a rebel! It is said that a portion of the tribe is disloyal. It will be easy to make this charge against any man who does not admit the propriety of this legislation! Make a charge of disloyalty against him and that he does not represent the tribe because he has not complied with their requirements, and there will be no difficulty in getting consent!

Mr. President, if there is any honesty in this provision stipulating that consent is to be obtained, there is no need to pass this act until the next session of Congress. Make the treaty between this and the next Congress; and after the treaty is made authorizing legislation of this description it will be time to initiate it. To initiate the legislation prior to making the treaty is what we would never do with a nation that had any power to resist. But now, over these Indians, we make this stipulation, having the power in our own hands to compel their consent, with the understanding that they shall consent, and whether they do or not, this legislation is to take effect.

Mr. President, I am not going to take the time of the Senate longer on this bill. I simply ask for the yeas and nays on its passage.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. LANE, of Kansas. I desire to say one word only. My anxiety for the passage of this bill this session grows out of the fact that this Territory, which is utterly disorganized, bounds upon our State, and our State feels deep interest in the passage of the bill and the organization of the Territory immediately.

Mr. McDUGALL. Mr. President, I look upon this legislation, as asked for by the Senator from Kansas now, as being an outrage on one of the best bodies of Indian tribes there is or has been in our country. It is true they are now disorganized, destroyed; but we have no right to compel them or compress them as is proposed, and that kind of outrage, although it may be not important to us as a Government, is an outrage on humanity.

The question being taken by yeas and nays, resulted—yeas 17, nays 9; as follows:

YEAS—Messrs. Brown, Buckalew, Conness, Cowan, Doolittle, Farwell, Harlan, Lane of Indiana, Lane of Kansas, Nesmith, Nye, Pomeroy, Ramsey, Sprague, Stewart, Sumner, and Van Winkle—17.

NAYS—Messrs. Anthony, Foster, Henderson, Howard, McDougall, Morgan, Powell, Willey, and Wilson—9.

ABSENT—Messrs. Carlile, Chandler, Clark, Collamer, Davis, Dixon, Foot, Grimes, Hale, Harding, Harris, Hendricks, Howe, Johnson, Morrill, Richardson, Riddle, Sautsbury, Sherman, Ten Eyck, Trumbull, Wade, Wilkinson, and Wright—24.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 390) relating to the postal laws.

The message also announced that the House disagreed to the amendments of the Senate to the bill of the House (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, asked a conference on the disagree-

ing votes of the two Houses thereon, and had appointed Mr. JUSTIN S. MORRILL of Vermont, Mr. SAMUEL HOOPER of Massachusetts, and Mr. GEORGE H. PENDLETON of Ohio, managers at the same on the part of the House.

#### INTERNAL REVENUE.

The Senate proceeded to consider its amendments to the bill (H. R. No. 744) disagreed to by the House of Representatives, and

On motion by Mr. DOOLITTLE, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conference on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. SHERMAN, Mr. COWAN, and Mr. VAN WINKLE.

#### SAN JOSE MISSION LANDS.

Mr. CONNESS. I move to take up House bill No. 775.

The motion was agreed to; and the bill (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José, in the State of California, was considered as in Committee of the Whole.

The PRESIDING OFFICER. The bill has been reported from the Committee on Public Lands, with an amendment, to strike out all after the enacting clause, and insert a substitute.

Mr. HARLAN. I do not think the amendment need be read; but I will state the substance of the bill and the amendment. I shall not even take up the time of the Senate by calling for the yeas and nays. The bill as it comes from the House of Representatives provides that the settlers on a certain private land claim in California shall have the right to enter at \$1 25 an acre the lands which they purchased, and which they have cultivated and improved, according to the line of a survey they themselves have agreed on. I believe the survey was prosecuted by a deputy surveyor of the United States. Of course it was informal, but I have no doubt it was correct. The amendment of the committee proposes a general law to dispose of all private land claims that shall have been rejected by the judicial authorities, and provides that the occupant may hold one hundred and sixty acres for his improvements; that the residue shall be appraised; that the improvements and the land shall be appraised separately; that the land shall be put up to the highest bidder; and that if any other than the original owner of the improvements shall bid it off he shall pay the owner of the improvements their appraised value. I shall not ask for the yeas and nays upon it; but I think the amendment proposed by the Committee on Public Lands is right in principle.

Mr. CONNESS. I wish to say now, in response, that the Senate may understand the question, that the statement of the Senator from Iowa is correct in regard to the original position of this land; but these parties settled upon it, and have been there for ten or fifteen years past; their improvements do not consist alone of houses and fences, but of orchards, of vineyards, of the most advanced improvements in the State of California; and to disturb the lines of the survey would ruin and destroy their property. They believed that they bought a good title, and they paid an extravagant price for that title. Now they are willing to pay the Government again. The purchase of this land from the Government at \$1 25 an acre will net between forty and fifty thousand dollars at once to the Treasury. The passage of a general law such as is suggested by the Senator from Iowa, while it might do where everything had to be begun *de novo* upon a ranche, as we term it, would not do at all, and would be utterly destructive of the interests of the settlers, so far as these mission lands are concerned. It applies to the celebrated Santa Clara valley, the old mission of San José, one of the most advanced communities in California. The original bill has been passed by the House of Representatives, and I hope the substitute will not be adopted. I am willing that the vote shall be taken.

Mr. FOSTER. I suppose there is not a quorum here. I understand from the chairman of the Committee on Public Lands that an amendment is reported by that committee to this bill which is not acceptable to the Senator from California, and

that a vote is to be taken either upon the amendment or upon the bill, and it cannot be done by yeas and nays, because that vote would disclose the fact that there is not a quorum present.

Mr. HARLAN. I did not say I would ask for the yeas and nays.

Mr. FOSTER. Of course, I understand the honorable Senator did not. I am simply asking whether, under the circumstances, it is right and proper to go on and legislate.

Mr. CONNESS. I apprehend that there is a quorum here.

Mr. FOSTER. At this hour of the night it is certainly improper, with so thin a Senate, to consider matters about which there is dispute.

Mr. CONNESS. I believe I may state that the chairman of the committee is not strenuous in this case.

Mr. STEWART. And the committee is divided.

Mr. FOSTER. Whether the chairman be strenuous or not, I suppose, is not the question. It may be that the man who is in the right is not as strenuous as he who is in the wrong. It sometimes happens that a man who is in the wrong is the more strenuous, and that because he is in the wrong. I submit, simply as a matter on which I think we ought to deliberate, whether it is best at this hour of the night, with a bare quorum, if, indeed, we have one, to legislate about a disputable matter affecting titles to land which is said to be among the most valuable in our Golden State.

Mr. CONNESS. Made so by these people.

Mr. FOSTER. I am not doubting that they have very important rights, but I submit whether we may not be voting away titles to property of very great value without really knowing one thing about the whole matter.

Mr. CONNESS. I will not reply to the Senator, but leave the question to the Senate.

Mr. HOWARD. "Sufficient unto the day is the evil thereof." Let us take a vote.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the amendment, the reading of which has been dispensed with by unanimous consent.

The amendment was rejected.

Mr. FOSTER. Now, as I understand it, this bill comes from the Committee on Public Lands, recommended by them with an amendment. We refuse, without hearing the amendment or the bill read, to accept the amendment, and now the question is on the bill.

Mr. CONNESS. I am willing to have the bill read. I think when the Senator hears it he will determine how just it is.

Mr. FOSTER. I do not ask to have it read. I do not interfere with the matter at all. I only suggest that this strikes me as being peculiar legislation.

Mr. CONNESS. Do we not know that?

Mr. NYE. The precedent was last year adopted here in this body. They gave to one man who was similarly situated about nine thousand acres, and I take it for granted the same rule that was adopted by a full Senate last year should be adopted now. It is a mere matter of justice.

Mr. NESMITH. As I understand this bill, there can possibly be no person's right interfered with. This bill is accompanied by a map which shows the amount of ground that each man claims, and there are no outside claimants, no litigants, no parties who profess to have any rights that can be interfered with if this bill passes.

Mr. CONNESS. No, sir; the land is in the peaceful possession of these people.

Mr. NESMITH. It is ground in peaceful possession of the occupants; they have all agreed among themselves as to the lines, and all they ask is the privilege of paying the Government \$1 25 an acre. It strikes me as a very simple proposition, and one which cannot compromise the rights of any other parties.

Mr. McDUGALL. The facts are substantially as stated by my friend from Oregon. There is no one to be damaged. Prices have been paid for this property, very large prices, by the parties in possession, and it is nothing more than simple justice to allow them to acquire title under the United States.

The bill was reported to the Senate without amendment, and ordered to a third reading. It was read the third time, and passed.

## POSTAL LAWS.

The Senate proceeded to consider the message of the House of Representatives, informing the Senate that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 390) relating to the postal laws; which report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 390) relating to the postal laws, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, to wit:

First, that the House recede from their amendment striking out the first section of said bill, and agree to the same amended to read as follows; to wit:

"That all domestic letters, except letters lawfully franked, and duly certified letters of soldiers and mariners in the service of the United States, which are deposited for mailing in any post office of the United States, on which the postage is unpaid, shall be sent by the postmaster to the dead-letter office in Washington; and all letters deposited for mailing, paid only in part, shall be forwarded to destination charged with the unpaid rate, to be collected on delivery."

Second, that the House recede from their third, fourth, and fifth amendments.

J. COLLAMER,  
S. C. POMEROY,  
*Managers on the part of the Senate.*  
C. COLE,  
J. BROOKS,  
J. M. ASHLEY,  
*Managers on the part of the House.*

The report was concurred in.

## FREEDMEN'S SAVINGS BANK.

Mr. SUMNER. I now move to proceed to the consideration of Senate bill No. 443.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 443) to incorporate the Freedmen's Savings and Trust Company.

Mr. SUMNER. The bill need not be read, only the amendment, which is a substitute. The names in the first section need not be read. Begin at the eighteenth line, with the words "are constituted a body corporate."

Mr. BROWN. I move to dispense with the reading. Let the Senator state whether it is an ordinary savings bank charter.

Mr. SUMNER. It is an ordinary savings bank charter, and its character is indicated in its title, to incorporate the Freedmen's Savings and Trust Company.

Mr. POWELL. No extraordinary privileges?  
Mr. SUMNER. No extraordinary privileges, and its object is a simple charity.

Mr. BUCKALEW. I have read the bill; it is in proper form, and the only question is whether we ought to establish such an institution outside of the District of Columbia.

Mr. SUMNER. The Senator from Pennsylvania was a member of the committee that considered it, and it was reported certainly with his consent.

Mr. BUCKALEW. The form of it is unobjectionable.

The PRESIDING OFFICER. The reading can be dispensed with by unanimous consent. Is there objection?

Mr. McDOUGALL. I object.

Mr. HOWARD. I hope my friend from California will withdraw his objection.

Mr. McDOUGALL. I object to the whole thing.

The Secretary proceeded to read the amendment reported as a substitute for the bill, but before concluding the reading,

Mr. McDOUGALL. I withdraw the call.

The further reading was dispensed with.

Mr. POWELL. I find by the reading of that bill that it is a roving kind of commission for these persons to establish a savings bank in any part of the United States. I think the bill is wholly unconstitutional. I do not believe Congress has any right to establish a savings bank outside of the District of Columbia.

Mr. SUMNER. Very well, let it be limited to the District. Let the amendment be made by inserting after the words "body-corporate" in the nineteenth line of the first section the words "in the District of Columbia." That is precisely the amendment which was made last night in the bill founding the asylum.

The amendment to the amendment was agreed to.

Mr. SUMNER. In section fourteen, I move

to insert at the close of the section the words "except the president and vice president." It is supposed these gentlemen may be in active duty, and that therefore the trustees should not be prevented from giving them compensation.

The amendment to the amendment was agreed to.

Mr. SUMNER. Then in the first line of the next section I propose to insert the words "president and vice president," so as to read "that the president and vice president, the subordinate agents and officers of the corporation, shall respectively give security."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and it was read the third time, and passed. On motion of Mr. POWELL, its title was amended by the addition of the words "in the District of Columbia."

## PORTAGE LAKE SHIP-CANAL.

Mr. HOWARD. I move to take up House bill No. 745, granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior.

The question was put, and it was declared that the motion was agreed to.

Mr. FOSTER. I ask if that bill has been referred to any committee of this body?

Mr. HOWARD. It has not been referred. It is a bill which has been passed by the House of Representatives, and I do not think there is any necessity for referring it. I will say that a similar bill, one almost identical with this, has been referred to the Committee on Public Lands of this body and reported back favorably. The difference between the two bills is very trifling, consisting chiefly in a few phrases.

The PRESIDING OFFICER. The engrossed copy of this bill is not in possession of the Senate.

Mr. BROWN. I object to its consideration if it has not been to a committee.

The PRESIDING OFFICER. The bill having been taken up on motion, one objection cannot prevent its consideration.

Mr. BROWN. It cannot be read more than once on the same day if objection be made.

The PRESIDING OFFICER. The bill cannot be read a third time to-day if objection be made.

Mr. HOWARD. I hope the Senator from Missouri will not take any such advantage as this. I will state to him that the bill simply makes an appropriation of land to enable the State of Michigan to make a ship-canal a distance of about a mile and a half on Lake Superior, connecting two navigable waters. It will save a navigation of more than a hundred miles from the Sault Ste. Marie to the head of Lake Superior, and of course more than a hundred miles on the return, saving in a single voyage to the navigator more than two hundred miles of lake navigation. It will cost the Government nothing except a few sections of land to the mile. The whole work is to be carried on by the State of Michigan. The land is to be granted of course to the State of Michigan, to be applied by that State for that purpose.

The PRESIDING OFFICER. This bill having been read twice to-day, it cannot receive its third reading without unanimous consent. The Senator from Missouri is understood to object.

Mr. BROWN. I do not wish to take any unfair advantage of the Senator from Michigan in regard to this bill; but I understand it has not received the scrutiny of the committee of this body which is invested with the examination of such matters. I have no reason to suppose that it is in conformity with their judgment or their action, and unless some member of that committee who has examined the bill will undertake to satisfy the Senate on the subject, I shall object to it. If they will give any satisfactory explanation of it I do not desire to persist in the objection.

Mr. HARLAN. It is impossible for the Committee on Public Lands to know what this bill is, as it is in manuscript, as I understand, not having been printed; but what is understood to be substantially the same bill has been before the committee, and the committee approve of the object and have reported it. If the bill is on the Secretary's desk we can hear it read, and then

decide whether it conforms to the general principles observed in similar cases or not.

Mr. HOWARD. It was there this afternoon. I saw the engrossed bill.

Mr. BROWN. I do not wish to interpose an objection myself if other Senators are satisfied with the character of the bill.

The PRESIDING OFFICER. (Mr. FOSTER.) The bill is not here, the Chair understands.

## WYANDOTTE MISSION CHURCH.

Mr. POMEROY. I have a bill which I should like to have passed by unanimous consent. It was ruled out as an amendment to the Indian appropriation bill on a technicality, and unless it is passed now by unanimous consent it cannot be passed at all. There was no objection to it; the chairman of the Committee on Finance did not object to the measure, but only to putting it upon the appropriation bill.

Mr. HOWARD. If my bill does not lose its place I have no objection to receiving that.

Mr. POMEROY. This bill is to pay for a church destroyed belonging to the Wyandotte Indians.

There being no objection, leave was given to introduce a bill (S. No. 485) for the relief of trustees of the missionary church of Wyandotte Indians; and it was read three times and passed. In order to reimburse Jacob Whitecrow and others, trustees or stewards of the Wyandotte mission of the Kansas conference of the Methodist Episcopal church of the Wyandotte nation of Indians in Kansas, for the destruction of their church building, parsonage, and library, the sum of \$6,000 is to be appropriated to be applied in rebuilding the buildings and improvements and improving the parsonage.

Mr. LANE, of Indiana. I think it is important to have a short executive session of five minutes to read and refer the messages. I move that the Senate proceed to the consideration of executive business.

Mr. HOWARD. I beg to say that there is a perfect copy of the bill which I called up now on the Clerk's desk as it passed the House of Representatives. It seems that the engrossed bill has been taken by the printer from the Clerk's table and carried to the printing office without authority, because there was no order for the printing of the bill.

Mr. POMEROY. I do not think we had better try to pass a bill which is not in the possession of the Senate. If it was in the possession of the Senate, I would not object. I move an executive session.

Mr. HOWARD. I hope we shall pass this bill.

Mr. POMEROY. If it is in the possession of the Senate I withdraw the motion.

The PRESIDING OFFICER. The Chair understands there is no bill before the Senate from the House. The Senator from Michigan can introduce a bill if he wishes to do so and the Senate consent.

Mr. POWELL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, March 2, 1865.

The House met at eleven o'clock a. m.

The Journal of yesterday was read and approved.

## AMENDMENT OF THE RULES.

Mr. COX. I rise to a privileged question. I call up and withdraw the motion to reconsider the vote by which the report of the select committee on the rules of the House of Representatives was ordered to be printed, in order that it may be brought before the House for action. I do not think that it will detain the House long, and may be disposed of now as well as at any other time. I ask the Clerk to read the report.

The Clerk read, as follows:

The select committee on the rules of the House of Representatives report the following resolutions:

Resolved, That rule 74 be amended so as to add to the standing committees to be appointed at the commencement of each Congress, and to consist of nine members each—Committee on Appropriations.

Committee on Banking and Currency.



Committee on the Pacific Railroad.

Said amendment to take effect from and after the close of the present Congress.

Resolved, That the following be added to the standing rules of the House from and after the close of the present Congress:

Rule — It shall be the duty of the Committee on the Pacific Railroad to take into consideration all such petitions and matters or things relative to railroads or telegraph lines between the Mississippi valley and the Pacific coast as shall be presented or shall come in question, and be referred to them by the House, and to report their opinion thereon, together with such propositions relative thereto as to them shall seem expedient.

Rule — It shall be the duty of the Committee of Ways and Means to take into consideration all reports of the Treasury Department, and such other propositions relative to raising revenue and providing ways and means for the support of the Government as shall be presented or shall come in question and be referred to them by the House, and to report their opinion thereon by bill or otherwise as to them shall seem expedient.

Rule — It shall be the duty of the Committee on Banking and Bank Currency to take into consideration all propositions relative to banking and the currency as shall be presented or shall come in question and be referred to them by the House, and to report thereon by bill or otherwise.

Resolved, That from and after the close of the present Congress rule 76 be amended as follows: strike out all after the word "consideration," in line two, to and including the word "expenditure," in line six, and insert in lieu thereof, "all executive communications, and such other propositions in regard to carrying on the several Departments of the Government as may be presented and referred to them by the House."

Strike out in line one the words "Ways and Means," where they occur, and insert in lieu thereof the words "on appropriations."

Resolved, That from and after the close of the present Congress rule 77 be amended by striking out the words "of Ways and Means," and inserting in lieu thereof the words "on appropriations."

Mr. COX. I have nothing to say in relation to the Committee on the Pacific Railroad, for I think that will recommend itself to the House at once.

In relation to the division of the Committee of Ways and Means, I desire to show the importance and immensity of the labor imposed upon that committee, with a view to a division of the labor. It is not proposed, as seems to be inferred by some gentlemen, to strike out the Committee of Ways and Means, although it might appear so on a superficial reading. We still preserve the Committee of Ways and Means, *eo nomine*; and if the rules are properly read with the amendments it will so appear.

We divide the Ways and Means into three committees. The Ways and Means are still preserved, and their future duty is to provide "ways and means," that is, raise revenue for carrying on the Government. This includes of course the tariff, the internal revenue, the loan bills, legal-tender notes, and all other matters connected with supporting the credit and raising money. The amendments confine the duty of the Committee of Ways and Means simply to ways and means. That was their original and proper sphere.

The proposed Committee on Appropriations have, under this amendment, the examination of the estimates of the Departments, and exclusively the consideration of all appropriations. I need not dilate upon the importance of having hereafter one committee to investigate with nicest heed all matters connected with economy. The tendency of the time is to extravagance in private and in public. We require of this new committee their whole labor in the restraint of extravagant and illegal appropriations.

As to the Committee on National Banks and Currency, that is not necessarily connected with the other committees. They have a different province. They have in charge all the bank interests of the country. These interests are so connected by the relations of exchanges and currency with bank issues and banking capital in the States that it is as much as one committee can well do to study these questions properly. It is utterly impossible in the present condition of our finances that one committee can do all this labor and do it as well as these interests demand. The Committee on rules do not by this measure mean to cast any reflection upon the Committee of Ways and Means. They have labored faithfully, and no set of men, however enduring their patience, studious their habits, or gigantic their mental grasp, when overburdened with the labor incident to the existing monetary condition of the country growing out of this unparalleled civil strife, can do this labor as well as the people have

a right to expect of their Representatives. Therefore we propose to divide the labor of the Committee of Ways and Means. We would not, and could not if we would, dim the luster of their names, or depreciate the value of their services. I think that they have been well selected by the Speaker. They do not need any compliment from me. It is hardly necessary to mention them in order that the House may recall their conspicuous ability, their indefatigable industry, their abundant information, their legal talents, and their knowledge of finance. These qualities have all been brought into requisition, and well worked, perhaps overworked, in this Congress. The gentleman from Vermont, [Mr. MORRILL,] who has had charge, for the most part, of the tariff bills, whatever may be said of his economic system, is a statesman whose information is coextensive with all the diversified interests of the country. He would perhaps, in a future Congress, take charge of one of these new committees.

The gentleman from Massachusetts, [Mr. HOOPER,] who has had great familiarity with the banking interests of his own State, would perhaps have charge of the Committee on Banks and Currency. The distinguished chairman of the Committee of Ways and Means [Mr. STEVENS] would, doubtless have charge of that committee which has reference to revenue, loans, and legal tender. All the members of the committee here labored diligently.

A MEMBER. You are omitting the other members of the Ways and Means.

Mr. COX. By omitting the other members of the committee I do not mean that they are not also entitled to the thanks of the House. My courteous colleague in front of me, [Mr. PENDLETON,] so well representing the interests of the West, in whose Queen city he lives; the gentleman from Missouri, [Mr. BLOW,] as elegant in manner as he is eloquent in speech, representing another great western city; and still further West, the urbane and accomplished member from Iowa, [Mr. KASSON,] the sterling, practical statesman of the old school from Kentucky, [Mr. MALLORY,] and the courtly gentleman [Mr. PRYOR] who represents the Empire State with its immense interests on land and sea, are all embodied in the distinguished head of the committee, [Mr. STEVENS,] who combines with great decision of character the abilities of all, without losing his own conspicuous individuality.

Each member of the Ways and Means has his specialty—each Olympian; and as Spenser describes the gods,

"Each easy to be known by his own visdomie,  
But Jove above them all by his great looks and power imperial."

And yet, sir, powerful as the committee is constituted, even their powers of endurance, physical and mental, are not adequate to the great duty which has been imposed by the emergencies of this historic time. It is an old adage, that "who-so wanteth rest will also want of might;" and even an Olympian would faint and flag if the burden of Atlas is not relieved by the broad shoulders of Hercules.

I might give here a detailed statement of the amount of business thrown upon that committee since the commencement of the war. But I prefer to append it to my remarks. Whereas before the war we scarcely expended more than \$70,000,000 a year, now, during the five sessions of the last two Congresses, there has been an average appropriation of at least \$800,000,000 per session. The statement which I hold in my hand shows that during the first and extra session of the Thirty-Seventh Congress there came appropriation bills from the Committee of Ways and Means amounting to \$226,691,457.99. I say nothing now of the loan and other fiscal bills emanating from that committee. During the second session of that Congress bills were reported to the amount of \$883,029,987.14; and during the last session of that Congress \$972,827,829.90. During the first session of the Thirty-Eighth Congress appropriation bills were reported amounting to \$788,124,021.94, and during the present session I suppose it would be a fair estimate to take the appropriations of the last session of the Thirty-Seventh Congress, say \$900,000,000!

These are appropriation bills alone. They are stupendous, and but poorly symbolize the im-

mense labors which the internal revenue, tariff, and loan bills imposed on the committee. Neither do they represent the actual appropriations; for the House has frequently increased these bills enormously. The aggregate of these appropriation bills reaches the astounding amount of \$3,770,673,296.97, or nearly four thousand million dollars! For the Army alone the appropriation bills during the past five sessions are over three thousand millions! And this business of appropriations is perhaps not one half of the labor of the committee. There are various and important matters upon which they act, but upon which they never report. Their duties comprehend all the varied interests of the United States; every element and branch of industry, and every dollar or dime of value. They are connected with taxation, tariffs, banking, loan bills, and ramify to every fiber of the body-politic. All the springs of wealth and labor are more or less influenced by the action of this committee. Their responsibility is immense, and their control almost imperial over the necessities, comforts, homes, hopes, and destinies of the people. All the values of the United States, which in the census of 1860 (page 194) amount to nearly seventeen thousand million dollars, or, to be exact, \$16,159,616,068, are affected by the action of that committee, even before their action is approved by the House. Those values fluctuate whenever the head of the Ways and Means rises in his place and proposes a measure. The price of every article we use trembles when he proposes a gold bill, or a loan bill, or any bill to tax directly or indirectly. In ten years these values increased at the rate of more than one hundred and twenty-six per cent., adding in one decade \$8,925,481,011 to our real and personal property. Since this war began these values have been drawn upon to give credit and cash to the Government, and so drawn upon that one half of the increase and one fourth of all of these values are already practically under mortgage. Can one committee properly pass upon the immense interests thus bound up, and reaching down to other generations? Not only every rood of land has now to sustain its living occupant, but it has to sustain soldiers in the field and sailors on the sea, who are not producing, but destroying, what is wrought from the soil. Nay, more, it has to pay its tribute to the creditor of the nation, not only in the present, but to the inheritor of our national bonds. The laborer who works now his ten hours per diem must work four hours more for the creditor of the nation. Thus is our nation being overburdened by the legislation of to-day; burdened for the present and for the future. Is it not best to give every facility for the crystallization of the wisest financial policy? And does not this measure assume greater importance because of its far-reaching effects upon our finances and our future? Without discussing the wisdom of our present system of finance, is it not important, in this day when these debts are growing, to have the system as nearly safe and just as possible? Have we not already, like other nations, instead of providing for the principal, provided only for the interest of these great debts? What follows? That money borrowed, being obtained without sweat or sacrifice, is spent lightly, without economy or care. Dr. Arnold well says, that "a revenue raised at the expense of posterity is sure to be squandered wastefully. Waste begets want, and the sums raised by loans will commonly be large." If that be true, is it not a cogent reason for the separation of the old committee which borrows from the committee which pays? One will be a veto on the other; and something of economy may be gained, and something of extravagance restrained.

Mr. Speaker, I do not propose to discuss this change of our rules in its details. But is there not a necessity for some change? Is it not wise to divide such labors as have been described? Who wishes to overwork any set of gentlemen in this or any future Congress? There are gentlemen who will be in the next Congress when this change shall take effect, who will be glad to share with the old committee the solution of these financial problems. These problems are soon to agitate the country above all other questions. Peace and war depend upon them. They rise higher than peace or war. They rise higher than the freedom

# THE CONGRESSIONAL GLOBE.

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and slavery of the blacks. Perpetual and enormous debt is slavery for body and mind. Hence the interests connected with these economical questions are of all questions those most momentous for the future. Parties, statesmanship, union, stability, all depend upon the manner in which these questions are dealt with. Shall the tariff be one of bounty or of revenue only? Shall a Chinese policy ward off all foreign interchange from our shores? Or shall protection, so long abandoned by the scientific and practical men of our generation, be again introduced into our economy? Shall taxes be levied equally on the rich and poor? Shall the funded debt of this nation be paid to the few in gold by the sweat of the many? Shall labor be held in thrall and branded as the serf of capital? Shall one interest or section be pampered at the expense and poverty of another? Shall we forever bury and keep buried the symmetric system of a gold and silver currency, as the standard of the Constitution and of nature, under the lush growth of greenbacks and paper promises? When this war shall end, and the present inflation has collapsed; when the "stocks on hand" of merchant and capitalist shall have suffered in the wreck of credit and crash of paper money; when "settling day" shall come and the meretricious splendors of fictitious wealth shall fade; when the diamonds of to-day shall become the paste of to-morrow; when speculation shall no longer flaunt its upstart pretension in the face of merit and modesty; when a common ruin shall engulf both poor and rich; when the gilded vessel gliding so smoothly over this smooth summer sea of delusive prosperity shall meet the "whirlwind's sweepy sway," then who will direct the whirlwind and who temper the storm? Why not now, in the present, look these dangers in the face, and by prescience avert them? As an adjunct in this work, let these finance committees have time and opportunity to do their work, and then it may be well done. This can only be done by a division of their labor as proposed by this amendment. Whichever party deals by these questions most nearly in the interests of labor—the procacant source of all wealth and taxes—that party will have and keep the ascendancy in the political control of the Government.

There is one thing especially which calls for the division of this Committee of Ways and Means. We know that there is a complaint throughout the country, not partisan by any means, that our promises to pay are so various that the people, upon whom the credit of this Government rests, cannot readily understand them. Scarcely any two creditors of the Government have the same kind of promise to pay from the Government. We have the ten-forties, the five-twenties, the certificates of indebtedness, the legal-tender notes, the notes bearing interest and the notes not bearing interest, securities bearing interest in gold and securities bearing interest in paper, until scarcely two creditors of the Government have the same sort of obligations.

The SPEAKER. The Chair will state that he is very doubtful as to whether a discussion as to the variety of the public securities is legitimate on a motion to amend the rules of the House.

Mr. COX. There was never anything more legitimate, in my judgment.

The SPEAKER. The Chair thinks the gentleman is going beyond the legitimate limits of debate.

Mr. COX. No one has raised a question of order.

The SPEAKER. If the gentleman's speech is legitimate, then a discussion of everything connected with the finances of the Government would be legitimate, and the Chair thinks it would not be.

Mr. COX. Perhaps the Speaker misapprehended me. I did not intend to argue these questions, but to state them only. I wished to show the necessity of having these questions properly investigated with a view to educe some order out of this chaos. That was the tenor of my argument, and nothing more. I do not propose to argue the

merits of any of these obligations. Here is the statement from which I have deduced my argument for the proposed amendment:

## Bills reported by the Committee of Ways and Means.

### First Session Thirty-Seventh Congress.

H. R. 14. National loan.....	\$200,000 00
H. R. 15. Pay of volunteers.....	5,760,000 00
H. R. 18. Army appropriations.....	179,536,397 80
H. R. 19. Navy appropriations.....	30,216,086 29
H. R. 25. Legislative, executive, &c.....	298,973 90
H. R. 26. Sundry civil expenses.....	525,000 00
H. R. 78. To pay Baltimore police.....	145,000 00
H. R. 61. To purchase arms, &c.....	10,000,000 00
H. R. 99. Expenses of investigating committees.....	10,000 00
H. R. 54. Increased revenue from imports, &c.....	-
H. R. 64. To refund duties on arms, &c.....	-
H. R. 69. To indemnify States, &c.....	-
H. R. 71. To provide additional revenue, &c.....	-
H. R. 98. Fortifications around Washington.....	-
\$226,691,457 99	

### Second Session Thirty-Seventh Congress.

H. R. 149. Invalid and other pensions.....	\$1,450,000 00
H. R. 150. Diplomatic and consular expenses.....	1,235,889 89
H. R. 154. Sundry civil expenses.....	2,000,720 95
H. R. 155. Gunboats on western rivers.....	1,000,000 00
H. R. 156. Fortifications.....	6,883,000 00
H. R. 165. Defenses of Washington.....	150,000 00
H. R. 187. Issue of Treasury notes.....	300,000 00
H. R. 208. Legislative, executive, &c.....	7,009,047 94
H. R. 209. Army appropriations.....	208,392,488 77
H. R. 224. Military Academy.....	156,211 00
H. R. 240. Expenses of issuing Treasury notes.....	300,000 00
H. R. 242. Naval appropriations.....	19,386,294 00
H. R. 259. Post Office appropriations.....	14,594,800 00
H. R. 260. Indian appropriations.....	2,042,395 45
H. R. 287. Branch mint at Denver.....	75,000 00
H. R. 312. Internal revenue.....	500,000 00
H. R. 388. To reimburse Treasury contingent fund.....	163,650 00
H. R. 393. Sundry civil expenses.....	618,493 49
H. R. 404. Deficiency for three-year volunteers.....	30,100,000 00
H. R. 413. Bounty to widows, &c., of volunteers.....	5,038,000 00
H. R. 423. Naval appropriations.....	49,741,338 42
H. R. 450. Army appropriations.....	537,944,346 55
H. R. 499. Postal service for new routes.....	150,000 00
H. R. 572. Sundry civil expenses.....	805,110 68
H. R. 376. Duty on tea and coffee (increased).....	-
H. R. 392. Exhibition in London.....	-
H. R. 302. Additional clerks in New York Assistant Treasurer's office.....	-
H. R. 341. Purchase of coin.....	-
H. R. 353. Additional clerks in Assistant Treasurer's office, Boston.....	-
H. R. 403. Treasury certificates.....	-
H. R. 444. Amend revenue act from imports.....	-
H. R. 479. Amend Post Office appropriations.....	-
H. R. 531. Increase duty on imports temporarily.....	-
H. R. 540. Bounty to volunteers.....	-
H. R. 544. To incorporate a bank in District Columbia.....	-
H. R. 570. Sundry civil expenses (tabled).....	-
H. R. 573. Additional duty on sugar.....	-
\$883,029,987 14	

### Third Session Thirti-Seventh Congress.

H. R. 610. Army appropriations.....	\$729,861,898 80
H. R. 611. Military Academy.....	183,394 00
H. R. 616. Invalid and other pensions.....	7,683,300 00
H. R. 617. Deficiencies.....	109,825,997 50
H. R. 635. Legislative, executive, &c.....	7,866,476 17
H. R. 649. Diplomatic and consular, &c.....	1,260,544 34
H. R. 659. Ways and means for Government.....	600,000 00
H. R. 663. Branch mint at Nevada.....	100,000 00
H. R. 665. Post Office appropriations.....	12,930,000 00
H. R. 707. Fortifications.....	6,900,000 00
H. R. 708. Naval appropriations.....	71,048,205 01
H. R. 731. Indian department appropriations.....	2,131,685 67
H. R. 733. Sundry civil expenses.....	22,435,338 41
H. R. 695. Deputy Register of the Treasury.....	-
H. R. 770. Amend internal revenue act.....	-
H. R. 779. Amend act imposing duties.....	-
H. R. 592. Amend internal revenue act.....	-
\$973,828,829 90	

### First Session Thirty-Eighth Congress.

H. R. 33. Invalid and other pensions.....	\$3,200,000 00
H. R. 34. Military Academy.....	201,217 00
H. R. 35. Western or Missouri department.....	700,512 13
H. R. 40. Diplomatic and consular.....	1,354,100 00
H. R. 50. Post Office Department.....	15,290,000 00
H. R. 151. Naval appropriations.....	109,206,814 54
H. R. 156. Deficiencies.....	104,943,013 69
H. R. 192. Legislative, executive, &c.....	11,230,803 88
H. R. 198. Army appropriations.....	529,523,887 65
H. R. 207. Fortifications.....	5,319,500 00
H. R. 240. Indian department appropriations.....	2,431,496 41
H. R. 405. Internal revenue.....	400,000 00
H. R. 500. Sundry civil expenses.....	4,307,576 64
H. R. 573. To prevent smuggling.....	15,000 00
H. R. 117. To reimburse Pennsylvania.....	-
H. R. 123. Internal revenue.....	-
H. R. 213. Capture of cotton.....	-
H. R. 239. Assistant Secretary of the Treasury.....	-
H. R. 230. Withdrawal of goods from public stores.....	-
H. R. 265. Supplementary to ways and means of Government.....	-
H. R. 333. National currency.....	-
H. R. 335. Assay office at Carson City.....	-
H. R. 455. To prevent counterfeiting.....	-
H. R. 456. Mercantile Mutual Insurance Company.....	-
H. R. 494. Increased duty on imports.....	-
H. R. 515. To provide ways and means for Government.....	-
H. R. 591. Claims of Peruvian citizens.....	-
H. R. 527. Sundry civil expenses.....	-
H. R. 539. Certain miscellaneous expenses.....	-
H. R. 540. To provide ways and means for Government.....	-
\$788,124,021 84	

### Second Session Thirty-Eighth Congress.

H. R. 577. Gold and silver bullion (prevent sale of).....	-
H. R. 597. Invalid and other pensions.....	-
H. R. 598. Diplomatic and consular.....	-
H. R. 603. Withdrawal of goods from public stores.....	-
H. R. 618. Amend internal revenue.....	-
H. R. 620. Deficiencies.....	-
H. R. 621. Military Academy.....	-
H. R. 642. Internal revenue.....	-
H. R. 648. Legislative, executive, &c.....	-
H. R. 659. Post Office appropriations.....	-
H. R. 676. Naval appropriations.....	-
H. R. 677. Amend act for ways and means.....	-
H. R. 682. Indian department appropriations.....	-
H. R. 683. Army appropriations.....	-
H. R. 689. Fortifications.....	-
H. R. 689. Assistant Treasurers, &c.....	-
H. R. 690. To revive certain acts.....	-
H. R. 701. Increase salaries of clerks.....	-
H. R. 703. To amend national currency act.....	-
H. R. 704. To increase salary of inspectors of customs.....	-
H. R. 705. Relief of collectors and surveyors.....	-
H. R. 709. Deficiencies.....	-
H. R. 744. Internal revenue (to amend).....	-
H. R. 773. To provide ways and means for Government.....	-
H. R. 786. Sundry civil expenses.....	-
H. R. 795. To amend act imposing duties.....	-
H. R. 797. Relative to certain drafts unpaid.....	-
Estimated at.....\$900,000,000 00	

Mr. BLAINE. I ask the gentleman to yield to me for a few moments.

Mr. COX. I will give the gentleman ten minutes of my time.

Mr. BLAINE. I have a little grievance, Mr. Speaker, which may be appropriately referred to here. At the last session of Congress I introduced a resolution instructing the Committee on the Judiciary to inquire into the expediency of amending the Constitution so as to allow Congress to levy an export tax. At the beginning of this session the matter was referred anew to the Ways and Means Committee, on the suggestion of some of its members, and from that day to this, owing to the great pressure of business before that committee, nothing has been heard of the measure. Now, had it been allowed to remain before the Judiciary Committee it would have been reported long since and could have been fully discussed *pro and con*, and a conclusion of some kind reached thereon. I had a great desire to submit some remarks on the subject, and though not pertinent to the pending question, I hope under the circum-

stances I may be allowed to introduce my remarks here. I observe my friend from Pennsylvania is very anxious to hear me.

Mr. STEVENS. The gentleman is mistaken. I am not in the least anxious to hear a speech on any subject.

Mr. BLAINE. Mr. Speaker, I am aware that it is a very grave step for Congress to propose an amendment to the Constitution of the United States. A change in that "great charter of our rights and liberties" should be made only after the most mature deliberation and under the conviction of an imperious public necessity. There has always been in the American mind a well-founded and justifiable prejudice against tampering with the provisions of our organic law—a prejudice so settled and so strong that it has been overcome in but three instances since the organization of our Government in 1789. I trust and confidently believe that the fourth instance will be found in the adoption of that great amendment in the interest of impartial freedom which Congress has so recently submitted to the States for their acceptance or rejection.

I speak now in advocacy of a fifth amendment—one which in my judgment is absolutely essential to the financial success of the Government, and to the commercial, manufacturing, and agricultural prosperity of our country in all future time. It is an amendment which I had the honor to propose during the last session of Congress, and which was embodied in the following resolution adopted by the House on my motion, on the 24th of March, 1864:

*Resolved*, That the Judiciary Committee be directed to inquire into the expediency of proposing an amendment to the Constitution of the United States by striking out the fifth clause of section nine, article one, which forbids the levying of a tax on articles exported from any State.

The subject was referred anew, in December last, to the Committee of Ways and Means, and it was expected until very recently that it would be brought before the House for definite action before the expiration of the Thirty-Eighth Congress. The pressure of public measures already on the Calendar seems now to forbid all hope of securing a vote on the proposition during this session; but I cannot allow the occasion to pass without saying a few words in defense and support of the proposed amendment, and of the great change which it contemplates in the future administration of our system of taxation and finance.

The subject of taxing exports—or rather of giving Congress the power to do it—was discussed at great length in the Convention of 1787; and one of the marked errors of subsequent times is the very general belief that the Convention inserted the constitutional prohibition by a very decisive vote. Another erroneous belief, quite as current as the foregoing, is that which attributes the advocacy of the prohibitory clause to the Southern or "staple States," as George Mason termed them, and the opposition thereto to the northern States. The facts of history do not sustain either of these assumptions, as I shall proceed to show by a record that is undisputed and indisputable.

Any one who will take the pains to peruse the synopsis of the debates of the Constitutional Convention as given in the Madison Papers will be struck with the fact that many of the strongest men of that august body—the really far-sighted statesmen among its members—were opposed to the insertion of the clause prohibiting a tax on exports; and of these there were even more conspicuous examples from the South than from the North.

Mr. Madison himself, at one point of the discussion, expressed himself thus:

"As we ought to be governed by national and permanent views, it is a sufficient argument for giving the power over exports that a tax, though it may not be expedient at present, may be so hereafter. A proper regulation of exports may, and probably will, be necessary hereafter, and for the same purposes as the regulation of imports, namely, for revenue, for domestic manufactures, and for procuring equitable regulations from other nations."

At another stage of the debate on the same important subject Mr. Madison spoke as follows:

"First, the power of laying taxes on exports is proper in itself, and as the States cannot with propriety exercise it separately it ought to be vested in them collectively; secondly, it might with particular advantage be exercised with regard to articles in which America is not rivaled in foreign markets, as tobacco, &c.; thirdly, the southern States being most in danger, and most needing naval protection, could the least complain if the burden should fall somewhat heaviest on them."

Mr. John Dickinson, of Delaware said that

"The power of taxing exports might be inconvenient at present, but it must be of dangerous consequence to prohibit it with respect to all articles and forever."

Mr. Gouverneur Morris, of Pennsylvania, in reply to what he regarded as sectional arguments, remarked that

"Local considerations should not impede the general interest. He considered the taxing of exports to be in many cases highly politic. All countries having peculiar articles tax the exportation of them, as France her wines and brandies."

And he added in another place:

"That the state of our own country would change, and render duties on exports of peculiar raw materials politic in the view of encouraging American manufactures."

And he concluded by declaring that taxes on exports would be often more proper and easy than taxes on imports, and that

"To prohibit it was so radically objectionable that it might cost the whole system the support of some members."

Mr. James Wilson, from the same State, one of the purest and ablest men of the Convention, followed Mr. Morris in support of the same position. He declared himself "decidedly against prohibiting general taxes on exports," and in subsequently debating the question he remarked that

"In favoring the general power over exports he opposed the particular interest of his own State. To deny this power is to take from the common Government half the regulation of trade. It was his opinion that a power over exports might be more effectual than over imports in obtaining beneficial treaties of commerce."

Mr. Rufus King, of Massachusetts, opposed the prohibition as a measure "introducing a weakness which will render common defense more difficult."

But I need not multiply these quotations. I have cited enough to show that this prohibitory clause was not inserted in the Constitution without very serious opposition from many of the leading minds of the Convention. The citations I have made demonstrate also that this opposition was not based on narrow, local, and sectional grounds, but that it sprang from great national considerations overriding all these. Neither the support nor hostility to the measure was determined by geographical lines. The statesmen from whom I have quoted represented alike the New England States, the middle States, and the southern States—the three great divisions then comprising the whole country. So on the other hand, among those who labored to deprive the General Government of all power over exports, we find Gerry of Massachusetts, Langdon of New Hampshire, and Ellsworth of Connecticut, quite as zealous and resolute as Mercer of Maryland, Mason of Virginia, and Rutledge of South Carolina.

When the Convention approached a vote on the question, Mr. Madison perceiving the probability of the prohibitory clause being adopted, attempted to have it amended so that an export tax might be laid by Congress with the concurrence of two thirds of each House. He stated that he considered this "a lesser evil than total prohibition," and on this proposition the test vote was taken. Eleven States were present; five voted in favor of Mr. Madison's motion and six against it. Of the six, Virginia was one, and her vote was carried against it by a majority of one in her delegation—it appearing on the record that Mr. Blair, Mr. Mason, and Mr. Randolph voted no, while General Washington and Mr. Madison voted ay. A single member of the Virginia delegation, against the wise and considerate judgment of Washington and Madison, is thus responsible for the vote which deprived Congress of all power over the exports of the country. No important provision in the entire Constitution was adopted by so slight a majority and against the strenuous opposition of leading men.

Thus much, Mr. Speaker, as to the origin of this prohibitory clause, with the circumstances attending its adoption. Stoutly as its introduction was resisted, it has remained in the Constitution without cavil or question from that day to this—a proposition to strike it out never having been even submitted in Congress prior to the one I am now discussing. Indeed, the perfect ease with which the national Treasury has been filled from tariff duties up to the beginning of the present war continually obviated the necessity of looking to other sources of revenue, and hence

very naturally little thought has been given to the immense sum that might be derived from a judicious tax on exports. But Mr. Madison and his distinguished associates, from whom I have quoted, admonished the Convention that the time might come when an export tax would be a necessity, for the triple object of obtaining revenue, of encouraging domestic manufactures, and for procuring equitable treaties of commerce with foreign nations. The period thus anticipated by the wise statesmen of 1787 has arrived, and for the maintenance of our national credit in the trials and crisis of the immediate and distant future, there is an absolute necessity that Congress shall have the power to levy a tax on exports.

Of course a wise and cautious discrimination is to be exercised in selecting the articles and commodities that will bear a tax of this character. The general and obvious distinction is to tax such and such only as have no competing product in foreign markets, or at all events such weak competition as will give us the command of the market after the commodity has paid its export dues in this country. As an illustration, take cotton, which is our leading export in time of peace. It is believed with confidence that the American product can pay an export tax of five cents per pound and yet with ease maintain its preeminence in the markets of England and the European continent. Our export in a single year has reached three million two hundred thousand bales of five hundred pounds each, and it would rapidly run beyond that figure after peace is restored and the competition of free labor is applied to its production. But if it should never go beyond the quantity named an export tax of five cents per pound would yield a revenue of \$80,000,000 from this single article, as any one will see by a moment's calculation.

Tobacco and naval stores also afford a large margin for an export tax, owing to the superior quality and quantity of the American production of each article. Without attempting to weary the House with a parade of statistics, it may be sufficient to state that in the judgment of our best economists the three commodities to which I have referred would jointly yield in time of peace a coin revenue of \$100,000,000, without in any degree impairing their command of the markets where they have always been purchased so readily. Of tobacco alone our export in a single year has exceeded the enormous figure of two hundred million pounds, and a very large proportion of the revenue of France and some other European Governments is derived from the duty laid upon its importation. Might we not, at all events, share with foreign nations the advantage of the enormous tax which this article of luxury will bear, making them pay a moiety into our coffers instead of monopolizing it all for their own? Should petroleum continue to be developed in such immense quantities, without being found elsewhere, it, too, will in due time bear a very considerable export tax, as indeed will all articles (without attempting their specific enumeration) whose production is peculiar to this country, or whose quality may be greatly superior to products of similar kind in other countries, or, in the comprehensive phrase of Mr. Madison, "articles in which America is not rivaled in foreign markets."

The fear which has often been expressed that the congressional power to tax exports might be used to oppress certain sections and to discriminate against particular commodities is manifestly groundless. It is always safe to trust to self-interest in a nation as well as in an individual. The highest national interest in the matter we are discussing is to encourage exports in every honorable and practicable way, and the moment that an export tax tended to check or decrease exportation that moment it would be abolished or reduced. Of course there must be exportation before revenue can be derived from an export tax, and hence I repeat that the interest which underlies the whole design affords the absolute guarantee against any oppressive attempt to discriminate against any section or any particular commodity.

Intelligent gentlemen will tell us, however, that Government can just as efficiently collect the tax on any given article through the excise system of our internal revenue as by levying an export tax, and they hence argue against any necessity for



the proposed amendment to the Constitution. I take issue upon this point, and I maintain that an excise tax upon raw products intended to be shipped to foreign countries will prove disadvantageous, if not absolutely disastrous, both to the producer and the Government, and that the export is far preferable, viewed from any standpoint whatever. Let us analyze the process and effect in the case of cotton, as an example, assuming that it is but fair to apply the same arguments to all other articles of large export.

Practically, an excise tax should be as far removed from the source of production as possible; the more remote the less the burden, the nearer it comes the more oppressive it grows. Government derives to-day a very large revenue from distilled spirits, malt liquors, and wines; but should an attempt be made to tax the corn, the barley, and the grapes out of which these articles are made the effect would be most disastrous. Tobacco in its manufactured state pays a very large revenue with perfect ease; but if a tax should be laid on the leaf I predict that production would be greatly discouraged and the revenue correspondingly diminished. So, sir, if you lay an excise upon cotton you increase immensely the difficulties of production, and must of necessity diminish the amount produced. The export tax which I have stated cotton would bear amounts to twenty-five dollars per shipping bale, and the attempt to collect that amount by excise tax on each plantation before the cotton could be removed for sale would prove an intolerable burden to the producer. The small farmer, with a crop of only forty bales, would be compelled to raise \$1,000 in coin or lawful money before he could send a pound of his cotton to market; and the large planter, with a thousand bales, would have to make an advance of \$25,000, beside all the cost of production, before he could realize a penny in return. Such a system of taxation would be destructive; it would place the enterprising producer, who most of all deserves the patronage and protection of the Government, under a perpetual mortgage, and would subject him to the exactions and heavy charges of the speculative usurers who would at once spring up to feast and fatten upon his capital and his industry. The law which would permit that would be reckless of the highest interests of agriculture, commerce, and the general prosperity of the country.

And now, sir, a glance very briefly at the other side. Let cotton be relieved from all excise tax, and let it be bought and sold and freely moved from point to point within our own country without tax or charge of any kind whatever. Let the planter carry it to market without any hinderance, and when it reaches the point of exportation, having passed from the hands of the producer into the possession of the capitalist or speculator, let the Government, as it is placed on shipboard for transportation to foreign markets, exact its tax of five cents per pound. Collected there and then, it comes from those who are able to pay it, who pay it just on the eve of realizing its return on the other side of the water from the pockets of foreign buyers, and who pay it in a way that does not embarrass or oppress the producer nor tend to decrease production.

Not the least advantage, Mr. Speaker, in this mode of collecting the tax, is the cheapness with which it can be done. The points of shipment of cotton are so few that you may count them on your fingers, and the tendency, owing to the converging of water courses and railroad lines, is against any increase in the number of these ports. The same officers of customs that are already there to collect your tariff duties can perform the labor of collecting the export duties without a dollar's additional expense beyond the salaries of a few extra clerks that the increase of business might demand. Compare with this the vast expense of sending an army of excisemen throughout all the cotton and tobacco plantations, and you will find that the system of export duties would effect a saving of millions to the Government, simply in the mode of collection. And, sir, you could invent no more offensive system of taxation than would be involved in sending your Government agents to every rural home in the planting regions to interrogate the farmer as to the number of bales in his cotton crop, or how many pounds of tobacco he had raised. The officials who should perambulate the country on such

errands would acquire in popular opinion as bad a reputation as Dr. Johnson in his dictionary fastened on the English exciseman—"an odious wretch, employed to collect an unjust tax."

The great statesmen whom I quoted in the earlier portion of my remarks as against the insertion of this prohibitory clause in the Constitution, among other grounds of opposition to it, stated that an export tax might be necessary "for the encouragement of domestic manufactures." Sir, this result would be realized in its fullest extent if cotton should be subjected to an export tax of five cents per pound, leaving that consumed at home free of duty except the excise tax which would be levied upon it in the various forms of its manufacture. With this vast advantage in the raw material we should cease to wrangle here about tariffs, for we could in our home markets undersell the fabrics of Europe, and should soon compete with them in the markets of the world. The export tax, as compared with the excise, would thus prove beneficent to all the interests of our country, stimulating the production of the raw material, and developing the manufacturing enterprise of the land in a ratio compared with which the accomplishments of the past would seem tame and inconsiderable.

The amendment which I am advocating, Mr. Speaker, is not a snap judgment against the interests of the southern States, to be hurried through here in the absence of their Representatives for fear their presence might defeat it. If there be any logical truth in the views I have so imperfectly presented, it is the interest of the planting States to have an export tax, and were those States fully represented on this floor to-day I have no hesitation in saying that they would from necessity and self-interest support this amendment. And for this obvious reason, sir: it is evident to every one that when this war is over and the Federal authority firmly reestablished, cotton and other southern products must pay their fair share of the national revenue, and the choice is simply between an excise tax and an export tax. With such an alternative no one can doubt that the South would choose the export duty as the least burdensome and most advantageous to its peculiar local interests. The industrial system, the financial ease, the vital prosperity of the planting States, would demand an export tax in preference to any other that could be laid on their products by the Federal Government.

In the future of our country, Mr. Speaker, the great task and test of statesmanship will be in the administration of our finances and the wise distribution of the burdens of taxation. We began our career as an independent nation without money, without credit, and with an oppressive load of debt. But a great genius in the person of Hamilton evoked order out of chaos, gave stability to the Government, imparted confidence to the people, and established public credit on so firm a basis that until the breaking out of this wicked rebellion we had scarcely known an hour's serious embarrassment to our national Treasury. Unless we are guided by counsels of wisdom we may not be so fortunate in the future as we have been in the past. An immense amount of money will be required to meet the interest on our national debt, to maintain our Army and Navy even on a peace foundation, and to defray the ordinary expenses of civil government. The revenue for these objects may be raised so injudiciously as to cripple and embarrass the commercial and industrial interests of the whole country, or on the other hand the requisite tax may be so equitably distributed and so skillfully assessed that the burden will be inappreciable to the public. Whoever as Secretary of the Treasury shall accomplish the former and avoid the latter result, must be armed with a plenitude of power in the premises. He must have open to him the three great avenues of taxation—the tariff, the excise system, and the duties on exports; and must be empowered to use each in its appropriate place by congressional legislation. At present only two of these modes of taxation are available, and the absence of the third, in the language of an eminent statesman already quoted, "takes from the General Government half the regulation of trade." It is for Congress to say whether the people shall have an opportunity to change the organic law in this important respect, or whether with a blind disregard of the future we shall rush forward reckless

of the financial disasters that may result from a failure to do our duty here.

Mr. COX. I will now yield for a short time to the gentleman from Pennsylvania, [Mr. STEVENS,] who desires to be heard. How long does the gentleman want? I merely desire to hold the floor that I may call the previous question.

Mr. STEVENS. I will not take long. I do not know that I should have spoken at all on this subject if it had not been for the extraordinary speech of the gentleman from Maine [Mr. BLAINE.] I did not know that the Committee of Ways and Means had absorbed any business that did not belong to them. I did not know that they had asked for anything that was not referred to them. I am sure the subject to which the gentleman refers has never been taken from the Judiciary Committee.

Mr. WILSON. That subject was referred to the Committee on the Judiciary some time during the last session. At the commencement of this session the same subject was referred, in a resolution offered, I think, by the gentleman from Maryland [Mr. DAVIS] to the Committee of Ways and Means at the suggestion of the gentleman from Vermont, [Mr. MORRILL.] Of course the Committee on the Judiciary considered itself discharged from the further consideration of the subject.

Mr. STEVENS. We did not so consider it. The matter was referred to us, but we were willing to see what the Committee on the Judiciary would do.

Mr. WILSON. We considered the action of the House equivalent to a discharge.

Mr. STEVENS. The Committee of Ways and Means had no desire to act upon the subject. We were quite willing to leave it where I think it very fairly belongs.

As to the division of the Committee of Ways and Means into various committees, it does not become us to say anything upon that subject. It does not affect us. It will affect the next Congress, and I have no doubt that whoever is Speaker then will make a proper selection of members of the committees. I do not feel any interest in the matter at all. I do not know whether my colleagues on the committee do.

I do not know, however, whether I understand the proposition. I do not know whether it is proposed to abolish the Committee of Ways and Means altogether or whether some portion of its duties are to be taken from it. I do not know whether it is proposed to retain the old name of the "Committee of Ways and Means," with some curtailment of the duties of that committee, or to abolish it altogether. I think it quite proper that there should be a Committee on Banks separate from the Committee of Ways and Means. I think also that the committee on the Pacific railroad may as well become a standing committee, as that subject has now become a permanent part of the legislation of the country. Therefore I think the report of the committee on rules thus far meets with the approbation of the Committee of Ways and Means—at least I suppose so; I do not know that there is any opposition to it.

The only doubt I have in regard to it is the proposition to separate the duties of finance from those of appropriations. I have some doubts as to the propriety of that. I have no desire myself to have it one way or the other. Certainly the labors of the committee would be very much lessened by it. But the two subjects seem to be very properly connected; and I have some doubts as to the propriety of separating them. In the other branch of Congress the two subjects are united in the same committee; yet I think the gentleman from Ohio [Mr. Cox] is sincere when he says that this matter has not been prompted by any action of the present committee. I think, therefore, the only question is whether there should be a distinct committee on appropriations, distinct from the general Committee of Ways and Means. As I said before, so far as I am concerned I do not expect to trouble the Committee of Ways and Means or the House at the next session of Congress upon any of these subjects. I hope there will be a Speaker who will make judicious selections. If the present Committee of Ways and Means have been in any way inappropriately formed, which I do not understand the gentleman to say, I have no doubt at all the next House will correct the source of all that

trouble by providing a Speaker who will appoint a proper committee. I would not have made these remarks had it not been for the strange remarks of the gentleman from Maine [Mr. BLAINE.]

Mr. MORRILL. I am entirely indifferent as to the disposition which shall be made of this subject by the House. So far as I am myself concerned, I have never sought any position upon any committee from the present or any other Speaker of the House, and probably never shall. I have no disposition to press myself hereafter for any position. In relation to the proposed division of the Committee of Ways and Means, the only doubt that I have is the one expressed by my colleague on that committee, [Mr. STEVENS,] in regard to the separation of the questions of revenue from those relating to appropriations. In ordinary times of peace I should deem it almost indispensable and entirely within their power that this committee should have the control of both subjects, in order that they might make both ends meet, that is, to provide a sufficient revenue for the expenditures. That reason applies now with greater force; but it may be that the committee is overworked. It is true that for the last three or four years the labors of the Committee of Ways and Means have been incessant; they have labored not only days but nights; not only weekdays but Sundays. If gentlemen suppose that the committee have permitted some appropriations to be reported which should not have been permitted they little understand how much has been resisted. As it regards the complaint of the gentleman from Maine, [Mr. BLAINE,] the subject to which he refers was, I believe, properly referred to the Committee of Ways and Means, and it has been informally considered by that committee, and would have been reported before this time, provided the committee had seen any opportunity within the last six weeks when it could be reasonably brought forward and have proper time allowed to debate it, and no gentleman, not even the gentleman from Maine, [Mr. BLAINE,] would desire to have such a question as that brought before Congress without the amplest time for its discussion.

Mr. STEVENS. I would state that some time ago the Senate committee to which that subject was referred reported absolutely against the amendment.

Mr. BLAINE. Only ten days ago that was done, and in the Senate that question, as have all amendments of the Constitution, went to the Committee on the Judiciary, where it originally went here, and where it was when it was taken from them by the Committee of Ways and Means.

Mr. MORRILL. Being purely a question of revenue, and the Committee of Ways and Means having complete jurisdiction of the whole question relating to financial affairs, I do not myself see that it could have been properly considered by any other committee. I have no feeling on the question now before us, and am utterly indifferent as to what is done by the House upon the subject.

Mr. GARFIELD. I am very glad to see everywhere the proper feeling exhibited upon this subject. I am sure nobody has been discussing it in any spirit of unkindness to the present committee, or to any of the members of it. This is a question relating simply to the labors of the Committee of Ways and Means. Every one will appreciate that the national banking system has thrown a very large class of new duties upon the Committee of Ways and Means. And it seems to me that with the immense amount of work which they have on hand it is manifestly fitting that the committee should be relieved from a duty so distinct in its character from the others.

The only question is the one which the gentlemen of the Committee of Ways and Means have raised; that is, whether it is proper to separate the business of appropriations of money from the other legitimate business of the Committee of Ways and Means, from the business of providing for taxation and revenue. It seems to me that those two subjects are quite distinct in their nature. It is true they have relations to each other so far as relates to the support of the Government, but in no other respect are they at all related.

All that the Committee of Ways and Means would want to learn from the Appropriation Committee would be simply what their estimates were

as gathered from the expenditures of the Government, actual and estimated. Those being known, the Committee of Ways and Means proper would look to the sources from which they could raise this money. The Committee on Appropriations being one chiefly of detail, would examine the law with reference to appropriations and the necessity of proposed expenditures. This committee could give more time to these subjects than the Committee of Ways and Means as at present organized can possibly do.

I hope this proposition will be adopted. I am very sure that no person has any reason to complain that anything unkindly is intended toward any committee; and especially as it refers to the future and not to the present Congress it seems to me entirely free from anything personal.

Mr. LITTLEJOHN. Mr. Speaker, the report now under consideration contemplates radical changes in the committees of this House; and the propriety of those changes should be determined with regard to the future, and not with reference to the manner in which the present Committee of Ways and Means has discharged its duties.

Now, sir, no committee on finance can understandingly make reports to this House unless both sides of the account are before that committee. The merchant prince of New York, transacting commerce with all parts of the globe, his daily payments being enormous, must have before him every day his assets and income, in order that he may understand how to meet his obligations. The cashier of a banking institution, in determining the amount of discounts, must have before him every day the amount of means. So with your Committee of Ways and Means: it must have before it all sources of income; the internal revenue question, in order that it may understand the changes proposed or to be recommended; the import duties, in order that it may propose changes. It must have before it, on the other side, the estimates of the different Departments of the Government, showing the amount necessary to carry on the Government for the coming fiscal year. No committee can make appropriations unless it has before it the income of the Government for the fiscal year. The estimates of your Departments are frequently reduced or enlarged by the Committee of Ways and Means. How could the Committee on Appropriations in the next Congress understand how to enlarge or reduce appropriations unless they understand something of the public income of the Government? The arrangement now presented, if the House propose to adopt it, should be so modified that the Committee on Appropriations should submit the appropriations to the Committee of Ways and Means; else there might be a year when your appropriations would exceed very largely the amount provided to carry on the Government.

Now, sir, during this war, Congress has been, upon all questions of finance, the creature of circumstance, the amount of expenditure depending upon the movements in the field, the magnitude of the movements of the Army and of the Navy. Hence no Committee of Ways and Means, whatever talent it might possess, could bring out the account with precision at the end of any fiscal year. But, sir, it is to be hoped that peace is near, that the expenditures of this Government are to be reduced; and when peace returns, when economy must be studied by the committees of this House, it will be necessary that the ways and means upon the one side shall be so adjusted as to meet the appropriations on the other. And, sir, I trust that this House will act with wisdom upon this question, and leave the question of ways and means and that of appropriations in the hands of one committee.

To me, individually, this is a matter of no interest; for I am not to be in the next Congress, and I trust in no future Congress. But I understand something of these questions, and I can see the evil that will arise from the division of this Committee of Ways and Means.

I may remark that in my view the report now under consideration is wise so far as it proposes to take from the Committee of Ways and Means the banking question and the railway question. Those subjects do not properly belong to that committee. But I say again, do not divide that committee by making one Committee of Ways

and Means and another Committee on Appropriations.

Mr. COX. One word in reply to the gentleman from New York. I do not think that there is anything practical in his statement. These committees can consult with each other. The Committee of Ways and Means and the Committee on Appropriations can just as well consult with each other as the Committee on Military Affairs can consult with the present Committee of Ways and Means. The argument of the gentleman would drive us to have one committee, and one committee only, for all of our business is interlaced more or less. The Committee of Ways and Means will have before them the estimates of the Departments. They can without trouble get any information they please from the new Committee on Appropriations without any special clause in our rules. That is the duty of a mere clerk. They get information now from the Departments. Estimates are sent here at the beginning of every session and from time to time; and therefore there is no practical objection in the statement of the gentleman from New York. I do not meet with any other objection. I will now yield to my friend from New York [Mr. GANSON.]

Mr. GANSON. Mr. Speaker, the Committee of Ways and Means was organized under a different state of things than that now existing. There have been added to its duties national currency, internal revenue, and larger appropriations than ever before, growing out of the necessities and expenses of the Government in the present war. I think that the remedy would be to have one committee, and to enlarge the number of members composing it, so that it could be divided, one portion to take up and consider the internal revenue and tariff, another portion the appropriations, and so on; all to report to the committee, which shall act upon the facts and suggestions which may be reported to them. In this way they can dispose of all the business with intelligence, with dispatch, and with care. It is like any Department of the Government. I would have one committee, with one head, but I would have it divided into sub-committees like the bureaus of one of the Departments.

The Committee of Ways and Means cannot now attend to all the business which has been thrown upon it. It is like the Committee on Military Affairs, which has more than it can do. Six weeks ago there was referred to the Military Committee to inquire into the Old Capitol and Carroll prisons, and they have not yet reported.

Mr. LITTLEJOHN. I ask the gentleman to let me offer an amendment.

Mr. COX. I cannot yield for that purpose.

Mr. SCHENCK. With the permission of my colleague I will say one word on the pending proposition. I do not think that the adoption of the proposition will entirely remove the difficulty, although it may to a certain extent. The argument of the gentleman from New York, [Mr. LITTLEJOHN,] if it proves anything, proves that we want in the organization of the House nothing except the Committee of Ways and Means. From the duties assigned to that committee, and the course of proceeding here, we have drifted in that direction already. I know as well as the gentleman from New York [Mr. GANSON] how exceedingly onerous are the duties of the Military Committee, made a pack-horse as it is for almost everything by the gentleman from New York and others. Yet we are willing, as far as practicable, to do our share of that which comes properly within the scope of the jurisdiction of that committee. In practice how does it turn out? I will give an illustration. During this session the Committee on Military Affairs has applied itself to the investigation of the questions connected with the increase of pay and allowances to officers of the Army, with a view to afford them some relief. The committee prepared a bill which a short time since passed this House and went to the Senate. The first we know of it is that there comes back from the Senate an appropriation bill, which was sent to the Committee of Ways and Means, which embraced the legislation in this regard proposed by the Senate, and I do not know but that it subsequently reached a committee of conference.

Mr. STEVENS. It was no fault of the Committee of Ways and Means that it came to them.

It was referred to them and they recommended a non-concurrence in the amendments. The Military Committee of the Senate declared that they would not take up the House bill, and therefore it was put on an appropriation bill, which came to us.

Mr. SCHENCK. I have not imputed blame to any one. It went to a committee of conference. The committee of conference disposed of the question, and it has been embodied into a law between the two Houses; and yet the Committee on Military Affairs have had nothing whatever to do with it. Though that committee bestowed the labor of a number of sessions upon the subject of the pay and allowance to officers of the Army, by a sort of side wind, through an appropriation bill, the whole subject is disposed of by a committee of conference, the Committee on Military Affairs standing here sucking their thumbs, I suppose, or at least having no direct agency as a committee in any way in determining what should be the legislation in regard to the pay and allowance of officers.

The same thing is true in regard to the Committee on Naval Affairs. I say this is not the fault of the Committee of Ways and Means. I am making no complaint of them. The fault lies in the mode and manner of the organization of our committees. While the Committee on Naval Affairs may have bestowed their attention for weeks upon the subject of a bill, the whole matter is suddenly disposed of through the agency of an appropriation bill, and the work and labor of the Naval Committee either does not come to light, or only in the shape of an empty report which is never acted upon.

There must be a cure for this in some way, and I do not know in what way unless it is by giving to the several committees the command and disposition of the business which pertinently belongs to them. It is with no invidious spirit that I make these remarks. I have taken these instances as illustrations of the manner in which our rules operate. I say that under the present system all the labor bestowed by the Military Committee upon a particular subject passes into the shape of law without that committee, or any member of the committee, having in any way any hand in or control of it, because it finds its way into law through an appropriation bill. I do not know whether the proposition of my colleague [Mr. PENDLETON] goes far enough to reach this evil. If not, I hope before the House takes action on it that it will be amended or modified so as in some way to distribute the business of the House among the appropriate committees.

Mr. COX. Upon the suggestion of the committee on rules, of which the Speaker is one, I modify the resolution in relation to the Committee of Ways and Means, so that it shall read, "said committee shall have leave to report by bill at any time." I now demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolutions were adopted.

Mr. COX moved that the vote by which the resolutions were agreed to be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. In this connection I report from the committee on rules the following resolution:

*Resolved*, That rule 27 be amended as follows, namely: add at the end thereof, "and he shall be required at the commencement and close of each session of Congress to take an inventory of all the furniture, books, and other public property in the several committee and other rooms under his charge, and report the same to the House; which report shall be referred to the Committee of Accounts, who shall determine the amount for which he shall be held liable for missing articles."

*Resolved*, That rule 134 be amended as follows, namely: add at the end thereof, "or any of the rooms upon the same floor, and opening into the same."

*Resolved*, That rule 29 be amended as follows, namely: strike out in lines six and seven the words, "before the last name on the roll was called; and if he shall answer in the negative the Speaker shall not further entertain the request of such member to vote; provided, however, that any member who was absent by leave of the House may vote at any time before the result is announced."

The first amendment proposed is in regard to the 27th rule. [Cries all over the House, "All right!" "All right!"] Very well, I demand the previous question.

The previous question was seconded, and the main question ordered.

The first and second resolutions were agreed to.

The third resolution was read, as follows:

*Resolved*, That rule 29 be amended as follows, namely: strike out in lines six and seven the words, "when your name was called," and insert in lieu thereof "before the last name was called."

Mr. BROOKS. What is the meaning of that? Mr. WASHBURN, of Illinois. We propose to change the present rule. The gentleman from New York and other old members will recollect that it was never the practice of the House, under any circumstances, to permit a member to vote unless he was within the bar when his name was called. The Speaker, when a member asks to vote, is required to propound the question to him whether he was within the bar when his name was called. A practice has grown up, however, which has led to a good deal of carelessness in members not being here, of asking unanimous consent to vote, which we know is almost universally granted. We propose to change that rule and provide that any member may vote if he is within the bar when the last name was called, but if not, that he shall not vote at all.

Mr. GARFIELD. I suggest to the gentleman that it ought to read "the last name on the roll."

Mr. WASHBURN, of Illinois. Yes, sir; I will insert the words, "on the roll."

The resolution was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the several votes by which the resolutions were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER. The Chair understands the last rule to apply only to the commencement of the next Congress.

#### PACIFIC RAILROAD.

Mr. STEELE, of New York. I ask the unanimous consent of the House to take from the Speaker's table bill of the House No. 763, to amend an act entitled "An act to aid in the construction of a railroad and telegraphic line from the Missouri river to the Pacific ocean," for the purpose of concurring in some amendments of the Senate.

No objection was made, and the amendments of the Senate were read, as follows:

First amendment:

Page 1, line four, after "California," insert "the Union Pacific railroad, the Union Pacific Railroad Company, eastern division, and all the other companies provided for in the said act of the 2d July, 1864."

Second amendment:

Same page, line nine, strike out the words, "from Sacramento," and insert in lieu thereof "of construction."

Mr. STEVENS. Do I understand that this bill relates to this railroad down here?

Mr. STEELE, of New York. Oh, no; it is the Pacific railroad.

Mr. WASHBURN, of Illinois. I believe the bill only allows these roads to issue their own bonds.

Mr. STEELE, of New York. That is all.

Mr. WASHBURN, of Illinois. I have no objection to that.

Mr. STEVENS. Is this a Senate bill?

Mr. STEELE, of New York. No, it is a House bill to which the Senate has made some amendments.

The previous question was seconded, and the main question ordered; and under the operation thereof the amendments of the Senate were agreed to.

Mr. STEELE, of New York, moved to reconsider the vote by which the amendments were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. KASSON. I ask the gentleman from Pennsylvania to allow me to introduce and have passed a bill to authorize a three-cent coinage.

Mr. STEVENS. I will in about an hour from this time.

The SPEAKER. The Chair will state that, all debate in Committee of the Whole on the state

of the Union on the special order is closed by order of the House in five minutes.

Mr. STEVENS. All debate on the printed bill only. There may be new amendments offered upon which debate will be in order.

Mr. HOLMAN. The proposition was to limit the debate to five-minute speeches.

The SPEAKER. The gentleman from Pennsylvania stated with very great carefulness that he desired to cut off debate entirely in five minutes.

Mr. HOLMAN. But the gentleman from Pennsylvania had no right to move to close debate on anything except the pending amendment.

The SPEAKER. Unless by suspending the rules or by unanimous consent; and unanimous consent was given.

Mr. HOLMAN. My colleague [Mr. DUMONT] was to have five minutes to explain his amendment.

The SPEAKER. That is true; but there is to be no other debate on the printed portions of the bill and amendments thereto.

The motion of Mr. STEVENS was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and resumed the consideration of the special order, being a bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes.

The CHAIRMAN stated the pending question to be upon the amendment of Mr. DUMONT to insert after the first clause, under the head of "miscellaneous," the following:

For the fencing in, repair, and completion of the United States court-house and post office at Indianapolis, Indiana, and paying the sidewalks in front of the same, the sum of \$5,000, or such part thereof as may be necessary, is hereby appropriated, to be expended under the direction of the Secretary of the Interior.

Mr. DUMONT. I desire to make a very short explanation of my amendment.

Mr. WASHBURN, of Illinois. What has become of the point of order which I raised last night in regard to this amendment?

The CHAIRMAN. Will the gentleman state his point of order again? The Chair does not call it to mind now.

Mr. WASHBURN, of Illinois. The point of order was that this is a new appropriation or new legislation, and is therefore out of order under the rules.

The CHAIRMAN. The Chair overrules the point of order.

Mr. DUMONT. I beg leave to explain in a few words the amendment I have offered. Some four or five years since an appropriation of about ninety thousand dollars was made for the construction of a court-house and a post office at Indianapolis. The building has been erected, but it is not yet completed, although the appropriation has now become exhausted. The object of the small appropriation which I now ask is for the completion of this building. The post office and court-house are both measurably completed, but there is yet no inclosure around the building. It was intended that the building should be a fire-proof edifice. The heating apparatus has not yet been completed. This post-office building is exposed to danger, and to the depredations of thieves and robbers. The building is on a public street in the town, but has not been fenced in at all. The back portion of the building is used for post-office purposes, and there is nothing to prevent evil-disposed persons from gaining access to the building through the back part of it.

This appropriation has been recommended by the Secretary of the Interior, with this exception, that he recommends an appropriation of \$8,000. But in the hope that I might get the Committee of Ways and Means to consent to the amendment, I have reduced it to \$5,000, and have further provided that only such portions of the \$5,000 shall be expended as may be absolutely necessary. It seems to me to be a penny wise and a pound foolish course, to erect a splendid building at a cost of \$90,000, and then fail to finish it, when the trifling sum of \$5,000 will complete and secure it from dilapidation. We have in Indiana one United States court-house, in Illinois there are two; in Indiana there is one United States judge, in Illinois there are two; in Indiana there is one United States marshal, in Illinois there are two; in Indiana there



is one clerk of the United States court, in Illinois there are two. And in the neighboring State of Ohio it is the same. And in the States of Pennsylvania and New York there are three districts, instead of one, as in Indiana. Now, we simply ask that our court-house and post-office building may be completed.

And I beg leave to state in addition to what I have said, that the post office at Indianapolis is a distributing office, and the people of the whole State, the constituents of my colleagues as well as my own, as well as the people of the surrounding country, are interested in the safety of the mail matter collected in that office, and unless the appropriation I have asked for is granted the mail matter there will not be secure. I have already stated that the Secretary of the Interior has recommended this appropriation, and the Postmaster General has also recommended it, and based his recommendation upon the considerations which I have just mentioned, and I felt very much in hopes that the Committee of Ways and Means would have consented to this recommendation without any opposition.

I ask that the Clerk read the papers I send to the desk.

The Clerk read, as follows:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., February 8, 1865.

Sir: I have the honor to invite your attention to the urgent necessity that exists for certain improvements in connection with the building at Indianapolis occupied by the courts of the United States and their officers, the city post office, the land and other public offices.

The west and north sides of it face two streets, both of which are central and frequented thoroughfares, and the sidewalk of that part of them in front of the building is wholly unpaved. By constant use it is reduced below its original level, and during rain a pool of water is formed. A great deal of mud accumulates in wet weather, rendering access to the building difficult and unpleasant. The large number of persons who are compelled to visit it prevent, in this state of things, keeping the vestibule where letters are delivered in a fit condition. A pavement—and it should be of stone to be in keeping with the building—is, in my opinion, required for the convenient transaction of business and the proper accommodation of the public.

The part of the lot not occupied by the building should be securely inclosed and reserved for the exclusive accommodation of the public officers. In its present condition it is of greater benefit to the owners of the adjoining property than to the Government.

The roof of the building and the flues connected with the heating apparatus are out of repair.

My attention has been called to the subject by the Post Office Department, and on repeated occasions by the marshal of the district of Indiana; but I have no fund under my control applicable to the required improvements.

Eight thousand dollars will be needed for the purpose, and I recommend to the Committee of Ways and Means the appropriation of that amount. I submit a draft of a section to be incorporated in the miscellaneous appropriation bill, should my recommendation meet with the approval of the committee.

I am, sir, very respectfully, your obedient servant,  
J. P. USHER,  
Secretary.

HON. THADDEUS STEVENS, Chairman Committee of Ways and Means, House of Representatives.

POST OFFICE DEPARTMENT,  
WASHINGTON, February 9, 1865.

Sir: My attention has been called to the inclosed communication addressed to you by the Secretary of the Interior, respecting certain improvements and repairs needed in the building at Indianapolis occupied by the United States courts and their officers, the city post office, the land and other public offices; and I trust the recommendations of the Secretary on that subject will commend themselves to the favorable consideration and approval of your committee, and that the appropriation of \$8,000 requested for that purpose may be granted.

I am, very respectfully, your obedient servant,  
W. DENNISON.

HON. THADDEUS STEVENS, Chairman Committee of Ways and Means, House of Representatives.

The amendment of Mr. DUMONT was adopted.

Mr. SWEAT. I move to insert after the clause relating to the custom-house at Portland, Maine, the following:

For securing the right of way and building a bridge across the canal to the Marine Hospital near Portland, Maine, \$3,000.

Mr. STEVENS. I have no objection to that. Mr. HOLMAN. That is rather legislative in its character, I think. I raise the point of order.

Mr. SWEAT. This amendment is assented to by the committee; a provision of this kind was in fact omitted by accident.

The CHAIRMAN. The Chair overrules the point of order.

The amendment was adopted.

Mr. MORRILL. I move to amend by striking out lines three hundred and seventy-three, three hundred and seventy-four, and three hundred and

seventy-five, and by inserting after line four hundred and eight the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase for the United States an appropriate building site at Island Pond or at some point northerly of Island Pond and south of the Canadian boundary line, in the State of Vermont, and to cause to be erected thereon a suitable building for the use of such officers of the customs as are or may be stationed at that place: *Provided*, That the cost of such purchase and erection shall not exceed the sum of \$10,000, which amount is hereby appropriated for that purpose.

The amendment was agreed to.

Mr. JENCKES. I move to amend by inserting, after line three hundred and seventy-five, the following:

For making the alterations and repairs in the custom-house, court-house, and post-office building at Providence, Rhode Island, \$1,500.

Mr. KASSON. There is no objection to that on the part of the committee.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I have been directed by the Joint Committee on the Library to offer the following amendment:

Insert the following as a new paragraph:  
To enable the Joint Committee on the Library to purchase files of newspapers for the Congressional Library, \$1,500.

The amendment was agreed to.

Mr. RICE, of Maine. I move to strike out lines three hundred and eighty and three hundred and eighty-one, as follows:

For the purchase of a library for the use of the officers of the Territory of Arizona, \$5,000.

And insert in lieu thereof the following:

For the purchase of libraries for the use of the officers of the Territories of Idaho, Montana, and Arizona, \$7,500, to be expended in the proportion of \$2,500 for each Territory, and under the legislative authority thereof.

Mr. KERNAN. I ask a division of the motion, so as to take the question first on striking out.

The CHAIRMAN. The motion to strike out and insert is indivisible by a positive rule of the House. The Clerk will read the rule.

The Clerk read, as follows:

"A motion to strike out and insert shall be deemed indivisible."

The amendment was not agreed to.

Mr. KERNAN. I move to amend by striking out the following:

For the purchase of a library for the use of the officers of the Territory of Arizona, \$5,000.

The amendment was agreed to.

Mr. KASSON. In preparing the bill, the clerk of the committee omitted one item which, by direction of the committee, I now offer:

After line three hundred and eighty-one, insert the following:

For increase of the salary of the territorial judges of Arizona, \$1,000 each, \$3,000.

This proposes simply to do for Arizona what has already been done for other gold Territories. It simply puts these several Territories on an equality.

Mr. WASHBURN, of Illinois. I raise a point of order on that amendment, that it proposes to change the existing law.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read, as follows:

For compensation to John Hopley for services in indexing the national currency act, \$100.

Mr. BOUTWELL moved that the appropriation be stricken out.

The amendment was disagreed to.

The Clerk read, as follows:

Sec. — And be it further enacted, That the ninth section of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864, and for the year ending the 30th of June, 1863, and for other purposes," approved March 3, 1863, appropriating thirty per cent of the cost of engraving the special dies for internal revenue stamps, not to exceed in amount \$20,000, be, and the same is hereby, so amended as to enable the Secretary of the Treasury to pay the contractors, Butler & Carpenter, the said sum of \$20,000 in full of all claims for indemnity.

Mr. HOLMAN. I move to strike that out.

The committee was divided; and there were—ayes 25, noes 33; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Messrs. HOLMAN and HOOPER.

The committee again divided; and the tellers reported—ayes 41, noes 54.

So the amendment was disagreed to.

Mr. DAILY. I move to amend by striking out the words "may be" and to insert "herely is," and to strike out the words "if the Governor of said Territory shall so elect;" so that it will read:

Sec. — And be it further enacted, That the sum of \$20,000, appropriated at the present session of Congress to defray the legislative expenses of the Territory of Nebraska for the fiscal year ending the 30th day of June, 1866, shall and hereby is appropriated for and applied to the payment of the territorial militia called into service by the Governor of said Territory to protect the frontier settlements against the depredations of Indians in the fall and winter of the year 1864; which sum shall be disbursed and paid by the Governor of the Territory, who shall take vouchers therefor; and no other or further sum of money shall be appropriated to defray the legislative expenses for the year aforesaid. And the Governor as aforesaid shall, within one year, make a detailed report of his action hereon to the Secretary of the Interior, setting forth the several sums paid, and the names of the persons to whom paid, under the provisions of this section.

The amendment was agreed to.

Mr. J. C. ALLEN. I move to add the following as an additional section:

And be it further enacted, That the Sergeant-at-Arms of the House and the Secretary of the Senate be directed to pay out of the contingent fund of the House and Senate to the Members and Senators and Delegates from the Territories in the Thirty-Eighth Congress thirty-three and a third per cent. upon their present salaries; and the sum of money necessary to enable the said Sergeant-at-Arms and Secretary of the Senate to carry out this provision is hereby appropriated out of any funds in the Treasury not otherwise appropriated.

Mr. MORRILL. I move to add the following proviso:

*Provided*, That this provision shall be submitted to the constituents of members of Congress, and that the money hereby appropriated shall not be paid until ratified by them.

The committee divided; and there were—ayes 60, noes 32.

So the amendment to the amendment was agreed to.

The amendment as amended was disagreed to.

Mr. KINNEY moved to add the following:

And be it further enacted, That the probate judge of Great Salt Lake county, in the Territory of Utah, be, and he is hereby, authorized to enter in trust, at the minimum price, for the sole use and benefit of the owners and bona fide claimants, all that portion or tract of land on which Great Salt Lake City is located, according to the recorded plan of said city, under such rules and regulations as the Secretary of the Interior may prescribe.

Mr. KASSON. Is that amendment in order?

Mr. KINNEY. I think that it is, for this bill comprises almost everything.

Mr. KASSON. It is not authorized by any law and not germane to this bill.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out.

Mr. WILSON. I move to add the following:

*Provided*, That the total compensation of United States district attorneys shall in no case exceed \$5,000 per annum.

I ask to explain the amendment.

The CHAIRMAN. Debate is not in order.

The amendment was adopted.

Mr. STEVENS. I am directed by the Committee of Ways and Means to report the following new section:

And be it further enacted, That authority to sell the property known as the "Pennsylvania Bank Building" in accordance with the acts approved June 23, 1860, section two, and March 14, 1862, section five, is hereby conferred upon the Secretary of the Treasury: *Provided*, That the property, if sold at public auction, shall not be sold at a less sum than \$110,000.

The amendment was agreed to.

Mr. STEVENS moved to add the following:

To enable the Secretary of the Treasury to pay for the building in New York now occupied by the Government as a custom-house, and known as the "Merchants' Exchange," \$1,000,000.

The amendment was agreed to.

Mr. KASSON. I now move the amendments which the House has already passed attached to the legislative appropriation bill, and which went to the committee of conference. They were not then agreed to, because they had not been considered in the Senate, and in order that they may be so considered we offer the amendments at this place. They are for additional clerks in the Treasury Department, for additional appropriations for San Francisco, &c., which have been read and passed upon heretofore.

Mr. PRICE. I should like to have some explanation of the provision for paying extra compensation to the clerks in the provost marshal's office here.

Mr. STEVENS. It is necessary to pay for clerks who worked often all night.

Mr. PRICE. Were they the same clerks who worked at the same place during the day?

Mr. STEVENS. It was found impossible to get additional clerks to do the duty, and these clerks had to work far into the night. They ought to be paid.

Mr. SCHENCK. These men for whom this appropriation is purposed to be made are some agents or employes of the provost marshal's office. And I know they enrolled persons when they had in their possession the certificates of those persons that they were enrolled in some other State or district. They have done the work very loosely and discredibly, more so perhaps than the work has been done in any other district of the country.

Mr. STEVENS. The deputy marshal was making out the papers of his office in order to adjust them, and it was found necessary to employ additional aid, and the marshal could not find anybody except some clerks in the Departments here, who were willing to do extra work out of office hours. They agreed to work a certain number of hours each night, and the marshal agreed to pay them.

Mr. PRICE. I supposed that was the character of the claim. It proposes to pay men who are employed at sixteen or eighteen hundred dollars a year.

Mr. STEVENS. Oh, no. These clerks were mere temporary clerks, who were paid by the day three or four dollars. They were not regular clerks.

Mr. PRICE. They were clerks employed in the Departments. Go to those offices and you will find them coming to their offices at nine or ten o'clock and quitting at four o'clock. In that time they do a day's work. And now these same men, who stay in their offices five, six, or seven hours a day, are to be paid \$9,000 extra compensation for working during the same time. I hope this will not be adopted. I move to strike it out.

Mr. KASSON. I move a division of my amendment, so as to take a vote first upon the remainder of my amendment and then upon the clause to which objection is made.

Mr. SCHENCK. I wish it understood that I was serious in the inquiry I made. I believe the persons proposed to be paid are employes in the office of the enrolling board of the marshal of the District of Columbia. That being so, I desire to say, as my knowledge goes, that this work has been done worse in the District of Columbia than anywhere else in the country. Whether it be the fault of the clerks in the office or other persons there, or whether it was their object to get the largest amount of work and the greatest amount of extra pay I do not undertake to say. But I do undertake to say that they have enrolled men whose certificates of exemption they had in the office. They have enrolled a number of members of Congress—to which I have no particular objection—but it is rather a loose way of doing business. The whole proceedings in this city are very much of that character. I speak from the information which has come to my knowledge.

Mr. PRICE. My motion is to strike out.

Mr. STEVENS. I hope that the remarks of the gentleman from Ohio will not deceive the House. The persons proposed to be paid are none of those engaged in making the enrollment. They are temporary clerks employed in this city in the various Departments at three or four dollars a day. It was found necessary to get aid, and they got these clerks to make copies of the papers which had been previously prepared, promising to pay them a certain amount for each night's work of four hours each. They did work faithfully, and performed their duty under the contract. The provost marshal states all these facts, and the question now is simply whether these men shall be paid according to the contract.

The amendment of Mr. PRICE was not agreed to.

The amendment of Mr. KASSON was agreed to.

Mr. POSTON. I move to amend by inserting the following clause:

For colonizing friendly Indians in Arizona on a reservation on the Colorado river and supplying them with implements of husbandry and seeds to enable them to become self-sustaining, the sum of \$130,000, to be expended under the direction of the Commissioner of Indian Affairs.

I desire to say that in the very short time that the Territory of Arizona has had the honor of representation on this floor it has been impossible to mature and pass through the proper committees measures providing for the settlement and regulation of Indian affairs in that Territory. I am therefore obliged to rely upon the generosity of the House to adopt the amendment which is now presented. It is essentially necessary that the friendly Indians of Arizona should be colonized upon a reservation before the white settlers can enter upon an exploration of the rich mineral resources of that Territory without danger of collision, and as a great benefit to both Indians and whites the measure will commend itself to every sense of justice, policy, and economy.

Mr. WINDOM. I simply desire to say that this proposition was before the Committee on Indian Affairs, and was carefully examined by them, as well as maps and reports on the subject, and a communication from the Secretary of the Interior, and the committee were unanimously in favor of the proposition; but there not being time to get a bill through the House, the gentleman from Arizona was advised to take this course and test the sense of the House on the question.

Mr. BENNET. I move to amend the amendment so as to make the appropriation \$161,000; and I do it for the purpose of correcting a statement made yesterday with regard to the Territory of Colorado. It was stated by the gentleman from New Mexico [Mr. PEREA] that the Territory of Colorado paid no internal revenue; that there was no collector of internal revenue in that Territory. I have before me the report of the Commissioner of Internal Revenue, and I find it stated there that the net total collection up to June 30, 1864, in the Territory of New Mexico was \$20,259 09, while the revenue collected in the Territory of Colorado was \$61,638 69. More than three times the amount of taxes was paid by Colorado than was paid by New Mexico. I state this only for the purpose of placing my own Territory right upon the record. I now withdraw my amendment.

#### MESSAGE FROM THE PRESIDENT.

The committee, at this point, rose informally, and the Speaker having resumed the chair, a message from the President, by Mr. NICOLAY, his Private Secretary, informed the House that the President had approved and signed bill of the House No. 160 for the relief of Chapin Hall; and bill of the House No. 723, to pay each of the surviving soldiers of the Revolution, five in number, whose names are on the pension rolls, \$300 annually, as a gratuity, in addition to the pensions now paid them.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

The Committee of the Whole on the state of the Union resumed its session.

Mr. POSTON. Mr. Chairman, Arizona, more than any other Territory of the United States, rises to the dignity of historic fame; it is even prehistoric, reaching far back into the dim traditions of the Aztecs. As everywhere else on earth, the history of man is here distinctly marked by the struggle between civilization and barbarism. The Aztecs lived in continual warfare with the barbarous tribes of the mountains, and their descendants to this day maintain the warfare bequeathed to them by their ancestors. The Aztecs were peaceable, industrious Indians, living by the pursuits of agriculture, dwelling in communities, and exercising a system of government with eminent principles of justice. The barbarians of the mountains were their natural foes and finally drove them into southern Mexico, leaving only a few degenerate descendants in the north.

The Spanish explorers found a very interesting race of Indians in that part of the continent now belonging to the United States and designated as the Territory of Arizona. A knowledge of these remote people was first given to the European world by the romantic expedition of Cabeza de Vacca, who crossed the continent from the savannas of Florida to the mountains of New Mexico in 1538. In these remote regions he found a people bearing evidences of European origin and practicing many of the arts of civilization. They were supposed to be the descendants of the colony of the Welsh Prince Madoc who sailed from Wales for the New World in the eleventh century—cele-

brated in song by Southey. They are now called Moquis, and I beg leave to call your attention to their present condition as described in an official report of Colonel Christopher Carson, first cavalry, New Mexican volunteers.

HEADQUARTERS NAVAJO EXPEDITION,  
December 6, 1863.

CAPTAIN: I have the honor to report for the information of the department commander, that on the 15th ultimo I left this post with companies C, D, G, H, and I, first cavalry, New Mexican volunteers, dismounted, for the purpose of exploring the country west of the Oribi villages, and if possible to chastise the Navajos inhabiting that region. On the 16th I detached thirty men with Sergeant Andreas Herrera, of company C, first cavalry, New Mexican volunteers, on a fresh trail which intersected our route. The sergeant followed the trail for twenty miles when he overtook a small party of Navajos, two of whom he killed, wounded two, and captured fifty head of sheep and one horse. En route the party came on a village lately deserted, which they destroyed. The energy and zeal displayed by the sergeant and his party on this occasion merit my warmest approbation.

On the 21st arrived at Moqui village. I found on my arrival that the inhabitants of all the villages, except the Oribis, had a misunderstanding with the Navajos, owing to some injustice perpetrated by the latter. I took advantage of this feeling, and succeeded in obtaining representatives from all the villages, Oribi excepted, to accompany me on the war path. My object in insisting upon parties of these people accompanying me was simply to involve them so far that they could not retract; to bind them to us and place them in antagonism to the Navajos. They were of some service, and manifested a great desire to aid in every respect. While on this subject I would respectfully represent that these people, numbering some four thousand souls, are in a most deplorable condition, from the fact that the country for several miles around their village is quite barren and is entirely destitute of vegetation.

They have no water for purposes of irrigation, and their only dependence for subsistence is on the little corn they raise when the weather is propitious, which is not always the case in this latitude. They are a peaceable people, have never robbed or murdered the people of New Mexico, and are in every way worthy of the fostering care of the Government. Of the bounty so unsparingly bestowed by it on other Pueblo Indians, ay, even on the marauding bands, they have never tasted, and I earnestly recommend that the attention of the Indian Bureau be called to this matter. I understand that a couple of years' annuities for the Navajos, not distributed, are in the possession of the superintendent of Indian affairs at Santa Fe, and I consider that, if such an arrangement would be legal, these goods would be well bestowed on these people.

C. CARSON,

Colonel First Cavalry, New Mexican Volunteers.

Captain BENJAMIN C. CUTLER, A. J. G.

In antagonism to these interesting people we have the barbarous Apaches, the Bedouins of the desert and the robbers of the mountains.

Time immemorial their hand has been against every man and every man's hand against them; they disdain to labor, and live by robbery and plunder. For three centuries they have staid the progress of civilization in that part of the continent, and now hold its richest mineral treasures from the grasp of the white man. They have successfully defended their mountain homes against the Spaniards, the Mexicans, and the Americans. A few hardy and enterprising Americans have been endeavoring to penetrate that El Dorado for several years, but for want of military support, and on account of the desolating war which has spread its ravages to the confines of Arizona, they are yet prevented from exploring that inviting field of mineral wealth. The subjugation or extermination of this merciless tribe is a measure of stern justice which ought not to be delayed. Their subjugation would open to our hardy miners an unexplored gold field north of the Gila, which the Spaniards considered the true El Dorado. A sickly sympathy for a few beastly savages should not stand in the way of the development of our rich gold fields, or the protection of our enterprising frontiersmen. The settlers around the capital (Prescott) have kept one hundred men in the field for more than a year at their own expense; their leader, Colonel King Woolsey, had been ruined by the Apaches, and adopted this method of retaliation. They have waited in vain for the protection of the military branch of the Government, and were forced in self-defense to take the matter in their own hands.

The Pimas and Maricopas are a confederated tribe, living on the Gila river, one hundred and eighty miles from its confluence with the Colorado. They are an agricultural people, living entirely by the cultivation of the soil, and number some seven thousand five hundred souls. They have always been friendly to the Americans, and boast that up to this day they do not know the color of the white man's blood. They hold one of the strongest positions on the continent, accessible only after crossing deserts in every direc-

tion, and have here defended their homes and fields against barbarous Apaches from time immemorial. The early Spanish explorers found them here in 1540, and ruined houses of grand proportions attest their occupation for thousands of years before the Spaniards came. To the north for several hundred miles ruined cities, fortifications, and the remains of irrigating canals, indicate the places formerly occupied by a race now passed away without having left any history. The researches of the antiquarian are in vain, and the degenerate Indian of the present day answers all questions about past grandeur with the mystic name of Montezuma. The Pimas know no more of their origin than if they had come out of the ground, as their tradition intimates. They have no religion, and worship no deity, unless a habit of hailing the rising sun with an oration may be the remains of some sun-worshipping tribe. They are exceedingly jealous of their females; and their chastity, as far as outside barbarians are concerned, remains, with a few exceptions, unimpeachable. They have a very good tract of land, set apart by metes and bounds plainly marked, have their irrigating canals in good condition, and present every evidence of a thrifty population, producing more than they consume. They number some seven thousand five hundred. They deserve the highest consideration of this Congress. It would have been impossible for the Government troops in that Territory to have subsisted there but for the supplies furnished by these Indians. They are, in fact, the laboring population of that Territory. They produce supplies both for the Army and for the miners. They were colonized by the Spanish Jesuits a hundred and fifty years ago, and they are monuments of the civilization and prosperity of that country at that time. They have cultivated the land there from time immemorial. When the Spaniards entered that country three hundred and forty years ago, they found these Indians in a high state of civilization. It is a good country for agricultural purposes, and during my administration of Indian affairs in that Territory the last year, I had the pleasure of contributing something to the improvement of those Indians, by giving them cotton seed, hoes, spades, shovels, &c.

The Papagos are a branch of the great Pima tribe, speaking the same language and having the same manners and customs, modified by civilization; the only difference is, that upon being baptized, they were originally called Vapconia, in their language Christians, which has been corrupted into Papagos; they also cut their hair short and wear a hat, and such clothing as they can get. The Papagos all live south of the Gila river, in that arid triangle known as the western part of the Gadsden purchase. Their lot is cast in an ungrateful soil; but the softness of the climate reconciles them to their location, and contentment is their happiness. The fruit of the *Cereus Giganteus* furnishes them with bread and molasses; they plant in the rainy season, raise cattle, hunt, and labor in the harvest fields. Their principal settlement is around the old mission church of San Xavier del Bac, nine miles south of Tucson. This mission was founded by the Jesuits in 1670, and is the grandest architectural monument in northern Mexico. Upon the expulsion of the Jesuits from Mexico they gave the Indians a solemn injunction to preserve the church, promising to return at a future day. It was a strange coincidence that two Jesuit fathers from the Santa Clara College, in California, accompanied us to their long-neglected neophytes. They were received by the Indians with great demonstrations of joy; and, amid the ringing of bells and explosion of fireworks entered into possession of the long-neglected mission of San Xavier. These pious fathers immediately commenced laboring with the zeal and fidelity of their order, and in a few days had the mass regularly chanted by the Papagos maidens, with the peculiar softness of their language. Every facility was rendered the holy fathers in holding intercourse with the Indians, and a great improvement was soon perceptible in their deportment and habits. They seemed entering upon a new era of moral and material prosperity refreshing to witness. The captain, José Victoriana Solorse, is a highly intelligent Indian, and is exercising a beneficent influence on the tribe. The family relations of the Papagos are conducted with morality, and their women are

examples of chastity and industry. These deserving people should have additional aid to enable them to colonize the straggling members of the tribe; their principal wants are agricultural implements, carts, wheel-barrow, axes, and hoes. With the necessary aids in agricultural implements they can soon produce a surplus to exchange for clothing and the comforts of life, so that they will be an advantage to the community instead of a tax on the Government. They number about five thousand souls living within our boundaries.

Now I come to the Indians of Colorado. They never reaped the benefit of the Spanish colonization, because the Spaniards never extended their conquests north of the Gila. They are of the same family, and are affiliated with the Pimos, and desire to live in the same manner. But they have no means of exercising their industry. As far as that portion of our Indian country is concerned, they never have had an officer of the Government among them until the last year. As superintendent of Indian affairs, I called the confederated tribes of the Colorado in council together. The council was attended by the principal chiefs and headmen of the Yumas, Mojaves, Yapapais, Hualapais, and Chemihuevis. These tribes have an aggregate of ten thousand souls living near the banks of the Colorado, from Fort Yuma to Fort Mojave. They cultivate the bottom lands of the Colorado river, where an overflow affords sufficient moisture; the failure of an overflow, which sometimes happens, is considered a great calamity, and breeds a famine. Their resources from game, fish, and wild fruits have been very much curtailed by the influx of Americans, and it would be dangerous for them to visit their former hunting-grounds. The fruit of the mesquite tree, an acacia flourishing in this latitude, has been the staff of life to the Indians of the Colorado. A prolific mesquite will yield ten bushels of beans in the hull; the beans are pounded in a mortar and made into cakes of bread for the winter season, and a kind of whisky is also made of the bean before it becomes dry and hard. This resource for the Indians has been very much reduced since the irruption of the Americans and Mexicans, as the mesquite bean is more nutritious and less dangerous for animals in that climate than corn. The beans command, at the different towns and stands where they are sold, from five to ten cents a pound as they fall from the tree. The improvidence of the Indians leads them to sell all the beans in the autumn, saving none for the winter consumption. During the past winter they were in such a famished condition that they killed a great many horses and cattle on the river, mostly belonging to American settlers, for which claims are now made.

But as the representative of the Government of the United States at that time, I did not undertake to make a written treaty with these Indians, because I considered that the Government was able and willing to treat them fairly and honestly without entering into the form of a written treaty, which has been heretofore so severely criticised in both Houses of Congress, and with some reason. These Indians there assembled were willing, for a small amount of beef and flour, to have signed any treaty which it had been my pleasure to write. I simply proposed to them that for all the one hundred and twenty thousand square miles, full of mines and rich enough to pay the public debt of the United States, they should abandon that Territory and confine themselves to the elbow in the Colorado river, not more than seventy-five thousand acres. But I did not enter into any obligation on account of the United States to furnish them with seeds and agricultural implements. I simply told them that if I was elected to represent that Territory in this Congress, I would endeavor to lay their claims before the Government, which they understood to be magnanimous, and that I hoped that this Congress would have the generosity and the justice to provide for these Indians, who have been robbed of their lands and their means of subsistence, and that they may be allowed to live there where they have always made their homes. They desire to live as do the Pueblo Indians of New Mexico and Arizona. Those Pueblo Indians live in settlements, in towns, in reservations, according to the wise policy of the Spanish Gov-

ernment, which colonized the Indians in reservations and made their labor valuable in building improvements for their own sustenance, for churches, and public improvements, and in that manner made them peaceable Indians, instead of having everlasting and eternal war with the people whom they had robbed of their land.

These people having been citizens of the Mexican Government, are not, according to our theory, entitled to any right in the soil; and therefore no treaty with these Indians for the extinction of their title to the soil would be recognized by this Government. It is a fiction of law which these Indians, in their ignorance, are not able to understand. They cannot see why the Indians of the Northeast have been paid annuities since the foundation of this Government for the extinction of their title, while the Indians who were formerly subject to the Spanish and Mexican Governments are driven from their lands without a dollar. It is impossible for these simple-minded people to understand this sophistry. They consider themselves just as much entitled to the land which their ancestors inhabited before ours landed on Plymouth Rock as the Indians of the Northeast. They have never signed any treaty relinquishing their right to the public domain.

I beg to lay before you a memorial of the territorial Legislature on the subject:

*To the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists, the Council and House of Representatives of the Legislative Assembly of the Territory of Arizona respectfully represent, that the four tribes of Indians known as the Yapapais, Hualapais, Mojaves, and Yumas, numbering about ten thousand, are now scattered over an extent of country from the Gila river on the south to the northern boundary of the Territory, and from the Colorado river on the west to the Rio Veria on the east; that these Indians are now roaming at large over the vast territory above described, gaining a precarious subsistence from the small patches of land along the Colorado river, which they cultivate, and from fishing and hunting; that when the seasons are unfavorable to their little farming interests, or the Colorado river does not overflow to irrigate and enrich their fields, they are reduced to a starving condition, and compelled, by necessity, to make raids upon the stock and property of the whites, and not unrequently do they ambush the traveler and miner, and waylay and stampede the stock of trains and plunder their packs and wagons; that the whites are settling up the country, and necessarily diminishing their means of subsistence, and increasing the dangers of a collision with them; that the late superintendent of Indian affairs of the Territory, Hon. Charles D. Poston, in view of their scattered and destitute condition, selected and caused to be laid off, on the east bank and bottom of the Colorado river, a reservation ample enough for the accommodation and support of all the above-named tribes; that an irrigating canal can be constructed at an expense of a small amount (the Indians performing the labor) that will render highly productive a large tract of land that will yield an abundance for their support, and afford a large surplus to be disposed of for their education and improvement; that when placed upon said reservation they can, under judicious management, be made not only self-sustaining, but to produce largely for the market; that, to enable those who may be placed over them or have charge of them to open said canal, to remove them upon said reservation, and sustain them until they can, by their own labor, provide enough for their subsistence, your memorialists respectfully ask of your honorable body an appropriation of \$150,000; that to secure the attention and favorable consideration of the subject and matters of this memorial by the Congress of the United States,

*Be it resolved by the Legislative Assembly of the Territory of Arizona, That our Delegate in Congress, Hon. Charles D. Poston, be requested to use all honorable means to bring the subject before Congress.*

*And he it further resolved, That his Excellency the Governor of the Territory of Arizona be requested to forward this memorial, together with such other information touching the subject as he may have in his possession, to Hon. Charles D. Poston, our Delegate in Congress.*

W. CLAUDE JONES,  
Speaker of the House of Representatives.  
COLEBASHFORD,  
President of the Council.

Approved November 7, 1864.

JOHN M. GOODWIN.

In order that the proposition may be clearly understood I will read the report of the engineer who accompanied me on an examination of the valley of the Colorado to select a reservation for these Indians:

LA PAZ CITY, ARIZONA, May 30, 1864.

SIR: At your request I have made an examination of the lands on the eastern bank of the Colorado river from La Paz to Corner Rock.

I have been surprised at the great quantity of rich bottom land and alluvial soil, traversed by many sloughs and lagoons, which extend from the banks of the river for several miles into the valley. Most of them are dry now, as the river did not rise high enough last year to fill them.

I directed my special attention to the lands between Halfway Bend and the Mesa. With the exception of a few stretches of heavy sand land which I estimate at about one fifth of the entire area, I found the soil excellent, most of it consisting of a light loam, of which many thousand



acres are covered with mesquite trees, a sure indication of rich ground, while willows and cotton trees grow luxuriantly in the vicinity of the river, the sloughs, and lagunas. At some places I noticed alkaline efflorescences, but they are not extensive. If these places could be regularly overflowed, much of the salts would be carried off. It is well known, moreover, that Indian corn and wheat grow well in alkaline soil.

If the eastern boundary of the intended reservation runs from the mouth of the principal slough at Halfway Bend (the Indians call it Mad-ku-dap) in a direction nearly north, 26° 30' east to Corner Rock, it will include an area of about 118 square miles, equal to 75,520 acres. Of this, 6 square miles are Mesa lands, leaving 112 square miles, or 71,680 acres, of valley land. One fifth deducted as sand land leaves 99 square miles, or 57,600 acres, of bottom land or light loamy soil. About one fourth of this, say 22 square miles, or 14,080 acres, is covered with mesquite trees. A large mesquite tree yields sometimes several bushels of beans. Supposing, then, that in this year every acre produced five bushels, the crop would amount to 70,400 bushels, which with rabbits, lizards, tulsi roots, the fish of the river, the little wheat and pumpkins they can raise, and the sale of hay, may give a precarious subsistence this year to the ten thousand Indians for which the Government intends to make provision.

But, not taking into consideration that many Indians do not relish mesquite beans, the mesquite trees do not bear every year, and agriculture depends entirely on the casual overflows of the river. Last year the crops of the Indians amounted to very little, and if the river does not soon rise it will be the same this year.

The most humane and cheapest way to provide permanently for the Indians, and educate at least their rising generation to useful labors, would be, in my humble opinion, that the Government not only give them the land between Halfway Bend and Corner Rock, but also assist them in digging an irrigating canal from the Mesa toward Halfway Bend. They would then become independent of the uncertain rise and fall of the river, could raise regular crops, and would soon be able to sell a large surplus.

From Halfway Bend to the Mesa, I noticed at various points that the ground slopes gently back from the bank of the river toward the valley. The best proofs of this are the numerous sloughs. Ascending finally the Mesa and looking down the valley, I was struck with the evident facility with which a canal could be dug to irrigate many thousand acres of the richest soil, barren only for want of moisture.

According to Lieutenant Ives's report the fall from the foot of the Mesa to Halfway Bend is fifty-five feet, the distance by land twenty-seven miles. The foot of the Mesa seems to have been destined by nature for the head of a canal. The river flows to this point between hills of conglomerate, upon which freshets can make but little impression. A few piles would make an efficient wing-dam. A belt of willows and ash trees should protect the lower embankment for the first few miles.

At the foot of the Mesa I estimated the difference of level between the bottom of the river and the top of its upper bank fourteen feet.

Following the natural level of the country, and giving one foot fall to the mile, which is much for a large body of water, then, after fourteen miles of canal, all the land between the canal and the river for the remaining thirteen miles could be irrigated. If the canal were at this point only two miles distant from the river, deducting one fifth for sand land, 20 square miles, or 12,800 acres up to Halfway Bend, could be irrigated. But long before the canal has reached the first-mentioned point, sloughs could be filled, depressed flats overflowed by branch ditches, and many Indians could plant little patches along the embankments of the canal while it is in progress of construction.

Taking, now, twenty square miles as a minimum of irrigable land at thirty bushels of Indian corn per acre, they could produce 384,000 bushels; and at twenty bushels of wheat per acre, 256,000 bushels; one third of which, even with the propensity of the Indians to waste, would be more than sufficient for home consumption of ten thousand souls, allowing to each of them, women, children, and babies included, five hundred pounds of corn or grain.

How the canal should actually be laid out, how branch ditches and flood-gates have to be constructed and distributed, what amount of earth the Indians have to remove, what dimensions it should have—what, finally, the cost of this canal would be, (probably less than one hundred thousand dollars,) all this can only be ascertained by a systematic survey of the valley for that special purpose.

Since for years accustomed in my profession to ascertain scientifically if the plans conceived by practical men can be executed, I feel some reluctance in making estimates before I have reduced them to a thorough scientific basis. The estimates of the amount of land to be reclaimed from a desert, and its productiveness, are therefore rather underrated.

The foregoing considerations have convinced me that the lands between Halfway Bend and Corner Rock are not only suitable for a reservation, but, in my humble opinion, are in every regard the best that could be selected in this section of Arizona.

The difference of level between Halfway Bend and La Paz is twenty-eight feet for a distance of nine miles by land, so that the canal could easily be continued from Halfway Bend to the foot of the valley, changing La Paz from "the city of the desert" to the city of a terrestrial Eden of laughing gardens and waving grain fields.

I have the honor to remain, very respectfully, your obedient servant,

ADOLPHUS F. WALDEMAR,  
Chief Engineer.

Colonel CHARLES D. POSTON, Superintendent Indian Affairs, La Paz, Arizona Territory.

Irrigating canals are essential to the prosperity of these Indians. Without water there can be no production, no life; and all they ask of you is to give them a few agricultural implements to enable them to dig an irrigating canal by which

their lands may be watered and their fields irrigated, so that they may enjoy the means of existence. You must provide these Indians with the means of subsistence or they will take by robbery from those who have. During the last year I have seen a number of these Indians starved to death for want of food. They were eating the bark and leaves of trees, and also the lizards, frogs, and snakes, so that it was impossible for me to procure any of the great natural curiosities of that country for the Smithsonian Institution.

It was a matter of profound regret that the natural history of Arizona could not be illustrated in that depository of natural science; but the starving condition of the Indians forced them to consume the wonderful reptile productions of that country, which, had a better fate been reserved for them, would have delighted my friend Professor Baird and the many visitors at that fountain of science.

I was especially charged to examine and report upon the customs and habits of the grasshoppers or locusts of the western plains, to determine if they were the locusts of Asia, their mode of procreation, subsequent length of life, and many other interesting details; but alas for the lights of science and opportunity of grasshopper fame! these interesting insects had all disappeared down the wide-spread gullets of my red children. The Indian policy that I have the honor to present to you is simple and plain—easily understood by the Indians and not to be mistaken by the whites. We must have peace or war with the Indians, and I propose to give them their choice. The Indians that choose to be friendly with the Americans and one another will move westward to the reservation selected for them on the Colorado river and betake themselves to habits of industry and thrift. The Indians that reject the proffered friendship must go eastward and mingle with the barbarous Apaches and share their fate. It will then be easy to draw the distinction between friendly and unfriendly Indians. No American and no friend of civilization will disturb or be allowed to disturb the friendly Indians engaged in the active pursuits of productive industry on the Colorado reservation. Here they will have a resting-place and a home on the banks of the river they have bathed in since childhood, and with the generous aid of the great Government whose hapless wards they are will soon become a self-sustaining people. They will learn the first great lesson that by the sweat of their brows they shall earn their bread, and in due time reap the reward that sweetens toil.

With an irrigating canal, the soil of the Colorado will become wonderfully productive. In that latitude the sun is over-genial; and the valley, not having an altitude of more than three hundred and fifty feet above the level of the sea, possesses an immunity from snows and frosts, so destructive to crops in more northern latitudes. There is no reason why the valley of the Colorado may not be made as productive as the valley of the Nile. In that temperature it only needs the vivifying influence of water to make the productions of nature spring up like magic.

The system of irrigation is no new experiment; it existed in Egypt before the Pyramids were born; it was practiced in Asia before Confucius wrote; it was brought to great perfection by the Aztecs of America, when our ancestors were dressed in skins and furs, and lived by the booty of the chase; it is scientific agriculture, and the only insurance against the uncertainties of a crop. With a proper system of irrigation, you shall surely reap where you sow; yea, even twice or thrice per annum. The sediment of the Colorado will plaster the walls of a canal and make them impermeable to water; such is the beautiful arcana of nature. On this river a lively commerce is already springing up, and some half dozen steamboats plow its turbid waters. It is navigable five hundred miles from its mouth, and its sources drain the Great American Basin. The Indians will have a ready market for the surplus production at their very doors, and the friendly current of the Colorado will bear it, untaxed, to market.

It will be necessary for the Government to furnish the Indians with some intelligent superintendence in opening their irrigating canal, and the necessary implements of husbandry and seeds to enable them to raise a crop. Then let them work or starve; but do not force them to starve or steal without first giving them a chance to

labor. It is a cruel thing to force men into a new civilization without preparing them for its duties. As the Americans come into the country the wants of the Indians increase; but without aid the means of satisfying these artificial wants are not commensurate. Without tools a man is helpless indeed. What would a man do without a knife, an ax, a hoe, a spade, or a shovel? He could make very little progress in agriculture; but tenfold is his power of production increased with these simple implements of husbandry. Among these Indians as well as all primitive people the women are the "hewers of wood and drawers of water," the very slaves of the lords of creation. It is only where the light of Christianity and the spread of civilization illuminate the pathway of a people that woman assumes a position "a little lower than the angels." The Indian women have to work out their salvation in sweat and blood or, lacking food and clothing, flock around a military post like moths around a candle. The dusky maidens of the Colorado are fast disappearing under the influences of these debasing establishments of military power, and soon their graceful forms and melodious voices will be only remembered in tradition and song. The disappearance of a people is a melancholy spectacle and bodes no good to us. The tide of civilization is bearing them to eternity with the same certainty that their native Colorado bears its sands to the sea. On what distant shore they will be stranded or saved is a mystery which they do not attempt to penetrate. The smoke of incineration floats away on the breeze and a few charred bones and smoldering ashes are all that remain of the "human form divine."

Ireteba, the great chief of these Indians, was in Washington a year ago, on a visit to the President and the Army. He returned to his own country much pleased with his visit to the Americans. He told his tribe that it would be of no use to go to war against the Americans; that they were a great people, against whom the Indians could never war successfully. He made an effective speech to them; and he and they agreed that, if the Americans would deal with them fairly and justly, and provide them with the means of existence, they would bury the scalps that they had taken from one another; they would bury the tomahawk, and would never strike an American again. The responsibility now rests upon you. The Great Spirit, which deals alike with the destinies of the red man and the white man, will judge between you. In the long muster-roll of nations, which will be called after the echoes of Gabriel's trumpet shall have died away, if it shall be found that you have dealt fairly with your red brethren on this continent, you will stand before the Dispenser of universal justice acquitted of crime. If, on the other hand, it shall be decided that your track across the continent has been a succession of wrong, without an honorable effort at reparation, what terrible judgments may be meted out to you! We have always time to do justice, and to delay it is a crime. It is especially a duty to render justice to the weak and the helpless. Be merciful to the degenerate, for in the cycle of time our own doom may come.

It is not alone for the Indians that I ask your generosity, however much may be their due; but looking far beyond the present moment, it must be apparent to every man who lifts his mind from the struggle of the hour and indulges in a contemplation of the grand future of our country, that the settlement of the aborigines of the mineral Territories in reservations must precede the active and full development of the great treasures of the nation. It is to these great mineral fields that the financiers of the Government and the world are now looking for relief from the financial embarrassments consequent upon a civil war unprecedented in the history of nations. The idea of discounting or repudiating the national debt can never be indulged in for a moment while the mountains west of the Sierra Madre are teeming with mineral wealth. In order to allow scope and verge enough for our hardy and enterprising frontiersmen to prospect the mines of Arizona, it becomes necessary to have the Indians colonized in a reservation, so that a miner may know when he meets an Indian in a lonely gorge in the mountains whether he is a friend or a foe.

It scarcely becomes me to allude to the subject; but justice to the brave and hardy pioneers who

have risked their lives a thousand times to carry the institutions of the American people into Arizona deserves a tribute at the hands of their first Representative. No people have ever endured the hardships, dangers, and privations of those brave and adventurous men who left the homes of their ancestors a thousand miles behind and penetrated the wilderness sending its golden sands into the Gulf of California.

In the year 1824, Sylvester Pattie and his son James, from Bardstown, Kentucky, with a party of about one hundred hardy and adventurous frontiersmen, set out upon a trapping expedition to the head waters of the Arkansas river. After many romantic adventures in New Mexico, the party dispersed, and a few of the boldest spirits undertook to reach the Pacific ocean. They spent one winter at the celebrated mines of Santa Rita del Cobre, on the head waters of the Gila river, and the next spring trapped down that river to its confluence with the Colorado. Here they embarked their canoes on the turbid waters of the Colorado, and drifted down to the Gulf of California, whence they crossed the peninsula to the Pacific ocean. Here they were imprisoned by the Spanish commandant at San Diego, and after a long and cruel confinement the elder Pattie died in prison.

The oldest living trapper in Arizona at this day is old Pauline Weaver, from White county, Tennessee. His name is carved in the Casa Grande, near the Pima villages, on the Gila river, under date of 1832. This old man has been a peacemaker among the Indians for many years, and is now spending the evening of his life in cultivating a little patch of land on the public domain in the northern part of the Territory of Arizona, on a beautiful little stream called the Hassiamp.

In the early settlement of our western country the pioneers formed the advancing wave of civilization, and were generously sustained by the friends and relations they had left behind; but the pioneers of Arizona leaped beyond the reach of succor and led the forlorn hope of civilization. Self-reliant and full of manhood, they went forth to battle alone. And manfully they bore themselves in the struggle, until overborne by the misfortunes which have nearly enveloped the nation in ruin. Many of them had seen the glorious banner of our country carried to the tides of the Pacific ocean, where nature said to man, "Thus far shalt thou go, and no farther." We had to turn our course southward, and sought the unpeopled lands of northern Mexico.

The Government followed in the train of the people, and in a period of great prosperity, when the Treasury was overflowing with gold, gave \$10,000,000 for what was called the Gadsden purchase. The people rushed into the new "purchase" and soon the indomitable industry and energy of the coming race was apparent in the discovery of mineral wealth and the establishment of relations with the nearest commercial centers. The industry of our people soon spread a beneficial influence in all northern Mexico; the Indians were softening under the influence of civilization, and I wish the sequel could be omitted. Would that Lethian waters could produce oblivion. In less than sixty days after the demon of civil war had commenced his ravages on this side the continent, the infant settlements of Arizona were abandoned and the track of receding civilization was for the first time in the history of this country turned eastward, marked in its retreat by new-made graves. For two years the Territory remained a prey to anarchy.

At the end of that time, by the indefatigable efforts of a few fast friends, a provisional government for the Territory was organized, and a staff of Federal officers of more than ordinary ability and character were sent across the plains to establish civil government in that remote region. In the overwhelming events of the great civil war impending, it was a grand moral spectacle to see the Republic sending its agents to a remote and distant Territory to plant the banner of freedom on the ruins of a former civilization. We are but repeating history in following the footsteps of the Aztecs from their northern homes to central Mexico. The civil officers sent out by the President have discharged this duty, and discharged it well.

At a greater distance from this capital than any proconsul ever planted the eagles of Rome from

the imperial city they established the stars and stripes of the Republic. In a beautiful lap of the mountains where never white man trod before they located the capital of the Territory and named it in honor of the Aztec historian, Prescott. On this very spot there is an Indian mound with the remains of an ancient fortification of the Montezumas, reminding us forcibly of the mutations of time and the rise and decline of nations; but nowhere yet in ruins do we find a temple dedicated to the living God. Let us take warning and lay deep the foundations of the Christian faith, not only in the monuments of Christianity, but in the hearts of the people.

In that peaceful mountain home no sectional political differences rankle in the heart. It was my good fortune on the last anniversary of our Independence to assist in its celebration in that primitive capital. The people who had borne the banner of freedom from Bunker Hill to those distant mountains and the men who had escaped the horrors of war in the Old Dominion joined in fraternal celebration of Independence day, and consecrated themselves to the future prosperity of the Territory. And there in those everlasting mountains the genius of the American people will build a capital which will rear its domes and spires to the heavens when "Times shall doubt of Rome."

Such is the genius of American civilization. It may be impeded now by the horrors of civil war, but the day is not far distant when it will overleap the boundary of nations like an avalanche, and spread itself over northern Mexico. It is destiny, and it may be a duty to carry our institutions into that country; and God send the day when, as a united people, we may heal the discords of civil war by joining the armies now engaged in fratricidal strife to drive from this continent the fungus of European monarchy. I am willing to join in pæans to universal emancipation for the sake of national unity. "The nationality of the American people" is the motto upon which I was sent into this House, and when it ceases I shall leave it without regret.

It is a source of extreme mortification that I am unable to present this amendment with the approbation of the Committee of Ways and Means, but it has not been possible to bring them to an estimate of the justice and importance of the measure. If the same economy pervades every branch of the administration of the Government, the taxpayers will have no cause of complaint. We have neither military protection, mail facilities, nor any of the fostering cares of Government; but we prefer rather to indulge in pleasant hopes of the future than unworthy complaint. The Pacific States and Territories are rich in wealth, filling up rapidly with an indomitable population and "by and by will grow a little stronger." Confident in strength and hopeful of the future, we are willing to "bide our time." With five hundred thousand square miles of mineral lands, we do not despair. With a climate surpassing any other part of the continent, and perhaps of the world, we shall "multiply and replenish the earth."

No Alpine top nor Apennine valley is waked to industry by a brighter sunlight than bathes the mountains and valleys of Arizona. It is the land of the olive and the vine. The pearls of the Orient were not richer in purity and value than those of the sea of Cortez. The gold of Ophir was not so abundant as that which awaits the hand of industry in our pregnant mountains. The "planchas de Plata" are the richest silver mines known to history. We are the children of your loins; give us sympathy. We are brethren of the same family; give us help. Nurture us, strengthen us, raise us up to dignity, and in a few short years we shall come to add another block to this grand mosaic temple of freedom which we hope will endure to the remotest ages.

The uniform courtesy and kindness with which the Delegates from the remote Territories are received in this capital inspires the most grateful emotions.

As this is the first occasion on which I have presumed to occupy the valuable time of the House, accept my sincere thanks for your kind attention.

#### MESSAGE FROM THE SENATE.

The committee here rose informally, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. Cobb, one of

its clerks, announcing to the House that the Senate had disagreed to the amendment of the House to the joint resolution (S. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, and have agreed to a committee of conference, in which he was directed to ask the concurrence of the House; and that Messrs. DOOLITTLE, HARRIS, and BROWN had been appointed on the part of the Senate.

The message further announced that the Senate had disagreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, and had agreed to the appointment of another committee of conference, in which he was directed to ask the concurrence of the House; and that Messrs. TRUMBULL, FARWELL, and POWELL had been appointed on the part of the Senate.

#### CONDITION OF INDIAN TRIBES.

The SPEAKER, by unanimous consent, laid before the House the message of the Senate, asking the appointment of a committee of conference upon the disagreeing votes of the two Houses upon the joint resolution (S. No. 89) directing an inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities.

No objection being made, it was ordered accordingly.

#### ARMY APPROPRIATION BILL.

The SPEAKER, by unanimous consent, also laid before the House the message of the Senate, asking for another committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866.

No objection being made, it was ordered accordingly.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 649) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1866, and additional appropriations for the current fiscal year; when the Speaker signed the same.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

The Committee of the Whole on the state of the Union resumed its session.

Mr. STEVENS. I am sorry to be obliged to object to the proposition of the gentleman from Arizona, [Mr. POSTON,] who represents a very worthy Territory. An application for an appropriation of this kind was made to the Committee of Ways and Means, who, on examining the matter, thought such an appropriation a little premature. There have been as yet no treaties with the Indians under which appropriations should be made. We found there were some four or five thousand very excellent white men in the Territory, and that the remainder were Indians; and we made such appropriations, which have already passed here, as were necessary for the proper organization of the Territory. We did not think it would be proper to organize this great Indian system at this time. We thought that it would be better for us to wait until the whole matter can be fully considered and reported on by the commission which we have already appointed for that purpose. The Committee of Ways and Means were reluctant, on account of the eloquent gentleman who represents the Territory, to reject these large appropriations, holding them to be wholly disproportionate.

I move to strike out the gentleman's amendment, and insert the following:

For increase of the salary of the territorial judges of Arizona \$1,000 each, \$3,000.

Mr. WILSON. I ask whether this amendment is in order; for it is certainly not germane to the amendment of the gentleman from Arizona.

Mr. STEVENS. I move to strike out the amendment of the gentleman from Arizona and to insert my amendment instead of it.

The CHAIRMAN. The Chair overrules the point of order.

Mr. WILSON. I desire to say one word in

reply to the gentleman from Pennsylvania who made the declaration that there is no provision of treaty for these Indians. I remember well, when the Indian appropriation bill was under discussion a few days since, that we were told by gentlemen that appropriations were necessary for certain tribes of Indians in Oregon and Washington because there were no treaties with them. Now, if it were a good reason to make appropriations for the Indians of Oregon and Washington that there had been no treaties made with them, I do not see why the same reason may not be urged in the case of Arizona. I do not know whether the sum is too large or too small; but I do know that the same reason which carried the appropriation for the Indians of Washington and Oregon ought to induce the adoption of the appropriation for Arizona.

Mr. STEVENS. I withdraw my amendment.

Mr. WILSON. I move to reduce the appropriation to \$100,000.

Mr. POSTON. I accept that as a modification of my amendment.

The question recurred on Mr. POSTON's amendment, as modified.

The committee divided; and there were—ayes 54, noes 43.

So the amendment was adopted.

Mr. HIGBY. I move to add the following:

*And be it further enacted,* That the Joint Committee on the Library be, and they are hereby, authorized and directed to contract with Francis B. Carpenter, at a sum not exceeding \$20,000, for the purchase of his painting known as the Emancipation Proclamation before the Cabinet, to be put in the Capitol, in such place therein as the Speaker of the House and the Vice President may designate.

Mr. HOLMAN. That amendment is not to carry out any existing law, and I make the point of order on it. We cannot appropriate money for pictures at a time like this.

The CHAIRMAN. The Chair has some doubt in reference to the question of order, and will submit it to the committee.

The committee divided; and there were—ayes 62, noes 31.

So the committee decided that the amendment was not in order.

Mr. WOODBRIDGE. I move to add the following:

*And be it further enacted,* That the salary of the Register of the Treasury for the current year shall be \$4,000, and the salary of the chief clerk of the Register's office shall be \$2,200 for the same period, after which time their salaries shall remain as heretofore fixed by law; and that the office of the Assistant Register under the Treasurer is hereby abolished.

I will barely state, for the information of the committee, that the passage of this amendment will save the Government about one thousand dollars a year. During the administration of Mr. Chittenden as Register of the Treasury, we were called upon to appoint an Assistant Register of the Treasury, on account of the accumulation of business in that Department. That business has not decreased since then, but has, as I am credibly informed, increased. The Assistant Register who was appointed, owing to an unfortunate circumstance, is not and has not been able during the past year to attend to the business of the office, and it has all devolved upon the Register and chief clerk. I am willing, as long as the Register does the whole business of the office of the Assistant Register, to abolish the latter office and increase the salary of the Register to \$4,000. The salary of the Register of the Treasury is now \$3,000 a year, and it is proposed to abolish the office of Assistant Register and throw the increased duties upon the Register himself, paying him therefor \$1,000 more, and save the difference of the two salaries to the Government.

The resolution further provides that the salary of \$4,000 shall only be for the current year, and that thereafter the salary shall go back to \$3,000; leaving it to Congress, as the public business may require, to increase the salary at their pleasure. This is an economical measure, a just measure, and I hope it will meet the approbation of the committee.

Mr. HOLMAN. I would inquire what the salary is of the office which is proposed to be abolished?

Mr. WOODBRIDGE. It is \$2,000 a year.

Mr. HOLMAN. This proposition increases the salary of the Register to \$4,000.

Mr. WOODBRIDGE. It increases the salary of the Register from \$3,000 to \$4,000 a year. The

salary of the chief clerk is \$2,000 a year, and I here propose to add to it \$200.

Mr. STEVENS. If I understand this proposition correctly I should be sorry to vote for it. The Assistant Register is a very worthy man, but has been afflicted with paralysis lately, from which he has now recovered. If I understand it, this proposition legislates him out of office and gives the salary to the Register. I cannot go for that.

Mr. WILSON. I remember very distinctly the discussion which occurred on the proposition to create the office of Assistant Register, and the reason alleged for it was that the Register himself was then in some degree afflicted with paralysis, and was unable to sign his name, and that therefore it became necessary to get an assistant to do the writing which otherwise would devolve upon the Register. But now it appears that the Assistant Register is afflicted with paralysis. If so, I think we had better abolish the office. We have a Register now who is an able-bodied man, who is able to write, and therefore if we now get rid of the paralytic we shall have a man in office who is able to write and do all that is necessary to be done. I hope, therefore, that the proposition to abolish the office of Assistant Register will be adopted.

Mr. HOLMAN. In that view of the matter I propose to amend by striking out the words "and be it further enacted, that the office of Assistant Register of the Treasury is hereby abolished."

Mr. WOODBRIDGE. I hope the amendment proposed by the gentlemen from Indiana will not prevail. It is evidently introduced for the purpose of defeating the proposition which is embodied in the amendment I have presented.

Now, sir, I have to say that at the time the Assistant Register was appointed it was deemed important that some additional assistance should be provided in the office of the Assistant Register of the Treasury. I have no doubt that the person who was appointed was a competent gentleman, but for a portion of the last year he has been in such a condition that he has rendered no assistance. The Register, who came from Vermont, (where nobody lives except very industrious gentlemen,) is an able lawyer, a hard-working man, and he has performed the arduous duties which his position devolves upon him with great satisfaction to the Secretary of the Treasury. And I think it is a matter of simple justice, right, and fairness that his salary should be increased for the present year when expenses are so enormous that a man with a family cannot live upon \$4,000 a year. The proposition leaves the legislation in reference to the future salary in the hands of future Congresses. We all know that this is a position of great responsibility, requiring great labor, great care, a good judicial mind, and fair legal attainments. The present Register has all these qualifications, and I know of no officer of the Government who accomplishes more labor, and devotes himself more assiduously to his duties than the present Register, Mr. Colby. Now, he is perfectly willing to perform these duties for a year, because the pay is necessary for him as it is for any gentleman who has not an income outside of what he receives here in Washington to make both ends meet; and inasmuch as he is performing the duties so well, and inasmuch as the amendment only asks for a provision for the current year, I do hope, as a matter of justice, that the committee will be inclined to favor this proposition.

I have no particular objection to abolishing the office of Assistant Register of the Treasury, although I am quite sure, from what information I have received and which I know to be true, that the duties of this office have not only immensely increased but are daily accumulating, and that there will be business for an Assistant Register if we shall retain the office and have a competent man appointed. But under the circumstances, inasmuch as the Register is willing to assume the labors which would devolve upon the Assistant Register, supposing that he can carry it along for one year more, I think it is but just that he should receive the increased compensation of \$1,000, and for the purpose of saving expense to the Government I have also put a provision into the amendment abolishing the office of Assistant Register of the Treasury.

Mr. SPALDING. If it be necessary to in-

crease the salary of the Register of the Treasury I do not know that I have any objection to it. But I do object most strenuously to this mode of doing it. I understand that the proposition is to break down the Assistant Register. I do not know him. I do not even know where he comes from; but I understand that the man has been unfortunate, and it is proposed to drive him from office because he has been a paralytic and give his pay to the Register.

Now, I do not like this way of doing the national business. If the Register be a competent officer, as I trust he is, let the gentleman bring forward a bold proposition to increase his salary, and we will vote upon it; but do not couple with it a proposition to break down a man who has been unfortunate. I object to that.

Mr. WASHBURN, of Illinois. Will this save any money to the Treasury?

Mr. WOODBRIDGE. It will.

Mr. WASHBURN, of Illinois. Then I am for it.

Mr. WOODBRIDGE. It will save \$1,000; but I vote for it because it is a matter of justice. I have heard a good deal said here, both in this committee and in the House, in relation to economy. That is a question that ought to be considered by every member of this House; but when the question comes up between doing justice to an individual and saving one, two, or ten thousand dollars to this great Government, I am for doing justice; *fiat justitia ruat cælum* is the motto that men may well adopt, and the principle should be carried out in legislative action in the same degree that we would carry it out in our own business. No gentleman upon the floor of the House will ask services to be rendered to him without returning an adequate consideration to the man who renders them, and I believe that the Government will be better prospered, as men in their private relations are better prospered, if in any case that comes up it shall be considered on its individual merits, and let right be done, and as I believe that this amendment is right I hope it will be passed.

Mr. HOLMAN. Does not my friend from Vermont know that nothing could be more unjust than to increase this salary while the salaries of the Second and Third Auditors and the other heads of bureaus remain as they now are? The injustice is manifest when you consider the enormous increase in the business of the offices of the two Auditors. It is not proposed to increase those salaries at all. There is no movement in that direction. I object to a discrimination in favor of a particular officer who performs the same class of duties to the exclusion of others. I hope my amendment will be adopted.

Mr. WOODBRIDGE. I call for tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. HOLMAN and WOODBRIDGE were appointed.

The committee divided; and the tellers reported—ayes fifty-eight, noes not counted.

So the amendment to the amendment was agreed to.

The question recurred upon the amendment as amended.

Mr. SLOAN called for tellers.

Tellers were ordered; and Messrs. SLOAN and STILES were appointed.

The committee divided; and the tellers reported—ayes 50, noes 47.

So the amendment as amended was adopted.

Mr. DAVIS, of Maryland. I move the following amendment as an additional section:

Sec. —. *And be it further enacted,* That no person shall be tried by court-martial, or military commission, in any State or Territory where the courts of the United States are open, except persons actually mustered, or commissioned, or appointed in the military or naval service of the United States, or rebel enemies charged with being spies; and all proceedings heretofore had contrary to this provision are declared void; and all persons not subject to trial, under this act, by court-martial or military commission, now held under sentence thereof, shall be forthwith discharged or delivered to the civil authorities to be proceeded against before the courts of the United States according to law. And all acts inconsistent herewith are hereby repealed.

I wish to say merely a few words in explanation of this amendment.

Mr. WASHBURN, of Illinois. I rise to make a point of order.

Mr. DAVIS, of Maryland. I hope the gentleman will not persist; let us have a vote.



Mr. WASHBURN, of Illinois. I have raised a point of order on everything that I believed not to be in order on an appropriation bill. I would treat all alike.

Mr. DAVIS, of Maryland. Let me explain the amendment before you press your point of order.

Mr. WASHBURN, of Illinois. Certainly, if my point of order can be reserved.

The CHAIRMAN. The point of order can be waived, by unanimous consent, until the gentleman from Maryland [Mr. Davis] gets through.

No objection was made.

Mr. DAVIS, of Maryland. Mr. Chairman, I do not desire at this period of the session to detain the House even by an argument in favor of the amendment I have submitted. I desire to state merely what it contemplates and to beg the House to give a direct vote upon it. It is a measure which touches the very foundation of republican government, the liberty of the citizen, and nothing more, nothing less.

I do not think it is exclusively, perhaps not chiefly, the fault of those in authority that military commissions have tried, contrary to the Constitution and laws of the United States, many of its citizens. It began first in the rebel States, then spread to the border States, the theater of armed conflicts, then invaded Pennsylvania, Indiana, and New York, amid the general acclaim of the people; and now that it reaches as far north as Boston we hear the first murmur of its advocates or instigators. What that amendment contemplates is, not to cast imputation upon any administration or any officer, but recognizing the error which the people as well as the Government have in common committed against the foundation of their own safety, now, before the very idea of the supremacy of the law has faded from the country, to restore it to its power.

This amendment is confined rigidly to the loyal States, to the States in which the courts of the United States are open, to the States whose governments the United States guaranty, so that it does not strip the Government of any power, legal or usurped, which it has thought necessary in its efforts to suppress the rebellion. It leaves everybody to be tried by military court-martial who is actually in the military service of the Government, or who being a rebel enemy is arrested as a spy. But it annuls everything that has been done heretofore under illegal military commissions, directs all persons now in illegal confinement under sentence of illegal military commissions to be either discharged or delivered to the civil tribunals to be there proceeded against according to law. There the amendment stops.

I desire to make an imputation on no one. This amendment is proposed for the benefit of every party and of every administration. And I trust that the House will allow it to be incorporated into this bill, that it may become the acknowledged as it is now the supreme law of the land and the right of the citizen.

Mr. WASHBURN, of Illinois. I now insist upon my point of order that this amendment is not germane to this bill in any way, and therefore is not in order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DAVIS, of Maryland. I appeal from the decision of the Chair.

The CHAIRMAN. The question now is, Shall the decision of the Chair stand as the judgment of the Committee of the Whole?

Mr. DAWES. Is the appeal from the decision of the Chair debatable?

The CHAIRMAN. It is not debatable.

Upon the question of sustaining the decision of the Chair, the committee divided; and there were—ayes 46, noes 48.

Mr. WASHBURN, of Illinois, called for tellers.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and DAVIS, of Maryland, were appointed.

The committee divided; and the tellers reported—ayes 50, noes 65.

So the decision of the Chair was not sustained.

#### ENROLLED BILL.

The committee here rose informally, and the Speaker having resumed the chair,

Mr. COBB, from the Committee on Enrolled

Bills, reported that they had examined and found truly enrolled a bill of the following title: An act (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and to amend an act amendatory thereof, approved July 2, 1864; when the Speaker signed the same.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

The committee again resumed (Mr. PIKE in the chair) the consideration of the miscellaneous appropriation bill.

The question was upon the amendment of Mr. DAVIS, of Maryland.

Mr. KERNAN. Mr. Chairman, I trust that this proposition will be adopted by the committee and the House; and I hope that this will be done without anything being said that shall excite partisan feeling on the subject. We owe it to the cause of constitutional liberty and to the preservation of republican government to enact a law that shall abrogate the system of arbitrary imprisonments and trials by military commissions which has been inaugurated, and which shall secure to every citizen the protection guaranteed by the Constitution against these weapons of despotism. If, during the excitement of this civil war, by reason of the real or supposed exigencies of the times, the practice of arbitrary arrests and trials of civilians by military tribunals has grown up, it is our right and our duty now, when it cannot truthfully be claimed that there is any need of proceedings of the kind, to enact a law which shall forbid them in the future, and which shall restore to the jurisdiction of the civil tribunals those who are now in prison.

I will not, sir, in any spirit that can provoke the least angry or partisan discussion or dissension, allude to abuses and outrages which have grown up and been practiced under this system of arrests, trials, and incarcerations. I am sure that during the last and present session every member of each party has had brought to his knowledge, by the applications of men in prison, cases which certainly aroused his indignation, and very often, when he called the attention of one of the heads of the Departments to the case, it was ascertained that no charges existed against the man who had been in prison for months, and he was discharged.

Sir, we owe it to the citizen, to the Constitution, and to ourselves, to abolish and prevent in future a system which has grown up, and which places and leaves the citizen in such a position that he can be held in prison without the right to a speedy trial by a jury of his country, and must owe his liberation to solicitation and favor rather than innocence protected by law. Why, sir, in the State of New York, civilians have been kept in confinement for months by the mere order of sub-officials, without any color of lawful authority. Under this system citizens of the State of New York have been arrested in this District, detained for months in the prison near this Capitol, and then discharged without trial of any kind. Other citizens of that State, civilians, men of unimpeachable character, have been thrust into the same prison, detained for months, subjected to trial by military commissions for alleged violations of the statutes of New York, and only discharged when this military tribunal, even, could find nothing against them.

Sir, it seems strange indeed that such things could have occurred under a Government deriving all its powers from the Constitution of the United States, and the rights of whose citizens are guarantied by that instrument, and in this District, where and when all the courts were open and daily exercising their functions, and where the highest judicial tribunal of our country was sitting. If such things are done by executive power and not rebuked, what becomes of liberty? The practices which the proposed amendment is intended to rebuke, abolish, and prevent, are destructive of all real liberty. They are familiarizing the American people with despotism in its worst form. They are teaching us to rely on influence and favor for our liberty rather than laws and constitutions.

I think there can be no reasonable objection to the proposed law. It is guarded in its provisions.

It is to operate only in States where the courts are open, where there is no insurrection. It does not remove from the operation of military authority spies or any persons in the military or naval service. It provides for the detention and trial in the courts of those against whom there is or shall be any charge of crime. I rejoice in the belief that we shall now before this Congress adjourn, without any partisan or censorious discussion, enact a law liberating those now improperly imprisoned, forbidding the exercise hereafter of a power from which so many of our citizens have suffered, and by which liberty has been outraged and our form of Government brought into disrepute. After voting for it I think each member will be satisfied that he has discharged faithfully in this respect a duty to the Administration, to the Constitution, and to the people. I trust that the proposition will be adopted by a unanimous vote.

Mr. DAWES. Mr. Chairman, I believe that during the time I have served in Congress I have, to the extent of my ability, devoted myself to the effort to ferret out and punish those who have been engaged in defrauding the Government. During the last Congress I devoted I think some part of my strength, I know I did a great deal of my time, to that kind of work, calling down upon myself the curses of those who had been engaged as contractors and otherwise in supplying the Government. In carrying out what I was endeavoring to do, I, in coöperation with others, reported to the House a bill which became a law, making contractors with the Government, and those engaged in supplying it, subject to trial by court-martial. I was aware that it was an extreme measure; but I felt at that time that it was necessary to check what seemed to be a growing and an alarming evil. In putting into the hands of the officers of the Government this extreme power, I had confidence that they would exercise it with moderation and reason. But, Mr. Chairman, I am sorry to say that my observation of the administration of that law, of which I take to myself some part of the responsibility, has been such during the past year or two as to compel me to support this amendment. Sir, we seem to have lost sight, in the execution of that law, of the guarantees of the Constitution. We seem to forget that civilians charged with offense have any right to trial by jury, or a knowledge of the offense for which they are frequently incarcerated in prison.

Sir, we seem to be taking very little note of the direction in which we are drifting. Day before yesterday I voted for a bill, and I will read its title. It seemed harmless enough. It is a bill "to provide for the better organization of the pay department of the Navy." It became a law so far as votes in this House were needed for that purpose. There was nothing in its title to attract attention. But to my astonishment, on turning to the last section I found a provision which I did not and could not suspect from anything indicated by the title, and which is of so extraordinary a character that I am glad that a motion has been entered to reconsider the vote by which it passed this House that I can expose its enormous character. I now call the attention of members to this section to show how unconcernedly we are drifting along in this current without seeming to be aware of it into the strangest state of things that ever existed under a free Government. In a bill with the title which I have given it is enacted in the third and last clause that every one, not only in the naval service, but every servant of everybody in the employ of the Navy Department, every little servant who goes in and out of the doors of the Navy Department, every driver of a team which happens to be loaded with supplies for the Navy Department, every one, and every one's agent or servant who happens to deal with the Navy Department, shall be subject to trial by court-martial for any alleged offense in such dealing. Every man in the employ of the Navy Department; every agent, employe, or servant connected with that Department, in all its ramifications, is subject to be tried by a court-martial. And the punishment to be inflicted by that court-martial, without trial by jury in the form guarantied by the Constitution, is to be a fine not exceeding \$10,000, and imprisonment in any penitentiary of the United States not exceeding ten years. I understand from high authority in the Navy Department, from which

this section has come, that courts-martial are not organized like courts of law, to guard the rights of the accused and secure justice, but are organized to convict.

I have in the last fortnight had the painful duty devolved upon me to read the proceedings of a court-martial under the law which I reported to the House some two years ago. It is one which, I venture to say, has hardly a parallel for the bitter malignity which seems to run through the whole proceedings, and for wider departure from old and established rules of law, of which the accused were the victims, and by which they were hunted, since the days of Jeffreys. It is the case of Smith Brothers, of Boston. If every charge alleged before the court-martial were taken to be true, just as alleged, they would only have been in default, in transactions covering a business of more than twelve hundred thousand dollars, and the furnishing of thousands of different articles, barely twenty-two hundred dollars, and without anything which deserves the name of evidence that this paltry default was intentional.

They were arrested by a band of soldiers, without warning; their store was shut up, and they were taken to Fort Warren, not being permitted to write to their families and inform them where they had gone. Their dwelling-houses were searched by a band of soldiers, which was the first notice to their families of their arrest, and every private paper, even the private notes between them and their wives, was taken and carried off, and kept from them until this very day and hour. They were denied bail at first, and when it could not longer be withheld, \$500,000 bail was demanded, and when the merchants of Boston testified their confidence in the accused by furnishing it, \$50,000 was accepted. Nothing but the earnest protest of the entire Massachusetts delegation in Congress saved them, through the President's interference, from being taken for trial from Boston to Philadelphia, and confined in a prison ship there when not in court. Their books and papers and letters were subjected to examination for long months before charges were made against them; and when they came, all told, if true, amounted to only \$2,200; and I say, sir, without fear of contradiction by any fair mind who will read the evidence, with nothing deserving the name of evidence of the slightest intention to defraud. No sentence of that court-martial has been publicly announced, but I have reason to believe it is two years' imprisonment and \$20,000 fine.

I do not desire to screen any one from his just deserts who attempts to defraud the Government. But why a court-martial to try these men, except that "courts-martial are organized to convict?" The courts of law were open in Massachusetts, the judges are spotless, the juries incorruptible. Righteous judgment could be entered against them if convicted by their peers, and a just sentence executed upon them. There was not the slightest need, or pretense of need, for a court-martial. Yet these extraordinary proceedings were visited upon gentlemen against whom there never was a breath of reproach uttered in the city where they live; gentlemen who enjoy the confidence of those among whom they have done business their lives long, and who to-day, notwithstanding the infamous farce of this court-martial, are enjoying unimpaired the confidence of a business community as sensitive as the apple of the eye to the slightest lack of integrity. I do not say why this unjustifiable course was pursued toward these men. I only say that it happened immediately after they had testified before an investigating committee of Congress in reference to certain frauds that had come to their knowledge very near the doors of certain naval officials. Now, sir, I submit that it is time for us to act. We are in a condition that we can do so. The situation of the country is such, the progress of our arms is such, and the position of things in the Army and Navy is such, that we can afford, at least where our own citizen civilians are charged with crime in States where there is no rebellion, where the courts of law are open, and have been found hitherto, through the whole existence of the Republic, sufficient to mete out justice to the guilty and protect the innocent—I say, under such circumstances, we are in such a condition that we can afford to observe at least the forms of law in

the trial of our own citizens. Let me ask you, what need there is of subjecting a mere messenger at the door of the Navy Department to trial by a court-martial for any alleged offense against what is announced to be a rule there?

I hope, therefore, that no desire to mete out punishment to any guilty contractor, agent, or servant—in which desire I claim to be not a whit behind any man in this House—will lead us further to trench upon the rights of citizens. In those States where peace reigns, where courts of justice are still open, and their administration has been such as to commend them to the confidence of the people, when a man is charged with an offense let him at least have a trial according to the provisions of the Constitution; let the offense be plainly and distinctly set forth in information or indictment, and be tried by his peers.

It is because I had a little something to do with furnishing the Department with this artillery which they have turned so much upon the people of the northern States, and have found so fruitless after all in checking corruption, cheating, and plundering upon the part of contractors, and so administered as to become the potent instrument for trampling upon the rights of the citizens, that I have ventured to raise a protest against the very bill I reported myself, that has been perverted from the honest use for which it was enacted by the last Congress of the United States, and to ask the House to do this much and this little for the protection of our citizens.

Mr. SCHENCK. I move to amend by striking out all after the word "spies," as follows:

All proceedings heretofore had contrary to this provision are declared void, and all persons not subject to trial under this act by court-martial or military commission now held under sentence therefor, shall be forthwith discharged and delivered to the civil authorities, to be proceeded against before the courts of the United States according to law; and all acts inconsistent herewith are hereby repealed.

If we could indulge in it in these last hours of the session, this subject might be fruitful of debate; but as it is, I shall content myself with saying that if the resolution were confined to its first clause, were made prospective, so that hereafter trials for proper military offenses only should be tried by military courts, I could give it my most hearty support. But the general jail delivery—and it would operate as that—provided for in the latter part of the provision, I cannot assent to, for the reason that it would involve us not only in inconsistency but in some degree, perhaps, in wrong. The gentleman from Massachusetts [Mr. Dawes] admits that he was the author of the law passed by the last Congress.

Mr. DAWES. I introduced it; I was not the author.

Mr. SCHENCK. He introduced the law for the punishment of contractors and those who in any way furnished supplies to the Government. I have that law here under my eye. Now, however improvident it might have been then, how much more may it be now, when we see our way clearly out of the difficulties of this rebellion. It is very certain that arrests have been made, trials taken place, and convictions had under the operation of what, at least, was taken for law, and having the sanction of the Congress of the United States. Just so, at the last session of the present Congress, in the bill for reorganizing the quartermaster's department, it was provided that all persons, whether civil or military, who were in any way concerned in furnishing supplies to the quartermaster's department, or who were engaged in the inspection of supplies, or who were, according to the meaning of the statute, mixed up in such matters, should be liable to trial by a military court. And such trials possibly may have been had. We again here, the other day, passed a section in an appropriation bill infringing in the same way on the right of the citizen to be tried only by the civil courts, and not by military tribunals. I understand that it was done inadvertently; I was not in the Hall at the time; and I should cheerfully vote to reconsider in order to get rid of the section referred to.

Now, this being the history of the matter, it seems to me that we ought not to go back and make a general jail delivery, but ought to leave these men to their constitutional rights in the courts. But a general jail delivery would let loose upon the community all the conspirators at Chicago who were actually concerned, if the charges

be true, in what is equivalent to levying war, who were armed for the purpose of liberating the rebel prisoners in order that the city of Chicago might be sacked and destroyed; and so in several other cases where such trials have been had. If the amendment be modified, so that the first part of it shall be omitted, I think it ought to be passed.

Mr. PENDLETON. I desire to ask my colleague a question. I listened with attention to what he said in relation to the last part of this amendment. I desire to ask him now how men who are confined under sentence of military commissions or courts-martial are to obtain their constitutional rights when the *habeas corpus* is suspended as it now is.

Mr. SCHENCK. By application to the courts. Mr. PENDLETON. But the courts have only an opportunity of exercising their jurisdiction in case you bring the prisoner before them, and when the *habeas corpus* is suspended he cannot be brought there.

Mr. SCHENCK. If the *habeas corpus* is suspended, as a matter of course he could not.

Mr. PENDLETON. Is it not suspended in all these cases by proclamation of the President?

Mr. SCHENCK. No, I think not.

Mr. PENDLETON. That has been my understanding.

Mr. SCHENCK. In a particular case when the matter came before a court in this city a short time since, the President indorsed a suspension in that particular case on the papers.

I was about to remark, in confirmation of the view which I take of this matter, that some remedy should be applied, that I have been engaged in an investigation in reference to the Old Capitol prison, and although we found a large number of persons confined there, most, if not all of whom are perhaps properly confined there, so far as the question of their guilt for fraud and rascality is concerned, yet there are some men confined there under military authority for offenses that are triable by the courts of the country, and if the first part of this amendment shall be adopted, they will be admitted at once to that sort of trial.

Mr. GANSON. I would suggest to the gentleman that this amendment provides that these persons shall be turned over to the civil tribunals so that they may be tried. It does not turn these men loose upon the community, as the gentleman suggested.

Mr. SCHENCK. I apprehend the result would be this: when a man is tried before a military court, he objects to the jurisdiction of the court as being a military court, before which he is not triable. If tried hereafter before a civil court you would find him shifting his ground and pleading a former conviction.

Mr. GANSON. Does the gentleman think that any decent tribunal would hold that a good plea? No respectable judicial tribunal in the country would hold such a plea good.

Mr. SCHENCK. I suppose that in reference to these contractors, sutlers, and other persons who are *quasi* civilians, who are now by law triable by military courts, that law would be sustained. A large number of those persons have been tried under laws which, whether rightfully or improvidently, have been passed. Yet all of these persons are to be turned loose, or turned over to the civil courts, freed from the punishment awarded them under trial by court-martial; and they would plead that they had been already tried under laws regularly passed. That is the difficulty which I apprehend; the sweeping effect of the last part of the amendment of the gentleman from Maryland, [Mr. Davis.] The conviction is forced upon my mind more and more strongly every day that a remedy is necessary in order to have some protection against the extreme measures taken in these trials. The former portion of the proposed amendment I think is a proper provision, and therefore I have made the motion to strike out all but that part.

Mr. YEAMAN. I ask my friend from Ohio [Mr. Schenck] to accept the following as an addition to his amendment, to be inserted in lieu of what he proposes to strike out:

Or enemies charged with a violation of the laws of war.

Mr. SCHENCK. That is for guerrillas?

Mr. YEAMAN. Yes, sir.

Mr. SCHENCK. I will modify my amend-

ment so as to make it to strike out all of the amendment of the gentleman from Maryland [Mr. DAVIS] after the word "spies," and insert what the gentleman from Kentucky [Mr. YEAMAN] has proposed.

Mr. STEVENS. I rise not for the purpose of making a speech, but to express my regret that the gentleman from Maryland [Mr. DAVIS] should have thought it his duty, at this stage of the session, when so much business is pressing upon us, when it is so necessary to close action upon this bill in order that we may bring in some of the most important measures which have been before us for some time. Now he ought to know that all these arrests and trials have been had by virtue of laws passed by Congress. If the Department ordering these tribunals has proceeded according to the laws which we ourselves have passed, and those tribunals have erred, it is the fault of the tribunals, not of the Department. In all those cases there is more than one side of the story. And that being so, I do think that the attempt to correct all these judicial proceedings in the last moments of Congress is one of the most dangerous things which was ever attempted, and if successful it will set loose a class of people who are likely to destroy us. I know that my friend from Massachusetts, [Mr. DAWES,] when he proposed the law to which he has referred, did it when he perhaps thought it was in safer hands, my friend from Pennsylvania, Mr. Cameron, being then Secretary of War. That may be some excuse for his having introduced it in that way.

But I will say that I have seen nothing in the conduct of the present Secretary of War which has induced me to doubt his integrity. He is an earnest man. Sometimes mistakes have been committed; but if there be any man in this Administration, any man in this Government, who has sought faithfully to execute the law, who has been above corruption, it is the present Secretary of War, according to my judgment; and if those laws which we have passed have been too broad why not take the matter in hand a week ago and modify them? We have placed within the jurisdiction of courts-martial men who are in civil life, and who in some way interrupt the military operations of the Government. A man in civil life who is not charged with any complicity with interfering with the military operations of the Government is not subject to the operation of those laws.

Mr. DAWES. I think it is due to myself, after the remarks of the gentleman from Pennsylvania, [Mr. STEVENS,] to say that in no remarks which I have offered to the House did I intend to inculpate either the Secretary of War or the Secretary of the Navy personally in these transactions. For, with the knowledge I have of their true character, I do not think that personally either of them would countenance any such thing. But I understand that courts-martial have ruled that men are criminally liable for what their servants do, whether those who employ them as servants know it or not. It is only in that regard that they are held responsible for what their servants do.

Mr. STEVENS. I did not understand the gentleman as casting censure.

Mr. SCHENCK. The gentleman from Pennsylvania [Mr. STEVENS] cannot have a higher opinion of the integrity and earnestness of character and well-meaning purpose of the Secretary of War than I have. But my argument is directed to the fact that Congress itself has been improvident in passing laws of this kind, and it is time to go back from that course.

Mr. STEVENS. I have no doubt, Mr. Chairman, that courts-martial, being composed principally of men ignorant of law, have very often made mistakes in their rulings and in their decisions on points of law. These things are inevitable. In civil life we find, every day, the decisions of the highest judges reversed by an assembled court. It would be strange if these things did not exist. But can we safely undertake, in a little amendment of three lines, at the heels of the session, to reverse all these decisions and turn loose God knows who, and let it extend no one knows how far? But I pray gentlemen to reserve this for a time when we can consider it deliberately. Let us go on and finish the business, and then, in due time, let this matter be brought up.

Mr. KASSON. The gentleman from Pennsyl-

vania will perhaps allow me to suggest a substitute which may meet even his approval—a substitute which the gentleman who offered the last substitute thinks is more complete than his. It is:

That no person shall hereafter be tried by court-martial or military commission in any State or Territory where the courts of the United States are open for any charge not specified as an offense by military or civil law, nor for offenses cognizable in said courts and punishable by existing civil law, except they are persons actually mustered or commissioned or appointed in the military or naval service of the United States, or rebel enemies, or spies, or conspirators in aid of the rebellion against the United States who are charged with being spies, or with being the violators of military law.

Mr. STEVENS. Suppose our own citizens act as spies; may they not be tried by a military commission?

Mr. GARFIELD. The moment they turn spies against the Government they become rebel enemies.

Mr. STEVENS. That is not a fair definition of it.

Mr. GARFIELD. They certainly turn conspirators.

Mr. STEVENS. It seems to me, Mr. Chairman, that we are throwing open the door for the operations of our open and secret enemies. Its effect may reach much further than is intended. It is no time to consider great questions of this kind. I pray that we may be allowed to proceed and finish the ordinary business which must be finished, and not further interrupt it by the interjection of matters that are certainly not in order. I move that the committee do now rise for the purpose of closing debate.

Mr. DAVIS, of Maryland. I trust the gentleman will not insist on that motion till I am heard.

Mr. STEVENS. If the House wish to have no business done, it is for the House itself to decide.

Mr. DAVIS, of Maryland. I think this is the first and highest business of Congress.

The motion was not agreed to.

Mr. DAVIS, of Maryland. Mr. Chairman, I appreciate the weight of the criticism of the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] and I am sure that nobody will say that I have ever embarrassed the proceedings of this House by any pertinacious adherence to schemes of my own. I have never embarrassed the House week after week by motions to tax or exempt whisky on hand. That would have been a more appropriate subject of criticism than such an amendment as this, which is never too early, and can never be too late until the voice of liberty shall cease to be heard in the United States. Then it will be impertinent to arrest the progress of supplies for the Government by calling the attention of the Representatives of the people to the freedom of their constituents. Let this bill perish a thousand times rather than that any vote should go on the records of this House declaring that the protection of the liberties of the citizens of Massachusetts and the citizens of Maryland are not of paramount importance to a vote of money for the violators of their rights. There has been no other period, sir, at which I could obtain the ear of the House on such an amendment. I have had my eye on the gradual intrusion of the military authority on the rights of the citizen from the outbreak of the rebellion. It was first instigated by the people; and the most eminent jurists of the land converted their clamor into the semblance of the voice of the law by maintaining the right of the President to suspend the *habeas corpus* without the authority of Congress—in the face of John Marshall's judgment. Gentlemen of the Opposition, on this topic, have no right here to cast imputations on the Administration. George B. McClellan first set the bad example in an order illegally suspending the right of *habeas corpus* in Maryland. I refer to that not as an imputation on them, but because it shows that it is no party question with which we are dealing to-day, but an American question, a question of republican liberty endangered by the common madness of Government and people. The evil has gone so far that to-day every man feels, without the necessity of an argument, that there must be a stop put to military trials of citizens in the States here represented or there is no law or liberty in the land.

The honorable gentleman from Pennsylvania has said that convictions have taken place under laws passed by Congress. I admit it; but that

proves only that Congress is also guilty of the usurpation. And the honorable gentleman from Massachusetts [Mr. DAWES] has told us that the law which he introduced has failed to serve the purpose contemplated, while it has developed consequences of which he did not dream. The honorable gentleman says that it ought to be repealed; and if it ought to be repealed, then carry the remedy to the root of the grievance and discharge the men who were convicted under what was in form a law, but in fact a usurpation which had not the authority of the Constitution.

But, sir, have prosecutions stopped within the limits of the acts of Congress? If they had, I could have heard with more patience the appeal of my honorable friend from Pennsylvania. But every one knows that they have not. We in Maryland have known it by sharp castigation now for three years. It is now being known in New York. And in Boston men have turned gray under persecutions not according to those laws.

But, sir, what do you say with reference to trials for things that are not crimes under any law, for things that are not defined to be crimes, civil or military? What do you say to the trial of a loyal citizen in the city of Baltimore upon the charges and specifications which I hold in my hands, for forging Jefferson Davis's currency? One of my constituents is now in jail under those specifications, having been tried and condemned by a military tribunal for attempting to break down the rebel currency! I can state no other fact that will better illustrate the insolence of irresponsible military tribunals, known to no law, appointed under no law, restrained by no law, authorized by nobody, bound by no law but the will of the men who sit in their uniforms to try the rights of American citizens according to the law of the sword.

Mr. STEVENS. Do I understand the gentleman to say that this man was convicted on the ground of having counterfeited the rebel currency?

Mr. DAVIS, of Maryland. He was condemned for that, and is now in jail.

Mr. STEVENS. Well, I think that a man who was fool enough to spend his time in such work ought to suffer some severe punishment.

Mr. DAVIS, of Maryland. If all fools are at the mercy of the military courts and they are to judge of it, they have a wide jurisdiction. [Laughter.]

Then there is the case of Weisenfeld. This man was not charged with defrauding the Government, under the act of Congress; he never placed himself within the reach of the law to which the gentleman from Massachusetts has referred. He was charged, and in my judgment charged falsely, and convicted on testimony which no jury in the world of any political complexion would weigh an instant, of having sold a few hundred dollars' worth of goods to a Government spy to be sent across the lines to the southern confederacy. That trial by military commission was authorized by no law known to any statute-book in the United States. The crime of trading with the rebel States is expressly directed to be tried and punished by indictment before the United States courts for a misdemeanor merely; but he now lies in a New York penitentiary, herding with felons, murderers, and thieves, though if legally convicted before Chief Justice Chase he could by law have been sentenced only to fine and imprisonment in jail!

I am daily beset by letters and solicitations of loyal gentlemen, my firmest and best personal friends in the world, to go to the President and beg as a boon that this man be pardoned! I have had no stronger pressure brought upon me since I have been in public life. My reply is: if a petition is gotten up for Mr. Weisenfeld to pardon the President for his illegal oppression, I will sign it; but I will not degrade the name of an American citizen by signing a petition to beg as a favor the personal liberty of an American citizen illegally and oppressively condemned by a military commission, and that at the hands of the President who twice refused to refer his case to the courts of the United States wide open for his protection, and in the face of the laws and Constitution of the United States subjected him to this illegal persecution.

Sir, let him stay where he is till the voice of public indignation or the whispers of conscience compel his honorable discharge—not his pardon! Till



they who illegally confined him shall beg him to come forth!

Mr. Chairman, the alarming fact is, this—military commissions do not even profess to be governed by the laws of the United States enacted by Congress. They have created a department of jurisprudence unknown to the laws of the United States, nowhere embodied in statutes or decisions, called the "customs of war." They try loyal men in loyal States, where no war rages, for a violation of what they call "the usages of war." Here are the *pandects of the future empire of the United States*; the rulings of the Judge Advocate General on "the usages and customs of war" applied to peaceful citizens in loyal States where the courts are open, where the law alone ought to be the rule of every judgment and every conviction.

This invention of the law of "the usages of war" and "military offenses," applied to citizens and friends instead of enemies, annuls every act of Congress.

In vain does the act of the 3d of March, 1863, punish the aiding a soldier to desert by one not in the military service on legal conviction in the courts of the United States; in vain does the act of the 3d of March, 1863, punish fraudulent claims, false oaths, forged signatures, forging papers, embezzling United States property, false receipts for arms, purchasing arms from soldiers, when committed by a person in the military forces of the United States, on conviction by court-martial, and at the discretion of the court-martial, but in the third section declare that any person not in the military forces of the United States guilty of those acts, shall forfeit certain fines and be subject to certain imprisonment on conviction in the courts of the United States; for the military commissions presume to punish every one of these acts committed by citizens in defiance of the law securing them a constitutional trial. By the act of the 2d March, 1831, forging pay certificates is punishable by the courts of the United States in the District of Columbia; yet a military commission punishes it within sight of the open court-house and of the President's mansion!

The act of March 3, 1863, expressly directs a person guilty of resisting the draft to be arrested by the provost marshal and to be forthwith delivered to the civil authorities, and, on conviction by them, subjects him to fine and imprisonment; but the military commissions have annulled that law, and, instead of delivering the person to the civil authorities for trial, themselves hold and try, convict and punish him; and this when the courts of the United States are wide open in the District where Congress sits in peace and enacts the laws which are thus defied!

If these things be not arrested, there is no law but the sword, no judge but the majority of a military commission holding their commission at the will of the President.

Now, sir, I have a word for the gentleman from Kentucky, [Mr. YEAMAN,] who moved to include persons engaged in violating the rules and customs of war. Does that mean citizens of the United States in loyal States, where the courts of the United States are open, where their act is treason, for which the statute of the United States says they shall be tried, on indictment, before the courts of the United States, and who, the Constitution says, shall be tried no otherwise than by a jury of the State and district in which the crime was committed, and convicted only on the testimony of two witnesses?

If it is notorious that they are guerrillas, why in the name of conscience and common sense cannot that be made to appear to a jury of their loyal fellow-citizens, to be summoned by a marshal appointed by the President himself; prosecuted by a district attorney that he appoints; adjudged by judges who hold their office during life; many of them now even appointed by Mr. Lincoln, and all liable to impeachment by us and conviction by the Senate if not fit to administer justice? If it be a matter of doubt, then the prisoners are entitled to that doubt; and if it is so plain that there is no doubt, then any tribunal will convict. That is my answer to that proposed amendment.

Mr. YEAMAN. I ask the gentleman to yield to me.

Mr. DAVIS, of Maryland. Certainly, for a question.

Mr. YEAMAN. I only desire, Mr. Chair-

man, to state that there is now a law of the Congress of the United States prescribing the mode and manner of trying these vagabonds, cut-throats, and robbers, who have to-day become the greatest scourge to the States of Missouri, Tennessee, and Kentucky.

In reply to the suggestion, if it is so notorious that they are guerrillas why cannot it be proved and established in a court of justice, I will say now that in three fourths of Kentucky we have no courts of justice, because from the acts of these men we cannot hold them. In eight counties of my own district they have burned our court-houses, and the officers of the law cannot go there, juries cannot be summoned, and witnesses cannot testify. I will add, if the gentleman will permit me—

Mr. DAVIS, of Maryland. I cannot yield for an argument.

Mr. YEAMAN. I do not propose to make an argument.

Mr. DAVIS, of Maryland. It is impossible for me to yield further. I must go on.

In the first place, if three fourths of the State of Kentucky are subject to incursions of guerrillas, the other fourth is not, and that will furnish jurors enough. If there is room to hold a military court there is room to hold a civil court. If men are not afraid to go to testify before a military court they will not be afraid to go before a civil court. If bayonets are needed to protect them before a military court, bayonets can protect them before a civil court. Sir, this hankering after military courts is not because they cannot be tried and convicted before the courts of the United States if guilty; but men mad with civil war want a sharper and easier way to deal with criminals as enemies. It is the cry for vengeance and not justice! That is what it is and nothing else.

I live in a State that has never disgraced itself by rebellion, but it has been disturbed by internal dissensions; and I know the rancorous hostility which has grown up between men even of the same family. And I do not wish military tribunals to apply their harsh, sharp vengeance between men who live on adjacent estates, at the instigation of personal revenge, of malice, without local public trial, unprotected by the rights secured to them by the Constitution and laws of the United States, when a whispered lie may stain innocence with the penitentiary by the vote of two out of three of a military commission. If they have committed acts which render them dangerous but are not criminal or cannot be proved, we have authorized the suspension of the *habeas corpus* and the President can hold them; not try, not convict, not disgrace, not degrade, not kill, but hold them under the precautionary discretion conferred by law and rendered secure by the military power. If they have committed crimes known to the law which can be proved, and which it is desirable to punish, the President can prove it before the courts of the United States in Maryland, and they can be convicted in the courts of the United States in Maryland.

Now a word touching the amendment of my honorable friend from Ohio, [Mr. SCHENCK,] with whom I always differ with the greatest hesitation. Yet I think that his logic will bring him to this conclusion, that if the Constitution of the United States says that no one shall be tried for an infamous crime otherwise than by a jury of the State and district, except cases arising in the military or naval forces of the United States, any enactment which authorizes any one to be tried in any other way in the States where United States courts are open is itself void. The tribunal which tries a case not arising in the military forces in any other way is a trespasser, and the party who was convicted has a private remedy for the injury he has sustained if the court had no jurisdiction. No one can violate the right of the citizen to immunity from military trial safely, whether we declare it or not, and every one has his remedy to-day in the courts of the United States, in spite of any enactment, for every oppression.

Why then place a provision in the law declaring these proceedings to be void? In order that a loud voice should go out from this Hall to the American people, ringing over the land to announce by authority that their Representatives recognize and declare the nullity of the proceedings of these military tribunals, and to encourage the people to seek redress in the courts

of the country, not by crawling solicitations at the hands of the President of the United States, but of right, by law, before these courts, which are the glory and the safety of the American Republic.

My honorable friend also wishes me to strike out that part of my amendment which provides that those not liable to trial by military courts now held under their sentences should be discharged or delivered to the civil tribunals for trial. Sir, if it will satisfy any gentleman here, or remove any doubt or hesitation, I will most cheerfully agree that the word "discharge" shall be stricken out; so that the provision will stand, that these men shall be delivered over to the civil tribunals to be proceeded against according to law—the American's birthright.

But it is objected by my honorable friend from Ohio [Mr. SCHENCK] that these men, having first disputed the jurisdiction of the military court, will, when brought before a civil court, plead their former conviction in bar. I know the eminent legal ability of my friend, and if he will run over in his mind the form of plea that must be made in such a case he would find that it would be this: on a given day, at a given place, before A B C D E F and G, a military commission convened by order of the President of the United States, I, a citizen not in the military service of the United States, was convicted for a violation of "the usages of war," or some crime known to the law, but punishable by statute only in the courts of the United States, and sentence and punishment. My learned friend would be the first to put in a demurrer to such a plea. On the record it would appear that the military commission had no jurisdiction of the party or the offense; that the party had not been convicted at all; that he had never been in jeopardy of life or limb; for the Constitution forbids such a tribunal to try such a person. The jurisdiction of every court, especially one of limited and exceptional jurisdiction, may be impeached collaterally, or must appear on its record; and the appearance of generals and colonels and captains sitting, at the will of the President, in place of venerable judges, whose tenure is good behavior, and the absence of a jury, show that it is not a court at all, but an unlawful combination of trespassers usurping the functions of a court, guilty of a crime and not exercising an authority. Any court of the United States will, on *habeas corpus*, discharge a citizen confined under sentence of such a tribunal.

Let those now in illegal confinement seek that remedy; and if it be denied them, let an impeachment by the Representatives of the people vindicate the rights of the people.

Mr. Chairman, the public safety never has required these illegal and summary trials; it now requires that they cease. The past men are ready to forget, the American people most of all; they instigated or tolerated the usurpations of those in authority; but they now have felt the sharpness of military justice and demand of their rulers a return to the Constitution and laws. If heretofore they have violated the law and Constitution—I do not say criminally, I do not say with intent to oppress, I do not say even knowing it to be criminal—it was the common error; and they may plead the error of the people which misled the leaders of the people at the beginning of the rebellion. More firmness, more knowledge, more coolness in high places, might perhaps have arrested the popular current and silenced the popular tumult and kept the torrent within the bounds of law. It was not found in places of authority; all bowed before the storm and floated with the current. It is in the power of the Representatives of the American people alone to stop it before every vestige of American liberty is buried beneath the waters.

Sir, I am not willing to change one word of my amendment. It was not framed out of my own head, of my old-fashioned whims and fancies, now out of fashion in this era of gold lace and military vertigo. I had frequent consultations with some of the ablest members upon this side of the House, those most conspicuous for the ardor of their support of the Administration; and they think with me that obstinate adherence to these abuses must destroy either the Administration or the Republic. If it would satisfy any one to strike out the word "discharge," I have no objection, because an American citizen is safe

when delivered into the custody of the civil authorities to be proceeded against according to law; but beyond that I do not feel disposed to modify my amendment in any particular. Least of all can I accept the amendment of the gentleman from Iowa, [Mr. KASSON,] which enumerates the offenses for which citizens shall not be tried by military courts, but yields the whole principle by admitting that persons not in the military forces, in States where the United States courts are open, may be tried for violating the "usages and customs of war;" it recognizes the category of military offenses committed by a citizen, an exception which would place your liberty and life and mine at the beck and call, at the will and pleasure, of any military commission of officers too worthless for field service, ordered to try us, and "organized to convict."

That amendment involves a total misapprehension of the whole question. It is not what offenses a military court may try but what persons they may try for any offense. The Constitution forbids them to try any citizen for any offense.

I will not detain the House by narrating the individual cases of oppression that are fresh in my memory. There is no gentleman that does not know of such cases in his own neighborhood, and has not felt this atmosphere of oppression around him.

If there be, they are happier than we are in Maryland, or they are in Massachusetts. This measure is demanded by the feeling of the country, and in my judgment, if the House will now say that the liberty of the American citizen is of equal moment with the miscellaneous appropriation bill, and will pronounce by such a vote as that by which it referred the resolution of the gentleman from New York, [Mr. GANSON,] with only three dissenting voices, to the Military Committee, that law is still supreme, every man in the United States will breathe freer and bear himself more loftily, and look with assured joy to the day when armed rebellion shall be destroyed, to be followed not by armed despotism, but by the peaceful reign of liberty and law, by submission but not by servitude. [Applause on the floor and in the galleries.]

Mr. STEVENS. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the special order, being the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes, and had come to no resolution thereon.

#### ORDER OF BUSINESS.

Mr. WILSON. I desire to propose that this evening's session be devoted to the consideration of business on the Speaker's table, in order that we may clear off the business thereon.

Mr. STEVENS. I cannot agree to that just yet.

Mr. WILSON. Then I will say so much of the evening session as may be necessary after the pending appropriation bill is disposed of.

Mr. STEVENS. I have no objection to that.

Mr. PENDLETON. I object.

Mr. DAWES. I will say to the gentleman from Iowa that yesterday I asked the privilege of the House to devote two hours of the session of yesterday to the consideration of election cases, but it was not the pleasure of the House to grant it. I did not desire to ask the House to hear me upon the subject; but there are gentlemen here claiming the right to seats in the House who have been here all winter, and one of them desires to be heard. I submit, Mr. Speaker, that it is but fair to these claimants that they may be allowed a short time to present the claims of those in whose behalf they are here. I shall not indulge in debate myself if the privilege is granted. I ask, not on behalf of myself or of the committee, but in behalf of those gentlemen, the indulgence that they may be heard, through their chosen organ, for a short period of time this evening.

Mr. WILSON. I object.

Mr. DAWES. I submit to the House that it is but a matter of justice and fairness to them.

I know it is impossible to present the case on the one side or the other at this late stage of the session.

Mr. WILSON. I move to suspend the rules to enable me to move that so much of this evening (after the pending appropriation bill is disposed of) as may be necessary therefor shall be devoted to the consideration of business on the Speaker's table.

Mr. HOLMAN. I call for tellers.

Tellers were ordered; and Messrs. WILSON and HOLMAN were appointed.

The House divided; and the tellers reported—ayes 89, noes 51.

So the rules were not suspended, (two thirds not voting in favor thereof.)

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting a report of his Department in relation to contracts, &c.; which was laid on the table, and ordered to be printed.

Also, a communication from the Comptroller of the Treasury, transmitting a statement of the unpaid balances as furnished from the books of the Second and Third Auditors of the Treasury; which was laid on the table, and ordered to be printed.

#### CENSUS OF AGRICULTURE.

Mr. NELSON, by unanimous consent, introduced the following resolution; which was referred to the Committee on Printing under the rule:

*Resolved*, That forty-five thousand copies additional of the census of agriculture be printed and bound for the use of the members of the House, and five thousand for the use of the Census Office.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. STEVENS. I move that all general debate upon the bill pending in the Committee of the Whole on the state of the Union be closed in ten minutes after the committee shall again resume its consideration.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The resolution was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and resumed the consideration of the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1866, and for other purposes, the pending question being on the amendment of Mr. SCHENCK to the amendment of Mr. DAVIS, of Maryland.

Mr. FARNSWORTH. Mr. Chairman, I rise for the purpose of opposing these amendments. In desperate emergencies vigorous measures are required. I am here for the purpose of sustaining with my voice and vote those measures adopted and put in force by the War Department in the punishment of culprits in any manner connected with the Army. The gentleman from Maryland [Mr. DAVIS] has dilated largely on those things that have occurred in his own State. He has referred to the act of General McClellan. It is not necessary that I should say here that that act of his rendered his name more popular, brought him into more favor, and attracted to him more of the affection of the people of the country than any other act of his life. Is it not well known that when he ordered the arrest of the Maryland Legislature that Legislature was convened for the very purpose of hurrying the State into secession and involving it in civil war? The gentleman refers to the arrests made in the city of Baltimore, and in Maryland. Has not the gentleman from Kentucky [Mr. YEAMAN] told us that in many counties in his own district the civil law could not be enforced; that they have neither judges nor jurors who will enforce it, nor court-houses in which to hold their courts; that they have been burned by secessionists? So it was in the city of Baltimore up to within two years since. I believe that two years ago a rebel could not be convicted in any court in that city. Those vigorous measures of the President and of the War Department are what saved Maryland from civil war and the country from destruction.

Mr. DAVIS, of Maryland. The gentleman will allow me to say that there would be more fear that a disloyal man could not have a fair trial in Maryland, before a civil court, so intense is the desire to punish anything looking like treason.

Mr. FARNSWORTH. That may be now, and is a very healthy feeling, but two years ago it was not so.

Mr. DAVIS, of Maryland. There was never a moment, sir, in which it was not so.

Mr. FARNSWORTH. There was a moment, sir, when anything looking to the suppression of the rebellion was very unpopular in Baltimore. There was a time when both the civil and military arms of the Government were powerless to preserve peace and order in the gentleman's own city. There was a time when Massachusetts soldiers marching peacefully through that city to the rescue and defense of the capital were ruthlessly set upon by the mob of secessionists and murdered in the streets of Baltimore, and there was no power there to suppress the riot. There was a time when the authorities of Maryland, through their Governor, made application to the President of the United States that no more troops should pass over the soil of Maryland, because the civil and military power of that State could not preserve order. Without the suspension of the *habeas corpus*, and without the vigorous measures put in force by the Government, where would that State be to-day? Probably in the Union, but she would have been the seat of war, and her fair fields would have been desolated as are now the fair fields of Virginia.

Mr. DAVIS, of Maryland. Will the gentleman allow me to correct him?

Mr. FARNSWORTH. Certainly.

Mr. DAVIS, of Maryland. I desire to say that there never was a day when the people of Maryland were not masters of her fortunes, and masters of the capital of the United States, and that Mr. Lincoln was inaugurated here only because they were loyal.

Mr. FARNSWORTH. If that is the case, it seems to me there is a monstrous lie going the rounds of the country.

Mr. DAVIS, of Maryland. I think there is. The people of Maryland have been libeled from one end of the country to the other.

Mr. FARNSWORTH. It is well known that when the President came here to be inaugurated, four years ago, he was obliged to flee through the city of Baltimore like a stranger, in disguise, to avoid assassination.

Mr. DAVIS, of Maryland. The gentleman says the President had to flee through Baltimore. I say it may be that he did so; but a man of heroic mold would have marched through it safely.

Mr. FARNSWORTH. I regret exceedingly, Mr. Chairman, that my friend from Maryland, who has been, in the main, right, should now, in the last days of the session, surround himself by those who have been heretofore his enemies, and who now beslobber him with their praise. When a man on this side of the House puts himself in such a position as that the unworthy member from Maryland [Mr. HARRIS] congratulates him and smiles his praise on him for the speech he makes, and when the gentleman from Indiana [Mr. VOORHEES] marches over here and takes him by the hand, and congratulates him for his assault on the Administration, he ought to raise his hands toward heaven, and say, "My God! what have I done, that my enemies and the enemies of my country should praise me?"

Why, sir, how long is it since, in the city of Chicago, only the day before the last general election, a stupendous conspiracy was discovered? Among the plotters were persons of that city. They had conspired with the rebel prisoners in Camp Douglas, and with emissaries from the South, to release all the prisoners in Camp Douglas, put arms in their hands, and then sack and destroy the city of Chicago. Those men are now being tried before a military commission, and such facts have been proved against them; so thoroughly have they been fastened upon them that one or two of them have put an end to their own existence in despair, and in anticipation of their deserved doom.

Gentlemen are mistaken, it seems to me, as to the manner of conducting these courts-martial. Every particle of evidence taken before them is preserved in writing. The defendants have sub-

# THE CONGRESSIONAL GLOBE.

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SATURDAY, MARCH 4, 1865.

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penas issued for their witnesses, whose attendance is compelled, and all the testimony, *pro and con*, is taken by the judge advocate and the counsel of the defendants, for they are allowed to have counsel, and the testimony is preserved, and with the specifications and findings is filed in the War Department, where it undergoes the careful supervision and review of Judge Holt, one of the ablest, most honest men in the country. The findings are thoroughly reviewed, and approved or disapproved, and the sentence carried out or not according to that decision. These records go into the archives of the Government and can at any time be called for by this House and published to the world.

Now, this amendment of the gentleman from Maryland [Mr. DAVIS] would let loose upon the country some of the very worst characters we ever had among us. It is not long since a resolution was introduced into this House, and adopted, instructing the Military Committee to examine into the military prisons in this city. The Military Committee made that investigation; they examined the prisoners and took testimony. And upon my soul—and I think every member of the Military Committee will agree with me in this—I do think that of all the rascals, of all the miserable, devilish tribe I ever saw in my life, they are those in the military prisons in this city. I have not heard of one of them, no matter how arbitrarily he may have been arrested, but he was properly arrested, for he was guilty.

[Here the hammer fell.]

Mr. HARRIS, of Maryland. Mr. Chairman, I have been alluded to by the gentleman from Illinois, [Mr. FARNSWORTH.] I presume he alluded to me when he addressed himself to the "unworthy member from Maryland."

Mr. FARNSWORTH. I alluded to the vote given by the gentleman's colleague, that he was an unworthy member.

Mr. HARRIS, of Maryland. I did not so understand the gentleman. I understood him to state that I had congratulated my colleague [Mr. DAVIS,] or that my colleague was "congratulated by the unworthy member from Maryland." That is what he said. Now, sir, I have no doubt at all that he alluded to me. But the gentleman should have been careful to confine himself to the fact. I had not intended to take any part in this debate in any shape or form. I approve of the proposition of the gentleman from Maryland, [Mr. DAVIS,] and I did not think it would meet with any disapprobation anywhere. But I did not go to congratulate him; so that the gentleman did not state the fact on that point. I only assented to the proposition, as I do most heartily.

I look upon this charge of being an unworthy member as actually having been worn out by this time. It is something singular that many who voted that I was unworthy have made themselves quite agreeable to me, and have made their advances toward me, have always saluted me as one whom they did not consider unworthy. Now, if they had considered me unworthy they could have slighted me as they pleased; I did not seek any kind of intercourse with them, though perfectly willing to have it. Therefore I consider that this charge of being an unworthy member is in his estimation, and in the estimation probably of those upon the other side, except a few, to be taken only in a Pickwickian sense. [Laughter.] That I hope has put you all in a good humor, for I do not intend to make any issue upon this point.

This matter I see is used for political purposes, to inflame the public mind, it may be, or for something of that kind. But it shall not excite me, I assure you. I have every reason not to be displeased at it; for when I went before the people, instead of the fifteen hundred majority from my people by which I was sent here before, I am sent here again with a majority, I believe, of about six thousand. And if it had not been for the restrictions and interference at the polls, I could just as easily have got ten thousand. Now, it is astonishing to me that this proposition of my col-

league [Mr. DAVIS] should have met with the least opposition. He has said nothing but what every man in this country, who knows anything, knows to be correct. He has advocated nothing but the plainest, simplest, home-bred rights of American citizens. I must confess that he spoke in that eloquent strain in which he always delivers himself, and more forcibly than many who think just as he does can deliver it, even in good English.

Now, sir, I would like to know how the gentleman formed the idea that the Maryland Legislature desired or intended to pass an act of secession for the purpose of taking that State out of the Union. I deny it. I say that the records of the Legislature of Maryland contradict it. Their record will show that they proclaimed that they had no right to carry the State out of the Union; that, if it were done at all, it must be done by a convention.

[Here the hammer fell.]

Mr. WILSON. I ask the gentleman from Ohio to withdraw his amendment, that I may renew it. I desire to say a few words, and in the present position of the question debate is exhausted.

Mr. SCHENCK. I withdraw my amendment, with the understanding that the gentleman will renew it.

Mr. WILSON. I renew the amendment.

I cannot understand how the gentleman from Maryland [Mr. DAVIS] could become so wrought up on this question when I take into consideration his action upon a question which I regarded, and the majority of this House regarded, as of quite as much importance, and which was acted upon about a week ago. I refer to the bill which was reported by myself, from the Committee on the Judiciary, to prevent military interference at elections. That bill was intended to preserve the purity of elections throughout the United States. It was intended to protect the American citizen in the exercise, untrammelled, (except so far as the law may trammel him,) of the most sacred right of citizenship—a right upon the legitimate and conscientious exercise of which depend all other rights, those which are involved in the civil courts of the country as well as all others. Without the just protection of that great right of suffrage you can have no civil courts to protect the citizen—you can have no department of the Government so administered as to guaranty that protection to which the citizen is entitled and must enjoy in order to exercise properly and effectively his rights as a citizen of the Republic. Yet, sir, on the passage of that bill the gentleman from Maryland voted in the negative, thus in effect turning over to the control of the military officers of the land this sacred right upon which all courts and everything else depend. Now, I cannot understand why there should be so much feeling on this question when it was entirely absent on that occasion. By the provisions of that bill, military officers were prohibited from issuing orders defining qualifications of voters other than those prescribed by the laws of the land. Yet the gentleman's vote was cast in the negative on that bill.

Mr. DAWES. Before the gentleman takes his seat I desire him to explain his vote upon the struggle of the Committee of Elections during the last session to protect the ballot-box.

Mr. WILSON. I suppose the gentleman wonders that I did not follow him in his ruinous and most absurd raid upon the purity of the ballot-box of the country.

Now, sir, in relation to the question that is involved here, as to the repeal, in effect, as this amendment proposes, of all law authorizing these trials by court-martial, I think that the true principle to be laid down—and it is one which is being followed in the Chicago cases to which reference has been made—is that, if you may try by court-martial a spy who is prowling within your lines, you may try in the same way the man within your own lines who is aiding that spy to accomplish his purpose. If you may try the spy whose duty it was to ascertain in relation to the

burning of Chicago you may also try the citizens of that city who are aiding that spy to collect information with a view to destroy the city and release the rebel prisoners.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, without making reply to the gentleman from Iowa [Mr. WILSON] in relation to striking out, as I propose, the amendment offered by the gentleman from Maryland, for which amendment to the amendment I hope to have his vote, I wish to submit a remark or two on that bill to which he has resorted for illustration of the principles involved in this controversy. He holds it to be inconsistent that any one should have voted against that bill and yet be in favor of the present amendment. Sir, I voted against that bill with the small minority to which he refers. Why did I vote against it? Because it is one of the most extraordinary bills, in its abandonment of every principle in regard to interference with the rights of the States at their polls, which has ever been passed or attempted to be passed. If you look at that bill what do you find? It contains a provision that officers and soldiers of the United States may visit the polls for the purpose of keeping peace there; that is, that the officers and soldiers of the United States may become the police officers of the State, but they shall not interfere for the purpose of preventing traitors or rebels from voting there.

I have had some experience on this subject, and I wish to call the attention of the gentleman to the absurdity in which it seemed to me (and therefore I voted against the bill) he was involved in attempting to preserve the purity of elections. The gentleman will remember the famous General Order No. 53, of October 27, 1863, from which I propose to read only a few lines by way of illustrating what I mean and of the difference between the gentleman's views and my own. In that famous general order the general commanding the Middle department, who happened to be myself, looking to the election then approaching, made this recital:

"It is known that there are many evil-disposed persons now at large in the State of Maryland, who have been engaged in rebellion against the lawful Government, or have given aid and comfort or encouragement to others so engaged, or who do not recognize their allegiance to the United States, and who may avail themselves of the indulgence of the authority which tolerates their presence to embarrass the approaching election, or, through it, to foist enemies of the United States into power. It is therefore ordered:

"1. That all provost marshals and other military officers do arrest all such persons found at, or lingering about, or approaching any poll or place of election on the 4th of November, 1863, and report such arrest to these headquarters."

I did not go so far as General McClellan; but I went that far.

Now, how was that order modified by a higher authority in accordance with the provisions of this bill?

"That all provost marshals and other military officers do prevent all disturbance and violence at or about the polls, whether offered by such persons as above described, or by any other person or persons whomsoever."

That is the principle of the law of the Committee on the Judiciary. The modification of that order provided that the officers and soldiers might interfere with the elections, so as to become the police at that election; and if Jeff. Davis offered to vote they should not prevent him. I have no faith in anything of that kind; and while I would interfere to prevent rebels from taking control of the election, I would not interfere in time of peace, as now proposed, in order to take charge of the polls, and have the officers and soldiers of the United States in lieu of the proper police of the State.

I think if that bill had not been forced through under the previous question I could have shown that there was this inconsistency in it: in order to preserve the purity of the polls it was a bill to constitute the officers and soldiers of the United States to take charge of the polls, while it permitted rebels to vote.

[Here the hammer fell.]

The question recurred on Mr. SCHENCK's amendment.



The committee divided; and there were—ayes 53, noes 71.

So the amendment was rejected.

Mr. STEVENS moved that the committee rise to close debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the miscellaneous appropriation bill, and had come to no resolution thereon.

Mr. STEVENS. I move that all debate on the special order pending in the Committee of the Whole on the state of the Union be terminated in one minute after the committee shall again resume its consideration.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union (Mr. PIKE in the chair) on the special order, being the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes, the pending question being on the amendment of Mr. DAVIS, of Maryland.

Mr. WASHBURN, of Illinois. Upon that question I call for tellers.

Tellers were ordered; and Messrs. ORTH, and DAVIS of Maryland, were appointed.

The committee divided; and the tellers reported—ayes 75, noes 64.

So the amendment was agreed to.

The hour of half past four having arrived, the committee, in pursuance of the previous order of the House, took a recess until half past seven o'clock, p. m.

#### EVENING SESSION.

The committee resumed its session at half past seven o'clock, p. m.

Mr. YEAMAN. I move to amend by inserting, immediately after the amendment offered by the gentleman from Maryland, [Mr. DAVIS,] and adopted by the committee before the recess, the following proviso:

*Provided*, That in cases of murder, arson, larceny, robbery, malicious arrest, false imprisonment, assault and battery, maiming, shooting, or stabbing with intent to kill, done by the enemies of the United States, or those in armed hostility to the laws thereof, the circuit and district courts of the United States, and commissioners of the United States, shall have as full and complete jurisdiction as the several courts of the States where any of said crimes may be done, with power to inflict the same punishments: *And provided further*, That nothing in this act shall be construed to prevent or restrict courts-martial of their jurisdiction of offenses against the laws and usages of war, committed by persons in armed rebellion to the laws of the United States.

I ask permission to give my views on this amendment.

The CHAIRMAN. It is not competent for the committee to give such permission, as it is acting under an order of the House.

Mr. YEAMAN. Then I withdraw my amendment.

Mr. GARFIELD. I move to amend by inserting the following:

SEC. —. *And be it further enacted*, That no officer in the military or naval service of the United States shall be dismissed unless upon the finding of a court-martial convened according to law.

SEC. —. *And be it further enacted*, That any officer who shall be reported by his commanding officer absent without leave for twenty days, in time of war or active hostilities, may be dropped from the military or naval service; but on the application of the officer so reported and dropped, stating a sufficient defense, under oath, against such charge during the whole absence to the day of application, the President shall convene a court-martial and try him on that charge; and if it acquit him, he shall, on approval of the sentence, stand reinstated; and if the sentence be disapproved for a legal cause, another court shall be ordered for his trial by the order disapproving the former finding.

SEC. —. *And be it further enacted*, That the President may suspend any officer in the military or naval service, without pay or emoluments, in time of war or active hostilities, who shall be reported by his commanding officer or the Secretary of War for any flagrant offense, for which, under the Articles of War, dismissal or death is a legal punishment; and in the opinion of the President ought to be so punished; but the order of suspension shall specify the charges, and a court-martial for the trial of the officer thereon

shall be convened in accordance with the provisions of section eleven of an act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes;" and if the court shall not assign dismissal or death as the punishment, the pay and emoluments of such officer shall be restored in so far as they were affected by the order of suspension.

SEC. —. *And be it further enacted*, That section seventeen of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Mr. WASHBURN, of Illinois. I raise a point of order upon that amendment.

The CHAIRMAN. The Chair sustains the point of order, as he thinks the amendment is not in order.

Mr. GARFIELD. I appeal from the decision of the Chair.

The question being put, Shall the decision of the Chair stand as the judgment of the committee? it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. SCHENCK. I move to amend by striking out all of the amendment offered by the gentleman from Maryland, [Mr. DAVIS,] and incorporated in the bill by the Committee of the Whole, together with the preceding line, and substituting in its place what I send to the Clerk.

Mr. KERNAN. Is it in order to move to strike out what the committee have inserted?

Mr. SCHENCK. Yes, sir, when I connect it with something else.

Mr. KERNAN. I addressed my inquiry to the Chair.

The CHAIRMAN. Does the Chair understand the gentleman from Ohio to propose to strike out anything except that last section?

Mr. SCHENCK. Yes, sir; a part of the preceding section, abolishing the office of Assistant Register of the Treasury. I propose to strike that out, together with that which was offered by the gentleman from Maryland, and substitute what I send to the Clerk's desk.

The amendment of Mr. SCHENCK was read.

Mr. HOLMAN. I rise to a point of order. The words proposed to be stricken out have already been inserted by the committee, and it is a uniform rule that nothing inserted by the committee can be stricken out. All the gentleman from Ohio proposes to strike out has already been inserted by the committee.

The CHAIRMAN. The gentleman from Ohio proposes to strike out the preceding clause of the bill.

Mr. SCHENCK. I modify my amendment so as to strike out the two preceding sections.

The CHAIRMAN. That is not in order.

Mr. SCHENCK. Why not?

The CHAIRMAN. Because those sections have been passed.

Mr. SCHENCK. I believe it is competent to strike out matter that has been inserted together with part of the original text.

The CHAIRMAN. That can be done when the matter is all in the same section, but you cannot go back to previous sections.

Mr. STEVENS. I offer the following as additional sections to the bill:

*And be it further enacted*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the fiscal year ending the 30th of June, 1865, out of any money in the Treasury not otherwise appropriated:

For tool and siege trains for armies in the field, \$200,000.  
For superintendent and four watchmen in the building occupied by the Quartermaster General, viz: One superintendent for the fiscal years 1865 and 1866, at \$200 per annum, and four watchmen at an annual salary of \$600 each, for the fiscal year ending 30th June, 1866, \$2,800.

To supply a deficiency in the appropriation for the Indian service in Utah, being for money advanced by Brigham Young, white Governor and ex officio superintendent of Indian affairs, found due and allowed by the Secretary of the Interior, \$33,487 53.

For plates, engraving, printing, and paper, for national currency notes, \$323,324.

To supply deficiency in the appropriation for lighting the Capitol and President's house, and public grounds around them, around the executive offices and Pennsylvania avenue, Bridge and High streets, Georgetown, Four-and-a-half, Seventh, and Twelfth streets, across the Mall, and Maryland avenue west, and Sixth street south, per act of March 3, 1853, \$13,000.

To supply a deficiency in the appropriation for making certain alterations in the custom-house building at Philadelphia, \$7,425.

To supply a deficiency in the appropriation for fuel for the President's house and Capitol, \$6,000.

To pay H. A. Klopfer for topographical services as a laborer in the office of the Attorney General, at forty dollars per month, \$400.

For continuing work at the Brooklyn navy-yard, viz: s

for piling, filling in, and building crib-work on cob dock for gun park, \$250,000.

Mr. BROOKS. I rise to a point of order. This amendment is a bill which has already been reported on from the Committee of Ways and Means, referred to the Committee of the Whole on the state of the Union, printed, and made a special order. I submit that it is not in order to offer it as an amendment to this bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BROOKS. It would puzzle Little & Brown to compile this law.

The CHAIRMAN. Debate is not in order.

Mr. BROOKS. Why not? Debate has not been closed on this bill.

The CHAIRMAN. It has been closed entirely.

Mr. BROOKS. Well, I rather like this way of doing business. We have only got a million in this amendment; let's go it. [Laughter.]

Mr. HOLMAN. I demand tellers on the amendment.

Tellers were ordered; and Messrs. Brooks, and Rice of Maine, were appointed.

The committee divided; and the tellers reported—ayes 65, noes 35.

So the amendment was agreed to.

Mr. BROOKS. I will move this as an additional amendment:

And the remaining money in the Treasury is hereby appropriated, without any debate whatsoever on the subject.

The CHAIRMAN. Does the gentleman wish a vote on that amendment?

Mr. BROOKS. Oh, no; I will withdraw it.

Mr. RICE, of Maine. I offer the following as an additional amendment to the bill:

*And be it further enacted*, That the Secretary of the Treasury be directed to pay the interest on the public debt due the Smithsonian Institution in the same funds as the interest on other permanent debts due by the United States prior to the present rebellion have been and are paid; and in case the interest heretofore paid to said Institution has been paid in a different currency and of less value than that paid by the Government on other permanent debts or trust funds, that the Secretary be directed to make up the difference to said Smithsonian Institution.

Mr. STEVENS. Why not put in the word "gold" at once?

Mr. HOLMAN. I rise to a question of order. This is not an appropriation in accordance with law, but it is an attempt to appropriate a specific sum of money in gold instead of the ordinary currency of the country.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. COX. I appeal from the decision of the Chair, and I desire to be heard a moment in explanation. This is not an appropriation. It is only a direction to the Secretary of the Treasury to pay the interest on this special fund in gold, as it always has been paid, and as it ought to be paid now.

Mr. WASHBURN, of Illinois. I rise to a question of order. Has not the debate been closed on this bill?

The CHAIRMAN. It has, and the Chair adheres to its decision.

Mr. COX. I wish the Chair could have had the facts of the case before him before he decided it. I respectfully appeal from the decision of the Chair.

The question was, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the decision of the Chair was sustained.

Mr. SPALDING. I move to insert the following as an additional section:

SEC. —. *And be it further enacted*, That there be appropriated for the purpose of making repairs upon the building of the Smithsonian Institution, lately injured by fire, the sum of \$50,000.

Mr. WASHBURN, of Illinois. I raise the point of order that this amendment proposes to change the existing law, and is therefore out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. I offer the following amendment, to come in as an additional section:

*And be it further enacted*, That in paying out the appropriations for Army purposes hereafter, the commutation allowed for clothing to non-commissioned officers, privates, and musicians of the volunteer forces in the Army of the United States, where such clothing is not furnished in

kind, shall be the same in all respects as for soldiers in similar corps in the regular Army.

The amendment was agreed to.

Mr. STEVENS. I offer the following, to come in as an additional section:

*And be it further enacted,* That the salaries and compensation of the clerks and other employes in the several Departments of the United States in the city of Washington, and in the offices and bureaus thereof, including the Department of Agriculture and the two Houses of Congress, be, and they are hereby, increased, and fixed at the following annual rates each, namely: clerks of the first class, \$1,500; clerks of the second class, \$1,700; clerks of the third class, \$1,800; clerks of the fourth class, \$1,900; chief clerks receiving not more than \$2,000 per annum, \$2,100; female clerks, \$800; and all other civil employes now receiving less than \$1,200 per annum, and including the clerks and employes in the office of the Coast Survey and Lake Survey, twenty-five per cent. on their compensation now allowed by law, and said increase of compensation shall commence on the 1st day of January, 1865, and cease on the 1st day of January, 1867; and that the amount necessary to pay the said increase of salaries be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. WASHBURNE, of Illinois. I raise the point of order that this amendment proposes to change existing laws, and is therefore out of order.

Mr. STEVENS. It is in order, as relating to existing Departments of the Government.

The CHAIRMAN. The Chair overrules the point of order.

Mr. COX. Mr. Chairman, I desire to say—  
The CHAIRMAN. Debate is not in order. By order of the House debate is closed on the whole bill.

Mr. KERNAN. Is it in order to move to close debate upon the bill and pending amendments, and then bring in a new bill, in the way of amendment, and change the law, without debate?

The CHAIRMAN. The committee is acting under the order of the House, which the Chair is obliged to administer.

Mr. WASHBURNE, of Illinois. I move that the committee rise, for the purpose of opening this bill to debate.

The motion that the committee now rise was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PIKE reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and had come to no conclusion thereon.

Mr. COX. I now move to reconsider the vote by which debate was closed in Committee of the Whole on House bill No. 786, for the purpose of moving that there be five minutes' debate allowed for and against each amendment.

Mr. WILSON. I move to lay the motion to reconsider on the table.

Mr. COX called for the yeas and nays.  
The yeas and nays were ordered.

The question was taken; and was decided in the affirmative—yeas 73, nays 70, not voting 39; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Bennett, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Henry Winter Davis, Dawes, Denning, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Gooch, Grinnell, Hale, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, Moorhead, Morrill, Daniel Morris, Anos Myers, Leonard Myers, Norton, Charles O'Neill, Orin, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smithers, Spaulding, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, William B. Washburn, Wilder, Wilson, Winfield, Woodbridge, and Worthington—73.

NAYS—Messrs. James C. Allen, Ancona, Bailly, Blaine, Bliss, Boyd, Brooks, James S. Brown, Chandler, Cobb, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grider, Griswold, Harding, Benjamin G. Harris, Herrick, Holman, Hutchinson, Philip Johnson, Kallbelsch, Kernan, Law, Le Bond, Long, Marcy, McKinney, Middleton, Samuel F. Miller, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Seofield, Scott, John B. Steele, Stiles, Strouse, Stuart, Thomas, Townsend, Ward, Elihu B. Washburne, Webster, Whaley, Wheeler, Clifton A. White, Winfield, and Yeaman—70.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Augustus C. Baldwin, Blair, William G. Brown, Clay, Cole, Cravens, Creswell, Thomas T. Davis, Donnelly, Dumont, English, Hall, Harrington, Charles M. Harris, Higby, William Johnson, Julian, King, Knapp, Lazear, Loan, Mallory, McAllister, McClurg, McDowell, McIn-

doe, Radford, Robinson, Smith, Starr, William G. Steele, Sweat, Voorhees, Wadsworth, Joseph W. White, Williams, Benjamin Wood, and Fernando Wood—39.

So the motion to reconsider was laid on the table.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PIKE in the chair,) and resumed the consideration as a special order of the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1866, and for other purposes, the question being on Mr. STEVENS's amendment.

Mr. PRICE. I make the point of order that in the present state of our finances it is out of order to increase salaries.

The CHAIRMAN. The point is not well taken.

Mr. PERHAM. I move to amend the amendment by inserting after the words "coast survey" the words "and the Washington city post office."

Mr. MORRILL. I make the point of order that this proposes to change existing law.

The CHAIRMAN. The Chair overrules the point of order. The point has been already decided.

The amendment was rejected.

Mr. STROUSE. I move to amend the amendment by placing the clerks and employes of the Coast Survey on a par with the clerks of the Treasury Department.

The CHAIRMAN. The gentleman will reduce his amendment to writing.

Mr. STROUSE. I will do so.

Mr. NELSON. In the mean time will the gentleman yield to me?

Mr. STROUSE. I will give way for the present.

Mr. NELSON. I move to amend the amendment by adding the following:

And the salary and compensation of Senators and Representatives in the Thirty-Eighth Congress is hereby increased twenty-five per cent., such increase to be paid from the contingent fund of the respective Houses.

Mr. BROOMALL called for tellers.

Tellers were not ordered.

The amendment was adopted; there being, on a division—ayes 61, noes 46.

Mr. STEVENS. I move to amend the amendment by striking out all after the words "1st of January, 1867," and insert in lieu thereof the words "31st of December, 1866," and also by inserting the following:

And hereafter the pay and mileage of members of Congress shall be as follows: for mileage, ten cents per mile each way; \$300 per month for each month that Congress shall be in session.

Mr. COX. I make a point of order on that. It changes existing laws. [Laughter.]

The CHAIRMAN. That point of order has been already made and overruled.

Mr. NELSON. I make the point of order that the amendment proposes to strike out what has just been inserted by the committee.

The CHAIRMAN. It is not only to strike out what has been inserted, but also a portion of the context.

Mr. NELSON. Then we might go on offering amendments *ad infinitum*.

The CHAIRMAN. That is not the fault of the Chair, but of the rule. The Chair overrules the point of order.

The amendment to the amendment was rejected, there being, on a division—ayes fifteen, noes not counted.

Mr. MORRILL. I move to amend the amendment by adding as follows:

*Provided,* That this shall not take effect until the 1st day of January, 1870, and not then if before that time it should be repealed.

The amendment was rejected, there being, on a division—ayes thirty-one, noes not counted.

The question recurred on Mr. STEVENS's amendment.

Mr. STROUSE demanded tellers.

Tellers were ordered; and Messrs. NELSON and AMES were appointed.

The committee divided; and the tellers reported—ayes 57, noes 59.

So the amendment was rejected.

Mr. SCHENCK. I move the following amendment as an additional section:

*And be it further enacted,* That in paying out appropriations for the Army hereafter, the following principles shall be observed: that the true construction of the sixth section of the act respecting the organization of the Army and for other purposes, approved August 23, 1842, and of all laws relating in any way to the allowance of double rations to officers, authorizes such allowance to the following officers and to no others whatever: to the General-in-Chief commanding the armies of the United States, to each general officer commanding in chief a separate army actually in the field, to each general officer commanding a geographical division embracing one or more military departments, and to each officer commanding a military geographical department; and that any general order or regulation or usage allowing double rations to a chief of staff or any other officer than those above mentioned, is illegal and void.

Mr. KASSON. I believe that this amendment is not in order. It is a proposition to change the existing law.

The CHAIRMAN. It seems rather to be a proposition to declare what is the existing law.

Mr. SCHENCK. It changes no law whatever. It declares the law as it is.

Mr. KASSON. If that is so I have misunderstood the proposition, and I withdraw the objection.

Mr. GARFIELD. I move to amend the amendment just read by adding thereto the following:

*And be it further enacted,* That hereafter no officer of the military or naval service of the United States shall be dismissed unless upon the finding of a court-martial convened according to law; and section seventeen of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862, be, and the same is hereby, repealed.

Mr. FARNSWORTH. I make the point of order on that that it proposes to change existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. GARFIELD. I respectfully appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

On the question there were, on a division—ayes 62, noes 44.

So the decision of the Chair was sustained.

Mr. KELLOGG, of Michigan. I move to amend the amendment by adding the following:

*And be it further enacted,* That the pay and allowances of all commissioned officers below the rank of brigadier general in the Army of the United States shall be increased twenty-five per cent. from and after the 1st day of January, 1865, till the close of the present war.

Mr. KASSON. I make the point of order on this amendment that it proposes to change the existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HOLMAN. I appeal from the decision of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the decision of the Chair was sustained.

Mr. SPALDING. I move the following as an amendment to the amendment:

*And be it further enacted,* That each surviving soldier of the war of 1812 be entitled to receive the sum of \$100 per annum for and during the term of his natural life; and that the sum of \$2,000,000 be appropriated for the payment of said pensioners.

Mr. WASHBURNE, of Illinois. I raise the point of order that this is a proposition to change the existing law.

The CHAIRMAN. The Chair sustains the point of order.

The question recurring on the amendment of Mr. SCHENCK, it was adopted.

Mr. STROUSE. I move to amend by adding the following:

*And be it further enacted,* That the clerks and employes of the United States Coast Survey be placed on an equal footing in regard to salaries with the other clerks and employes in the Treasury Department employed in the Treasury building.

Mr. NELSON. I move to amend the amendment by adding thereto the following:

And the salary and compensation of Senators and Representatives in the Thirty-Eighth Congress is hereby increased twenty-five per cent.; such increase to be paid from the contingent fund of the respective Houses.

Mr. WASHBURNE, of Illinois. I raise the question of order that this amendment proposes

to change existing laws by raising the salaries of members of Congress, and is therefore out of order.

The CHAIRMAN. That point has been already overruled.

The amendment to the amendment was not agreed to.

The amendment was not agreed to.

Mr. KASSON moved that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair Mr. PIKE reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 786, making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. STEVENS. I move the following as an additional section, and then demand the previous question on the bill and amendments:

Sec. — And he it further enacted, That the salaries and compensation of the clerks and other employees in the several Departments of the United States in the city of Washington, and in the offices and bureaus thereof, including the Department of Agriculture, and the two Houses of Congress, be, and they are hereby, increased, and fixed at the following annual rates each, namely: clerks of the first class, \$1,500; clerks of the second class, \$1,700; clerks of the third class, \$1,800; clerks of the fourth class, \$1,900; chief clerks, receiving not more than \$2,000 per annum, \$2,100; female clerks, \$800; and all other civil employees now receiving less than \$1,200 per annum, and including the clerks and employees in the office of the Coast Survey and Lake Survey, twenty-five per cent. on their compensation now allowed by law; and said increase of compensation shall commence on the 1st day of January, 1865, and cease on the 1st day of January, 1866.

Mr. DAVIS, of Maryland. I ask the gentleman to yield to me to move to amend the amendment adopted by the committee on my motion by striking out all after the word "spies." It is just the amendment of the gentleman from Ohio, [Mr. SCHENCK,] which was lost in committee.

Mr. STEVENS. I decline to yield for that purpose. If the House wants to vote on the amendment it can vote down the previous question.

Mr. WASHBURN, of Illinois. Two amendments cannot be pending at the same time.

The SPEAKER. As stated by the gentleman from Illinois, there cannot be two amendments pending at the same time. The only way the gentleman can accomplish his purpose is to vote down the previous question.

Mr. STEVENS. I call the previous question on the bill and all the amendments.

Mr. DAVIS, of Maryland. I hope that the previous question will be voted down.

The previous question was not seconded.

Mr. SCHENCK. Is it in order to move the previous question on the bill and amendments, excepting one?

The SPEAKER. It is not. It is in order to call the previous question on the amendments reported from the Committee of the Whole on the state of the Union or upon the amendment of the gentleman from Pennsylvania.

Mr. WASHBURN, of Illinois. I demand the previous question on the amendment of the gentleman from Pennsylvania.

The previous question was seconded, and the main question ordered.

Mr. BALDWIN, of Massachusetts, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 77, not voting 44; as follows:

YEAS—Messrs. James C. Allen, Baily, Bliss, Blow, Boyd, Brooks, James S. Brown, Coffroth, Cox, Henry Winter Davis, Dawson, Denison, Driggs, Edgerton, Garfield, Griswold, Hale, Hutchins, Philip Johnson, Kalbfleisch, Kelley, Francis W. Kellogg, King, Knox, Le Blond, Loan, Long, Longyear, Marcy, McAllister, McBride, McClurg, McKinney, William H. Miller, Moorhead, Daniel Morris, James R. Morris, Leonard Myers, Odell, Charles O'Neill, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Schenck, Scott, Smithers, William G. Steele, Stevens, Strouse, Stuart, Ward, Chilton A. White, Wilder, Winfield, and Yeaman—61.

NAYS—Messrs. Allison, Ames, Ancona, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Cobb, Dawes, Denning, Eckley, Eliot, Farnsworth, Frank, Frank Ganson, Gooch, Grider, Grinnell, Harding, Benjamin G. Harris, Higby, Holman, Hooper, Hotchkiss,

Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Orlando Kellogg, Kernan, Knapp, Littlejohn, Marvin, Samuel F. Miller, Morrill, Amos Myers, Norton, Orth, Patterson, Perham, Pike, Pomeroy, Price, Pruyn, Alexander H. Rice, John H. Rice, Edward H. Rollins, Scofield, Shannon, Sloan, Spaulding, John B. Steele, Stiles, Thayer, Thomas, Townsend, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Webster, Wheeler, Joseph W. White, Wilson, Windom, Woodbridge, and Worthington—77.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blair, William G. Brown, Chanler, Freeman Clarke, Clay, Cole, Cravens, Creswell, Thomas T. Davis, Dixon, Donnelly, Dumont, Eden, Eldridge, English, Hall, Harrington, Charles M. Harris, Herrick, William Johnson, Julian, Law, Lazear, Mallory, McDowell, McIndoe, Middleton, Morrison, Nelson, Noble, Robinson, Smith, Starr, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Williams, Benjamin Wood, and Fernando Wood—44.

So the amendment was rejected.

During the roll-call, Mr. MORRIS, of Ohio. Will it be in order, Mr. Speaker, to ask that all on this side of the House who voted to increase the pay of Republican employees have leave to change their votes? I do not propose to change mine.

The SPEAKER. Only by unanimous consent. Objection was made.

The vote was then announced as above recorded.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the amendment was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, announced to the House that the Senate had passed a joint resolution and bill of the House of the following titles, severally with amendments, in which the concurrence of the House was requested:

Joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants; and

An act (H. R. No. 605) to increase the pay of midshipmen and others.

The message also announced that the Senate had passed bills of the House of the following titles severally without amendment:

An act (H. R. No. 697) further to provide for the verification of invoices;

An act (H. R. No. 779) to regulate the taking of depositions in certain cases;

An act (H. R. No. 707) to provide for the publication of the Opinions of the Attorneys General of the United States;

An act (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge; and

An act (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistants and clerks.

The message further announced that the Senate had agreed to the amendment of the House to the concurrent resolution of the Senate providing for a continuance of the joint committee on the conduct of the war.

#### OFFICERS' SERVANTS.

Mr. GARFIELD. I ask unanimous consent to take from the Speaker's table the joint resolution of the House (No. 170) just returned from the Senate with amendments, in order that it may be referred to the Committee on Military Affairs. It is a joint resolution declaring and defining the meaning of the law in regard to officers' servants. I ask that it may be referred to the committee with authority to report to-morrow morning.

Mr. FARNSWORTH. Cannot we get along with that more speedily by considering it in the House now?

Mr. BRANDEGEE. I object to taking it up.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

Mr. DAVIS, of Maryland. I move to amend the amendment adopted on my motion by the Committee of the Whole on the state of the Union, by striking out all after the word "spies," as follows:

Or guerrillas; and all proceedings heretofore had contrary to this provision are vacated, and all persons not subject to trial under this act by courts-martial or military commissions now held under sentence thereof, shall be forthwith delivered to the civil authorities to be proceeded against before the courts of the United States according to law; and all acts inconsistent herewith are hereby repealed.

So that the clause will read:

And he it further enacted, That no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open, except persons actually mustered, or commissioned, or appointed in the military or naval service of the United States, or rebel emissaries charged with being spies.

I move the previous question upon the bill and the pending amendments.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the several amendments reported from the Committee of the Whole on the state of the Union and offered in the House were agreed to in gross, except the following, upon which special action was had, as follows:

#### Twentieth amendment:

Insert the following as a new section: And he it further enacted, That for colonizing the friendly Indians of Arizona on a reservation on the Colorado river and supplying them with implements of husbandry and seeds, to enable them to become self-sustaining, the sum of \$150,000 be and the same is hereby appropriated, to be expended under the direction of the Commissioner of Indian Affairs.

The amendment was not agreed to.

A separate vote having been called for on the amendment offered by Mr. DAVIS, of Maryland, in the House, to the amendment adopted by the Committee of the Whole on the state of the Union, as above recorded,

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 73, nays 71, not voting 38; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Beaman, Bliss, Boutwell, Brandegee, Brooks, Broomall, Coffroth, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Denning, Dixon, Eden, Eldridge, Eliot, English, Ganson, Garfield, Gooch, Grider, Griswold, Hale, Harding, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hutchins, Kernan, King, Knapp, Law, Lazear, Marcy, McKinney, Middleton, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perham, Perry, Price, Radford, Alexander H. Rice, Rogers, Ross, Schenck, Scofield, Scott, Smithers, John B. Steele, William G. Steele, Strouse, Stuart, Townsend, Tracy, Upson, Ward, William B. Washburn, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—73.

NAYS—Messrs. Allison, Arnold, Ashley, John D. Baldwin, Baxter, Blaine, Blow, Boyd, Chanler, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Denison, Driggs, Eckley, Edgerton, Farnsworth, Finck, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Philip Johnson, Kalbfleisch, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Long, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, John H. Rice, Edward H. Rollins, Shannon, Sloan, Spaulding, Stevens, Stiles, Thayer, Thomas, Elihu B. Washburn, Wilson, Windom, Woodbridge, Worthington, and Yeaman—71.

NOT VOTING—Messrs. William J. Allen, Alley, Ames, Anderson, Baily, Blair, James S. Brown, William G. Brown, Clay, Creswell, Thomas T. Davis, Donnelly, Dumont, Frank Hall, Harrington, Charles M. Harris, William Johnson, Julian, Kasson, Le Blond, Mallory, McAllister, McDowell, McIndoe, Robinson, James S. Rollins, Smith, Starr, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Williams, Wilder, Benjamin Wood, and Fernando Wood—38.

So the amendment to the amendment was concurred in.

During the roll-call,

Mr. WASHBURN, of Massachusetts, stated that Mr. ALLEY was detained from the House by sickness.

The result of the vote was announced as above recorded.

Mr. GANSON. I move to reconsider the vote by which the amendment was adopted, and to lay the motion to reconsider on the table.

Mr. KELLOGG, of Michigan, demanded the yeas and nays on the latter motion.

Mr. GANSON. I withdraw the motion.

The question recurred on the amendment reported from the Committee of the Whole on the state of the Union, as amended.

Mr. ELDRIDGE moved to reconsider the vote by which the amendment to the amendment was adopted; and also moved to lay the motion to reconsider on the table.

Mr. FARNSWORTH demanded the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 58, not voting 44; as follows:

YEAS—Messrs. Ancona, Augustus C. Baldwin, Bea-



man, Bliss, Brandegee, Brooks, Broomall, James S. Brown, Chanter, Coffroth, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Deming, Denison, Dixon, Eden, Edgerton, English, Finck, Ganson, Garfield, Gooch, Griswold, Hale, Harding, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, Marey, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perham, Perry, Price, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Scofield, Scott, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Townsend, Tracy, Ward, William B. Washburn, Webster, Wheeler, Chilton A. White, Joseph W. White, and Winfield—80.

**NAYS**—Messrs. Allison, Ames, Arnold, Ashley, Baxter, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Eckley, Eldridge, Farnsworth, Frank, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, William H. Randall, John H. Rice, Edward H. Rollins, Shannon, Sloan, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, Wilson, Windom, Woodbridge, and Worthington—58.

**NOT VOTING**—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Bailly, John D. Baldwin, Blaine, Blair, Blow, Boutwell, William G. Brown, Clay, Creswell, Thomas T. Davis, Donnelly, Driggs, Dumont, Eliot, Grider, Hall, Harrington, Charles M. Harris, William Johnson, Julian, Mallory, McAllister, McDowell, McIntoe, Moorhead, Robinson, Schenck, Smith, Spalding, Starr, Sweet, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Williams, Wilder, Benjamin Wood, Fernando Wood, and Yeaman—44.

So the motion to reconsider was laid on the table.

The question recurred upon the amendment as amended.

Mr. DAVIS, of Maryland, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 64, not voting 39; as follows:

**YEAS**—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Boutwell, Brandegee, Brooks, Broomall, James S. Brown, Chanter, Coffroth, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Deming, Denison, Dixon, Eden, Edgerton, Eldridge, English, Finck, Ganson, Garfield, Gooch, Grider, Griswold, Hale, Harding, Benjamin G. Harris, Herrick, Holman, Hotchkiss, Hutchins, Philip Johnson, Kalbfleisch, Kernan, King, Knapp, Law, Lazear, Le Blond, Long, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, Odell, John O'Neill, Pendleton, Perry, Pruyn, Radford, Samuel J. Randall, Alexander H. Rice, Rogers, James S. Rollins, Ross, Schenck, Scott, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Townsend, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Winfield, and Yeaman—79.

**NAYS**—Messrs. Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blow, Boyd, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Eckley, Eliot, Farnsworth, Frank, Grinnell, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, William H. Randall, John H. Rice, Scofield, Shannon, Sloan, Spalding, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Wilson, Windom, Woodbridge, and Worthington—64.

**NOT VOTING**—Messrs. William J. Allen, Alley, Allison, Anderson, Bailly, Blaine, Blair, William G. Brown, Clay, Creswell, Thomas T. Davis, Donnelly, Driggs, Dumont, Eliot, Harrington, Charles M. Harris, William Johnson, Julian, Mallory, Marey, McAllister, McDowell, McIntoe, Price, Robinson, Edward H. Rollins, Smith, Starr, Sweet, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Whaley, Williams, Wilder, Benjamin Wood, and Fernando Wood—39.

So the amendment was agreed to.

Mr. DAVIS, of Maryland, moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### POSTAL MATTERS.

Mr. COLE, of California, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 390) relating to the postal laws, reported that the committee had agreed to recommend to their respective Houses as follows: that the House recede from its amendment striking out the first section of the bill and agree to the same amended so that all domestic letters, except letters lawfully franked, and domestic letters of soldiers and mariners in the service of the United States, that are deposited for mailing in any post office of the United States, on which postage is unpaid, shall be sent by the postmaster to the dead-letter office in Washington; and that all letters deposited for mailing, paid only in part, shall be forwarded to their destination

charged with the unpaid rate, to be collected on delivery; and that the House recede from its third, fourth, and fifth amendments.

Mr. KASSON. I ask the gentleman from California what has become of the disputed proposition touching the rate of postage, and also what has become of the proposition touching the forwarding of letters unpaid in full, charged with double postage?

Mr. COLE, of California. The first proposition has never been before the Post Office Committee at all, and certainly not before the conference committee. The next proposition is provided for in the report of the conference committee. The letters are to be forwarded to their destination where the postage is not fully paid.

The report of the committee was agreed to.

Mr. ASHLEY moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MISCELLANEOUS APPROPRIATION BILL.

The House resumed the consideration of the amendments reported by the Committee of the Whole on the state of the Union to the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1866.

The remaining amendments were adopted.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 41, not voting 49; as follows:

**YEAS**—Messrs. James C. Allen, Allison, Ames, Ancona, Bailly, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Bliss, Broomall, James S. Brown, Coffroth, Cole, Cox, Cravens, Henry Winter Davis, Dawes, Dawson, Deming, Denison, Dixon, Eden, Edgerton, Eliot, Finck, Garfield, Gooch, Grider, Griswold, Hale, Harding, Herrick, Higby, Holman, Hotchkiss, John H. Hubbard, Jenckes, Philip Johnson, Kalbfleisch, Kasson, Kernan, King, Knapp, Law, Le Blond, Marey, McKinney, Middleton, Samuel F. Miller, William H. Miller, Morrill, Moorhead, Morrill, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Odell, John O'Neill, Perham, Perry, Price, Pruyn, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Rogers, James S. Rollins, Schenck, Scofield, Scott, Sloan, Smithers, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Thomas, Townsend, Ward, Whaley, Wheeler, Chilton A. White, Joseph W. White, Winfield, Wilder, Winfield, Woodbridge, and Yeaman—92.

**NAYS**—Messrs. Ashley, Boyd, Chanler, Cobb, Driggs, Eckley, Eldridge, Frank, Grinnell, Hooper, Asahel W. Hubbard, Hubbard, Ingersoll, Kelley, Francis W. Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Daniel Morris, Norton, Charles O'Neill, Orth, Pendleton, Pike, Pomeroy, John H. Rice, Edward H. Rollins, Ross, Shannon, Stevens, Thayer, Tracy, Upson, Elihu B. Washburne, Wilson, Windom, and Worthington—41.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Arnold, Blaine, Blair, Blow, Boutwell, Brandegee, Brooks, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Creswell, Thomas T. Davis, Donnelly, Dumont, English, Farnsworth, Ganson, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Hutchins, William Johnson, Julian, Orlando Kellogg, Lazear, Loan, Long, Mallory, McAllister, McDowell, McIntoe, Patterson, Robinson, Smith, Spalding, Starr, Sweet, Van Valkenburgh, Voorhees, Wadsworth, William B. Washburn, Webster, Williams, Benjamin Wood, and Fernando Wood—49.

So the bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER stated the next business in order to be the special order in relation to Cabinet ministers having seats on the floor.

#### DEFICIENCY BILL.

Mr. STEVENS, from the conference committee on the disagreeing votes of the two Houses on the amendments to House bill No. 620, to supply deficiencies in the appropriations for the fiscal year ending June 30, 1865, reported that the committee had been unable to agree.

Mr. WASHBURN, of Illinois. I move that the report be laid on the table.

The motion was agreed to.

#### VICE PRESIDENT-ELECT.

Mr. WILSON. Mr. Speaker, on behalf of the joint committee appointed to notify Andrew

Johnson of his election to the office of Vice President for four years, commencing on the 4th of March, 1865, I beg leave to report that the committee waited on the Vice President-elect, informed him of his election, and received from him an oral response to the effect that he acquiesces in the action of the American people, and will accept the trust confided to him by duly qualifying, and entering on the duties of the office to which he has been called, in the manner provided for by law.

#### TAXES IN INSURRECTIONARY DISTRICTS.

Mr. STEVENS, from the Committee of Ways and Means, reported back with amendments Senate bill No. 171, further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

The bill and amendments were read.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

A bill (H. R. No. 556) granting a pension to Ezekiel Harding; and

A bill (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor.

The message further announced that the Senate had passed, with amendments, in which he was directed to ask the concurrence of the House, bills of the following titles:

A bill (H. R. No. 567) granting a pension to Elizabeth B. Leppien;

A bill (H. R. No. 756) supplementary to the general acts relating to pensions; and

A bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

#### INTERNAL REVENUE.

Mr. MORRILL. I ask that the House take up the Senate amendment to the bill to amend an act to provide internal revenue, for the purpose of moving that the House non-concur in all the amendments of the Senate, and ask for a committee of conference. I merely suggest to gentlemen of the House that it will be utterly impossible for us to take separate votes upon all the amendments of the Senate. If the bill is to be passed at all in an intelligible shape it must be submitted to a committee of conference.

Mr. WASHBURN, of Illinois. I object to it now; we can hear the amendments read at any rate.

#### TAXES IN INSURRECTIONARY DISTRICTS.

The House resumed the consideration of the bill (S. No. 171) to further amend an act entitled "An act for the collection of direct taxes within the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

The question was upon the amendments reported from the Committee of Ways and Means.

Mr. SLOAN. I ask the gentleman from Pennsylvania [Mr. STEVENS] to allow me to move an amendment to this bill. I desire to move to strike out the first section of the Senate bill. I think it contains an extraordinary provision. If I understand it correctly, the amendments reported by the Committee of Ways and Means have left that part of the bill without amendment to which this is an amendment. The bill provides the machinery by which the direct taxes in insurrectionary States are collected. That of course involves first the appraisal of the land, then the assessment of the tax, the giving the notice of sale, and the making of sale. After the land has been sold, it provides a certain time and certain mode in which the owner if loyal may redeem the land. Now, the first section of this bill, instead of leaving all questions as to the regularity and validity of the sale under the law to be settled by the courts when the purchaser at such sales desires possession of the lands, provides that the tax commissioners, who are merely the ministerial officers of the Government for the purpose of executing that law and making the sale, shall themselves act as a court; or rather they shall in their ministerial capacity issue a writ of possession to put the purchaser in possession,

without giving the owner any right to go into the courts for the purpose of contesting the regularity of the proceedings, the validity of the sale, and the question whether he was loyal or disloyal.

It is really turning an irresponsible board of tax commissioners, who are performing simply the ministerial duty of assessing the land and selling it, into a court without any power perhaps to determine upon the legality of their own proceedings, or the power to determine the right of the original owners to the lands sold, but compelling the commissioners to issue a writ which will summarily eject those in possession of the land, and put the purchaser, whoever he may be, and whatever may be the proceedings under which he has acquired title, into possession. I submit to the learned chairman of the Committee of Ways and Means [Mr. STEVENS] that all these questions should be submitted to our courts; that the proceedings should be assimilated to those for the collection of taxes in the States. Let the sale be held by our tax commissioners; let the purchaser take his certificate of sale, and if the land is not redeemed within the time and in the manner specified by law, and if possession is withheld by the occupant of the land, let him get it by the ordinary process of law.

I am informed that if this provision is to be enacted as a law, it will interfere so much with the duties of the tax commissioners that their sales will be interrupted; the commission will be turned into a court to hear applications for writs of possession; they cannot devote the necessary time to their other duties. I submit that the purchasers at these sales shall stand upon the same footing as purchasers at all other tax sales, and if possession is withheld after they have obtained a title, that they shall have the right to appeal to our courts to put them in possession in accordance with the forms of law, and in courts where the regularity of the proceedings and the legality of the whole transaction can be decided in a proper manner. I believe that that section contains nothing except the provision authorizing the tax commissioners to issue writs of possession. Its omission will not impair or affect the main features of this bill; and I trust that the section will be stricken out.

Mr. STEVENS. I was willing to hear what the gentleman had to say before I insisted on the previous question. But if this section be stricken out the whole bill will be worthless. In that portion of the country in which this bill will operate no regular courts are open, and it is necessary that the tax commissioners should do what the sheriffs do where there are regular courts. Time is allowed for the party to come back. On an appeal possession may be restored to him; and he has two years within which to take that appeal.

On seconding the previous question there were, on a division—ayes fifty-four, noes not counted.

Mr. SLOAN called for tellers.  
Tellers were ordered; and Messrs. SLOAN and ASHLEY were appointed.

The House divided; and the tellers reported—ayes 60, noes 40.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the amendments reported by the Committee of Ways and Means were agreed to.

The bill was ordered to a third reading, and was read the third time.

The question being on the passage of the bill, Mr. LE BLOND demanded the yeas and nays.

Mr. ELDRIDGE demanded tellers on ordering the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The bill was passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX BILL.

Mr. MORRILL. I move to suspend the rules in order that we may non-concur in all the amendments of the Senate to the bill (H. R. No. 744) known as the tax bill, without even reading those amendments, for they are so voluminous that the reading of them would consume hours.

Mr. HOLMAN. I shall insist on the reading of those amendments. I believe it cannot be dispensed with.

The SPEAKER. It can be by suspending the rules.

Mr. HOLMAN. Can a bill be passed without being read?

The SPEAKER. Certainly, by a two-thirds vote suspending the rules.

Mr. MORRILL. I will state that if this bill is to pass, the choice is between members of the House remaining here all night and having a committee of conference work all night. If the bill should be delayed until to-morrow it cannot be acted upon and engrossed. It is a bill of over fifty pages.

Mr. HOLMAN. I call for the reading of the amendments at this stage.

The SPEAKER. The reading of the amendments cannot be called for at this stage. The question is now on suspending the rules.

The question was taken; and there were, on a division—ayes, 84, noes 8.

So the rules were suspended.

Mr. MORRILL. I now move that the House non-concur in all the amendments of the Senate, and ask a committee of conference on the disagreeing votes of the two Houses.

Mr. HOLMAN. I call for the reading of the amendments.

The SPEAKER. The Chair decides that the gentleman has not the right to call for the reading of the amendments, the rules having been suspended. One of the rules gives every member the right to call for the reading of any paper upon which he is to vote. That is the rule of the House. But the House reserves to itself the right, during the last ten days of the session, to suspend the rules whenever it sees fit if they stand in the way of the transaction of business. The House has, by a vote of 84 to 8, suspended all rules that prevent the House from non-concurring with the Senate amendments in gross, and asking the appointment of a committee of conference. This action has suspended the rule which, if it had not been suspended, would have given the gentleman from Indiana [Mr. HOLMAN] or any other gentleman the right to demand the reading of the amendments.

Mr. HOLMAN. I respectfully appeal from the decision of the Chair.

The SPEAKER. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. DAWES. I move that the appeal be laid on the table.

The motion was agreed to; there being, on a division—ayes 74, noes 20.

On the motion of Mr. MORRILL, that the House non-concur in the Senate amendments and ask a committee of conference, there were, on a division—ayes 63, noes 25; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. MORRILL and BLISS.

The House divided; and the tellers reported—ayes 78, noes 17.

So the motion was agreed to.

#### METROPOLITAN RAILROAD.

Mr. PATTERSON. I wish to bring up Senate bill No. 411 to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia." It was the question under consideration at the last morning hour; and I will say that the committee have authorized me to withdraw all the pending amendments so as to remove all objection, and to put the bill on its passage.

Mr. HOLMAN. How will it stand then?

Mr. PATTERSON. It will then only affect the Metropolitan Railroad Company, and not the Washington and Georgetown Railroad Company. It gives the Metropolitan Railroad Company the right to extend. It will be some relief to that road.

Mr. STILES. I object.

Mr. PATTERSON. I move to suspend the rules for the purpose I have indicated.

The motion was agreed to.

Mr. PATTERSON. I withdraw all the pending amendments to the bill, and ask by unanimous consent that the amendment adopted to the first section shall be withdrawn.

There was no objection; and it was agreed to accordingly.

The bill was then ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BANK CIRCULATION.

Mr. HOOPER. I move to take up and pass House bill No. 703, to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," which was read twice, ordered to be printed, the further consideration postponed to Monday, February 6, after the morning hour, and made a special order from day to day till disposed of. It restricts, to some extent, bank circulation.

Mr. HOLMAN. I object.

Mr. HOOPER. I move to suspend the rules. The motion was agreed to.

The bill provides that section twenty-one of said act be so amended that the section shall read as follows:

That upon the transfer and delivery of bonds to the Treasurer as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per cent. of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per cent. of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per cent. per annum; and the amount of such circulating notes to be furnished to each association shall be in proportion to its paid-up capital as follows, and no more: to each association whose capital shall not exceed \$500,000, ninety per cent. of such capital; to each association whose capital exceeds \$500,000, but does not exceed \$1,000,000, eighty per cent. of such capital; to each association whose capital exceeds \$1,000,000, but does not exceed \$3,000,000, seventy-five per cent. of such capital; to each association whose capital exceeds \$3,000,000, sixty per cent. of such capital.

Mr. HOOPER. I move to amend the bill as follows:

Add to the first section that \$150,000,000 of the entire amount of circulating notes authorized to be issued shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to existing bank capital, resources, and business of such States, District, and Territories.

The amendment was agreed to.

Mr. HOOPER. I move to add the following:

And be it further enacted, That section one of said act be so amended as to authorize, under the direction of the Secretary of the Treasury, the employment of one chief of the division of currency, one chief of the division of organization of banks, one chief of the division of general correspondence and statistics, and one chief of the division of redemption, with the annual salary of \$3,200 each; and that the annual salary of the Deputy Comptroller shall be \$3,000.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE moved that the bill and amendment be laid on the table.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 73, not voting 70; as follows:

YEAS—Messrs. James C. Allen, Ancona, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Gauson, Benjamin G. Harris, Herrick, Holman, Philip Johnson, Kernan, Le Blond, Long, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, John O'Neill, Pendleton, Pryor, Scott, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, and Townsend—39.

NAYS—Messrs. Allison, Ames, Ashley, Bailey, Baxter, Beaman, Blaine, Boutwell, Boyd, Broomall, Cobb, Cole, Dawes, Dixon, Driggs, Eckley, Eliot, Frank, Grinnell, Griswold, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hubbard, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marcy, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, Orth, Patterson, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Stevens, Thayer, Thomas, Upson, Elihu B. Washburne, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Woodbridge—73.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Arnold, Augustus C. Baldwin, John D. Baldwin, Blair, Blow, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Creswell, Henry Winter Davis, Thomas T. Davis, Deming, Donnelly, Dumont, Farnsworth, Garfield, Gooch, Grider, Hall, Harding, Harrington, Charles M. Harris, Hutchins, Ingersoll, William Johnson, Julian, Kabbelsch, King, Knapp, Law, Lazaar, Loan, Mallory, McAllister, McDowell, McIndoe, Nelson, Per-

ham, Perry, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Shannon, Smith, Spaulding, Starr, Sweat, Tracy, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Wheeler, Chilton A. White, Joseph W. White, Williams, Winfield, Benjamin Wood, Fernando Wood, Worthington, and Yeaman—70.

So the bill and amendment were not laid on the table.

The question recurred upon agreeing to the second amendment offered by Mr. HOOPER, upon which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 38, not voting 72; as follows:

**YEAS**—Messrs. Allison, Ames, Baily, Beaman, Blaine, Boutwell, Boyd, Broomall, Cobb, Cole, Dawes, Dixon, Driggs, Eckley, Eliot, English, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Shannon, Sloan, Smathers, Thayer, Thomas, William B. Washburn, Whaley, Wilder, Wilson, Windom, Woodbridge, and Worthington—72.

**NAYS**—Messrs. Ancona, Bliss, Brooks, James S. Brown, Chautau, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Finck, Ganson, Holman, Philip Johnson, Kerian, Knapp, Le Blond, Long, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Noble, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, Scott, William G. Steele, Stiles, Strouse, Stuart, Townsend, Elihu B. Washburne, and Chilton A. White—38.

**NOT VOTING**—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Blair, Blow, Brandegee, William G. Brown, Ambrose W. Clark, Freeman Clarke, Clay, Creswell, Henry Winter Davis, Thomas T. Davis, Deming, Donnelly, Dumont, Farnsworth, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hutchins, William Johnson, Julian, Kalbfleisch, King, Law, Lazear, Loan, Mallory, McAlister, McDowell, McIndoe, Samuel F. Miller, Nelson, Perry, Radford, Robinson, Rogers, James S. Rollins, Ross, Smith, Spaulding, Starr, John B. Steele, Stevens, Sweet, Tracy, Upson, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Wheeler, Joseph W. White, Williams, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—72.

So the amendment was agreed to.

Mr. BROOKS. I offer the following additional amendment:

And one half the interest paid in specie upon United States bonds shall be kept in the vaults of the national banks until they resume specie payments, and they are hereby forbidden to sell any gold thus received.

Mr. WILSON. I suggest to the gentleman from New York that he modify his amendment so as to provide that one half only of the gold shall be so reserved.

Mr. BROOKS. I will agree to that if the gentleman will give me the support of his party.

Mr. WILSON. No, I cannot pledge that; but I will vote for it myself.

The SPEAKER. Does the gentleman from New York accept the modification suggested?

Mr. BROOKS. Yes, I will accept anything for a bargain at this time of night.

The question was taken, and the amendment was disagreed to.

Mr. BROOKS. I offer the following amendment:

And the interest on Government stocks held by national banks may be paid in specie or in circulating notes of said banks at the discretion of the Secretary of the Treasury.

Mr. HOOPER moved the previous question on the bill and amendment.

The previous question was seconded, and the main question ordered.

Mr. HOLMAN demanded the yeas and nays on agreeing to the amendment.

Mr. ANCONA called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was rejected.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOOPER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

GARRETT R. BARRY.

Mr. BLISS, by unanimous consent, from the Committee on the Judiciary, reported back, with the recommendation that it do pass, joint resolution of the Senate No. 41, for the relief of Gar-

rett R. Barry, a paymaster of the United States Navy.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BLISS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. ENGLISH, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of Henry Barriclow, asking relief on account of twenty-three land warrants.

#### OFFICERS' SERVANTS.

Mr. SCHENCK. I move that the amendment of the Senate to the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in reference to officers' servants be taken from the Speaker's table and referred to the Committee on Military Affairs, with authority to report at any time.

The motion was agreed to.

#### CHIEF OF STAFF TO LIEUTENANT GENERAL.

Mr. SCHENCK. I move that Senate bill No. 476, to provide for a chief of staff to the Lieutenant General commanding the armies of the United States be taken from the Speaker's table and put upon its passage.

The bill was taken from the Speaker's table, and read a first and second time. It enacts that the President of the United States may, by and with the advice and consent of the Senate, appoint a chief of staff to the Lieutenant General commanding the armies of the United States, who shall have the rank, pay, and allowances of a brigadier general in the United States Army.

The bill was read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EMPLOYMENT OF DISABLED SOLDIERS.

Mr. SCHENCK. I move that Senate joint resolution No. 111, to encourage the employment of disabled and discharged soldiers, be taken from the Speaker's table and put upon its passage.

Mr. HOLMAN. That is a good measure.

The joint resolution was read a first and second time.

The question being on its third reading, the joint resolution was read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### COLORS LABORERS.

Mr. JOHNSON, of Pennsylvania, by unanimous consent, moved the following resolution:

Resolved, That the Committee of Accounts be, and they are hereby, instructed to place the names of Sandy Bruce, Henry Hall, and James Saunders, colored assistant laborers, on the roll of laborers of this House, and pay them accordingly, for the present session.

Mr. RANDALL, of Pennsylvania. I desire to offer an amendment to that resolution.

Mr. JOHNSON, of Pennsylvania. No, sir.

Mr. HOLMAN. I desire the gentleman from Pennsylvania to explain that resolution.

Mr. JOHNSON, of Pennsylvania. What do you want to know? [Laughter.]

The resolution was considered and adopted.

Mr. JOHNSON, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CABINET MINISTERS IN CONGRESS.

Mr. NELSON. I desire to make a report from the special committee on invalid pensions appointed in December, 1864.

Mr. WASHBURN, of Illinois. I object to it. I desire to know who has the floor.

The SPEAKER. The gentleman from Ohio [Mr. PENDLETON] has the floor on the bill relative to the attendance of heads of Departments in Congress.

Mr. WASHBURN, of Illinois. The gentleman from Ohio has the floor to make a speech on a subject in which he has taken a good deal of interest. I think it but fair and just to the gentle-

man from Ohio, to his position, and to his long service in this House, that he should have an opportunity, even at this late day, to make his speech on the question.

Mr. JOHNSON, of Pennsylvania. If he wants to.

Mr. WASHBURN, of Illinois. He has yielded to every member who requested him to do so, and I think that we are crowding the gentleman from Ohio a little too far. If, by the consent of the House, which I hope will be given, that gentleman may have a short time to-morrow to make his speech, that will be but fair.

The SPEAKER. Is there any objection to that proposition?

Mr. PENDLETON. If the suggestion of the gentleman from Illinois be agreeable to the House, that at a fixed hour to-morrow, say one o'clock, I may have the floor to say what I have to say on this subject, I will, with great pleasure, yield the floor now.

The SPEAKER. Is there objection to the gentleman from Ohio having one hour, to commence at one o'clock to-morrow, on the special order?

Mr. MORRILL. It is well understood all over the House that the gentleman from Ohio has yielded his position in order not to clog the business of the House. I hope that some time to-morrow, when it can be done without interference with the business of the House, he will have an opportunity to address the House.

Mr. HULBURD. I object.

Mr. WASHBURN, of Illinois. I move to suspend the rules for the purpose of giving the gentleman from Ohio that privilege.

The rules were suspended, (more than two thirds voting in favor thereof,) and it was so ordered.

#### COMMISSIONER OF PATENTS.

Mr. HIGBY, by unanimous consent, from the special committee in regard to certain charges against the Commissioner of Patents, made a report, accompanied by testimony.

The report was read. The committee unanimously report that in their opinion none of the charges have been sustained.

The committee was discharged, and the report and testimony were ordered to be printed.

Mr. WILSON. I move that the House now proceed to the business on the Speaker's table, for the purpose of taking up and finally disposing of such bills and joint resolutions as may not be objected to.

The motion was agreed to.

Mr. COX moved that the House adjourn.

The motion to adjourn was not agreed to.

The House then proceeded to the consideration of business on the Speaker's table.

#### AMENDMENT OF THE CONSTITUTION.

The first business on the Speaker's table was a concurrent resolution of the Senate, requesting the President of the United States to transmit to the Executives of the several States the amendment proposed by Congress to the Constitution of the United States respecting the extinction of slavery therein.

Mr. ELDRIDGE. I object.

#### REBEL DEBT.

The next business on the Speaker's table was a concurrent resolution of the Senate against any recognition of the rebel debt or loan under any circumstances.

Mr. COX. I object.

#### DUTY ON PRINTING PAPER.

The next business on the Speaker's table was Senate amendments to a joint resolution (H. R. No. 141) reducing the duty on printing paper, unsized, and used for books and newspapers exclusively.

Mr. JENCKES. I object.

#### STOCKBRIDGE, WISCONSIN.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes.

Mr. ANCONA. I object.

#### POST OFFICE DEPARTMENT.

The next business on the Speaker's table was



a bill (S. No. 389) relating to clerkships in the Post Office Department.

The Senate disagreed to the amendment of the House to strike out sections three and four of Senate bill, and insert "that said clerks shall be paid out of any money heretofore appropriated, or that may hereafter be appropriated, for the service of the Post Office Department."

Mr. DONNELLY moved that the House recede from its amendment.

The motion was agreed to.

#### CONTINENTAL HOTEL COMPANY.

The next business on the Speaker's table was the Senate amendment to a bill (H. R. No. 794) to incorporate the Continental Hotel Company of the city of Washington.

Add to the bill the following section:  
Sec. —. And be it further enacted, That Congress may, at any time, alter, amend, or repeal this charter.

Mr. ASHLEY. I move the amendment of the Senate be concurred in.

The motion was agreed to.

#### THOMAS BOOTLE.

The next business on the Speaker's table was the Senate amendment to a bill (H. R. No. 454) granting a pension to Thomas Booth; changing "Booth" to "Bootle" in bill and title.

The amendment was concurred in.

#### MINNESOTA LAND GRANTS.

The next business on the Speaker's table was Senate amendments to a bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes.

Mr. HOLMAN. Is there any further grant of land in this bill? Is it anything more than an extension of time?

Mr. WINDOM. None at all, beyond what it was when the bill passed the House.

The Senate amendments were concurred in.

#### PAY OF MIDSHIPMEN.

The next business on the Speaker's table was Senate amendments to a bill (H. R. No. 605) to increase the pay of midshipmen, and others.

The Senate amendments were concurred in.

#### ELIZABETH B. LEPPEN.

The next business on the Speaker's table was Senate amendment to a bill (H. R. No. 567) granting a pension to Elizabeth B. Leppien.

The amendment of the Senate was concurred in.

#### PENSION LAWS.

The next business on the Speaker's table was Senate amendments to a bill (H. R. No. 756) supplementary to the several acts granting pensions.

The Senate amendments were concurred in.

#### MAIL SERVICE.

The next business on the Speaker's table was Senate amendments to a bill of the House removing disqualifications on account of color in carrying the mails.

Mr. ELDRIDGE. I object.

#### PENSION LAWS.

Mr. HOLMAN. I rise to a privileged question. The House just now concurred in the Senate amendments to bill H. R. No. 756, entitled "An act supplementary to the several acts granting pensions." I have since ascertained that the Senate struck out the fifth and sixth sections—two important sections of the bill. I therefore move to reconsider the vote by which the House concurred in the amendments of the Senate.

Mr. WASHBURN, of Massachusetts. I hope that the motion to reconsider will not be agreed to. I move that that motion be laid on the table.

The motion of Mr. WASHBURN, of Massachusetts, was agreed to; there being, on a division—ayes 71, noes 21.

#### INDIAN APPROPRIATION BILL.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had passed the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1866, with amendments, in which they requested the concurrence of the House.

Mr. KASSON. I move that the House now

concur in the amendments of the Senate, and ask a committee of conference.

The motion was agreed to.

#### MINNESOTA LAND GRANTS.

Mr. HOLMAN. I move to reconsider the vote by which the House concurred in the amendments of the Senate to House bill extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes. Those amendments were concurred in without a dissenting voice. But so far as I was concerned I acted under a misapprehension founded upon a statement made by the gentleman from Minnesota, [Mr. WINDOM.] I understood him to say that the bill, as amended, provided simply for an extension of time. He has since informed me that he did not intend to be so understood; that he meant to say that the bill, as amended, provided for no extension beyond that contemplated by the bill as it passed the House. I trust he will see the fairness of allowing the vote to be reconsidered, because I acted under that assurance.

Mr. WINDOM. I desire to say a word with reference to the misunderstanding on the part of the gentleman from Indiana, [Mr. HOLMAN.]

I was beginning to explain the amendments when the gentleman from New York [Mr. GANSON] suggested to me that I would kill my bill if I made a speech. So I concluded to proceed no further. When the gentleman from Indiana asked whether the amendments provided for anything beyond an extension of time, I did not understand him in the hubbub prevailing at the moment. I could not hear what occurred until the Speaker announced that the amendment had been concurred in. I desire to say that the Senate amendments make no grant additional to that made by the House bill which passed here by a two-thirds vote. The House bill authorized the company to take other lands than those contiguous to the road to be constructed; the amendments of the Senate limit the company in this respect. So far as that point is concerned, the bill as amended is preferable to the House bill.

Mr. HOLMAN. The remarks of the gentleman from Minnesota were misapprehended by myself and by others around me. We acted on the question under this misapprehension. I trust that good faith will suggest to the gentleman from Minnesota the propriety of allowing a reconsideration of our action.

Mr. WINDOM. I have no objection to a reconsideration, if the question can be acted on at once.

The SPEAKER. If a reconsideration should take place, a single objection will prevent concurrence in the amendments, because the understanding was that these matters should go through by unanimous consent.

Mr. WILSON. I do not understand the gentleman from Indiana to object to the matter coming up so that the House may act on it.

Mr. HOLMAN. I want the action taken reconsidered, so that the bill may stand as it stood when it was taken up from the Speaker's table.

There was no objection; and it was ordered accordingly.

Mr. HOLMAN. I now object to taking the bill from the Speaker's table.

#### SALE OF INDIAN LANDS.

The next business on the Speaker's table was Senate joint resolution No. 88, suspending the sale by sealed bids of the lands of the Kansas and Sac and Fox Indians.

Mr. HOLMAN. I do not understand the object of the postponement of these sales. They have been postponed since 1861.

Mr. WASHBURN, of Illinois. I was going to call for the previous question. I think the longer these sales are postponed the better.

Mr. HOLMAN. They have been suspended since 1861, and the creditors of these Indians have been kept out of their money. I object.

#### MASSACRE OF CHEYENNE INDIANS.

The next business on the Speaker's table was Senate joint resolution No. 93, in relation to the massacre of Cheyenne Indians.

Mr. McBRIDE. I object.

#### INVENTORY OF QUARTERMASTERS' DEPOTS.

The next business on the Speaker's table was Senate joint resolution No. 90, to authorize and

direct an inventory of articles in the quartermasters' depots in the United States, and in possession of naval storekeepers of the United States.

Mr. SCHENCK. That is a good resolution, and I hope that it will be passed.

The joint resolution was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BENJAMIN VREELAND.

The next business on the Speaker's table was Senate bill No. 412, for the relief of Benjamin Vreeland, surgeon in the Navy of the United States.

There was no objection; and the bill was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

#### RETALIATION.

The next business on the Speaker's table was Senate joint resolution No. 97, advising retaliation for cruel treatment of prisoners by the insurgents.

Mr. KERNAN. I object.

#### PAUL S. FORBES.

The next business on the Speaker's table was Senate joint resolution No. 94, authorizing the Secretary of the Navy to advance to Paul S. Forbes \$250,000 additional out of the sum to be paid to him under the contract for building a steam screw sloop-of-war.

The SPEAKER. That having already passed, the resolution will be laid on the table.

#### STATE OF KANSAS CLAIM.

The next business on the Speaker's table was Senate bill No. 70, to enable the accounting officers of the Treasury to settle the claim of the State of Kansas.

There was no objection; and the bill was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

#### INDIAN AFFAIRS IN CALIFORNIA.

Senate bill No. 370, to amend an act entitled "An act to provide for the better organization of Indian Affairs in California."

There was no objection; and the bill was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

#### INDIAN BONDS.

The next business on the Speaker's table was Senate joint resolution No. 85, authorizing the Secretary of the Treasury to pay to the Secretary of the Interior \$250,000 in lieu of certain bonds for feeding certain refugee Indians.

Mr. WASHBURN, of Illinois. I object.

#### JAMES MADISON'S PAPERS.

The next business on the Speaker's table was Senate joint resolution No. 105, respecting the publication of the papers of James Madison.

There was no objection; and the joint resolution was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

#### SAMUEL L. GEROULD.

The next business on the Speaker's table was Senate bill No. 450, for the relief of Samuel L. Gerould.

There was no objection; and the bill was read a first and second time, ordered to be read a third time, and it was accordingly read the third time, and passed.

#### WILLIAM PIERCE.

The next business on the Speaker's table was bill S. No. 422, for the relief of William Pierce.

Mr. HOOPER. I object.

#### G. J. STUBBLEFIELD.

The next business on the Speaker's table was joint resolution S. No. 109, authorizing the adjustment of the claim of George J. Stubblefield for chewing tobacco furnished to the United States.

Mr. THAYER. I object.

Mr. COX moved that the House adjourn. The motion was disagreed to.

W. H. AND C. S. DUNCAN.

The next business on the Speaker's table was bill S. No. 311, for the relief of W. H. & C. S. Duncan.

There being no objection, the bill was taken up and read a first and second time. The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. F. CLARKE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### \*COPYRIGHT LAW.

The next business on the Speaker's table was bill (S. No. 468) supplemental to an act entitled "An act to amend the several acts respecting copyrights," approved February 3, 1851, and to the acts in addition thereto and in amendment thereof.

There being no objection, the bill was taken up, and read a first and second time.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. FRANK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MICHIGAN LAND GRANT.

The next business on the Speaker's table was bill (S. No. 413) making a grant of land to the State of Michigan to aid in the construction of certain railroads in said State.

Mr. HOLMAN. I object.

#### CAPITOL HOTEL COMPANY.

The next business on the Speaker's table was bill (S. No. 452) to incorporate the Capitol Hotel Company in Washington city, District of Columbia.

There being no objection, the bill was taken up, and read a first and second time.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. DAVIS, of New York, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MINNESOTA LAND GRANTS.

Mr. WINDOM. I desire to make another appeal to the gentleman from Indiana to withdraw his objection to concurring in the Senate amendments to the bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in Minnesota, and for other purposes.

Mr. HOLMAN. As the gentleman from Minnesota has acted very fairly and courteously on this subject toward me personally, and has relieved me from the difficulty of falling into a mistake in regard to its purpose, I say, without hesitation, that while I am opposed to the bill, and cannot withdraw my objection, I will very freely waive, so far as I am concerned, the understanding that the rules shall not be suspended during the evening. I am perfectly willing that the gentleman shall move to suspend the rules.

The SPEAKER. Is there any objection to that?

Mr. RANDALL, of Pennsylvania. I object. We were parties here to-night to a contract when we entered upon this character of legislation. I conceive it always unconstitutional to interfere with contracts. I therefore object.

The SPEAKER. The Chair thinks that the objection comes too late, and that a motion to suspend the rules is in order.

Mr. RANDALL, of Pennsylvania. No, sir; I rose in time.

The SPEAKER. Then the Chair entertains the objection.

Mr. RANDALL, of Pennsylvania, subsequently withdrew the objection, and Mr. ANCONA renewed it.

#### MICHIGAN LAND GRANTS.

The next bill taken from the Speaker's table was an act (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making

a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes.'"

The bill was read a first and second time.

Mr. HOLMAN. Does this bill increase the grant of lands?

Mr. UPSON. It simply gives an extension of time.

Mr. HOLMAN. I have no objection to it.

The bill was read the third time, and passed.

Mr. UPSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BURLINGTON AND MISSOURI RIVER RAILROAD.

The next business on the Speaker's table was the joint resolution (S. No. 123) to extend the time for constructing the Burlington and Missouri River railroad in Iowa, and filing a map of relocation.

The joint resolution was read a first and second time.

Mr. WASHBURN, of Illinois. Is there anything in that bill except as to extending the time?

Mr. WILSON. There is no additional grant of land.

Mr. HOLMAN. Let the joint resolution be read.

The joint resolution was read the third time, and passed.

#### PATENT RIGHTS.

The next business on the Speaker's table was an act (S. No. 387) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863.

The bill was read a first and second time.

The question being on its third reading,

Mr. COX. I object to the third reading, and move that the House do now [twenty minutes past one, a. m.] adjourn.

The House refused to adjourn; there being, on a division—ayes 46, noes 52.

Mr. COX subsequently withdrew his objection to the third reading of the bill, S. No. 387; and there being no further objection the bill was read the third time, and passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MINNESOTA LAND GRANTS.

The next business on the Speaker's table was an act (S. No. 295) making additional grants of lands to the State of Minnesota in alternate sections to aid in the construction of a railroad in said State.

Mr. ANCONA objected.

#### DOCUMENTS FOR STATE DEPARTMENT.

The next business on the Speaker's table was joint resolution (S. No. 114) authorizing additional copies of public documents to be printed for the Department of State.

Mr. WASHBURN, of Illinois, objected.

#### INTERNATIONAL EXHIBITIONS.

The next business on the Speaker's table was a joint resolution charging the President of the United States with the duty of making known to the people of the United States, by proclamation or otherwise, the facts in his possession relating to the international exhibitions proposed to be held at Bergen, Norway, and Oporto, Portugal, during the summer of 1865.

The joint resolution was read three times, and passed.

#### MAIL POUCHES.

The next business on the Speaker's table was a joint resolution (S. No. 121) to purchase mail pouches or boxes of Marshall Smith's patent.

Mr. WASHBURN, of Illinois, objected.

#### NIAGARA SHIP-CANAL, ETC.

The next business on the Speaker's table was the joint resolution (S. No. 118) to authorize surveys to be made with a view to the construction of a ship-canal around the falls of Niagara, to deepen and enlarge the Illinois and Michigan canal, to improve the navigation of the Illinois river, to improve the Upper rapids and also the

Des Moines rapids of the Mississippi river, to improve the navigation of the Fox and Wisconsin rivers, and for other purposes.

Mr. HOLMAN. I object.

Mr. WASHBURN, of Illinois. If that is objected to, I move that the House adjourn.

Several MEMBERS. No! No!

Mr. WASHBURN, of Illinois. Very well; I withdraw the motion.

#### NAVAL JUDGE ADVOCATE GENERAL.

The next business on the Speaker's table was a bill (S. No. 465) to create the office of Solicitor and Naval Judge Advocate General.

Mr. RICE, of Massachusetts. A bill upon this subject has already passed the House. I move to lay this bill on the table.

The motion was agreed to.

#### WAGON ROADS IN THE TERRITORIES.

The next business on the Speaker's table was a bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska.

Mr. WASHBURN, of Illinois. I object.

#### COLORED UNION BENEVOLENT ASSOCIATION.

The next business on the Speaker's table was a joint resolution (S. R. No. 451) to incorporate the Colored Union Benevolent Association.

The joint resolution was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

#### PACIFIC RAILROAD MAPS.

The next business on the Speaker's table was a joint resolution (S. No. 125) transferring maps and other documents relating to the surveys of the Pacific railroad to the Department of the Interior.

The joint resolution was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

#### NAVAL OBSERVATORY.

The next business on the Speaker's table was a bill (S. No. 478) in relation to the Naval Observatory.

The bill was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

#### CAPTAIN HENRY S. STELLWAGEN.

The next business on the Speaker's table was a joint resolution (S. No. 128) authorizing the acceptance of a sword of honor from the Government of Great Britain by Captain Henry S. Stellwagen, United States Navy.

The joint resolution was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

#### BATH, MAINE.

The next business on the Speaker's table was a bill (S. No. 318) authorizing the Secretary of the Treasury to lease or sell certain property of the United States situate at Bath, in the State of Maine.

The bill was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AGRICULTURAL COLLEGES.

The next business on the Speaker's table was a bill (S. No. 483) to amend an act donating public lands to the several States and Territories which shall provide colleges for the benefit of agriculture and the mechanic arts.

Mr. BOUTWELL. I object.

#### NATIONAL MILITARY AND NAVAL ASYLUM.

The last business on the Speaker's table was a bill (S. No. 479) to incorporate a national military and naval asylum for the relief of totally disabled officers and men of the volunteer forces of the United States.

The bill was read a first and second time, and ordered to be read a third time. It was accordingly read the third time, and passed.

And then, on motion of Mr. COX, (at one o'clock and thirty-five minutes, a. m.) the House adjourned.

## IN SENATE.

FRIDAY, March 3, 1865.

Prayer by Rev. THOMAS BOWMAN, D. D., Chaplain to the Senate.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal was dispensed with.

## ORDER OF BUSINESS.

Mr. HOWARD. If it be in order, I move to take up the bill which was under consideration when we adjourned last night.

Mr. GRIMES. This is the last opportunity we shall have to present petitions and reports.

Mr. CLARK. I desire that the rules may be observed, and petitions and reports be allowed to be presented, as this is the last morning we shall have to do so.

Mr. HOWARD. I withdraw the motion.

## SENATE CONTINGENT FUND.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Senate, communicating, in obedience to law, a detailed statement of the payments from the contingent fund of the Senate for the year ending December 5, 1864; which was ordered to lie on the table, and be printed.

## PETITIONS AND MEMORIALS.

Mr. GRIMES presented a petition of William Reynolds, commander United States Navy, on the reserved list, praying to be restored to his former position on the active list, having been retired, as is alleged, solely on account of physical disability which is now removed; which was referred to the Committee on Naval Affairs.

Mr. BUCKALEW presented a petition of Daniel McHenry, of Pennsylvania, praying that the circumstances of his arrest and imprisonment in the month of August, 1864, may be investigated, and that those causing it may be exposed and punished, and he be paid the expenses incurred by him in his defense before a military commission; which was ordered to lie on the table.

Mr. DIXON presented a petition of Edward St. Clair Clarke, acting assistant paymaster United States Navy, praying to be relieved from all liability for certain public money alleged to have been stolen from him in May, 1863, on board the United States steamer Sumter, then lying at the Brooklyn navy-yard; which was ordered to lie on the table.

## REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. No. 535) further to regulate the appointment of admirals and for the appointment of certain volunteer officers to the regular Navy;

A bill (H. R. No. 801) to amend certain acts relating to the naval service, and for other purposes; and

A bill (H. R. No. 803) to revive in part the act approved March 3, 1857, making appropriations for the naval service for the year ending 30th of June, 1858.

Mr. GRIMES. These bills ought to pass, but in the pressure of business that is now upon us I do not feel it incumbent upon me to call them up.

The VICE PRESIDENT. They will go upon the Calendar.

Mr. GRIMES, from the Committee on Naval Affairs, to whom were referred the following bill and joint resolutions, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 466) to amend an act to amend an act entitled "An act to promote the efficiency of the Navy," approved January 16, 1857, and an amendatory thereof, approved March 3, 1859;

A joint resolution (S. R. No. 80) in relation to the distribution of prize money; and

A joint resolution (H. R. No. 128) providing for the appointment of a commission to locate one or more navy-yards and depots on the north-western lakes.

He also, from the same committee, to whom were referred resolutions of the Legislature of Michigan, in favor of the establishment of a general naval recruiting office at Detroit in that State; the memorial of the Legislature of Wisconsin, in

favor of the establishment of a naval depot at Milwaukee, in that State; the memorial of the Board of Trade of the city of Racine, Wisconsin, praying for the location of a naval depot at that place; the memorial of citizens of the city of Sandusky, Ohio, praying for the location of a naval depot at Johnson's Island, in Sandusky bay; the petition of citizens of Detroit, Michigan, praying for the establishment of a navy-yard at that place; the petition of professors of mathematics in the Navy, praying for an increase of pay; the memorial of officers of the United States war steamer Sumter, praying for payment for clothing lost by the sinking of that vessel; the petition of officers and survivors of United States monitor Tecumseh and of the United States steamer Philippi, praying for payment for loss of clothing occasioned by the sinking of those vessels; the memorial of Edward McDonald Reynolds; the petition of acting assistant paymasters attached to the Mississippi squadron, praying for an increase of pay; the papers relating to the claim of Philip Landsdale; and the report of the Board of Visitors to the United States Naval Academy for the year 1864, asked to be discharged from their further consideration; which was agreed to.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom were referred a petition of masters in the Navy, not in the line of promotion, and attached to navy-yards, praying to be placed on the same footing with masters at sea, and a petition of Charles Murray, paymaster United States Navy, praying for additional compensation while serving at Mare Island, California, asked to be discharged from their further consideration; which was agreed to.

He also, from the Committee on Public Lands, to whom was referred the memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of a canal from Sturgeon bay to Lake Michigan, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLEY, from the Committee on Naval Affairs, to whom was referred a petition of Eaton & Gage, contractors with the Navy Department, asked to be discharged from its further consideration; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 150) to refer the claim of Selmar Seibert back to the Court of Claims, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the following bills and joint resolution, asked to be discharged from their consideration; which was agreed to:

A bill (S. No. 372) allowing mileage to the Justices of the Supreme Court of the United States;

A bill (S. No. 397) in relation to the rights of married women in the District of Columbia;

A bill (S. No. 401) to amend the judicial system of the United States;

A bill (S. No. 137) to exclude disloyal persons from the public lands of the United States;

A bill (S. No. 440) to define the jurisdiction of the district and circuit courts of the United States for the districts of California, Oregon, and Nevada;

A bill (S. No. 461) to amend the judicial system of the United States;

A bill (S. No. 474) to establish a commission of claims at Knoxville, in the State of Tennessee;

A bill (H. R. No. 284) to prevent the selling and circulation of counterfeit coin, and of counterfeit and altered Treasury notes, and postal currency;

A bill (H. R. No. 631) to provide for holding courts in the western district of Missouri, and to prescribe the terms thereof;

A bill (H. R. No. 638) to facilitate judicial proceedings on writs of error and appeal;

A bill (H. R. No. 641) to provide for another term of the circuit court of the United States for the district of Arkansas, and for other purposes; and

A joint resolution (S. R. No. 104) for the return of Arkansas to the Union.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 46) relating to the account of B. C. Whiting, reported it without amendment.

## BALTIMORE AND OHIO RAILROAD.

Mr. BUCKALEW submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to report to the Senate the amount of money paid by the War Department from the 1st day of March, 1861, to the 1st day of March, 1865, to the Baltimore and Ohio railroad for the transportation of troops, munitions of war, or any other purpose, between the city of Baltimore and the city of Washington, stating particularly the amount per passenger, and freight per ton, and stating especially whether he has in any case paid to the said road higher rates than the rates agreed in 1861 to be paid by the Department to all the railroads of the country.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions of the Senate:

A bill (S. No. 70) to enable the accounting officers of the Treasury to settle the claim of the State of Kansas;

A bill (S. No. 311) for the relief of W. H. & C. S. Duncan;

A bill (S. No. 318) authorizing the Secretary of the Treasury to lease or sell certain property of the United States situated at Bath, in the State of Maine;

A bill (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California;"

A bill (S. No. 387) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863;

A bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad, in the District of Columbia;"

A bill (S. No. 412) for the relief of Benjamin Vreeland, surgeon in the Navy of the United States;

A bill (S. No. 450) for the relief of Samuel L. Gerould;

A bill (S. No. 451) to incorporate the Colored Union Benevolent Association;

A bill (S. No. 452) to incorporate the Capitol Hotel Company, in Washington city, District of Columbia;

A bill (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes;'"

A bill (S. No. 468) supplemental to an act entitled "An act to amend the several acts respecting copyright," approved February 3, 1831, and to the acts in addition thereto and amendment thereof;

A bill (S. No. 476) to provide for a chief of staff to the Lieutenant General commanding the armies of the United States;

A bill (S. No. 478) in relation to the Naval Observatory;

A bill (S. No. 479) to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer force of the United States;

A joint resolution (S. R. No. 41) for the relief of Garrett R. Barry, a paymaster in the United States Navy;

A joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the quartermasters' depots of the United States, and in the possession of the naval storekeepers of the United States;

A joint resolution (S. R. No. 105) respecting the publication of the papers of James Madison;

A joint resolution (S. R. No. 111) to encourage the employment of disabled and discharged soldiers;

A joint resolution (S. R. No. 122) relating to international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865;

A joint resolution (S. R. No. 123) to extend the time for constructing the Burlington and Missouri River railroad, in Iowa, and filing a map of relocation;

A joint resolution (S. R. No. 125) transferring maps and other documents relating to the surveys of the Pacific railroad to the Department of the Interior; and

A joint resolution (S. R. No. 128) authorizing



the acceptance of a sword of honor from the Government of Great Britain by Captain Henry S. Stewagen, of the United States Navy.

The message further announced that the House had agreed to the amendments of the Senate to the following bills of the House:

A bill (H. R. No. 454) granting a pension to Thomas Bootle;

A bill (H. R. No. 567) granting a pension to Elizabeth B. Leppien;

A bill (H. R. No. 605) to increase the pay of midshipmen and others;

A bill (H. R. No. 756) supplementary to the several acts relating to pensions; and

A bill (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington.

The message further announced that the House had passed the bill of the Senate (S. No. 171) for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes, approved June 7, 1862, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had receded from its first amendment to the bill of the Senate (S. No. 389) relating to clerkships in the Post Office Department, disagreed to by the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" and

A bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes.

#### INDIAN APPROPRIATION BILL.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. KASSON, Mr. McBRIDE, and Mr. ELDRIDGE, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866; and

On motion of Mr. DOOLITTLE, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. DOOLITTLE, Mr. HARLAN, and Mr. CONNESS.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Finance:

A bill (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof;" and

A bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes.

#### PERSONAL EXPLANATION.

Mr. DIXON. I notice that in the Chronicle and Intelligencer this morning I am recorded as not voting on the question to tax the State banks ten per cent. after a certain date. I wish to inquire of the Secretary whether that is according to the Journal. If so, I desire the Journal to be corrected. I voted on that question. I voted in the affirmative, that is, against the proposition to tax the banks.

The VICE PRESIDENT. It will take a little time to ascertain how the matter stands on the Journal, but if the Senator's name is not found recorded in the affirmative it will be so placed.

#### INTERNAL REVENUE.

Mr. SHERMAN. I will ask if the committee of conference on the part of the Senate have been appointed on the tax bill.

The VICE PRESIDENT. They have been.

Mr. SHERMAN. I desire to be released from service on that committee, and that some one else be appointed. I will state that I left the Chamber at a late hour last night, and the conference committee was afterward appointed, and they are now acting. I had no notice of the conference, and therefore I do not wish my name to appear among the conferees. I hope the Senate will relieve me from the duty. I did not get notice until nearly an hour after the conference committee had met.

Mr. GRIMES. Have the committee acted?

Mr. SHERMAN. I know nothing about it. I received no notice until nearly an hour after the conferees met, and, as a matter of course, I can take no part in their deliberations.

Mr. CONNESS. What does the Senator desire to do?

Mr. SHERMAN. I simply wish to be discharged from service on the conference committee on the tax bill, because I had no notice at the time. It was probably on account of the fact that I left the Chamber last night at eleven o'clock, and the committee of conference was appointed after I left.

Mr. CONNESS. I should like to inquire whether the committee have met and acted?

Mr. SHERMAN. They are holding a meeting now.

Mr. CONNESS. Then I hope the Senator will remain on the committee.

Mr. COLLAMER. I think there is no necessity for any action on the matter.

The VICE PRESIDENT. The question is on excusing the Senator from Ohio from service on the committee of conference.

Mr. COLLAMER. That will only create difficulty in appointing somebody else.

Mr. CONNESS. There is nobody else who can fill the Senator's place on that committee.

The question being put, the Senate refused to excuse Mr. SHERMAN from service on the committee.

#### POST ROUTE BILL.

Mr. COLLAMER. I move that the Senate proceed to the consideration of the post road bill. The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 774) to establish certain post roads.

Mr. COLLAMER. I desire to take the shortest course possible in considering the bill, and as it is a mere matter of description of routes, it is usual to dispense with the reading of the bill and also the amendments to it.

The VICE PRESIDENT. The reading of the bill will be dispensed with, if there be no objection.

Mr. COLLAMER. The committee have reported several amendments to the bill. It is not usual to take up time by reading them. As they are mere descriptions of places they are generally adopted without reading.

The VICE PRESIDENT. The reading of the amendments will be dispensed with if there be no objection.

Mr. COLLAMER. Before they are adopted I wish to make some slight verbal alterations in them. On page 1, line fourteen, "Jacob R." should be "Jacob K.;" so as to read:

From Carthage, in Hancock county, via Jacob K. Jacob's store, Durham, and McQueen's mill, to Burlington, Iowa.

The VICE PRESIDENT. That change will be made.

Mr. COLLAMER. The clause on page 5, lines ninety-two and ninety-three should be stricken out. It is the clause:

From Newbern, Brown county, to Redwood Falls, Redwood county.

That provision is contained in another part of the bill, and I desire that that should be stricken out.

The VICE PRESIDENT. It will be stricken out, if there be no objection.

Mr. COLLAMER. On page 8, line one hundred and sixty-five, the word "Pittsford" should be changed to "Pittsfield."

The VICE PRESIDENT. That change will be made.

Mr. COLLAMER. I now move that the committee's amendments be adopted.

The motion was agreed to.

Mr. SHERMAN. I offer the following amendment to come in under the head of Ohio:

From Hamilton, in the State of Ohio, by way of Millville, Bunker Hill, and Riley, Ohio, to Springfield, in the State of Indiana.

The amendment was agreed to.

Mr. JOHNSON. Are there any post routes in the bill for Maryland?

Mr. COLLAMER. I believe not.

Mr. JOHNSON. Then I propose to amend the bill by inserting between "Maine" and "Michigan," on the 4th page, the following:

Maryland:  
From Butler Post Office to Mantua Mills, Baltimore county, Maryland.

The amendment was agreed to.

Mr. BUCKALEW. I offer an amendment for several routes in Pennsylvania, to come in under the head of Pennsylvania:

From Emington, Venango county, to Shippensville, Clarion county.

From Rock Island, Venango county, via Greenboro to Latum, in said county.

From Collinsburg, Clarion county, via Greenboro, Venango county.

From Greenville, Clarion county, to Herr's store, in said county.

The amendment was agreed to.

Mr. MORRILL. On page 4, after line seventy-two, I move to insert:

From Belford, through Waldo, Brooks, Knox, Thorndike, Unity, and Benton, to Fairfield.

The amendment was agreed to.

Mr. CONNESS. On page 1, line seven, I move to strike out the words "Watsonville to," and to insert after "Monterey" the words, "via Watsonville to San Francisco," so that it will read:

From Monterey, via Watsonville, to San Francisco.

At the suggestion of the chairman of the committee I will withdraw that amendment and offer the following:

From Virginia City, in Nevada, by Crystal Peak, via Dinner Lake, Summit Valley, and Dutch Flat, to Sacramento.

Mr. COLLAMER. There is no objection to that.

The amendment was agreed to.

Mr. CONNESS. I also offer the following amendment:

From Murphy's, via Big Trees, Silver Valley, to the mountains; thence via Mount Barren, Markville, Carrier's Mills, to Genoa, in the State of Nevada.

The amendment was agreed to.

Mr. CONNESS. I now move to strike out line seven, on page 1:

From Watsonville to Monterey.

That is included in one of the amendments that I have sent up.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SUMNER. I offer the following amendment, to be inserted as a new section:

And be it further enacted, That every railroad company in the United States whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all freight, property, mails, passengers, troops, and Government supplies, or either, from any State to another State, and to receive compensation therefor.

Mr. COLLAMER. That is the case of the New Jersey railroads. I do not propose to enter into the discussion of the merits of the proposition. I will merely say if it is found so weak that it cannot carry itself, I do not see why it should be put as a rider and an incubus upon this post route bill, which is usually passed as a matter of course. All railroads are already post roads by a general law. The amendment has no connection with this bill; has nothing to do with it; and I therefore object to its being put on the bill as a rider in this way. I take it that it will give rise to a great deal of discussion. I know that it will do so if it is received at all, and I hardly

know how to avoid that discussion upon its merits when it is presented here in this way.

Mr. SHERMAN. If the honorable Senator will allow me, this is the same amendment that was offered last night to the appropriation bill, and we took a vote without discussion. If the vote is now taken upon it and it is adopted, it then can be considered and debated in the Senate, or the bill defeated.

Mr. SUMNER. It was offered last night on a bill to which perhaps it was not germane. It is absolutely germane to the present bill. The Senator says it is the Camden and Amboy railroad bill. Sir, it is a bill to carry freedom of commerce on all the railroads among the States; and its first and special effect is to overthrow an odious monopoly which now undertakes to interfere with the railroad travel on the great highway between New York and Washington. That railroad company is Apollyon; every traveler is Christian; and the simple question is whether Senators will vote for Apollyon or vote for Christian.

Mr. MORRILL. I do not care to sit here and let that be repeated many times by the honorable Senator from Massachusetts. It is not exactly a question of Christian and Apollyon, as I know of, particularly. I have given this question some little consideration, and am ready to discuss it. I have considered attentively the argument of the honorable Senator from Massachusetts, and, with all respect to him, I do not think it unanswerable; and if I thought now was the proper time I should be quite willing to enter upon the discussion of this question. The honorable Senator cannot suppose for a moment that this measure is to pass on a bill of this description without discussion. Nobody knows better than that honorable Senator that now is not the hour to enter on such a discussion as that. To enter upon it necessarily postpones to the end of this session the bills which are necessary to be passed.

Now, sir, I am opposed to this proposition, and as strongly opposed to it as it is possible for me to be opposed to any measure that by any possibility could be brought before the Senate for its action; and that upon principles as infinitely superior to those which can be involved in the mere question or epithets of "monopoly," "usurpation," "State pretension," and all that, as it is possible to conceive.

Mr. COLLAMER. I suggest to the gentleman to allow the vote to be taken and see whether the Senate will put this proposition on this bill, and if they do then it can be discussed on the passage of the bill.

Mr. MORRILL. I know that; and I am not going to occupy the attention of the Senate more than to say that after I have once or twice taken the floor with a disposition to argue this question, I do not feel it is quite the thing for my honorable friend from Massachusetts to put me in the attitude of supporting a monopoly, favoring a State pretension and usurpation. Sir, confessedly no higher question than this has ever occupied the attention of the American Senate. I undertake to say that this question lies at the distinction which has obtained from the foundations of this Government, and which is fundamental, between the powers which are delegated to the Government of the United States and those which are expressly retained to the American people as their reserved rights. Whenever the question comes before this Senate in the way to be discussed, I will undertake to demonstrate that the assumption of authority here annihilates the distinctions between the delegated powers of your Government and those which are, under the Constitution, expressly reserved to the people; and when I enter on that discussion I am not to be told that I advocate a monopoly, or that I am in favor of a State pretension. Sir, I am in favor of the pretensions of the people under that provision of the Constitution which reserves to them all the rights which are not expressly delegated in the Constitution for the purposes of a General Government. That is the question here; and I would not have taken this occasion to say a word if my honorable friend had not thought proper now at this late day, unanswered as his speech on a former occasion has been, to repeat here the epithets of "monopoly," "State pretension," "usurpation," "Apollyon and Christian," and the like. When I propose to discuss a question of this sort

I do not care to be subjected to the imputation of supporting a monopoly.

Now, in regard to that monopoly, I think there are some things about it which are not justifiable at this day. But when the Senator from Massachusetts undertakes to talk about a monopoly in New Jersey he should remember that the legislation which characterizes that monopoly characterizes the legislation of his own State as well; and it is not peculiar to New Jersey. Standing on the statute-books of Massachusetts is a chapter almost identical in language, certainly identical in principle, with that which characterizes the legislation of New Jersey.

Mr. SUMNER. Not undertaking to regulate commerce among the States.

Mr. MORRILL. Undertaking to do precisely what New Jersey did. What was that? To say that if the citizens of that State would build a railroad from one point to the other, they should have the exclusive privilege—

Mr. SUMNER. In the State.

Mr. MORRILL. In the State. Does the honorable Senator, as a lawyer, undertake to draw a distinction between those two charters, between the legislation of those two States? It is identical in principle and effect; and the supreme court of that State has sustained it. But I will not enter upon that discussion. It is a monopoly undoubtedly, in the sense that every exclusive privilege is a monopoly; but it is exclusively within the province of the States; and it has been so held time and again by the courts in Massachusetts, and been so held by the Supreme Court of the United States, and never has been overruled in any case, in any State, or in the courts of the United States.

I am not disposed to be put in the attitude of defending a monopoly. This monopoly to which the honorable Senator refers expires by its own limitation in 1869. If this measure only affected the monopoly in New Jersey I would not raise my finger against it. If the honorable Senator desires to reach the monopoly in New Jersey, which is the incentive to action here, let him bring in his bill, and let him strike New Jersey, and then let New Jersey have her remedy; but when he brings in a bill here so far-reaching and comprehensive in its scope that it strikes down the fundamental distinction between the rights of the people reserved to them under the Constitution of the United States and those powers which are delegated to the General Government, I stand here to protest against it. I am not the advocate of exclusive privilege, not the advocate of monopoly, not the advocate, in any obnoxious sense, of State rights, certainly not the advocate of State sovereignty in any especial sense, for I repudiate the whole; but I tell that Senator that when that good question comes up I shall be found standing on the line which marks the distinction, broad and deep, between the reserved rights of the American people in their sovereign capacity, not as States, but those indestructible rights which are reserved to them expressly in the Constitution of the United States and those granted to the General Government, to say "Thus far, but no farther." That is my ground.

I have deemed it necessary to say thus much for fear that the repeated assumptions of the honorable Senator might put me in the attitude of standing here to justify in any sense whatever what he has been pleased to denominate as a monopoly.

Mr. WILSON. I hope we shall now take a vote if the Senator is through.

Mr. MORRILL. Yes, sir; I am through for the present. If the case ends here, I end. If it comes up in the Senate, I shall discuss it.

Mr. WILSON. I hope, pressed as we are to-day, that we shall not spend any more time on this subject.

Mr. HALE. I rise to a question of order, and I object to the amendment on the ground that it is not relevant to the bill; and I wish that the sense of the Senate might be taken on that question.

Mr. WILSON. That will take time. I hope we shall have a vote on the amendment.

The VICE PRESIDENT. The Chair deems the amendment in order.

Mr. HALE. Very well; then I withdraw that objection.

Mr. SUMNER. Let us have the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 21; as follows:

YEAS—Messrs. Chandler, Nye, Ramsey, Stewart, Sumner, and Wade—6.

NAYS—Messrs. Buckalew, Clark, Collamer, Conness, Dixon, Fairwell, Foster, Grimes, Hale, Harlan, Harris, Howe, Johnson, Lane of Indiana, Morrill, Powell, Sprague, Ten Eyck, Trumbull, Wiley, and Wilson—21.

ABSENT—Messrs. Anthony, Brown, Carlile, Cowan, Davis, Doolittle, Foot, Harding, Henderson, Hendricks, Howard, Lane of Kansas, McDougall, Morgan, Nesmith, Pomeroy, Richardson, Kiddle, Saulsbury, Sherman, Van Winkle, Wilkinson, and Wright—23.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

#### TARIFF BILL.

Mr. CLARK. I move now to proceed to the consideration of the tariff bill.

Mr. HOWE. I appeal to the Senator to allow me to pass a little bill first.

Mr. CLARK. I cannot give way to any appeals. It was understood last evening that this bill was to come up this morning, and the public business requires that it should be disposed of.

Mr. HENDRICKS. I am opposed to taking up the tariff bill at this stage of the session, for what I think are very obvious reasons. The bill comes to this body from the other branch of Congress in the very last hours of the session, and it is proposed that we shall now take it up and act upon it. I do not think it ought to pass. The modification of the tariff law used to be considered a very important piece of legislation. But few Senators know what will be the effect of this bill. The Senator from New Hampshire will understand precisely how it will strike the interests which he represents in this body; but I say it is impossible, as a western representative in this body, for me to know thoroughly the effect of this measure upon the interests which I represent. Under the circumstances, I think the bill ought not to be urged.

Again, I think there ought to be something like stability of legislation. Everybody knows that the immediate effect of a tariff law is to change prices, to affect the commerce of the country; and I think we ought to stand by the laws that are enacted at least for a time, and not amend them altogether. Therefore I oppose the taking up of the bill, and think that we ought to proceed to other measures that have been to some extent considered by the body.

Mr. CLARK. The passage of the tax bill made it necessary to amend the tariff law in a very few particulars. The bill is a very simple one, and I think is not liable to the objection stated by the Senator from Indiana. I desire that it may come before the Senate, and that the Senate may judge on the provisions of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 795) amendatory of certain acts imposing duties on foreign importations.

Mr. CLARK. I will ask that the amendments be considered as the reading of the bill proceeds, in order to save time.

The VICE PRESIDENT. That course will be taken if there be no objection.

The first amendment of the committee was to strike out all of section one, after the word "amended," in line five, in the following words:

In paragraph marked "second," by striking out after the words "on finer and lighter goods of like description," the words "exceeding one hundred threads and;" and that section eighteen of the said act be amended by inserting therein after the words "raw cotton," in parenthesis, the words "and raw silk as reeled from the cocoon or not further advanced than tram, thrown, or orgazine."

And to insert in lieu thereof:

So that paragraphs second, third, and fourth, of section six of said act shall read as follows:

2. On all manufactures of cotton, (except jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons stuff, and goods of like description,) not bleached, colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, five cents per square yard; if bleached, five cents and a half per square yard; if colored, stained, painted, or printed, five cents and a half per square yard, and in addition thereto ten per cent. *ad valorem*. On finer and lighter goods of like description, not exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard; if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and in addition thereto twenty per cent. *ad valorem*. On goods of

like description exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard; if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and in addition thereto twenty per cent. *ad valorem*.

3. On all cotton jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons, stuffs, and goods of like description, or for similar use, if unbleached, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding five ounces to the square yard, six cents per square yard; if bleached, six cents and a half per square yard; if colored, stained, painted, or printed, six cents and a half per square yard, and in addition thereto ten per cent. *ad valorem*. On finer or lighter goods of like description, not exceeding two hundred threads to the square inch, counting the warp and filling, if unbleached, six cents per square yard; if bleached, six and a half cents per square yard; if colored, stained, painted, or printed, six and a half cents per square yard, and in addition thereto fifteen per cent. *ad valorem*. On goods of like description exceeding two hundred threads to the square inch, counting the warp and filling, if unbleached, seven cents per square yard; if bleached, seven and a half cents per square yard; if colored, stained, painted, or printed, seven and a half cents per square yard, and in addition thereto fifteen per cent. *ad valorem*. *Provided*, That upon all plain woven cotton goods not included in the foregoing schedules, unbleached valued at over sixteen cents per square yard, bleached valued at over twenty cents per square yard, colored valued at over twenty-five cents per square yard, and cotton jeans, denims, and drillings, unbleached, valued at over twenty cents per square yard, and all other cotton goods of every description, the value of which shall exceed twenty-five cents per square yard, there shall be levied, collected, and paid a duty of thirty-five per cent. *ad valorem*. *And provided further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

4. On spool thread of cotton, six cents per dozen spools, containing on each spool not exceeding one hundred yards of thread, and in addition thereto thirty per cent. *ad valorem*; exceeding one hundred yards, for every additional hundred yards of thread on each spool, or fractional part thereof in excess of one hundred yards, six cents per dozen, and thirty per cent. *ad valorem*. And on cotton thread or yarn, when advanced beyond single yarn by twisting two or more strands together, if not wound upon spools, four cents per skein or hank of eight hundred and forty yards, and thirty per cent. *ad valorem*.

So that the section will read:

That section six of an act entitled "An act to increase the duties on imports, and for other purposes," approved June 30, 1864, be amended so that paragraphs second, third, and fourth of section six of said act shall read as follows, &c.

Mr. CLARK. I only desire to say that this amendment, though appearing to be a long one, only draws out into form the House provision, so that you can see upon its face what is the alteration. The great complaint in regard to the tax bill was the form in which the amendments to the old law were drawn. This amendment simply puts the proposition in the bill in form with a little addition, I will say, at the close, of a tax upon cotton thread, which was omitted in the old law. The old law levied a tax upon spool cotton when wound, but the importers, instead of winding their cotton upon the spool import it in the thread and wind it in this country; and it therefore becomes necessary to tax the thread. That is all there is in it.

Mr. HENDRICKS. I wish to inquire of the Senator from New Hampshire, as he stated that this bill was rendered necessary by the passage of the internal revenue bill, what particular feature of the internal revenue bill requires the adoption of this section?

Mr. CLARK. I did not say the whole of this bill was rendered necessary by the passage of that bill. I said the main features of it were rendered necessary by it.

Mr. JOHNSON. Are the amendments printed?

Mr. CLARK. They are not.

Mr. JOHNSON. It is impossible for us to understand them.

Mr. CLARK. If the Senator will turn to page 220 of the Laws of last session he will find that this provision strikes out of paragraph second of the old law these words, "exceeding one hundred threads" in two places; for the reason that cottons with less threads to the square inch than one hundred were coming in under the old law, by a decision of the Department, at one and a quarter cent per yard. The English made a very slazy (as we call it) kind of cotton, fine in thread, but open, weighing less and having a less number of threads to the inch, and it came in at a duty of one and a quarter cent per yard, and it took away the manufacture of our own goods. That is all the amendment accomplishes.

Mr. COLLAMER. This makes it much better.

Mr. CLARK. Yes, sir, very much better. It

was an omission in the former law, and it has been construed against the manufacturers of this country.

The amendment was agreed to.

The next amendment was in section two, line eleven, to strike out the word "skins" and insert "skeins."

Mr. CLARK. That is merely verbal.

The amendment was agreed to.

The next amendment was in section two, line thirteen, to strike out "fifteen" and insert "ten;" so that the clause will read:

On iron bars for railroads or inclined planes, ten cents per one hundred pounds.

The amendment was agreed to.

The next amendment was to insert the words, "nor by any act amendatory thereof," at the end of section four; so that it will read:

Sec. 4. *And be it further enacted*, That section fifteen of an act entitled "An act increasing, temporarily, the duties on imports, and for other purposes," approved July 14, 1862, be, and the same hereby is, amended so as to impose a tax or tonnage duty of thirty cents per ton in lieu of "ten cents" as therein mentioned: *Provided*, That the receipts of vessels paying tonnage duty shall not be subject to the tax provided in section one hundred and three of "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, nor by any act amendatory thereof.

The amendment was agreed to.

The next amendment was to strike out section seven, as follows:

Sec. 7. *And be it further enacted*, That so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, as prohibits the export thereof, is hereby repealed.

And to insert in lieu thereof:

*And be it further enacted*, That so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856, as prohibits the export thereof, is hereby suspended in relation to all persons who have complied with the provisions of section second of said act for two years from and after July 14, 1865.

Mr. CLARK. The House proposed to repeal the section entirely, but we suspend it for two years, as it has been done before.

Mr. HALE. Will my colleague explain to me the necessity of continuing that prohibition?

Mr. CLARK. When the act was suspended two years ago, it was done because the southern States, where the guano was sold, were in a state of rebellion, and it was not sold, and they are now in the same condition. The market for guano was in the southern States; and the importers were not allowed to export it after they brought it here.

Mr. HALE. Why not repeal the law?

Mr. CLARK. Because after two years it may be desirable to have the law. We thought we would let it be suspended for two years further.

The amendment was agreed to.

#### PORTAGE LAKE SHIP-CANAL.

The VICE PRESIDENT. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. CLARK. What is the unfinished business?

The VICE PRESIDENT. It is the bill (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior. The Senator from Michigan [Mr. HOWARD] is entitled to the floor upon that bill, and was speaking upon it when the Senate adjourned last night.

Mr. CLARK. We shall probably get through with the tariff bill in a very short time.

Mr. HOWARD. It will only take the time consumed in reading this bill to pass it, I imagine. I made an effort to get this bill before the Senate when we adjourned last night.

The VICE PRESIDENT. The bill has been read twice, and is now before the Senate as in Committee of the Whole.

Mr. BROWN. I will say that that bill was held over on an objection of mine, which I withdrew.

Mr. CLARK. It seems to me more important to finish the tariff bill than to make a grant to a railroad at this time. If the Senator will let me finish that bill, I will interpose no objection.

Mr. HOWARD. It will take but a moment of time, and I cannot yield the floor to allow anything else to be done.

Mr. HENDRICKS. I believe the bill of the

Senator from Michigan to be more important than the tariff bill. It relieves the commerce of the northern lakes to a very large extent. I appeal to the merits of the two bills.

The VICE PRESIDENT. The bill is before the Senate as in Committee of the Whole, and if no amendments be proposed it will be reported to the Senate.

Mr. MORRILL. I will ask the Senator from Michigan to explain it. Is it a large conveyance of land? How much land?

Mr. HOWARD. Two hundred thousand acres to make a ship-canal a mile and a half long, the use of which will obviate the voyage of the navigation from Sault Ste. Marie to the head of the lake, two hundred miles. It will be a saving of two hundred miles on a single voyage.

The bill was reported to the Senate without amendment.

Mr. FARWELL. I do not propose to interpose any objection to this bill, but I should like to know whether it is a national interest, or whether it is like the fishing bounties. [Laughter.]

Mr. HOWARD. The bill speaks for itself. It is a very important work, almost indispensable to the navigation of the lakes.

The bill was ordered to a third reading, read the third time, and passed.

#### TARIFF BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations.

The VICE PRESIDENT. The Secretary will now read the next amendment reported to the bill by the Committee on Finance.

The Secretary read the amendment, which was to strike out the tenth section of the bill, in the following words:

Sec. 10. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to increase to any sum, not exceeding \$1,500, the salary or compensation of any deputy collector of customs whose compensation is now limited by law to a lower sum.

The amendment was agreed to.

The next amendment of the committee was to add the following as a new section:

*And be it further enacted*, That the eighth section of the act of March 23, 1864, "to extend the warehousing system by establishing private bonded warehouses, and for other purposes," which authorizes the Secretary of the Treasury in case of the actual injury or destruction of goods, wares, or merchandise by accidental fire or casualty while in warehouse under bond, &c., to abate or refund the duties paid or accruing thereon, be extended so as to include goods, wares, or merchandise injured or destroyed in like manner while in the custody of the officers of customs and not in bond, and also to goods, wares, and merchandise so injured or destroyed after their arrival within the limits of any port of entry of the United States and before the same have been landed under the supervision of the officers of the customs: *Provided*, That this act shall apply only to cases arising from and after its passage, and to cases where the duties have not already been paid.

The amendment was agreed to.

Mr. CLARK. I believe that is the last amendment reported from the committee. I offer the following section, to come in between sections five and six, to perfect the amendment in the first part of the bill:

*And be it further enacted*, That there shall be hereafter collected and paid on all goods, wares, and merchandise of the growth or produce of countries east of the Cape of Good Hope, except raw cotton and raw silk as reeled from the cocoon or not further advanced than tram, thrown, or organzine, when imported from places west of the Cape of Good Hope, a duty of ten per cent. *ad valorem* in addition to the duties imposed on any such articles when imported directly from the place or places of their growth or produce.

Mr. HARRIS. I should like to hear an explanation of that amendment.

Mr. CLARK. I will explain it to the Senator. If he will turn his attention to the first section of the House bill, lines eleven and twelve, he will see that the House proposed after the words "raw cotton" to insert "and raw silk as reeled from the cocoon or not further advanced than tram, thrown, or organzine." I have drawn the section out and inserted the words, that is all; and the reason of it is, that at the last session the Senate and House both agreed to the insertion of these words, but the engrossing clerk left them out by mistake. This amendment is only to correct that mistake, and to draw out the amendment of the House so that these words will be in the law.

The amendment was agreed to.



Mr. TRUMBULL. I desire to present an amendment to which I suppose there will be no objection. It will be understood if the Senate will let me read an extract from a letter from a United States district attorney.

Mr. GRIMES. Read the amendment first.

Mr. TRUMBULL. The amendment is to add the following as an additional section:

*And be it further enacted,* That in all proceedings brought by the United States in any court for the recovery, as well of judgments upon imports alone, as of penalties for the non-payment thereof, the judgment shall recite that the same is rendered for duties, and such judgment, interest, and costs shall be payable in the coin by law receivable for duties, and the execution issued on such judgment shall set forth that the recovery is for duties, and shall require the marshal to satisfy the same in the coin by law receivable for duties; and in case of levy upon and sale of the property of the judgment debtor, the marshal shall refuse payment from any purchaser at such sale in any other money than that specified in the execution.

I have a letter here from the district attorney of the United States at Detroit, who says that it is questionable whether a judgment of that character may not be discharged in lawful money. I presume there will be no objection to the amendment.

Mr. CLARK. State what is in the letter instead of reading it.

Mr. TRUMBULL. I have stated it.

The amendment was agreed to.

Mr. TRUMBULL. I have another amendment that I desire to offer as an additional section:

*And be it further enacted,* That all goods, wares, and merchandise, for, or articles donated to, the Northwestern Sanitary Fair to be held at Chicago, May 30, 1865, or purchased with the funds of the Northwestern Sanitary Commission for the benefit of said fair, may be imported into the United States free of duty: *Provided,* The Secretary of the Treasury shall be satisfied that said goods or articles are imported in good faith for the benefit of the said fair.

The amendment was agreed to.

Mr. HARRIS. I offer the following amendment as a new section:

*And be it further enacted,* That where the United States is the purchaser under any contract made prior to the passage of any act increasing the duties on imports of any article the duty upon which has been so increased, the party delivering such article, under such prior contract, shall be allowed therefor, in addition to the contract price thereof, the increased duty which may have been imposed upon such article under such subsequent act.

The amendment was agreed to.

Mr. WILSON. I move to amend the second section of the bill by adding these words:

On wrought iron tubes two and a half cents per pound.

I will simply say, in regard to this amendment, that there are \$9,000,000 worth of iron tubes made in the country, that pay on the iron about three quarters of a million duty, and that by the law as it now stands the foreign importer has about twenty per cent. advantage. This amendment will equalize it.

The amendment was agreed to.

Mr. RAMSEY. I desire to offer an amendment to come in as a new item of the third section: "On buffalo robes, ten per cent. *ad valorem*." I will simply send up a letter to be read in explanation of this amendment.

Mr. CLARK. I have some doubt about that amendment.

Mr. RAMSEY. The letter I have sent up to the desk will explain it.

The Secretary read, as follows:

WASHINGTON, March 2, 1865.

SIR: By the tariff act of June 30, 1864, "furs on the skin dressed" are made subject to a duty of twenty per cent. *ad valorem*, "furs on the skin undressed" to a duty of ten per cent.

It is doubtful whether "buffalo robes" are properly included under either class. Mr. Chute (long connected with the fur trade) says that they are not considered as "furs" by dealers. They are more like hides or "baled skins" which are charged with a duty of ten per cent.

I am satisfied that ten per cent. *ad valorem* will be more productive of revenue than twenty per cent. Under the latter rate I am assured by C. M. Dailey, of St. Paul, that "buffalo robes" will pass to England or Canada without importation into the United States and without sale in our markets.

Thus will the revenue be diminished and our trade—mostly at St. Cloud and St. Paul—will be reduced.

Allow me to suggest that the amendatory tariff act which passed the House yesterday be amended in the Senate by inserting "in lieu of former taxation" the following item: "On buffalo robes ten per cent. *ad valorem*."

Yours truly,

JAMES W. TAYLOR.

Mr. CLARK. I hope that amendment will not be agreed to. It is striking the duty down from twenty per cent. to ten per cent. in the interest of

some traders along the line. I do not think this is the time, without more consideration that this, to take off the duty.

Mr. RAMSEY. Mr. President, this amendment is essential to the trade in robes in the Northwest. A large number of robes are "made" annually on the plains of Dakota and the country north and west of the Red river. These robes are "made" by the free men living within the region of the Hudson's Bay Company, on their annual hunts into our territories. They are carried back into their own regions, and unless we allow them, by a reduction of duty from twenty to ten per cent., to ship them to St. Paul, will be sold to the Hudson's Bay Company, and either sent in bond to Canada or England over the routes through our country, or shipped directly by the way of York Factory to England. Good sense, Mr. President, dictates the amendment I suggest, and I hope it will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Mr. CLARK. I hope the amendment will not be agreed to, and I hope Senators will vote upon it.

Mr. RAMSEY. I hope it will be agreed to.

The amendment was rejected, there being, on a division—ayes twelve, noes not counted.

Mr. HARRIS. I move to strike out lines eleven and twelve, section two, in the following words: On spun silk for filling in skeins or cops, ten per cent. *ad valorem*.

This subject was considerably discussed when we had the tariff bill before Congress last year, and it was finally settled that a duty of twenty-five per cent. should be imposed upon this article. It was too much, quite too much; and it has operated severely upon some infant manufactories of this article. There are in the State I represent some manufactories engaged in importing this article and manufacturing it into handkerchiefs, silk linings, and articles of that kind; and it is as much as they can do to sustain themselves paying a duty on the raw article of twenty-five per cent. This section proposes to add ten per cent. to that, which will ruin them.

Mr. CLARK. I suggest to the Senator from New York, in order to save time, I am willing that shall be struck out, as it is not a matter of great importance, and let it go to the committee of conference.

Mr. HARRIS. I was going to add that it is of very little consequence to the Government, but of a great deal of consequence to these little manufactories in my State.

The amendment was agreed to.

Mr. FARWELL. I offer the following amendment, to come in as a proviso at the end of the fourth section:

*Provided further,* That no ship, vessel, or steamer having a license to trade between different districts of the United States, or to carry on the bank, whale, or other fisheries, or any ship, vessel, or steamer, to or from any port or place in Mexico to the British provinces of North America, or any of the West India islands, or in all these trades, shall be required to pay the tonnage duty contemplated by this act more than once a year.

If the Senator from New Hampshire has any objection to this amendment I will state—

Mr. CLARK. Oh, yes, I have objection to it.

Mr. FARWELL. Then I will state the reason for it. It was evidently contemplated by the act to which this proviso applies that these vessels should not pay but once a year. I consulted the collector of Portland on the subject—

Mr. CLARK. Perhaps I do not understand the amendment in full. I thought it was an absolute exception. If it is not I will not object to it.

Mr. GRIMES. I should like to understand it myself. I suppose it is necessary that somebody else should understand it as well as the Senator from New Hampshire.

Mr. FARWELL. The provision in the old law is that vessels in the coasting trade shall pay once a year where they run to the West Indies and British provinces. Foreign vessels pay when they arrive in port; but it was provided that these vessels running back and forth should pay but once a year; and it is so with English vessels now. The old law was so construed as to make a discrimination whereby our vessels have been obliged to pay twice a year if they went to British provinces, and the provincial vessels paid but once. This proviso simply puts them on an equal

footing; we pay the same as they do, once a year. The law was so construed by nearly all the collectors; but the collector of New York construed it so as to entitle him to collect twice from our vessels, and that construction was finally adopted all over the country.

The amendment was agreed to.

Mr. FARWELL. I wish to offer one other amendment, to come in at the end of the second section:

On ships' chains, of not less than five-eighth inch wire, one cent per pound.

I will state very briefly the reason why I offer this amendment. I do not intend to take up the time of the Senate upon it, although I think measures of this very great importance ought not to be passed without consideration. In my judgment, it would be a blessing to the country if the tax bill and the appropriation bills could go over and an extra session of Congress could be had to consider them. I regard this practice of bringing in these bills at the very end of the session, the most important, and in fact the only important business of Congress coming in within the last two days of the session, when no member has a chance to examine them, and if he does examine them and understands the matters contained in them fully, he does not feel at liberty to explain them—

Mr. CLARK. I will not object to the amendment if the Senator will let it go on without debate.

Mr. FARWELL. I believe it is right. There are none of these chains made in this country.

Mr. CLARK. Is it to exempt them?

Mr. FARWELL. No, sir; but to put the duty at one cent per pound.

Mr. HENDERSON. What is it now?

Mr. FARWELL. Two cents and a half, and one cent on the iron. There is not a single chain made in this country. I am not aware that there has been even any attempt at making them for the last ten or fifteen years. There never was but one establishment that attempted to make ship chains.

Mr. CLARK. The objection to it is, that if they are not made in this country and we strike down the tax, we thereby lose revenue.

Mr. FARWELL. I was just about to say that that idea is not correct. It is a great saving to a man who has built a ship anywhere in New England to hire a steamboat and tow her down to St. John, New Brunswick, and there put on her chains and anchor and duck; and it is now being done. The merchants of Maine and Massachusetts to-day are building ships down upon the other side of the line to get rid of these enormous taxes. This tax is not necessary to protect any of the manufacturers of this country, because, as I have said, ship chains are not manufactured in this country. There never has been for thirty years but one manufactory in this country, to my knowledge, that ever attempted to make a chain; and I think they gave it up ten or fourteen years ago. I have no doubt the Government will get as much duty at this rate as they will at the other.

Mr. CLARK. I do not think this amendment is right, and I desire a vote of the Senate upon it. As I understand it now, the present duty upon that class of chains is two and a half cents a pound. The Senator proposes to strike it down to one cent per pound. The ships that are now built, when going on foreign voyages, generally go to Liverpool, England, and get their chains, and they go to other places where they can be had. They are not made in this country; but still some are imported; and when they are imported they pay a duty of two and a half cents a pound. The Senator proposes that that duty shall be stricken down to one cent. If that is done these ships will still go abroad as much as formerly to get their chains; but on those imported we shall only get one cent a pound.

Then, again, if we take off the duty we prevent anybody here from ever manufacturing these chains. They are not manufactured in this country now; but under the duty imposed somebody may be induced to manufacture them, and thus give employment to our own labor.

Mr. FARWELL. If that were likely to be done I think it would have been done before now, when labor was cheap; but it has not been done; and when the experiment was tried it was abandoned. The Senator is entirely wrong about this

matter. Our ships are unable to go abroad and buy their chains and anchors.

Mr. CLARK. They go abroad and buy many of their chains.

Mr. FARWELL. They must have a chain and anchor before they go, unless they go in tow of a steamer. An anchor is of no use without a chain.

Mr. CLARK. Oh, yes; it is.

Mr. FARWELL. Go to sea without an anchor and without a chain!

Mr. CLARK. Oftentimes with a cable. I have known it done repeatedly.

Mr. FARWELL. The fact is, the only place to get these chains is at the provinces. Now, take the case of a vessel going down to St. John. If she can buy her chains in Boston or New York by paying only one cent a pound more, which would amount to eight or nine hundred dollars, she will buy them there; but if you are going to make her pay twenty-five hundred dollars more for her chains in Boston or New York than she can buy them for in St. John, she will hire a tug-boat, and go without chains and anchors and be towed to St. John, run alongside the wharf, and buy her chains and anchors there, and then the Government will get no duty; whereas we might, and probably would, get the duty of one cent a pound if it was imposed. We have just raised the tonnage duty on vessels from ten to twenty cents a ton, which will give at least three or four hundred thousand dollars revenue to the Government. I believe that to be right; and if the committee will put it at fifty cents a ton and strike out all these little annoying, petty charges that are being collected by these internal revenue folks, and let the fifty cents per ton be paid upon the arrival of the ship from the foreign port right into the custom-house, where it would cost the Government nothing to collect, where it would come in a gross sum, with no assessors, no collectors, no charge anywhere, then they would be acting like men who know something about this kind of business. The custom-houses have the charge of ships. A ship cannot move without its being known at the custom-house. She cannot go from one port to another without going to the custom-house and getting a permit to go. She can escape no portion of the charges that are provided to be collected there. But if it is left to these assessors, it will depend upon whether they attend to their duties or not whether we get the sum assessed.

Mr. CLARK. That question is not before the Senate now.

Mr. FARWELL. I know it is not; but it is proper perhaps for me to say that the committee have increased the tax on vessels by raising it from twenty to thirty cents a ton, and to allude to that as a reason why you can afford to take off this tax from the chains when it does not interfere with any manufacture in this country, and is a direct tax upon this class of property.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maine.

Mr. FARWELL. I should like to have a division upon it. I believe it is right. It is the only amendment that I propose to offer.

Mr. HALE. I call for the yeas and nays.

Mr. CLARK. A division will accomplish the object of securing a quorum, if Senators will vote.

The amendment was agreed to; there being, on a division—yeas 14, noes 12.

Mr. POMEROY. I move to strike out lines thirteen and fourteen, on page 2 of the bill, in the following words:

On iron bars for railroads or inclined planes, ten cents per one hundred pounds.

I only wish to say that the bill as it came from the House put an additional duty of fifteen cents per hundred pounds on railroad iron and iron of that character. The Senate committee have reduced it to ten cents. That is an addition to the duty already imposed. I think the duty should be stricken out entirely. I say so for three reasons. Perhaps one good reason is sufficient; but there are two or three reasons why I think it should be stricken out.

In the first place, the present duty is sixty cents per hundred pounds in gold. That is equal to some thirteen dollars per ton in gold. If the amendment as it came from the House prevails, those who import iron will have to pay sixteen dollars a ton in gold. This large tariff is not ne-

cessary for the protection of the American mills. It is sufficient, perhaps, on that point to say that the American mills during the last summer were running to their utmost capacity, and manufactured three hundred and fifty thousand tons of American iron, which was not more than was necessary to repair the old roads; but they have been able to make a dividend among themselves of one hundred per cent. It is the most profitable manufacturing in this country. They do not need a further protection of fifteen cents or ten cents per hundred pounds. If the American manufacturers needed it for their support I would give it to them. I prefer my own country and my own people to any other country or people. But, sir, the present tax of sixty cents per hundred pounds, which is equal in our currency to \$1 20 per hundred pounds, is such a protection to iron manufacturing in this country that it almost entirely excludes the importation of foreign iron. There has been within the last year but very little imported. If this rebellion is to be suppressed, as I hope in God it soon will be, all the railroads in the country must be repaired, and especially in the southern country. Five hundred thousand tons will not more than repair the railroads of the country that have been wasted and destroyed by the exigencies of this war, and the American manufacturers cannot produce that amount in a year; they have not the capacity to do it. It would take them three years to put up the mills and get the machinery running to enable them to make that amount of iron in a year.

If we leave the duty as it now is, at sixty cents per hundred pounds, it almost amounts to prohibition, as one dollar of gold is worth two of currency; but if we increase it to seventy cents it will be quite that. I know the Senator from New Hampshire and the Finance Committee are after revenue, with what protection they can give incidentally; but if you look at the returns you will see what the duty of sixty cents per hundred pounds in gold has done this year. There has been almost nothing imported, except what was under old contracts made before our currency became inflated. There were some contracts that had to be fulfilled; and that iron has come over this year; but no new contracts have been made. If you put ten cents more in gold upon iron you will get none imported, unless the companies are obliged from some overruling necessity to have iron, and consequently have to go abroad and pay a price such as never was paid before, higher than has ever been paid in this country for railroad iron. You cannot buy iron in New York to-day short of \$110 a ton, and that is the lowest. We used to pay forty dollars per ton for it. If you lay this additional duty upon it now, reduced to currency, it will be equal to what we used to pay for the iron itself.

For these reasons, in view of the great demand there must be for this article during the next two or three years, in view of the fact that we cannot import it, as the tariff now stands, at sixty cents per hundred pounds, I ask to have this clause stricken out and let the law stand as it is. I know very well that we have imposed a tax of ten cents per hundred pounds on the American manufacturer by the tax bill, but that is no excuse why we should add ten cents on the hundred pounds upon the foreign importation; because the American manufacturer can make the iron and pay that tax, and still have a profit of seventy-five per cent. on his capital, the largest percentage that any manufacturer can make in this country.

Mr. CLARK. I will ask the attention of Senators to this point for a few moments. This was one of the points to which I alluded where an increase of duty was made necessary by the additional internal revenue duty. At the last session the House of Representatives fixed the tax upon railroad iron at eighty cents per hundred pounds. The bill came to the Senate, and the Committee on Finance struck it down to seventy cents. It had previously been sixty cents per hundred pounds; and while we were increasing the duty upon almost every other foreign article, by the action of the House and the Senate the duty upon railroad iron was retained at sixty cents per hundred pounds, and was not increased. At this session we have increased the internal duty to be paid upon this class of manufacture one fifth. Formerly it paid five per cent.,

but now, by the action of the tax bill, should it become a law, they will be compelled to pay six. The Senate committee only desire that you should put a corresponding duty upon the foreign article with that that you put upon your domestic article. The mills have been running for the past year in the country upon that basis; and I submit to Senators whether it would be fair and right to the producers and just to the country to increase the duty on your own product, and still let it be the same upon the foreign product.

Mr. President, from the best information that the committee had there have been imported into the country during the past year of foreign iron about one hundred and eighty-five thousand tons; and that information comes to the committee from people who are opposed to this increase, from railroad men who desire to have this importation as the law now stands, for the purposes of their own roads. The committee thought it to be right that we should impose this additional duty. We thought the House had got it a little too high, and therefore struck it down one third, and propose to leave it at ten cents per hundred pounds additional. It is a duty, let me say, which many of the roads can well afford to pay; and I do not think, while we are so generous to many roads in the West, and they are the main roads now being built, in giving them the land for the building of their roads, they should ask us to deprive the country of the revenue necessary to support the Government.

Mr. POMEROY. The Senator will allow me to remind him of the fact that the roads to which he alludes are obliged to use the iron of American manufacture. I am not speaking for any roads in the West.

Mr. CLARK. They have all had subsidies from Congress.

Mr. POMEROY. Some of them have had.

Mr. CLARK. The Senator understands very well that if you allow the foreign article to come in and compete with American iron it strikes down the American iron necessarily. They must go up or down together. If there is an importation going on, and if the roads take foreign iron and use it at a less price, the American production will go down to an equality with the foreign article. Such are the laws of trade.

Mr. MORRILL. Will the Senator allow me to ask him whether it is the sense of the committee that this additional duty is necessary as a measure of protection to the home manufacturers of iron?

Mr. CLARK. The committee were of the opinion that it would not be safe to impose a lower duty. While some portion of the committee wanted the higher duty which the House had laid upon the article, the majority of the committee, if I may be permitted to speak of the doings of the committee, were for putting it at ten cents.

Mr. GRIMES. The Senator will allow me to ask him a question: were the committee informed that a great many of these iron manufacturers had already been stricken down in this country?

Mr. CLARK. No; we had no such information. We understood the business had been a prosperous business; and we were rejoiced that it had been a prosperous business.

Mr. GRIMES. The Senator spoke of the liability of these manufacturers of railroad iron being stricken down.

Mr. CLARK. If the tax is removed on the foreign article, and you tax them on the domestic product, they would be stricken down; but as it is now they are not stricken down.

Mr. GRIMES. Is there any liability of their being stricken down if there is no increase in the tariff?

Mr. CLARK. The committee thought there might be an injury.

Mr. GRIMES. So as to stop their establishments?

Mr. CLARK. We cannot say whether their establishments will be compelled to stop or not. Some might stop and some might not stop. It would depend somewhat on the skill with which they were managed. But the committee rejoiced, and I think the country will rejoice, to know that this kind of manufacture is profitable with other classes of manufacture; and I think the more prosperous it is, within a certain range, the more the prosperity of the country will be increased. It is desirable for us that this manufacture should

increase by the profit of the business until we can manufacture all our iron in this country. It is plain now that we cannot manufacture as much as we want. Why not let us go on increasing the manufacture in our own country by keeping this duty on the foreign article until we can take the ore from our own soil and employ our own labor to make it into iron and to roll it for the purposes of the railroad, and use all our own product.

Mr. POMEROY. The Senator certainly must be aware of the fact that we have not during the last year imported fifty thousand tons.

Mr. CLARK. One hundred and eighty thousand tons.

Mr. POMEROY. A little less than fifty thousand. I quote from the Railroad Journal, published in New York.

Mr. CLARK. My information is quite as good as the Railroad Journal.

Mr. JOHNSON. Where does the honorable member get his information?

Mr. CLARK. I get it from railroad men, who are engaged in importing this iron.

Mr. JOHNSON. Manufacturers?

Mr. CLARK. No, sir; importers, and men who want to import it.

Mr. POMEROY. Has anybody published such a statement?

Mr. CLARK. I do not know that it has been published. I do not know that it would be any more true if it were.

Mr. POMEROY. They would not be likely to publish what was not true.

Mr. CLARK. They publish a great many things that are not true, for the very purpose of gaining their own ends.

Mr. POMEROY. The fact is, that according to the statistics of New York, we have imported less than fifty thousand tons; and that was on old contracts. The reason why we cannot import under the law as it now is, is because we have to pay not only in gold for the iron, but the exchange is eight or ten per cent. above gold; and then the tariff.

Mr. CLARK. The committee took into consideration the fact that this duty was paid in gold when they struck it down from fifteen to ten cents; and I think the information we have before the committee on the subject of importation, if the Senator will allow me to say it, is quite as reliable as the information he has got. Can the Senator tell me whether that journal is in the interest of the importer or the manufacturer? Does he know anything about the character of the men who publish it, or who make it up?

Mr. POMEROY. Yes, sir; I know them very well. This information is taken from the statistics of the Board of Trade of New York city, from the custom-house returns in New York.

Mr. CLARK. But even if I were to admit that to be true, are all the importations made at the custom-house in New York?

Mr. POMEROY. I ask the Senator where else has iron been received from Europe except at New York?

Mr. CLARK. I have no information on that point; I have not traced it out; but I have the information of the men that I know, men of intelligence, men operating in this very business, whose interest it is to have the railroad iron come in with a low duty, and to import as largely as possible, and they said that amount of tons had been imported.

Mr. POMEROY. One hundred and eighty thousand?

Mr. CLARK. Yes, sir, one hundred and seventy-five or one hundred and eighty thousand.

Now, Mr. President, I do not propose to detain the Senate any longer, because time is precious at this period of the session; but I hope that this duty will not be reduced. Let me say one word in addition. We have been manufacturing now very successfully in all departments of our manufactures for two or three years; but, in my judgment, as this rebellion goes down and prices fall, the manufacturers are to have a harder time than they have seen for years, and it is necessary for you to stand by the protection you give them.

Mr. HENDRICKS. This subject, I recollect, was very fully discussed at the last session of Congress in the Senate, and the decision of the Senate was that sixty cents was quite a sufficient tax to be imposed upon railroad iron, in view of

the great importance of the construction of railroads in the country, and especially in view of the policy of the United States, which is to encourage the construction of railroads in the Northwest and in the West. With one hand we grant lands to aid the States in the construction of important lines of railway, and with the other hand we undertake to make the railroad iron cost these very States and companies a largely increased price; and in the very law in which you make the grant of the lands to these States you require the completion of the road within a limited time. I concede that Congress has been liberal in extending the time. But, sir, it seems to me the decision of the Senate at the last session was a wise one, that we would not in one direction encourage an enterprise and in another direction embarrass it.

I am very glad the Senator from New Hampshire has made the speech which he has just concluded. When this bill was called up I felt it to be my duty to ask him, as the representative of the committee urging the passage of the bill, why it was proper at this late hour of the session, when it was impossible for us outsiders to understand the bill, to urge the passage of so important a measure. His reply was, and the only answer that he gave so far as I now recollect was, that the passage of the internal revenue bill had made a modification of the tariff law necessary. I intended to ask him during the course of the debate to illustrate that proposition of his by reference to particular provisions in this bill. He has now done it. He says this tax on railroad iron is one of the taxes made necessary by the internal revenue law. How does that stand? By the internal revenue law, I understand, we have increased the tax upon the manufacturer of railroad iron one per cent. We have carried it up from five to six per cent. upon his production; and that is an increased tax of one per cent. in the currency of the country. To meet that, to compensate the manufacturer for his one per cent., we provide in this bill to add ten cents in gold, twenty cents in paper, upon every hundred pounds of railroad iron that is imported. I understand this bill now, sir; and I ask western Senators to understand it too. The manufacturer intends, through this bill, to compensate himself for the increased tax of one half per cent. in gold by an increase upon the imported article of twenty cents in paper upon every hundred pounds of railroad iron.

I do not know whether it is profitable to discuss this bill at all. I presume the power that brings it before the body can carry it through; but I wish Senators to understand what compensation to the manufacturer the Senator from New Hampshire says this bill intends to provide; and then, if eastern Senators who represent large manufacturing interests, think this is fair to western interests, and if western Senators are willing to agree to it, all well.

The Senator says that this particular item is an illustration of the policy of the bill. One half of one per cent. in gold is the increase upon the home manufacturer, and the compensation is ten cents in gold for every hundred pounds of railroad iron that is brought into the country. What the Senator from Kansas has stated upon the authority of a high journal of the country shows that the tax already imposed upon railroad iron brought in is a prohibitory law substantially. During the last year less than fifty thousand tons have been imported; so that our railroad companies are at the mercy of the manufacturers in this country.

Mr. POMEROY. If the Senator will indulge me a moment, since making that statement I have conversed with the gentleman who compiled the information from the statistics of New York—as reliable a man as there is in the country—and he says the importation last year was less than forty thousand tons.

Mr. HENDRICKS. Forty thousand tons brought in from abroad. As the Senator from Kansas informs me, that will construct about forty miles of railroad. The policy of the Senator from New Hampshire is to allow a foreign competition to the extent of furnishing railroad iron to build forty miles of railroad, and all the other railroad interests of the country are to be placed at the mercy of the manufacturers of this country. I do not question that these manufacturers are very fair dealers, high-minded gentlemen; but it is

human nature to make whatever can be made out of legitimate trade. Does the Senator from New Hampshire say that this is a revenue measure? No Senator is more earnest in his appeals to the body to secure revenue; and yet, with a tariff that is prohibitory, or substantially so, upon this important article, he asks that it shall be made entirely so; that ten cents to the hundred pounds shall be added, in gold, upon every hundred pounds that are imported into the country. If sixty cents in gold, \$1 20 in paper money, is substantially a prohibition, what will seventy cents in gold, \$1 40 in paper, be under this prohibition? It will be entirely prohibitory, and no revenue will be the result. This legislation is not intended for revenue, I have a right to say—and I have a right to say it because the present law cuts off revenue—but is intended to enable the manufacturers in this country to tax the enterprise of the Northwest at their pleasure. No money comes into the Treasury from this duty, but it goes into the coffers of the manufacturers. In a time like this, when we need revenue, when we need to build up the channels of commerce, to reconstruct them, when we ought to open up as far as possible all the northwestern and western country to a market, is it policy to tax that which is indispensable for these high purposes?

Mr. President, I am not in a condition to-day to discuss this bill, and regret very much that it is forced upon the Senate. I do not believe that the bill ought to pass; and especially do I not think this provision ought to pass. After a full discussion at the last session it was negatived; and now, upon the showing, it intends to make that which is substantially prohibitory entirely so.

Mr. CLARK. I have but a word or two in reply. I beg the Senator from Indiana, in the first place, to remember that we have both revenue from importations and revenue from manufactures. If you admit your foreign importation at a low rate of duty, possibly you may get more importation, but you strike down your domestic manufacture, from which you get your five per cent. You have got to adjust the one to the other, so as to get the largest amount of revenue, if you can, from both. When the manufacturers paid five per cent. duty on their manufactures, the tariff on railroad iron was sixty cents a pound. If you carry up the five per cent. to six per cent., you should make the tariff of sixty cents seventy-two cents to correspond; but in consideration of the fact that the duty on importation is paid in gold, we strike it down to seventy cents; and we simply desire to protect as well as tax. I assure the Senator we do not desire to take anything from the pockets of the Northwest. We in the East pay the taxation upon manufactures in the first instance, derived in a great extent from all the people; but I beg the Senator to remember that we are but one people. If we do not flourish at the East, they will not at the West. If they do not at the West we shall not at the East. Let us look at the whole thing, for the whole country, without any thought in our mind in favor of one against the other.

Mr. HENDRICKS. But one word in reply. The Senator from New Hampshire suggests that if we lose the duty upon the imported article we get it from the manufacturer in the production; but what is that? Six per cent., which would be perhaps forty-eight cents in paper upon one hundred pounds of railroad iron; while, under the existing tariff law, we would receive sixty cents in gold, one hundred and twenty cents in paper, upon the imported article. There is the difference as a financial measure.

Mr. CLARK. Does the Senator stop there? Does he think of all the people that are working upon the railroad iron made in this country, digging the ore, working it into iron, and rolling it, who wear and consume a dozen articles that are taxed? It is a very narrow view to confine it as he does. There are a thousand rills that run into this Treasury of ours. Otherwise it will not be filled.

Mr. HENDRICKS. I understand the force of the Senator's argument when he says that the field must be cleared of competition, that the manufacturer in this country may make larger gains; but he is representing this as a financial measure.

Mr. CLARK. I have not said that the field must be cleared. I said that one must be adjusted



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to the other, so as to give the greatest amount of revenue with a proper protection.

Mr. HENDRICKS. He does not say it must not be cleared. Under the existing law but enough railroad iron comes into the country to construct forty miles of road, and that duty is not enough for him, but he must increase it ten cents in gold, twenty cents in paper, upon every hundred pounds of iron. Does he not intend to clear the field of competition by this legislation? He does not intend to secure revenue. He cannot say so upon the figures that are before the country. It is not for revenue.

And now the Senator asks me to bear in mind the condition of the laborers in the production of iron. I hope not to forget them; but I think when they have a protection of \$1 20 on every hundred pounds of iron, that is protection enough. The Senator does not ask that there shall be a prohibition, but that the tax shall be so adjusted as that there shall be prosperity in both branches of the trade, in the importation and in the manufacture. I concede that; let that be so; and if the Senator had brought such a bill here I would not seriously object to it. But when the Senator asks me to bear in mind the laborer of the eastern States, I ask him to bear in mind the interests of the farmers of the Northwest, the great region that is now being developed, the section of country that has added so much to the Army and so much to the material power of the country in this great controversy. We have a mighty country to open, and it cannot be done by wagon roads. We must have railroads. They are indispensable. We wish to see these railroads extend far out into Minnesota through Kansas, and thence on to the mountains, and connect the eastern and western portions of our Republic. We wish to do this. It is a great and overshadowing interest, not to be compared, in my judgment, in its importance, with the interests of the local manufacturing concerns.

I do not want to detain the Senate longer on this question.

Mr. HENDERSON. I am really very much astonished at my friend from Indiana that he should be making any opposition to this proposition; and I am astonished that my friend from Kansas is making any opposition whatever to it. Suppose we put the additional ten cents upon railroad iron, is it anything to compare with the tax that you have put on other manufactures of iron? Why, Mr. President, in 1861 you had a low tariff, comparatively, on all articles. Since that time you levied an *ad valorem* duty of three per cent. upon your own manufactures of iron; and in order to protect the home manufacturer against competition you increased the tariff about twenty-five or thirty per cent. You then raised the internal tax to five per cent. *ad valorem*, and you increased the tariff from twenty to thirty per cent. more. Now you put up the internal duty one cent. and you propose to go on "equalizing" it as far as you can; and so the work goes on. It is a system that will continue to go on as long as we continue the present financial system of the Government; and gentlemen ought not to complain. Just so long as they sustain that system, just so long will this thing continue. They are complaining about a tax of seventy cents on the hundred pounds of railroad iron. Why complain about it? It is the cheapest tax there is on iron.

Mr. POMEROY. Oh, no; the Senator is mistaken.

Mr. HENDERSON. I say it is the cheapest tax on railroad iron. Gentlemen feel this tax because they want to complete railroads. They feel it more sensibly; and why? Because they feel interested in it. They can see the tax when imposed on railroad iron, because they feel interested in the extension and completion of lines of railroads; and when they have to pay the exorbitant price for iron manufactured in this country they then cry out against it. What are they paying on bar iron, rolled or hammered? One hundred cents per hundred pounds, one cent a pound. What are they paying on boiler or other plate

iron? One and a quarter cent per pound. What are they paying on iron wire, bright, coppered, or tinned? Two cents per pound. On iron wire, bright, coppered, or tinned, over No. 16 and not over No. 25, wire gauge, they pay three and a half cents per pound. On wire covered with silk or cotton they pay seven cents per pound; on the second grade of the same article eight and a half cents, and on the third grade nine cents per pound; and yet the Senator complains of the duty on railroad iron. Why should he complain? He does not see or feel what he is paying upon all other articles of iron. Upon sheet iron he pays \$1 25 per hundred pounds. Upon band, hoop, and scroll iron he pays three cents per pound; that is three dollars on every hundred pounds. The gentleman does not feel that. He has not looked into that.

The same thing is true in regard to every article manufactured in this country. You increase the currency of the country in order to enable the people to pay their expenses. You levy an impost and excise tax, and then you increase the currency in order to enable the people to pay it. If you increase the necessity, it becomes absolutely essential—and I am bound to vote for it; everybody is bound to vote for it—to increase the tariff. The increase of the tariff makes it necessary to increase the currency; and so we go on. I hope we shall get to the end after awhile.

The Senator is complaining and making a fuss about this thing. Last year, according to the returns of the Department, the manufacturers of iron in this country paid only \$3,202,000, and the little unimportant article of manufactured tobacco in this country paid upward of eight millions. But a little over three millions was received from every article of iron manufactured in this country; that is, the excise duty. So it is in regard to various manufactures of other articles to which I might refer. All the woolen manufactures in this country paid only \$3,655,000; and all the cotton manufactures in this country, including all articles not specifically named in the excise act, only paid \$6,000,000.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The question is on the amendment proposed by the Senator from Kansas.

Mr. CLARK. Since I addressed the Senate on this subject there has been put into my hands a letter which I will read, by the indulgence of the Senate. It is from the Commissioner of the Internal Revenue:

TREASURY DEPARTMENT,  
OFFICE OF INTERNAL REVENUE,  
WASHINGTON, March 1, 1865.

SIR: In my report of December 1, 1864, I have said, "The American manufacturer is now suffering from the reduction of the customs duty, and although he is not yet virtually injured, he owes his protection less to the sufficiency of that duty than to the difference between currency and the high rate of exchange."

In my opinion the iron interest is in imminent danger at this moment of being vitally injured. The price of gold is falling and the rate of exchange is constantly fluctuating. Some further protection to the manufacturer appears to me to be absolutely necessary. If it is not rendered, our internal revenue from that source, and also from collateral sources, will be severely affected. I trust that you will be able to satisfy the friends of the Administration in Congress of the importance of an increase of duties as a measure of protection. Our manufacturers can supply the market, and the competition among them will bring down the prices to the proper level.

Yours, &c.,  
JOSEPH J. LEWIS.  
Mr. ROBERT H. LAMBORN,  
Secretary of American Iron and Steel Association.

Mr. JOHNSON. It gives no facts. It is a mere opinion.

Mr. CLARK. I have read the whole letter.

Mr. McDUGALL. I have watched this subject somewhat carefully, and I have very nearly learned, and think I almost know, that the persons employed in the iron works of Pennsylvania are the best paid laborers in the United States.

Mr. GRIMES. Better than the gold diggers of California.

Mr. McDUGALL. A comparison cannot be made between them and the gold diggers. The gold diggers get well paid once in awhile, but they get good pay all the time. It is said the iron

interest in Pennsylvania is the most prosperous interest in the country, and it has been demonstrated substantially, in my judgment. Indeed they have had favors beyond where favors should be asked or sought for. They have had more than is necessary to develop all their interests, and they are trying to outdo all other interests and make themselves the interest of the country. I do not object to it much, because I am a sort of a Swedenborgian sometimes and believe in the iron age. I like to have iron produced as plentiful as possible; but it is not required that this interest should be made to go in advance of all interests; for I am well assured that the laborers in the iron mines of Pennsylvania are better paid than the laborers in any other part of the United States.

Mr. WILSON. I desire to amend this clause before the vote is taken on striking out. I move to strike out "ten" and insert "five." I think that will make it just about right.

The PRESIDING OFFICER. The Chair will suggest as a question of order to the Senator from Massachusetts that an amendment having already been agreed to to strike out "fifteen" and insert "ten," the proposition cannot be reached in order except in the Senate after the bill shall have been reported. The question now is on the amendment of the Senator from Kansas striking out the clause.

Mr. JOHNSON. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 13; as follows:

YEAS—Messrs. Brown, Bucklew, Davis, Doolittle, Grimes, Hale, Harris, Henderson, Hendricks, Howe, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Nye, Pomeroy, Powell, Ramsey, Stewart, Ten Eyck, Trumbull, and Wright—24.

NAYS—Messrs. Anthony, Chandler, Clark, Collamer, Dixon, Farwell, Foot, Foster, Howard, Sprague, Sumner, Wade, and Wilson—13.

ABSENT—Messrs. Carlile, Conness, Cowan, Harding, Harlan, Lane of Indiana, Richardson, Riddle, Saulsbury, Sherman, Van Winkle, Wilkinson, and Wiley—13.

So the amendment was agreed to.

Mr. SPRAGUE. I am instructed by the Committee on Manufactures to offer the following amendment as an additional section:

And be it further enacted, That flax and hemp machinery and steam agricultural machinery, as designated in section twenty-one of the "Act to increase duties on imports, and for other purposes," approved June 30, 1864, may be imported free of duty for one year from the passage of this act.

The twenty-first section of the act alluded to in the amendment will be found on page 227 of the Laws of the last session, and is in these words:

That during the period of one year from the passage of this act there may be imported into the United States, free of duty, any machinery designed for and adapted to the manufacture of woven fabric from the fiber of flax or hemp, including all the preliminary processes requisite therefor; and that steam agricultural machinery and implements may be imported free from duty for one year from the passage of this act.

That act was approved on the 30th of last June, and by its own limitation this section will expire on the 30th of the coming June. The amendment that I have offered extends the operation of that section about seven months longer. The reason for the extension is this: in consequence of the large orders that have been sent to England for the manufacture of this kind of machinery those who ordered the machinery have been unable to obtain the assent of the manufacturers to deliver it within the time prescribed in the twenty-first section of the act of last year. As I understand, they paid down, on giving the order, one third the contract price, and they are unable to withdraw those contracts. The loss to them will be the amount of duty imposed on this machinery under the provisions of this act. The amendment only applies to orders that have been given under this twenty-first section. Those who ordered the machinery were induced to do so in consequence of the passage of that section. The position in which they are now placed demands this legislation, and the Committee on Manufactures have, therefore, directed me to report this amendment.

Mr. CLARK. I hope the amendment will not prevail. I do not see any reason for extending the provisions of the act. The bill now under consideration does not touch the provision of the old law in that particular.

Mr. ANTHONY. It expires in six months.

Mr. CLARK. I know; and the bill does not shorten it at all. One year was the time given in the original act. I do not desire to discuss it, but—

Mr. TRUMBULL. It is a small matter; let it go.

Mr. CLARK. It may not be a small matter. It may open the door to a great many frauds. We do not know when the orders may be given, or anything about it.

The amendment was agreed to.

Mr. DAVIS. I offer the following as an additional section:

*And be it further enacted, That from and after the 30th day of June next, the rate of duty on all and each kind of tea, coffee, sugar, and molasses thereafter imported into the United States shall be reduced one half on the rate of duty then imposed by law on each and every kind of tea, coffee, sugar, and molasses, respectively; this reduction to be computed in the same medium in which such duties are collectable.*

The articles enumerated in this amendment, upon which it is proposed by it to reduce the duty, with the exception of a small amount of sugar, are not produced in the United States. They, therefore, do not enter into competition with American labor, except as to the extent of the small amount of sugar that is produced in our country; and if this reduction should be made, it would still leave an amount of duty amply sufficient to protect the sugar planter.

All the articles named in the amendment have become articles of prime necessity with the American people. There is scarcely a man or a woman in the United States but what is interested in this proposition. The duties are now collectable upon these several articles, as on all others imported, in gold and silver. The proposition is that the reduction shall be one half in gold and silver of the rates respectively upon every description of the four classes of articles there named. That would be a relief to the whole of the American people. It would enable every consumer of those important and prime articles of necessity to purchase them at one half or less of the present cost.

It may be said, and said truly, that this amendment would interfere essentially with our financial system, and would reduce the produce of our revenue. True, sir; but it would add vastly to the comfort and convenience of the mass of the American people. That reduction will place within the reach of many men and women of the country the purchase and use of those articles of necessity, who will be excluded from their use by the increased duty. I think, in view not of the comfort only, but of the subsistence and of the necessities of the people, that this amendment should prevail, and that the vast masses of our countrymen should have the full benefit of the reduction of the duties upon the articles specified in the amendment according to its terms.

The siren cry that American labor must be protected, which I concede, and of which I have always been an advocate, is not affected by this proposition. I am for protecting the labor of my countrymen. Labor is at the foundation of all national prosperity. All the wealth, all the progress, and all the civilization of the world are based upon labor. If there is anything that I honor, revere, and wish to protect, it is labor and the laborer; and it is because of my devotion to labor and to the laborer that I want this proposition to prevail. Instead of coming into competition with our labor and our laborers, if it shall prevail it will greatly alleviate the condition and add to the means of our laborers, by giving them at greatly reduced rates the essential necessities of life that are proposed by this amendment to be reduced in duty, and therefore the price of them will be brought down to a point where the humble, hard-fisted laborer, who toils from dawn until twilight will have an opportunity of using these prime and essential necessities of life.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill be read a third time. The bill was read the third time, and passed.

#### THANKS TO THE VICE PRESIDENT.

Mr. POWELL. I now offer a resolution which I am confident will meet with the ready and warm assent of every member of the Senate:

*Resolved, That the thanks of the Senate are due, and they are hereby tendered, to Hon. HANNIBAL HAMLIN for the able, dignified, and impartial manner in which he has discharged the laborious duties of the Chair during the term in which he has presided over the deliberations of the Senate.*

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair assumes it to be the pleasure of the Senate to consider this resolution at this time, and will put the question at once on its passage.

The resolution was adopted unanimously.

#### PRIVILEGES OF THE SENATE.

Mr. HOWE. I ask the Senate to proceed to the consideration of House bill No. 710.

Mr. HALE. I must throw myself on the indulgence of the Senate to ask their attention at this time to what I believe to be a question of privilege. I will state my question, and the Chair can say whether it is a question of privilege or not. On the 3d of February the Senate, on my motion, unanimously passed a resolution calling on the Secretary of the Navy for information. The Secretary in answering it has transmitted a document of sixty-five manuscript pages from the Assistant Secretary, not responsive to the resolution, and not pretending to be responsive to the resolution. I will read the first page, that the Senate may see what it is:

"Hon. GIDEON WELLES:

"Sir: As part of your reply to the resolution of the Senate of February 3, 1865, in response to the allegations of Hon. JOHN P. HALE against me in advocating said resolution, I beg leave to submit the following statement."

And then he goes on to answer a speech which he says I made. My point is, that for the head of a Department to send us an answer to a speech made by a member of this body, to be printed at the public expense, neglecting the inquiry that is presented to him and not responsive to it, is a breach of the privileges of the Senate.

I do not wish to pursue the subject; but I submit this motion, that that part of the reply of the Secretary of the Navy which consists of Mr. Fox's statement in answer to a speech made by me is not responsive to the resolution of inquiry of the Senate, and that it be returned to the Secretary of the Navy.

Mr. JOHNSON. I ask for the reading of the resolution of inquiry.

Mr. HOWE. The first question to be determined, I suppose, is whether this is a question of privilege. If it is not, I hope the Senator will allow the bill to which I have called attention to be passed, and then we can consider this matter.

The PRESIDING OFFICER. The Senator from Wisconsin was entitled to the floor, but the Chair understood from his silence that he yielded it for the time being to the Senator from New Hampshire on the latter stating that he rose to a question of personal privilege.

Mr. HOWE. I had submitted my motion. The Senator from New Hampshire then took the floor, and, as I understood, claimed to be heard on a question of privilege. It remains for the Chair to decide whether that is a question of privilege which takes precedence of the motion. The Senator will not press it, I presume, if it is not.

Mr. HALE. Certainly not, if it is not a question of privilege, but I think it is.

The PRESIDING OFFICER. Even if it were in the judgment of the Chair a question of privilege, it is not of that character that it would displace a Senator on the floor upon a proposition already before the Senate.

Mr. HALE. This is the last day that I occupy a seat in the Senate. I have been here sixteen years; I have endeavored to treat all my associates in this body and all the officers of the Government with whom I have had anything to do, with courtesy, with kindness, and with respect. I do not want, on the last day of my official life in the Senate, to be insulted and have the whole Senate insulted in my person by such an irrelevant and impertinent communication as this. I think it ought to be sent back. I leave the matter with the Senate.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield the floor for the motion of the Senator from New Hampshire?

Mr. HOWE. Certainly; if the Senator from New Hampshire puts it on the ground he has just stated I cannot stand in his way, although I am very anxious to have this bill considered.

Mr. JOHNSON. I ask for the reading of the resolution of inquiry.

The PRESIDING OFFICER. It will be read, if it is in the possession of the Senate.

Mr. HALE. I have it here, and I will read it.

"Resolved, That the Secretary of the Navy be instructed to inform the Senate whether the argument of the judges advocate on the trial of Franklin W. Smith has been printed by order of the Navy Department, or any officer of that branch of the service, and whether the same has been done at the expense of the Treasury of the United States, how large an edition of the same has been published, and what use has been made of the copies thus published. Also, whether any commissioners, agents, or detectives have been employed by the said Navy Department, or any officer thereof, since January 1, 1864; if so, how many; what sum or sums have been paid them; what instructions were given to them verbally or in writing, either by the Secretary of the Navy or the Assistant Secretary, and especially whether any instructions were given to said detectives or agents, or either of them, by said Secretary or Assistant Secretary, or by any one else for them, or with the knowledge, advice, or consent of either of them, to inquire into the conduct or business transactions of any member of either House of Congress; and also how much expense has been incurred by such examinations, the particulars thereof, the fund from which they have been paid, and the law authorizing the same."

At this late hour of the session I do not want to take up the time of the Senate; I have stated to the Senate what this communication is. It does not purport to be an answer to the resolution, but purports to be a response by the Assistant Secretary of the Navy to a speech which I made when advocating the resolution. Being such, I think it is a breach of the privileges of the Senate and of the courtesy which should characterize official intercourse between the heads of Departments and the Senate, and I move that it be returned to the Secretary of the Navy.

Mr. JOHNSON. As far as the letter of the Assistant Secretary refers to what may have been said by the honorable member from New Hampshire in the Senate, it is clearly out of place; but I have not read the letter and do not know that it contains anything except a reference and an answer to what was said by the honorable member in debate. It seems to me, however, that the inquiry contained in the resolution authorized the Secretary to say what instructions were sent from the Department concerning the case to which the resolution of inquiry referred, and having no knowledge of it himself he put himself in a situation to answer it by calling on the Assistant Secretary of the Navy to inform him of the facts, and he has transmitted that information. So far, it seems to me, the information was called for by the inquiry. But whatever he may have stated in that letter—I repeat I have not seen the letter and do not know what is in it; but whatever he may have stated in it referring to the Senator's speech, as an attack on the Senator individually, is in my opinion entirely out of place and in violation of the courtesy due by the Department to the Senate.

Mr. CONNESS. It is rather a painful task for a Senator here to interfere in a question of this kind, but for myself upon all occasions I follow instincts that guide me, and prefer that, as I understand it, justice and my duty shall be done. Now, sir, we are asked by the honorable Senator from New Hampshire, upon a statement made by him that this is his last day in the Senate of the United States, an appeal that it is very difficult to resist, to send back a communication which has been presented to the Senate from the head of one of the Departments of this Government, because, as the Senator alleges, it contains a letter addressed by the Assistant Secretary of the Navy, Mr. Fox, to the Secretary of the Navy, in part responsive or at least intended by him to be responsive to attacks made upon him, and also to the matter contained in the resolution adopted by the Senate and addressed to the Secretary of the Navy. We have heard that resolution read. It directed the special attention of the Secretary of the Navy to the conduct of the Assistant Secretary. It named the Assistant Secretary. It involved his official acts. In addition to that, it is known to us all—and we should be just to the Secretary of the Navy and the Assistant Secretary, and to the honorable Senator from New Hampshire—that day after day the honorable Senator has availed himself of his prerogative in this body to assail that officer.

There has been no measure of personal assault as well as official attack that has not been made by him upon the Assistant Secretary of the Navy. He has been denounced here on this floor as a "miserable midshipman." I ask if that was right. I ask if it was the courtesy due to a high public officer standing nearly at the head of a Department of this Government. I have no relations with that officer different from those which I have with the honorable Senator from New Hampshire, but when I have heard statements of that kind made here, with my knowledge of that gentleman, it was very difficult indeed for me to keep my seat and be silent.

When the line was subsidized by law for carrying the United States mails between the eastern Atlantic ports and the western Pacific ports of this country, it was provided that the steamers should be commanded by officers of the Navy. Among those commissioned for that service were the late gallant and heroic Herndon, who was then a lieutenant, and G. V. Fox, of the Navy. Some of the ablest men that our public service in that branch of it contained were deputed by the Government to command those ships. Eleven years ago I traveled upon the steamer *George Law*, commanded then by Captain Fox, and I undertake to say here, from personal observation, without any intimacy with the gentleman, that so far as I could observe it, an abler, a more gentlemanly, and a better officer never trod the deck of a ship.

Sir, it is a pretty serious matter when a Senator of the United States avails himself, as I said before, of his high prerogative to denounce such a gentleman here daily in the manner that we have heard. In addition to that a resolution is adopted at the instance of the honorable Senator addressed to the Navy Department, not calling upon the Navy Department for information touching certain things, but instructing the Secretary of the Navy to tell the Senate what Mr. Fox did, and specifying several things. I have not the resolution now before me. In all human probability, with the greatest propriety the Secretary of the Navy addressed officially a letter to the Assistant Secretary—I do not know this, but I apprehend that upon inquiry we shall find it to be the case—asking the Assistant Secretary for information that the Secretary himself could not give, and that could only be given by the Assistant Secretary, thus indirectly addressed, and thus again and again, as I have described, assailed by the honorable Senator.

Now, Mr. President, what are we asked to do in the last hours of this session, as a matter of personal favor to the honorable Senator? I will go as far in a case of personal favor and regard to the honorable Senator from New Hampshire as to any Senator on this floor, but it pains me to sit here and hear an able man, a man who I undertake to say with deference to the judgment of the honorable Senator is distinguished in his capacity as a public officer, denounced day after day without a word being spoken in his defense. He has been compared to a fox. The honorable Senator has gratified and exercised his talent of invective and ridicule in that regard. And now we are asked to do, what? To relieve the Senator, as he asks and says, by insulting the head of one of the Departments of this Government! I am not satisfied that the honorable Senator and the Senate have been insulted in this communication, and for my part I cannot vote affirmatively upon his proposition until I am so satisfied; and above all, before I am so satisfied I cannot agree to send back by a vote of this body that communication to the honorable Secretary of the Navy, and thus insult him.

Mr. WILSON. I move that this communication from the Secretary of the Navy be referred to the Committee on the Judiciary for the purpose of examining it to see whether it is liable to the objection which has been made.

Mr. CONNESS. I have no objection to voting for this motion if any committee shall report that it is proper.

Mr. HALE. I am satisfied with the proposed reference.

Mr. CONNESS. In assenting to the proposition of the honorable Senator from Massachusetts, I will simply say that if the Judiciary Committee or any other committee of this body shall recommend this or any other course to be taken, I will vote affirmatively.

Mr. TRUMBULL. I object to the reference to the Judiciary Committee. It is manifest that a reference of this communication to the committee at this stage of the session will prevent any investigation of it. The committee is dissolved by the end of the session. I think that in the shape in which the resolution has been submitted by the Senator from New Hampshire it may be readily understood by all. The Senator from California thinks it proper to go into a defense of Mr. Fox—

Mr. CONNESS. I have not done that, sir.

Mr. TRUMBULL. I do not know, then, what the Senator would call a defense of another. He has pronounced a eulogy upon Captain Fox and spoken of him in high terms, and, so far as I know, in deserving terms. I have no attacks to make on Captain Fox or upon the head of the Navy Department. I have a high respect for both those gentlemen. But the proposition here is this: the Senator from New Hampshire says to the Senate that in answer to a resolution which has passed this body, and which has been read in the hearing of the Senate, there comes from the Department a reply to a speech made by him, and he reads to us a portion of the reply of the Secretary which purports to be in answer to a speech of the Senator from New Hampshire; I understand the Senator from New Hampshire, then, to move that so much of this communication as relates to a reply to his speech shall be returned. Is that the motion?

Mr. HALE. The letter of the Secretary of the Navy there is no objection to.

Mr. TRUMBULL. To the letter of the Secretary there is no objection; but it is only that part which is in reply to a speech of the Senator that is proposed to be returned. So far as that is concerned, it is a matter not between the Senator from New Hampshire and Captain Fox, with which the Senate of course would have nothing to do, but the question is, will the Senate of the United States allow an answer to one of its resolutions to be a reply to a speech of a Senator? That affects the privileges of the body. If when we pass a resolution of inquiry, an answer from anybody, instead of being a reply to our resolution, purports upon its face to be a reply to the speech of a Senator, will the Senate allow such answers to be made? I think clearly, upon that statement, such a reply is improper. I do not know what is in the reply, but so far as it undertakes to argue against or reply to a speech delivered in this body I think that it is an improper communication, and that the privileges of the body are improperly interfered with by such a reply, and so far as that is concerned I, for one, would be prepared to vote at once that no Department of the Government called upon for information could properly, in answering a resolution of inquiry, proceed to an argument or reply (as it is called in the communication) to the speech of a member of the body. There is no object in this question going to the Committee on the Judiciary. Of course they cannot consider it now.

Mr. COLLAMER. I think the motion of the Senator from Massachusetts is perfectly proper, though I do not know whether the committee can report to-day or not. We can frequently draw from the analogies of legal proceedings. This is precisely the same case as frequently occurs in our courts of chancery. It is suggested that an answer has impertinent matter. By the word "impertinent" I mean in the legal sense, irrelevant matter, improper matter, which in law we call not pertinent to the question. It is suggested that this communication contains impertinent matter. Always on such occasions, when that is suggested to the court, they refer it to a master to ascertain and make report how much there is impertinent, and to strike out that part, if not the whole, and charge on the offending party the expense of getting it done. I think if we had a committee on privileges, we should at once refer it to them, but as we usually refer all cases which relate to privileges of the body to the Judiciary Committee I think this should go to the Judiciary Committee, and let us see how much of it they find to be impertinent to the resolution.

Mr. TRUMBULL. The objection is on account of the stage of the session.

Mr. SUMNER. I wish to submit whether there is not in this matter a constitutional question. The Constitution positively declares, with

regard to Senators and Representatives, that "for any speech or debate in either House they shall not be questioned in any other place." If the President himself should send a message to Congress criticising the speech of a Senator or Representative, or undertaking to answer any such speech, would that be recognized as a constitutional proceeding? I clearly think not; there can be no question with regard to it. And if the President cannot do it, if the head of a Department cannot do it, can an Assistant Secretary do it? There is the question.

Mr. WILSON. That is just what we want to find out.

Mr. COLLAMER. No gentleman denies but that it may contain impertinent matter, quite too much so. That is the very objection made, and that is the reason we want to refer it to a committee to ascertain.

The PRESIDING OFFICER. The question is on the motion to refer.

The motion was agreed to.

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of expenditures from the appropriations for contingencies of that Department, its offices and bureaus, during the fiscal year ending June 30, 1864; which was ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 27th of February, abstracts of the proposals for transporting military supplies from Fort Leavenworth westward, opened December 31, 1864, by Captain Henry C. Hodges, and all communications upon the subject; which was ordered to lie on the table and be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 338) for the relief of Charles A. Pitcher; and also that it had passed a bill (H. R. No. 256) for the relief of R. L. B. Clarke, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

A bill (H. R. No. 556) granting a pension to Ezekiel Darling;

A bill (H. R. No. 565) granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army;

A bill (H. R. No. 697) further to provide for the verification of invoices;

A bill (H. R. No. 756) supplementary to the several acts relating to pensions;

A bill (H. R. No. 758) amendatory of the acts relating to the Attorney General's office, and to fix the compensation of his assistant and clerks;

A bill (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington;

A bill (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José in the State of California;

A bill (H. R. No. 779) regulating the taking of depositions in certain cases; and

A bill (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor.

#### RAILROADS IN MICHIGAN AND WISCONSIN.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 710.

Mr. WILSON. I do not wish to oppose the Senator's motion; but there was a common understanding last night that after the tariff bill was passed to-day we should take up the report of the committee of conference on the Freedmen's Bureau bill. At the earnest pressure of the Senator from Wisconsin I will yield to this bill, hoping it will not take up much time.

Mr. HOWE. I am very much obliged to the Senator.

The motion was agreed to; and the bill (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been



made, in the States of Michigan and Wisconsin, was considered as in Committee of the Whole.

Mr. HOWE. I beg leave to say that this bill is like others that have been passed, and perhaps if the amendments be read it will be sufficient, and the reading of the bill may be dispensed with.

The PRESIDING OFFICER. (Mr. FOOT.) The amendments only will be read, unless the reading of the bill be demanded by a Senator.

The Secretary read the amendments reported by the Committee on Public Lands.

The first amendment was at the end of section two to insert as a proviso:

*Provided, That none of the additional lands granted by this act for that portion of the Marquette and Ontonagon railroad, now completed, shall be ceded to the State of Michigan by the terms hereof until the said railroad shall be completed from a point twenty miles west of Marquette to Ontonagon; and that none of the additional lands granted by this act for that portion of the railroad from Marquette to the Wisconsin State line at or near the mouth of the Menomonee river, now completed, shall be so ceded until the said railroad shall be completed from Bay de Noquet to the said Wisconsin State line at or near the mouth of the Menomonee river aforesaid.*

The amendment was agreed to.

The next amendment was in section four page 5, after line thirty-four, to strike out:

But not east of the range line dividing ranges twenty-six and twenty-seven, nor south of that portion of the township line dividing townships forty-seven and forty-eight that lies east of the dividing range line above described.

The amendment was agreed to.

The next amendment was to strike out the fifth section, which is as follows:

SEC. 5. *And be it further enacted, That the term mineral lands, as used in a joint resolution "reserving mineral lands from the operation of all acts passed at the first session of the Thirty-Eighth Congress, granting lands or extending the time of former grants," approved January 30, 1865, so far as the said resolution relates to the several grants of lands heretofore and herein made to the State of Michigan to aid in the construction of certain railroads in the upper peninsula of said State, are hereby declared and defined to refer to and to mean such lands only as before the passage of said resolution have been reserved from sale in said State as mineral lands.*

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I now move to proceed to the consideration of the report of the committee of conference on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

The motion was agreed to.

The report was concurred in.

#### CUSTOM-HOUSE FEES.

Mr. CHANDLER. I ask the indulgence of the Senate to allow me to report and have passed two or three bills from the Committee on Commerce. The first is House bill No. 739, which I am directed to report back from the committee. I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 739) to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States. In lieu of the fees now authorized by law to be collected by customs officers on the northern, northeastern, and northwestern frontiers of the United States, it proposes to allow the collection of the following fees: for admeasurements of vessels, the fees prescribed by the act to regulate the admeasurement of tonnage of ships and vessels of the United States, approved May 6, 1864; certificates of registry, including bond, \$2 25; indorsement on register, \$1; certificate of enrollment, including bond on vessel of not exceeding fifty tons, \$1; on vessel of above fifty and not exceeding one hundred and fifty tons, \$1 50; on vessel of over one hundred and fifty tons, \$2; license, including bond on vessel of not over one hundred and fifty tons, \$1; on vessel of over one hundred and fifty tons, \$1 50; indorsement on license of change of master, including master's oath, 50 cents; certifying manifest and granting clearance for a licensed vessel to go from district to district, on vessel of fifty tons or under, 25 cents; on vessel of over fifty tons, 50 cents; receiving certified manifest and granting permit to unlade on entry of a vessel from any other district, on vessel of fifty tons or under, 25 cents;

on vessel of over fifty tons, \$1; entry of a vessel from a foreign port, otherwise than by sea, if vessel of fifty tons or under, 50 cents; if of over fifty tons, \$1; and the same fees for clearance of like vessels to foreign ports; receiving manifest of goods brought into the United States from foreign countries adjoining said frontiers by land vehicles, and permit to unlade the same, 25 cents; receiving manifest of baggage of passengers arriving from foreign countries adjoining the frontiers, including permit to unlade the same, 25 cents; granting permit to a vessel not belonging to a citizen of the United States to go from district to district, \$2; and the same fee for receiving manifest and granting permit to unlade such vessel on arrival in a district from another district; entry of goods imported from any foreign port or place for consumption, warehousing, rewarehousing, transportation, or exportation entry, including official certificate or oath on entry or to invoice, 50 cents; and for every port entry, 40 cents; permit to land or deliver goods not above provided for, 25 cents; official bonds not herein provided for, each \$1; debenture or other official certificate not herein provided for, 25 cents; bill of health, 25 cents; crew list, including bond, \$1; protection, 50 cents; recording bills of sale, mortgage, hypothecations, or conveyances, 50 cents each, and certified copies thereof, 50 cents each; recording certificates for discharging and canceling such conveyances, 50 cents; copies thereof, 25 cents; certificate setting forth the names of the owners of a vessel, with their respective interest, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance, the date and amount of such incumbrance, and the parties thereto, \$1; but no bill of sale, mortgage, hypothecation, conveyance, or discharge of mortgage or other incumbrance of any vessel shall be recorded unless it is duly acknowledged before a notary public or other officer authorized to take acknowledgments of deeds.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MACKEREL FISHERIES.

Mr. CHANDLER. The same committee, to whom was referred the bill (H. R. No. 780) to extend the provisions of the first section of "An act for the government of persons in certain fisheries," approved June 19, 1813, have directed me to report it back and to ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. Its purpose is to extend the provisions of the first section of an act for the government of persons in certain fisheries, approved June 19, 1813, to the master or skipper and seamen of vessels of the burden of twenty tons or upward, qualified according to law for carrying on the mackerel fisheries, bound from a port in the United States to be employed in such fisheries, in the same way as if such fisheries had been embraced in that act; but the agreement named in that section is to be duly made, indorsed, and countersigned.

Mr. GRIMES. I inquire of the chairman of the Committee on Commerce what are the provisions of the act of 1813, which this bill proposes to extend and apply.

Mr. CHANDLER. Certain provisions relative to the enlistment of men for the vessels. They enter into certain bonds. This extends the application of that law relative to cod fisheries to the mackerel fisheries.

Mr. GRIMES. I should like to know how far it extends the regulations with regard to the cod fisheries to the mackerel fisheries.

Mr. CHANDLER. Merely so far as relates to giving bonds. The committee investigated it very thoroughly. It is a House bill.

Mr. TEN EYCK. It merely permits certain young persons to be apprenticed who are in the mackerel fisheries, as well as those who are in the cod fisheries. It is a very small matter.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 256) for the relief of R. L. B. Clarke was read twice by its title, and referred to the Committee on Claims.

#### WAR DEPARTMENT REPORT.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

WASHINGTON, D. C., March 2, 1865.

I transmit herewith the report of the Secretary of War, which, with my permission, has been delayed until the present time, to enable the Lieutenant General to furnish his report.

A. LINCOLN.  
Hon. HANNIDAL HAMLIN, President of the Senate.

The message was ordered to lie on the table, and be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 806) to authorize the Secretary of the Treasury to settle the accounts of Colonel William Gates;

A joint resolution (H. R. No. 174) to amend the joint resolution entitled "Joint resolution in relation to the public printing," approved June 23, 1860; and

A joint resolution (H. R. No. 180) for the relief of Lucretia M. Perry, widow of Nathaniel H. Perry, late purser in the United States Navy.

#### PAPER FOR PUBLIC PRINTING.

Mr. ANTHONY. I ask the unanimous consent of the Senate to consider the joint resolution just received from the House of Representatives relative to the public printing. It will create no discussion.

By unanimous consent, the joint resolution (H. R. No. 174) to amend the joint resolution entitled "Joint resolution in relation to the public printing," approved June 23, 1860, was read three times, and passed. It proposes to allow the Superintendent of Public Printing to accept proposals for paper for three months, six months, or a year.

#### STEAMBOAT INSPECTORS.

Mr. CHANDLER. The Committee on Commerce have instructed me to report back the bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats for collection districts of Memphis and Oregon, and for other purposes." I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that there shall be designated and appointed, in the mode prescribed by law, two assistant local inspectors of steamboats in the city of New York, and two local inspectors at the city of Galena, Illinois, with an annual compensation of \$1,200 for the inspectors in New York, and \$800 for the inspectors at Galena; and these inspectors are to perform the duties and be subject to the provisions of the steamboat act of August 30, 1852. The local board of inspectors at Wheeling is to be reestablished. In lieu of the fees for inspection prescribed by the sixth section of the act to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes, approved June 8, 1864, there is to be levied and paid for each steam vessel of one hundred tons or under, twenty-five dollars, and in addition thereto for each and every ton in excess of one hundred tons, five cents.

Mr. COLLAMER. From what committee is that reported?

Mr. CHANDLER. The Committee on Commerce.

Mr. COLLAMER. What is the occasion for it?

Mr. CHANDLER. I will answer by sending to the Chair, to be read, a communication from the Secretary of the Treasury.

The Secretary read the following letter:

TREASURY DEPARTMENT, March 2, 1865.

Sir: The superintending inspector of steamboats informs me that there are now at his port (New York) more than three hundred steam vessels ready for inspection, which the present inspectors, though diligent and capable

men, are unable to reach in the regular discharge of their duties.

\* A bill providing for two additional local inspectors at New York has passed the House, (as I am informed,) and I think that the business of inspection as well as the interests of commerce at New York would be greatly facilitated if that bill could pass the Senate at its present session.

With great respect,

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. Z. CHANDLER, Chairman of the Committee on Commerce, United States Senate.

Mr. COLLAMER. But how is it about Galena?

Mr. CHANDLER. I am informed by the Representative from Galena that it is very important that these men should be appointed for Galena.

Mr. COLLAMER. I move to strike out all of the bill except in regard to New York.

The PRESIDING OFFICER, (Mr. FOOT.) The Chair presumes the Senator means to strike out that portion relative to Galena.

Mr. COLLAMER. Yes, sir.

The Secretary read the amendment, which was in line five, section one, after "New York" to strike out "and two local inspectors at the city of Galena in Illinois," and in lines eight and nine, to strike out "and \$800 for the two local inspectors at the city of Galena, Illinois."

Mr. CHANDLER. I am not advised in regard to the necessity for these inspectors; but they are recommended by the board of steamboat inspectors, and likewise by the Secretary of the Treasury, and earnestly recommended by the Representative of that district, who is chairman of the Committee on Commerce in the other House. The committee of the Senate were satisfied the provision was necessary, and therefore recommended it.

The amendment was agreed to.

The bill was reported to the Senate as amended. The amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

The title was amended by striking out the words, "and for two local inspectors at Galena, Illinois."

#### JOINT COMMITTEE ON COMMERCE.

Mr. CHANDLER. The Committee on Commerce have directed me to report back the joint resolution (H. R. No. 178) to authorize the continuation of the Joint Committee on Commerce of the Senate and House of Representatives after the 4th day of March 1865, to complete their investigations and make their report on the subject of trade with the rebellious States. I ask for its consideration now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes that the Committee on Commerce on the part of the Senate and the Committee on Commerce on the part of the House, acting as a joint committee in the Thirty-Eighth Congress for the investigation of trade with the rebellious States, by virtue of the resolutions of the House of Representatives and the concurrent resolution of the Senate and House, shall be continued after the 4th of March, 1865, for the purpose of closing their investigations and making their report; and that the report when completed, together with the evidence taken, shall be filed with the Clerk of the House, and be printed. The chairman of either of the committees is to have power to issue subpoenas and compel the attendance of witnesses in the same manner as the Speaker of the House or President of the Senate.

Mr. GRIMES. I should like to inquire of the chairman of the Committee on Commerce what is the necessity for the continuance of this committee of investigation. So far as I am concerned I am satisfied already that this trade with the rebellious States should cease. I understand that the House of Representatives have so expressed themselves by nearly a unanimous vote, and have sent a bill of that description to the Senate. I understand further that our Committee on Commerce have reached the same conclusion and reported favorably to that bill. I should like to inquire of the chairman where that bill is, and if he proposes to take it up this morning?

Mr. CHANDLER. I do not, for the reason that it will lead to discussion, as I am informed by members of the Senate. I pledged myself that I would not take up a bill that would lead to dis-

cussion. If there is time I shall certainly bring that up.

Mr. GRIMES. So it seems that although the House of Representatives have expressed their wishes by almost a unanimous vote, and the Senate I am satisfied is strongly in favor of the bill, we are not to have an opportunity to vote upon it because the chairman of the committee will not bring it up for fear that somebody will oppose it!

Mr. CHANDLER. I shall try to bring it up before the close of the session.

Mr. GRIMES. Yet he proposes to continue the investigation of the committee to elicit the facts in regard to this bill which we are all in favor of!

Mr. CHANDLER. I will merely state this joint resolution is to continue a sub-committee of the Committee on Commerce of the two Houses.

Mr. GRIMES. I move to postpone the joint resolution under consideration and all other subjects, to take up the bill in regard to the cotton trade.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 806) to authorize the Secretary of the Treasury to settle the accounts of Colonel William Gates was read twice by its title, and referred to the Committee on Claims.

The joint resolution (H. R. No. 180) for the relief of Lucretia M. Perry, widow of Nathaniel H. Perry, late pursuer United States Navy, was read twice by its title, and referred to the Committee on Naval Affairs.

#### INTERCOURSE WITH INSURRECTIONARY STATES.

Mr. CHANDLER. I will state that the bill called up by the Senator from Iowa, or one to the same effect substantially, was recommended by the Committee on Commerce some time ago and is now on our table. The Secretary of the Treasury is of opinion that the bill should not pass. He informed me yesterday that he thought it would be very injurious to the interests of the Treasury and of the Government, and he is very much opposed to its passage. He said that there was a controversy between the Army and Navy and the Treasury Department. As I understand it, the Navy first commenced stealing cotton, and stole very largely—many million dollars' worth. Then the Army came in and seized cotton, and there came a controversy between the Army and the Navy; and finally we passed a law prohibiting both the Army and Navy from touching cotton, and placing this matter in the hands of the Treasury agents.

Mr. GRIMES. And the Treasury agents want a monopoly of stealing. That is all there is of it.

Mr. CHANDLER. One moment. I will come to that by and by.

The PRESIDING OFFICER, (Mr. FOOT.) The Chair will state that the bill is not on the Clerk's table.

Mr. GRIMES. I move to discharge the Committee on Commerce from the further consideration of the bill. I learn that it has not been reported back.

The motion to discharge the committee was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864. The bill contains a proviso that the repeal shall not affect any contract of sale provided for by the section repealed where actual delivery of the products has been made.

Mr. CHANDLER. I was about to remark, when interrupted, that two years ago the Committee on Commerce introduced a bill prohibiting captures on our inland waters by the Navy of the United States. That bill failed to become a law. It was violently opposed by the Committee on Naval Affairs and by the representatives of the Navy upon this floor. Owing to the failure of that bill, many million dollars' worth of cotton were seized by the Navy and sold as prize, and as I am informed by the Secretary of the Treasury not one single dollar ever reached the Treasury of the United States in all this class of cases.

The eighth section of the act of July 2, 1864, which is now proposed to be repealed, is a section prohibiting, under pains and penalties of the severest kind, officers of the Army or Navy from touching cotton or the products of the southern States, under any circumstances whatever; and it placed the whole business of seizing and taking care of southern products, cotton, rice, tobacco, &c., in the hands of the Treasury agents. Under the old system the Navy was usually accompanied with wagons in order that it might seize all the cotton within a radius of from ten to fifteen miles as naval prize; and I am told that on the Red river expedition, naval wagon trains were the chief source of making naval captures. The boats which were detained above the Red river raft were so overloaded with cotton which had been seized as naval prize in the barns and storehouses within ten miles of that river that they could not pass the Red river bar. I am told that the commandant of the naval forces refused to lighten his vessels by throwing the cotton overboard; and after the flood carried away the raft, an engineer, a lieutenant colonel in one of our volunteer regiments, who had been engaged in the lumber business up in Wisconsin, finally devised another raft, and they got the vessels and most of the cotton off.

The very moment the law of July 2, 1864, came in force, there was a hue and cry raised, first by the Navy. I believe the Senator from Iowa introduced a bill this very winter authorizing the Navy to make prize anywhere within tide-water. It is tide-water right down here at our dock; it is tide-water one hundred miles up any of our great rivers and in some cases perhaps five hundred miles up our great rivers, and the Senator proposed to authorize the Navy to make naval prizes wherever the tide backed out; but under the law as it now exists the Navy can only make prize three miles off the coast. In other words they have got to chase a ship and seize her and her cargo before they can have it confiscated for the benefit of the officers of the Navy; but according to the old rule they could take teams anywhere within nine miles of where a ship could run.

This controversy has been going on between officers of the Army and Navy and the Treasury Department from that day to this. The very moment the Treasury agents began to seize the cotton and use it for the benefit of the Treasury the Navy raised a cry of stealing. They had done all the stealing before, and they objected to any sort of a division of the spoils; they wanted a monopoly. Now the Secretary of the Treasury informs me that all this hue and cry between the Army and Navy and the Treasury has been a sort of contest to see who shall steal, and he says there is no possible chance, there is no contingency under which, under the existing law, one single dollar can be plundered or stolen by a Treasury agent; and he tells me that if you repeal this law the stealing of cotton will go on as it did before, that the traffic is so profitable that there is no such thing as preventing it. You find rascals in the Navy and in the Army and everywhere; and the Treasury will be defrauded, and more injury will accrue than benefit.

This is the statement made to me yesterday by the Secretary of the Treasury, who will be a member of this body to-morrow at noon, and although the Committee on Commerce recommended the passage of the bill, upon consultation with the Secretary of the Treasury and with others who are conversant with this whole subject, I am satisfied the bill ought not to be passed.

Mr. COLLAMER. Permit me to ask the gentleman a question or two. Does he understand how it is, by what authority, these licenses have been granted, some of which have been published, to persons to go and buy cotton who are not agents of the Government at all? By what law is that?

Mr. CHANDLER. I am informed that no such licenses have been issued.

Mr. COLLAMER. But we have a report lying on our tables, printed, showing the fact to be so.

Mr. CHANDLER. If the Senator will pardon me, I will give him the Secretary's explanation. He told me that applications were made for licenses under the law for the purchase of cotton; that the officer in the Treasury having charge of the business, Mr. Risley, a very upright and honorable

man, had been persuaded by certain parties that large amounts of cotton could be gotten out from certain localities; and that he had issued permits to different individuals to bring out this cotton, which they represented was within the reach of the Government.

Mr. CONNESS. Who signed those permits?

Mr. CHANDLER. Mr. Risley. The President afterward gave an order to the military and naval forces to aid those parties in getting out the cotton which they were permitted by the Treasury previously to get out. That is the whole history of the transaction.

Mr. COLLAMER. The law provided for agents to buy for the Government, and the places were fixed by the order of the Treasury where they should go. Now, at what place was this Mr. Risley an agent?

Mr. CHANDLER. He is located in the Treasury Department here.

Mr. COLLAMER. That is not making him an agent of the Government down there to buy.

Mr. CHANDLER. He is in the Treasury Department, and has the management of that particular branch of the Treasury Department here.

Mr. COLLAMER. But by what law can he authorize any persons to make a purchase, and get out cotton, unless they are agents of the Government under the act?

Mr. CHANDLER. It was done under the Treasury regulations, under this very eighth section.

Mr. GRIMES. Risley professes to be agent for the district of Norfolk, but he does not live in Norfolk, and has no office there.

Mr. CONNESS. I only wish to say, that this matter may be clearly understood, that there were placed in my possession long since orders directly emanating both from the President and the Secretary of the Treasury, and signed by them, calling upon the officers of the Government in the department of Louisiana to permit certain parties named therein to go within our lines and purchase cotton, calling upon all the authorities to permit and facilitate them, and I have been asked to interfere in behalf, I will say, of some of the best friends I have ever had in the world; but in accordance with a determination to avoid doing what in my opinion I should not do I have never made any application in behalf of anybody in this connection. These copies are in my possession yet, though I have them not at my desk now. If the law permitted this to be done, or if they were issued under a misapprehension, it is for us now to correct the matter and have the law properly carried out as originally intended.

I have no condemnation to speak here of the issuance of these orders. The opinion of the Senate has been once expressed very definitely in this regard. I have no question about the bad policy of this trade. I have no question but that when General Canby said that permitting this trade to go on was equal to the loss of fifty thousand men to us in his department he spoke the truth, and what he knew; I have no doubt of that. The parties who applied to me were aggrieved and angered by the action of General Canby in interfering, as they said, with the orders of the Commander-in-Chief of the Army and Navy of the United States, but to his credit, be it said, he did interfere and stop it, depending upon both the justice and enlightenment of the Chief Magistrate, who, when the whole matter was properly represented to him has affirmed, through the War Department, the correctness of General Canby's action, and there the matter now stands.

If contracts have been made and now exist in pursuance of these orders, under if you please a misapprehension of the law, I have no objection that it shall be approved as in the House bill that the contracts now in existence may be carried out; but amend it so that they shall be contracts made in pursuance of law; stop the abuses now going on. This trade does not depend upon orders issued by a mistake by Mr. Risley in the Treasury Department. That statement is not correct; and if the Senate acted on that statement, they would act under a misapprehension of the facts. I think it is time to act; the public good requires it.

Mr. CHANDLER. That General Canby stated his honest conviction I have no doubt, but that he was laboring under a very serious misapprehension I believe. If the repeal of this eighth section would absolutely stop all traffic, perhaps

it might be desirable to repeal the section; but the history of the past four years has shown that that cannot be done. You cannot stop this traffic.

Mr. CONNESS. And hence we must increase it!

Mr. CHANDLER. No, sir; hence we must control it. Under the eighth section and under the present regulations one fourth of the value of all the cotton purchased goes into the Treasury of the United States, and all that is seized is condemned, and that goes into the Treasury of the United States.

With regard to the abuses that have sprung up under this eighth section, the Secretary explained the subject to me yesterday. He said that permits had been granted for large amounts of cotton by the mistake of Mr. Risley, if you please, for I believe it to have been a mistake on his part. These parties having permits to bring out ten, twenty, or one hundred bales, instead of themselves getting that amount, went and sold or made over the privilege of getting out a portion of what they were authorized to get out to other parties. The very moment that was discovered by the Secretary of the Treasury and by Mr. Risley they immediately stopped issuing such permits; they annulled all such permits as they could annul, and to-day none are being issued.

Now the Secretary informs me that it is very important for the Treasury that this cotton should be gotten out and thrown on the market. It has a tendency to lessen the price of gold; it has a tendency to improve our finances. He is going out of the Treasury into the Senate where he can explain it here to-morrow; but he deems it a matter of vital importance to the interests of the Treasury that this eighth section should be allowed to stand, and so do I; and I hope it will stand, although I am instructed by the Committee on Commerce to move its repeal.

Mr. GRIMES. We have a very anomalous case presented to us here, a unanimous report of the Committee on Commerce in favor of the passage of the bill, and the chairman of that committee attempting to defeat its passage. It seems that a very great revolution has taken place within the last few hours, or within a day or two, in the sentiments of the Senator from Michigan—almost as miraculous as that attributed to the Senator from Illinois [Mr. TRUMBULL] the other day by the Senator from Ohio, [Mr. WADE,] in reference to the conversion of St. Paul. I have just as high a respect for and just as much confidence in the wisdom, integrity, and capacity of the Secretary of the Treasury as the Senator from Michigan has, or as anybody else has; but I never yet have surrendered and I never intend to surrender my independent power of judgment to the Secretary of the Treasury or to any other man. I never entertained any doubt as to the propriety of stopping this trade and stopping it effectually, sealing it up hermetically, so that neither Army, nor Treasury, nor Navy, nor anybody else, could carry on commerce with the rebels. I never could conceive of the propriety of professing to carry on war with one hand and trading with the enemy with the other, furnishing them the very supplies that are calculated to strengthen and support them and to invigorate their armies with which they propose to take our lives.

The argument is made that we are going to pay them in greenbacks, with our national currency. How long do you think that currency remains in their hands? I admit that it would be comparatively worthless so long as it is kept within the confederate lines; but how long is it kept within those lines? They have means every day, almost hourly, to carry it across the lines, and by the same process they carry back supplies for the support and sustenance of their army and those who support their army at home.

The Senator from Michigan has had something to say about the stealing of the Navy. Admit all that he says, that the officers of the Navy did desire to secure some of this cotton in the early stages of the war; is not that stopped? Has not Congress placed upon the statute-book a law that there shall be no prize whatever on any of the inland waters of the United States? Does the repeal of the law of July 2, 1864, therefore, grant any privilege to officers or men of the Navy? Not at all. Does it confer any boon or grant any privilege to any officer or any man in the Army? Not at all. The only effect of repealing this sec-

tion, letting all the rest of the law stand from which this eighth section is extracted, will be to declare that there shall from this time forth be no trade with the rebels, and that I think is what we ought to do.

Mr. President, the Senator from California was quite right when he said that in order to secure one of these contracts, to get any advantage from one of these contracts, it is not alone necessary to secure a written license, or a permit, or a contract, if you wish to call it such, from Mr. Risley. We have the very pleasant fiction of regarding a clerk in the Treasury Department by the name of Risley as local agent at Norfolk. So any gentleman, lobbyist or otherwise, who wants to engage in this business of buying cotton or selling cotton, goes to Mr. Risley and enters into a contract representing that he will furnish twenty, fifty, or two hundred and fifty thousand bales of cotton within three or four States, say the States of South Carolina, Georgia, Florida, and Alabama. The cotton is in those States. That contract is of no value unless the contractor can get a mandate from the Commander-in-Chief of the Army and Navy of the United States and from the Secretary of War, directing that the energies of the Army and Navy shall be applied and used in the assistance of the man who has entered into this contract in carrying it out; and it is that to which General Canby and all the other officers of the Army so strenuously object.

Mr. CONNESS. And successfully.

Mr. GRIMES. Yes, sir. Now, I am told that within the last three weeks, since this subject was under consideration here, a gentleman in a State adjoining the one in which I live, a man not particularly noted by his character for loyalty to the Government, has secured a contract with the Department, and has entered upon its execution, by which he is to deliver to the Government several thousand bales of cotton, to be brought out of the Red river country. That contract carries with it the same mandate from the military commander-in-chief that the efforts of the officers in that section of country shall be used in order to enable this man to carry out his contract and to realize the large amount of profits which he expects to realize upon it. All you want to know in regard to this subject is contained in a record that is on your desks, published by the authority of the Senate. Some of these gentlemen divide up their contracts. I see that a gentleman from Illinois has several contracts—I forget how many; three at any rate—obtained at one time, worth \$20,000 each; my friend from Missouri [Mr. Brown] suggests \$50,000 each. I understand this gentleman took one of those contracts to New York and sold it. In New York they sell them to parties who wish to embark in this kind of trade for fifteen, twenty, twenty-five, or thirty thousand dollars, and put the money in their pockets, and the parties to whom it is transferred attempt to execute the contract made by their assignors.

Is it for the interest of this Government that this thing should proceed further? Is it not calculated, and is not that the testimony, to demoralize our service? I call upon the chairman of the committee on the conduct of the war to bear evidence as to the fact; is it not the testimony of every military officer that nothing is more calculated to demoralize the public military service than this system of trading with the enemy?

Mr. WADE. It is.

Mr. GRIMES. He bears testimony to the fact. Is it not so in the nature of things? Is there a man of reflection and common sense who is not satisfied that that must be the result? If we are going to put down the rebellion and close this war it must be done by fighting, and not by trading. Either withdraw your armies and go to trading, or else cease trading and continue to fight.

Mr. CHANDLER. My conversion is not quite as sudden as the Senator from Iowa seems to think. St. Paul was converted very suddenly indeed; he saw a brilliant light; but there are some men who never see any light; they are born blind, and they stay blind; and there are other men so pig-headed that they will not see when it is brought to their notice. [Laughter.] I always advocated this eighth section, advocated it in the Committee on Commerce when it was first proposed there, and have advocated it all the



way through. I was overruled at one time by the Committee on Commerce last year; I was overruled again this year; but still I have been of the impression that this trafficking should be taken out of the hands of the Army and of the Navy, and placed in the hands of the Treasury. That abuses have grown up I have no doubt, very grave and serious abuses; but is it not better that these abuses, if they must continue, should be kept out of the fighting element of the country? Is it not better, if demoralization must take place, that it should be kept out of the Navy, which the Senator so ably represents? In the early stages of this war I labored the whole of one session to get a law through prohibiting the Navy from making prize of cotton on our inland waters. The Senator from Iowa defeated me, and by defeating me he kept out of the Treasury more than one hundred million dollars that ought to be there to-day in gold.

I have already said that great demoralization took place in the Army and Navy in consequence of the prevalence of their dealing in cotton with the enemy; the disaster of the Red river expedition was attributed directly to the desire, on the part of officers of the Government not connected with the Treasury, to speculate in cotton. With the permission of the Senate I will read the eighth section of the act of July 2, 1864, which it is now proposed to repeal:

"That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in Insurrection, at such places therein as shall be designated by him, at such prices as shall be agreed on with the seller, not exceeding the market value thereof at the place of delivery, nor exceeding three fourths of the market value thereof in the city of New York at the latest quotations known to the agent purchasing: *Provided*, That no part of the purchase money for any products so purchased shall be paid, or agreed to be paid, out of any other fund than that arising from property sold as captured or abandoned, or purchased and sold under the provisions of this act. All property so purchased shall be forwarded for sale at such place or places as shall be designated by the Secretary of the Treasury, and the moneys arising therefrom, after payment of the purchase money and the other expenses connected therewith, shall be paid into the Treasury of the United States; and the accounts of all moneys so received and paid shall be rendered to, and audited by, the proper accounting officers of the Treasury."

After consultation with those who are conversant with this traffic, after consultation with the Secretary of the Treasury, I find my own judgment confirmed. My opinion from the first has been that if this traffic must exist it should be taken out of the hands of the Army and Navy and placed under the management of Treasury agents, and that there should be an absolute prohibition as to any other avenue for traffic. I believe it will be injurious to the Government to repeal the eighth section of the law of last year; and although I was instructed by the Committee on Commerce to report the bill I am of opinion that it ought not to be passed.

Mr. MORRILL. This is a question of a good deal of importance, and I confess that it is not without its difficulties. The question simply is as to authorizing trade in the products of insurrectionary States on the part of the Government; in other words, authorizing the Government to purchase.

I desire, Mr. President, that the Senate should understand the general position of the question, both as matter of law and as matter of fact; and in the simplest way I can I will state it.

The principal product, of course, is that of cotton; and that is a very big question of itself. The whole product of cotton supposed to be in the insurrectionary States at the present time is about four million bales; and to some extent it is a question whether it shall be left under the law, independent of this eighth section, to be declared confiscable property, seized by the Army and Navy, and turned over to the agents of the Government, and sold as forfeited and confiscable property on behalf of the Government, or whether, on the other hand, it shall be purchased by Government agents for the Government. As the law stands I think that is about the question that is presented to us.

The arguments, on the one side and the other, are these: it is said if you treat these products as forfeited to the United States, and undertake to confiscate them and appropriate them to the Government without compensation to the owners, the result will be that you will lose the crop; it will be burned. To avoid that difficulty it is said

that the Government had better hold out some inducement to the owners of this cotton to bring it within our lines and sell it. That policy is founded on two suggestions: first, that the crop is indispensable to the industry of the country; and secondly, that it is nearly indispensable to the finances of the country. This policy, as I understand it, is founded on those two assumptions: first, that we need this cotton crop; it is indispensable to the domestic industry of the country, and to the manufactures; and in the second place—

Mr. COLLAMER. "Cotton is king."

Mr. MORRILL. Yes, cotton is king, as my friend from Vermont very truly says. Undoubtedly, to the extent of the demand of our domestic manufactures, he is king; he is master of the situation. We absolutely need cotton. It is absolutely indispensable to the prosperity of the nation in this regard. His kingship remains to be seen.

Now, as to the question of finance, the necessity of having cotton for exportation, to sustain the finances of the country, on that I have no information that is not common to the Senate. Suffice it to say that the present Secretary of the Treasury and his predecessor both believed that it was of the utmost importance that that crop, somehow or other, should be reached by the Government, and should be brought out, so that the Government could make it available. Now, how does the law stand? By the law of 1861 we declared that all trade with the insurrectionary States was unlawful, and all trade was absolutely prohibited. By subsequent acts we declared that all the products in the insurrectionary States belonging to rebels were forfeited, were liable to be confiscated and turned over to the agents authorized to be appointed by the Treasury Department, to be appropriated for the benefit of the Army, and also for the benefit of the Treasury. Under the operation of that law the Treasury really received very little benefit; so that, down to the passage of this act last year, embracing the section now under consideration, the policy of the Government had been not to trade; the Government would have no trade. The Government went upon the idea that the property and products in these insurrectionary States belonged to the Government, and it might appropriate them for the benefit of the Army, and what was not needed for the benefit of the Army as it marched through this country should be turned over to the Treasury and disposed of for the benefit of the Treasury. It also adopted the additional policy that all trade by citizens should be inhibited in these insurrectionary States, and we continued that policy. The honorable chairman has very properly stated that an abuse sprang up both in the Army and Navy, the struggle being for the possession of this cotton.

In view of these facts, Congress last year undertook to regulate this trade somewhat further; and, perceiving the evil growing out of the practice of the Army and Navy, Congress imposed further restrictions upon the trade, and they imposed severe penalties upon the officers or soldiers of the Army or Navy who should undertake to interfere in the staple products of the insurrectionary States. But it was concluded by the Senate, under circumstances to which I need not now particularly refer, that while the Army and the Navy should not interfere with these products, and while it was improper for citizens to carry on this trade with the insurrectionary States, yet it would be wise and proper, for the reasons I have stated, to supply our domestic manufactures, and also as affecting the finances of the country, that the Government should address itself directly to parties owning cotton in the insurrectionary States and induce them to bring it out and bring it within our lines. In order to do that this eighth section provided that the Government might appoint agents, and they might purchase cotton, paying in no case more than seventy-five per cent. of the actual value of the product in New York.

Mr. COLLAMER. Purchasing it for the Government.

Mr. MORRILL. They were to purchase for the Government, on account of the Government, and for the benefit of the Government, for the reasons I have stated. I believe this is the law, and the policy of the law, up to this time. Now for the practice as it stands at the present moment. Under the eighth section of this law of last year

the present Secretary of the Treasury made rules and regulations for carrying into effect what he conceived to be the provisions of that law; and several agents have been appointed, one at Memphis, one at New Orleans, one at Norfolk—I believe six or eight in all—who were authorized to purchase these products. Rules and regulations for their government were promulgated by the Secretary of the Treasury and approved by the President of the United States, and thereupon the Secretary of War and the Secretary of the Navy issued their orders giving to these agents, and the parties whom they should authorize to make these purchases, facilities to pass within our lines and put themselves in communication with the products in the insurrectionary States and the owners thereof, and thus give them that facility and the additional advantage of transportation to bring out these products, both by the Army and the Navy, to the place designated by the agent for their delivery.

Mr. COLLAMER. I wish the gentleman to understand that that law did not authorize them to go into the country and buy and bring in these products, but to authorize the people who had the products to come in with them.

Mr. MORRILL. The Senator is speaking of the law; I am speaking of the regulations.

Mr. COLLAMER. The regulations are so.

Mr. MORRILL. The regulations of the Treasury go to the extent which I have stated. Under the regulations of the Treasury, parties are authorized to penetrate our lines and pass within the rebel lines. Our military and naval authorities are instructed by those Departments to give them egress, and to furnish them facilities and transportation to bring out the cotton. These I understand to be the regulations.

Now, sir, there are two classes of transactions that sprang up under this section: first, these agents located at these different points have made contracts for cotton directly with the owners, and cotton to some extent has been delivered to them. They have purchased it and paid for it. Those contracts would be within the purview of the law, within the letter of the law, within the spirit of the law. But there is another class of contracts, which have been referred to by the Senator from Vermont, which are in the nature of permits. These agents, instead of purchasing cotton of the owners or sellers, on its production and delivery, have authorized numerous persons who go by permit into the rebel lines and secure the cotton. For instance, a person will come to one of these agents and represent that he has within his control—not that he is the owner, but that he has within his control—say one hundred and fifty thousand bales of cotton, situated in the States of South Carolina, Florida, Alabama, and Georgia, and he says he wishes a permit to get it out, and thereupon a permit is granted; and under that permit he has the authority both of the Army and Navy to go through our lines into the States in insurrection, and he is to have the facilities for bringing that cotton out. When it is brought to the point designated in his permit, either to New Orleans or to Memphis, then it is to be transported to New York on Government account, at the Government expense, and is to be sold in the market; the expenses to be deducted; one fourth of it to be reserved to the Treasury, and three fourths paid to the party who has the permit.

Mr. COLLAMER. Those permits enable the man who gets the cotton to bring it to the place of shipment, and ship it to New York at Government expense, and he is then to sell it, and then, after paying the expenses of shipment, one fourth of it is to go to the Government; but the agent of the Government has nothing in the world to do with it.

Mr. MORRILL. Now, Mr. President, it will be seen there are two classes of transactions. The first, to which I have referred, is clearly within the spirit, and I think within the letter, of the law. As to the permits, every Senator must judge for himself how far they are within the spirit and how far they are within the intent and object of that law. The committee who examined this matter really did not feel that the last class of transactions was within the object or spirit of that law; and accordingly this bill is framed to protect the first class of transactions, while it ignores the last. It is not a matter that

I design to argue. I believe I have stated in a general way, imperfectly I know, the law and the fact on this subject. I want to add another word. It is a matter of a good deal of consideration. The Treasury Department think it is a question between getting out the cotton for the benefit of the Government and burning it. How far that is true, every Senator must judge for himself.

Mr. WILSON. I offer the following amendment as an additional section to the bill:

*And be it further enacted, That all cotton seized by the military or naval authorities, or surrendered to said authorities, shall be delivered to the officers of the Treasury, and vouchers shall be given to the owner or claimant of such cotton, entitling such owner or claimant, personally, to payment for such cotton at the end of the war, less taxes and expenses, in bonds of the United States, bearing six per cent. interest, redeemable in twenty years.*

We all agree that there have been corrupt practices—corrupt practices in the Army, in the Navy, in the civil Departments, growing out of these cotton permits. We all desire to see these corrupt practices abandoned altogether. It is, however, of vital importance to the finances of the country, to the industry of the people, to obtain cotton if we can do so without giving aid to the rebel authorities. If we purchase the cotton, and pay in goods, in gold, in greenbacks, or in the bonds of the Government, the rebel authorities may gain by the traffic. Such a traffic is open to the objections so forcibly presented by the honorable Senator from Vermont, [Mr. COLLAMER.]

But there are from three to five million bales of cotton in the rebel States. It is for the interest of the country for us to get out some of this cotton. If we do not get it out a great quantity will be destroyed, and a great deal of it will be got out in some way. About twenty millions in value of cotton went out through Mexico and Matamoras.

Mr. GRIMES. Twenty millions?

Mr. WILSON. Yes, sir; \$20,000,000 worth went through Matamoras and Mexico last year. For thirteen weeks during the last autumn we stopped the trade, and we imported during that time forty thousand bales of cotton, and paid the gold for it, and gold went up in face of our successes. Since the trade has been reopened, we have exported about two thousand bales per week, and gold has worked down under it, and the price of cotton cloths has fallen, I am told, about thirty-three per cent.

This bill provides for the repeal of the law authorizing this cotton trade. I am willing to vote for it; but I think we ought to adopt some plan to get the cotton out of the rebel country. The proposition that I have offered is that all cotton seized by the Army or Navy, or obtained in any other way, shall be delivered to the agents of the Treasury Department, and that the person owning this cotton shall receive a voucher from the Government to be paid, less the taxes and expenses, at the end of the war; and the payment is then to be made to the person owning or claiming this cotton in the bonds of the Government; so that the cotton cannot be used against us during the war.

Mr. COLLAMER. At what price?

Mr. WILSON. At the market price at the time the cotton is sold. Cotton is to us the same as so much gold. Sir, suppose we could obtain two million bales of cotton during the next three months upon the conditions proposed in my amendment; what would be the condition of our finances? What would be the rate of gold in the market? What would be the effect upon the business interests of the nation? It would give the Treasury the command of \$300,000,000 in gold; it would be to our advantage in all respects. The rebel authorities would gain nothing whatever by it. It would restore our finances, invigorate our industry, strengthen our Government, make us masters of the situation, and demoralize the rebels. The people would not, if we would give them vouchers for their cotton, hide it or burn it. They would seek in every way to get it into the possession of our Government and to obtain our vouchers for it. And with the vouchers of the Government, agreeing to pay to loyal and disloyal owners the market price of cotton, less the taxes and expenses, at the end of the war, in the bonds of the Government, they would want the war ended and the credit of our Government to be good. Sir, this proposition is in every respect for the interest of our people and Government, and I hope the Senate will adopt it.

Mr. GRIMES. The Senator from Massachusetts says the cotton must be got out of the rebel lines. I will tell him how it can be got out, and the only way in which it can be safely got out of that country; and that is, by fighting it out, never by trading it out.

Mr. WILSON. Suppose your Army passes over a line of country where they have a hundred thousand bales of cotton; if the owners of the cotton can deliver it up to your officers and receive a voucher that they will get pay for it at the end of the war, less what we choose to tax it and less expenses, will they not be likely to save their cotton, and will we not have the advantage of it? On the other hand, if we take their cotton and they get nothing for it will they not regard it as a robbery, and will they not, in all cases where they can do so, destroy their cotton? We may capture some cotton, but as our armies advance the cotton will be destroyed unless the owners can receive something for it. If we can obtain the cotton without giving now anything in return we ought to do it. Had this policy of getting out cotton been adopted two years ago I believe it would have brought untold benefits upon our country.

Mr. GRIMES. That cotton is ours now. No man was more strenuous in favor of the passage of the confiscation law than the Senator from Massachusetts. Why is he willing to abandon his right and the right of his constituents and the soldiers of my State to that cotton within the laws of the States of South Carolina and Georgia? Why is he willing to take that cotton and pay for it to the men who have been attempting to take the lives of our soldiers and break up our Army?

Mr. President, the whole thing proceeds upon a fallacy that is as apparent to me as the beam of the sun. Either let us carry on this war as war, or else let us disband the Army and let the Treasury undertake to trade us through the war. It is the height of ridiculousness to me for a great nation to be professing to carry on war, taxing its people and using a conscription law in order to reinforce its armies, undertaking to carry on war, using all its energies, all its surplus means, and all its men, and at the same time trading with the men that you are carrying on the war with, and allowing directly and indirectly supplies and support to go through the lines of your Army in order to enable the enemy to continue to carry on that war, for that is the conclusion to which it all comes at last.

I have no idea that this bill is going to pass. I know how potential are the influences that are wielded in opposition to it. I remember perfectly well what the Senator from Vermont [Mr. COLLAMER] told us when he first introduced a bill on this subject. But I stand where I have ever stood, where I stood last year when this law was passed. Either let there be unconditional, untrammelled free trade, or else let us have no trade at all, and let this be a war and not transactions in merchandise.

Mr. MORRILL. With regard to the amendment proposed by the Senator from Massachusetts I wish to say to him that practically the law is what he proposes to make it by his amendment. The law independent of the eighth section, which we are considering, provides for the seizure of abandoned or confiscable property, and agents have been appointed to receive that property. It is then to be carried forward to a market and sold for the benefit of the owner, provided he is a loyal man; and the only difference between that and the proposition which the Senator from Massachusetts now offers is that he makes no discrimination as I understand it. As the law stands, the property abandoned or confiscable is to be seized, carried forward to market, and sold on account of the Government, and at the end of the war, or at any time, if a loyal owner comes forward and can show that he is loyal and that the property belonged to him, he is entitled then to have the pay for the property which by former statutes we have declared to be forfeited in the hands of the traitor and rebel. If he designs to pay rebels for their cotton then his amendment has force in it; otherwise, it is unnecessary.

Mr. WILSON. In answer to that question I say frankly to the Senator that that is my purpose. I base my action on what I regard to be the interest of my country. I am not among those who regard cotton as king; but I do regard cotton to be to us in our present condition the same as

gold. If these bales of cotton were gold, and we could get it out of the rebel States by promises to pay after the war, I would agree to pay for it in the bonds of the Government after the war. I am willing to do the same in regard to cotton; to put it on the same footing. If it was gold instead of cotton I should say the gold was to be got out, because the interests of the country require it. Suppose you pass this measure, and no cotton is got out of that country by us, what will be the effect? What will be the practical operation of it? In the first place, wherever our armies go the rebels will destroy their cotton.

Mr. MORRILL. If my friend will allow me, I will suggest to him that the bill to which this is an amendment itself provides for the purchase of all the cotton within the confederate States.

Mr. WILSON. I understand that. I am in favor of that repeal; and I am in favor of it because of the practices that have grown out of it. I am free to say that I would prefer to stop the whole trade rather than have a continuance of the scenes that have been witnessed of grants and permits to take out cotton. It is time those things were put an end to. But I wish to have a plan adopted by which we can get that cotton out, and get all the advantages of it. By the amendment that I propose we should get all the advantages of it, and the confederacy could get nothing. Suppose you stop this trade entirely it will stimulate the getting out of cotton, and what will be the result?

Mr. GRIMES. They can only get a small portion in Texas. They cannot cross the Mississippi river.

Mr. WILSON. There is a large quantity of cotton in Texas; and there will be some carried across the Mississippi river, if it will pay. I wish simply to say that if we stop this traffic entirely, and get no cotton out of the rebel lines, we shall have to purchase two or three thousand bales of cotton a week and pay for it in gold. When the traffic was stopped last autumn, it carried out of the country five or six millions of gold, and carried gold up in the markets of the country; and that will be the result now if we stop it entirely. We shall have to import some cotton; we shall pay the gold for it; and gold will go up in the face of your victories. If you could get a million bales of cotton out of the confederacy you would bring gold down in the market just as much as you would if you brought in its value in gold. Cotton and gold are the same thing now. My proposition is to stop all this trade, to get the cotton, to agree to pay anybody who owns it, after the war is over, but nobody else. We shall thus have the advantage of it. I do not call this trade. I would not send goods to them; I would not pay them in gold for their cotton; I would not pay them in greenbacks or bonds; but I would pay them in promises to pay after the war is over. That is my proposition.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The question is on the amendment moved by the Senator from Massachusetts.

The amendment was agreed to.

Mr. SUMNER. It seems to me that this bill, as it comes from the House, has originated in a very good idea. It has evidently grown out of an unwillingness to submit longer to unquestionable abuses. But it seems to me that the bill goes further than it need go; the remedy that it applies is more than is required. Why not strike at the abuse? That is all that you need do. But the bill strikes at the whole trade in cotton. That is more than we need.

My colleague has already called the attention of the Senate to the bearing of this measure on the national finances. He has presented it so clearly that I do not know that anything remains for me to say. He has told you that cotton now is practically gold; so much cotton, so much gold. If we can get cotton, therefore, we get the great agent in our financial system. If we do not get cotton we lose the benefit of that agent. But without the benefit of that agent, in other words, without cotton, what shall we have to send to Europe in payment of the goods and products that we receive from there? Nothing but gold. This result must necessarily ensue: the national finances will be deranged; gold will go up in the market; even victory cannot keep it down. Sir, the risk is too great. The bill, as it comes from the House, goes too far; and in undertaking to remove an

abuse, it lays the foundation for confusion, distress, almost bankruptcy; individual bankruptcy on a large scale, because the commercial affairs of the country cannot go on prosperously, if, when we have victory, gold continues to rise in the market. I say, therefore, Mr. President, for the sake of our national finances you must hesitate before you adopt the bill as it comes from the House.

Some Senators say cotton is king, and some say it is not king; but I will tell you who do recognize cotton as king; I will tell you those who bend before the sovereignty of cotton.

Mr. GRIMES. The people of Massachusetts.

Mr. SUMNER. I beg the Senator's pardon; it is those who now seek to cut off this trade.

Mr. GRIMES. Oh, no.

Mr. SUMNER. You prepare the way for bending before its sovereignty because you will give to cotton the control of the money market of the world; that control to be used adverse to your national interests. I am not disposed to accord to this sovereignty any such power. I wish, if possible, to bend it to our own national interests; to yoke it, if I may, as a patriotic power to be used for the welfare of my country. I have said, sir, that all that you need to get rid of is the abuse.

Mr. MORRILL. Will the Senator be kind enough to tell us what he understands by the abuse?

Mr. SUMNER. I understand the abuse to be the illicit purchase of cotton in places where it should not be purchased and in ways that it should not be purchased. I am much obliged to the Senator for asking me the question. I think that all we need removed now is what I have called the abuse; and that the careful Treasury regulations—

Mr. GRIMES. How would the Senator have it purchased?

Mr. SUMNER. I would have it purchased within our own military lines.

Mr. GRIMES. I will inquire of the Senator if there is any law or regulation that now prevents any one from buying cotton or anything else within our own military lines? The very purpose of the bill which is sought to be repealed is to enable parties to go within the rebel lines in order to get out cotton; and it is to that that General Canby, in command of the department of the Mississippi, particularly objects, and says that information will be carried by these Treasury agents and Treasury contractors to the rebels, so that an army of fifty thousand additional men will be required in order to support ourselves in his department alone.

Mr. SUMNER. Very well; there is no such power accorded under this section; there is no power given to trade within the rebel lines; and I submit that this whole matter may be regulated by the discretion of the Secretary of the Treasury. Leave it to him, especially after the recent criticisms, after the attention that has been drawn to the subject by this debate; and I doubt not that he will impose upon the trade restrictions which will satisfy even the jealous Senator from Iowa. At any rate, I insist that the Senate should not take a step which will (to use a familiar illustration) kill the goose that lays our golden egg. We must not give up the idea of having cotton. We must have it. It is needed not merely to the business of the country, but to its foreign exchanges, its finances, its national credit.

Mr. WADE. At this period of the session I do not propose to enter into an elaborate argument on this question; but I have paid some considerable attention to it in the progress of the session, and have conversed a good deal with military men who were engaged upon our borders in regard to it, and ascertained from them the demoralizing influence this trade in cotton has had among all classes of people along our lines. It is an endeavor to do that which was never attempted in any other country, or at any other time; and that is to carry out the idea that you may fight an enemy and trade with him at the same time. It is a paradox, a solecism, a thing that never entered the brains of any other people in the world.

The Senator from Massachusetts says you must have cotton; at all hazards you must have cotton. As the old miser said to his son, "Get it honestly if you can," but at all hazards get cotton. [Laughter.] Sir, I do not admit that cot-

ton is the supreme motive for which men live or die. I know that cotton at the present time is a very valuable commodity; I know that it commands a great price in gold in the markets of the world; but, sir, there is one thing worth infinitely more than gold or silver, and that is the honor of a nation and the honesty of mankind. "Beware of temptation," is a mandate of more than human wisdom. Do not be lured to place these temptations before mankind and before the officers of your Government, by the idea that if cotton is not obtained in this way it will require gold to purchase it. I would rather the nation would sink into poverty, retaining its honor, retaining the manliness and honor of its people, than to see it grow rich amid such temptations as you are holding out.

The Senator from Massachusetts tells us that the bill of the House goes too far; that the trade is all well enough provided you can divest it of all matter of abuse; and he wants to strike at the abuse. Anything is right if you can so arrange it that it shall be destitute of any abuse. I do not care what it is, if you can divest it of the element of evil that is mixed up with it, I shall have no objection to it. But, sir, the idea is erroneous in this case. You cannot so arrange this matter that it will not be a standing abuse all the time. It has been the most corrupting influence that ever entered as an element into this corrupt Government.

What do you propose to do? To authorize somebody to give permission *ad libitum* to agents to go forth and buy cotton and speculate in that valuable commodity without any restriction or restraint to deprive them of the ability of abusing that power to any extent. What has been the result of it? Why, sir, no investigation has yet fathomed that sink of iniquity, that sewer of corruption, that has been laid open here by the Government. I dare not trust myself to speak upon this subject as I feel. It would have influences in some quarters which for the present restrain me from speaking out. It is corrupting everybody that has come within the circle of its influence. What more corrupting can there be than to authorize any man to give permits and licenses to go forth into the southern country and trade in this most valuable commodity? Sir, since Warren Hastings took the governorship of India there has been no such gigantic corruption as has been practiced under this Government; no opportunities for that meet of corruption that has been developed by the latitudinous manner with which men unauthorized by law have perverted law for the purpose of building up their own wealth.

What accountability is there in any of your officers down in that country? Is there any? Why, sir, give me authority to sell these licenses to purchase cotton in the southern States, and I will warrant you that I can put in my own pocket millions upon millions, and any investigation that may be made will not make men the wiser for it. Will you tempt men in this way? Will you intrust men with a power like this? Will you deliberately, in the Senate of the United States, pass a law that is open to this gigantic abuse? Sir, I am opposed to it. If you will have trade you must make peace.

The Senator from Massachusetts says that this law does not authorize these agents to go within the rebel lines to purchase. If it does not, then your law is perfectly nugatory; because, as the Senator from Iowa suggested, there is no law to prevent any man within our own lines going forth and trading in any lawful employment whatever, among which is the purchase of cotton as well as of wheat or corn. This law was not framed with any such idea as that; but it is to permit men to go within the rebel lines and there purchase cotton from rebels, and the consideration paid for it will be the means of murdering your own men. Those who propose to authorize this trade propose to authorize a trade in the souls and bodies of men. When I went down the Mississippi river a year ago I was told by officers high in the Government, and who had every opportunity to know how this trade operated, that they had no doubt but what the enemy had received infinitely more advantage in warlike implements and the facilities to carry on the war against us by reason of this unlicensed trade than they had received from Nassau or from the illegitimate smuggling trade of all Europe, and yet you propose to open

the gates and to let in all this corruption to which I have alluded.

I agree with the Senator from Iowa on this subject. I say open this trade to everybody; let every man go in and trade with the rebels as much as he pleases, or else restrain everybody from going. The whole thing is invidious; it is wrong; it opens a flood-gate of corruption and of favoritism that I, as a Senator of the United States, will never countenance anywhere. Senators talk about having cotton, and say we must have it, and that it will sink the price of gold in the market. It may have that effect; but it sinks your honor faster than it sinks the premium on gold.

Early in this discussion the Senator from Vermont, [Mr. COLLAMER,] with that wisdom that characterizes almost everything he says, made a speech here that ought to have convinced all men of the impropriety of attempting to trade with the people with whom you are at war. I wish every Senator had heard and deliberated upon that able speech. If it is necessary, I wish he would repeat it. I say, sir, that every vote given to open this flood-gate of corruption will carry the implements of death and destruction into the hands of those who intend to wield them against our friends. I will never yield to it; and yet I fear even now, after the great conspirators have left this Hall, that cotton will still prove to be king; and the Senator from Massachusetts, who has fought against it up to this time, is lending his influence, unwittingly, to the idea that cotton is still to be king. I know he intends no such thing. I know that of all men on earth he is the first man that would discountenance corruption in any form; but if he votes for this law that authorizes anybody to give out these licenses to trade he votes for a law which he cannot prevent operating in corruption and in the means of arming the enemy against us.

Mr. SUMNER. The speech of my excellent friend was directed, as it seems to me, against what does not exist. He assumes that under this eighth section, which it is now proposed to repeal, there may be a trade within the lines of the enemy; and it was against that trade that he made his eloquent protest. Now, let me read the words of the first part of that section:

"That it shall be lawful for the Secretary of the Treasury, with the approval of the President, to authorize agents to purchase for the United States any products of States declared in insurrection, at such places as shall be designated by him."

The language, I admit, is broad; but of course it is to be interpreted with reference to that state of war in which we unhappily find ourselves. I have reason to believe that, at least for a time, at the Treasury it was interpreted, as I think it must be, to limit purchases to places within our own military possession. I did not understand that my friend made objection to such purchases. His eloquent speech inveighed against purchases within the lines of the enemy; and he said that I was lending myself to a corrupt practice, unwittingly he admitted. I thank him for that admission; but, sir, I lend myself to no corrupt practice. I join with that Senator in striking at corruption wherever it shows its head. I join with him in striking at abuse wherever it appears. He cannot go further than I will. Let him show, therefore, any abuse or any corruption in the purchase of cotton, and I will join him in all practical legislation to prevent its recurrence.

But the Senator goes too far. In seeking to remove an abuse, he unwittingly supports a measure, which, if adopted, will seriously injure the national credit and interfere with the national finances. Instead of trimming the tree and cutting off obnoxious branches, he would fell the tree to the ground. If the tree be one that we should cherish, then I am ready to cherish it. Meanwhile, I would unite with my excellent friend in removing from it all those branches which are not for the good of the country.

Mr. WADE. I want to ask the Senator this question: whether he is willing to restrict this trade to trade with loyal men within our own lines? If he is, I have no objection to it.

Mr. SUMNER. I thank the Senator for putting the question. I have an amendment which I propose to move, to strike out all after the word "hereby" in the ninth line, and to insert as follows:

Amended by inserting the following proviso, to wit:



"Provided, That no purchase or other operation by any of the agents aforesaid shall be made except within the lines of our military forces."

Mr. GRIMES. I will inquire of the Senator what advantage that will be? Let me state a case that is on record here in the Senate, and about which there can be no controversy. It is not more than four weeks ago that a vessel came out of one of the North Carolina rivers in the sound, loaded with articles that were contraband of war, cotton, turpentine, and rosin. She went back loaded with provisions and clothing; and the moment she reached the line that divided the two armies, rebel soldiers in rebel uniform were put on board of her, and protected and carried her back up into North Carolina whence she had come. There is not anything to prevent anybody coming within our lines, bringing in their cotton, taking back supplies, and taking back what is of more advantage to the rebels and more injury to us—information as to the movements of our troops. It is to that that the military officers object.

Then what is the advantage of the Senator's proposition? How is that going to accomplish anything? Nobody denies the propriety or the legality of trade within our lines; but how are you to get the produce of the rebels within our lines unless you allow them to come in? If they come in, are they not going to take something in exchange for what they bring with them? Will they not carry out information from our lines into their own? How can our military commanders support and protect their forces and achieve their successes if you are going to allow men to go through from our lines and from their commands into the rebel lines and communicate all the information that they can obtain within our lines? It is to that that General Canby objects; and it was for that reason that he said he required fifty thousand more men—some of them sons of Massachusetts—to help to protect our own forces and our own positions. The very result of such a proposition as is contained in this eighth section is to require military forces to be drawn from all the free States in order to protect the positions we now occupy. It is for that, among other reasons, that I object to it.

Mr. SUMNER. Mr. President, this war is conducted at great cost and at great sacrifice of life. At every stage there are hardships and difficulties. The Senator from Iowa discloses some of the difficulties. I am not insensible to them; but the practical question is, whether on account of those difficulties we shall take a step which will seriously embarrass the business, the finances, and the credit of this country. I put the question in that form.

Mr. GRIMES. The only difference between the Senator from Massachusetts and myself then is, that he is in favor of saving the dollars and I am in favor of saving human blood.

Mr. SUMNER. I do not yield to the Senator on that score; and when the Senator states his argument in that form, permit me to say it is merely a form of speech and not an argument. The Senator knows perfectly well that I am not less sensible than himself on that point. I do not think that either side will gain by undertaking to state the case in that form. The Senator is anxious for human life; but he is not more anxious than his associates and peers on this floor; not more anxious than I am. In the discharge of his public duties he feels that it is politic to cut off and to exterminate this trade. I feel that it is not politic to cut it off and to exterminate it. I think that a true policy, with a thoughtful regard to all the interests of our country and to the establishment of its finances and its credit, requires that the trade should not be absolutely cut off and exterminated. Follow out that idea then, and apply the remedy to the grievance or the abuse so far as you can; but do not, in your ardor to strike at the grievance and the abuse, go still further and damage seriously the important interests of your country.

Mr. COLLAMER. I took occasion at a period of the session when we were not hurried about business to bring forward this subject. I at that time spoke at length upon it. I have not heard any addition to the argument which I then made in any part of it; but, sir, I do not suppose that very many attended to what I said, and much less recollect it. Some gentlemen seem to con-

sider that there was some force in it. I do not propose to repeat it; but there are one or two aspects that I desire again to mention, which I expect will share the same fate with the rest of it, and be overlooked and forgotten.

There are two aspects in which we must look upon this subject, and in which we cannot avoid looking at it. Whenever men look at it in a financial or pecuniary point of view, as a matter of trade and money, they see it in one light, and it is not extraordinary that they should come to like conclusions. When you look at the subject in a military point of view, and see the effects and consequences of it in its bearing upon the great war we have in hand, then we come to very different conclusions. I have seen gentlemen who have occasionally talked with me about it, and who would present forcibly its mercantile aspects, and had been carried away with that view, who at the same time had the candor to acknowledge to me that when they looked at it in a military point of view it was utterly indefensible and could not be sustained.

It all resolves itself into the simple question, can you trade with a people and carry on war with that people? I repeat again—I said that before, and I have been honorably indorsed in it—it is a paradox and a solecism. I am fully aware of the importance of cotton, and of its being king, as it is said. It is said cotton is gold; and we all know that it was said of old that an ass laden with gold would pass through the gates of the strongest city. If you look at it simply in a money point of view, it is gold anywhere.

I know it was long claimed by our southern friends that even in this struggle it would turn out that cotton was king. They believed they could command the Powers of Europe on that ground. Well, sir, has it succeeded? What people on earth needed cotton more than England? What people on earth could be more tempted with the influence of a pecuniary point of view, and prosperity, through cotton, than the people of Great Britain? Have they not had the integrity as a nation to say, "We will not acknowledge the independence of that cotton-growing people; we will not identify ourselves with them; though cotton is so valuable to us, though our manufactories have suffered and gone down and suffered, we will contribute to their support; we will sustain our national integrity?" They have not been able to bribe Europe with cotton, even though it is gold. But here on this floor I hear it this day acknowledged that it is a thing we must have; and if it is that which we must have, and it cannot be had by making prize, it must be obtained by purchasing it; that is to say, though in disguised terms, cotton is king; we will bow down to it and adore it. I said before, in the very commencement of this war, that I expected it would turn out that cotton would be king, and that that would be acknowledged here. Though it has been spoken of heretofore with derision, it is not to-day.

Mr. President, I know you can make money by trading with the enemy. I am sensible of that. But the trouble is not with me what you get from the enemy; the trouble is what you carry to the enemy. It is that you are to obtain this very valuable product from them by paying them for it. That is to furnish them with the sinews of war. It was said of old that they sowed dragons' teeth and they sprung up men; and I say to you, if you sow gold it will spring up men against you in time of war better than dragons' teeth. You furnish to these people an equivalent, a *quid pro quo*, and pay for it. I do not say that the honorable Senator [Mr. Wilson] proposes to do that. He proposes to take the cotton and give them a certificate to pay for it in time of peace hereafter. That is entirely another affair. That is not the section proposed to be repealed. The section proposed to be repealed would pay them, and pay them for it now. That is what I object to. That is what I want repealed. It is utterly impossible to carry that section into effect and carry on war. General Canby tells you so. The true account of it, as stated by the honorable Senator from Iowa, is the very one that General Canby gives.

Senators talk about buying it within our lines. There is none there. We do not have any of it within our lines. We do not permit any of it to be within our lines, unless we make a direct capture of a city before they have time to burn it.

Then how are you to get it within your lines? By allowing the people who have it round about within the enemy's lines to bring it in; and all the regulations under that section are made to give passes to them to bring it in. What do they carry out? Money. I believe they are allowed to carry out one fourth in provisions for their families. What else do they carry out along with them? Information of all the movements of your armies, and all the plans you project for carrying on movements against them, is carried out into the enemy's country; and General Canby tells you he cannot carry on military operations under the operation of this section; the thing is impracticable. That is nothing but the proper solution of the true idea on this subject, that you cannot fight an enemy and trade with him.

As you cannot carry on both, what will you do? I do not know but the best way is to withdraw all your Army, and enlist a large force of Yankee peddlers, pretty largely from Connecticut, if you please, Rhode Island, and Massachusetts, and even from Vermont, to go down there and trade them all out; clean them out in trade. [Laughter.] I would not object so much to that; and I am not sure but it could be done. I very much doubt whether we could not have bought them all out for less money than it will take to pay for this war. [Laughter.] But while you are undertaking to fight them out, and carrying on war, I object to your furnishing them with the means, by way of trade, to carry on that war with you and against you. It is all folly, it is all delusion, to attempt to do such a thing. It arises entirely from looking at the subject in a pecuniary point of view. If that is the only way in which you will look at it, keep up your trade, but do not keep up the mockery of military operations under a policy of that kind.

The VICE PRESIDENT. The Chair will receive a message from the House of Representatives.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the following enrolled bills and joint resolutions, which thereupon received the signature of the Vice President:

A bill (S. No. 70) to enable the accounting officers of the Treasury to settle the claim of the State of Kansas;

A bill (S. No. 311) for the relief of W. H. & C. S. Duncan;

A bill (S. No. 318) authorizing the Secretary of the Treasury to lease and sell certain property of the United States situated at Bath, in the State of Maine;

A bill (S. No. 338) for the relief of Charles A. Pitcher;

A bill (S. No. 370) to amend an act entitled "An act to provide for the better organization of Indian affairs in California;"

A bill (S. No. 387) amendatory of an act to amend an act entitled "An act to promote the progress of the useful arts," approved March 3, 1863;

A bill (S. No. 389) relating to clerkships in the Post Office Department;

A bill (S. No. 412) for the relief of Benjamin Vreeland, surgeon in the Navy of the United States;

A bill (S. No. 450) for the relief of Samuel L. Gerould;

A bill (S. No. 451) to incorporate the Colored Union Benevolent Association;

A bill (S. No. 452) to incorporate the Capitol Hotel Company, in Washington, District of Columbia;

A bill (S. No. 463) to amend an act entitled "An act to amend an 'Act making a grant of alternate sections of public lands in the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes;'"

A bill (S. No. 476) to provide for a chief of staff to the Lieutenant General commanding the armies of the United States;

A bill (S. No. 478) in relation to the Naval Observatory;

A bill (S. No. 479) to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States;

A bill (H. R. No. 707) to provide for the pub-

lication of the Opinions of the Attorneys General of the United States;

A bill (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge;

A joint resolution (S. R. No. 41) for the relief of Garrett R. Barry, a paymaster in the United States Navy;

A joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the quartermasters' depots of the United States, and in the possession of naval storekeepers of the United States;

A joint resolution (S. R. No. 111) to encourage the employment of disabled and discharged soldiers;

A joint resolution (S. R. No. 122) relating to the international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865;

A joint resolution (S. R. No. 123) to extend the time for constructing the Burlington and Missouri River railroad, in Iowa, and filing a map of relocation;

A joint resolution (S. R. No. 125) transferring maps and other documents relating to the surveys of the Pacific railroad to the Department of the Interior; and

A joint resolution (S. R. No. 128) authorizing the acceptance of a sword of honor from the Government of Great Britain by Captain Henry S. Stollwagen of the United States Navy.

#### SUBSISTENCE DEPARTMENT.

Mr. WILSON. I ask the unanimous consent of the Senate to take up the bill from the House of Representatives in regard to the subsistence department. They have disagreed to our amendments, and I propose to insist upon them and let them go back to the House.

There being no objection, the Senate proceeded to consider its amendments to the bill of the House (H. R. No. 600) for the better organization of the subsistence department, disagreed to by the House of Representatives.

Mr. WILSON. I move that the Senate insist upon its amendments. I do not want a committee of conference. I want to stand by our amendments, and let the bill go back to the House of Representatives, and let them take the responsibility of receding from their disagreement to our amendments or defeating the bill.

The motion was agreed to.

#### TRADE WITH INSURRECTIONARY STATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864.

Mr. POMEROY. The Senator from Massachusetts [Mr. SUMNER] moved to amend this bill by striking out the proviso. I suppose it is in order to perfect or amend the proviso before the motion to strike out prevails. I desire to offer an amendment to that proviso that the Senator from Massachusetts proposes to strike out.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The Chair did not understand the Senator from Massachusetts to make that motion.

Mr. SUMNER. I simply gave notice that I should make it.

The PRESIDING OFFICER. The Chair so understood it.

Mr. POMEROY. Then I move the following amendment, to come in at the end of the proviso to the bill:

Nor shall such repeal prevent the bringing out for delivery of such products as may have been actually purchased under permits or licenses heretofore granted.

This discussion has been confined to the simple article of cotton. I do not know anything about this trade personally, for I never had anything to do with these persons; but I understand that parties have bought rosin, turpentine, and tobacco, and paid for it, and if this amendment should prevail and the bill be passed, they will have an opportunity to obtain what they have actually paid for. They cannot make any new contracts under it, but it will allow them to deliver what has actually been purchased under licenses already

granted. I am informed, I know nothing about it myself, that such has been the practice. I think if the bill is to pass it ought to have this amendment on it. I do not care whether it passes or not.

Mr. COLLAMER. The eighth section, which it is now proposed to repeal, never authorized anybody on earth to get permits to go into the rebel lines and make purchases. It only authorizes agents of the Government to purchase for the Government.

Mr. POMEROY. The Senator must beware that permits have been granted, whether right or wrong.

Mr. COLLAMER. The permits were granted totally without authority. That is the very abuse we want to get rid of.

Mr. POMEROY. The parties have committed this Government to it.

Mr. COLLAMER. We know what those parties were after. We know what the speculations were. We know they started it all themselves. We know by reading that section, as any man of common sense must know, that these men were to buy as agents of the Government for the Government, not give permits to people to buy for themselves.

Mr. WADE. I wish to ask the Senator from Vermont whether his resolution calling for information on this subject has ever been responded to.

Mr. COLLAMER. Never to my knowledge. The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was rejected.

Mr. SUMNER. I now send to the Chair the amendment that I gave notice of a few moments ago: in line nine of the bill, after the word "hereby," to strike out the following words:

Repealed: *Provided, however,* That such repeal shall not affect any contract of sale provided for by the section of the act hereby repealed, where actual delivery of the products has been made.

And to insert in lieu thereof:

Amended by inserting the following proviso, to wit: "Provided, That no purchase or other operation by any of the agents aforesaid shall be made, except within the lines of our military forces."

Mr. MORRILL. The honorable Senator from Massachusetts probably does not intend to strike out that saving clause. However, I will ask him whether he does or does not. It is obvious enough that so far as a contract for the purchase of cotton has been consummated, it should be protected; that is to say, so far as cotton has been purchased and delivered according to the act. That is the discrimination upon which that proviso rests. If it is *in transitu* to New York for sale, that should be protected. Therefore, I suggest to him that his amendment should come in after the saving clause. This saving clause makes the distinction between the two classes of transactions which have already been explained; first, the *bona fide* transaction under the law, which is a purchase consummated of cotton actually delivered; and the other is a speculative transaction, which is the abuse complained of, that grows up under permits, where a single individual promises to deliver one hundred and fifty thousand bales of cotton, and does not own a pound, and is authorized to go within the rebel lines to see what he can scare up. I suggest, therefore, to the Senator from Massachusetts whether he will not have his amendment come in after that saving clause.

Mr. SUMNER. Then that allows the repeal of the eighth section, which I wish to avoid.

Mr. MORRILL. No, sir; the repeal of the section is provided for before that.

Mr. COLLAMER. I think the gentleman from Massachusetts has misapprehended the purport of the present bill. The present bill is to repeal that eighth section.

Mr. SUMNER. I understand that.

Mr. COLLAMER. Now, if that eighth section is repealed, the proviso there that the agents shall only do so and so would be without operation; there would be no agents.

Mr. SUMNER. The Senator did not notice where my amendment comes in. I strike out the word "repealed" and insert "amended;" so that the bill will read as follows:

That the eighth section of the act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned prop-

erty, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, be, and the same is hereby amended by inserting the following proviso: "Provided, That no purchase or other operation by any of the agents aforesaid shall be made except within the lines of our military forces."

The effect of my amendment therefore is, instead of repealing the eighth section, simply to interpret it and to limit its operation to the lines of our own military forces. I believe in that I carry out the idea of my friend from Maine.

Mr. JOHNSON. That does not save the proviso in the section as it stands.

Mr. SUMNER. There is no occasion to save the proviso if the section is not repealed. I do not propose to repeal it. I propose simply to amend it and limit its operation, and the limit is in the nature of an interpretation of the existing section.

Mr. JOHNSON. To limit in the future?

Mr. SUMNER. I limit the operation to purchases made within the lines of our own military forces.

Mr. JOHNSON. Speaking of future operations?

Mr. SUMNER. Yes, sir; future operations.

Mr. CHANDLER. I hope that amendment will prevail. I believe it obviates all objection to the eighth section, and I think if that amendment prevails the bill may receive a unanimous vote.

Mr. SUMNER. I will say that I believe my amendment does strike at the abuse. It strikes at what my friend from Ohio seems to be aiming at; what I think my friend from Vermont seems to be aiming at also.

Mr. COLLAMER. The honorable Senator, I think, could not have listened to me, or the Senator from Iowa, or the Senator from Ohio. There never have been any of those agents anywhere but in our lines. The agent is in our lines, and he invites the people of the country around to bring in their cotton, and the permits are given to them to bring it in.

Mr. SUMNER. Then why should not the military authorities interfere? That is a military question.

Mr. COLLAMER. The military authorities are directed by the Department, in pursuance of the regulations, to aid and assist these people, and give them protection.

Mr. SUMNER. But they should not aid and assist them against the Army.

Mr. COLLAMER. Well, sir, the Treasury Department, under certain regulations, send agents down into our lines to purchase cotton within certain districts, and to invite people having the command of cotton to bring it to them. The military authorities, under a general order of the War Department, are directed to furnish safe-conducts to these people to go out and bring it in, in order to carry into effect the purchase. That is the very way in which it is done.

Mr. SUMNER. All that, it strikes me, is a military question, to be determined by the military authorities on the spot.

Mr. COLLAMER. I can merely say that that very operation is the very one that General Canby says defeats utterly all military operations.

Mr. WADE. This trade within the lines of the enemy would be a very unsafe one. I said a few moments since there was no law to prevent trade within our own lines. That is true; but then the evil that you cannot guard against is that these traders go on to the line, or as near as may be to the line between the two armies, and induce the enemy to come in and trade, and they bring their cotton, and the trader takes contraband articles of war to them, and thus enables them to keep up the war. Thousands of our men have fallen victims to this trade, as is proven by all the military officers with whom I have conversed along the line. You cannot get cotton in any other way, and you cannot guard against this abuse. From the very nature of it, the Senator must see that it is impossible to guard against it. If you give a license to go down there and trade in this manner, the military authorities cannot guard against it. They have tried to guard against it. They have always been opposed to it. There is not a department commander but what saw clearly how his authority was stricken down by it, how corruption had entered into the ranks of the whole Army, and he set his face like brass against it. But how could he prevent it? There was no means to prevent this contraband trade being carried on by the authorized agent,

directed by the Executive here to aid and assist in the trade right by the lines of the enemy. It is idle, nugatory, and vain to talk about regulating a trade of this kind. It cannot be done; and that is the evil. You must stop this trade with the enemy, or you must submit to this abuse.

**THE PRESIDING OFFICER.** The question is on the amendment of the Senator from Massachusetts.

**Mr. SUMNER.** Let us have the yeas and nays upon it.

The yeas and nays were ordered.

**Mr. FARWELL.** I merely wish to say that the opinion of the military authorities on this subject is conclusive upon me. The Senator from Ohio, the chairman of the committee on the conduct of the war, has been in constant communication with the officers of the Army who have seen this trade and its effects; and if they do not know whether it is wholesome or unwholesome who does know? Nobody doubts what the Senator heard from those officers; nobody doubts that he has got the opinion of the officers who have charge along the lines where this trade has been carried on. Can we set up our judgment against the judgment of these men on a question of this kind? Will this Senate set up their judgment against the judgment of these men? Why, sir, I think it would be preposterous if I should set up my judgment against the judgment of the men who know and who have told us what the effect of this trade is.

The question being taken by yeas and nays, resulted—yeas 17, nays 14; as follows:

**YEAS**—Messrs. Buckalew, Chandler, Dixon, Doolittle, Harris, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Nye, Pomeroy, Riddle, Sprague, Sumner, Trumbull, and Wright—17.

**NAYS**—Messrs. Brown, Collamer, Farwell, Foot, Foster, Grimes, Hale, Morrill, Nesmith, Ramsey, Stewart, Wade, Wiley, and Wilson—14.

**ABSENT**—Messrs. Anthony, Carlile, Clark, Conness, Cowan, Davis, Harding, Harlan, Henderson, Howard, Howe, McDougall, Powell, Richardson, Saulsbury, Sherman, Ten Eyck, Van Winkle, and Wilkinson—19.

So the amendment was disagreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 179) for the relief of loyal citizens of Loudoun county, Virginia, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, which thereupon received the signature of the Vice President:

A bill (H. R. No. 454) granting a pension to Thomas Bootle;

A bill (H. R. No. 567) granting a pension to Elizabeth B. Leppien;

A bill (H. R. No. 605) to increase the pay of midshipmen and others;

A bill (H. R. No. 745) granting lands to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Kewenaw Point, Lake Superior; and

A bill (H. R. No. 780) to extend the provisions of the first section of "An act for the government of persons in certain fisheries," approved June 19, 1813.

#### TRADE WITH INSURRECTIONARY STATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864.

**Mr. HOWE.** I will ask the unanimous consent to take up the bill which has just been sent to us by the House. It is one that will excite no debate, and will excite the sympathy of every Senator I am sure.

**Mr. GRIMES.** What is it?

**Mr. HOWE.** It is a resolution to restore to the people of Loudoun county the money that was the proceeds of their cattle taken, driven off, and sold, and the money placed into the Treasury, when the valley of the Shenandoah was devastated by order of General Sheridan.

**THE PRESIDING OFFICER, (Mr. Foot.)** It can only be considered by unanimous consent.

**Mr. CHANDLER.** Let us take a vote on this subject first.

**Mr. GRIMES.** I think it had better lie on the table until we see what it is.

**THE PRESIDING OFFICER.** If no further amendment be offered, the bill before the Senate, which is House bill No. 805, will be reported to the Senate; and the question is on concurring in the amendments made as in Committee of the Whole.

**Mr. JOHNSON.** The vote which I gave on the amendment suggested by the member from Massachusetts was given under a misapprehension. I have been from the first in favor of the repeal of the eighth section. I voted affirmatively upon the adoption of that amendment. I merely rise now to say that if the bill is about to be put on its passage, I shall vote against the bill as amended.

**THE PRESIDING OFFICER.** The first question is on concurring in the amendments made as in Committee of the Whole; and the question will be taken on concurring in the amendments severally.

The first amendment made as in Committee of the Whole was to strike out the words:

"Repealed: *Provided, however,* That such repeal shall not affect any contract of sale provided for by the section of the act hereby repealed, where actual delivery of the products has been made," and to insert in lieu thereof, "amended by inserting the following proviso: *Provided,* That no purchase or other operation by any of the agents aforesaid shall be made except within the lines of our military forces."

**Mr. GRIMES** called for the yeas and nays, and they were ordered.

**Mr. SPRAGUE.** When I find myself in doubt in relation to what course should be pursued on any question of public policy, I am governed by the judgment of those who I believe understand the question and its workings better than I can be expected to do. The Secretary of the Treasury has given the Senate to understand that he favors the continuance of the eighth section of the act of July 2, 1864, which is about to be abolished if the Senate sustain this bill. The Secretary of the Treasury believes that the Treasury of the United States will receive a large income from the continuation of this section of the existing law, and it is but fair that the section should be continued in force, because neither the Senate nor the country has yet been able to understand its workings and to know whether its continuation will be productive of evil or good. The whole evils of the system have grown out of previous legislation or previous execution of the law, and there has been no attempt, in my opinion, to give this section a satisfactory trial.

The Senator from Massachusetts [Mr. Wilson] gave the Senate a practical illustration of the working of the embargo upon cotton and other commodities of the South, and when those commodities were relieved from that embargo he gave you the result; and it was that while cotton came freely to the loyal people gold was comparatively low, and the commodities made from cotton were correspondingly low in price; but when an embargo was put upon the outlet or the reception of cotton gold increased to double its former rate, and all goods made from southern commodities increased in the same ratio. The operation of this section of the law is simply that since the Secretary of the Treasury has been able to secure this commodity to the country goods made from cotton have depreciated in price one half the amount they previously were before the thorough working of the system.

If the war was to end in a given time, limited in its extent, it might be that Congress should prohibit this trade; but the immense effort which is still necessary to continue the war and to subdue this rebellion requires that the finances of the country should remain strong, that the people should receive the commodities necessary for their subsistence and comfort as cheaply as possible. Whether or not the placing of this embargo upon southern commodities and preventing their being received into the trade of the world has been, or may be, of any advantage to the South I cannot say. I imagine, however, that everything which is prohibited from coming out will be increased in price, and the southern people

will be like a certain minister who said he always preached stronger and better if his pocket was moderately supplied with funds, even if on Monday he was obliged to pay for the loan of the funds to give him that strength; and I believe that if an embargo is placed upon the commodities of the South it raises the price and it increases their strength to contend with us, because what little they are able to bring out commands such an enhanced price that they believe themselves to be rich whether they are or not.

I am opposed to granting private permits, and the trade of the country is opposed to permits of that character. The information which I receive from those engaged in business is that something be done to prevent the sale of permits in the commercial cities of the country. It is not for me here to suggest a proper remedy for the disgrace attending the execution of this law. I am not able nor am I prepared to make those suggestions; but being guided by the experience of the past I feel that if you pass this bill gold will increase in price and all the commodities used by the masses, by the poor of the country, will be at double their present rates, and your finances will be affected correspondingly.

Governing myself by these ideas, believing that the judgment of those having the matter in hand is better than mine, believing that the continuance of this system will not produce the disagreeable results which are suggested by those who are opposed to it, I shall give my assent to its continuance. I shall do so because I am unprepared to take the position that the war is over. I believe that it is necessary for Congress and the Executive to-day to use as much effort to surmount the terrible curse of this rebellion as has been found necessary for the past four years. I believe it is necessary to strengthen the currency, the trade, the industry of the country, in order to meet the demands which the laws you have recently passed require of them.

As one of the members of the Committee on Commerce, I favored the repeal of all privileges to trade with the people in the southern States, but on reflection I think it wiser to allow the law to stand as it is. I believe there have been corrupt practices on the part of persons in the Army and Navy, and civilians, to the detriment of the cause in which we are engaged. I think this whole matter should be concentrated in the hands of the Government. Let the Army, when it captures any of this property, turn it over to the Treasury, and let the Treasury dispose of the cotton and tobacco. Order to their homes all persons who obstruct the operations of the Government by bribes or otherwise. In that way I think considerable benefit would be derived from the operation of this law. Sufficient time has not elapsed to enable the Senate or the people of the country to judge whether it is of advantage or whether it is of disadvantage; and I trust the Senate will allow time enough to determine whether the complaint arises from the evils of the past or the evils of the present. I shall vote against the repeal, believing that thereby I act for the best interest of the country, and that I strike a deadlier blow against the rebellion than I should otherwise do. I shall so vote because those who are more familiar with the whole subject than I am desire the continuance of the section.

The question being taken by yeas and nays, resulted—yeas 15, nays 20; as follows:

**YEAS**—Messrs. Anthony, Buckalew, Chandler, Dixon, Doolittle, Harris, Hendricks, Lane of Indiana, Lane of Kansas, Nye, Pomeroy, Ramsey, Sprague, Sumner, and Wright—15.

**NAYS**—Messrs. Brown, Collamer, Conness, Davis, Farwell, Foot, Foster, Grimes, Hale, Howard, Johnson, Morgan, Morrill, Nesmith, Powell, Riddle, Stewart, Trumbull, Wade, and Wilson—20.

**ABSENT**—Messrs. Carlile, Clark, Cowan, Harding, Harlan, Henderson, Howe, McDougall, Richardson, Saulsbury, Sherman, Ten Eyck, Van Winkle, Wilkinson, and Wiley—15.

So the amendment was non-concurred in.

The next amendment made as in Committee of the Whole was to insert as a new section:

*And be it further enacted,* That all cotton seized by the military or naval authorities, or surrendered to said authorities, shall be delivered to the officers of the Treasury, and vouchers shall be given to the owner of such cotton entitling such owner or claimant personally to receive payment for such cotton at the end of the war, less taxes and expenses, in bonds of the United States bearing six per cent. interest, redeemable in twenty years.

The amendment was concurred in.



**Mr. COLLAMER.** I move to add to the bill words "to the agent of the Government;" so as to make the proviso read:

*Provided, however,* That such repeal shall not affect any contract of sale provided for by the section of the act hereby repealed, where actual delivery of the products has been made to the agent of the Government.

The amendment was agreed to.

**Mr. WILSON.** I move to amend the bill by adding the following additional section:

*And be it further enacted,* That if any person or persons shall pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell any note, token, device, scrip, bond, or other evidence of debt of the so-called confederate States, or any one of them, issued since the 1st day of January, 1861, he or they shall be deemed and adjudged guilty of a felony, and shall on conviction thereof be punished by fine not exceeding \$5,000, and by imprisonment and confinement at hard labor, not exceeding ten years, at the discretion of the court, according to the aggravation of the offense.

The amendment was agreed to.

**Mr. DAVIS.** I move this amendment as an additional section:

*And be it further enacted,* That the President be and is hereby authorized to declare free and unrestricted trade between the loyal States and the States in rebellion or any portion of the rebel States from time to time as he may deem expedient.

The amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed. Its title was amended by the addition of the words "and for other purposes."

#### EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in compliance with the requirements of the eighteenth section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856; which was ordered to lie on the table and be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, an abstract of certain contracts made by the quartermaster's department; which was ordered to lie on the table and be printed.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 179) for the relief of loyal citizens of Loudoun county, Virginia, was read twice by its title, and referred to the Committee on Claims.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes, or as volunteers in the Treasury [Army] or Navy, and to prevent frauds in the District jail in the city of Washington.

The message further announced that the House had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. J. A. GRISWOLD of New York, and Mr. S. S. COX of Ohio, managers at the same on its part.

The message also announced that the House had passed the bill (S. No. 171) further to amend an act entitled "An act to facilitate the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, which thereupon received the signature of the Vice President:

A bill (S. No. 468) supplemental to an act to amend the several acts respecting copyright, approved February 3, 1831, and the acts in addition thereto and amendment thereof; and

A bill (H. R. No. 739) to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States.

#### EXECUTIVE SESSION.

On motion of Mr. WADE, at four o'clock, the Senate proceeded to the consideration of executive business, and remained in executive session till half past four o'clock, when a recess was taken till seven o'clock, p. m.

#### EVENING SESSION.

The Senate resumed its session at seven o'clock, p. m.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes or as volunteers in the Treasury [Army] or Navy, and to prevent frauds in the District jail in the city of Washington, was read twice by its title, and referred to the Committee on the District of Columbia.

#### THE TARIFF BILL.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations, disagreed to by the House of Representatives; and

On motion of Mr. CLARK, it was

*Resolved,* That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered,* That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Messrs. CLARK, FARWELL, and HENDRICKS.

#### DIRECT TAXES IN INSURRECTIONARY DISTRICTS.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 171) to further amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

Mr. HARRIS. The bill was passed by the Senate at the last session, and the House of Representatives has now passed it with amendments. I desire to have the amendments concurred in; I do not know whether it would be proper to do so before they are read. I have examined the amendments, and am instructed by the Committee of the Judiciary to ask that they be concurred in.

The VICE PRESIDENT. The amendments will be read.

The Secretary read the amendments, which were, after the word "commissioners" in line three of page 5 to insert "after the moneys received by them on the sale of such lands have been paid into the Treasury;" and to add to the bill the following sections:

Sec. — *And be it further enacted,* That section seven of the act entitled "An act to amend an act entitled 'An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes,'" be amended by striking therefrom the following words, that is to say, "or request the same to be struck off to a purchaser for a less sum than two thirds of the assessed value of said lots or parcels of ground."

Sec. — *And be it further enacted,* That in case application is made to pay tax on a part of any tract or tracts, lot or lots of land embraced in one valuation, it shall be competent for the commissioners, whether the valuation shall have been made by them or the State authorities, to apportion such valuation and tax in such manner as they may deem just and reasonable, and the tax so apportioned and fixed shall be a lien upon the different parts or parcels, the same as if each had been thus originally valued and assessed.

Sec. — *And be it further enacted,* That each tax commissioner is hereby authorized and empowered to administer oaths or affirmations in all cases where the same may be required under this act, and any person who shall willfully take a false oath or affirmation in any such case shall, upon conviction thereof, be liable to the punishment and penalties provided by the laws of the United States for the crime of perjury, and shall moreover forfeit the sum of \$500.

Sec. — *And be it further enacted,* That purchasers at any sale, persons redeeming or in whose behalf writs of possession may be issued, shall pay to the board of tax commissioners for their use the sum of two dollars for each certificate of sale, certificate of redemption, or writ, delivered, provided that the fees thus received, together with the salary of the commissioners for any district, shall not exceed the sum of \$4,000 to each of said commissioners, and that any excess that may be received over that amount shall be applied in payment of clerks or other persons employed by said commissioners in pursuance of this act, so far as may be necessary, and the balance, if any, paid as the proceeds of the sales of lands sold by them are required to be paid.

Sec. — *And be it further enacted,* That any board of tax commissioners may employ the requisite number of clerks,

surveyors, and assistants, who shall receive such compensation as the Secretary of the Treasury may prescribe; and that any clerk appointed by said board may be specially empowered by the said Secretary to receive and collect moneys due for direct taxes, and rents for lands leased, and to pay them over to the said board: *Provided, however,* That they first give security in such sum and with such conditions as the said Secretary may direct, with sureties to be approved by him; and each tax commissioner shall be held to have entered on the discharge of his duties when he shall have given approved security, taken the required oath, received his commission, and reported at the office of the Secretary of the Treasury for duty, unless the said Secretary shall in any particular case direct otherwise.

Sec. — *And be it further enacted,* That where lands or tenements have been, or shall hereafter be, sold under the provisions of the several acts of Congress relating to the sale of lands for direct taxes in insurrectionary districts, in tracts which, at the time of sale, were held by two or more freehold owners, in severally, any one of these owners, being otherwise entitled to redeem, shall be allowed to redeem for the piece or parcel of land held by him as a freehold owner, as aforesaid, on paying his proportionable part of the tax, penalty, costs, expenses, and interest—the said proportionable part to be ascertained by the said board of commissioners. And it shall be optional with the purchaser either to retain the residue of the tract purchased, after a redemption of a part, or to surrender his certificate of purchase to the commissioners, and receive back from them the amount of the purchase money paid, with interest; and in case he shall elect to retain the piece or parcel unredeemed, he shall surrender his certificate for the whole tract purchased, and the said board shall issue a new certificate for the piece or parcel of land retained.

Mr. HARRIS. I move that the Senate concur in the amendments.

The motion was agreed to.

F. W. LANDER.

On motion of Mr. WADE, the bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased, was considered as in Committee of the Whole. It provides for the payment to Mrs. Lander of \$4,750 for services rendered and expenses incurred by F. W. Lander in making a reconnaissance for a railroad from Puget sound to the Mississippi river in 1854.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### REPORTS FROM COMMITTEES.

Mr. HARRIS, from the Committee on the Judiciary, to whom were referred the following report, memorial, and petition, asked to be discharged from their further consideration; which was agreed to:

A report of the Attorney General, communicating information in relation to the property devised to the people of the United States by Captain Uriah P. Levy, late of the United States Navy;

A memorial of M. B. Duffield, United States marshal of the Territory of Arizona, praying for additional compensation; and

A petition of officers of the circuit and district courts of the United States for the southern district of New York, praying for an increase of their compensation.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 751) to provide for the settlement of private land claims in the Territory of Arizona, and for the survey thereof, asked to be discharged from its further consideration; which was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 107) to establish an additional judicial district in the State of New York, reported it without amendment.

Mr. HARRIS, from the Committee on Foreign Relations, to whom was referred the memorial of William Trevitt of Ohio, praying for compensation for consular services, asked to be discharged from its further consideration; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1866, reported it with amendments, and notified the Senate that he would call up the bill in a few minutes.

#### COURT OF CLAIMS.

Mr. HARRIS. I am instructed by the Committee on the Judiciary to report back the bill (S. No. 415) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands

for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, with an amendment; and as this is a matter which will excite no debate, I ask that the bill be put on its passage.

By unanimous consent, the bill was considered as in Committee of the Whole. The amendment of the Committee on the Judiciary was to strike out all after the enacting clause, and insert the following:

That the first section of the act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, shall not be so construed as in any way to affect the jurisdiction of the court in cases pending therein at the time of the passage of said act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### CIRCULATION OF NATIONAL BANKS.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," have instructed me to report it back without amendment and ask for its immediate consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to amend the twenty-first section of the national currency act so as to make it read as follows:

Sec. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the Treasurer as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per cent. of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per cent. of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per cent. per annum; and the amount of such circulating notes to be furnished to each association shall be in proportion to its paid-up capital, as follows, and no more: to each association whose capital shall not exceed \$500,000, ninety per cent. of such capital; to each association whose capital exceeds \$500,000, but does not exceed \$1,000,000, eighty per cent. of such capital; to each association whose capital exceeds \$1,000,000, but does not exceed \$3,000,000, seventy-five per cent. of such capital; to each association whose capital exceeds \$3,000,000, sixty per cent. of such capital. And that \$150,000,000 of the entire amount of circulating notes authorized to be issued, shall be apportioned to associations in the States and District of Columbia and in the Territories according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, the District of Columbia, and the Territories, having due regard to existing banking capital, resources, and business of such States, District, and Territories.

The second section of the bill proposes to authorize, under the direction of the Secretary of the Treasury, the employment of one chief of the division of currency, one chief of the division of organization of banks, one chief of the division of general correspondence and statistics, and one chief of the division of redemption, with an annual salary of \$2,200 each, and to make the salary of the Deputy Comptroller \$3,000.

Mr. SHERMAN. I will explain to the Senate this bill, which only came to us to-day and is reported back at once, simply because I think the first section is very important. The second section classifies the employes of the Currency Bureau and increases their salaries. If the Senate is at all discontented with the increase of salary, I am perfectly willing to strike out the second section. The Committee on Finance were willing to do it. The first section is important in this respect: it is restrictive of the currency bill; it limits the circulation of the banks of large capital less than the amount now limited by law. The second limitation requires the circulation to be apportioned among the States, one half according to population and the other half according to banking resources. In this respect it is a copy of the provision in the original banking law, which was left out when the banking law was revised at the last session. I think the first section of great importance, and I hope, therefore, the Senate will act upon it promptly. The second section I am indifferent about. If any Sen-

ator desires to have it stricken out I have no objection.

The bill was reported to the Senate without amendment.

Mr. COWAN. I move that the bill be amended by striking out the second section.

Mr. HOWE. I hope that amendment will not prevail. In the first place I do not believe that the organization recommended there is prejudicial to the public service; I believe, on the contrary, it will prove highly beneficial; but the Senate may differ upon that point; and there is another reason why I would not vote to strike it out even if I thought it was not exactly judicious to raise these salaries at this time: it will necessitate sending the bill back to the House of Representatives. It is very important that we save the first section, and I hope the Senate will pass the bill as it comes to us from the House.

The VICE PRESIDENT. The question is on the amendment of the Senator from Pennsylvania.

The amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

Mr. GRIMES. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. HENDRICKS. I desire to say that I vote against this bill simply because it is impossible to know what it is. It is brought here at a time of the session when we cannot know its full effect upon existing laws.

Mr. GRIMES. I desire to say substantially that the reason why I vote against the bill is that assigned by the Senator from Indiana. If it was necessary that the laws in regard to the national banks should be changed, it seems to me there is no apology for the Bureau of Currency not having sent the bill to the Committee of Ways and Means or the Committee on Finance earlier than the last hours of the session. I may be rather mentally obtuse, but I confess that I am yet unable to comprehend how the first section of this bill, which the Senator from Ohio deems to be of so much consequence, changes the law as it stands, from the casual reading that has been had. It has only been read here once, and has not been printed either in this body or in the other House, I believe.

In the next place, I am unwilling to vote for the second section, which lays the foundation for increasing the salaries paid to all the clerks in Washington, for I cannot conceive any reason why we should pay larger salaries to the clerks in the Bureau of Currency than to those in the Bureau of the Treasurer of the United States. They certainly handle as much money in the one case as in the other, and they are required to be as skillful and competent accountants in the one bureau as in the other, and I do not know why there is not the same responsibility, and why there ought not to be the same compensation in the one case as in the other.

Mr. SHERMAN. I am disposed to agree with the Senator from Iowa about the second section; but there was no division called for on it. There are but four clerks in the Currency Bureau whose salaries will be raised by this section, and the increase will be only \$200 a year.

Mr. COLLAMER. That will be a foundation for every other case.

Mr. SHERMAN. As I said in the opening, I was perfectly willing to strike out the second section, but no one thought it of sufficient importance to call for a division. The first section does make an important change in the law, which ought to have been introduced at an earlier day; but that is not our fault. The House of Representatives did not send us the bill before, and it was one of that class of bills which we could not very well introduce here. I think it ought to be passed. It limits the circulation of the large banks. Under the present law a bank with a large capital can get ninety per cent. of its capital stock in circulating notes. By this bill it can only get from seventy to eighty per cent.

Another and still more important reason is that the banking system has gone on so rapidly that in Massachusetts her full share, according to a fair apportionment, has been reached, and so it is probably in one or two other States. The State of Ohio has a good deal of banking capital

under this law. It is important now, before the limit is reached, that the capital should be fairly apportioned among the States. I think it necessary, therefore, to pass the bill at this session rather than at the next. In order to avoid all controversy about the bill I move to reconsider the vote by which the Senate refused to strike out the second section.

The VICE PRESIDENT. It will first be necessary to reconsider the vote ordering the bill to a third reading.

Mr. SHERMAN. I make that motion.

The motion was agreed to.

Mr. SHERMAN. I now move to reconsider the vote by which the Senate refused to strike out the second section of the bill.

The motion was agreed to; and the question recurred on the amendment proposing to strike out the second section.

Mr. HOWE. I simply want to say that I do not believe there is a bank in the United States hiring that kind of service for the salaries we are paying, and I feel that the Government of the United States can pay as much as banks.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time; and the question upon its passage being taken by yeas and nays, resulted—yeas 28, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Clark, Collamer, Conness, Dixon, Doolittle, Foot, Foster, Harlan, Harris, Henderson, Howe, Johnson, Lane of Kansas, Morgan, Nesmith, Nye, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Ten Eyck, Trumbull, Van Winkle, and Willey—28.

NAYS—Messrs. Cowan, Davis, Grimes, Hale, Howard, Powell, Riddle, Wade, and Wilson—9.

ABSENT—Messrs. Carlile, Chandler, Farwell, Harding, Hendricks, Lane of Indiana, McDougal, Morrill, Richardson, Saulsbury, Stewart, Wilkinson, and Wright—13.

So the bill was passed.

#### OFFICERS' SERVANTS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, with an amendment, in which it requested the concurrence of the Senate. On motion of Mr. WILSON, the action of the House of Representatives was referred to the Committee on Military Affairs and the Militia.

#### INDIAN APPROPRIATION BILL.

Mr. DOOLITTLE, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th June, 1866, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

1. That the House agree to the first, second, third, fourth, fifth, eighth, ninth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth amendments of the Senate.
2. That the Senate recede from their tenth amendment.
3. That the House agree to the sixth amendment of the Senate with the following amendments: strike out the words "insurance and" where they first occur in said amendment, and add after the word "cents" wherever it occurs, the words "or so much thereof as shall be necessary."

To the seventh amendment of the Senate with the following amendment: strike out the words "this amount to supply a deficiency in."

To the seventeenth amendment of the Senate with the following amendments: insert in the eleventh line of said amendment after the word "Mississippi," the words "bands of Chippewas;" at the end of the thirteenth paragraph relating to the Chippewas, insert the words "or so much thereof as shall be necessary;" in the first line of the fifteenth paragraph strike out the words "eleven hundred;" in the fourth line of the same paragraph, after the word "at" insert the words "a rate not exceeding;" at the end of the same paragraph insert the words "or so much thereof as shall be necessary;" in the third line of the sixteenth paragraph after the word "at" insert the words "a rate not exceeding;" and at the end of the same paragraph add the words "or so much thereof as shall be necessary;" in the third, fourth, and fifth lines of the seventeenth paragraph strike out the following words: "being four hundred and





best qualities of cigars. I do not just now think of anything more palpably unjust unless it be the practice of the highwayman. I cannot vote for a bill with that in it.

The Senator says it is late; there is work to be done to enroll this bill. That is so. I think another committee of conference might agree, and might report in the course of two hours, and a delay of two hours is not fatal to the passage of the bill if there are Senators who think it important to pass the bill. For myself I think it important to defeat the bill as it stands; but I do not ask a second committee of conference for this purpose.

The Senator has remarked upon a somewhat singular fact. He says that a majority of the conferees on the part of the Senate were opposed to the tax on sales. If that is so, I think at least the Senate owes it to its own judgment to try a conference with a majority who are in favor of it and see what they can do. It seems to me they do not make a proper effort to save the results of their own judgment until they have done that.

Mr. COWAN. I think, sir, one of the strangest spectacles that could be presented anywhere is that of Senators in the year of our Lord 1865 rising in the Senate and insisting upon a general tax on sales, that which for centuries has been deemed the most disastrous, ruinous, and mischievous of all modes of taxation. Mr. President, I would just as soon vote that you should place a tax-gatherer at every cross-roads in the country, levying toll on every one who passed. Certainly there is something to be learned from the experience of the past. Apart from the reason of the thing, a sufficient objection is the mischievous nature of thrusting the tax-gatherer into the private transactions of every man and woman all over the country, requiring an inquisition into every sale, and what is worse, a tax upon every sale; and the more sales, the more the country prospers, the more active commerce is, the more you burden it. The man who purchases at first hands gets the article with the tax which we now levy, because we now levy a tax upon the first sale of every commodity almost, and the consumer, the further he is removed away from the producer, the further he is from the center of production, the more his burdens increase. In the West, where the honorable Senator from Wisconsin resides, it would not be possible that he could get an article there without having paid three or four taxes upon it, while those on the sea-board would get but one or two.

As to the tax upon cigars, the very fact stated by the honorable Senator from Wisconsin is that fact which lies in the way of levying a tax upon cigars in any other way than that adopted by the committee of conference. What has been the obstacle in the way of the Commissioner of Internal Revenue according to the present law? Simply the fact that cigars cost from two dollars or \$2 50 a thousand, up to \$100 a thousand. How are you to discriminate between commodities which exist with all shades of difference? No other scheme has been devised, and no other can be devised, except the one that is now embodied in this report of the committee of conference, I think, which will realize anything like a proper return from this tax on cigars. There is the fact staring us in the face; we cannot make it otherwise. There may be a great many things which would be fit and proper subjects of taxation, if you could catch them at the right point and apply your tax-collecting machinery to them, but to do it upon cigars is utterly impossible.

Then, again, there is quite a mistaken notion as to the amount of revenue that can be levied in this country off tobacco. Tobacco here is not a royal monopoly. It may be grown by everybody and it may be grown everywhere; and upon the smallest area, say twenty feet square, an amount of it can be grown sufficient to supply the wants of any family in the country; but if you force this enormous burden on it the consequence will be that each man will become a producer for himself, and you will get no revenue at all. You had better be contented with the circumstances as you find them, and levy that which you can levy and not lose the whole by grasping too much. I have no doubt the committee came to a rational conclusion on both these topics.

Mr. HOWE. I want to say two or three words

more to the Senate upon this question of a tax on sales. The Senator from Pennsylvania has told us again, what was told us repeatedly while the question was under discussion the other day, that the experience of the world had condemned this mode of taxation for two hundred years. I do not know how that is. American experience has not condemned it, for American experience never has tried it. I have been told that in Spain, Japan, Timbuctoo, and some other countries of that kind, the experiment had been tried and had not proved successful. I do not dispute the authenticity of the statement. I have simply to say that for myself I should not recommend our statesmen to go to Spain or Japan or Timbuctoo for a model of taxation. I ask that it may be tried here in America upon American trade and American business.

Again, it is objected to-night, as it was objected to repeatedly the other day, upon the ground that it set your tax-gatherers to prying into the private affairs of every family in the land; and it is objected to in the face of the fact that your law as it stands calls upon your tax-gatherer to enter into the private affairs of every man so far as to take the amount of his income, which requires the most perfect knowledge of any man's affairs that any account of his business could require. It requires you to count his forks if they are made of silver, to go into his carriage-house, to go into his factories, to ascertain what business he is about to engage in to know how much he ought to pay for his license. This is required by a law as it stands, and yet they say it is odious to put a tax-gatherer into your houses of merchandise, your stores, to look at the books of your tradesmen to see what their sales are. Sir, is it any more offensive to a tradesman to report the amount of his sales than it is to a manufacturer to report the amount of his products for a month? The suggestion does not become us.

It is said it will be a restriction upon trade, it will embarrass the exchange of commodities. Look at it. What is it? It is a proposition to levy half a dollar on the sale of every \$100 of merchandise. If a man sells \$100 worth of merchandise, he must pay half a dollar tax for doing so; and that, it is said, is going to embarrass trade. Do you think it so, that a man is going to be bothered to sell \$100 worth of goods by the fact that the law requires him to pay fifty cents tax? Mr. President, you cannot go into any two stores standing side by side on any street in any city of the United States and price \$100 worth of goods where the prices will come within fifty cents or twice fifty cents of each other. I think I should be abundantly justified in going further and saying that you cannot ask any one tradesman occupying any one store, two days in succession, to price a lot of goods when he would give the same price within a dollar, and yet it is said it is going to embarrass trade to impose this tax!

Then it is objected to-night as it was objected the other day that the further the goods go from the centers of business the more onerous the tax will become. That may be so. That peril falls upon the constituency I represent as much as upon any. But how do you raise your tax now? You require your manufacturer on the Atlantic, when he makes the first sale of his goods, to advance to the Government five per cent., or, as you now propose, six per cent. He advances that to the Government, and what does he get in return? He gets a roving commission from the Government authorizing him to levy that upon the community through the jobber, through the retailer, through the wholesale dealer; to levy that five per cent. back upon the community with just as heavy commissions for advancing it to the Government as he can get; for the manufacturer, when he pays that five per cent. to the Government, you know, charges it right over to the jobber, the commission merchant, the broker to whom he sells the goods, and he charges a commission for paying it to the Government; and the commission merchant charges what he pays and the profit he pays to the manufacturer over to the wholesale dealer; the wholesale dealer charges it over to the retail dealer, and the retailer to the consumer; and when your \$100 worth of goods is passed from the manufacturer to the consumer it has not paid a half per cent. three or four times, as the Senator from Pennsylvania says will be done under this

provision, but he has paid this six per cent. with from twenty-five to fifty per cent. of interest and commissions added to it. That is what he has done then. I know the goods will be sold two or three times, and will pay a half per cent. two or three times over; but is it not better for the community to pay their taxes in that way than to pay them as we have been paying them, hiring the manufacturers to advance the money to the Government, and getting authority from the Government in return to levy that upon us with just such commissions as they are pleased to demand for it? I prefer this milder way of collecting the tax. I believe I know it is a milder way of collecting the tax. I ask for the yeas and nays on concurring in the report.

The yeas and nays were ordered.

Mr. COLLAMER. There has been laboring in my mind an objection to this tax upon sales which the honorable Senator from Wisconsin does not seem to have apprehended, but which troubles me more than the objections I have heard named. I was not at all satisfied that there ought not to be some tax upon some sales, but it never entered into my head that when you were going to lay a tax on sales you were going down to the low water in which this is, taxing every person who takes out a license. If you took the wholesale dealers, large, extensive sellers, where it would be worth keeping the accounts, and stopped there, then perhaps the experiment would be worth trying. But it is a very vicious mode of taxation; I but state a general principle when I say that it is a very vicious mode of taxation which takes more money out of the people than the Government gets; which takes money from the people in the form of tax that does not reach the Treasury, unless the deduction be merely enough to pay the tax-gatherer. Whoever pays the tax on an article that he sells puts double the amount of the tax he pays on the price of the article when he sells it, and frequently a great deal more. No man advances the money to pay the tax upon an article that he buys to sell again, that does not put the amount of the tax on the price of the article, and double it if he can. I think the community generally find that they have more than double the amount of the tax to pay, with very few exceptions. It is agreed upon all hands that the articles of which the sales take place are generally sold two or three times, they will average more than twice, before they reach the consumer, probably, at least. Suppose the tax is a half per cent. on an article; that half per cent. is paid by the man who buys the article to sell; he computes that on the price and doubles it, making it one per cent.; the next man who buys of him to sell by retail again puts that on and doubles it; so that at last when the consumer buys the article he buys it with the tax put upon it and doubled each time, and yet only the original half per cent. reaches the Treasury. The people have to pay twice or thrice the amount the Government desires to obtain out of them. I call that a vicious mode of taxation.

The question being taken by yeas and nays, resulted—yeas 32, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Collamer, Conness, Cowan, Doolittle, Foot, Foster, Hale, Harlan, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Richardson, Riddle, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wilkinson, Wiley, and Wright—32.

NAYS—Messrs. Davis, Dixon, Grimes, Harris, Howard, Howe, Morgan, Powell, and Wilson—9.

ABSENT—Messrs. Cardie, Chandler, Clark, Farwell, Harding, Henderson, Hendricks, Sausbury, and Ten Eyck—9.

So the amendment was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill of the House (H. R. No. 774) to establish certain post roads.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 51) to establish a Bureau of Freedmen's Affairs.

The message further announced that the House of Representatives had passed the bill of the Senate (S. No. 443) to incorporate the Freedmen's Saving and Trust Company.

# THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY F. & J. RIVES, WASHINGTON, D. C.

THIRTY-EIGHTH CONGRESS, 2D SESSION.

SATURDAY, MARCH 4, 1865.

NEW SERIES.....No. 86.

## ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, which thereupon received the signature of the Vice President:

A bill (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased;

A bill (H. R. No. 774) to establish certain post roads; and

A joint resolution (H. R. No. 174) to amend the joint resolution entitled "Joint resolution in relation to the public printing," approved June 23, 1860.

## BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that the President of the United States had this day approved and signed the following acts and joint resolutions:

An act (S. No. 70) to enable the accounting officers of the Treasury to settle the claim of the State of Kansas;

An act (S. No. 311) for the relief of W. H. & C. S. Duncan;

An act (S. No. 318) authorizing the Secretary of the Treasury to lease or sell certain property of the United States situated at Bath, in the State of Maine;

An act (S. No. 338) for the relief of Charles A. Pitcher;

An act (S. No. 370) to amend an act entitled "An act for the better organization of Indian affairs in California;

An act (S. No. 387) amendatory of "An act to amend an act entitled 'An act to promote the progress of the useful arts,' approved March 3, 1863;"

An act (S. No. 389) relating to clerkships in the Post Office Department;

An act (S. No. 412) for the relief of Benjamin Vreeland, surgeon in the Navy of the United States;

An act (S. No. 450) for the relief of Samuel L. Gerould;

An act (S. No. 451) to incorporate the Colored Union Benevolent Association;

An act (S. No. 452) to incorporate the Capitol Hotel Company in Washington city, District of Columbia;

An act (S. No. 463) to amend an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes,'"

An act (S. No. 476) to provide for a chief of staff to the Lieutenant General commanding the armies of the United States;

An act (S. No. 478) in relation to the Naval Observatory;

An act (S. No. 479) to incorporate a national military and naval asylum for the relief of the totally disabled officers and men of the volunteer forces of the United States;

A joint resolution (S. R. No. 41) for the relief of Garrett R. Barry, a paymaster in the United States Navy;

A joint resolution (S. R. No. 90) to authorize and direct an inventory of articles in the quartermasters' depots of the United States, and in the possession of the naval storekeepers of the United States;

A joint resolution (S. R. No. 105) respecting the publication of the papers of James Madison;

A joint resolution (S. R. No. 111) to encourage the employment of disabled and discharged soldiers;

A joint resolution (S. R. No. 116) for the relief of Mrs. Lucy A. Rice, late of Richmond, Virginia;

A joint resolution (S. R. No. 122) relating to international exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the summer of 1865;

A joint resolution (S. R. No. 123) to extend the time for constructing the Burlington and Missouri River railroad, in Iowa;

A joint resolution (S. R. No. 125) transferring maps and other documents relating to the surveys of the Pacific railroad to the Department of the Interior;

A joint resolution (S. R. No. 128) authorizing the acceptance of a sword of honor from the Government of Great Britain by Captain Henry S. Stettin, of the United States Navy;

An act (S. No. 88) regulating proceedings in criminal cases, and for other purposes;

An act (S. No. 468) supplemental to an act entitled "An act to amend the several acts respecting copyright," approved February 3, 1831, and to the acts in addition thereto and amendment thereof; and

A joint resolution (S. R. No. 82) to encourage enlistments and to promote the efficiency of the military forces of the United States.

## PRIVILEGES OF THE SENATE.

Mr. JOHNSON. I desire to make a report from the Committee on the Judiciary. That committee, to whom the communication of the Secretary of the Navy of the 28th of February, in answer to a resolution of inquiry of the Senate of the 3d of that month, was referred, to consider and report what part of the same was called for and what was not, and in what particular, if any, the same was objectionable, beg leave to report. The committee quote the resolution, and then proceed to make their report, which I send to the Chair to be read.

The Secretary read the report, as follows:

The only information that the Secretary was instructed to give was in relation to the particular matters mentioned in the resolution. What may have been said by Senators while it was under consideration was not submitted to him, either for approval or censure, nor was he called upon or authorized to vindicate himself or any person in his Department from allegations made or supposed to have been made in the Senate. However, the person supposing himself assailed is not without redress; he may appeal to the public judgment through the press, or request the Senate to constitute a committee of inquiry as to the truth of the charges; but there exists no right in an officer of the Government, in answer to specific inquiries, to comment on the debates of the body, nor to vindicate his conduct, either individually or officially, in any matters not called for in the inquiries of the Senate. If differences exist between any member of the Senate and a citizen not a member, it is not the proper province of the body to settle them. Their duties are limited to matters proper for legislation, or to such as refer to the public good, and require investigation.

With these views, it is the opinion of your committee that the letter of the Assistant Secretary of the Navy, accompanying the communication of the Secretary, should not have been sent to the Senate by the latter officer:

1. Because the first part of it does not profess to relate to the Senate resolution, but to be in response to the allegations of Hon. JOHN P. HALE against the writer.

2. Because the remainder of it merely gives a history of his conduct in attempting to relieve the garrison of Fort Sumter in 1861—an attempt worthy of praise, but which has not the most remote connection with a single inquiry embraced by the resolution.

The committee therefore recommend the adoption of this resolution:

Resolved, That the letter to the Secretary of the Navy from the Assistant Secretary should not have been communicated in answer to the Senate resolution of February 3, 1865; and that the Secretary of the Senate be directed to return the same to the Secretary of the Navy.

Mr. FOSTER. I merely wish to say that I do not concur in recommending the adoption of the resolution reported by the committee.

The resolution was agreed to.

Mr. HALE. I now move that the order for the printing of that document be rescinded.

The motion was agreed to.

## OFFICERS' SERVANTS.

Mr. SHERMAN. I now move to take up the civil and miscellaneous appropriation bill, which I reported a short time ago.

The motion was agreed to.

Mr. WILSON. With the consent of the Senator from Ohio, the chairman of the Committee on Finance, I desire to make a report from the Committee on Military Affairs in regard to certain amendments to a joint resolution of ours, which have come from the House of Representatives.

Mr. SHERMAN. Very well.

Mr. WILSON. The Committee on Military Affairs and the Militia have authorized me to re-

port an agreement to certain amendments and a disagreement to other amendments of the House of Representatives to the amendments of the Senate to the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, and for other purposes. I desire to have the report read and acted upon at this time.

Mr. SHERMAN. I supposed the Senator merely wanted a committee of conference.

Mr. WILSON. It will not take long to read the report.

Mr. SHERMAN. I am informed that it will take a long time to dispose of it.

Mr. WILSON. I move that the amendments which the committee have reported should be agreed to by the Senate without reading them, and that the others be disagreed to, and that we then ask for a committee of conference upon the disagreeing votes of the two Houses.

Mr. GRIMES. I hope no such motion as that will be adopted, that we agree to the sections the committee have agreed to without hearing them read. I am told that one section of some of these amendments is to confer brevet pay on all the innumerable brevet officers we have been making. It will take five millions from the Treasury.

Mr. WILSON. The committee disagreed to that.

Mr. SHERMAN. I must ask for the regular order of business.

Mr. WILSON. I will move at once to disagree to all the amendments of the House of Representatives to our amendments to this joint resolution, and to ask for a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

By unanimous consent the Vice President was authorized to appoint the committee; and Mr. WILSON, Mr. HOWARD, and Mr. BUCKALEW were appointed on the part of the Senate.

## CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1866, and for other purposes.

The Secretary was proceeding to read the first amendment reported by the Committee on Finance.

Mr. SHERMAN. The bill has never been read in this body. It ought to be read *seriatim*.

The PRESIDING OFFICER, (Mr. FOOT.) The bill will be read, and the amendments reported by the Committee on Finance will be considered as they occur in their order.

The first amendment of the Committee on Finance was to strike out the following item:

For survey of and for buying out Seekonk river, from Pawtucket to India Point, in Providence, \$1,000.

Mr. ANTHONY. I hope that very small appropriation will not be stricken out. It is a very great convenience to have this improvement, and the amount has been estimated by the Department.

Mr. SHERMAN. I should be glad to let a good many things go, but as this bill was sent to us to-day, as it has not been printed, we have endeavored to confine the appropriations to such objects as have been declared by the Departments to be indispensably necessary, and this has not even been estimated for.

Mr. ANTHONY. I beg the Senator's pardon; it is the estimate of the Department.

Mr. SHERMAN. What Department?

Mr. ANTHONY. The Treasury Department.

Mr. SHERMAN. I have before me the printed estimates, and I find no such thing there.

Mr. ANTHONY. The estimate for this work has been sent in since the printed estimates were submitted.

Mr. SHERMAN. We had no information before the Committee on Finance upon the subject, and as a matter of course Senators cannot expect us to allow matters to remain in the bill that are not contained in the regular estimates,

and upon which we had no information and had no time to send to get any.

Mr. ANTHONY. That was a good reason for the committee in not agreeing to recommend the appropriation, but I understand from my colleague in the House of Representatives that the Department made this estimate and recommended the appropriation.

Mr. SHERMAN. This item is one of many more such, and I ask the Senate to stand by the Committee on Finance in their action. This bill was sent to us to-day, and if we take the assertions of a Senator here as to what a member of the other House may have said was estimated for at the other end of the avenue, when we have before us official documents containing no such estimate, we shall load down this bill to an extent that Senators would be startled at.

Mr. ANTHONY. If the Senator will allow this amendment to lie over for the present, I think I can have the estimate here very soon.

Mr. SHERMAN. I cannot agree to that; we must go on in regular order. The bill will probably be reported to the Senate some time after midnight, and the Senator can then have another vote on this question. I prefer to go on with it regularly.

The amendment was agreed to.

The next amendment was to insert:

For beacon lights at the mouth of Fox river, in the State of Wisconsin, \$3,500.

The amendment was agreed to.

The next amendment was to strike out the following item:

For renovations and repairs at Windmill Point light station, Lake Saint Clair, \$3,500.

The amendment was agreed to.

The next amendment was to strike out the following item:

For rebuilding outer-range light at Cedar Point, Sandusky bay, Ohio, \$10,000.

The amendment was agreed to.

The next amendment was to strike out the following item:

For beacon lights at Portage entry, Michigan, \$2,000.

The amendment was agreed to.

The next amendment was to insert the following clause:

To enable the Commissioner of Public Buildings to properly fit up and furnish such rooms in the basement of the Capitol as the Supreme Court may desire for consultation and library purposes for the court, \$5,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso to the appropriation for lighting the President's house, the Capitol, Pennsylvania avenue, &c.:

*Provided*, That in order to enable the Washington Gas-Light Company to extend their pipes, and to accommodate the public in the remoter parts of the city, said company is hereby authorized to increase its capital stock \$500,000, subject to the same liability as is provided in the eleventh section of the original act of incorporation, approved July 8, 1848.

The amendment was agreed to.

The next amendment was to strike out the following item:

For casing with stone and erecting a wall in front of the north basement of the Old Capitol building, so as to correspond with the south basement already completed, and to reimburse the money paid for casing the south basement, namely, \$1,495, making \$4,300.

The amendment was agreed to.

The next amendment, which was to strike out the item "to grade East Capitol street, \$3,000," was agreed to.

The next amendment was to strike out the item:

To enable the Commissioner of Public Buildings to have Pennsylvania avenue cleaned and swept prior to the inauguration on the 4th of March, 1865, \$1,000.

The amendment was agreed to.

The next amendment was to strike out the following items:

For repairs to Pennsylvania and South Carolina avenues, east of the Capitol, \$5,000.

For continuing the flagstone pavement from the flagstone pavement now down in front of the President's to Seventeenth street, in front of the War Department, \$10,000.

The amendment was agreed to.

The next amendment was to strike out:

For building a sewer on Pennsylvania avenue from Seventeenth street to Twentieth street, \$27,000.

The amendment was agreed to.

The next amendment was to strike out of the clause making an appropriation for surveying the public lands in Wisconsin the words "at a rate not exceeding five dollars per mile."

The amendment was agreed to.

The next amendment was to strike out of the item appropriating for surveys in Minnesota the words "at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Dakota Territory the words "at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Nebraska Territory the words "at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township, and five dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Kansas the words "at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township, and five dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Colorado Territory the words "at rates not exceeding ten dollars per lineal mile for standard lines, eight dollars for township, and seven dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the item of appropriation for surveys in Nevada the words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the item appropriating for surveys in New Mexico the words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in California the words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Oregon the words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out of the clause appropriating for surveys in Washington Territory the following words "at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines."

The amendment was agreed to.

The next amendment was to strike out the following item:

For compensation to Charles B. Stuart for services as engineer, under appointment by the President, in examining, revising, and reporting upon the survey and estimates for the several proposed gunboat canals, \$2,500.

Mr. SHERMAN. That is clearly a private claim.

The amendment was agreed to.

The next amendment was to strike out the following clause:

For building a custom-house at Portland, Maine, in addition to the sum appropriated by Congress at its last session, \$75,000: *Provided*, That the Secretary of the Treasury may, if he thinks it advisable, expend a sum, not exceeding \$25,000, in the purchase of ground adjoining the site of the old custom-house on Fore street, now owned by the United States, for the purpose of enlarging the same, or the Secretary may exchange the lot now owned as aforesaid for a more eligible one, if the same can be procured; but no money shall be paid or agreed to be paid by the United States in consideration of such exchange, and no transfer, assignment, or conveyance of property by the United States shall be made upon such exchange, except a conveyance, on its behalf, by the Secretary of the Treasury,

of the interest of the United States in the lot aforesaid and the building thereon.

Mr. JOHNSON. Is that to be stricken out?

Mr. SHERMAN. As I said before the bill came to us to-day, and we had no official information on the subject of the custom-house at Portland. At the last session we appropriated, I think, \$60,000 for building a custom-house at Portland, and it seems from the proviso attached to this appropriation that there was some doubt about the location of the custom-house; at least there is provision made for a change of the location, and we thought until that question was determined we ought not to appropriate any more money for this purpose. An explanation has been made to me since the action of the committee which makes me doubt somewhat the propriety of that action; but let the amendment be agreed to now, and before the bill is reported to the Senate I shall have time to confer with the members of the committee in regard to it and perhaps to get more information.

Mr. JOHNSON. The papers from the Treasury Department in relation to this particular improvement, which, as I understand, satisfied the Committee of Ways and Means and the other House, were not sent by that House to our committee with the bill, and therefore have not been before the Committee on Finance. I understand that the statement from the Treasury Department satisfied the House committee that the appropriation was not only a proper appropriation but one about which there should not really be any doubt. I rather think, therefore, under the circumstances, it would be better to reject this amendment.

Mr. COLLAMER. I trust we may not agree to this amendment. I think it has arisen from some misunderstanding of the case.

Mr. SHERMAN. I will explain to Senators again that the Committee on Finance never saw this appropriation bill or heard of it until to-day, and we had no official communication from anybody in regard to this item. It was not contained in any estimate of appropriations submitted to us. We knew very well that a year ago an appropriation had been made toward building a custom-house at Portland, and this provision on its face seemed to indicate that there was a doubt about the site. Under these circumstances we thought it was not wise to continue the appropriation until that question was settled. A statement has since been made to me that we shall find official information on the subject by sending to the Committee of Ways and Means. I do not care whether the amendment is now concurred in or non-concurred in, because by the time the bill is reported to the Senate I may be able to get the information. We are simply acting in the absence of information.

The amendment was rejected.

The next amendment was to strike out the following item:

For compensation of the revenue agent stationed at New York, in addition to the sum authorized by the act of June 30, 1864, including \$1,000 for the current fiscal year, \$2,000.

The amendment was agreed to.

The next amendment was to strike out the following item:

For one thousand copies of a compilation of the laws of the United States relating to revenue, commerce, and navigation, now in course of preparation for the press at the Treasury Department, such sum as may be necessary therefor in the discretion of the Secretary of the Treasury, and not exceeding \$7,000.

The amendment was agreed to.

The next amendment was to strike out the following item:

To enable the Secretary of the Treasury to pay to William Handy, of the Treasury Department, for extra clerical services, such sum as may be found due, not exceeding \$500.

The amendment was agreed to.

The next amendment was to strike out the following item:

For compensation to John Hopley for services in indexing the national currency act, \$100.

The amendment was agreed to.

The next amendment was to strike out the third section of the bill, which was as follows:

Sec. 3. *And be it further enacted*, That the ninth section of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864, and for the year ending the 30th of June,



1863, and for other purposes," approved March 3, 1863, appropriating thirty per cent. of the cost of engraving the special dies for internal revenue stamps, not to exceed in amount \$20,000, be, and the same is hereby, so amended as to enable the Secretary of the Treasury to pay the contractors, Butler & Carpenter, the said sum of \$20,000 in full of all claims for indemnity.

The amendment was agreed to.

The next amendment was to strike out the fourth section of the bill, which was as follows:

Sec. 4. *And be it further enacted*, That the sum of \$20,000 appropriated at the present session of Congress to defray the legislative expenses of the Territory of Nebraska for the fiscal year ending the 30th day of June, 1866, shall and may be appropriated for and applied to the payment of the territorial militia called into service by the Governor of said Territory to protect the frontier settlements against the depredations of Indians in the fall and winter of the year 1864; which sum shall be disbursed and paid by the Governor of the Territory, who shall take vouchers therefor; and no other or further sum of money shall be appropriated to defray the legislative expenses for the year aforesaid. And the Governor as aforesaid shall, within one year, make a detailed report of his action hereon to the Secretary of the Interior, setting forth the several sums paid, and the names of the persons to whom paid, under the provisions of this section.

The amendment was agreed to.

The next amendment was to strike out the sixth section, which was as follows:

Sec. 6. *And be it further enacted*, That the sum of \$10,432 45 be, and is hereby, appropriated to pay Madison Sweetzer, upon condition that the said Madison Sweetzer shall, first, by a good and sufficient deed, convey to the United States all his right, title, and interest in and to the following lands, conveyed by the United States to Joseph Richardville, senior, and Joseph Richardville, junior, by treaty at St. Mary's, October 6, 1818, to wit: the west half of section No. 26, the east half of section No. 28, and section No. 27, township five south, range four east, lying in the county of Auglaize and State of Ohio.

The amendment was agreed to.

The next amendment was to strike out the seventh section of the bill, which was as follows:

Sec. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to adjust and allow to the State of New York the claim of that State against the United States for duties paid by that State upon arms imported and purchased in bond at New York in the month of June, 1863, not exceeding the amount shown to have been actually paid therefor.

Mr. MORGAN. I hope that section will not be stricken out. It is a just claim, an amount actually paid by the State, which should be refunded.

Mr. SHERMAN. This is like a good many other claims that will be put upon the bill if it be allowed to stay there. We have no official information on the subject except this: the Committee on Finance considered the matter two years ago, when they had ample leisure, and rejected the claim. These arms were imported by the State of New York on her own account, for herself, and she paid the duties on them. Other States did the same. We have no information on the subject before us recently; the bill came to us to-day, and there was no time to consider whether any change of facts had occurred since we examined it before. The State of Ohio, and other States, I believe, have presented similar claims.

Mr. HARRIS. My information on this subject is, that in the case of other States the duties were remitted, and that these arms came in a little too late for that, the limit fixed by law having expired, so that the State of New York was obliged to pay the duties; but in other cases the duties were remitted by the Secretary of the Treasury. That is my information on the subject.

Mr. JOHNSON. When were the arms imported?

Mr. HARRIS. I cannot state the date, but it is since the rebellion began.

Mr. MORGAN. I send to the Chair the deposition of the commissary general of the State of New York in regard to these arms, and ask to have it read.

The Secretary read, as follows:

*City and County of New York, ss:*

James A. Farrell being duly sworn, says that he is commissary general of ordnance of the State of New York; that early in the month of June, 1863, under the direction of the Governor of the State of New York and the military board appointed by the Legislature of the said State, he entered into contracts with the following individuals for the purchase, in behalf of the State, of 9,664 Enfield rifled muskets, then in bond in the city of New York, namely: Frank Otard, New York, 2,664; Schuyler, Hartley, & Graham, New York, 2,000; Merwin & Bray, New York, 4,000; Naylor & Company, New York, 1,000. That at and about the time of the execution and closing of said contracts he labored under the impression that, inasmuch as the said arms were purchased for the use of the State and for the purpose of maintaining its laws and the

laws of the United States, that under the supposed existing provisions of law the duty thereon would be remitted by the Government. That after the said contracts had been entered into, and upon an examination of a previous law of the United States, exempting from duty all arms imported for the use of the State, it was discovered that the time of such exemption had expired. That thereupon a provision was inserted in said contracts by which the said contracting parties agreed for and in behalf of the State to advance the duties on said arms, the money so advanced to be refunded by the State. That the said parties under and by virtue of the provisions of said contracts paid for the said duties to Hiram Barney, Esq., collector of the port of New York, the sum of \$37,599 55; that said sum of \$37,599 55 has been refunded and duly paid to the said contracting parties by the State; that the annexed bill contains a true and accurate statement of the duties paid and everything connected therewith, and reference is hereby made to the same as a part of this affidavit. That said duties were paid under a written protest executed by the undersigned in behalf of the State, to the following effect: that said duties should not be exacted on said arms, because they were the property of the State of New York, to be used only for her defense and in the defense of the United States against the enemies of the said State and the said United States; that they were not merchandise subject to the laws of trade and commerce, or for sale in any wise, but strictly and entirely for public use by the State as a member and component portion of the United States; that it could not be reasonable nor lawful for the Government to tax itself in one of its members for the means of its own preservation, it might be of its very existence; that a portion of the arms aforesaid are now in actual use of the New York State militia, now in the service of the United States, and that said arms are to be used only in the enforcement of the laws of the United States and the State of New York and for the protection of the citizens thereof. And deponent further says and submits, that because of the premises, and inasmuch as said arms were purchased to be used in defense of the State and of the United States, and for the protection of the citizens and the enforcement of the laws thereof, that the said sum of \$37,599 55 in coin should be refunded and paid to the State. And deponent further says that the said sum so paid as aforesaid is a part and parcel of an appropriation made by the Legislature of the State of New York, an act entitled "An act to provide and repair arms and equipments of the militia of the State, and for the public defense," passed April 24, 1863. That said money when refunded to the State is to be used only for the purposes aforesaid. Deponent further saith not.

JAMES A. FARRELL,  
Commissary General of Ordnance New York State.  
Sworn before me this 11th day of December, 1863.

JAMES H. COLEMAN,  
Notary Public in and for the City and County of New York.

Mr. SHERMAN. The case made by the commissary general of New York shows that the arms were contracted for and imported after the expiration of the law, which lasted, if I remember right, for only one year. At that time it was the policy of the Government not to import any more arms. When the State governments went to foreign markets, competing with the national Government in the purchase of arms, it tended very largely to advance the price. Since the reading of the paper commenced I remember more distinctly the circumstances of the case. This very claim was referred to the Committee on Finance on the presentation of a petition, and we concluded that it was not wise to extend the provisions of that law. The claim was then rejected; and it is now presented at this late day, when we have no opportunity to examine the question. New York is ably represented here, and can present the matter at some other time. I hope the amendment will be agreed to.

Mr. HARRIS. I understand that in no case has any State been required to pay duties on arms imported by it except in this single instance. It may be, and I understand that it is, the fact that the law which exempted States from paying duties on arms had expired when these arms were imported; and it was in consequence of this that the State of New York was obliged to pay these duties. If the State of New York is obliged to pay them, and this amount is not to be refunded, it is an exception to a rule which has no other exception. There is no case, I apprehend, in which any State has been required to pay duties on arms imported by it during this war except New York, and I hope this distinction will not be made.

Mr. JOHNSON. I ask the Senator if the duties have been refunded in all other such cases.

Mr. HARRIS. These arms were ordered before the law expired, and came in a little too late to come under the law.

Mr. JOHNSON. Are there any other cases either under prior or subsequent laws?

Mr. HARRIS. I do not know.

The amendment was rejected.

The next amendment was to, strike out the tenth section of the bill, which was as follows:

Sec. 10. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to increase the clerical

force in the office of the Assistant Treasurer at Philadelphia, and the aggregate salaries of said clerks shall not exceed the sum of \$9,000; which amount is hereby appropriated out of any other money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was to strike out the eleventh section, as follows:

Sec. 11. *And be it further enacted*, That in addition to the appropriations heretofore allowed for the branch mint at San Francisco, in California, the following sums respectively are hereby in like manner appropriated, viz: for wages of workmen and adjusters, \$69,450; for incidental and contingent expenses, repairs, and wastage, \$106,529 29.

Mr. CONNESS. I should like to understand from the chairman why this item is to be stricken out. I presume the appropriations were made in accordance with estimates.

Mr. SHERMAN. I can tell the honorable Senator why that is to be stricken out. The honorable Senator is a member of the Committee on Finance, and we looked to him for information in regard to California. We had a meeting to-day, the only day we could have a meeting on this bill, and he was not there to give us any information about it. We had no official information on the subject. We have appropriated enormous sums for the support of the mint in California, larger than ever before. The reason why they want \$100,000 for incidental expenses in the mint at California we were not presumed to know by intuition. We had not the information from the honorable Senator who represents that State, nor had we any other information. We had not the opportunity to inquire at the Treasury Department, because we had no time. We had no official information of any kind. If the Senator can satisfy us that it is necessary I shall be very glad to have the information from him.

Mr. CONNESS. I did not know that I was going to develop a lecture on myself by the inquiry I made. It would be very difficult for me to be omnipresent; I do not think it is for man to have that exact character on earth; and I do not think I am amenable to the charge made by the honorable Senator indirectly of a neglect of my constituents' interests. I believe I was for an hour and a half or more pending that time in a committee of conference on Indian affairs that this body ordered me to be a member of, where not only the interests of California were concerned, but of the entire country; and, Mr. President, the honorable chairman of the Committee on Finance could hardly expect in fairness to depend on me to give that Senator information touching these appropriations. He is in direct connection with the Treasury Department; they are expected to know the reasons why their recommendations are made; and it cannot be expected that I should be able to explain why \$60,000 is necessary to pay workmen in the mint simply because the mint is located in the city of San Francisco, or that I should be able to give the exact reasons why \$100,000 are necessary to meet wastage and incidental expenses in that establishment. But it appears that the Senator assigns the minutiae of all this knowledge as my particular share of duty and province, and as a means of developing all this knowledge on my part he proposes to strike out the appropriation.

I simply have to say to the Senator that I do not think that is reason enough. I suppose the appropriations were inserted in accordance with estimates prepared by the Treasury Department upon the exact facts and knowledge that they have concerning that great institution, the branch mint at San Francisco, which now annually costs for us \$20,000,000. I suppose the chairman of the committee was not very earnest in his desire to strike out this appropriation, and intended to make it a reminder to me that I should do all my duty. Well, Mr. President, I may fail in some of it; I suppose I do in much of it; but I generally try to be at some end of the line when matters are going on which concern the people that I in part represent here. I suppose the Senate will vote to keep these appropriations in the bill.

The amendment was rejected.

The next amendment was to strike out the thirteenth section of the bill.

Mr. SHERMAN. It is scarcely worth while to read the section, as it relates to the reorganization of the various bureaus of the Treasury Department, and provides for heads of divisions in the various bureaus, &c. The Committee on

Finance were satisfied that it was not now necessary to make these changes. We have already provided for the Revenue Bureau, and placed a pretty large sum at the discretion of the Secretary of the Treasury to give additional compensation in certain cases where it is necessary; and we believed that was all the legislation necessary at the present time in regard to these bureaus. At any rate, we were not prepared at this late period of the session to increase the salaries of all the employes in the Department. The section involves a reorganization of the leading bureaus of the Treasury Department, with a large increase of pay under the name of reorganization, and the establishment of new officers as heads of divisions.

The amendment was agreed to.

The next amendment was to strike out the fourteenth section, as follows:

SEC. 14. *And be it further enacted*, That the office of the Commissioner of Internal Revenue shall be reorganized, under the direction of the Secretary of the Treasury, into—

Mr. SHERMAN. That need not be read. The tax bill which has just been passed provides for the continuance of that arrangement in the Treasury Department for another year.

The amendment was agreed to.

The next amendment was to strike out the fifteenth section, in the following words:

SEC. 15. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending June 30, 1866, namely:

For salary of cashier in the United States depository at Louisville, \$1,800.

For salary of book-keeper in the United States depository at Louisville, \$1,500.

For salary of assistant cashier in the United States depository at Louisville, \$1,320.

For salary of clerk in the United States depository at Louisville, \$1,320.

For contingent expenses of the United States depository at Louisville, \$225.

For salary of cashier in the United States depository at Chicago, \$1,600.

For salary of clerk in the United States depository at Chicago, \$1,000.

For contingent expenses of the United States depository at Chicago, \$400.

For salary of cashier in the United States depository at Pittsburg, \$1,500.

For salary of assistant cashier in the United States depository at Pittsburg, \$1,000.

For salary of watchman in the United States depository at Pittsburg, \$900.

For contingent expenses of the United States depository at Pittsburg, \$200.

For salary of cashier in the United States depository at Baltimore, \$1,800.

For salary of clerk in the United States depository at Baltimore, \$1,500.

For salary of clerk in the United States depository at Baltimore, \$1,200.

For salary of clerk in the United States depository at Baltimore, \$1,000.

For salary of clerk in the United States depository at Baltimore, \$900.

For salary of messenger in the United States depository at Baltimore, \$900.

For contingent expenses of United States depository at Baltimore, \$300.

For salary of cashier in the office of the United States Assistant Treasurer at San Francisco, \$2,500.

For salary of book-keeper in the office of the United States Assistant Treasurer at San Francisco, \$2,000.

For salary of cashier in the United States depository at Cincinnati, \$2,000.

For salary of the assistant cashier in the United States depository at Cincinnati, \$1,500.

For salary of assistant cashier in the United States depository at Cincinnati, \$1,200.

For salary of assistant cashier in the United States depository at Cincinnati, \$1,000.

For salary of the teller in the United States depository at Cincinnati, \$1,200.

For salary of the book-keeper in the United States depository at Cincinnati, \$1,500.

For salaries of two clerks in the United States depository at Cincinnati, \$2,500.

For salary of clerk in the United States depository at Cincinnati, \$1,200.

For contingent expenses of the United States depository at Cincinnati, \$2,000.

Mr. CONNESS. I should like to have some information from the honorable chairman of the committee with regard to the reason for this amendment.

Mr. SHERMAN. I can state to the Senator that is a section changing altogether the mode of paying this class of officers. I cannot, without some difficulty, without looking at the law, say how much these officers receive now. This is some increase; I cannot say how much. I have been trying to get the information. I am satisfied that the Senate ought not now, for the first time,

to fix the pay of all these officers without any other information than we have at present. It is very probable that the scale of prices fixed in the section is reasonable and proper; but we have no information on the subject—I speak of the Committee on Finance. This is an attempt to classify and pay, by special appropriation, various officers that have heretofore been paid out of the customs appropriation. I hope, therefore, that the amendment of the committee striking out the section will be concurred in.

The amendment was agreed to.

The next amendment was to strike out the sixteenth section, in the following words:

SEC. 16. *And be it further enacted*, That the sum of \$9,881 25 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the payment of salaries of clerks and others indicated in the preceding section, and of contingent expenses for the three months ending June 30, 1865.

The amendment was agreed to.

The next amendment was to strike out the seventeenth section, in the following words:

SEC. 17. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to pay A. D. Collingsworth, O. H. Vedder, Edward R. Sherman, Charles C. Adams, Theophilus H. Gladwin, Samuel W. Tucker, and the other persons employed by the deputy provost marshal of the District of Columbia in the enrolling office of said marshal, for night work and special service performed in pursuance of a contract between said clerks and said provost marshal, such accounts being properly certified upon the rolls, or by said deputy provost marshal; and the amount necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The Secretary read the next section of the bill, in the following words:

SEC. 18. *And be it further enacted*, That no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open except persons actually mustered or commissioned or appointed in the military or naval service of the United States, or rebel enemies charged with being spies.

Mr. SHERMAN. I will say, in passing, that this is rather a new feature in an omnibus bill, a question of high constitutional privilege, involving the rights and liberty of the citizen, in regard to which men talk about chartered rights and privileges, &c. We thought it too grave a subject for the Committee on Finance to act upon. It is put into the appropriation bill, and we left it for the Senate to dispose of. I presume the reading of the section has not excited attention, but it will discharge all the persons in custody for military offenses.

The PRESIDING OFFICER. (Mr. Foor in the chair.) Does the Senator from Ohio move to strike out that section?

Mr. SHERMAN. No, sir; we thought we would leave that to the discretion of the Senate.

The PRESIDING OFFICER. Then it presents no question for consideration, unless a motion is made.

Mr. CONNESS. I move to strike it out, and call for the yeas and nays upon that motion.

Mr. COWAN. I think that is a section which every man in this Chamber, at all times and under all circumstances, should vote for and insist upon.

Mr. SHERMAN. The motion to strike out is not now in order. Let us go through with the bill first.

The PRESIDING OFFICER. The committee do not recommend any amendment to this section, and the amendments of the committee should be first considered, according to the uniform custom of the Senate.

The next amendment was to strike out lines thirteen and fourteen of section nineteen, making appropriations for deficiencies, in the following words:

For tool and siege trains for armies in the field, \$200,000.

The amendment was agreed to.

The next amendment was in section nineteen, to strike out the following paragraph:

To supply a deficiency in the appropriation for the Indian service in Utah, being for money advanced by Brigham Young while Governor and ex officio superintendent of Indian affairs, found due and allowed by the Secretary of the Interior, \$38,000.

The amendment was agreed to.

The next amendment was to strike out the following clause:

To pay H. A. Klopfer for ten months' services as a laborer

in the office of the Attorney General, at forty dollars per month, \$400.

The amendment was agreed to.

The next amendment was to strike out the following clause:

For continuing work at the Brooklyn navy-yard, to wit: for piling, filling in, and building crib-work on cob dock for gun park, \$250,000.

The amendment was agreed to.

The next amendment was to strike out the twentieth section, in the following words:

SEC. 20. *And be it further enacted*, That the true construction of the sixth section of the "Act respecting the organization of the Army, and for other purposes," approved August 23, 1842, and of all laws relating in any way to the allowance of double rations to officers, authorizes such allowance to the following officers, and to no others whatever: to the General-in-Chief commanding the armies of the United States; to each general officer commander-in-chief of a separate army actually in the field; to each general officer commanding a geographical division embracing one or more military departments; and to each officer commanding a military geographical department; and that any general order or regulation or usage allowing double rations to a chief of staff, or any other officer than those above mentioned, is illegal and void.

The amendment was agreed to.

The next amendment was to insert the following as a new section:

*And be it further enacted*, That the Secretary of the Treasury be directed to pay the interest on the debt due the Smithsonian Institution in coin, as the interest on other permanent debts due by the United States prior to the present rebellion have been and are paid.

Mr. GRIMES. I have a word to say on that subject. I am opposed to the adoption of that amendment. In the first place, I do not know any reason why there should be a distinction made between a debt that is due to the Smithsonian Institution and a debt due to anybody else by the United States Government. I understand that by some construction or other the Treasury Department have decided that this is a kind of trust debt; and that from this time henceforth they intend to pay the interest upon what they call the trust fund in gold. The purpose of this amendment is to make this retrospective, and to pay some forty thousand dollars in currency, being the difference between the amount which has hitherto been received by the Smithsonian Institution and that which they claim they ought to have received and would have received if this money had been paid to them in coin. The Smithsonian Institution is a very wealthy corporation, and is able to reimburse itself, and to rebuild and refit the buildings which have been recently destroyed. It will be remembered that when Mr. Sumner made this request, or shortly after he made it, the Government created a corporation. That corporation, or their trustee, saw fit to invest their money in Arkansas bonds. Those bonds mostly turned out to be valueless. The Government, however, assumed it, and we now pay, and have for many years paid, the Smithsonian Institute upward of \$30,000 a year upon this amount of \$515,000, I think it is, which is the amount of the permanent fund of the Smithsonian Institute.

Mr. SUMNER. Allow me to ask the Senator whether the Government did not make that investment in Arkansas bonds. I think it was not an act of the corporation, but of the Government.

Mr. GRIMES. It is perfectly immaterial, so far as this question is concerned, whether the Government made it, or whether the regents of the Smithsonian Institute made it directly themselves; for if the Government made it, the Government made that investment at the instance and the request of the regents of the Smithsonian Institute.

Mr. SUMNER. No; it was before the organization; before there were regents.

Mr. GRIMES. Mr. President, the amount of the fund belonging to the Smithsonian Institution is \$515,000. They expended in the building, on the public reservation, \$325,000. It is claimed by them that to put the roof on the building, and put it in about the condition it was in before the fire there will be required from thirty-six to forty thousand dollars; but to improve it as they want to improve it, to make it entirely fire-proof, to change its construction very materially, they say they have the opinion of an Army engineer, Colonel Alexander, but who is no architect, no expert, and whose judgment, therefore, is worthless in a matter of this kind, that it will cost some-

where in the neighborhood of \$100,000. This Institution, beside the \$515,000 upon which we are paying them the interest, have accumulated from that interest \$75,000 in Indiana State bonds, which are good; \$53,500 in Virginia bonds, which are not of much value; \$12,000 in Tennessee bonds; \$500 in Georgia bonds; and \$100 in Washington city bonds. Then they have in cash \$20,000, and they have in gold \$26,200, which is worth \$52,000 to-day in currency. So it will be observed that they have in available funds, saying nothing about the Virginia, Tennessee, Georgia, and Washington bonds, \$95,000, beside \$26,200 in gold.

I have heard it said that we ought to pay the Smithsonian Institution this money in gold, because we pay some of the Indians by treaty stipulation in gold. I think the Senators who are members of the Committee on Indian Affairs will bear testimony to the Senate that we have paid gold to no Indians except where there was an express agreement in the treaty that payment should be made in coin. We have had, and have, an abundance of treaties with the Indians; we hold their money in trust; but in no instance, I undertake to say, has the money been paid to these Indians in gold except when there was an express stipulation in the treaty that it should be paid in gold. I know of no reason why there should be an exception made in favor of this rich corporation, the Smithsonian Institution—why they should be treated any better than our Indian tribes are treated.

Mr. COLLAMER. Are they not paid in gold?

Mr. GRIMES. I undertake to say that there are not and have not been any Indians paid in gold except where there was an express stipulation in the treaty that they should be paid in coin. I asked the gentlemen on the Committee on Indian Affairs, when the Indian appropriation bill was under consideration the other day, if that was not so, and they said it was so. The Senator from Kansas [Mr. LANE] bowed his head and said it was so. There are treaties made with the Indians, I admit, by which we have agreed to pay them in coin; and then there are other treaties in which we have not that stipulation; but where that stipulation is not embodied in the treaty we do not pay them in coin. There is lying on your table at this moment a communication from the Secretary of the Interior, asking that we shall do for these Indians precisely what the Smithsonian Institute asks we shall do for them—that we shall pay them in coin in the future. But this Senate, so far as I know, has refused to do that; so far as I am informed, the Committee on Indian Affairs have utterly refused to do it. I do not see the chairman of the Committee on Indian Affairs present, nor my colleague; but there are gentlemen here, I think, who know what the facts are in regard to the payment of these Indians. Now, I ask, if it be true, and I think it will be demonstrated in a few minutes that it is true, that this is the method in which we treat the Indians whose funds we hold in trust, is there any very substantial reason why we should deviate from this rule in favor of this corporation, the Smithsonian Institution?

Mr. SHERMAN. The Committee on Finance have no doubt at all about this proposition so far as it is now reported. It is true that a proposition was submitted to the committee that the back payments already made should be made equal to gold. That we rejected on the ground that the money having been received by the corporation, without any objection, they certainly cannot now present a legal claim against the United States to make good any loss which may have accrued from their taking a depreciated currency. But upon the main question, that they are entitled to the interest of this trust fund in gold, we had no doubt. All the permanent debt of the United States is now payable in coin. That has been the established policy of the Government since the foundation of the Government, and I think it never has been departed from. Let me put this case: suppose this corporation, instead of allowing this money to remain simply as a trust fund in the Treasury of the United States, had taken bonds of the United States registered in the ordinary way, which they had a right to do, and left them in the Treasury Department; they would have drawn their interest in gold precisely as the holder of any other bonds would have done. I am informed that this now stands as a registered debt.

Mr. GRIMES. How long has that been so? Mr. SHERMAN. Always, I presume. It stands as a trust debt. There is no difference between them.

Mr. GRIMES. Where is the distinction between this case and that of the Indians?

Mr. SHERMAN. I will mention that in a few moments.

There is, therefore, no distinction between this case and any other portion of the permanent debt of the United States. This corporation, whether rich or poor, whether it is a charitable one, or one making money on its own account, would have the right to demand of the Government the same interest that is paid to any other bondholder of the United States. The fact that this money stands to the credit of this corporation as a trust fund in the Treasury Department only strengthens that obligation, because it is a general rule of equity, as well as a rule of law, that a trust fund must be treated more favorably than any other fund. Therefore the United States, having assumed the burden of a trustee, would be held in a court of equity to a more rigorous rule than it would be even where it stands upon its legal rights. If the United States is bound to pay to any other class of bondholders interest in gold it certainly should do so to this corporation, whether it be rich or poor, whether it be a charitable one or one making money on its own account. It seems to me, therefore, the proposition is plain.

But the Senator says that we have refused to do this with the Indians. The difference between our treaties with the Indians and an obligation of this kind is, that an Indian treaty requires us to pay annuities from time to time; every year we pay so much. It seems to me there is a distinction between the two. Wherever we stipulate to pay these annuities in coin, we pay them in coin. There is a difference between the payment of an annuity and the payment of interest on the public debt; and that difference has always been recognized since the foundation of the Government. But even if we did injustice to the Indians, we make it good by the payment of large bounties; we more than make it good by our annual appropriations for the expenses of the Indian department. Since the recent condition of affairs, since we have been involved in war, we have appropriated very large sums, this year amounting to more than a million dollars, for the benefit of the Indians not included in Indian treaties. We have indeed made good to them the appropriations in gold, or nearly so. If, therefore, there is any injustice done to the Indians, it certainly is not a peculiar hardship.

In this case the proposition was so plain that the committee had no hesitation about awarding the payment in gold from this time forward. I am told that this question has never been acted upon in the Treasury Department, but that if these parties had demanded their interest in gold, precisely as other creditors have done, and as they had a right to do, they would have been paid in coin at any time since the beginning of this war. There has been no distinction in the Treasury Department between this debt and any other funded debt of the United States the interest of which is payable in coin.

Mr. HALE. If I do not entirely misunderstand the nature of this case, it seems to me there is no force in the suggestions which have been made in regard to any obligations of the Government, for this reason: this Mr. Smithson gave this fund, some five hundred thousand dollars or more, to the United States; they are the beneficiaries of this donation; it was the property of the United States; and the Smithsonian Institution, whether it was a wise or an unwise creation of Congress, was simply a machinery instituted by the United States for the purpose of carrying on and carrying out the bequest of Mr. Smithson. To speak of this Institution as an institution apart from the Government of the United States, to my humble comprehension is perfectly absurd. It is the United States that own this Institution. It was for the benefit of the United States that the fund was given to them; and Congress, because it was not convenient to take it and manage it, as they did the other interests of the Government, created these agents, created this Institution, as a mere matter of convenience by which the Government might manage the fund that was intrusted to them for the purposes specified in Mr.

Smithson's will. They have no claim, no interest, in this matter. The only question was, how shall the Government, if they accept the trust, carry it on? They concluded to carry it on by this machinery. It is not an institution adverse to the United States Government. It is not an institution that has the least claim under heaven upon the Government. They are the mere creatures of the Government, to enable them, according to the purport of the will, to execute the trust that has been confided to them. How can they come here and occupy the position of creditors? They are no creditors. They have no interest under heaven, not the slightest; they are the mere agents appointed by law to execute this trust for the United States in the use of a fund which belongs to the United States. That is the whole of it. That being the case, this being the property of the United States, managed for their benefit through this instrumentality, it is contended that the Government of the United States shall increase by a hundred-fold the appropriations for the Institution. I do not see the slightest claim in the world.

Let me state another fact. The honorable Senator from Iowa did not state this thing exactly as it was. The fact was that about 1840, or not far from that time—I do not know the exact time that this fund was given to the United States—was a pretty hard time for the Democratic party; they had had hard luck; and the Secretary of the Treasury took the whole of this fund, every dollar of it, and gave it to Arkansas, no doubt for highly patriotic purposes, [laughter,] and it was all sunk; and there was an end of the bubble, or ought to have been. But Congress were so much tickled with the idea of this bequest that they assumed the debt. They did not make much by investing it in Arkansas politics; everything went by default; and then Congress stepped in and paid out of the Treasury that which they had wasted.

I will not repeat what I have heretofore said in regard to this Institution; I will not say but that it is possibly a wise one, and a wise appropriation of public money, because it is rather impertinent to the question that is now before the Senate. It has been characterized, I think by Greeley—and I do not often quote him—as a sort of lying-in hospital for literary valetudinarians, [laughter,] and that is about the amount of it. I remember once that some friends were here and had been visiting about the places of interest in the city of Washington, and had got pretty much through with them, and I asked them, "What are you going to do to-day?" They said they were going over to look at the Smithsonian Institution, and find out what it was. I told them I was exceedingly glad they were going to start on such a mission, and I asked them, if they did find out, to tell me when they got back. They did not call on me when they got back. [Laughter.]

Now, sir, I know of no reason under heaven why, when we pay in currency the men who are shedding their blood in defense of the country, the men who are periling everything for the salvation of the country, we should come in and pay this pet child we have created in this manner in gold. I think it would shock the moral sense of the nation to-day, if they knew that we propose to pay in gold the interest on this debt, which is no debt at all, when we pay those who fight our battles, and shed their blood in our defense, in currency. I hope the amendment will not be adopted.

Mr. HENDRICKS. The Committee on Public Buildings and Grounds investigated this subject to some extent, and became entirely satisfied, with the exception of the Senator from Iowa, I believe, that this interest ought to be paid in gold. I am very glad to hear the statement of the Senator from Iowa. I am glad he is able to prove that this Institution is in good condition. I am gratified that he has shown it has full funds, with an accumulation of \$75,000 in Indiana bonds—a sure and reliable fund—and something against the State of Virginia. I shall be gratified each session while I have the honor of serving along with him to hear him make as good a statement of the Smithsonian Institution as he has to-night.

He says it is a rich institution. I am glad of that. I was once a member of the Indiana Legislature, and every now and then I heard some Representative or Senator talking about the



bloated corporations of the State; and we all had it in our heads that the wealth of the corporations, in some way or other, was made off our constituents, and therefore, to some extent, we were justified in making war upon them, for they were men that made their gains off the people. But this is not the case with the corporation that the Senator now styles a wealthy corporation. No money to fill the coffers of that Institution came from the good people of Iowa.

Mr. GRIMES. Not until we pay them in gold \$62,000 in place of \$31,000, while we pay to Iowa soldiers, as the Senator from New Hampshire well said, only six dollars and a half in gold. Then it will come off my constituents.

Mr. HENDRICKS. As I was going on to say, all the rich funds of that Institution came not from the people of Iowa or of Indiana. It was a munificent grant from a foreigner, Mr. Smithson, for the purpose of establishing in this country an institution for the acquisition and diffusion of useful knowledge among men. That \$500,000 was received, not in paper, but in gold, coming from a kind friend of this country across the water. If therefore, the Institution is rich, it is well for us; if it were poor, it would be a disgrace to us to-day.

Mr. GRIMES. I think the Senator is mistaken in the language used in the will; and I think that in that respect the managers of it have been true to the direction of the testator. It was not "useful knowledge among men," but "knowledge among men." [Laughter.]

Mr. HENDRICKS. Well, sir, whether all knowledge is useful or not I will not undertake to discuss now. The purpose of the bequest was to establish in this country an institution for the diffusion of knowledge, or useful knowledge, among men. I think the language used was "useful knowledge." Whether the knowledge that is diffused among men from that Institution be useful or not I do not care now to discuss. If I were to judge from the number of applications I have for the reports of that Institution, I should say it is useful knowledge.

Then, sir, if the Institution is rich, it has cost his constituents and mine nothing; but if it were poor to-day, and we refused to make up the entire fund, it would cost his constituents and mine something—it would cost their honor.

Now, sir, upon the leading question I do not agree with the Senator from New Hampshire. This Institution does not belong to us; it is not the property of the United States. The United States, in respect to that Institution and the funds that endowed it, is but the trustee. We are not the beneficiaries, in his language. The people of the world are the beneficiaries; all who can be instructed by the diffusion of useful knowledge are the beneficiaries.

The Senator from New Hampshire spoke also of a loss because of a purchase of bonds of the State of Arkansas. If we purchased bonds that were not a sure investment, in law, or rather in equity, we are bound to make it good. If the United States, as a trustee, makes a bad investment, she must make that investment good. If the Senator held funds for me, or if, as a guardian, he held funds for some of his minor constituents, and he made a bad investment, would he not be compelled to make it up? If he made a bad investment he would be compelled to make it good, unless he used due care and acted under the direction of the court. I admit, if entire diligence is used, perhaps, he would not be responsible in a court of equity. But I understand the facts to be that the Institution has lost nothing from the Arkansas bonds. That has been made up; they have been paid; and there has been no loss resulting from that investment.

Mr. HALE. The Senator is mistaken.

Mr. HENDRICKS. I was so told the other day. I am not fully informed, except as the committee were informed by Professor Henry, who has this business in charge. That is the way I understand it. The interest has been paid.

Mr. HALE. The bonds have not been paid.

Mr. HENDRICKS. Whether the bonds have been paid or not is not important. We got gold, and were to use it, as a trustee, to establish an institution that would be an ornament to the country as well as useful to the world. Now, sir, what is the obligation of the United States in respect to that, a gold investment, endowing an

institution, not for the benefit of the United States, but for the benefit of mankind generally? I understand the decision of the Treasury Department has been that all trust funds are to be paid in gold, and that all the debts against the Government prior to the commencement of the war are to be paid in gold.

Both the Senators have asked why we pay gold to this Institution when we pay greenbacks to the soldiers. Why do the Senators agree, by their numerous votes here, to pay gold to the men who buy the bonds of the United States? Why do they make their investment worth twelve per cent., when other men use their money for their own benefit but to the extent of six per cent.? Why do they pay gold to the creditors that they create now, not by \$500,000 at a time, but by \$600,000,000 at a time, in gold? Let them answer that. It is a question between them and the soldiers. They pay the creditors of the Government in gold and the soldiers in greenbacks. Both Senators unquestionably were governed by proper considerations. I think it is a plain obligation on the part of the Government to pay this interest in gold. It is according to the practice of the Government; and I should think it a shame to the Government to do otherwise.

Mr. TRUMBULL. I am a little surprised at the course of the Senator from Iowa and the Senator from New Hampshire. The Senator from New Hampshire says this is not a trust at all; this property was given to the United States. It was given to the United States by James Smithson; but it was given for a particular purpose; and it is as much a trust as when any testator bequeaths property to a particular person for a particular purpose. The Congress of the United States in 1846 passed an act by which they recognized this as a trust; and I would like to inquire of the Senator from New Hampshire if he means to repudiate the action of this Government, if he means to repudiate the solemn obligation which this Government has taken upon itself? It is a direct act of repudiation on the part of the Government to deny that this is a trust, and that it is held as a trust for particular purposes. The act of 1846, which I have before me, declares:

"That James Smithson, Esq., of London, in the kingdom of Great Britain, having by his last will and testament given the whole of his property to the United States of America to found at Washington, under the name of the Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men, and the United States having, by an act of Congress, received said property and accepted said trust: Therefore, for the full execution of said trust according to the will of the liberal and enlightened donor, *Be it enacted*," &c.

Here is a solemn act of Congress acknowledging the receipt of this property as a trust fund. It was given for the purpose of founding "at Washington, under the name of the Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men;" and the Senator from Iowa says "not useful knowledge." Why, sir, I thought that the term "knowledge" implied that it was a useful thing. I supposed that knowledge was valuable; that it was what we all sought to acquire. This property was accepted in trust for this identical purpose; and to repudiate it now, and say it is no trust, it is the money of the Government, and you have a right to squander it and use it, is as direct a breach of faith as it would be on the part of this Congress to pass a law that it would pay no debt whatever that it had created. It would be the worst species of repudiation, worse than borrowing money and refusing to pay it under ordinary circumstances. The Government has accepted it; it has committed itself to it; and this Institution had as perfect a right to call for the payment of the interest as it fell due, in coin, as had any other creditor of the Government.

The Senator from Iowa wants to know why a distinction is to be made between the debt due the Smithsonian Institution and a debt due any other person. No distinction is to be made. It is the very thing we do not want to do. The Government of the United States, in 1861, when this rebellion broke out, owed some ninety million dollars; and does not the Senator from Iowa know that we paid the interest to every one of the holders of that indebtedness in gold?

Mr. GRIMES. I know we did not do it to the Indians.

Mr. TRUMBULL. You have done it to the Indians in many instances; but because you have

wronged the Indian, who cannot assert his rights; because you have violated your treaties with him, and by act of Congress are changing treaties every day, and driving him from the lands that you set apart to him and said you would never disturb him in the possession of; because you impose upon the Indian, do you propose now to violate all your contracts? You are bound to pay the Indian in gold, if you have agreed so to pay him. Sir, this argument by which you talk about not paying the poor soldier in coin smacks a little of a speech upon the stump. The Senator from Iowa votes here to pay the foreign bondholder in coin.

In my opinion this amendment does not go far enough. The reason, probably, for the introduction of the amendment at this time is in consequence of a calamity, the destruction of a part of the Smithsonian building within a few days by fire, involving a very large expenditure to repair the building; but instead of calling upon Congress for an appropriation for that purpose, it was thought on the part of the managers of the Institution they would be enabled to get along if they received the interest due the Institution in coin. They were entitled to receive it, and they would have received it in coin had they insisted upon it heretofore. The only reason that it has not been insisted upon, as I understand, is that in this great emergency of the country, as the Institution was able to get along, the matter was not pressed upon the Secretary of the Treasury, who never denied the obligation of the Government to pay in coin as much upon this debt as any other debt which the Government owed. I am informed by the Senator from Maine [Mr. FARWELL] that they received the currency of the country without making a special demand for the coin under the particular condition of things in the country at the time. The Institution will be able, as I understand, to repair the building, provided they receive what they are entitled to receive; and hence this proposition to pay the interest in coin. I shall move an amendment to the proposition to make up the difference between the currency which the Institution has received, and the coin to which they were entitled, in order that they may have the means to repair the building. I think the Government is bound to pay it by every obligation, and particularly by the obligation, which it took upon itself when it accepted this fund.

But the Senator from Iowa brings in here the fact that this fund was invested in Arkansas bonds. Was that the fault of Smithson who made the bequest? Whose fault was it if an improvident use was made of the funds of the Institution? But that question is not now to be settled. The Government of the United States has assumed the control of this money, has incorporated this Institution, has agreed to pay the interest forever at six per cent. upon the money that was placed in its Treasury; and, unless it means to repudiate this obligation, it is bound to pay it, and it is bound to pay it in the same currency that it pays to other creditors similarly situated. That is all that the Institution asks. They probably would not have pressed at this time for the payment in coin but for the misfortune of the fire which has recently occurred. I move to amend the section which is pending by adding to it the following:

And in case the interest heretofore paid to said Institution has been paid in a different currency, or of less value, than that paid by the Government on other permanent debts or trust funds, that the Secretary be directed to make up the difference to said Smithsonian Institution.

Mr. COLLAMER. Mr. President, I do not wish to confine my remarks to the amendment now under consideration. I can see no good reason for the amendment of the Senator from Illinois. So far as this Institution have received their interest in any money that was satisfactory to them when they received it, I consider it paid. In relation to what has not been paid them, it undoubtedly should be paid them, as I think, in coin, as is the case with all the trust funds in the hands of the Government.

But, sir, I rose more particularly to make one remark. I feel a good deal gratified at the speeches that have been made on this subject this evening; and from this consideration: Congress, by the votes of many of the gentlemen who have spoken on this subject to-night, passed a law nearly four years ago to enable individuals to pay off their

old notes in depreciated paper at half price, and we called it a tender. These gentlemen voted for that measure, by which people were enabled to cheat their creditors, and by which the Government never got anything, and never will. But what particularly gratifies me is this: that while they were willing to make a law, and it is a standing law now, to enable individuals to cheat their creditors by paying them off in money at half price, they are ashamed to do it on their own account, and will not do any such thing; and I hope they never will. [Laughter.]

Mr. DAVIS. Mr. President, I think there is a higher obligation to keep this bequest at its original amount than any legal obligation. Smithsonian was a natural son of the Duke of Northumberland. He made a declaration in connection with this bequest that he would render his name more famous than that of the illustrious house to which he was allied. He executed a will, in which he bestowed the whole of his estate upon the United States, in trust, to establish, as the honorable Senator from Illinois has just read, an institution to be located in the city of Washington for the increase and diffusion of knowledge among men. That was the highest testimony that that individual could have rendered to the Government of the United States, or to the United States themselves. Although allied to an illustrious house, he gave all that he had of worldly property to our country and to our Government, for the purpose of founding an institution for the increase and diffusion of knowledge. From the circumstances under which this bequest was made, and the manner in which its execution was assumed by our Government, in my judgment, it creates a higher than a legal obligation that the amount and value of this noble bequest shall not deteriorate or be reduced in amount in the hands of those that he charged with the execution of the trust.

The honorable Senator from Illinois says, correctly no doubt, that the reason why this application is now made at this time is because of the misfortune that befell the Smithsonian Institution a few weeks since. That was in some degree the fault of the United States Government. It had property deposited for custody and exhibition in the Interior Department, which was directed by the officers of the Government to be transferred to the Smithsonian Institution for the same custody and for similar exhibition. This property was not properly attached to, or appended to, the Smithsonian Institution. The managers of that Institution received the custody and the possession of this property reluctantly, and only because its custody had been imposed upon them by the officials of the United States Government. The proper arrangement of that property in one of its halls rendered necessary the making of some repairs in the hall that caused the making of a fire in that hall, which resulted in the conflagration of the building.

It seems to me, Mr. President, in view of the nature of the bequest, of the nobleness of the motives of the testator who bequeathed it, of the high scientific purposes for which it was given to the United States; in view of the great trust and confidence that was reposed by the testator in the Government, and in the United States, and in our country; and in view of the fact that this fire that resulted in the burning of the Smithsonian building arose from the imposition of a duty that did not appertain to that Institution at all, the United States Government ought to hold itself bound by every obligation to keep the bequest at its original value; and that is all that is proposed.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The question is on the amendment of the Senator from Illinois to the amendment of the committee.

The amendment to the amendment was rejected.

The amendment of the committee was adopted; there being, on a division—yes twenty-one, noes not counted.

The PRESIDING OFFICER. The amendments reported by the Committee on Finance are all disposed of.

Mr. HALE. I find we have got another Smithsonian Institution on a smaller scale in this bill that I want to get rid of. I move to strike out the following clause:

For publishing the annual report of the National Academy of Sciences, made to Congress, under the act approved March 3, 1863, \$6,000.

If there is no objection to striking it out, I have nothing to say.

The amendment was agreed to.

Mr. HENDRICKS. I offer the following amendment as an additional section:

And be it further enacted, That the petitions and memorials of Woodruff & Beach, William H. Webb, Paul S. Forbes, James B. Eads, Z. & F. Secor, William Perrin & Edwin F. Secor, Harrison Loring, Alexander Smith, Niles, Works & Co., Harlan & Hollingsworth, Miles Greenwood & Robert J. Mason, George W. Quintard, George C. Baston, G. B. Allen & Co., T. G. Gaylord, R. T. Poe & Co., Donohue, Ryan & Secor, and the contractors for the seven iron vessels and their machinery, known as "double-enders," and the contractors for the seventeen vessels known as "double-enders," and the contractors for the following engines and machinery, to wit: five one hundred-inch engines, twenty-eight engines for wooden double-enders—

Mr. SHERMAN. I have heard enough of that amendment read to raise a point of order upon it. It is a private bill, for the payment of private individuals—a private claim.

Mr. HENDRICKS. I thought it possible that the point of order would be presented which has just been raised by the chairman of the Committee on Finance, but I think the objection is not well taken. This amendment relates to a class of public contractors, and this relief is necessary, in the judgment of the Committee on Naval Affairs, not only to save the contractors themselves from bankruptcy in some instances, but also to secure the completion of this very important work. These are the men who undertook to a very large extent to provide a navy, and some of them are able to complete their contracts; others are not.

Mr. SHERMAN. I raise the point of order that a question of this kind is not debatable. I would not raise the point except at this stage of the session.

Mr. HENDRICKS. I do not propose to discuss the merits of it at all, but simply to say that this affects the public interest, in the judgment of the committee, as well as the parties themselves.

The PRESIDING OFFICER. The Chair will submit the question to the Senate whether this amendment shall be received as in order under the 30th rule of the Senate, the latter portion of which is as follows:

"And no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or treaty stipulation."

The question is, Shall this amendment be received as in order under this rule?

The question being put, the amendment was not received.

Mr. STEWART. I wish to call the attention of the Senate to a section on page 14 of the bill. I have it not before me, but I ask the Secretary to read that section:

The Secretary read, as follows:

To enable the Commissioner of the General Land Office to continue the investigations which he has instituted in relation to the mineral resources of the United States, and the minerals, their extent and locality, in the public domain, who shall report his doings as by law required in relation to other business of the General Land Office, \$15,000.

Mr. STEWART. I move to strike out that clause, and to insert in lieu thereof the following:

For a geological and mineralogical survey of the lands known as mineral lands, \$50,000, to be expended under the direction of the Secretary of the Interior in making geological and mineralogical surveys, and such other explorations as may be necessary to set apart and designate what lands in the mineral districts are not mineral lands, for the purpose of exposing the same to preemption and sale. And the President, by and with the advice and consent of the Senate, shall appoint three commissioners, who shall each be a mining engineer with a knowledge of geology and mineralogy; and the Secretary of the Interior shall organize the commission and make rules and regulations for the government of the same; which commission shall report from time to time; and within ninety days after the publication of any such report, if no objection be made thereto, the Secretary shall approve the same, and the lands therein designated as not mineral lands shall thereupon be open to preemption and sale, as other public lands: *Provided*, The homestead law shall only apply to such of said lands as are chiefly valuable for agricultural purposes. And \$50,000 is also appropriated for the purpose of a survey of the lands designated as not mineral lands under the foregoing provision; and the surveys and explorations made under the foregoing provisions shall commence at such point as the Secretary may direct.

I wish simply to say a word in explanation. The section in the bill appears to refer to previous appropriations and previous investigations on this subject. I know of no law by which these investigations are directed; and I must say, with-

out desiring to reflect upon the Commissioner of the General Land Office—

Mr. SHERMAN. I rise to a point of order. I ask the honorable Senator if this amendment appropriating money comes from any committee.

Mr. STEWART. It does not.

Mr. SHERMAN. Then I insist upon the point of order.

Mr. HENDRICKS. I think the point of order is not well taken. The Senator from Nevada showed me that amendment, and I thought it was in order. He increases the appropriation, and more specifically directs its use.

Mr. SHERMAN. He moves to strike out the whole of one item, and to insert a new item of appropriation entirely different in its character. I think it is a new item.

The PRESIDING OFFICER. The Chair regards it as a modification of the amendment reported by the committee, and, as such, in order.

Mr. STEWART. The Secretary of the Interior has published in his report, and the Commissioner of the General Land Office has also published in his annual report, certain information with regard to the mines which has been anything but accurate, and anything but such information as legislation should be predicated upon. The information that has been collected is entirely erroneous, so far as the experience of every one who has been in the mining region is concerned. There is an appropriation in the bill of \$15,000 for the purpose of obtaining information in regard to the mineral resources of the country; and I understand that sum is appropriated annually without being directed to any serviceable purpose. If nothing can be substituted in place of it, I would much rather that that appropriation should be stricken out, and I shall insist on the motion to strike out at all events; for until this subject can be taken hold of in a manner to accomplish some good purpose, in such a manner that we can lay before Congress facts upon which legislation can be based, I am opposed to the expenditure of money upon it. I have lived for the last fifteen years in the mining regions. Foreign countries have sent commissions of scientific men there who have gone to the mines, made their examinations, and reported to their Governments. Those reports have been printed, some in the French and some in the German language, and been translated into English. But I have seen no report on the part of any one connected with the United States which was made from actual observation and survey. I am opposed to laying any information before Congress except such as shall be accurate. Such as we have had not only misleads Congress, but it misleads the people. You make false estimates and false calculations on the subject.

This amendment proposes to start at some point with a survey which shall separate the regions that are not mineral from those that are mineral, so that the lands not mineral may be exposed to sale. If the amendment should be adopted you will get some revenue, and you will get some accurate information; but whether the amendment is adopted or not, I shall most certainly insist that there shall be no attempt to publish information on an appropriation of \$15,000, without any provision as to how that money shall be expended, or where the information is to be obtained. To obtain information with regard to the mines requires a careful examination. It requires geological and mineralogical surveys and explorations by men of experience who understand the subject. It is a science that is capable of a great deal of accurate description. It can be reduced to such information that Congress can act upon it with certainty. But it is throwing money away to pay \$15,000 per annum for collecting idle rumors and publishing them; and I am opposed to that. I think this amendment will be a step in the right direction. By it we shall get some information; we shall expose some land for sale, get some money into the Treasury, do a little good, and do no harm.

Mr. CLARK. This is a curious proposition at this time of the session. At twenty minutes after eleven o'clock, on the last night of the session, on the very last appropriation bill that could be found, the Senator proposes to expend \$100,000 for a survey between the mineral and agricultural lands, beginning nowhere, and ending, perhaps, in the same place. Where does he propose to

make this survey? In what State? In what Territory? I had almost said in what country?

Mr. NYE. Where is this expenditure to be made? It does not state.

Mr. CLARK. Which?

Mr. NYE. This appropriation of \$15,000 for this purpose in the bill.

Mr. CLARK. At such place as the Commissioner of the General Land Office, if directed to procure the information, shall think he can best find it.

Mr. STEWART. If the Senator will read the last clause of my amendment he will find the same thing. The last clause says that the survey shall commence at such point as the Secretary of the Interior shall direct.

Mr. CLARK. I understand it. It is a very different thing to select and collect information into the Land Office from the whole country from what it is to survey the whole country. The information may be necessary before we start to survey. It may be necessary to know whether it is worth while to begin to survey, and then to appoint three commissioners to go on afterward to make further surveys. I think it is better to have the information that is provided for in the bill as it comes from the House before we attempt to do this. But, sir, this is not a time to debate it any more than it is a time to introduce it. I can only conclude by saying that I hope the amendment will not be agreed to.

Mr. STEWART. I undertake to say that the clause to which I have offered this amendment does not pretend to determine what information we shall have. The Senator says we should first get the information that the bill provides for. It does not provide for any definite information; and the facts of record show that the information which has been pretended to be obtained, and which has been published to the people, is incorrect in every essential particular, extravagant, calculated to produce a great deal of uneasiness, a great deal of disquiet, a great deal of dissatisfaction. The whole condition of the mineral region has been misrepresented, to the great detriment of the country. The provision in the bill is an injurious, hurtful one, and it had better be out. You had better appropriate nothing at all unless you mean to carry out some measure as I have offered.

Mr. GRIMES. Move to strike it out.

Mr. STEWART. I have moved to strike it out and to insert in lieu of it the provision that has been read. The amendment that I have offered, so far from being indefinite, provides for a geological survey at such point as the Secretary of the Interior shall designate in the mineral lands, for the purpose of separating the mineral lands from those that are not mineral, so that homesteads may be had in the mineral districts; so that a large amount of lands may be brought into market; so that the Government may get some information; so that it may get some money. I should not have offered it at this late stage of the session if there had been an opportunity to mature a bill before this. There was no opportunity. The subject, however, has been up and talked about in the Committee on Public Lands. The Senator from Iowa, the chairman of that committee, and myself, and two or three others, have discussed it. We had a sub-committee appointed to bring in something of this kind, to make a start with regard to obtaining information as to what lands could be offered for sale in the mineral regions, to see what mineral lands we have. We have conversed about this subject. This amendment has not been hastily prepared. It was prepared some days ago, talked over by the members of the committee, and agreed to, if there should be an opportunity to present it. It is in definite shape. We should not, however, have presented it, or attempted to clog any bill with it if we had not been met with an appropriation, vague and indefinite, to appropriate \$15,000 for collecting idle rumors which will again insult the sense of the people, because they are not founded in fact. That certainly should be stricken out. There is no use of spending money in that way. But a geological survey of the country is something we must have before we can put in market any of the lands that are not mineral that are within the mineral districts. It must first be determined by exploration. This amendment appropriates \$50,000 for a geological survey, and the balance, after those surveys shall have been made, is to be appropriated for the pur-

pose of laying off the lands, surveying the lands that are not mineral, for the purpose of sale.

Mr. JOHNSON. Can the question be decided? The PRESIDING OFFICER. It cannot. A motion to strike out and insert is an indivisible proposition.

Mr. HARLAN. I will suggest to my friend from Nevada the propriety of diminishing the sum named in the first item of his amendment to \$15,000, the same amount that is contained in the bill, and then I could vote for the whole proposition if you require the application of the \$15,000 to be made by the Secretary of the Interior in such a mode as to enable him to discriminate between the lands that are in fact mineral, and those which are denominated as mineral which are not in fact mineral.

Mr. STEWART. I accept that amendment: The PRESIDING OFFICER. It is competent for the Senator to modify his amendment, and it will be so modified.

Mr. HARLAN. I was about to suggest the propriety of dispensing with that part of the amendment which provides for the appointment of three commissioners. I think the \$15,000 may be expended as wisely, probably, by the Commissioner of the General Land Office, whose attention has been called to the subject.

Mr. STEWART. I will accept that also.

The PRESIDING OFFICER. The Senator from Nevada further modifies his amendment by striking out that portion of it relating to the appointment of commissioners.

Mr. HARLAN. I will say to my friend from New Hampshire that the proposition to appropriate \$50,000 for the survey of these lands is eminently proper. There are vast quantities of public lands in some of the new States, including California, Oregon, and the Territory of Washington, that are excellent lands, and are included in what are called mineral lands, and are not surveyed.

Mr. CLARK. It is a bad time to begin now.

Mr. HARLAN. I think it is the time to begin now. We need the money to be derived from the proceeds of the sale of those lands. These lands are being occupied by agriculturists, and the timber growing on them is being carried off, not only by the people of your own country, but is being shipped to England and to various countries in Europe. Fleets go around on this coast and take the best timber growing on the lands and carry it off. We are not able under the existing laws of the United States to sell these lands to our own citizens. They are not mineral lands in fact; that is, they do not bear the precious metals. They are of a mineral character, but the developments are not such as usually bear either gold, silver, copper, tin, or quicksilver. They may contain iron, coal, and the baser metals. I think the time has arrived when we should enter on the survey of these lands that do not bear the precious metals, that are now being occupied by squatters, and all the valuable timber being taken off. If, in the opinion of the Commissioner of the General Land Office, none of these lands should be brought into market, not a dollar would be expended except the \$15,000 which is provided for in the text of the bill. The amendment prepared by the Senator from Nevada provides that this \$15,000 shall be so expended as to enable the Commissioner to discriminate between the lands that are not mineral and those that are mineral, with a view to a survey of those that are not really mineral and to bringing them into market. With the modifications that the Senator has made, I am in favor of his amendment.

The amendment, as modified, was agreed to.

Mr. COLLAMER. I am directed by the Committee on the Library to offer the following amendment:

For the purchase and removal of materials and for erecting four greenhouses in the botanic garden, to be expended under the direction of the Joint Committee on the Library, \$2,500.

I will state that a favorable opportunity is now offered, when we desire some more greenhouses and need them, to purchase a large greenhouse erected by Mr. Rives in his lifetime on his place, which his heirs desire not to continue, and we can purchase for less than half the cost, the very materials we want for this purpose; and the whole cost, including the purchase, removal, and erection, will be but \$2,500.

The amendment was agreed to.

Mr. BROWN. I am instructed by the Committee on Military Affairs to move an amendment to the bill, to be inserted as additional sections, which I will send up to the Chair.

The Secretary proceeded to read the amendment.

Mr. BROWN. Unless some member of the Senate desires to have the amendment read, there is probably no necessity of proceeding with it, as it is an exact copy of a bill which has already occupied the attention of the Senate to some extent. I will explain the nature of the amendment. For the time being, I move that its reading be dispensed with.

The PRESIDING OFFICER. It will be dispensed with if no Senator insists on the reading.

Mr. BROWN. I am instructed to move this as an amendment to this bill by the Committee on Military Affairs, under the conviction that it is necessary for the military defense of the country, and under the further conviction that it will result in the saving of many million dollars to the Government. The Senate will remember that when this bill was under discussion it was explained that it was to reimburse the State of Missouri in the sum of \$4,000,000 for money which had been expended and paid out to the militia troops serving in that State.

Mr. GRIMES. Let us take a vote upon it.

Mr. BROWN. I will not prolong the discussion at all unless it is desired.

Mr. GRIMES. If the Senator does not carry his amendment he can call for a division and then explain it.

Mr. SHERMAN. I wish only to say in regard to this amendment that I would object to it and resist it as an amendment to this bill but for one reason: the Senate have already passed this bill unanimously and sent it to the House of Representatives, and they have defeated it. I give notice to the honorable Senator that by an inflexible rule on a committee of conference, if objected to by the House, it will fail; and I scarcely see any use in putting it on this bill.

Mr. BROWN. I do not think it will be objected to. I think it failed in the House under a misapprehension altogether.

The amendment was agreed to, as follows:

*And be it further enacted*, That immediately after the passage of this act, the President shall appoint a commissioner, whose duty it shall be to ascertain the amount of moneys expended by the State of Missouri in enrolling, equipping, subsisting, and paying such State forces as have been called into service in said State since the 24th day of August, 1861, to act in concert with the United States forces in the suppression of rebellion against the United States.

*And be it further enacted*, That the commissioner so appointed shall proceed at once to examine all the items of expenditure made by said State for the purposes herein named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, and paying such troops as were called into service by the Governor at the request of the United States department commander commanding the district in which Missouri may at the time have been included, or by the express order, consent, or concurrence of such commander. And no allowance shall be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States and subject to their orders.

*And be it further enacted*, That in making up said account, for the convenience of the accounting officers of the Government, the commissioner shall state separately the amounts expended respectively, for enrolling, equipping, arming, subsisting, and paying said troops, and from the aggregate amount he shall deduct the amount of direct tax due by the said State to the United States under the act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August 5, 1861, or the act entitled "An act to allow and pay to the State of Missouri the amount of money expended by said State in the arming and paying of troops employed in the suppression of insurrection against the laws of the United States," approved July 17, 1862.

*And be it further enacted*, That in the adjustment of accounts under this act the commissioner shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases.

*And be it further enacted*, That so soon as said commissioner shall have made up said account and ascertained the balance, as herein directed, he shall make written report thereof, showing the different items of expenditure as hereinbefore stated, to the Secretary of the Treasury; and if from said report it shall appear that any sum remains due to the said State, he shall draw his warrant for the same, payable to the Governor of said State, and deliver it to him.

*And be it further enacted*, That the commissioner to be appointed as aforesaid shall, before proceeding to the discharge of his duties, be sworn that he will carefully examine the accounts existing between the United States and the State of Missouri, and that he will, to the best of his ability,



make a just, true, and impartial statement thereof, as required by this act. He shall receive such compensation for his services as may be determined by the Secretary of the Treasury.

*And be it further enacted,* That the sum of \$4,000,000 be, and the same is hereby, appropriated to carry this act into effect.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs to offer the following amendment:

For repairing, refitting, and preparing the Naval Academy buildings and grounds at Annapolis, Maryland, \$100,000, or so much thereof as may be necessary.

Mr. SHERMAN. I will ask if that comes from a committee?

Mr. GRIMES. Yes, sir; and is based upon a letter of the Secretary of the Navy.

The amendment was agreed to.

Mr. GRIMES. I have another small amendment that was accidentally left out of the naval appropriation bill:

For mileage of Visitors to the annual examination of the Academy, \$2,000.

That is the usual appropriation.

The amendment was agreed to.

Mr. DIXON. I am directed by the Committee on the District of Columbia to offer the following amendment:

For continuing the work on the Washington aqueduct, \$100,000.

The amendment was agreed to.

Mr. LANE, of Kansas. I am directed by the Committee on Agriculture to offer the following amendment as a new section:

*And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, to be expended under the direction of the Commissioner of Agriculture in the purchase of seeds for loyal citizens of —, who have been impoverished by Army invasions.

The amendment was rejected.

Mr. DOOLITTLE. The Committee on Indian Affairs have instructed me to offer the following amendment, to be inserted at the end of the first section of the bill:

For subsistence of fifteen thousand, seven hundred refugee Indians in the Indian Territory and Kansas, from the 1st day of January to the 31st day of March, both inclusive, ninety days, \$204,750, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior: *Provided,* That a detailed statement of all moneys expended under this provision shall be made to the next Congress.

Mr. SHERMAN. It is rather singular to make provision for the subsistence of these Indians for times past. If the Department have expended this money without authority of law, that is one thing. I supposed we had disposed of these fifteen thousand Indians last night by turning them over to the War Department.

Mr. DOOLITTLE. No committee of this body, with the exception, it may be, of the Finance Committee, the Military Committee, and the Naval Committee, performs more labor than the Committee on Indian Affairs; and I believe that committee are satisfied that this appropriation is necessary. By a law of Congress the Secretary of the Interior was directed to take these Indians out of Kansas as refugees and put them in the Indian Territory. The Indians were upon the hands of the Department in a starving condition and were taken down there. These expenses have been incurred from the 1st of January last up to the last day of this month. It is true that by your action last night you turned these Indians over to the War Department, but it will take you thirty days before you can get them into the hands of the War Department. It is a necessity, in my opinion, that this appropriation should be made. It has been estimated for, recommended, and urged by the Secretary of the Interior. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Foster, Harlan, Henderson, Hendricks, Johnson, Lane of Indiana, Lane of Kansas, Morrill, Nesmith, Nye, Pomeroy, Powell, Ramsey, Riddle, Sumner, Van Winkle, Wade, and Willey—23.

NAYS—Messrs. Chandler, Clark, Conness, Farwell, Foot, Grimes, Howard, Morgan, Sherman, Sprague, Stewart, Ten Eyck, and Trumbull—13.

ABSENT—Messrs. Anthony, Brown, Carlile, Collamer, Hale, Harding, Harris, Howe, McDougall, Richardson, Salisbury, Wilkinson, Wilson, and Wright—14.

So the amendment was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866.

The message further announced that the House of Representatives had insisted upon its amendment to the amendments of the Senate to the joint resolution of the House (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, disagreed to by the Senate, had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES A. GARFIELD of Ohio, Mr. MOSES F. ODELL of New York, and Mr. GLENN W. SCOFFIELD of Pennsylvania, managers at the same on its part.

The message further announced that the House of Representatives had insisted upon its disagreement to the amendment of the Senate to the bill of the House (H. R. No. 600) for the better organization of the subsistence department, insisted on by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBERT C. SCHENCK of Ohio, Mr. ARCHIBALD McALLISTER of Pennsylvania, and Mr. AMASA COBB of Wisconsin, managers at the same on its part.

The message further announced that the House of Representatives had passed the following bills of the Senate:

A bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army;

A bill (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry;

A bill (S. No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia; and

A bill (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker.

The message further announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 807) to authorize the coinage of three-cent pieces, and for other purposes; and

A joint resolution (H. R. No. 135) to facilitate communication with certain Territories.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the bill of the House (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured or abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864.

The message also announced that the House had insisted upon its amendment to the first amendment of the Senate to the bill of the House (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1866, disagreed to by the Senate, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. M. RUSSELL THAYER of Pennsylvania, Mr. JAMES G. BLAINE of Maine, and Mr. FRANCIS KERNAN of New York, managers at the same on its part.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1866, and for other purposes.

Mr. LANE, of Indiana. I move to strike out the eighteenth section of this bill as it came to us from the House of Representatives; and I ask the Secretary to read that section.

Mr. POWELL. I hope the Senator will withdraw that motion for the present.

Mr. SUMNER. There are amendments reported from committees that have not yet been acted upon.

Mr. POWELL. I have an amendment to offer from the Committee on Printing.

Mr. LANE, of Indiana. I do not understand that after the Committee on Finance have exhausted their amendments that other committees have any precedence in amendments. I do not understand that there is any such rule.

Mr. SUMNER. I think the rule is to go through with the amendments from all the committees of the body.

Mr. LANE, of Indiana. I understand no such rule.

The PRESIDING OFFICER. There is no other rule than that of practice. The usual practice is to receive amendments from committees first.

Mr. LANE, of Indiana. There is no such rule.

The PRESIDING OFFICER. There is no express rule on the subject as to priority.

Mr. LANE, of Indiana. I wish the Secretary to read the section which I ask to have stricken out.

Mr. SUMNER. Before my friend begins with that allow me to make a suggestion. The topic he is going to introduce now will perhaps cause debate. I suggest whether it is not better that we should go through with the few remaining practical questions. For instance, I have three or four amendments to move from the Committee on Foreign Relations, not very important, but still which I am instructed to move on this bill, and I should like to move them before any discussion is opened.

Mr. LANE, of Indiana. I should like exceedingly to accommodate the distinguished Senator from Massachusetts; but the most practical point in this whole bill is the very section that I propose to strike out; it is more important than the whole balance; and I shall vote against the whole bill if it is not stricken out.

Mr. JOHNSON. What is the amendment?

Mr. LANE, of Indiana. Let the Secretary read the eighteenth section.

The PRESIDING OFFICER. The Senator from Indiana moves to strike out the following section:

SEC. 18. *And be it further enacted,* That no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open, except persons actually mustered or commissioned or appointed in the military or naval service of the United States, or rebel enemies charged with being spies.

Mr. LANE, of Indiana. Now, Mr. President, here is a regular appropriation bill, every item of which is to carry out an express provision of law or is recommended by one of the Departments of the Government; and upon that bill in the last hours of the session is introduced this provision calculated to revolutionize and change the whole military jurisprudence of the country for the last four years. What business has this proposition upon such an appropriation bill? What connection has it with an appropriation bill? I fail utterly to see that it has any connection with the bill before the Senate. I desire to be exceedingly brief, for the great master of the English drama has said that "brevity is the soul of wit," and if it is the soul of wit on all occasions it is surely the soul of propriety upon the present occasion.

But what does this provision of the House propose to do? To strike down the whole military jurisdiction in the country; to revolutionize the whole jurisprudence of the country; to repeal two Articles of War which have been in force for more than sixty years. You are told by this provision that no one, except those in the military or naval service of the United States or a spy within our lines, shall be tried by a court-mar-

tial. Is that the law? Has it been the law for the last sixty years, or from the very foundation of the Government? No such provision has been the law. I ask the Secretary to read the fifty-sixth and fifty-seventh Articles of War passed under the Administration of Thomas Jefferson, who was a Democrat when Democracy was not an idle name; when it meant something; when it meant devotion to human rights; and there you will see the jurisdiction of military courts affirmed and confirmed. Those articles have been applied in military courts for the last sixty years; and yet we are now told that this whole jurisdiction shall be stricken down in this time of war and rebellion. I ask the Secretary to read those two sections to show the complete jurisdiction of military courts in all such cases.

The Secretary read, as follows:

"56. Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by the sentence of a court-martial.

"57. Whosoever shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer death or such other punishment as shall be ordered by the sentence of a court-martial."

Mr. LANE, of Indiana. The Senate will perceive by reading the section immediately preceding these two sections that the punishment was confined to men enlisted in the military or naval service; but when it comes to these provisions, these two classes are expressly excluded, and it applies to every one in a time of war who shall give aid and comfort to the enemy. If you will read the four preceding sections you will find that they apply expressly to men in the naval or military service of the United States; but when it comes to these two sections, these classes are expressly excluded and it applies universally to all people, and it should so apply. We are now in a state of civil war. The war rages South and the war rages North, and whosoever aid and comfort are given to the enemy there the jurisdiction of a military court applies, and ought to apply.

How was it last summer in my own State? A treasonable organization was gotten up to murder and assassinate our Governor, to release the rebel prisoners, and to deluge in blood the fair plains of that great State from the lakes to the Ohio river, giving aid and comfort to the enemy. Military courts were organized to try the conspirators, and they may now be under sentence of death; but if you adopt this proposition, you rebuke the whole policy of the Government. A court is now organized in Ohio to try the Chicago conspirators, who were in complicity, as I verily believe, as much as I believe in my own existence, or in the God above me, with many of the leaders of the Chicago convention to revolutionize the northwestern States, to release the rebel prisoners, and to burn the city of Chicago. They are now under trial; but if you adopt this proposition they cannot be tried by a military court. They must be turned over to the civil tribunals. How are they constituted? By a jury to be called, with the right of challenge and the right of the "Sons of Liberty" to sit upon the jury; and how will you get convictions? I believe that this bill had far better fail than to incorporate any such provision upon it. It is but a reëcho of the old cry against arbitrary arrests that I first heard in this Chamber from the mouth of John C. Breckinridge, now a rebel in arms against the Government. All that has been said against arbitrary arrests I heard more eloquently and more ably said by him than I have heard by any one since; and yet this is introduced here as a rebuke to the Administration, as a rebuke to all these military courts! Let me tell the Senate that when you put in operation all the machinery of criminal courts and all the machinery of civil courts, you will not punish the one hundredth part of the rebels, either North or South, who deserve to die the felon's death. [Applause in the galleries.]

The PRESIDING OFFICER, (Mr. Foor.) Order! Order! A repetition of the offense will be followed by an order to clear the galleries at once.

Mr. LANE, of Indiana. I hope the galleries will not be cleared, for I am pleased to speak to the galleries. They represent the public opinion, more terrible to tyrants than an army with banners.

But there is a constitutional objection interposed. What is it? That no one shall be convicted of a capital or otherwise infamous offense without a presentment or indictment by a grand jury; and what does that mean? It is simply applicable to a state of profound peace; for neither the framers of the Constitution nor the framers of any other organic law upon earth ever provided for or contemplated their own dissolution. "No one shall be convicted of a capital or otherwise infamous offense, except by presentment or indictment by a grand jury." How do you try and convict and execute spies? How do you try and convict and execute all criminals who desert to the enemy or who violate their paroles? Under the provisions of this House proposition you could not in the State of Kentucky try by a military commission a single guerrilla. Guerrilla bands are organized in Kentucky, carrying murder, assassination, rapine, and bloodshed over that whole State; and when you proceed to try them by a grand jury, their peers must try them. Who are their peers? Rebels and traitors, deeply dyed in treachery to the Constitution and Government as they themselves are.

The same provision of the Constitution which requires that no one shall be convicted of a capital or otherwise infamous offense without presentment or indictment, provides further that no private property shall be taken for public use without full value being paid therefor, and that the rights of the citizen shall not be sacrificed except by due course of law. Now let me show you the utter absurdity and inapplicability of that provision of the Constitution to a state of war. In the first place, you could not convict a spy; you could not capture a rebel; and, in the second place, you could not destroy the property of a rebel without due compensation being made, and except through due process of law. The truth, as I understand it, is that war has one law and that peace has another law; and that the laws of war are as well recognized in the Constitution as the laws of peace. Otherwise the Government is bound hand and foot and turned over to the mercy of its enemies and the rebels.

I am prepared first to vote against this proposition, and if it shall be carried, then I shall vote this bill down, so far as my vote is concerned, if there is never another dollar appropriated to carry out the provisions of this bill while the world stands. I never will sanction the principle that this military jurisdiction shall be given over. It never can be given over with security to the country. I know it is in proof in my own State that a large military organization to subvert the Government was organized there and was organized all over the Northwest. I believe, as I believe in my own existence, that if we had waited the slow process of civil prosecutions before grand juries, long ere this the State of Indiana would have been one scene of universal bloodshed. To avert that, I am willing to give the same jurisdiction to military courts-martial that is given by the rules and articles of war, and by the act of 1806, passed under the administration of Thomas Jefferson. I believe it is necessary and proper. I apprehend no evil to result from it.

Where does this cry against military courts come from? Does it come from the true, and loyal, and Union men, or does it come from the disaffected? We see echoed in the Richmond papers, and all over rebeldom, the "tyranny of Lincoln!" Whatever else Abraham Lincoln may be, he is to-day one of the kindest and most amiable gentlemen upon earth, having a sense of justice equal to any man who ever lived; and in the hands of Providence he is the instrument to lead this country to final redemption and the reconstruction of the Union, but not through any timid or time-serving policy. He is to exert all the constitutional powers guaranteed to him to enforce the military power of courts-martial, to make rebels believe that there is still a Government in the United States and a "God in Israel."

Mr. JOHNSON. Mr. President, I am not able to lash myself into that state of excitement into which the honorable member from Indiana has succeeded in bringing himself. What I propose to say, therefore, will be said with all proper coolness. The question is whether the section now before us conflicts with the section in the Articles of War established in 1806, and if it does, whether that section consists with the con-

stitutional inhibition upon Congress. I shall make myself better understood by speaking first to the meaning of the constitutional inhibition. The Senator will remember that that is to be found in the fifth amendment; and the first proposition which I submit to the Senate is, that the meaning of that amendment is that it applies as well to a state of war as a state of peace. There is not a word in it which can be tortured to show that it was not the purpose of the amendment to comprehend every condition in which the country may be placed. So jealous were our fathers against military rule, and so anxious were they to protect the citizens by all those guarantees which in England have been found sufficient for that purpose, and which in all the States at the time of the adoption of the Constitution were deemed vital to that object, that notwithstanding they believed that in the Constitution, as it was originally framed, they could not properly be taken away from the citizen, they deemed it necessary to protect him by positive and express inhibition; and it is for the Senate to decide what is the meaning of the clause by which they sought to attain that object. The language of the article is:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury."

If it had stopped there I suppose everybody would agree that it embraced every crime capital in its nature or otherwise infamous, and that Congress would have no authority to provide that he who was charged with a capital or infamous crime should be tried in any other way than by having first a presentment or indictment of a grand jury; but there were cases common to England and common to the States in which it was deemed expedient to add that an antecedent presentment or indictment should not be rendered necessary; and what are they?

"Cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger."

Those are the only exceptions; and the first question for the Senate to decide is, whether it is the purpose of the first portion of the exception to apply only to a condition of war. To my mind it is as clear as the sun in its meridian that it comprehended every state, either of war or of peace, in which the country might be placed. The language is:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces."

When arising? How arising? Arising at any time. If the offense charged is to be punished capitally, or is infamous, then the party against whom the charge is made is first to have a presentment or an indictment, unless he be at the time in the land or naval forces, whether in a state of peace or in a state of war. There can be no doubt that the exception comprehends both conditions; that is to say, that if the case arises in the land or naval service of the United States, in peace or in war, the party is not entitled to the benefit of a presentment or indictment; and if the exception comprehends both classes of cases, why is not the inhibition equally comprehensive on both classes of cases? But there is another provision to be found in the exception, which, to my judgment, demonstrates it. The militia may be called into service; and when providing that the article shall not apply to cases arising in the land or naval forces, they go on to say that it shall not apply to cases

"In the militia when in actual service in time of war or public danger."

But so far as the Army and the Navy of the United States are concerned, whether there be war, or whether there be peace, whether there be quiet, or whether there be public danger, the party is not entitled to the benefit of a presentment or indictment. It necessarily follows, as I submit to the honorable member from Indiana, that that constitutional provision embraces everything in which a man is charged with a capital or infamous crime, who is not in the service of the United States, in its Army, or in its Navy, or in the militia when the militia is called into the service of the United States in time of war or public danger.

But that is not the whole of the article. With just as much propriety could the honorable mem-

ber except from the article the latter part of the provision, provided the country be in a state of war, as the first part of the provision. What is the latter part:

"Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb."

Does not that apply to the military service, the naval service, to cases arising in the militia when in the service of the United States? If it does, it goes to show that it was the purpose of the article to cover everything by that conservative provision which can arise, to cover the case of a capital or an infamous crime, unless the party charged, at the time when the offense is said to have been committed, is in the land or naval service, or in the militia of the United States when in the actual service of the United States. The honorable member tells us—and from the earnestness with which he speaks, and his character, nobody can doubt his sincerity—that the great apostle of American liberty, Jefferson, construed that constitutional provision as he would have the Senate to construe it. He is wholly mistaken. He comes to that conclusion by supposing that the clause of the Articles of War to which he has adverted was intended to provide that all cases arising in time of war are to be tried by a court-martial. It is a misapprehension of the meaning of the articles; and if the honorable member will permit me to say so, it is a libel upon the memory of Jefferson. If any man ever lived who would have protested against subjecting the citizen to military rule, unless from necessity, it was him. What is the act of Congress confirming the article? As the Senator will see, it is an act relating to the armies of the United States alone, and containing almost every variety of regulation supposed to be necessary for the organization and preservation and discipline of the Army. It provides, by the fifty-fifth article:

"Whosoever belonging to the armies of the United States employed in foreign parts shall force a safeguard shall suffer death."

"Whosoever shall relieve the enemy with money," &c. And the honorable member seems to suppose that the words "belonging to the armies" have nothing to do with the meaning of the immediate succeeding article. It is not so. The article is to be read, although a separate article, as you would read it if it constituted one and the same article. The fact that the one article completes a sentence and the next article begins and is a sentence of itself amounts to nothing. When you look to the law as a law regulating the armies of the United States, and you see that it provides that "whosoever belonging to the armies of the United States, &c., shall force a safeguard shall suffer death," and "whosoever shall relieve the enemy with money," &c., by every rule of construction, if there was nothing else to drive you to the necessity of applying that rule of construction, you are obliged to carry on the words "belonging to the armies of the United States" into the meaning of the second article; and the honorable member will permit me to say that until this war commenced—

Mr. LANE, of Indiana. Will the Senator permit me to ask him a question?

Mr. JOHNSON. Certainly.

Mr. LANE, of Indiana. How will you try a spy in a loyal State where the courts are open? He does not belong to the Army, and never did.

Mr. JOHNSON. No; but that is an exception.

Mr. LANE, of Indiana. Under this provision in the Articles of War?

Mr. JOHNSON. No; an exception under this section, and is to be tried by the laws of war.

Mr. LANE, of Indiana. So, I contend, is every conspirator in the United States.

Mr. JOHNSON. Who is a conspirator? Why, Mr. President, then treason, in peace or in war, is to be tried by these courts-martial.

The VICE PRESIDENT. The Senator will suspend his remarks to enable the Chair to receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had receded from its disagreement to the first amendment of the Senate to the bill of the House (H. R. No. 683) making appropriations for the support of the

Army for the year ending 30th June, 1866, and had agreed to the said first amendment, with an amendment, in which it requested the concurrence of the Senate; and it had agreed to the report of the committee of conference on all the other disagreeing votes of the two Houses on the said bill.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the Vice President:

A bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army;

A bill (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry;

A bill (S. No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia;

A bill (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker;

A bill (S. No. 171) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862;

A bill (S. No. 390) relating to the postal laws;

A bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia;"

A bill (S. No. 443) to incorporate the Freedmen's Savings and Trust Company;

A bill (H. R. No. 51) to establish a Bureau for the Relief of Freedmen and Refugees; and

A bill (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof."

#### ARMY APPROPRIATION BILL.

Mr. TRUMBULL. If the Senator from Maryland will allow me, I wish to make a motion in regard to a bill that has just come from the House. The Army bill has been returned from the House of Representatives, and I will ask that the action of the House be read, and then I desire to submit a motion.

The Secretary read, as follows:

IN THE HOUSE OF REPRESENTATIVES, March 3, 1865.

Resolved, That the House recede from their disagreement to the first amendment of the Senate to the bill of the House (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, and agree to the same amended as follows: insert in lieu of the words proposed to be stricken out by the Senate:

Provided, That no money appropriated by this act shall be used for the purpose of paying the Illinois Central railroad for the transportation of property or troops of the United States.

Resolved, That the House agree to the report of the committee of conference on the remaining disagreements of the two Houses on said bill.

Mr. TRUMBULL. It will be observed that the House has agreed to the report of the committee of conference in all respects except as to one amendment, and that they have amended and presented in a different shape, applying it distinctly to the Illinois Central Railroad Company. I do not know whether it is necessary for us to act upon the report of the committee of conference, but I suppose it is, before any further action is taken.

The PRESIDING OFFICER. (Mr. FOOT.) This is a case of a committee agreeing in part upon the disagreeing votes of the two Houses, and so far as they agree it is necessary for each House to concur in that report to the extent that they do agree.

Mr. TRUMBULL. Then I submit the report of the committee of conference and ask the Senate to agree to the portions to which the House have agreed, and that will narrow down the disagreement to one point.

Mr. COWAN. I submit whether it is competent for this body to agree to a part of a conference report and reject a part. The report itself is an entirety, and must be wholly agreed to or wholly rejected.

The PRESIDING OFFICER. The Chair understands that the committee of conference agree on some portions of the disagreeing votes and disagree on others. That it is competent for a committee of conference to do; the precedents are very numerous.

Mr. COWAN. Unquestionably; but if they do not agree upon all the subjects in dispute then there is no report.

The PRESIDING OFFICER. It is then open for either House to recede from those upon which they do not agree, or to appoint another committee of conference. The report will be read.

The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their fourth amendment.

That the House of Representatives recede from their disagreement to the second and third amendments of the Senate.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

As to the first amendment of the Senate, striking out the proviso at the end of the bill, the committee are unable to agree.

LYMAN TRUMBULL,  
N. A. FARWELL,  
L. W. POWELL,  
*Managers on the part of the Senate.*  
JAMES F. WILSON,  
WILLIAM S. HOLMAN,  
THOMAS T. DAVIS,  
*Managers on the part of the House.*

The report was concurred in.

Mr. TRUMBULL. I now move that the Senate disagree to the amendment of the House to the first amendment of the Senate, and ask a further conference on the disagreeing votes of the two Houses thereon; and that the conferees on the part of the Senate be appointed by the Vice President.

The motion was agreed to; and

The VICE PRESIDENT appointed Mr. HARRIS, Mr. HOWE, and Mr. WILLEY.

#### TARIFF BILL.

Mr. CLARK, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate numbered one, two, six, seven, eight, nine, ten, eleven, and fourteen, and agree to the same.

That the Senate recede from their third, fifth and a half, twelfth, and thirteenth amendments.

That the House recede from their disagreement to the fourth amendment of the Senate, and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the words "on iron bars for railroads or inclined planes, ten cents per one hundred pounds."

That the House recede from their disagreement to the fifth amendment of the Senate, and agree to the same with the following amendment: strike out "two and a half cents" and insert, in lieu thereof, "one cent."

DANIEL CLARK,  
THOMAS A. HENDRICKS,  
N. A. FARWELL,  
*Managers on the part of the Senate.*  
THADDEUS STEVENS,  
SAMUEL S. COX,  
JOHN A. GRISWOLD,  
*Managers on the part of the House.*

Mr. POMEROY. I thought, after the vote we had this morning, that the committee on the part of the Senate would certainly insist on carrying out the wishes and vote of the Senate. After voting as we did, two to one almost, not to increase the tax on iron, (and that is about the only thing there is in the bill, and, in my opinion, the only reason why a tariff bill was got up at all,) I did not think the Senate committee would recede and agree to the amendment of the House. But unless some other Senator desires to make opposition to it, I shall not. I discharged my duty this morning, and I shall not persist against it now and thus defeat the bill. My opinion is that this increase of duty on iron is bad for internal improvements, bad for the revenue, and bad for everything. I do not believe there is a good feature in it.

Mr. HENDRICKS. I desire to say that on the report of the committee of conference I shall not present my views about the propriety of any tax on railroad iron. I regret to see it done. I would rather see the bill lost than that and some other provisions of the bill adopted.

Mr. JOHNSON called for the yeas and nays on concurring in the report, and they were



ordered; and being taken, resulted—yeas 22, nays 12; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Cowan, Dixon, Farwell, Foot, Foster, Hale, Howard, Howe, Lane, of Indiana, Morrill, Sherman, Stewart, Sumner, Ten Eyck Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Davis, Gimes, Harlan, Hendricks, Johnson, Lane of Kansas, Cris, Pomeroy, Powell, Riddle, Wilkinson, and Willey—12.

ABSENT—Messrs. Brown, Carlile, Collamer, Doolittle, Harding, Harris, Henderson, McDougall, Morgan, Nesmith, Ramsey, Richardson, Saulsbury, Sprague, Van Winkle, and Wright—16.

So the report was concurred in.

#### SUBSISTENCE DEPARTMENT.

The Senate proceeded to consider its amendment to the bill of the House (H. R. No. 600) for the better organization of the subsistence department, disagreed to by the House of Representatives; and

On motion of Mr. WILSON, it was

Resolved, That the Senate insist upon its amendment to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. MORGAN, Mr. SPRAGUE, and Mr. POWELL.

#### HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 807) to authorize the coinage of three-cent pieces, and for other purposes—to the Committee on Finance.

A joint resolution (H. R. No. 135) to facilitate communication with certain Territories—to the Committee on Territories.

A joint resolution (H. R. No. 135) to facilitate communication with the Territories of New Mexico, Arizona, and Colorado—to the Committee on Territories.

#### EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of this date, information in relation to the amount of money paid by the War Department from the 1st of March, 1861, to the 1st of March, 1865, to the Baltimore and Ohio Railroad Company for the transportation of troops and munitions of war between Baltimore and Washington, or for any other purpose; which was ordered to lie on the table, and be printed.

#### CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, the pending question being on the motion of Mr. LANE, of Indiana, to strike out the eighteenth section of the bill.

Mr. JOHNSON. I am nearly through. I was about to say, when interrupted, that until this war commenced I never had heard a different construction given to the Articles of War adopted by Congress in 1806, and certainly never heard it intimated that it was possible, by any interpretation of the fifth constitutional amendment, to authorize a man to be tried for a capital or other infamous offense except on an indictment and presentment, unless he was in the military or naval service of the United States or in the militia. But the practical construction that these military men have put upon that clause is that they have the power to try everybody who is charged with any offense that in their opinion remotely affects the military service, or remotely—no matter how remotely—has a tendency to aid the rebellion. I know the military prisons in Baltimore have been filled with citizens who have been charged with no offense that, except by military sense, could be construed in any way as assisting the rebellion; and that is the case all over the country; and it is attended with enormous expense. There have been at times from one to two hundred men in Baltimore, citizens of Maryland or citizens who happened to be found there, imprisoned; not notified of what the offense for which they were imprisoned was until they were brought out before a military commission or

military court-martial to be tried; and that was not done until they had been in prison for months and months; and when they are brought out, how are they tried? They are tried by a violation of the most ordinary and best-established rules of evidence. All the safeguards and rules of evidence, adopted after the experience of centuries and thrown around the citizen who is charged with an offense, have been disregarded. What is the operation upon the Government in a financial point of view? The honorable member from Ohio showed me a letter the other day stating that there was a trial going on in Cincinnati at that time that had cost or would cost the Government from one to two hundred thousand dollars. A trial down in Boston, the trial to which I believe the honorable member from New Hampshire [Mr. HALE] referred the other day, cost the Government I do not know how much more.

But not only have these military gentlemen violated, as I think, and I speak it with all proper respect for the opinion of my friend from Indiana, their duty in the particulars to which I have adverted, but the provisions of your own legislation on the subject have been disregarded by the Executive. Congress was aware—the wailings from every State brought the fact to your knowledge—that these outrages upon the liberty of the citizen were being perpetrated; that men were kept in prison, not for days, for weeks, or for months, but for years, without being advised of what the charge against them was, and you therefore, as far back as the 3d of March, 1863, said:

"That the Secretary of State and the Secretary of War be, and they are hereby, directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States, and of the District of Columbia, a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States, by order or authority of the President of the United States, or either of said Secretaries, in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war."

The list is to be sent to the courts, and if there was no presentment or indictment within a limited time the parties are to be discharged. That law has been utterly disregarded. An investigation made by a committee of the other House some weeks ago exhibited a state of things existing here, within the sound of our voices, shocking to every sense of freedom which ought to be entertained by the American citizen. More than a year ago the President of the United States constituted a commission to visit these several places and discharge persons against whom there was no ground of arrest in their opinion, and they found, as one of them told me, here in the Old Capitol prison, right before us, a man who had been there for five or six months, and when the person who had placed him there was called before the commission to state upon what grounds he was placed there, he said that he had made a mistake; he was not the man he intended to arrest; it was somebody else.

Mr. President, it is too late in the session to argue this question; but it is not, and I am sure it will not, be considered as a party question by the Senate of the United States. It is a question that rises high above party. It is a question that involves the liberty of the American citizen. To say now that every citizen of the United States is to be dragged before a military tribunal is to say that our fathers fought during the Revolution in vain. We are now, as long as this state of things lasts, in no better condition than the subjects of the Turkish empire; not in as good a condition as the subjects of the Emperor of France, if any one can, at the instance of any detective of the Government, be cast into prison, and whenever he may think proper, or the military may think proper, brought out and tried by a military commission who do not know what the rules of evidence are, or who, if they do know, in general utterly disregard them. I have done, sir.

Mr. STEWART. I do not desire to make a speech on this subject; but I think this section is of such a remarkable character that it ought not to pass without a protest or comment. The section implies, in the first place, that there is an evil which Congress is called upon to redress; a wrong that demands this action on our part; that the Administration is committing such outrages that it is necessary for Congress to interpose and

prevent its carrying out the policy which it has been carrying out for years. We are called upon here to pass a vote of condemnation upon the Administration of the country for the last four years. On the last night of the session we are called upon to admit as true what was charged upon us in the canvass, and what we met upon every stump throughout the United States, that the Government of the United States has become a despotism; that they are guilty of arbitrary arrests and unjust punishments. We combated that charge throughout the presidential canvass; and we, some of whom were elected on that very issue, are now called upon, I repeat, at the close of the session to admit that our enemies were right and we were wrong. It is no new thing. It is the issue that was made in the last canvass before the people, and upon which the verdict of the people was rendered—a verdict grander in its character and more sublime in conception than any the world has ever seen; of a free people, after four years of trial and of war, going forward to the ballot-box, and by the ballot-box declaring that that condition of things should be continued. The reason why that verdict was cast was because the American people loved the Constitution and the laws. They loved that Constitution that gives them the right of trial by jury. They loved that Constitution which enables the Government to maintain its own existence. They believed that the Constitution, when fairly construed, does enable this Government to defend itself against its enemies.

Now, look at the cunning, I may say the very artful, construction here intended to be given. It is said that this section is a fair construction of the Constitution. I have only examined this question since it has been brought up here, and I did not know that such a question could be brought before us until this evening. It is said that this section is a just exposition of the Constitution; that the Constitution only allows those actually mustered or commissioned into the military service, or those charged with being spies, to be tried and punished by military commissions. I should like to ask, where do you find in the Constitution a provision whereby those who are charged with being rebel spies can be punished by a military commission? If the construction which the gentleman from Maryland seeks to place on this instrument means that none except those in the military or naval service shall be tried and punished by a military commission, where do you find the authority to punish spies? "Oh," it is said, "but they are rebel enemies; we have got to give the Constitution some construction; it does not mean exactly what it says; it has not provided for every contingency of war; it does not contain the full Articles of War; we must give it a reasonable construction; it must include rebel spies; it would be unreasonable to say otherwise." Very well; if it would be unreasonable to say that it does not include rebel spies among those who may be tried and punished by a military commission, is it not equally unreasonable to say that it does not include a secret enemy that has not declared himself a rebel, but who is plotting the ruin of his country?

Mr. President, but for the suspension of the writ of *habeas corpus*, but for the strong arm of the war power, but for the enforcement of that power in this country, there would be no country today. We should not be here to-night but for the exercise of the war powers. Before we deliberately come forward and, in face of the verdict of the people, censure an Administration that has held the helm of the ship of State through this terrific storm, this great trial of republican institutions, which in the end promises so much for the cause of human liberty, and declare that the exercise of this military power for the preservation of the nation, for the preservation of the great Republic, has been wrong, violent, oppressive, and wicked, let us pause. I am not prepared to take such a step.

Mr. SHERMAN. I rise to ask the Senate either to pass this bill without further debate, or to lay it on the table. It will be scarcely possible now to engross it with the various amendments that have been put upon it, and unless we can have a vote on the various propositions of amendment yet to be offered without debate, we might as well save time by considering the bill as lost and taking a recess.

The PRESIDING OFFICER, (Mr. FOOT.) The question is on striking out the eighteenth section.

Mr. TRUMBULL. Before that motion is put, I move to amend the section by inserting the words "employed, drafted, enlisted, or," after the word "persons."

Mr. HOWARD and Mr. JOHNSON. How will it read then?

The PRESIDING OFFICER. The section will be read as it will stand if amended.

The Secretary read, as follows:

That no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open, except persons employed, drafted, enlisted, or actually mustered or commissioned or appointed in the military or naval service of the United States, or rebel enemies charged with being spies.

The PRESIDING OFFICER. The question first occurs on amending the section as proposed by the Senator from Illinois.

Mr. TRUMBULL. The object of that amendment is to subject to trial by military courts-martial or commissions not only persons who have been mustered into the service of the United States, but all persons in the employ of the military service. Persons, for instance, in the arsenals who have been detected filling shells with sand instead of powder, and teamsters and others who are in the employ of the Army, may properly, I think, be considered as part of the Army, and subjected to trial by military courts-martial. That is the object of that amendment.

At this late hour, and with the appeal which the Senator from Ohio makes that we take action, I do not feel that I should be justified in making any lengthy remarks upon the matter now under consideration. I think, notwithstanding the very eloquent remarks of the Senator from Indiana and of the Senator from Nevada, that, so far from strengthening the Union sentiment of this country, no one thing has done so much to alienate the feelings of loyal men as the unwarranted arrests which have been made by subordinate officers in the loyal States.

Mr. CONNESS. No one pretense has been so continually set up.

Mr. TRUMBULL. And that is what has divided them. Nearly one half the people of the North have been arrayed, not against the Government, but have been expressing dissatisfaction and weakening the arm of the Government by just such acts as this section seeks to avoid. From the beginning of this war I have believed that the true course to pursue was to preserve the Government and preserve liberty together. I believed that constitutional liberty, liberty regulated by law, could be preserved in this land. It is the liberty we are fighting for. And when gentlemen lay aside the law and the Constitution and say, "There is no law, nothing but the strong arm," how are you any better than the traitor you fight? What does he do but disregard the law and the Constitution? What is this rebellion but an armed resistance to constitutional and legal authority? If you would be strong, be strong under the banner of the law and the Constitution. Fight for liberty, fight for law, and then you will be strong.

Now, sir, I have before me the report of the Secretary of War; and I wish to do an act of justice to that high officer on this occasion. I have often heard him denounced for these arbitrary arrests and for non-compliance with the act of Congress which made it his duty and the duty of other officers of the Government, whenever persons charged with political offenses were arrested, to report their cases to the first term of the court which should be held in the proper district after the arrest took place. I am happy to know from this official report that in this respect the Secretary of War has endeavored to do his duty. The act of Congress making it the duty of the Secretaries to report to the judicial tribunals all cases of persons arrested in the loyal States charged with political offenses was passed on the 3d day of March, 1863. Within twenty days from the time the act passed, and perhaps as soon as it came to the notice of the Secretary of War, he issued this order:

WAR DEPARTMENT,  
WASHINGTON CITY, March 23, 1863.

COLONEL: I beg you to direct your attention to the provision of the late act of Congress requiring prisoners held under military authority to be released within a certain time, and to ask that proceedings may be taken against

such as are not proper to be released, and that you will see that the provisions of that law are observed in regard to all persons held in military custody.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. J. HOLT, Judge Advocate General.

Here was an order of the War Department, made within twenty days of the passage of the act, charging a particular officer in his Department with the execution of this law, and enjoining upon him that he should see that the provisions of the act were observed in regard to all persons held in custody. What more could he do? The Secretary of War could not personally visit all the prisons in the land to ascertain if persons were held in confinement. He had to intrust this duty to some one; and if you will look through this report you will find that at different times he appointed commissions to visit the different prisons throughout the country and ascertain if there were persons held there in confinement who ought not to be confined; and many have been released by these commissioners. I make this statement in justice to a public officer. I have had some conversation with the Secretary of War upon this subject, and I learned from him that these arrests which had been made in the different parts of the country by subordinate officers had given him more pain than almost anything else that had occurred during the war; that he had been unable to sleep at night in consequence of its coming to his knowledge that persons had without cause been thus arrested and sometimes held for a considerable period of time before it came to his notice.

I voted for the law authorizing the suspension of the *habeas corpus*. I did it because in a time of war like this, in a great emergency, I thought there might be occasions when it was proper that men should be arrested and held in confinement. I voted for that law which provided that they might be taken and so held, and should not be released by a court or anybody else until after there was an opportunity to present their case to a grand jury, and not then unless the judge was satisfied that it was proper to release them, and they gave bond for their good behavior and took an oath of fidelity to the Government. But, sir, when I voted for that law, I did not expect that the writ of *habeas corpus* was to be regarded as suspended by all the subordinate officers throughout the land. I did not suppose that every provost marshal in the land would be at liberty to arrest whom he pleased, and keep him in confinement. I thought that whenever an arrest was made, the fact would be immediately reported to headquarters, to the War Department, or to the President himself, and that action would be taken in regard to the case at the earliest possible period. It seems the Secretary of War has endeavored to take action. It seems by this report that he has endeavored to discharge his duty in that respect; and I am glad that he has; and I am glad that the fact turns out to be that persons who have been arrested have had relief and been discharged where it did not appear on investigation that there were any charges against them sufficient to put them on trial.

In regard to the section under consideration, I think it should be guarded; I think it should be so framed as not to impair the efficiency of the Government in carrying on this war, and not unnecessarily to infringe upon the right of the citizen. Sir, I have a great respect for law. I love the Constitution. I believe it is the respect for law and the love of the Constitution that is bearing us triumphantly through this great struggle. I believe that is the banner under which our soldiers march to victory; that they feel they are marching in obedience to law and the Constitution and not as violators of law. Therefore I am willing that a provision carefully worded—I am not sure that this is sufficiently carefully worded—but I am willing that a provision should be inserted in the law, and I think there ought to be one inserted, that shall secure to the citizen the great rights guaranteed to him by the Constitution, and which have been handed down to us from our ancestors. I am not for placing the liberties and the lives of the peaceable citizens of this country at the disposition of the provost marshals and the subordinate officers throughout the land who are clothed with military authority. While I would be willing, and have been willing, that in special cases which meet the approbation

of the Secretary of War and of the President, noted persons may be arrested and held, as a general proposition I am in favor of securing to the citizen, wherever it can be done, all the rights which the Constitution guarantees to him.

I say to the Senators who are so zealous tonight in favor of military trials, who are in favor of trying the citizen by a military tribunal, that you are setting an example which is utterly subversive of the Constitution and regulated liberty; you are overturning all that the Anglo-Saxon race has contended for for two hundred years, which is, the right of the citizen to be protected by law and regulated by law, and not to have his rights and his liberties dependent upon an officer, without law, and in disregard of it. There is no law regulating these trials of the citizen. Wherever an act is done—and I think that is the distinction—connected with the military service of the Government, there the military tribunals take hold of the party. Wherever the judicial tribunals of the country are overborne, of necessity the military tribunals must govern.

Your military authority must preserve the peace in Charleston, in Savannah, in all those localities where officers who were loyal to the Government have been displaced by rebels and traitors, where you have no civil tribunals to administer the law according to the Constitution which provides for the administration of justice. When war rages, we are to carry on the war according to the rules of civilized warfare. We have a right when we meet the enemy to shoot him down. The Constitution gives us the right to make war, to raise armies and maintain navies, and we may use those armies and those navies for the purpose of subduing insurrection and rebellion. But because you have a right to use an army and a navy in battering down the houses in Charleston, you have no right to use them to batter down the houses in Albany, New York, or in Columbus, Ohio. And that, in my judgment, is the proper distinction; the military rules where the civil authorities are overborne; the military takes jurisdiction of all offenses connected with the military service; it takes prisoners of the enemy; it tries and punishes by court-martial and military commission offenders connected with the military service.

Mr. HOWARD. Mr. President, I shall not at this late hour of the night long detain the Senate; but I cannot listen to the remarks of the Senator from Illinois without attempting something in the shape of a reply. What does this section propose which is now moved to be stricken out? It proposes to release and liberate hundreds of rogues and conspirators now confined in prison awaiting trial, and some of them undergoing their sentences; to set them at liberty again to plot and conspire against the peace and safety of the United States.

Mr. TRUMBULL. It does not propose to set anybody free.

Mr. HOWARD. Yes, it does.

Mr. TRUMBULL. Read it. There is no such word in it.

Mr. HOWARD. Read it. Will the honorable Senator from Illinois tell me that that section which is now proposed to be stricken out will not release persons now detained for trial? If he shall, I have to say to him, with some diminution of my ordinary respect for his professional opinion, that he has not read his books of law with sufficient care. That section declares that henceforth no person shall be tried, &c.: if a man is detained for trial for a particular offense he cannot, by this section, be tried for that offense; he is, *ipso facto*, by the very terms themselves of the statute, released, liberated.

Mr. TRUMBULL. The Senator either misunderstands the proposition or I do. I understood the Senator to say it would release persons who had been convicted and were undergoing their sentences. The proposition is that persons are not to be tried in a particular way, but that does not prevent their being tried by civil tribunals. It prevents their being tried by court-martial or military commission; but as I read it—I have certainly misread it if it is not so—it does not propose to release anybody, and has no effect whatever on a person undergoing his sentence.

Mr. HOWARD. I have read the clause with some care, and I tell you if that shall pass as it is there written in the bill before us, all those men

who are now detained for trial by courts-martial will be released and liberated. It is impossible that such should not be the result. It is not necessary that the statute should in terms declare that they should be released; it is sufficient if the statute be such that they cannot be tried in that form; if they cannot be thus tried, they must, from the very terms of the statute, be released and liberated. Had it not been for the salutary use of this restraining power on the part of the Executive as Commander-in-Chief of the Army, it is, I think, no news to say to the Senator from Illinois that the very city in which he resides would have been reduced to a mass of cinders and ashes during the sitting of the Chicago convention, for it is perfectly well known, as well established as any fact can be, that on that occasion there were thousands of conspirators who came over from Canada, where they had been hatching their plots against the United States, and for the very purpose of firing that town, liberating the prisoners confined at Camp Douglas, and doing other acts of mischief and destruction. Had it not been for the same protective, the same tutelary power which the Senator now denounces so bitterly, and of which he has heretofore spoken in this body in terms of approbation and praise on more than one occasion, the very dwelling of that Senator would have been laid in ashes by the hands of just such wretches as these military courts and commissions are intended to punish. Now, sir, away with this mawkish, affected sensibility in regard to courts-martial. If there be any fault connected with them, and connected with the Administration on account of them, it is that they have not been used with sufficient vigor and vigilance. That is my opinion. The rigors belonging to martial law are in a moment of war and public danger the only restraining power sufficient to compel obedience to law and order. I will not trespass on the time of the Senate longer. I am glad the motion has been made to strike out that section so anomalous in a statute making appropriations.

Mr. CONNESS. I shall not certainly speak long. The honorable Senator from Illinois [Mr. TRUMBULL] dilates at length, and treats us to his fears of and his contempt for provost marshals. Well, sir, I never heard it from that source before done so well; I have often heard it in the Senate since I have had a seat here, and I have heard it all over the country; but I never knew until now that the shadow of a provost marshal frightened the honorable Senator from Illinois. Did a provost marshal ever arrest the Senator? Has he been detained by a provost marshal? Has the honorable Senator from Michigan been arrested on his way from Washington to home or back by a provost marshal? Have you or I, sir? It may be that now and then provost marshals miss their game and strike an innocent man; but it has been more frequent that they have missed the base conspirators who have filled the country in organized gangs blurring professions to the Union and respect for the Constitution, and yet engaged in tearing both down. It is against such that provost marshals have been organized. It is against such that provost marshals should have performed their duties more effectually than they have done.

We are told by the honorable Senator from Illinois that nothing has so injured the cause of the Union, nothing has so injured the Administration of the country since the war began, as the system of "arbitrary arrests." No, Mr. President, nothing has injured the Administration and the cause of the Union, since the war began, more than timorousness and fear, for there has not been a time when the administrative power in any of its branches has come up to the high tone of the mass of the people. It is in the integrity, in the unselfish patriotism, in the innate, inborn, instinctive zeal of the masses of the poor citizens of this land that we have found protection and security. The faults of the Administration have been in coming short of meeting this high-toned, this determined patriotism existing in the body of the people.

It is true, Mr. President, that the actions of provost marshals and the acts of the Administration have been declaimed against; but by whom? Either for the base purpose of building up and organizing party in the country pending war, or for the meaner purpose and intent of subvert-

ing the Government of the country. No honest man fears any and every effort during war that goes to strengthen the national arm. Only wretches, only cowards, stand in dread. Sir, the last election by the American people, one of the great consummations of which we are to witness perhaps in this Hall to-morrow, is testimony better than that of the honorable Senator from Illinois that the Administration, the War Department, the provost marshals, have not transcended the proper bounds since this war began.

Sir, I have little respect for these croakings and these pretentious exhibitions of regard for constitutional law. Give me a country, give me a society, give me a noble people, and I will give you, or they will give you, a Constitution; but destroy the integrity of a people, render them base, let them become detestable and properly subject to the scorn of honest men, and you have neither a people nor a Constitution; you are not an example longer to mankind; you become the scorn, the by-word, of the world. The work of the great American fathers was never intended to degenerate into this, but it was intended to culminate grandly and gloriously down to the end of time.

Sir, I frequently hear leerings against the enthusiasm of men who feel. It is the acts of the men who feel that have preserved us, and through whose devotion and truthfulness we stand here to-night.

But, Mr. President, I did not intend to consume the time of the Senate, and I know that I transcend in doing so. I will simply say that rather than allow this section to pass, rather than that the Congress of which I am a member should knowingly adopt this section, and plant the condemnation of its expression upon the best acts of our people for four years past, I would see this appropriation bill and all the others that you have passed sunk into perdition. You cannot taint the bill before you with this miserable and disgraceful attack upon the patriotism of the land, and get my vote for it. It is a poor compliment at this time for us law-makers to pay to the men who have been our agents, the men who have been the mediums through which we have acted in all this great contest, that we now turn about and definitively say to them, "You have violated liberty, you have outraged law, you have pulled down the great edifice of civil liberty, and we reproach you thus for it." Such an act, Mr. President, can have no vote of mine.

Mr. GRIMES. I desired to say a few words on this subject, and had intended to do so; but I am admonished by the lateness of the hour, or rather the early hour [half past one o'clock a.m.] at which we are holding our session, and also by the fact that the subject has been ably argued on all sides, that it would be a work of supererogation for me to address the Senate at this time.

Mr. TRUMBULL. We have got to remain together.

Mr. GRIMES. I do not understand that we have to remain.

Mr. TRUMBULL. The Army appropriation bill is behind.

Mr. GRIMES. There are several other measures besides this that ought to be passed. It is necessary that this bill should be passed at some time, in order to have a committee of conference on the disagreeing votes of the two Houses and have it enrolled. If we wish to have an extra session, if we desire to come back here in the course of ten or fifteen days, we had better continue this debate. If we do not, I think we had better take the vote. I have a great anxiety to speak, but for that reason I shall decline to do so.

Mr. HENDRICKS. I cannot think of abusing the patience of the Senate by attempting an argument at this hour of the night; yet I deem it proper, because of some things that have been said by my colleague, to claim the attention of the Senate for a brief period.

From the argument which has been indulged in one would think this was the first time this subject had been spoken of in the Senate. I beg leave to call the attention of Senators to the very proposition that is now before us which has been denounced with quite as much passion as judgment. This section provides that hereafter no person shall be tried by court-martial or military commission in any State or Territory where the courts of the United States are open, except per-

sons actually mustered or in commission in the service of the United States, or enemies charged with being spies, and a modification acceptable to myself is proposed by the Senator from Illinois. Just two years ago to-day the Senate of the United States agreed to quite this much, and prescribed a penalty for the violation of the very principles defined in this section. When the Senate of the United States, two years ago, agreed that the President might suspend the writ of *habeas corpus*, it was not unconditionally and without restrictions, but it was with such provisions as would yet secure the liberty of the citizen; and although the statute has been referred to, I feel justified, because of the importance of the question, in referring to it again. After authorizing the President to suspend the writ of *habeas corpus*, that law goes on to provide:

"That the Secretary of State and the Secretary of War be, and they are hereby, directed, as soon as may be practicable, to furnish to the judges of the circuit and district courts of the United States and the District of Columbia a list of the names of all persons, citizens of States in which the administration of the laws has continued unimpaired in the said Federal courts, who are now, or may hereafter be, held as prisoners of the United States, by order or authority of the President of the United States, or either of said Secretaries, in any fort, arsenal, or other place, as State or political prisoners, or otherwise than as prisoners of war; the said list to contain the names of all those who reside in the respective jurisdictions of said judges, or who may be deemed by the said Secretaries, or either of them, to have violated any law of the United States in any of said jurisdictions, and also the date of each arrest; the Secretary of State to furnish a list of such persons as are imprisoned by the order or authority of the President, acting through the State Department, and the Secretary of War a list of such as are imprisoned by the order or authority of the President, acting through the Department of War. And in all cases where a grand jury, having attended any of said courts having jurisdiction in the premises after the passage of this act, and after the furnishing of said list, as aforesaid, has terminated its session without finding an indictment, or presentment, or other proceeding against any such person, it shall be the duty of the judge of said court forthwith to make an order that any such prisoner desiring a discharge from said imprisonment be brought before him to be discharged; and every officer of the United States having custody of such prisoner is hereby directed immediately to obey and execute said judge's order; and in case he shall delay or refuse so to do, he shall be subject to indictment for a misdemeanor, and be punished by a fine of not less than \$500 and imprisonment in the common jail for a period not less than six months, in the discretion of the court: Provided, however, That no person shall be discharged by virtue of the provisions of this act until after he or she shall have taken an oath of allegiance to the Government of the United States, and to support the Constitution thereof; and that he or she will not hereafter in any way encourage or give aid and comfort to the present rebellion or the supporters thereof."

It is further provided in this law, but I will not detain the Senate by reading it, that if the Secretary of State or War shall neglect to make return of the persons held as described, to the proper court, the parties imprisoned shall upon their own motion be brought before the judge, and upon a hearing shall be discharged. What has been the condition and state of the law since the enactment of this statute up to the present time, and what is the law of the case now? That a man may be arrested at the pleasure of any military officer and put upon trial before any court-martial or military commission? By no means. The President may order an arrest; thus far the writ of *habeas corpus* is suspended; but there is a substitute furnished for the writ of *habeas corpus* by this very law that many of you, Senators, enacted. I had no part in the enactment of this law, nor I suppose had the Senator from California, who is so very earnest in his appeals here to-night; but many of you, Senators, helped to enact this law. You would not say that the ancient guard and protection of the liberty of the citizen, the writ of *habeas corpus*, should be unconditionally suspended. You allowed it to be suspended for a time until the courts should meet, and then on the meeting of the court you required the party to be brought before the judge, and if no indictment were found against him he should be discharged upon the order of the court. No trial was contemplated; simply a holding, a holding until the court should come around and the grand jury should be in session, and if that grand jury found no bill the order was (as it would have been upon the trial of a writ of *habeas corpus*) that the party should be discharged.

Does any Senator regret that action? My colleague helped to enact this law; he, two years ago to-night, by his deliberate vote said, "No man shall be arrested and tried before a military court unless he is, according to the spirit of our Con-



stitution and laws, answerable to a military court."

Mr. LANE, of Indiana. Will the gentleman permit me to say that my impression is that I voted the other way; but if I voted differently then, I think the exigencies and circumstances of the country require the vote I propose to give now.

Mr. HENDRICKS. For two years my colleague has sat in his place here and allowed this to be the law of the land. He has never proposed its repeal or modification. By his silence he has said this law is right. This law, which will not allow the President to put any man on his trial before a military court unless he be properly answerable before such a court, has stood for two years without a word of complaint from my worthy and very able colleague. But to-night he says he would rather see any of these appropriation bills fail; he would see all the appropriations necessary for the support of what he regards, and what I regard, to be the best Government on earth go down to perdition rather than he would sanction that which has been the law of the land well expressed for two years. The trouble is not in the law. Senators, the law is plain. When you said there should be no longer the writ of *habeas corpus* in the United States, you said that in its stead there should be this high and sure remedy, that a man should only be held for a time, but that when the court came round, if the grand jury did not indict him he should be discharged. You said it. The question is, shall it be the law, or shall there be above the Senate and above the House of Representatives a higher power in the country, a power to place a man upon trial?

My colleague says that some of our fellow-citizens in Indiana have been put upon trial before courts-martial for civil offenses. I know what the offense charged was. It was a conspiracy to commit treason. That was the charge. And where do you find the offense described? You find it defined in the act of 1862, well defined, and the penalty prescribed—not the penalty of going before a military court, but the penalty is a trial before the United States district court, a civil court, upon an indictment, and the punishment is to follow the judgment of that court.

Then, my colleague says, by acquiescing in this law it is all right; when the court comes around, and the grand jury inquires into this matter, if that grand jury ignores the prosecution the party shall go acquitted; but now to put that in an appropriation bill to-night not only ought to sink that bill but ought to sink all the bills! My colleague says, leave your President without his salary, leave your armies unpaid, leave your ships to rot in the ports; the machinery of the Government must stop rather than take away from military officers the power to try, convict, and put to death men contrary to law, not contrary to the common law, not contrary to our impressions, but contrary to what you Senators wrote just two years ago to-night should be the law of the land. How is it? Where is the law-making power now? Is it here? Have we anything to do with the making of the law? Our fathers thought so; our constituents thought so when they elected us here; but it is not so. The law is, as we declared it, that the President shall not try a man who is not connected with the Army or the Navy before a military court, but that he shall simply hold him in custody, and for that time the writ of *habeas corpus* is suspended, and shall then bring him before the court, and if he is not found guilty by a grand jury he shall go acquitted. We said that; but the military officers say no, and, as my colleague says, in the very eye of that law men have been sentenced to death in Indiana. That is true, as I understand. Men have been so sentenced to die, and if they die in violation of law who is the murderer? No man's life can be taken except by authority of law. If there is authority of law for it my colleague may sustain the shedding of the blood, he may say that the garments of the officers are yet white after it is done, but it has been long decided by the tribunals of our race that if it is against law it is a murder. That has been too long decided to be questioned now.

If this law is law, it did suspend the writ of *habeas corpus* for a time until a court came around; but when the court passed by and the jury found no indictment then the law says the party shall go. Instead of that a court unknown to that law has assumed the power of trying men for the or-

inary crimes that are defined in our statutes; a military tribunal brings these men before it, tries them, convicts them, and they are shot. Senators, how does it stand? It is not justified, for the law says it is wrong. They may be guilty, they may be scoundrels, as Senators say, guilty felons. I do not know of that; but before you shed a guilty felon's blood the law must clothe you with the power. Go out into the avenues of your city, and you may find some man that is a guilty scoundrel, and will you undertake to put him to death? It would haunt you to the day of your death. You would not dare to do it; and if you cannot do it simply because he is a guilty scoundrel, can eight men called together by a commanding officer in the very face of the law do it? I say to my colleague, I say to Senators who become excited here, it is not of much consequence to you, to your children, to the millions of people that are to inhabit this country after we have ceased to legislate for them, whether the War Department is criticised or whitewashed, but I tell you what is of high consequence, that the law which protects the high and the low alike, which guards the humblest in society and checks the most powerful, shall be maintained as the rock of ages. It is the salvation of every man, woman, and child in the country. This raging and rampaging about a criticism on an Administration that will pass away, to be recollected in history either for its virtues or vices as may be, has not much weight with me.

I ask Senators to stand by this law. You enacted it deliberately; you thought it was right; you thought when you suspended the writ of *habeas corpus* that you would not do it without condition; it was a great protection, and had long been the pride of our race; you said it shall be suspended at the pleasure of the President for a time, until the court can meet, but when the court met the President shall bring the man before the court. Shall he do it? You Senators that are above passion, I appeal to you, shall he do it? This provision of the law proposes that he shall do it. It is denounced here to-night as an infamous thing. Are you ready to repeal this law? Are you ready to say that the ancient writ of liberty, the pride of the English race, shall, without condition and without limit, be suspended? When you look back to this statute of two years ago, are you not proud that you allowed its suspension only for a time? You would not allow even the President to hold a man for a longer time than until the court met; and now it is asked to go further than that; that whether the court meets or not, the Departments of the Government and the military authorities need not inquire any more! You go further than that, and say that against law tribunals shall be established to try men and shoot them! It would be the last thing I would want to do to sit on a court like that. When blood is shed I want to know that I am clothed with the sanctity and authority of the law.

Mr. President, I could not have conceived after this was the statute for two years that any Senator could object to this provision of this bill. I fear it will not do much good. It is not any stronger than that; it goes no further than that; and if that, with a penalty against the man who disregards it, has failed to protect the citizen, and men are about to lose their lives in the face of it, I do not know that a simple declaration in a statute of this year will do any good.

Mr. COWAN. Mr. President, it is probable that to-night half a million of our fellow-countrymen are sleeping out on the tented field, far away from their homes and the happiness and comfort only to be found in homes. They are the soldiers of the Republic, enlisted to fight its battles in one of the most terrible of all wars the world has yet seen. They are ready at any moment to arouse and rush to deadly conflict, where life itself is the stake they put in peril.

Now, sir, the question arises distinctly here in this place as to the object or purpose for which they fight. What is the issue in this fierce contest which has arrayed brother against brother, and has crimsoned so many battle-fields with their blood?

There is and there can be but one answer to this question right and proper to be given in the Senate of the United States, namely, this war is waged to maintain the supremacy of the Consti-

tution and laws, and not from the desire of domination or of conquering and subjugating a people whom we hate. It is not because this man, this body, or this community wants war or delights in it that we make it, but it is because the will of the American people is of necessity supreme and must be obeyed, and that obedience must be enforced, even to the death, against all arming to resist it. The only true and proper exponent of the will of the American people is the Constitution and the laws made in pursuance of its authority.

This is a plain proposition, and one which can be stated without tearing it to tatters in passion, and it can be argued without hot blood. The nation has spoken its will through its appropriate organs in distinct and audible language; it has spoken to command, and when it commands it must be obeyed. It alone has the right to command, and it alone has the right to be obeyed. What other will dares come in conflict with it? Who so strong and powerful as to attempt to enforce any other command than it has authorized? Nobody dares such a thing, or dares it at the peril of a terrible reckoning in account with the outraged majesty of the nation when the day comes. Our guide is not our own wills; we are the representatives of the nation, and we must execute its will as we find it written. Can we doubt this?

Some Senators, however, say that, being in a state of war, we cannot follow this guide. I answer, what guide are we to follow? To whose will must we be subordinate? Is the supremacy of the national will suspended in time of war; is it paralyzed? If war be dangerous, is it not the more necessary that this will should be in full vigor then? What can be more mischievous or false than to say that when we make war to enforce the Constitution and laws, they must stand aside and be in abeyance till the war is over?

The proposition under discussion declares that wherever the courts are open there the citizen charged with offense shall be tried by the law, and not by the arbitrary will of tribunals to whom the law has denied this authority. It declares this because it assumes that in such cases there is no war where the courts are open. And although the war may for the time being prevent the law from having its due course elsewhere, yet it cannot produce this result when the courts are open. There may be war in Virginia, in South Carolina, and Georgia, but there is no war in New England, New York, or Pennsylvania, and in these latter the reason, even if it were good, does not hold, and their citizens are just as much under the protection of the law as if there was no war anywhere.

I have seen that in time of war, of all other times, the will of the nation should be supreme and strictly obeyed. Why? Because when our armies are in the field, as in this war, fighting for the express purpose of enforcing obedience to the Constitution, how dare we violate it, set ourselves above it, or allow anybody else to do so? How could we look our soldiers in the face, if in their absence we had disregarded and trampled under foot the very ordinances for which they had encountered such dangers and endured such hardships? Let us beware on their account.

Mr. President, there is still another reason why we should always sustain and support the Constitution, apart from any I have mentioned, and that is that it asserts, maintains, provides for, and secures the liberty of the citizen in the most complete and ample manner. This has endeared it to struggling, suffering men everywhere, and this I fondly hope is that which has made us engage in the present war to save it. But how does it give us liberty? And I put the question because I am afraid that in the long enjoyment of that blessing there are some even in high places who have actually forgotten how the Constitution is necessary to it at all; they seem to think there is little or no connection between them. To such I will answer that it gives and secures liberty by declaring that no man shall be tried and punished except by law. That law must be written, declared, and published, so that all may know it, and ignorance of it is no excuse for its violation. Its rules must be made before its cases occur; they precede the cases and do not grow out of them.

No people can properly appreciate the value of this principle till tyrants teach them by depriving

them of it. Rome began to feel it when Caligula wrote his edicts in characters so small and stuck them on such high posts that the people found it difficult to read them. Still, although this was tyranny, yet it was tyranny which might be avoided by a ladder and a pair of glasses, and was mild compared with that which punishes at the mere arbitrary will of a superior and in a mode unknown to the law.

Now, sir, there are three kinds of laws known and recognized as constitutional. First, the laws of nations, which govern us in all our relations with foreigners in peace and war; and whenever there is actual war even among ourselves these govern us; we apply them now daily to the rebels. Second, there is military law, to govern our land and naval forces, applicable to them, and them alone, by its very terms; and to apply it to any other classes of the people is sheer tyranny. The section under discussion has for its object to confine this law within its proper sphere, and to prevent those who administer it from encroaching on the next and last, which is municipal law, and which is the law for the people and for their protection.

Now let us for one moment contrast the operation of these laws and watch their working when applied to the actual task of punishing or protecting the citizen. I will take the civil side first, in order to show with what excessive care the weak are shielded against the strong.

No man can be arrested except upon view by the officer or upon information made on oath; and if it were otherwise innocent people might be annoyed continually without chance to know their accuser or their imputed crime; but when the oath is written preceding the warrant both are in the light. I suppose, too, that the value of this safeguard has been shown recently, from the complaints made that so many are merely arrested and confined, then discharged, without knowing why; they are put in peril and nobody punished.

In the next place, after a man is in custody of the law it is matter of great moment where he shall be tried. Shall it be in a strange place and among strange people, or shall it be in his own districts where the offense has been committed, where the facts are known, and where the character of the witnesses may be ascertained? Surely no one can doubt on this point, and our law wisely fixes by accurate metes and boundaries the several judicial districts, so that every man may be certain as to the place where his defense is to be made, and his rights protected.

Again, as to the tribunal: the judge must be one learned in the law, wise in its reasons, and skilled in its application. He must be responsible, too, for his conduct in its administration; if he were not all these no one could be safe in his court. But the district and the tribunal being fixed, we come to the agencies used.

Here we find the grand jury, which is, perhaps, the noblest of all the institutions of the common law, the great barrier which stands between the citizen and danger. He cannot be called upon to answer any charge against him till at least twelve of his neighbors agree that he ought to answer, and if they refuse he is safe. This grand jury, too, must fix, define, and find the offense charged, and no attorney, not even the Attorney General of the United States, can dispense with their action, even in the case of the humblest man; and there is even here a right of challenge.

The indictment found, who shall determine the fact of the guilt? Here, again, the neighborhood is invoked, and a jury of the vicinity is called, impaneled, and sworn to try according to the evidence. They must be impartial men, too, and if they are not the accused has the right to reject them. Nay, he is even allowed to challenge a certain number of them peremptorily, and without showing cause, in consideration as it were even of his antipathies. But it is perhaps in the presumption of innocence which accompanies the unfortunate all the way through these proceedings we find that which gives to our law its most sacred character; in this it rises almost to the divine; guilt must be proved to the exclusion of every other hypothesis.

On the trial, and moved by this great presumption, the judge is bound to consider himself the counsel of the prisoner, and before the courts were corrupted the prosecutor was bound to compel the attendance of all the witnesses, so that a

subpena for the defense was unnecessary. Now, however, for fear any one should suffer from the neglect or corruption of officials, the humanity of the age allows to the defendant counsel and witnesses, thus securing him against all accidents.

The fact of the guilt, it will be seen, is committed to the juries; because if a man cannot be tried by his peers or equals, men who can sympathize with him and who are exposed to the same dangers, it is not very hard to see that the masses would soon be at the mercy of the few; and even if the latter did not abuse their prerogatives, the former never would be satisfied with their action. Still more, nobody but juries could take the responsibilities of trying facts. They are the representatives of communities, and communities acquiesce in their verdicts; and I think no judge in this country could possibly maintain himself for any length of time if you compelled him to decide the questions of fact which arise in criminal cases. Shield him with a jury, and all is easy; for he may then interpose and grant a new trial in case of conviction, and thus become the guardian of innocence against the blunders or prejudices of the jury.

In capital cases there is still another safeguard to life, in the fact that the sentence cannot be executed without the warrant of the executive; so that we find all the way through so many obstacles to the exercise of tyranny, that it is hardly possible that an innocent man can ever suffer an ultimate penalty. It is not in the nature of things that the committing magistrate, the grand jury, the petit jury, the court, the executive, should all combine to violate the laws and punish innocence.

Now, here is what is called liberty, and the safeguards of liberty, and whenever they are taken away there is no liberty; indeed, the removal of any one of them would be fatal to it. They are the principles of our Government which have endeared it to our citizens, have carried them forward in a career of unexampled prosperity, and, if strictly maintained, will yet give us assurance of a happy and free people.

The honorable Senator from Indiana [Mr. LANE] thinks it impossible at present in his State to extend to political criminals the benefits of these provisions in favor of liberty. No man entertains for that Senator a higher opinion than I do; but does he really comprehend the value of his objections to the trial by "due process of law?" Why, sir, if it is true that the country is in such a condition that in the State of Indiana the laws cannot be administered, there is an end of it. If the people are so debased, so corrupt, or so malignant to each other that they cannot lay down their party differences on the altar, and stand by the law first, last, and all the time, then, sir, I am obliged to pronounce this form of government a failure. If the United States courts in the State of Indiana, where the judges are appointed by the President, where the jurors are summoned by the United States marshal, cannot be depended upon to punish those who conspire against the Government, then, sir, I say that there is an end of it. But, sir, I do not think so. I think patriots have taken counsel of their fears rather than of their reason. Surely we are not so lost to all that is sacred in any loyal State in the Union that our resentments override our oaths, and that we cannot as jurors conscientiously administer the laws of the country.

Mr. President, I will not, I cannot, believe this. I believe there are everywhere good and true men whom no threat would intimidate, whom no affection would sway, and whom no bribe would purchase; and that they, if called in the United States courts, would "true deliverance make according to the evidence." I am for trying them and trusting them fully and fairly, and then when they fail, if fail they do, then I am in despair; we have no longer free government; and as to despotisms, one is as good as another, the worst being the soonest cured.

I am willing to say, however, that I have had great charity for many people who at first supposed it was necessary to resort to military tribunals to find a remedy for disloyalty. The thought that the Union would be destroyed and the nation divided was so shocking to the minds of loyal men that they were not likely to stop at any means likely to prevent a consummation so much dreaded; but after the experience we have had of the mischievous working of unconstitu-

tional measures, we ought not only to stop them for the future, but we ought to congratulate ourselves that the Constitution itself is again vindicated in the fact that it contains the true rules for our guidance even in times of civil war. I hope, too, that when it is again established as the supreme law of the Union it will only have a firmer hold on our affections, because its wisdom has been demonstrated by the consequences of disregarding it.

Now, let us contrast the course of the law as I have described it with the course adopted since the commencement of the war, of subjecting citizens not in the land or naval forces to trial by courts-martial, and we will soon see the difference. In the one we will find the utmost care and tenderness for the life, liberty, and character of the citizen, while in the other there is no security whatever for any of them. The innocent are in quite as much danger as the guilty, and not generally as well qualified to make defense.

And first: the charges are half the time of that vague, indefinite character, that it is not possible to reduce them with any degree of certainty to a definition, especially as there is no statute to furnish a guide. They are drawn up without any technical skill, and the record left of them would make but a sorry plea on a subsequent trial for either a former acquittal or conviction. A man might be put in peril on account of the same offense as often as it pleased his judges for aught they would serve him.

The court-martial itself is not free; it is composed of officers themselves constantly seeking and constantly expecting promotion from their superiors; and they are of course not at liberty to do anything which might interfere with their prospects in that respect. This is a prime mischief, as they only sit under special commissions, and for the trial of particular persons, whom it is the desire of the superiors to convict, or they would not have issued the commission. It would be singular, therefore, if the tribunal did not do the work it was set to do, and that with hearty good will, while they can have no sympathy with the accused, who belongs to a different class from themselves.

These officers are chosen, too, by those who as a general rule are anxious to vindicate the administration of their own department, and divert the attention of the public from their own delinquencies, by exposing the spectacle of some inferior victim, the judge advocate, who is in reality a kind of anomalous cross between a prosecutor and judge, having the disposition of the one and the power of the other to bring about a conviction.

The further mischief of these trials is that being utterly repugnant to the genius of our institutions and our laws, they command no respect and satisfy no demand of justice. Nobody ever acquiesces in the propriety of their findings, even while admitting them to be substantially correct, because, having no confidence in the machinery used, there is always a lingering suspicion that unfairness has existed in the proceedings.

Again, these courts are directed to sit oftentimes, without any regard to the convenience of suitors or witnesses, in places remote from their homes and from the locality where the offense was alleged to have been committed. This is a great hardship, especially to the poor, who cannot afford to pay for the travel and wages of witnesses, who come from great distances, nor can the witnesses themselves afford to attend at their own expense, with but a doubtful chance that the bills of costs in the end will be paid. Those familiar with the practice in criminal courts will be able at once to feel the importance of this defect.

On the trial, too, it is well known that most of the questions requiring the peculiar learning of the lawyer are those of evidence, such as the relevancy of the testimony.

But, perhaps, after all the greatest and most serious objection to these courts lies in the fact that they are engines of tyranny, useful only to wreak out the vengeance of private malice or partisan fury. They are in their nature especially adapted to these ends, and in all ages and under all circumstances have been denounced for the facilities they afforded in the execution of such purposes. The slightest grounds are sufficient to give them authority, and when once in motion there is no force adequate to restrain them, and they usually go on till they are intolerable.

# THE CONGRESSIONAL GLOBE.

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I do not think either that it makes much difference if we allow that the superior officers concerned in these proceedings are honest and patriotic, because the defects are in the tribunals themselves and in the mode and manner in which they try to administer justice. They lack that element of fairness which constitutes the distinguishing characteristic of our race, and which forever impels them to seek for a system which on this score will leave to the criminal himself nothing of which he can complain. Even his mouth ought to be closed in the presence of the strict impartiality and tender consideration given to his case; and when this is achieved, as it is in the courts of law, the art of governing has attained the utmost perfection of which it is capable.

I have listened with pain to the remarks of some Senators, who seem to be of opinion that so far from there being any just cause of complaint on account of these courts-martial, they are salutary in their operation and indispensable in the present crisis of our affairs. The honorable Senator from California was exceedingly passionate and full of invective on this subject. Now I understand that two or three years ago he was a Democrat, and I have no doubt honest in his belief.

Mr. CONNESS. Allow me to say to the Senator that I am now a Democrat.

Mr. COWAN. I suppose so, but I wish to put in a practical point of view the working of this mode of administering criminal justice. If, then, a Democrat in California, impregnated with his peculiar notions, should get into a discussion with a member of the party in power, and assail the Administration, as he had always been in the habit of doing, as matter of right, this of course would annoy his adversary, and if the dispute ran high, might lead him to seek the aid of the law to strengthen his argument; but he, being wiser than his anger, would refuse its assistance. What shall then be done? Is the Government powerless to protect itself against seditious and treasonable words, and must we wait, as the law waits, for the overt act before the blatant Democrat can be punished? Here then is a contingency in which it is thought necessary to invoke the aid of the military, and the hot and impetuous provost marshal, who feels the weight of the nation's fate on his shoulders, listens to the complaint, arrests the offender, flings him into confinement, or carries him away to some distant point, there to await such further disposition of him as may be determined upon. In the mean time all the facts of the case are exaggerated and distorted, the danger to the country from these seditious babblers is magnified, and all the worse passions are aroused into a desire for summary punishment.

Now, I should like to hear the Senator from California, if put in this position, speaking either for himself or another, and protesting against this outrageous violation of the rights of the citizen.

Mr. CONNESS. Allow me to say that since the beginning of this war there have been a great many Democrats arrested in my State, but they were very much like such Democrats as my friend from Pennsylvania. They were not my kind of Democrats. That kind is not arrested there; but my friend's class of Democrats is arrested very often and taken care of.

Mr. COWAN. I am of opinion the Senator from California will hardly ever be subjected to the fate of which I have spoken, for if I do not very much mistake his character he will always be found first to bow the suppliant knee at the footstool of power. He will always keep himself under the gabardine of him who reigns.

Still I say that if he were counsel in such a case as I have described you could not imagine the vehemence with which he would assert the constitutional rights of the citizen. Would he not insist that if he had committed a crime against the law that fact must be ascertained in the mode pointed out in the law? That to pretend to ascertain it in any other way was an insult to the majesty of the nation, and in itself the highest of all offenses?

Sir, I have put the case of one who had in fact committed no offense at all against the law; but it makes no difference even if he had committed the highest of all crimes, the wrong is just the same on the part of those who unlawfully usurp the power to try and punish him. What possible right has anybody to wrest from the custody of the law a criminal and inflict punishment upon him? In well-ordered States the populace is not allowed even to insult a murderer taken with the blood of murder upon him, nor on his trial, nor after his conviction, and not even at the foot of the gallows.

On the other hand, it is in the sacred observance of the law, the decent and reverential respect it exacts from all, and the sober, solemn majesty of its demeanor, which makes the people yield it all these; but they never accord them to a usurper. For instance, a man has been tried and convicted lately by a court-martial for fraud in his dealings with one of the Departments of the Government. He was a resident of Boston, and his crime, if he were guilty of it, was one which at this time is particularly odious, and which, if punished legally, would have given universal satisfaction. As it is, however, dissatisfaction exists, murmurs are heard everywhere; we have heard them even in this Chamber. Why? Because people lack confidence in these courts, and they have no faith that the proceedings were fair.

Now, take a case from the same State which occurred some years ago. One of the professors of one her colleges, a man of good character and high standing, was arrested for murder, taken into the proper court, and tried according to the forms and ceremonies of the law. The chief justice presided, the jurors were challenged, the witnesses were examined and cross-examined, the counsel were heard, and all was done patiently and painfully that Massachusetts could do to shield him if innocent. The theory of his guilt, however, was overpowering, and excluded every other hypothesis. He was condemned and executed as solemnly as if the whole had been a religious sacrifice, and the people bowed in acquiescence and without regret.

Mr. CONNESS. Will my friend allow me to ask for the name of the party to whom he has reference in Massachusetts?

Mr. COWAN. Does not the Senator know? If he does not, I will state the name.

Mr. CONNESS. Is it Smith, who was tried for frauds connected with the Navy Department?

Mr. COWAN. No, sir; I am referring to the case of Dr. Webster.

Mr. CONNESS. I understood that reference; but I was inquiring as to the other one.

Mr. COWAN. Smith has been imprisoned, I believe.

Mr. GRIMES. I trust the Senator from California will not interrupt the Senator from Pennsylvania, who is charged as one of the members of the Finance Committee with securing the passage of all these appropriation bills, and is now making a speech in the Senate for the purpose of accomplishing that object. [Laughter.]

Mr. COWAN. For the purpose, Mr. President, of carrying that bill entire as it came from the Committee on Finance, and for the purpose of sustaining here and everywhere the great principles which are involved in that section of the bill which it is now proposed to strike out. I would not have put it in this bill if I had had my own way about it, but it is there, and being there I will vote for it. I will vote for it there, anywhere, at all times, and under all circumstances, simply because I believe it is wholesome, wise, beneficial, and conservative of the best interests of the country.

Mr. CONNESS. Will my friend allow me now to ask him whether the party he meant was a Mr. Smith, of Boston, who was convicted by a court-martial?

Mr. COWAN. I have said so.

Mr. CONNESS. I believe he was convicted before the last election in Massachusetts; was he not?

Mr. COWAN. I do not know, indeed.

Mr. CONNESS. And I think the majority in that State after his conviction was some seventy thousand.

Mr. COWAN. I think that gentlemen who attempt to draw the inference that because the people supported the Administration at the last election, they therefore supported all these trials by courts-martial all over the country, and all the doings of provost marshals and of military officers, in derogation of the courts of justice, make a very great mistake. The American people in sustaining the Administration at the last election were moved by a much higher and a much nobler impulse than that. It does not follow because a man condemns and reflects upon his friends when they do what he thinks to be wrong, that he therefore abandons them.

Mr. STEWART. Allow me to ask one question. Was not the question of military arrests one of the issues placed in the platform on which Mr. McClellan ran at the last election?

Mr. COWAN. Yes, and I know, too, the answer. That allegation in the mouth of a friend of General McClellan was met immediately by saying, "You did it first; your candidate was the first man to make these arrests; he arrested the Maryland Legislature," and thus the wind was taken out of the sails of the McClellan men the moment complaint was made on that subject. That was not the issue, and it was not an issue which had any influence in the contest. The contest, as I said, rested on entirely different considerations, and I beg gentlemen will not lay that flattering unction to their souls that because the people endorsed the Administration generally, they did it particularly and in detail, because that is not true. Our people are sensible people, and when they deal with a matter of this kind they deal with it as a whole, and not partially. They decided that upon the whole it was better to continue the present Administration for another term, but they do not mean to say that they approved of everything that was done by it. No friend of the Administration that I have ever heard speak on this floor has said that he approved of everything it did, and I think nobody but a scycophant and a slave would say so, whether it merits approbation or not.

Mr. CLARK. I want to appeal now to the Senate to come to a vote. It is perhaps the last possible moment we can spare if we mean to pass this bill, and I appeal to Senators to make an effort to pass it by coming directly to a vote, rather than risk an extra session.

Mr. TRUMBULL. I shall not detain the Senate long, but I have struggled for some time to get the floor to reply to a remark of—

Mr. MORGAN. Will the Senator allow me to make a report from a committee of conference?

Mr. TRUMBULL. Certainly.

Mr. GRIMES. I object to a suspension of this bill for anything until we get through with it. I do not attribute any such design to the Senator from New York, but I have noticed that several Senators, after they have got rid of the business immediately in their hands in this way have turned in and treated to speeches for an hour or an hour and a half.

Mr. TRUMBULL. I think the Senator from New York is entitled to the floor to make his report.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The Senator from New York has been recognized by the Chair.

Mr. GRIMES. I ask for the reading of the rule by which business can be suspended.

Mr. TRUMBULL. I was upon the floor. The Senator from New York asked me to give way to him. I did so, and that entitled him to the floor. Now, I think the Senator from Iowa is out of order in seeking to prevent the Senator from New York making his report.

The PRESIDING OFFICER. The Chair will receive the report of the Senator from New York.

SUBSISTENCE DEPARTMENT.

Mr. MORGAN, from the committee of conference on the disagreeing votes of the two Houses



on the bill (H. R. No. 600) for the better organization of the subsistence department, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses upon House bill No. 600, and the several amendments thereto, having met, after full and free conference do agree and recommend to their respective Houses as follows:

The managers on the part of the Senate agree that the Senate shall recede from its first amendment, and the managers on the part of the House agree to modify the proviso to which that amendment was proposed, as follows: in line eighteen, section one, page 2, after the word "selected" insert the words "for each grade."

In line twenty, same section and page, strike out the word "only" and insert the words "and from the regular subsistence department, in proportion to the number of each of said classes respectively in service at the date of the passage of this act;" so that the proviso will read as follows: "And provided further, That the officers authorized to be assigned by this act shall be selected, for each grade, from the commissaries of subsistence who hold commissions or rank in the volunteer service, and in the regular subsistence department, in proportion to the number of each of said classes respectively in service at the date of the passage of this act."

And the managers on the part of the Senate, in behalf of the Senate, agree to such modification.

The managers on the part of the House agree, on behalf of the House, to the second amendment of the Senate.

E. D. MORGAN,  
L. W. POWELL,  
WILLIAM SPRAGUE,  
Managers on the part of the Senate.  
ROBERT C. SCHENCK,  
A. McALLISTER,  
Managers on the part of the House.

The report was concurred in.

#### THE MILITARY SERVICE.

Mr. TRUMBULL. Mr. President—  
Mr. WILSON. Will the Senator allow me to make a report from a committee of conference?

Mr. TRUMBULL. I yield for that purpose.  
Mr. WILSON. From the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, submitted the following report:

The committee of conference upon the disagreeing votes of the two Houses upon House joint resolution No. 170, and the several amendments thereto, having met, after full and free conference do agree and recommend to their respective Houses as follows:

1. That the Senate recede from the ninth section of its amendment.

2. That the House recede from its disagreement to the tenth section of the Senate amendment.

3. That the Senate recede from the eleventh section of its amendment.

4. That the Senate recede from the twelfth and thirteenth sections of its amendment.

5. That the House recede from the ninth section of its amendment.

6. That the House recede from its tenth amendment.

7. That the Senate recede from its disagreement to the eleventh amendment of the House.

8. That the committee agree upon the following substitute for the twelfth section of the House amendment: "And be it further enacted, That the bounty of \$100 provided by present laws to be paid to the heirs of volunteers killed in battle shall be extended to the widow, if living, or, if she be dead, to the children, of any volunteer who shall have been or may be killed in the service, whether he shall have enlisted for two years or a less period of time."

9. That the committee agree upon the following substitute for the thirteenth section of the House amendment: "And be it further resolved, That in case any officer of the military or naval service who may be hereafter dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal, or death, as the punishment of such officer the order of dismissal shall be void; and if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial, the sentence of dismissal shall be void."

10. That the Senate recede from its disagreement to the fourteenth, fifteenth, and sixteenth sections of the House amendment.

11. That the House recede from the seventeenth, eighteenth, and nineteenth sections of its amendment.

12. That the Senate recede from its disagreement to the twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, and thirty-first sections of the House amendment.

13. That the House recede from the thirty-second section of its amendment.

14. That the committee agree to the following title to the joint resolution: "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes."

HENRY WILSON,  
J. M. HOWARD,  
C. R. BUCKALEW,  
Managers on the part of the Senate.  
J. A. GARFIELD,  
M. F. ODELL,  
G. W. SCOFFIELD,  
Managers on the part of the House.

Mr. GRIMES. I call for the reading of that amendment in regard to the power of the President to dismiss an officer.

The Secretary read the ninth item of the report.

Mr. WILSON. I will say in regard to that matter that the House of Representatives adopted an amendment to the joint resolution that officers must be tried hereafter before they can be dismissed. By law an officer may be dismissed on charges, and he goes before a board and rights himself if he can. We have modified the amendment and agreed that the power to dismiss an officer shall not be taken away; that he may be dismissed, but that if he makes application for a trial after his dismissal by the President, he may have a court-martial; the court must be called within six months, and then he is to have a fair trial.

Mr. GRIMES. And he must be restored or must be killed.

Mr. WILSON. No.

Mr. GRIMES. Yes, the result must be his restoration to service or a sentence of death. There is no intermediate grade. I ask for the reading again.

The Secretary read the item again.

Mr. HENDRICKS. What bill is this?

Mr. WILSON. A military bill.

Mr. HENDRICKS. Is it a draft bill?

Mr. WILSON. A portion of that bill has been put on this.

Mr. GRIMES. Everything has been put on it.

Mr. WILSON. It is a capital bill.

Mr. LANE, of Indiana. The report of the committee of conference is perfectly clear to me, and it means just this: if a court-martial does not acquit him or shoot him, the President may reinstate him, and after he is shot the reinstatement will amount to very much. [Laughter.]

Mr. GRIMES. I should like to know what else is in this bill. I should like to hear the other sections of it read.

The PRESIDING OFFICER. The whole report has been read.

Mr. GRIMES. I am aware of that, but I should like to have the sections read that are referred to in the report. This is a matter of no small moment to the people of this country.

Mr. HENDRICKS. I wish to inquire of the chairman of the Committee on Military Affairs what this bill is, what it proposes to do?

Mr. WILSON. The bill is not here, but I will tell the Senator what it is. The first section of the bill is in regard to officers' servants.

Mr. HENDRICKS. I have no interest in that.

Mr. WILSON. The next is a section that non-commissioned officers and privates in the volunteer service shall receive the same amount of clothing as those in the regular Army.

Mr. HENDRICKS. That is all right.

Mr. WILSON. Another is that every non-commissioned officer and private and other person discharged from the Army because of wounds received on picket line shall be entitled to the same allowance as if wounded in any other way. The Department has ruled that if an officer is shot on picket line he cannot have a pension. We propose to correct that. Another section gives to the four regiments raised by General Hunter, under a special written promise, full pay, and allows them their back pay.

Mr. HENDRICKS. The South Carolina darkies! [Laughter.]

Mr. WILSON. The eighth section is that the President is authorized to enlist six regiments of engineers for the Army. The other sections are mainly some provisions of the enrollment act. The first section of that portion of the bill provides that every locality shall be credited with the men who belong to it, thus cutting up the whole system of getting men from one place and crediting them to another.

Mr. GRIMES. Read it.

Mr. WILSON.

That hereafter all persons mustered into the military or naval service of the United States as substitutes, or otherwise, shall be credited to the ward, township, precinct, or other enrollment sub-district where such persons belong by actual residence.

Another section is in regard to computing quotas, and provides that the hundred-day men, the six-months men, and all those men who have been brought out for short periods, shall be credited to their respective States, measuring by the

three-year standard, so that a hundred-day man is equal to about three months' service of a three-year man. The State of Ohio furnished last summer about thirty regiments of hundred-day men, and this section will allow her to be credited with them according to the proportion that their terms bore to the terms of the same number of three-year men.

Then we add four or five sections of a bill which the Senate passed some weeks ago, providing that any recruiting agent, substitute broker, or other person, who for pay or profit shall enlist or cause to be enlisted as a volunteer or substitute any insane person, or convict, or person under indictment for felony, or a drunkard, shall be punished.

Mr. GRIMES. By death or dismissal?

Mr. WILSON. He is to be tried by a judicial tribunal, and not by a court-martial. On that point the motion of my friend from Pennsylvania [Mr. Cowan] prevailed. Another provision is that any officer who shall muster into the military or naval service a drunken person or a deserter or a convict, shall be dismissed the service. Another section is that in addition to the penalties of desertion, persons who shall desert, and those who have deserted, and shall not return within sixty days, when the President makes a proclamation offering to forgive them, shall be disfranchised. Another section repeals the law that allows Massachusetts—I suppose my friend from Iowa would say—to enlist colored persons in the rebel States.

Mr. JOHNSON. Is that retained?

Mr. WILSON. One section of this bill repeals that law; and if we adopt this report, Massachusetts cannot any longer send agents to the rebel States to enlist colored men. I suppose that will gratify my friend from Iowa.

Mr. SUMNER. Is that repeal absolute?

Mr. WILSON. Yes; we had to make it absolute. Another provision allows any persons in a sub-district which is called upon to furnish so many men to club together and furnish the men, and be themselves discharged from the service. It is rather an insurance company, by which men can protect themselves from the draft.

Mr. GRIMES. Let us hear that?

Mr. WILSON. The provision is that—

Any person or persons enrolled in any sub-district may, after notice of a draft, and before the same shall have taken place, cause to be mustered into the service of the United States such number of recruits not subject to draft as they may deem expedient; which recruits shall stand to the credit of the persons thus causing them to be mustered in, and shall be taken as substitutes for such persons, or so many of them as may be drafted, to the extent of the number of such recruits, and in the order designated by the persons at the time such recruits are thus mustered in.

I think it is an excellent provision, which will probably tend to bring a good many men into the Army.

Then there is another section authorizing the Secretary of War to detail one or more persons to receive the oaths of the officers who go through the various departments. Another section is that acting assistant surgeons and contract surgeons and commissioners of the boards of enrollment, while in the military service, shall not be liable to draft.

Then there is a provision that officers of the Army shall be put upon the same footing as the officers of volunteers in regard to brevet rank. If this passes, Army officers cannot receive compensation for brevet rank.

Mr. GRIMES. Is there anything in the bill to prevent the frauds that have been perpetrated so extensively in some sections of the country growing out of the paper naval credits?

Mr. WILSON. No; I had to strike out the section we put in to meet that case, and I gave it up with reluctance. It was a point made by the House committee. The point was that it threw the naval credits into the large cities, and would operate against the country.

Mr. GRIMES. That is the trouble now.

Mr. WILSON. It is said that in many cases persons enlisted in the Navy in New York city ought to be credited to the western towns, and you cannot take them out there without great expense.

Mr. GRIMES. In other words, because the large towns steal naval credits, the small towns ought to be permitted to do so also?

Mr. WILSON. The argument they made was that it would operate against the country, and

altogether in favor of the large cities; and on that consideration we yielded. I have now stated the main features of the measure. There are two or three sections in regard to substitute brokers that are very stringent.

Mr. HENDRICKS. The explanation of the chairman is very clear, but I want to know how the committee of conference got so many things together.

Mr. WILSON. I will tell the Senator. Two or three weeks ago the Senate passed a bill of some seven or eight sections amending the enrollment act. Then the House of Representatives prepared a bill to amend the enrollment act, in which they copied five sections of our bill, and sent us here a bill containing altogether fifteen or sixteen sections.

Mr. GRIMES. Does the Senator know that the bill of which he has been speaking is not here, and that we have not the power to act upon it?

Mr. WILSON. I have sent to the House of Representatives for it.

Mr. GRIMES. How can it be reported to us when the House of Representatives, that has to act on it first, has not sent it to us?

Mr. WILSON. The House has acted.

Mr. GRIMES. That fact has not been reported to us.

Mr. WILSON. I have sent down to the House for the bill. We put a portion of the House enrollment bill on this act. We took eleven sections and added quite a number to them.

Mr. JOHNSON. I understand the honorable member to say that one of the amendments takes from the officers who are brevetted in the regular Army the pay corresponding to their rank.

Mr. WILSON. We passed an act a year or two ago allowing brevets to be conferred, and we put a provision in it that it should not confer increased pay, and intending to reach all cases we used the phrase "in the volunteer and other forces." The Departments construed that to mean that the "other forces" did not mean the regular Army, and they have under that construction paid Army officers for brevet rank when they are assigned to duty according to the rank they fill.

Mr. JOHNSON. I think they have received that from the time we had an Army.

Mr. WILSON. They have from 1840. The House of Representatives insisted upon it that the volunteer officers whom we have brevetted so largely should have additional compensation. We have disagreed to that and put them all on the same footing, and provide that none of them shall get any additional pay by being brevetted. The brevet is a mere honorary matter and does not bring any increase of compensation.

Mr. HENDRICKS. I wish to inquire of the Senator if this committee of conference have not combined several bills together for the purpose of making what they esteemed a more perfect piece of legislation; whether their report is confined to matters of disagreement in respect to any one bill; and before the Senator answers that question I wish to ask him what bill the committee of conference was on.

Mr. WILSON. I will tell the Senator. We passed a bill last evening of eleven sections as an amendment to a House bill of one section. That went to the House of Representatives, and the House struck out three sections of our bill, leaving eight sections to stand as we passed them, and then they put on a large number of additional sections by way of amendment. They agreed to our amendment with amendments. Most of their amendments were in a bill which they sent here two or three days ago, but which we have not had time to take up. When the bill came back in this shape we rejected the action of the House, and sent the whole matter to a committee of conference. In point of fact, we yield hardly anything on these points, except that section which the Senator from Iowa put into our bill the other day, and we yielded that with a great deal of reluctance.

Mr. WADE. Is it in order to move to take up a bill?

The PRESIDING OFFICER. It is not in order. By common consent there are two questions already before the Senate. One is the bill to which the Senator from Indiana [Mr. LANE] has made a motion to amend; and the report of the committee of conference on the bill of the Sen-

ator from Massachusetts [Mr. WILSON] is also pending.

Mr. WILSON. I have now got the bill.

#### CIVIL APPROPRIATION BILL.

Mr. TRUMBULL. The Senator from Massachusetts, to whom I gave way for a report, does not seem to be ready, and if the Senate will permit, I will proceed with the few remarks I intended to make.

The PRESIDING OFFICER. The Senator from Illinois is entitled to the floor on the amendment of the Senator from Indiana to the bill (H. R. No. 786) making appropriations for sundry civil expenses.

Mr. TRUMBULL. I regret as much as anybody to detain the Senate at this late hour, and particularly to speak to persons who have no disposition to listen; but I cannot permit the extraordinary remarks which have fallen from one or two Senators to pass without saying a word in reply; I shall be very brief in doing it; and first as to the question before the Senate.

It has been argued against as if it were something very different from what it is. The Senator from Michigan says in his argument that this is a proposition to let loose the criminals of the country. He says that men who are undergoing sentence will be discharged by it, and that those held for trial will be discharged, and that it is an assault upon the manner in which persons charged with the administration of the Government have discharged their duty. It is no such thing, sir. The proposition is that hereafter in the loyal States, where the courts are open, no person not in some way connected with the military service shall be tried by court-martial or military commission. That is the proposition. It does not propose to interfere in the least with anybody who has been tried. It is prospective in its operation. It does not propose to discharge anybody. There is no such word in it. Now, what becomes of all that the Senator from Michigan said?

Mr. HOWARD. Does the Senator from Illinois wish an answer here?

Mr. TRUMBULL. I shall speak but a few moments. I merely wish to show that the Senator from Michigan has argued a proposition that is not under consideration. Then the Senator goes on to say that but for the exercise of this power to try persons by court-martial and military commission, the city of Chicago would have been burned, the dwelling in which I live would have been burned. I do not think any such thing. I have no such opinion. And the Senator from Nevada speaks of the issue in the last election, and says that what he had to meet upon the stump was a complaint about arbitrary arrests. That is not this question. This section does not say anything about arbitrary arrests; this is a proposition that persons shall not be tried in a particular way. It has nothing to do with arresting them. It is not proposed to interfere with the power of arresting persons. That is given by another act by which the *habeas corpus* is suspended. This does not propose to repeal that act.

But the Senator from Nevada says that something akin to this was a question in the last election. How came it to be a question? What was it that divided the North? There was a time in the early stages of this war when we were very much united in the North. Does not the Senator from Nevada wish that to be so again? I know he does. He would have every man in all these States united as one man to crush this rebellion and crush it at once. I think we should do nothing to divide the North if we can help it. It is not politic to do it. It is not wise to do it. What is it that has divided the North? He says himself that the very question he had to meet away out in Nevada was the question about arrests, not the question we are now considering, because this says nothing about arrests, but somehow akin to it. Does he not think it would have been better if those who are charged with the administration of the Government had so conducted themselves as, if possible, to have kept a united public sentiment?

Mr. STEWART. Let me answer that.

Mr. TRUMBULL. You may answer it in a moment. I know the Senator from Nevada would like to have a united loyal public sentiment.

Mr. STEWART. We have got it pretty near.

Mr. TRUMBULL. Pretty near! If you talk

about the election, hundreds of thousands of voters, yea, more than a million of voters in the loyal States, did not vote as the Senator and I did. Do you know how those voters came to be alienated? Almost one half of the voters of the great States of New York and Pennsylvania voted differently from him and me. Does he know how they became alienated?

Mr. STEWART. By secret sympathizers with the rebellion.

Mr. TRUMBULL. And you put a club into their hands by which they were enabled to strengthen their power, and whenever you do so you give them an advantage over you. If you want to put down the sympathizers with rebellion you must not give them an advantage, you must not give them a position from which they can assail you. I remember a few years ago that petitions used to be presented in the House of Representatives asking for the abolition of slavery, and I recall that they were presented by Mr. Adams, of Massachusetts. Nobody at that time believed that Congress had any power to abolish slavery. The petitions amounted to very little, but the advocates of the slaveholding power were outraged at this attempt to introduce a petition, and what did they do? They attacked the right of petition. That was sacred. Every American, though he was no abolitionist, and did not believe that Congress had any power to abolish slavery, believed in the sacred right of petition. False issues were got up which divided the country. There was no division of the country as to abolition; in the whole country there were not abolitionists enough to disturb anybody; all parties declared in their platforms, and acquiesced in the principle, that there was no power in Congress to abolish slavery; but all parties would not agree to the proposition that the right of petition should not be held sacred. It is just so in regard to these secret sympathizers that the Senator speaks of. They are powerless; crush them; there is no trouble about it; but if you give them the advantage of putting yourselves in the wrong and raising a false issue with them they get much more strength. That, in my judgment, is unwise, and I think that more capital has been made against the Administration, more obstacles thrown in the way of an efficient prosecution of this war, by the attempt to do things that need not have been done, and by giving an advantage to these secret sympathizers, than in any other way. This is no evidence, because the election went this way, that this measure was indorsed. The Administration was carried triumphantly through in spite of these things, not because of them, by the patriotism of the country. The people were determined to maintain the Government, and they overlooked many errors; no doubt a great many have been committed. It is not the errors that give strength, but in spite of the errors the Government has been sustained. I think that every unnecessary departure from the law and from the Constitution weakens instead of strengthens the Government.

Now, sir, a word or two, and only a word or two, as to the Senator from California, [Mr. CONNESS], who modestly assumes so much patriotism; and if patriotism consists in noise and bluster, he certainly is possessed of a great deal. He made himself heard most certainly, and he talks of "croaking," and talk of "cowards," and says that he cares nothing for the Constitution, so that he has a country. He had better migrate to Dahomey, or somewhere else, where there is a country. I care, sir, for the Constitution and for liberty, and I think a country or life itself scarcely worth having without liberty—without liberty regulated by law. But he is bold and brave—yes, sir, bold and brave—and would sink the Government, would vote against all appropriations, sooner than not have the power to try a man by a court-martial or a military commission! That great patriot would stand here and vote—vote against appropriations for the Army or anything else, if he could not arrest somebody and try him in a loyal State, where the courts are open, by a military commission or court-martial! He says substantially, "I will not appropriate to sustain our soldiers; the rebels may come here and tear down the Capitol and destroy the Government, because I, the Senator from California, cannot be permitted to have somebody arrested—no, not arrested, but cannot have somebody tried by a court-martial;" and that is his patriotism,

that is his love of country! And he says no provost marshal arrested him. Why, sir, those who "crook the pregnant hinges of the knee where thrift may follow fawning" are never arrested.

Mr. CONNESS rose.

The PRESIDING OFFICER. Does the Senator from Illinois give way?

Mr. TRUMBULL. When I am through the Senator can talk, if he wishes.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. TRUMBULL. He need not expect to be arrested; oh no, sir! But the liberty he talks of is the liberty of the highwayman. Disregard law! How is he any better than the brigand who meets you at night and calls upon you to stand and deliver? No regard for law; he cares nothing for the Constitution, so that he has a country, and he talks of cowards and croakers! Sir, I am not brave enough, thank God! I am not bold enough, to walk up to that stand and lay my hand upon the words of Eternal Life and promise, calling God to witness, to maintain the Constitution, and then say I care nothing for it! I am not bold enough to make such a declaration. I hope I never may be. Sir, if nothing else should restrain us from treating with contempt the Constitution of the country, the oath we have taken should restrain us, the appeal we have made to the Supreme Being should withhold us, from such a declaration. I say that I do care for the Constitution and for law and for liberty, and that I am for preserving them all, and the country and the Union also, for it is the Constitution and liberty that make the Union worth preserving. Without them a Union forced by arbitrary power, a Union such as is brought about by the heel of despotism, is not the Union that I am struggling for. It is not the Union that the brave soldiers of the Republic are fighting for. They go forth to battle for the purpose of maintaining the Government their fathers founded, for the purpose of maintaining the Constitution under which they themselves have enjoyed freedom, and handing it down for the protection of their posterity. It is for this we are fighting, and not simply for power, or to try a man by a court-martial or a military commission.

I have no disposition to prolong this debate. I do not desire the bill to be lost, but I have felt it due to myself, after the remarks made by the Senator from California, to say thus much. In the remarks I made at the outset I made no allusion to individual Senators. I never attack my associates; I never make personal assaults upon anybody. I have now simply repelled the assaults of the mighty and brave Senator from California.

Mr. FARWELL. The Senator from Rhode Island [Mr. ANTHONY] calls for the "question." That is just what I want. I got up for that. If Senators are ready to vote, I am ready to sit down.

Mr. CLARK. I appeal to the Senator from Maine to let us try and get a vote.

Mr. FARWELL. That is all I am up for, to try to get a vote. The Senator from Indiana [Mr. HENDRICKS] stated that the law on the books is just what this section is, and if that is so, I do not believe it will call for an extra session of Congress, for it will not make any difference whether this is passed or not.

Mr. CONNESS called for the yeas and nays; and they were ordered.

Several Senators. Oh, no!

Mr. CONNESS. At the desire of Senators I withdraw the call for the yeas and nays on the amendment of the Senator from Illinois to the amendment.

Mr. LANE, of Kansas. Let it be read.

The SECRETARY. After the word "persons" in line four of the section, it is proposed to insert the words "employed, drafted, enlisted, or."

Mr. TRUMBULL. Let us have the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The Secretary commenced the call of the roll, and Mr. ANTHONY answered when his name was called.

Mr. GRIMES. Although I shall vote to strike out the whole section, I shall vote for this amendment as an improvement on the proposition.

Mr. ANTHONY. I object to debate: a response has been made.

Mr. McDUGALL. Mr. President—  
Mr. ANTHONY. I have answered to my name. Debate is out of order.

Mr. McDUGALL. I was on the floor.  
The PRESIDING OFFICER. The Chair did not recognize the Senator.

Mr. McDUGALL. I am not large enough to be recognized well, I suppose, but I sought to be recognized, and I am on the floor. I have my rights, and I will demand them.

Mr. JOHNSON. Is it a right?

The PRESIDING OFFICER. By a rule of the Senate, debate is out of order after the call of the roll has commenced and a response has been made.

Mr. McDUGALL. I addressed the Chair three times before the call commenced.

Mr. JOHNSON. I call the Senator to order.

Mr. ANTHONY. I insist on the enforcement of the rule.

The PRESIDING OFFICER. The Chair did not recognize the Senator from California, and did not hear him address the Chair before the call commenced. The call commenced and the Senator from Rhode Island responded before the Chair heard the Senator from California. Under these circumstances the Chair thinks the Senator from California is too late. The call will proceed.

Mr. McDUGALL. I addressed the Chair before the call commenced.

The PRESIDING OFFICER. The Chair does not doubt the fact, but simply asserts that he did not hear the Senator. The call will proceed.

The Secretary continued, and concluded the call of the roll; and the result was—yeas 25, nays 4; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Cowan, Davis, Farwell, Foster, Grimes, Hale, Hendricks, Johnson, Lane of Indiana, McDougall, Morgan, Morrill, Nesmith, Powell, Ramsey, Riddle, Sprague, Sumner, Trumbull, Van Winkle, Wade, and Wilson—25.

NAYS—Messrs. Conness, Howard, Nye, and Stewart—4.  
ABSENT—Messrs. Brown, Carlile, Chandler, Collamer, Dixon, Doolittle, Foot, Harding, Harlan, Harris, Henderson, Howe, Lane of Kansas, Pomeroy, Richardson, Saulsbury, Sherman, Ten Eyck, Wilkinson, Willey, and Wright—21.

So the amendment of Mr. TRUMBULL was agreed to.

The question recurring on the motion of Mr. LANE, of Indiana, to strike out the section as amended,

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 14; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Farwell, Foster, Grimes, Harlan, Howard, Howe, Lane of Indiana, Morgan, Morrill, Nye, Ramsey, Stewart, Sumner, Wilkinson, and Wilson—20.

NAYS—Messrs. Buckalew, Cowan, Davis, Hale, Hendricks, Johnson, McDougall, Nesmith, Powell, Riddle, Sprague, Trumbull, Van Winkle, and Wade—14.

ABSENT—Messrs. Carlile, Collamer, Dixon, Doolittle, Foot, Harding, Harris, Henderson, Lane of Kansas, Pomeroy, Richardson, Saulsbury, Sherman, Ten Eyck, Willey, and Wright—16.

So the motion to strike out prevailed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh; and

A bill (S. No. 380) supplemental to the act approved July 1, 1864, "for the disposal of coal lands and of town property on the public domain."

The message further announced that the House of Representatives had passed a bill (H. R. No. 401) amendatory of the organic act of Washington Territory, in which the concurrence of the Senate was requested.

The message also announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants.

The message also announced that the House of Representatives had agreed to the report of the

committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes; which was thereupon signed by the Vice President.

#### INDIAN TRIBES.

Mr. DOOLITTLE, from the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its first and second amendments.

That the Senate concur in the third amendment of the House.

JAMES R. DOOLITTLE,  
B. GRATZ BROWN,  
JAMES HARLAN,  
*Managers on the part of the Senate.*  
WILLIAM WINDOM,  
PHILIP JOHNSON,  
*Managers on the part of the House.*

The report was concurred in.

#### HOUSE BILL REFERRED.

Mr. LANE, of Kansas. There is a bill on the table from the House of Representatives which I desire to have taken up and referred to the Committee on Territories.

There being no objection, the bill (H. R. No. 401) amendatory of the organic act of Washington Territory, was read twice by its title.

Mr. HENDRICKS. That bill might just as well be passed now. It only allows biennial instead of annual sessions of the Legislature.

The PRESIDING OFFICER. Does the Senator ask that the bill be put on its passage?

Mr. CONNESS. I object to that.

Mr. LANE, of Kansas. My object was to have the bill referred to the Committee on Territories and examined and then ask the Senate to pass upon it.

The PRESIDING OFFICER. The bill having been twice read cannot be proceeded with further except by unanimous consent. If there be no objection it will be referred to the Committee on Territories.

#### ARMY APPROPRIATION BILL.

Mr. HARRIS, from the third committee of conference on the disagreeing votes of the two Houses on the first amendment of the Senate to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, reported that, having met, after full and free conference the committee had been unable to agree.

On motion of Mr. HARRIS, it was

*Resolved*, That the Senate further insist upon its disagreement to the amendment of the House of Representatives to its first amendment to the said bill.

#### CIVIL APPROPRIATION BILL.

The PRESIDING OFFICER. The bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1866, and for other purposes, is before the Senate as in Committee of the Whole.

Mr. BUCKALEW. I offer the following amendment to come in under the miscellaneous head, page 14, second item:

For improvements in the Senate wing of the Capitol proposed in the report of the joint select committee of the two Houses upon the improvement of the Halls of Congress, made at the present session, exclusive of an exterior attic, the sum of \$113,185 35, or so much thereof as may be necessary, is hereby appropriated, the said improvements to be under the management and direction of Charles F. Anderson, as architect and engineer upon plans, with specifications and details to be approved by Dr. Thomas Antisell, and executed under his supervision, and all necessary contracts shall be made by the Commissioner of



Public Buildings, in conformity with law, and all accounts and expenditures therefor shall be settled and certified to the Secretary of the Treasury for payment by him.

The amendment was agreed to.

Mr. POWELL. I have an amendment to offer from a majority of the Committee on Printing:

*And it be further enacted,* That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to procure from the surviving publisher of the Annals and Debates of Congress, prior to the year 1837, one copy of the same for each Senator, Representative, and Delegate in the present Congress who has not heretofore been supplied therewith, and that said copies be paid for out of any money in the Treasury not otherwise appropriated, at a price per volume not exceeding that heretofore paid by Congress for the same.

The amendment was agreed to.

Mr. SUMNER. From the Committee on Foreign Relations I offer an amendment to come in under the miscellaneous head; I will say that it is in pursuance of estimates which I have received from the Department of State:

For the pay of the United States commissioner, and for the pay of the United States surveyor, and for incidental expenses in the execution of the duty assigned to the joint commission appointed under the first article of the reciprocity treaty between the United States and Great Britain, from November 1, 1865, to March 1, 1866, \$3,600.

For printing and completion of the final chart showing the places reserved from the common liberty of fishing and their limits, \$800.

The estimates are furnished by the Department of State, and the Secretary, in his communication to me, after stating them, concludes as follows:

"I have the honor to recommend that provision be made therefor in the general appropriation bill."

The amendment was agreed to.

Mr. SUMNER. I also offer the following amendment from the Committee on Foreign Relations:

For services of James G. Clarke, as acting chargé de affaires at Brussels, from June 11, 1857, to September 27, 1858, \$6,483.

Mr. CLARK. I raise the point of order that it is a private claim, and cannot be received.

Mr. SUMNER. I meet the point of order by stating that—

The PRESIDING OFFICER. The Chair will submit the question to the Senate.

Mr. SUMNER. Is not that to be decided by the Chair?

The PRESIDING OFFICER. The Chair is authorized under the rules to submit the question of order.

Mr. SUMNER. And is that to be decided without comment, without discussion?

The PRESIDING OFFICER. A question of order is not debatable ordinarily; but unless objection is made, the Chair will hear Senators.

Mr. CLARK. Let us have a vote.

Mr. SUMNER. I wish to say that in moving this amendment I have simply followed the usage of the Senate. I have here a communication from the Department of State calling attention to the case—

Mr. GRIMES. Have we any rules, Mr. President, or not? If we have, I insist on their enforcement upon the Senator from Massachusetts as well as upon others.

Mr. SUMNER. If I am violating any rule, let it be enforced.

Mr. GRIMES. I understand the Chair to have already decided that this question must be determined without debate.

The PRESIDING OFFICER. The Chair did so intimate, but that was a misapprehension; the Senator from Massachusetts is in order.

Mr. SUMNER. This is the first time during my experience in the Senate that any such rule has been invoked.

Mr. JOHNSON. What is the case; will the Senator state?

Mr. SUMNER. Some years ago, Mr. Clarke, a citizen of the United States, while an unpaid attaché at Brussels, was presented to the Government there as acting chargé d'affaires by our minister, who was about to go away. He continued in that capacity for the time mentioned in the amendment, from June 11, 1857, to September 27, 1858, during which time he was in correspondence with the Department and was recognized as chargé d'affaires. The Secretary of State, writing to me under date of February 24, only a few days ago, says:

"From a reference to the files of the Department it appears that the statements in the memorial, which is herewith returned, are entirely correct; with the exception of a slight inaccuracy, which, in justice to the memorialist, it is deemed proper to mention, namely, that his period of service was extended to the 27th instead of the 3d of September, 1858, the former being the date at which the successor of Mr. Seibels assumed the duties of the legation at Brussels and on which Mr. Clarke relinquished them. The Department has heretofore borne testimony to the faithful and creditable manner in which the duties assigned him by Mr. Seibels were performed by Mr. Clarke during the entire period of his service, and his claim for compensation as now presented would appear to be equitable and entitled to the consideration of Congress."

In a subsequent letter, dated February 28, the Secretary says:

"Pursuant to your oral request I have the honor to inclose a precise statement of the sum necessary to be appropriated for payment of the claim of Mr. James G. Clarke for services as acting chargé d'affaires at Brussels."

Inclosed in this communication is a memorandum of the amount which is specified in the amendment. In moving this on an appropriation bill I but follow the usage of this body. Here is an obligation of the United States toward one of its servants abroad which has not yet been redeemed. It is simply a question of justice.

Mr. HENDRICKS. A question of time.

Mr. SUMNER. Originally a question of justice, and time also is in his favor, because he has been kept out of this money for some time. He ought not to have been. I hope there will be no question about it.

The PRESIDING OFFICER put the question on the reception of the amendment under the 30th rule, and the Senate decided to receive the amendment, there being, on a division—ayes 16, noes 13.

Mr. HALE. I should be glad if the chairman of the Committee on Foreign Relations would state at what time this service occurred.

Mr. SUMNER. From June 11, 1857, to September 27, 1858.

Mr. HALE. I think it will be establishing a very dangerous precedent. If I understood the statement of the Senator this gentleman was an unpaid attaché.

Mr. SUMNER. He was an unpaid attaché when he was presented as chargé.

Mr. HALE. Exactly. I know what that means. When young gentlemen go abroad, it is a great accommodation to them for the minister, or chargé, or diplomatic functionary to take them under his protection as unpaid attachés, that is to say, they do nothing and receive no pay for it, which I think is very well; but it gives social position, and it is a very agreeable thing for a young gentleman abroad. Then when the minister is about to leave, he will present one of these young men at court and let him be an acting chargé, or something of that sort, to do nothing, but to have the name of doing something. He is not appointed by the Government, he is not appointed by the President or the Secretary of State, but he is simply introduced by the retiring minister, and according to this precedent he then becomes a minister so far as the pay is concerned just as much as if he was appointed by the President and confirmed by the Senate. I am opposed to letting our ministers abroad have any such power as that. They may have attachés without pay if they please; but if by the mere ceremony of introduction they are to make them ministers to be paid salaries, we shall not know when we have a minister and when we have not and where we have them. Besides, I think the claim is a little stale. It originated in 1857, and this is 1865 if the almanac speaks the truth. I think if this man has let it lie for eight years we may as well let it lie for eight years longer, and at the end of sixteen years it will be time enough to bring it up again.

Mr. SUMNER. The Senator entirely misapprehends the character of this claim. He was an unpaid attaché, to be sure, but when he was presented as chargé d'affaires and recognized by the Government here in Washington, then he became entitled to the pay of chargé d'affaires according to the usage of this Government. While he was an unpaid attaché he was perhaps as the Senator represents him; certainly he makes no claim to pay, and that grade, the Senator knows very well, is not known to our law, but the grade of chargé is known to our law, and the minister when he left was bound according to the usage of his position to place his legation in competent hands. He selected this gentleman, who was then at Brussels, for the purpose. The Government here at Washington recognized him in the place,

continued in relations with him as chargé d'affaires for the space of time mentioned in the amendment, corresponded with him. The amount is \$6,483. They continued in these relations with him from June 11, 1857, to September 27, 1858.

Mr. JOHNSON. Did he not continue to occupy the house of the legation?

Mr. SUMNER. He kept a house for the legation himself, and was at extraordinary expense which as a private citizen he would not have assumed.

Mr. CLARK. I desire to ask the Senator from Massachusetts why it is that he did not get his pay before? Why did they not pay him at the time?

Mr. SUMNER. Because they said he did not come under the statute, and that is the very reason the case is presented now.

Mr. CLARK. It is the very case that makes a private claim.

Mr. CHANDLER. I ask the Senator from Massachusetts whether he thinks it at all likely that an appointee of Franklin Pierce would go through the administration of James Buchanan, with the Treasury pléthoric, with so much money that they did not know what to do with it, and his claim never be paid, and that now there should be discovered so much due him when we are poor and borrowing money by the million.

Mr. SUMNER. If the Senator from Michigan knew this gentleman he would not ask the question. The gentleman is as much a patriot as the Senator himself.

Mr. GRIMES. Who is he?

Mr. SUMNER. Mr. Clarke. He is from New Hampshire. He is now in Washington, and has been here the great part of this winter, not with any purpose of forcing this claim, but he has connections in the Army, serving the country loyally and faithfully. He himself is a modest gentleman, and he has only recently been encouraged to present this claim for services.

Mr. GRIMES. Who encouraged him?

Mr. SUMNER. Senators smile; they say they cannot help it.

Mr. GRIMES. The Senator remarked that he was encouraged by friends to present this claim, as if a man needed encouragement to present a claim!

Mr. SUMNER. Because he was a modest gentleman. I ask my friend from Iowa, is that any reason why the Government should not pay its debts? I carry you back to the precise question, was there not an obligation on the part of our Government to pay him for these services?

Mr. JOHNSON. If it was due then, it is due now.

Mr. SUMNER. I say it was due then, and therefore it is due now.

Mr. HALE. I am more and more convinced that this claim ought not to be paid. I recollect once being in a court in New Hampshire when criminals were brought up; a fellow by the name of Smith was arraigned, and some one remarked to Judge Smith who was on the bench, "How is it that so many of these rascals that are brought up are called Smith?" "Why," said the judge, "the scoundrels steal an honest name to be tried under; that is all." [Laughter.] This man claiming to be a New Hampshire man seems to me to be very much in the condition of the criminal who stole an honest name to be tried under. The fact that he comes from New Hampshire would be presumptive evidence that the Senator from Massachusetts speaks the truth when he says he is a modest gentleman. [Laughter.] I have no doubt of that. Still, I think that if our Government recognized him as chargé, it would have been the easiest thing in the world for the President to have sent his name to the Senate; and the fact that his name was not sent in, and that he was not paid, shows that he was regarded by the Government as an unpaid attaché, and I hope he will continue so.

Mr. CLARK. I find on inquiry that I know this gentleman very well, and lest injury might be done to him by the remarks that have been made on one hand and another, I take occasion to say that he is really a gentleman of intelligence and of good standing everywhere where he is known.

Mr. SUMNER. Above question in every respect.

Mr. CLARK. I have known him with considerable intimacy for a number of years, and I never in my life heard him say there was any such claim, and I think it is entirely true, as was said by the Senator from Massachusetts, that he has been encouraged by his friends to make it.

Mr. SUMNER. The Senator from New Hampshire says he knows him well, and he never has heard him speak of this claim. Is not that to his credit?

Mr. CLARK. I think it is, and it should not be urged now.

Mr. SUMNER. Not at all; I take the Senator at his word; it shows this gentleman's modesty, his unobtrusive nature. But then on this matter I have no choice. The petition was presented to the Senate; it was not even presented by me. It was referred to the committee with which I am connected. I then sent it to the Department of State and asked a report upon it from the Department according to the records there, and I have given you the result. According to what appears there, we are his debtors; and the committee directed me to recommend the appropriation.

Mr. WILSON. I rose for the purpose of calling up my report; but Senators around me desire to take a vote on this matter, and therefore I shall give way to allow them to do it; but I wish simply to say before I sit down that I think this gentleman who has spent the winter in Washington has learned the habit of those who are here, and although he thought he had not much of a claim until he came here, he now has a large one. The other day, within a week past, one of our assessors came here with a claim of sixty-eight dollars, of money he had paid out of his own pocket, and he said he thought the Government ought to pay it; but becoming acquainted with certain gentlemen about the internal revenue department, he has within a day or two presented a claim for \$1,500; and I suppose this is another similar case.

Mr. CLARK. I can hardly suffer the remark of the Senator from Massachusetts, who I know does not wish to injure anybody, to pass without a little notice. He said that he feared this gentleman, who is the claimant here, had fallen into the habits of Washington by being about here this winter. I desire to say that this gentleman is one of the most patriotic men I have ever met. A son of his sister, who is in France, and is a literary lady of some taste and has been of service to us in this contest, immediately after the breaking out of the rebellion came home from France and enlisted in the Army; and this gentleman has been staying in Washington for months and months, watching that young man, to be near him if he should be injured; and he was injured, very grievously injured, and he was near him to assist him, and took him home to Massachusetts. After he was well enough to return, he returned again to the service, and his uncle stays near him to be of service to him in case of further injury. Nothing can be said against the character of that man, I am sure; and I will not suffer any disparagement to be made against him, if I can prevent it, though I do not think upon the evidence here we ought to pay the claim, or that he is very strenuous in pursuing it.

Mr. DOOLITTLE. I had great doubts as to whether it was proper to allow this claim to go on this bill, and I voted against its being received, because I thought it was a private claim; but inasmuch as the Senate have decided that it comes within the rule and may be put upon the bill, as I believe it is a just claim I shall vote for it. This gentleman performed the service, and according to the usage of the Government is entitled to the pay.

Mr. HENDRICKS. I wish to inquire of the Senator from Massachusetts whether there is any recommendation from the Department on the subject?

Mr. SUMNER. I have already read two letters from the Department of State recommending it.

Mr. HENDRICKS. We all understand a subject of this magnitude. I hope we shall be allowed to take a vote on it.

Mr. WILSON. I think we can get recommendations for anything here in Washington.

Mr. ANTHONY. Let us have a vote.

Mr. WILSON. No, I will not; I object to

this thing altogether. I know that there can be no justice in a claim of this character. Here is a man who served either as a foreign minister, or as a secretary, or in some capacity, eight years ago, to the amount of \$6,000, and nothing is done about it until this time, and at this time he comes here with a claim of this character. I do not believe in the justice of it. As regards the recommendations that have been made in favor of it, every day's experience teaches us that too many of the officers connected with the Government at this time have very loose ideas about spending money. I think it is time for us here to arrest this kind of expenditures, or we shall be overwhelmed, as we ought to be overwhelmed, with the judgment of the country.

Mr. JOHNSON. I do not know that anybody is disputing the facts in this case. The Senator from Massachusetts, I suppose, will not deny that this gentleman was presented as a chargé d'affaires of the United States to the Government of Belgium, and that he remained there in that character, in point of fact, during the fourteen months for which we are about to pay him.

Mr. WILSON. Allow me to ask the Senator a question. Is it customary for these kind of officers to fill these places to the amount of \$6,000 and let it run along from year to year without asking for it? It is a very strange mode of proceeding.

Mr. JOHNSON. I have not come to that. I only want to know if the honorable member denies the fact, as stated by the chairman of the Committee on Foreign Relations, that Mr. Clarke was presented in the capacity of chargé by our minister at that time, was received in that capacity by the Government of Belgium, and remained in that capacity during the whole of the period named; that he rented the house that the legation was in at the time; and that he paid the rent from that time up to the period when he ceased to represent the United States as chargé; that he corresponded with the Government of the United States in that capacity; that he was written to by the United States in that capacity. If that is so, whether he made the claim or not, is it consistent with the honor of the Government that they should have availed themselves, or should now avail themselves, of services of that description, and try to avoid paying what the law supposes such service to be worth, upon the ground that the claim was not before presented? The delay in the claim can only affect it as evidence that the service was not rendered, or that the service was rendered voluntarily. Now, is it consistent with the dignity of the United States that they should come in *forma pauperis* and try to get clear of this on the ground that this gentleman volunteered to serve the United States in the capacity of its minister? He is as much entitled to it as the gentleman by whom he was presented and who received the pay up to the time; and it seems to me, with due deference to those who differ with me, that it is due to the credit of the Government that this claim should be allowed; and these claims have been allowed time after time.

The delay in presenting the claim may be owing to a variety of circumstances. It may have been owing to the character of the man himself; it may have been owing to his ability to do without it; it may have been owing to the fact that he did not know he was entitled to be paid. He may have presented the claim, and I suppose did, to the Department, and they told him that as the law stood at the time there was no authority in the Department to pay him. But when the Department come forward and tell you the service was rendered and the service should be paid for, I submit to the Senate if it is right to avail itself of the mere lapse of time to get clear of an honest debt.

Mr. WILSON. The Senator from Maryland says that it may be so and so; it may be that he asked for it and certain answers were given. Is there any evidence that he did ask for it at the end of his service? Is there any evidence produced here to-night that the Administration then in power regarded that they owed him anything? If there is, let us have it.

Mr. McDougall. What does that prove? I own a square in the city of New York, won by my grandfather in the Revolution; but I have not got a foot of it, and never have had, and I have

never asked for it. What does that amount to? What does that prove?

Mr. WILSON. I think it proves that you have not got the square. [Laughter.]

Mr. McDougall. No, I have not got the square; but I have a right to it. It has been in abeyance a long time.

Mr. SUMNER. Mr. Clarke, in his memorial, which was referred to the Committee on Foreign Relations, which I now have, sets forth the circumstances under which he became chargé d'affaires. He then goes on, as follows:

"That in consequence of the assurance of Mr. Seibels that the appointment of your memorialist as chargé d'affaires would be sanctioned by the then Secretary of State, Mr. Marcy, an assurance which was confirmed by a private letter to your memorialist written by Mr. Seibels on his arrival in Washington, and after an interview with the Secretary of State, your memorialist became responsible for the rent of the furnished house which had been occupied by the minister as the legation residence; that your memorialist continued to occupy said house and to perform the duties with which he had been charged, transacting all necessary business with the Belgian Government, and corresponding from time to time with the Department of State."

I have also a copy of a letter from the minister at Brussels, addressed to General Cass while he was Secretary of State, from which I will read an extract; and I should like to have the attention of those Senators who have been disposed to cavil at the claim of Mr. Clarke, and especially those who have been disposed to sneer at it. This is addressed to General Cass:

"Upon granting me leave of absence from my post of Brussels, as minister resident of the United States, in 1856, your predecessor instructed me to be careful to leave the property of the legation in safe hands. There being no consul of the United States at Brussels, and our countrymen requiring daily official attention, it seemed to me indispensable that the legation should be kept open for their benefit, if for no other purpose. Fortunately, at the time I had attached to it, and acting as secretary, a gentleman whose education, intelligence, and high character fully commended him to me as a most suitable person to take charge of the seals of the legation for, as I then supposed, but a brief period. This was Mr. James G. Clarke, whom I now commend to your favorable consideration. He is a gentleman of the highest attainments, speaking with the ease, fluency, and accuracy of a native, French, German, and Italian, and in fact most of the continental languages. I have the best evidence before me that he discharged his duties during the time the legation was in his care, a period of two years, with signal success, both as regards the intercourse with the Belgian Government and our own country. Upon my arrival at Washington, in October, 1858, I acquainted Mr. Marcy with the manner in which I had disposed of the legation, and he gave it his sanction, and said that Mr. Clarke should be recognized in the capacity I had left him, that is, chargé d'affaires *ad interim*. Whether this has been done or not I do not know, but such are the facts, and I so informed Mr. Clarke at the time."

Then the question has been asked whether he claimed compensation, or why he did not claim it. This letter is dated January 17, 1859, and it goes on as follows:

"He now claims compensation of the Government for his services during the period he had charge of the legation and its property; and upon every principle of justice and equity I think him entitled to it; and as I have been instrumental in his employment for public service, I feel an interest that the Department should bring his claim to the favorable notice of Congress, and recommend the necessary compensation."

Mr. HARLAN. I desire to inquire of the chairman of the Committee on Foreign Relations why this man was appointed during this long period of time?

Mr. SUMNER. Because the minister resident was absent on leave, expecting to return, and he was, in a certain sense, merely a *locum tenens*. What is a chargé d'affaires *ad interim*? A chargé d'affaires *ad interim* is simply a person who, for an intermediate period, and not as a permanent officer, holds a particular place.

Mr. GRIMES. Will the chairman of the Committee on Foreign Relations tell us whether the minister there also drew his salary during this period of time?

Mr. SUMNER. Of that I know nothing; but the Senator perhaps knows the usages of the Department in that respect. I suppose Mr. Koerner of Illinois, who is at home, draws a salary as envoy extraordinary and minister plenipotentiary at Madrid, at this moment, while we are also paying Mr. Perry, the secretary of legation, the pay of chargé d'affaires *ad interim*.

Mr. GRIMES. Mr. Koerner has resigned.

Mr. SUMNER. I am not aware that he has resigned. However, I do not wish to be carried off into a general discussion of the salaries of our foreign ministers. Suffice it to say this service was rendered in good faith. It was recognized

by the Government at the time as being good service. He never has been paid for it.

Mr. SPRAGUE. Let us pay for it.

Mr. SUMNER. I say let us pay for it.

Mr. HARLAN. This is a very extraordinary claim. It would appear from the developments just now made by the chairman of the committee that this Government had an officer under pay during the whole period for which this claim is set up. An agent that was really in this office in point of law, but not in the discharge of the duties of the office, ought to have been dismissed by the Government. This is a proposition to pay two gentlemen for service performed in the same office for the same period of time. As it seems to me, this is not a time in the history of the Government when we can afford to pay for a double set of officers. Such a precedent, I think, would be a very dangerous one to follow.

Mr. SUMNER. It is the precedent we follow every day. It is the precedent we are following now in regard to Mr. Koerner of Illinois, and Mr. Perry, who is now at Madrid. It is the precedent of the Department; it is the precedent of the country.

The amendment was agreed to; there being, on a division—yeas 17, noes 9.

Mr. SUMNER. I have one more amendment to move from the Committee on Foreign Relations, to come in as an additional section at the end of the bill:

*And be it further enacted*, That the provisions of the act to carry into effect the provisions of the treaties between the United States and China, Japan, Siam, Persia, and other countries, giving certain judicial powers to ministers and consuls or other functionaries of the United States in those countries, and for other purposes, approved June 22, 1860, shall extend to Egypt; and the consul general at Alexandria shall have the powers provided by section twenty-two of such act for the consul general or consul residing at the capital of a country where there is no minister.

This amendment has been recommended by the Department of State, and is now recommended by the Committee on Foreign Relations. There is no money in it.

The amendment was agreed to.

Mr. COWAN. I beg leave to offer the following amendment as an additional section:

*And be it further enacted*, That to reimburse the institutions and individuals who advanced the money to pay the Pennsylvania soldiers who were called out by the proclamations of the President of the United States and the Governor of Pennsylvania to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee in the summer of 1863, and who were in the actual service of the United States, the sum of \$700,000, out of any money in the Treasury not otherwise appropriated, is hereby appropriated, to be paid to the Governor of Pennsylvania in trust for the above-mentioned purpose.

Mr. JOHNSON. Does that come from a committee?

Mr. COWAN. Yes, sir. I will state that these troops were called out on the pledge of the President that they should be paid. The amounts have been settled and audited and the sum fixed exactly, \$671,476 43; and the President, in pursuance of his pledges for that purpose, has indorsed upon the audit the following:

"I fully indorse the within statement and recommendation, and shall be glad if Congress shall see fit to act promptly in the case. A. LINCOLN."

Mr. CLARK. The State of New Hampshire, the other day, had a claim against the United States for a little over half a million dollars, and the Governor of the State was here endeavoring to get from the War Department a settlement of the account. The War Department replied to him that they could not furnish the funds to pay any State now, for the soldiers in the field were suffering, and what money they had must go to pay the soldiers; and the Secretary of War said he would postpone any and every State until they were paid. The Governor then went to the President of the United States and had a conversation with him, and afterward came to me and requested me to go and see the President. I did so; and the President said to me, "This is the question, Mr. CLARK: we owe your State so many hundred thousand dollars, and we owe the soldiers; we have money only to pay one; which will you take?" "Pay the soldiers, Mr. President," said I, "and let my State wait."

Mr. COWAN. I am sorry I cannot imitate the excessive magnanimity of the honorable Senator from New Hampshire. It is refreshing indeed, that, coming from that quarter, he can be so excessively liberal at this present speaking. I have only to say that I have not been instructed

by the Governor of Pennsylvania, or the Legislature of Pennsylvania, or the patriotic and liberal gentlemen and institutions who advanced this money to the country in that emergency, to be so liberal and large-hearted and large-handed as my honorable friend from New Hampshire. I should be glad if they would permit me to do it.

Mr. CLARK. I was not instructed by the Governor or anybody else. I did it of my own free will, as I wish the Senator would.

Mr. COWAN. I do not choose to take the responsibility of my own free will. Perhaps it is from some defect in my organization, but I would not choose to do that. I think this is a just claim; I think it is one which the faith of the Government is pledged to repay. I do not say but what Pennsylvania can do without the money as well as the State of New Hampshire. I hope she can; and I trust she will never thrust her claim in between the soldiers and their pay. I have no doubt she will withhold as long as anybody else will; but she wants the claim recognized here in such a shape as that it may at some time hereafter be paid. I wish to read the following document, emanating from the War Department, and dated "January 4, 1864," and addressed to "Hon. THADDEUS STEVENS, chairman of the Committee of Ways and Means of the House of Representatives:"

"SIR: The Department has this day, received returns of the amount required for the payment of the militia called out for the defense of the State of Pennsylvania on the 26th day of June, 1863, against the invasion by the rebel forces under command of General Lee. There being no appropriation out of which these payments could be made at the time they were required, patriotic citizens of Philadelphia advanced the money, and it is proper that they should be reimbursed without delay. I would respectfully recommend, therefore, that an immediate appropriation for that purpose be made. A copy of a letter of the Second Auditor of the Treasury is herewith communicated, showing the amount of the claims audited by him to be \$671,476 43. It is supposed that \$700,000 will cover the whole amount of these claims."

"I have the honor to be, very respectfully, your obedient servant,

"EDWIN M. STANTON,  
"Secretary of War."

Upon that is indorsed the recommendation of the President, which I have read, which I think establishes beyond all question that in order to carry out the engagements made by the Executive of this Government, this appropriation ought to be made and paid in this way. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 12; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hale, Henderson, Hendricks, Johnson, Lane of Kansas, McDougall, Morgan, Morrill, Sprague, Sumner, Trumbull, and Wiley—16.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Farwell, Foster, Grimes, Harlan, Howard, Riddle, Stewart, and Wilson—12.

ABSENT—Messrs. Brown, Carlile, Collamer, Dixon, Foot, Harding, Harris, Howe, Lane of Indiana, Nesmith, Nye, Pomeroy, Powell, Ramsey, Richardson, Saulsbury, Sherman, Ten Eyck, Van Winkle, Wade, Wilkinson, and Wright—22.

So the amendment was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution of the Senate:

A bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; and

A joint resolution (S. R. No. 121) to purchase mail pouches or boxes of Marshall Smith's patent for the postal service, and for other purposes.

The message further announced that the House of Representatives had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 702) in relation to preëmption rights in Colorado Territory;

A bill (H. R. No. 401) amendatory of the organic act of Washington Territory; and

A joint resolution (H. R. No. 182) for the relief of Samuel Coleman, heir-at-law of William Dean Coleman, deceased.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 600) for the better organization of the subsistence department.

The message further announced that the House

of Representatives had agreed to the amendments of the Senate to the bill of the House (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes.

The message further announced that the House of Representatives had agreed to the resolution of the Senate requesting the President of the United States to transmit to the Executives of the several States the amendment proposed by Congress to the Constitution of the United States respecting the extinction of slavery therein.

The message further announced that the House of Representatives had disagreed to the amendment of the Senate to the joint resolution of the House (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command.

#### THANKS TO MAJOR GENERAL THOMAS.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) The civil appropriation bill is now before the Senate.

Mr. GRIMES. I move that the Senate take a recess until nine o'clock. It is very evident that we are not going to pass this bill. Everything is being piled upon it so that in the end nobody will be in favor of it.

Mr. CLARK. I have one or two little bills that I desire to call the attention of the Senate to.

Mr. CHANDLER. I have one or two amendments to offer to the bill under consideration.

Mr. WILSON. I would like to act on the conference report that I submitted some time since.

The PRESIDING OFFICER. The Chair will suggest that there are several House bills on the desk which will be disposed of by permission of the Senate.

The Senate proceeded to consider its amendment to the joint resolution of the House (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command, disagreed to by the House of Representatives.

Mr. WILSON. I move that the Senate recede from its amendment.

Mr. JOHNSON. I do not know that it is proper, after the Senate have amended the resolution so as to give the thanks of Congress to Admiral Lee, to strike it out. It would be discourteous. I think I would rather let the whole thing go.

Mr. CLARK. What is the question?

Mr. JOHNSON. The House of Representatives passed a resolution tendering the thanks of Congress to General Thomas, and when it came to the Senate, the Senate amended it by including in it a vote of thanks to Admiral Lee. The House disagreed to that amendment. What I suggested was, that if we concur in that disagreement, it may perhaps cast a reflection on Admiral Lee, and I think that would be wrong.

Mr. CONNESS. I will suggest that there is a very great difference between the effect of a vote of thanks, as I understand it, to a general in our Army and an officer in our naval service. As I understand it, a vote of thanks to an officer in the naval service entitles him to receive a grade of promotion; but it is not so with a general in the Army. There is therefore a great impropriety in combining the one with the other. I suggest that we recede from the amendment that we made, and then let the resolution pass in favor of a worthy and distinguished officer. I cannot conceive how by doing that we shall in any way cast a reflection on Admiral Lee. It will be remembered by Senators who have not forgotten the discussion that took place on the subject, or the papers read, that General Thomas testified to the efficient services which Admiral Lee had furnished on the occasion referred to. Of course he did. He was there for that purpose. I merely rose to call attention to this fact.

Mr. CLARK. It may be a little embarrassing to us that Admiral Lee is connected in this way with General Thomas, but I submit to Senators what would Admiral Lee, gallant sailor as he is, wish to have done if he knew the condition of affairs here now; whether he would wish by this delay on his own account that the thanks of the country should not be given to General Thomas.

Mr. DOOLITTLE. I suggest that this subject lie over until the Senator from Missouri, [Mr. BROWN,] who offered the amendment, may be in the Senate.



Mr. CHANDLER. I desire to offer an amendment to the miscellaneous appropriation bill. I have been trying for four hours to get the ear of the Chair, and I hope he will now receive my motion. I am directed by the Committee on Commerce to report an amendment to the bill before the Senate, and I ask that it may be acted upon.

#### CIVIL APPROPRIATION BILL.

The PRESIDING OFFICER. If there be no objection the resolution from the House will be laid aside, and the Senate will resume the consideration of House bill No. 786, the civil appropriation bill.

Mr. CHANDLER. I now offer the following amendment as a new section:

*And he it further enacted,* That the sum of \$88,541 be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, for the construction of a passage into a harbor of refuge at Frankfort, on Lake Michigan, in the State of Michigan.

This is a very important work, and I trust the amendment will be agreed to. It was the only exception made by the Committee on Commerce during this session, and they were induced to do so on account of the urgency of the case and the importance of the work. The losses during the past summer for the want of this harbor of refuge were four or five times greater than will be the whole expense of making this work. The committee made an exception in this case, and directed me to offer this amendment, which I hope will be adopted.

Mr. CLARK. It seems to me that this bill is becoming a "harbor of refuge" for all sorts of amendments. [Laughter.]

The amendment was rejected.

Mr. WILSON. I now move to take up the report of the committee of conference.

Mr. SHERMAN. Let us pass this bill.

Mr. WILSON. We cannot do it. I have given way hour after hour.

Mr. SHERMAN. I think it is too late now, but still I think we had better pass the bill and get rid of it.

Mr. COWAN. We cannot pass it for a long time yet.

Mr. SHERMAN. If anybody wants to offer amendments let them be introduced and put on the bill. I want to try to save enough to carry on the light-houses and take care of the public grounds; and that is all there will be saved of the bill at any rate. Senators might as well put on all their amendments and let us pass the bill.

Mr. WILSON. I will give way and see if we can pass the bill; but I know it is not going through.

Mr. SPRAGUE. I am instructed by the Committee on Commerce to propose the following amendment:

*For the erection of fog signals at Point Judith, Rhode Island, Execution Rocks, and Hart Island, New York, \$10,000.*

The Department desire this appropriation.

The amendment was rejected.

Mr. SPRAGUE. I have another amendment of the same character:

*For the establishment of fog signals at Castle Hill, east side of entrance to Newport, Rhode Island, and at Nayat Point, Rhode Island, \$5,000.*

I shall detain the Senate but a moment on this proposition. All the commerce of New England and the southern portion of New York with New England, and all the travel, go by way of the Sound in summer and winter; and every winter there are lives lost and property destroyed for the want of these signals. The other day two hundred people narrowly escaped destruction by one of these packets running ashore. Thousands of people pass this point annually, and millions of dollars' worth of property. All the trade of New England, all the commercial business of New England, depend upon this safe transit.

The amendment was agreed to.

Mr. SPRAGUE. Now I wish to reconsider the vote rejecting the other amendment that I offered. ["Oh, no."]

The PRESIDING OFFICER. Did the Senator from Rhode Island vote with the majority?

Mr. SPRAGUE. I did not; but I hope some gentleman who did will move to reconsider it. I do not think the Senate could have understood it.

Mr. FARWELL. I should like to take some

little time to explain this matter if we had time to consider it, but at this stage of the session I shall occupy but a few minutes upon it.

Mr. LANE, of Kansas. If the Senator from Maine will give way I will make a motion to reconsider.

Mr. FARWELL. I do not propose to detain the Senate. I think I have not been very troublesome this winter. But I would like to say right here and now that it is a very pernicious kind of legislation that you have established here in Washington. They would not tolerate it down in Augusta where I have been in the habit of legislating. [Laughter.] Important measures, measures vital to the interests of the country, measures that need some time for discussion and explanation from gentlemen who understand them fully, are brought in here at five o'clock in the morning of the 4th of March, when this is no Congress at all. I say this is a pernicious system of legislation; and as my time is out I wish to make my closing speech right here; and that is, to say to gentlemen who are reflected or whose terms have not expired that I do hope they will reform this kind of legislation.

Mr. DOOLITTLE. With the permission of the Senator I will offer an amendment upon which he can conclude his speech. I am instructed by the Committee on Indian Affairs to report the following amendment, to carry into effect the fourth article of the treaty with Great Britain:

*And he it further enacted,* That for the purpose of executing the fourth article of the treaty between the United States and Great Britain, concluded at Washington on the 9th of August, 1842, the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to the State of Massachusetts the sum of \$32,588, and to the State of Maine the sum of \$113,908, being at the rate of \$1 25 per acre for the amount of the public lands of those two States in the possession of the classes of persons described in said fourth article of said treaty, as ascertained by a joint commission instituted by Massachusetts and Maine in 1843, and by a commission instituted by Maine in 1854; the said money to be paid as soon as the State of Maine shall, by resolutions of the Legislature thereof, agree to quiet, by good and sufficient releases, all the occupants of the public lands of Massachusetts and Maine, whether holding under grants from New Brunswick, or holding by possessory or equitable possessory titles, according to the reports of the aforesaid commissions, so far as they have not been already quieted by such releases; and shall further undertake, at its own expense, to quiet, in like manner, any other possessory rights under said fourth article of said treaty which may hereafter be discovered to exist upon the public lands of said State of Maine: *Provided,* That the Secretary of the Treasury may, at his discretion, make the payments directed by this section in any of the six per cent. securities of the United States which are or may be authorized by law.

Mr. FARWELL. I might just as well finish the speech that I began, but gave way to my friend from Wisconsin, upon this amendment as any other; and it further illustrates just what I had been saying and what I was about to say. Here is a measure of justice long delayed. It is a claim, a good claim, a valid claim against the United States Government by the States of Maine and Massachusetts for land belonging to them which was given up under the Ashburton treaty twenty years ago. We have a long distance to travel from the more settled portions of our State to the British provinces, to the line right where the war took place which led to the treaty by which we surrendered so much of our territory. The Legislature of Maine has chartered a railroad to go up into that country, a road that would be very much needed, especially if there should ever be a collision between this country and Great Britain, for the defense of that frontier. It is absolutely necessary for the defense of that frontier. The State of Maine has, by a resolution of the Legislature, agreed to contribute this claim with some four or five hundred thousand dollars more from the treasury of the State to make this railroad; and I hold that it would be no more than right and just for the General Government to contribute an equal amount from the Treasury as a military necessity for the protection of that frontier. It would be good policy on the part of the General Government to make or to assist in making a railroad up there if it were done directly from the national Treasury; but all that is asked of them and all that will be asked of the General Government is to pay this admitted claim, this just claim, and this road will probably be made, and connect the whole system of railroads in our country with the system of railroads in the British provinces where they have some five or

six hundred miles already completed. I will guaranty that there is not a man in the State of Maine who will ever ask the United States Government to contribute anything toward this road if they will only pay this just claim; and there is not a Senator here but what knows it is a just claim. It is a claim that has been admitted. We surrendered up, for the sake of peace, some of the best territory in our State. Now, just put this amendment on this bill, and that is all we ask.

The amendment was rejected.

Mr. CONNESS. I have been requested by the Delegate from Nebraska to call attention to an amendment adopted in the early consideration of this bill striking out section four. I move to reconsider the vote by which the section was stricken out; and I ask for the reading of the section.

Mr. CLARK. I suggest to the Senator to wait until the bill is reported to the Senate, and take the question then.

Mr. CONNESS. You may want to act on all the amendments together then.

Mr. CLARK. No; I am going to except some.

Mr. CONNESS. I ask for the reading of the section; it is a very short one; and I ask the attention of the Senate to it while it is being read.

The Secretary read the section, as follows:

*Sec. 4. And he it further enacted,* That the sum of \$20,000, appropriated at the present session of Congress to defray the legislative expenses of the Territory of Nebraska for the fiscal year ending the 30th day of June, 1866, shall and may be appropriated for and applied, if the Governor of said Territory shall so elect, to the payment of the territorial militia called into service by the Governor of said Territory to protect the frontier settlements against the depredations of Indians, in the fall and winter of the year 1864; which sum shall be disbursed and paid by the Governor of the Territory, who shall take vouchers therefor; and no other or further sum of money shall be appropriated to defray the legislative expenses for the year aforesaid. And the Governor as aforesaid shall, within one year, make a detailed report of his action hereon to the Secretary of the Interior, setting forth the several sums paid, and the names of the persons to whom paid, under the provisions of this section.

The PRESIDING OFFICER. (Mr. FOSTER in the chair.) The question is, will the Senate reconsider the vote striking out this section?

Mr. CONNESS. I wish simply to say now, in addition, that they are willing to relinquish a session of their Legislature so as to have the opportunity of applying this appropriation to the payment of their soldiers. I think it ought to be conceded to them. I hope the Senate will reconsider the vote.

Mr. SHERMAN. I do not know but that the Senate may agree to this motion, and I therefore feel it my duty to take a little time to explain it. This is substantially a proposition to pay to the Governor of that Territory \$20,000; to withdraw the distribution of that money from the accounting officers of the Treasury; to do it in an indirect way, and to do that which both Houses have by vote refused to do. It is a proposition to divert the appropriation to pay the expenses of the Legislative Assembly of the Territory to a different purpose, and to allow the money to be paid out by the Governor without rendering anything but simply an account, after he has paid the money, to the Treasury Department. It is a vicious system of legislation, and I trust the Senate will not gratify this Delegate from Nebraska by passing such a proposition. The Committee on Finance read it and objected to it. If an appropriation of \$20,000 is indispensably necessary in Nebraska for this purpose, let us vote for it directly, but do not let us do it in this indirect way.

The PRESIDING OFFICER. The question is on the motion to reconsider.

The motion was not agreed to.

The bill was reported to the Senate as amended.

Mr. MORRILL. I desire to offer an amendment.

The PRESIDING OFFICER. It will be in order to move amendments after the amendments made in committee have been acted upon. The first question will be, will the Senate concur in the amendments made as in Committee of the Whole?

Mr. SHERMAN. Upon that question I call for the yeas and nays. If the Senate concur in those amendments and send the bill back to the House at this period of the session, it will be impossible to pass the bill. I think the better way would be for us to abandon and drop all the amendments to the bill except the amendments that have been reported by the Committee on

Finance, and which have been examined. I think Senators had better take the responsibility of doing that. They may have to abandon some amendments in which they are interested; but had we not better disagree to all the amendments that have been made since midnight?

Mr. GRIMES. The whole of them?

Mr. SHERMAN. The whole of the amendments except those which have been reported by the committee, and which have already been acted upon.

Mr. JOHNSON. We cannot do that.

Mr. GRIMES. Some of the amendments that have been adopted are just as necessary as the amendments proposed by the Committee on Finance. I agree with the chairman of the committee that others of them are totally unnecessary; but I am unwilling to vote in a lump against or for all of them. I think it a preposterous proposition.

Mr. SHERMAN. I saw an incident which occurred in the House of Representatives the first session I was a member which I hope never to see reenacted. A bill like this was sent to the House of Representatives in the closing hours of the session, and the House, without reading the amendments, adopted them in gross in one of these night sessions; and there is danger of that very course being pursued here.

Mr. JOHNSON. That is not our fault. If we agree to the proposition of the honorable member, it is leaving all legislation to the Committee on Finance.

Mr. GRIMES. It would be leaving the whole matter to the Committee on Finance.

Mr. CONNESS. I suggest to the chairman of the Committee on Finance that he will have entire charge of this bill in the committee of conference.

Mr. SHERMAN. There may be no committee of conference.

Mr. CONNESS. There is certain to be, and that immediately.

The PRESIDING OFFICER. The question is, will the Senate concur in the amendments made in committee? The Chair will take the question on them altogether unless some Senator asks for a separate vote.

Mr. CLARK. I desire a separate vote on the amendment offered by the Senator from Kentucky [Mr. POWELL] in regard to the publishing of certain books for members of Congress.

Mr. ANTHONY. I ask for a separate vote on the amendment striking out an appropriation of \$1,000 for the Seekonk river.

Mr. POWELL. I ask for a separate vote on the question that has been debated here in regard to trials by courts-martial.

Mr. SHERMAN. I ask for a separate vote on the amendment appropriating a sum of money to the State of Pennsylvania for the payment of troops.

Mr. ANTHONY. I ask for a separate vote on the amendment appropriating \$100,000 for the Naval Academy at Annapolis.

Mr. SHERMAN. I should like to have a separate vote on the amendment moved by the Senator from New Hampshire to strike out an appropriation of \$6,000 for the publication of the transactions of the National Academy of Sciences.

Mr. CHANDLER. I ask for a separate vote on the case of Mr. Clarke.

Mr. COWAN. I hope the gentlemen who have charge of amendments here understand this mode of attacking them in detail, and that they will not allow themselves to be flanked in that manner. [Laughter.]

The PRESIDING OFFICER. The amendments named will be excepted; and the question is, will the Senate concur in the remainder of the amendments?

The residue of the amendments were concurred in.

The first excepted amendment was the amendment offered by Mr. POWELL, to add the following as an additional section:

*And be it further enacted, That the Secretary of the Senate and Clerk of the House of Representatives be, and they are hereby, directed to procure from the surviving publisher of the Annals and Debates of Congress prior to the year 1837 one copy of the same for each Senator, Representative, and Delegate, in the present Congress who has not heretofore been supplied therewith, and that said copies be paid for out of any money in the Treasury not otherwise appropriated, at a price per volume not exceeding that heretofore paid by Congress for the same.*

Mr. CLARK. On that question I desire the yeas and nays.

The yeas and nays were ordered.

Mr. McDOUGALL. I trust this amendment will be concurred in. I think it one of the most valuable provisions in the bill—valuable to every member of the Senate.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Foster, Hendricks, Johnson, Lane of Kansas, McDougall, Powell, Sprague, Sumner, and Van Winkle—12.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Dolittle, Farwell, Grimes, Harlan, Henderson, Howard, Morgan, Morrill, Nye, Sherman, Stewart, Trumbull, Wade, Willey, and Wilson—19.

ABSENT—Messrs. Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Harris, Howe, Lane of Indiana, Nesmith, Pomeroy, Ramsey, Richardson, Riddle, Saulsbury, Ten Eyck, Wilkinson, and Wright—19.

So the amendment was non-concurred in.

The next excepted amendment was the amendment offered by Mr. COWAN, to add the following as a new section:

To reimburse the institutions and individuals who advanced the money to pay the Pennsylvania soldiers who were called out by proclamation of the President of the United States and the Governor of Pennsylvania to repel the invasion of Maryland and Pennsylvania by the rebel forces under General Lee, in the summer of 1863, and who were in actual service of the United States, the sum of \$700,000, out of any money not otherwise appropriated, is hereby appropriated, to be paid to the Governor of Pennsylvania in trust for the above-mentioned purpose.

Mr. SHERMAN. Upon that question I desire the yeas and nays, because if that amendment is concurred in I shall have to prepare a similar amendment to the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Cowan, Dolittle, Harris, Henderson, Hendricks, Johnson, Lane of Kansas, Morgan, Morrill, Nesmith, Powell, Ramsey, Sumner, Trumbull, Van Winkle, and Willey—18.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Farwell, Foster, Grimes, Harlan, Howard, Nye, Sherman, Sprague, Stewart, Wade, Wilkinson, and Wilson—16.

ABSENT—Messrs. Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Howe, Lane of Indiana, McDougall, Pomeroy, Richardson, Riddle, Saulsbury, Ten Eyck, and Wright—16.

So the amendment was concurred in.

The next excepted amendment was the amendment offered by Mr. GRIMES, to add the following:

For preparing, refitting, and repairing the Naval Academy buildings at Annapolis, Maryland, \$100,000, or so much thereof as may be necessary.

Mr. ANTHONY. I only asked to have that amendment excepted in order to have the chairman of the committee explain it. A few weeks ago he said it would only cost \$10,000 to remove the Academy from Newport to Annapolis, and now he asks for \$100,000; and I believe, according to his own estimates, it is to cost \$30,000 to build a hospital there to take the place of the hospital that is now in the Naval Academy building. I venture to state that this is only the beginning of an expenditure of \$300,000 to erect the necessary buildings there for the Academy.

Mr. GRIMES. I said it would cost not exceeding \$10,000 to remove the Academy from Newport to Annapolis. I do not think it will cost that much; but that will be the cost of transporting the library and all the appurtenances that are attached to the Academy.

Mr. ANTHONY. But the Senator told us at the last session that the library never had been removed, but was still at Annapolis; so that that may be taken from the expense of transportation.

Mr. GRIMES. Oh, no; I never said so. I said the library was first put in one of the case-ments in Fort Adams, and there it was found; it was rotting and decaying; and then it was put somewhere in the city of Newport, and they were unable to secure a room so that it could be opened for the accommodation of the young gentlemen. Let me say in this connection that the buildings and grounds at Annapolis have cost the United States Government between eight and nine hundred thousand dollars. They have been now in the possession of the Army about four years, and the military department have used them as hospitals, and knocked out the partition walls so as to give, as they supposed, ventilation. As a general thing the officers' houses have been kept up, I understand, in very good condition; but the barracks and the dormitories, and so on, are in a very bad condition. This amendment has been proposed at the instance of the Navy Department, and

is only intended to appropriate such an amount as may be found necessary.

Mr. ANTHONY. If this amendment is only to repair the partition walls of the Naval Academy building, I will suggest to the Senator to have it specified that it is an appropriation of \$100,000 for repairing the partition walls of the Naval Academy buildings.

Mr. GRIMES. I said for repairing the partition walls, and various other things. They built a railroad right through the public grounds and made an excavation. That has got to be filled up. If the Senator has been there he will remember that there was a most beautiful esplanade, one of the prettiest I ever saw; and the War Department have laid a railroad track right down through it. That has got to be repaired; and there are a great many other things that are necessary to be done.

Mr. FARWELL. I propose to amend the amendment by adding the following proviso:

*Provided, That no more appointments of cadets shall be made, and that after the present classes graduate the Academy shall be suspended for twenty years.*

I propose in a word to explain this amendment.

We have now over one hundred vessels employed in the Navy, and have had a large number employed for several years, and shall have for several years to come. I intended to offer a similar amendment to this in regard to West Point when the Military Academy appropriation bill was before us. I am aware that West Point and the Naval Academy have educated and furnished most accomplished and gallant officers, who have done great service to the country. I have always taken a great deal of interest in both those Schools, and I wish here to acknowledge the debt of gratitude which the country owes to the men who have graduated at them. But we have now, I believe, both in the Army and in the Navy a class of officers who have been educated in actual war, better than any theory of war; as many as will be needed in the country for many years to come. I believe the country owes it to them, if their services shall be wanted hereafter in the defense of the flag of the country, either upon land or upon water, that those men who have periled their lives in actual war should have the places in preference to young men selected generally without much regard to their fitness, and sent there and educated theoretically at the public expense. It is a known fact that from the vicious system in which these young gentlemen have been appointed much more than half of them have been dismissed from the Academy at the end of the first six months. I offer this amendment because I believe the interests of the country require it. I believe that justice to the young men both in the Navy and Army requires it. But then I have another object in view. I am very sure, as the appointments of all the young gentlemen in this School are made by the members of the House of Representatives, that if we attach this amendment to the bill we may be sure the bill will not pass without a committee of conference. The chairman of the committee thought there would be some trouble about that. I am very confident this amendment will secure such a committee.

The amendment to the amendment was rejected. The amendment was concurred in.

Mr. ANTHONY. I excepted an amendment, which the Secretary is looking for, striking out a little appropriation of \$1,000 to place some buoys in the Seekonk river. When it was under consideration in committee I stated that it was estimated for by the Department. I was mistaken in its being estimated for this year. It was estimated for two or three years ago, and the appropriation lapsed. It was an appropriation of \$500. It was not quite enough. One thousand dollars now is not any more than \$500 was then. I see that the chairman is going to allow this little appropriation to pass. I think it is due to me after staying here all night, listening to so many speeches, some of them very long, and some of them not remarkably interesting. I hope all those who have made speeches will agree to this proposition as compensation, and those who have been bored by them will vote with me from sympathy, [laughter,] and if I have both classes I shall obtain a unanimous vote.

Mr. GRIMES. If I could add anything to what the Senator from Rhode Island has so well said, I would unite my influence with his to induce

the chairman of the Committee on Finance to consent to it.

Mr. ANTHONY. I ask the Presiding Officer to put the question on the amendment striking out that appropriation—it is not necessary to read it—and we will disagree to it.

Mr. GRIMES. I should like to know where the Seekonk river is. [Laughter.]

Mr. JOHNSON. Is it in Rhode Island?

Mr. ANTHONY. Yes, sir.

Mr. COWAN. How long is it? Four hundred yards? [Laughter.]

Mr. ANTHONY. It is longer than that.

Mr. TRUMBULL. I do not think there is any such river. [Laughter.] It is not in the bill.

Mr. ANTHONY. Well, it is in the State. The amendment is to strike out the appropriation for placing buoys in the Seekonk river.

The PRESIDING OFFICER. Does the Senator recollect where it is in the bill?

Mr. ANTHONY. I cannot recollect, because it is not in the printed bill.

The PRESIDING OFFICER. The Chair will put the question without having the amendment read, unless it is insisted upon by some member. The question is on concurring in an amendment of the committee striking out an appropriation of \$1,000 for placing buoys in the Seekonk river.

The amendment was non-concurred in.

The PRESIDING OFFICER. Senators who have had amendments excepted will please to state them, so that the question may be taken upon them.

Mr. POWELL. I desired a separate vote on the amendment striking out the section in the bill forbidding the trial of any persons, except those engaged in the Army or Navy or rebel spies, by military courts; and on that I wish to be heard.

Mr. JOHNSON. I think the Senate understand that amendment. It is the section that provides that only such persons as are in the military or naval service or rebel spies shall be tried by courts-martial or military commissions.

Mr. WILSON. Does the Senator from Kentucky desire to address the Senate on the section of the bill that was stricken out in committee?

Mr. POWELL. Yes, sir.

#### MILITARY SERVICE.

Mr. WILSON. Before that, I desire to call up the report of the committee of conference on the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants.

The PRESIDING OFFICER. The report will be taken up if there be no objection. It has already been read and the sections explained. The question is, will the Senate concur in the report of the committee of conference?

The report was concurred in.

#### CIVIL APPROPRIATION BILL.

Mr. LANE, of Kansas. I ask the unanimous consent of the Senate to pass a little bill from the Committee on Territories.

Mr. SHERMAN. I object until the civil bill is disposed of.

The PRESIDING OFFICER. It cannot be received without the unanimous consent of the Senate, and objection is made.

Mr. BROWN. There is a resolution on the table with a message from the House announcing that the House had disagreed to the amendment of the Senate to it. As I moved the amendment in the Senate I desire to take up that resolution in order that the Senate may recede from its amendment.

Mr. SHERMAN. If it is in order, I hope we shall proceed with the miscellaneous appropriation bill. If Senators want to kill that bill, let us lay it on the table. I am inclined to vote against it myself.

The PRESIDING OFFICER. The bill before the Senate, being House bill No. 786, the civil appropriation bill, will be proceeded with, unless by unanimous consent it is laid aside. Are there any other amendments, except the one named by the Senator from Kentucky, upon which Senators desire a separate vote?

Mr. STEWART. I desire to offer a short resolution.

Mr. SHERMAN. I object. I do not consent to anything until we get a vote on this bill.

Mr. GRIMES. I ask for a vote on concurring in all the other amendments except the one named.

Mr. SHERMAN. They have been voted on.

Mr. GRIMES. After awhile somebody will come in and claim that they were out for a moment and ask for a vote on some of these very amendments.

The PRESIDING OFFICER. The question is on the amendment excepted by the Senator from Kentucky.

Mr. CONNESS. It is stated that there are a few other amendments unacted upon, and there is a wish that the question should be taken on all the pending amendments but the one named by the Senator from Kentucky.

The PRESIDING OFFICER. The Chair has asked if there was any amendment upon which any Senator wished to vote, and the Chair heard no response.

Mr. CONNESS. They will be considered, then, as adopted?

The PRESIDING OFFICER. As concurred in, unless some Senator asks a separate vote on any other amendment not voted upon. The question now is on the amendment indicated by the Senator from Kentucky.

Mr. POWELL. All I have to say is that the Senate have put everything into this bill that ought not to be put into it, and I want something in it for the public liberties, and I therefore demand the yeas and nays on the amendment. That is my speech.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole to strike out the eighteenth section of the bill, and on that question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Clark, Conness, Doolittle, Farwell, Foster, Grimes, Harlan, Harris, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nye, Ramsey, Sherman, Stewart, Sumner, Wilkinson, and Wilson—22.

NAYS—Messrs. Buckalew, Cowan, Hendricks, Johnson, McDougall, Nesmith, Powell, Riddle, Sprague, Trumbull, Van Winkle, Wade, and Wiley—13.

ABSENT—Messrs. Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Henderson, Howe, Pomeroy, Richardson, Saulsbury, Ten Eyck, and Wright—15.

So the amendment was concurred in.

Mr. DOOLITTLE. I desire to take a vote in the Senate on this Maine question. I will simply say that by the Ashburton treaty Maine surrendered to Great Britain five thousand square miles, or three million two hundred and seven thousand six hundred and eighty acres of land, and below the line by which she was circumscribed the British Government had given claims to settlers to a large amount. This amount is honestly due to those States, Maine and Massachusetts owning the claims together. There is no doubt about it by all persons who ever examined the question. I think it is a claim that ought to be paid, and it ought to have been paid a long time ago. I have no speech to make upon it.

Mr. POWELL. I think there are \$30,000,000 due to the State of Kentucky, and we cannot get even a commission to audit them; we cannot even get a law to authorize them to be audited, much less paid. I think we had better first pay some of our modern debts. This is a proposition to pay for debts far beyond the statute of limitations.

Mr. DOOLITTLE. I suggest that it is unnecessary to read the amendment. It has been once read. I only desire a vote of the Senate upon it.

Mr. MORRILL. I desire to have the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. SHERMAN. I have only to say in regard to this claim that it has been up frequently when there was ample time to consider it, and always voted down.

Mr. SUMNER. It was only up once before, and then was recognized to be a good claim.

Mr. GRIMES. Nobody voted for it.

Mr. SUMNER. A great many.

Mr. GRIMES. Very few.

The question being taken by yeas and nays, resulted—yeas 16, nays 19; as follows:

YEAS—Messrs. Cowan, Doolittle, Farwell, Foster, Harris, Hendricks, Howard, Lane of Indiana, Lane of Kansas, McDougall, Morrill, Nye, Ramsey, Sumner, Wade, and Wilson—16.

NAYS—Messrs. Anthony, Brown, Buckalew, Chandler, Clark, Conness, Grimes, Harlan, Johnson, Morgan, Nesmith, Powell, Riddle, Sherman, Sprague, Stewart, Trumbull, Van Winkle, and Wiley—19.

ABSENT—Messrs. Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Henderson, Howe, Pomeroy, Richardson, Saulsbury, Ten Eyck, Wilkinson, and Wright—15.

So the amendment was rejected.

Mr. SUMNER. I excepted an amendment that was made in committee, and upon which the Senate have not acted, on the motion of the Senator from New Hampshire [Mr. HALE] to strike out the appropriation for the publication of the transactions of the National Academy. I wish to have that question acted upon.

Mr. SHERMAN. The vote was taken upon that.

Mr. GRIMES. The vote was taken upon it a second time.

Mr. SUMNER. No; I beg the Senator's pardon.

Mr. SHERMAN. Your attention was not directed to it.

Mr. SUMNER. I have inquired at the desk, and there is no record of it.

Mr. GRIMES. There were two or three exceptions made, which were neglected by those who made them, and among them was the Senator from Massachusetts; and I called the attention of the Chair and the Senate to it, and asked what should be done with them, and the Chair said they would be considered as concurred in.

The PRESIDING OFFICER. The Chair asked several times if any Senator wished a separate vote taken on any of the other amendments which were proposed in committee. The Chair heard no response, and then said that the other amendments made in committee would be considered as concurred in.

Mr. CHANDLER. I excepted the claim of Mr. Clarke. I believe no vote has been taken on that exception.

Mr. SUMNER. The first question is on the amendment about the National Academy of Sciences.

The PRESIDING OFFICER. The Chair will take the sense of the Senate again on these several amendments. The question now is, will the Senate concur in the vote taken in committee upon the amendment named by the Senator from Massachusetts to strike out the following clause?

For publishing the annual report of the National Academy of Sciences made to Congress, under the act approved March 3, 1863, §6,000.

Mr. SUMNER. That comes from the House; it has already been voted upon there; it has the sanction of the Finance Committee, and I see no reason for striking it out.

The amendment was concurred in; there being, on a division—ayes nineteen, noes not counted.

Mr. CHANDLER. I excepted the claim of Mr. Clarke, and I desire to have a separate vote on that.

Mr. SUMNER. The Senate has already voted upon that twice, and I hope they will adhere to their former decision.

The PRESIDING OFFICER. The question is, will the Senate concur in the amendment proposed by the Committee on Foreign Relations in regard to the chargé d'affaires at Brussels?

Mr. CHANDLER. On that question I call for the yeas and nays.

The yeas and nays were not ordered.

The amendment was concurred in.

Mr. MORRILL. I offer the following amendment to come in at the end of line two hundred and eighty-five:

To enable the Secretary of the Treasury to pay to the persons employed by the Committee on the District of Columbia under the joint resolution entitled "A resolution to provide for a revision of the laws of the District of Columbia," approved June 18, 1864, the compensation provided by said resolution, \$3,000, or so much thereof as may be necessary; and the authority of said joint resolution is hereby extended for and during the Thirty-Ninth Congress.

Mr. SHERMAN. I should like to have an explanation of that amendment.

Mr. MORRILL. I will explain it. By a joint resolution of Congress, passed at the last session, the Committee on the District of Columbia were instructed to procure a revision or codification of the laws of this District, and were authorized, to that end, to employ some suitable persons for that purpose. Two gentlemen were selected at the close of the last Congress, and have been engaged on the work, and have proceeded in the work so far as—

Mr. TRUMBULL. I certainly think the Senate understand this matter sufficiently. It is right



to pay a clerk for helping to revise the laws of the District.

Mr. MORRILL. That is what it is.

Mr. TRUMBULL. It is understood, and the Senate will vote for it.

Mr. SHERMAN. I think we have already provided for this commission.

Mr. MORRILL. There is no provision for it.

Mr. SHERMAN. We are now paying commissioners to revise the laws of the District.

Mr. MORRILL. This is a proposition to pay them.

Mr. GRIMES. Is there no other appropriation?

Mr. MORRILL. This is the only one.

Mr. WADE. I hope this amendment will be agreed to. The Government is really pledged to this thing already, and it is a small matter, but it will be very valuable to us.

The amendment was agreed to.

Mr. SPRAGUE. I desire to obtain the sense of the Senate on the following amendment which I offered in committee:

For fog signals at Point Judith, Rhode Island, Execution Rocks, and Hart Island, New York, \$10,000.

This is an estimate of the Department. It has been before the committee, and before the Treasury Department, and they want it. If it was possible I would contribute the amount myself, knowing it to be so serviceable to the country.

Mr. TRUMBULL. We adopted this once, I think.

Mr. JOHNSON. No, it was rejected.

Mr. SPRAGUE. It was rejected because it was not explained. It is one of the most important adjuncts of the light-house system that there is; and it is upon one of the most dangerous portions of the coast, where there is the most business done, where there is the most commerce, where the Government receives the most revenue. Why, sir, in my deliberate judgment, seven eighths of the appropriations upon this bill are not to be compared in value or in importance to the country with this one.

Mr. GRIMES. Are there any similar kind of signals along the coast?

Mr. SPRAGUE. Yes, sir; and this is for repairing some, and establishing others absolutely necessary, and believed to be so by the Light-House Board.

The amendment was agreed to.

Mr. CHANDLER. I now renew my amendment for a harbor of refuge on Lake Michigan:

That the sum of \$88,541 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, for the construction of a passage into a harbor of refuge at Frankfort on Lake Michigan, in the State of Michigan.

I will not occupy the time of the Senate; but I deem this proposition of vital importance to the commerce of the lakes. That region is called the grave-yard of the lakes. The losses of property during the last summer were several hundred thousand dollars, and the loss of life was very great, and has been so for years. There are two hundred miles of coast without a single harbor. Here is a lake with a narrow strip of sandbank to be cut through, which will accommodate some four or five hundred vessels of the largest size. The Department estimates the cost of making a perfect harbor of refuge there at \$84,000, and upon the estimate of the Department the Committee on Commerce has recommended the establishment of this harbor. I hope the Senate will adopt the recommendation of the committee. I believe it is of more consequence than any other appropriation on the bill. The commerce passing that point amounts to more than five hundred millions per annum. The loss of life and property annually is incalculable. Michigan has but little interest in this matter—not half the interest of Illinois, or Pennsylvania, or Ohio, or any other State—but it is a question of national importance, and I hope the Senate will adopt the appropriation.

The amendment was rejected; there being, on a division—ayes seven, noes not counted.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. POWELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26; nays 5; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark;

Conness, Cowan, Doolittle, Farwell, Foster, Harlan, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Ramsey, Sherman, Sprague, Stewart, Sumner, and Van Winkle—26.

NAYS—Messrs. Brown, Grimes, Powell, Trumbull, and Wade—5.

ABSENT—Messrs. Carlile, Collamer, Davis, Dixon, Foot, Hale, Harding, Henderson, McDougall, Nye, Pomeroy, Richardson, Riddle, Saulsbury, Ten Eyck, Wilkinson, Willey, Wilson, and Wright—19.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendment of the Senate to the joint resolution of the House (H. R. No. 141) reducing the duty on printing paper, unsized, used for books and newspapers exclusively, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. J. F. WILSON of Iowa, and Mr. H. L. DAWES of Massachusetts, managers at the same on its part.

The message further announced that the House of Representatives had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling, and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes," asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURN of Illinois, Mr. T. D. ELIOT of Massachusetts, and Mr. F. C. LE BLOND of Ohio, managers at the same on its part.

The message further announced that the House had agreed to the resolution of the Senate against any recognition on the part of the United States of the rebel debt or loan under any circumstances.

The message further announced that the House had receded from its disagreement to the first amendment of the Senate to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, and agreed to the same.

The message further announced that the House had passed a bill (H. R. No. 812) allowing the further time of five years to those holding lands by entries in the Virginia military district of Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, which were thereupon signed by the Vice President:

A bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh;

A bill (S. No. 380) supplemental to the act approved July 1, 1862, "for the disposal of coal lands and of town property on the public domain;"

A bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska;

A bill (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin;

A bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, and for other purposes;

A joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities; and

A joint resolution (S. R. No. 121) to purchase mail pouches or boxes of Marshall Smith's patent for the postal service, and for other purposes.

#### DUTY ON PRINTING PAPER.

The Senate proceeded to consider its amendment to the joint resolution (H. R. No. 141)

reducing the duty on printing paper, unsized, used for books and newspapers exclusively, disagreed to by the House of Representatives; and

On motion by Mr. SHERMAN, it was

Resolved, That the Senate insist upon its amendments to the said resolution disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Messrs. HOWE, ANTHONY, and LANE of Kansas.

#### STEAMBOAT INSPECTORS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats for collection districts of Memphis and Oregon, and for other purposes," disagreed to by the House of Representatives; and

On motion of Mr. CHANDLER, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Messrs. GRIMES, CHANDLER, and MORRILL.

#### LAW OF EVIDENCE.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to take up House bill No. 657. It is that little bill which was nearly finished a night or two ago in reference to the right to testify in one's own case; providing that a party shall not be allowed to testify against dead men. I believe everybody is in favor of it.

Mr. BROWN. Let us dispose of the bills that require to be enrolled first.

Mr. HENDRICKS. This will not take two minutes. Everybody I believe agrees to it.

Mr. SUMNER. I doubt whether we should proceed with that bill. I doubt the expediency of the change proposed by it.

Mr. HENDRICKS. Then, sir, I move to postpone all prior orders and take up the bill.

Mr. GRIMES. I understand that a motion to go into executive session is now in order.

The PRESIDING OFFICER. It is.

Mr. GRIMES. I make that motion. There are a great many appointments on the table that ought to be attended to, and attended to between now and ten o'clock.

Mr. HENDRICKS. I have tried for two or three weeks to get this bill considered. I have no interest in it, but I have been asked to get it through. I should like to get it through; but I am not going to beg much about it.

Mr. CLARK. I hope the Senate will not go at present into executive session. There are several little bills that ought to be passed that I have charge of, so that they may be engrossed if they are passed. We can attend to executive business after they are attended to. I think we should attend to those bills first.

Mr. SHERMAN. There are some very important nominations that should be disposed of.

Mr. GRIMES. Some of those appointments are to be contested, to my knowledge, and they are of vast importance.

Mr. CLARK. It may be so, but perhaps not more important than these bills.

Mr. SHERMAN. Those that I refer to are not contested. They are the appointments of collectors and assessors.

Mr. CLARK. There will be time enough to attend to them between ten and eleven o'clock.

The PRESIDING OFFICER. It is moved that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I will make one remark with regard to the necessity of our speeding matters now. This Hall must be cleansed and purified before the proceedings can go on at twelve o'clock. There must be an interval of some two or three hours for the attendants of the building to take care of that.

Mr. WADE. It will want it more afterward than now. [Laughter.]

Mr. SUMNER. That is another question. I

merely make that suggestion because that may influence us with regard to the business we shall enter upon.

Mr. FARWELL. I hope we shall take up the bill indicated by the Senator from Indiana.

The PRESIDING OFFICER. That is not now the question before the Senate. The question before the Senate is the motion to go into executive session.

Mr. FARWELL. Then I hope we will not go into executive session. I do not believe that live men ought to come into court to testify against dead men's estates.

The motion was not agreed to.

Mr. HENDRICKS. Now, I believe my motion is in order. Perhaps the Senator from Massachusetts will withdraw his objection.

Mr. SUMNER. I interpose no objection.

Mr. HENDRICKS. Then if the Senator interposes no objection I presume there will be no opposition to taking it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 657) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States.

Mr. HENDRICKS. The bill was read yesterday evening, and I will state to the Senate just what was stated by the Senator who now occupies the chair [Mr. FOSTER] yesterday evening. This bill passed the House, came to the Senate, was referred to the Committee on the Judiciary, and that committee have reported an amendment to it. That amendment is in legal effect precisely the House bill; but if we adopt this amendment and amend the bill, it cannot pass the House at this hour, that is certain; and I wish the Senate not to adopt the amendment, but to stand by the House bill.

Mr. SUMNER. I agree with the Senator that the amendment reported by the Judiciary Committee is substantially the House bill. It is the House bill, if I may so say, taken into a new draught, perhaps in a little better form; but I doubt the policy of the House bill. I believe that the House bill goes further than the law of evidence as it is now laid down by the best writers and authorities on the subject; and my impression is we had better not interfere with it, but leave the rule as it was declared by Congress at the last session, until at least we have some experience under it, and find that it does not work well. That rule is substantially in harmony with the received rule of evidence according to the best authorities now.

Mr. MORRILL. What is the rule?

Mr. SUMNER. I cannot undertake to state it now.

Mr. HENDRICKS. The rule is that a man can swear in any case. This bill simply limits it, that he shall not swear in his own case against a guardian or against an administrator, unless the court specially and affirmatively order it. If the ends of justice require it, the court can allow it; but he will not have the right except by permission of the court.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on the Judiciary.

Mr. SUMNER. Let it be read.

Mr. JOHNSON. I want to hear the bill as it came from the House read also.

The Secretary read the bill and amendment, as follows:

*Be it enacted, &c.*, That the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1865, and for other purposes," be, and the same hereby is, amended by adding thereto the following proviso: "Provided further, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify thereto by the opposite party, or required to testify thereto by the court."

The amendment of the Committee on the Judiciary was to strike out all of the bill after the enacting clause, and to insert in lieu thereof the following:

That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil

actions because he is a party to, or interested in, the issue tried: *Provided*, That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with, or statement by, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court, except in cases arising upon contracts made with the executor, administrator, or guardian of such estate.

*SEC. 2. And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

The PRESIDING OFFICER. The question is on the amendment reported by the committee.

The amendment was rejected.

Mr. SUMNER. Now, I hope the bill will not be passed. I think at this time we ought, so far as we undertake to interfere with the law of evidence, to open it, to broaden it, instead of limiting it.

Mr. HENDRICKS. Let a man swear against a dead man's estate?

Mr. SUMNER. Yes, we ought to get testimony from every quarter.

Mr. MORRILL. Certainly the Senator from Massachusetts is mistaken about the practice in relation to evidence in the English courts and the courts of this country. It is in harmony with this bill, and it seems to me to be a monstrous proposition to allow a man to testify when the other party is dead. That is all there is in this bill.

Mr. SUMNER. I think there is no need of mutuality in such a case. We want light; we want evidence from every quarter we can get it.

Mr. HOWARD. But we do not want perjury.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 62) to remove all disqualification of color in carrying the mails.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes; which thereupon received the signature of the Vice President.

#### REPORT FROM A COMMITTEE.

Mr. WADE, from the Committee on Territories, to whom was referred the bill (H. R. No. 401) amendatory of the organic act of Washington Territory, reported it without amendment.

#### JOSIAH O. ARMES.

Mr. CLARK. I move that the Senate now proceed to the consideration of House bill No. 161, for the relief of Josiah O. Armes. ["Oh, no."] Let us bring it up and get a vote upon it.

Mr. HOWE. I ask the Senator from New Hampshire if he will not let me have the floor long enough to pass a bill reported from the same committee. I must go out on a committee of conference.

Mr. CLARK. Let me have a vote and get mine up first.

Mr. GRIMES. That will not do; I object to taking up one bill and then farming out the floor.

Mr. POWELL. I move that the Senate proceed to the consideration of executive business.

Mr. LANE, of Kansas, called for the yeas and nays on the motion, and they were ordered; and being taken, resulted—yeas 14, nays 17; as follows:

YEAS—Messrs. Brown, Cowan, Doolittle, Grimes, Harlan, Lane of Indiana, Lane of Kansas, Morgan, Nesmith, Powell, Riddle, Sherman, Sumner, and Wilson—14.

NAYS—Messrs. Buckalew, Clark, Conness, Farwell, Foster, Harris, Henderson, Hendricks, Howe, Morrill, Nye, Ramsey, Sprague, Trumbull, Van Winkle, Wade, and Willey—17.

ABSENT—Messrs. Anthony, Carlile, Chandler, Collamer, Dixon, Foot, Hale, Harding, Howard, Johnson, McDougall, Pomeroy, Richardson, Saulsbury, Stewart, Ten Eyck, Wilkinson, and Wright—19.

So the motion was not agreed to.

Mr. CLARK. I believe my motion is now in order, to take up House bill No. 161, for the relief of Josiah O. Armes.

The motion was agreed to; and the Senate, as

in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on an amendment proposed by the Senator from Ohio.

Mr. SHERMAN. In order to enable the Senator to have a direct vote on the bill I will withdraw that amendment.

Mr. CLARK. Let it come to its passage, and then we will take a direct vote.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. HARLAN. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 11; as follows:

YEAS—Messrs. Buckalew, Clark, Conness, Farwell, Foot, Foster, Harris, Hendricks, Howard, Howe, Johnson, Lane of Indiana, Morrill, Nye, Powell, Ramsey, Riddle, Sprague, Stewart, Van Winkle, Wade, and Willey—22.

NAYS—Messrs. Brown, Doolittle, Grimes, Harlan, Lane of Kansas, Morgan, Nesmith, Sherman, Sumner, Trumbull, and Wilson—11.

ABSENT—Messrs. Anthony, Carlile, Chandler, Collamer, Cowan, Davis, Dixon, Hale, Harding, Henderson, McDougall, Pomeroy, Richardson, Saulsbury, Ten Eyck, Wilkinson, and Wright—17.

So the bill was passed.

#### AMBROSE MORRISON.

Mr. CLARK. I have one bill further that I wish to report from the Committee on Claims, and I ask the unanimous consent of the Senate to consider it at this time. If after making a statement I cannot have unanimous consent I will lay it aside. It is a bill (H. R. No. 463) for the relief of Ambrose Morrison, of Nashville, Tennessee.

Mr. HOWE. I appeal once more to the Senator from New Hampshire to let me take up my bill.

Mr. CLARK. I think when I come to state what this bill is there will be no objection to it; and if I can do so, I will then give way to the Senator from Wisconsin.

Mr. GRIMES. I object to its being taken up, if the floor is to be farmed out.

The PRESIDING OFFICER. It cannot be considered except by unanimous consent, and objection is made.

#### MERCANTILE MUTUAL INSURANCE COMPANY.

Mr. HOWE. I now move that the Senate proceed to the consideration of House bill No. 456, for the relief of the Mercantile Mutual Insurance Company of New York.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to issue and pay to the Mercantile Mutual Insurance Company of New York eight United States notes, not bearing interest, of \$1,000 each, in lieu of eight notes of the United States, issued under the act of Congress of February 25, 1862, of the letters, numbers, and dates following: A. 17,097, of 10th March, 1862, for \$1,000; A. 20,421, of 10th March, 1862, for \$1,000; C. 20,251, of 10th March, 1862, for \$1,000; B. 9,962, of 10th March, 1862, for \$1,000; D. 5,820, of 10th March, 1862, for \$1,000; D. 11,900, of 10th March, 1862, for \$1,000; D. 216, of 10th March, 1862, for \$1,000; D. 7,164, of 10th March, 1862, for \$1,000; which were lost or destroyed by the foundering of the steamer Quincy, at sea, on the 13th of December, 1863; but the company is to execute a bond in the penal sum of \$16,000, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss on account of the issuing of those bills.

Mr. GRIMES. I call for the reading of the report in that case.

The PRESIDING OFFICER. The report will be read.

Mr. TRUMBULL. It is evident that this case is to lead to controversy. It is a private claim, to pay some party for lost bonds. I am very anxious to call up a bill that I have been trying to get an opportunity to call up for several days. It is a House bill, and one of very great importance to the West. I move to postpone this bill and all other orders, and take up House bill No. 322. I will state what that bill is. It is a bill to construct a ship-canal for the passage of Army and Navy vessels from the Mississippi river to Lake Michigan. It is a bill that has passed the House.

Mr. GRIMES. There will be no debate upon that, of course. [Laughter.]

Mr. TRUMBULL. I do not want any debate upon it, except to state the facts about it. If the Senate will take it up and permit me to state what the bill is, I am willing then that a vote should be taken upon it. I hope the Senate will allow it to come up.

Mr. SHERMAN. I desire to submit a privileged motion. I move that the Senate proceed to the consideration of executive business. I do not think that it will take long to dispose of the nominations that ought to be acted upon.

Mr. TRUMBULL. I hope that motion will not be agreed to.

Mr. LANE, of Kansas. I hope the Senator from Ohio will permit me to pass a little bill that I have been trying to get the floor all night to call up, that will lead to no discussion.

Mr. SHERMAN. I can state that it is necessary to dispose of the nominations that I have referred to, and the only ones I know of, of assessors and collectors. Their appointments will fall, and their bonds be of no validity, if we do not act upon them now.

Mr. HOWE. There is a bill before the Senate which will lead to no discussion, which passed the House, and has been reported by the Senate Committee on Claims without any amendment; and the Senate is gaining no time by crossing these motions. I hope the Senator from Ohio will withdraw his motion and allow a vote to be taken on this bill.

Mr. HENDRICKS. But very little time has been asked for by the Committee on Claims during this session; and the claim now before us—

Mr. CONNESS. We will vote for it if you will let us vote.

Mr. HENDRICKS. All Senators may not feel just that way. Perhaps they do not want to vote for it without knowing something about it. [Laughter.] The claim that the Senator from Wisconsin proposes to call up was examined at the last session, and I had the pleasure of examining it with the Committee on Claims at that time, and I think it is just as clear as light. It is a legal proposition.

Mr. TRUMBULL. What is the question before the Senate?

The PRESIDING OFFICER. The question is on the motion to go into executive session.

Mr. TRUMBULL. I thought that motion had been put, as I see the officers clearing the galleries.

The PRESIDING OFFICER. The Chair cannot keep men in the galleries if they choose to go. [Laughter.]

Mr. TRUMBULL. But the officers need not turn them out.

The PRESIDING OFFICER. It is by no order of the Chair.

Mr. SHERMAN. I trust we shall now have a vote on my motion; and I should like to have the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 14; as follows:

YEAS—Messrs. Brown, Farwell, Foot, Foster, Grimes, Harlin, Harris, McDougall, Morgan, Powell, Sherman, Sprague, Sumner, Wade, and Wilson—15.

NAYS—Messrs. Buckalew, Clark, Conness, Hendricks, Howard, Howe, Johnson, Lane of Kansas, Morrill, Nye, Stewart, Trumbull, Wilkinson, and Wiley—14.

ABSENT—Messrs. Anthony, Carlile, Chandler, Collamer, Cowan, Davis, Dixon, Doolittle, Hale, Harding, Henderson, Lane of Indiana, Nesmith, Pomeroy, Ramsey, Richardson, Riddle, Saulsbury, Ten Eyck, Van Winkle, and Wright—21.

#### EXECUTIVE SESSION.

So the motion was agreed to, and the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1866, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. D. C. LITTLEJOHN of New York, Mr. H. WINTER DAVIS of Maryland, and Mr. JAMES S. ROLLINS of New Hampshire, managers at the same on its part.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker had signed the following enrolled bills, and they were thereupon signed by the Vice President:

A bill (H. R. No. 600) for the better organization of the subsistence department;

A bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866; and

A bill (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations.

#### CIVIL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1866, and for other purposes, disagreed to by the House of Representatives; and

On motion by Mr. SHERMAN, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the Vice President.

The VICE PRESIDENT appointed Mr. SHERMAN, Mr. CLARKE, and Mr. HENDERSON.

#### R. L. B. CLARKE.

Mr. HARLAN. I move that the Committee on Public Lands be discharged from the further consideration of the bill (H. R. No. 256) for the relief of R. L. B. Clarke.

The motion was agreed to.

Mr. HARLAN. I now ask the Senate to consider the bill.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the Treasurer of the United States to pay the sum of \$1,500 to R. L. B. Clarke, in full for the time and expense incurred by him in contesting the seat of Augustus Hall, from the first district of Iowa, in the Thirty-Fourth Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### THANKS TO GENERAL THOMAS.

Mr. BROWN. Mr. President, I desire to take from the table and ask presentation upon a joint resolution returning the thanks of Congress to Major General Thomas and the officers and men under his command, for their gallant and heroic service in Tennessee. This resolution, it will be remembered, was amended in the Senate by additional sections returning the thanks of Congress likewise to those officers and men of our Navy on the western waters coöperating in that brilliant and trying campaign. For some reason, purely technical, as I understand, the House of Representatives has not thought proper to concur in this well-deserved tribute to our seamen. I regret this, sir, very deeply. I regret that those who have deserved so well of their country should be denied such a recognition at our hands upon any technicality or plea whatever. But I am unwilling that the refusal of justice to one branch of the service shall operate to withhold or defeat the merited tribute conceded to another; and I am sure that in this I but reflect the common sentiment of all those whose united valor shed such luster on our arms, and effected so great a deliverance to the heart of the nation from a most formidable invasion. There is no officer of either Army or Navy who would wish that that honor should be withheld from either because not extended to both.

In this view, Mr. President, and having been the mover of the amendment unanimously concurred in by the Senate, I now ask that the Senate recede from its amendment and concur in the joint resolution as it came from the House of Representatives.

The PRESIDING OFFICER, (Mr. FOSTER in the chair.) It is moved that the Senate recede from its amendment to the joint resolution (H. R. No. 139) of thanks to Major General Thomas and his army.

The motion was agreed to.

#### MILEAGE TO CLAIMANTS.

Mr. FOOT. I move that the Senate now take a recess until ten o'clock.

Mr. LANE, of Kansas. Before that is done,

I desire to offer a resolution so that it may come up as the unfinished business after the recess. I do not ask for its passage now. I merely desire to present it, so that it may be the unfinished business when we come together again:

Resolved, That the Secretary be instructed to pay out of the contingent fund of the Senate, the usual mileage to Elisha Baxter and William M. Fishback, respectively claimants for seats in the Senate from Arkansas, and Charles Smith and R. King Culler, respectively, as claimants for seats in the Senate from Louisiana at the second session of this Congress.

Mr. FOOT. Were not the claimants from Arkansas paid their mileage at the last session? Mr. LANE, of Kansas. They were paid at the last session; but the House have paid the claimants there again this session.

Mr. FOOT. Have they been here?

Mr. LANE, of Kansas. Yes, sir.

Mr. RAMSEY. Why not pass it now?

Mr. LANE, of Kansas. I will not ask for its consideration now, but I wish to leave it as the unfinished business.

Mr. BROWN. And I should like to submit an objection to the resolution also.

The PRESIDING OFFICER. It is now moved that the Senate take a recess until ten o'clock.

The motion was agreed to; and thereupon, at seventeen minutes to seven o'clock, on the morning of the 4th of March, the Senate took a recess until ten o'clock.

#### MORNING SESSION.

The Senate reassembled at ten o'clock, a. m., (4th of March.)

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes."

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 785) granting a pension to Captain George W. Knabe;

A bill (H. R. No. 808) for the relief of Ellis Norris, of Barnstable, Massachusetts;

A bill (H. R. No. 809) for the relief of Anna E. Ward, widow of Lieutenant Joseph D. Ward;

A bill (H. R. No. 810) for the relief of Mary A. Millinger, widow of Christian B. Millinger; and

A bill (H. R. No. 811) for the relief of Catherine Mock, widow of William H. Mock.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, which were thereupon signed by the Vice President:

A bill (S. No. 62) to remove all disqualification of color in carrying the mails;

A bill (H. R. No. 657) to amend the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States; and

A joint resolution (H. R. No. 161) in relation to certain railroads.

#### STEAMBOAT INSPECTORS.

Mr. GRIMES. The message just received from the House of Representatives announced that they had concurred in the report of the committee of conference on House bill No. 667. I was a member of the committee, but did not sign the report. I move that the Senate concur in the report.

The VICE PRESIDENT. The report will be read.



The Secretary read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 667) to provide for two assistant inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their amendments to said bill.

Z. CHANDLER,  
L. M. MORRILL,  
*Managers on the part of the Senate.*  
E. B. WASUBURNE,  
T. D. ELIOT,  
F. C. LE BLOND,  
*Managers on the part of the House.*

The report was concurred in.

#### COINAGE OF THREE-CENT PIECES.

Mr. CLARK. I ask the unanimous consent of the Senate to consider House bill No. 807, to authorize the coinage of three-cent pieces, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Secretary commenced the reading of the bill.

Mr. SHERMAN. I desire to make a report from the committee of conference on the civil appropriation bill, and should like to stop the reading of the bill before the Senate for that purpose.

The VICE PRESIDENT. The Chair will receive the report if there be no objection.

#### CIVIL APPROPRIATION BILL.

Mr. SHERMAN submitted the following report from the committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 783) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to Senate amendments numbered one, five, six, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-nine, thirty, thirty-one, thirty-two, thirty-four, thirty-six, thirty-seven, forty, forty-two, forty-six, forty-seven, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, and fifty-seven.

That the House recede from their disagreement to so much of the twenty-fourth amendment of the Senate as proposes to insert words, and agree to the same with an amendment: strike out all of the matter proposed to be inserted; and the Senate agree to the same.

That the House recede from their disagreement to the thirty-ninth amendment of the Senate and agree to the same with an amendment, as follows: strike out "one hundred" and insert "fifty."

That the Senate recede from their amendments numbered two, three, four, seven, twenty-five, twenty-six, twenty-seven, twenty-eight, thirty-three, thirty-five, thirty-eight, forty-one, forty-three, forty-four, forty-five, fifty-five, and fifty-six.

The committee further state that they have to report disagreement on the forty-eighth amendment of the Senate, and the committee therefore report that they have been unable to agree.

JOHN SHERMAN,  
DANIEL CLARK,  
J. B. HENDERSON,  
*Managers on the part of the Senate.*  
D. C. LITTLEJOHN,  
H. WINTER DAVIS,  
J. S. ROLLINS,  
*Managers on the part of the House.*

Mr. SHERMAN. The committee of conference have agreed upon a report which covers all the points in disagreement between the two Houses except the amendment in regard to military arrests; and I will explain very briefly to those Senators who are here the disposition that has been made of the most important items in this bill. The appropriations for the light-houses, all of them, perhaps, have been agreed to. The proposition to fit up the portion of the building for the Supreme Court has been agreed to. We agree upon everything except the military arrests; and upon that we report a disagreement. I will therefore move that the Senate agree with the report of the committee of conference except as to the forty-eighth amendment, and upon that that the Senate further insist upon its amendment.

Mr. CONNESS. I should like to make an inquiry of the chairman, and I desire an answer to my question.

Mr. SHERMAN. The bill had better be sent from here to the House first, and then I can answer afterward.

Mr. CONNESS. Yes, but the Senator wants us to concur in this report, and I should like to know whether all the amendments made in the Senate, or a considerable part of them, were conceded to the House.

Mr. SHERMAN. Most of them were rejected by the House.

Mr. CONNESS. That is to say, our committee conceded them and abandoned them.

Mr. SHERMAN. Certainly. Wherever the House objected to a proposition made last night we abandoned it. We adopted that as a principle.

Mr. SUMNER. Did they object generally, en masse?

Mr. SHERMAN. No; we considered them separately.

Mr. STEWART. What did the committee do with the amendment making an appropriation for geological surveys?

Mr. SHERMAN. We struck it all out. If any other Senator desires information on any other point I am ready to give it to him.

The report was concurred in.

Mr. SHERMAN. I do not think it would be best to ask for a further conference. I think it probable that the House will recede from their amendment, and that will pass the bill.

The VICE PRESIDENT. Then the Senator moves simply to insist upon the amendment of the Senate, disagreed to by the House, and let it go to the House in that position.

Mr. SHERMAN. Yes, sir.

The motion was agreed to.

#### ADMISSION OF LADIES.

Mr. GRIMES. I desire to be informed in regard to the arrangements that have been made here to-day for the inauguration. There are ladies, members of the families of Senators, who are utterly denied admission to the building—not to the galleries alone, but to any of the reception, rooms, or committee-rooms—and they are exposed to the inclemency of the weather outside of the building. If there is any gentleman here present who is connected with the committee of arrangements, or anybody who can explain by what authority this control is exercised over the building, I should like to be informed of it. There are persons who have admission tickets to the galleries.

The VICE PRESIDENT. They were notified that the galleries would not be opened until eleven o'clock.

Mr. DOOLITTLE. If my honorable friend from Iowa will allow me, I will state to him that Mr. FOSTER of Connecticut, Mr. HENDERSON of Missouri, and myself, were appointed a committee of arrangements on this occasion; and we took the same programme that was adopted four years ago, when Mr. FOSTER was the chairman of that committee, and have in all respects followed the programme, with this exception, that we have assigned to the ladies of gentlemen who are admitted to the floor of the Senate a place in the gallery upon the right and left of the diplomatic gallery, and other ladies are admitted to other parts of the galleries. The programme has been published in all the newspapers, and it has been published by itself.

Mr. GRIMES. Why keep them out of the building?

Mr. DOOLITTLE. Because this was the programme four years ago; and in the judgment of the committee, and in the judgment of the marshal and the Sergeant-at-Arms, it is utterly impossible to have any arrangements at all and reserve any seats for ladies unless the hour be fixed at which the doors shall be opened; for if you open the doors and ladies are permitted to come in and seat themselves there will not be room.

Mr. GRIMES. There were no more tickets issued than there were seats, I presume.

Mr. DOOLITTLE. Tickets of admission have been issued to the ladies of the families of Senators and members of the House and members-elect who are entitled to the floor; and as I understand the Sergeant-at-Arms himself called upon those various members and ascertained how many ladies there were in their families, and the tickets were given.

Mr. MORRILL. They are outside now.

Mr. DOOLITTLE. They are here too early. If they came at eleven o'clock they would be admitted, and there would be no trouble.

Mr. GRIMES. All I have to say is, that I regard it as an assumption on the part of those who have control of this matter to shut them out of the building entirely. It may be very well to keep them out of the galleries. As for the precedent, I think that goes for nothing. It did not rain four years ago, and the ladies were not kept out in a shower.

Mr. DOOLITTLE. In respect to that, I will simply say that I have not gone into this matter much myself; but I am satisfied that the arrangements are correct.

Mr. POWELL. I move that the Sergeant-at-Arms be directed to go and open the doors and let those ladies in. I myself saw the wives of members of Congress standing outside in the wet, and I do not think that they should be kept there.

Mr. CONNESS. I met a member of the Senate outside who was excluded, and could not come in until he passed in with myself.

Mr. POWELL. It does not matter if there were forty Senators there; but there are ladies standing out there in the rain.

Mr. CONNESS. Exactly; but the Senator does not understand me. I do not know of any reason, after having cards of admission, why they should not be allowed to enter the building. They need not be allowed into the galleries at all.

The VICE PRESIDENT. What is the motion that the Senator from Kentucky desires to submit?

Mr. POWELL. I move that the Sergeant-at-Arms be directed to open the doors and admit the ladies who have tickets.

Mr. CONNESS. Not accompanied by gentlemen, at present. To admit the ladies alone, I understand to be the motion.

Mr. POWELL. If gentlemen come with ladies, I think they should be permitted to enter also.

Mr. DOOLITTLE. When Senators come to make motions and overrule the regular programme that has been established for many years they will find themselves involved in a thousand difficulties. If you open these doors in the morning, without regard to admission, you will find the passage-ways between here and the portico where the inauguration is to take place so crowded that it will be impossible to get there. You must have some rule and arrangement about it. This rule was adopted four years ago; the building was closed in precisely the same way; and gentlemen will remember that the President-elect was brought into the building under a covered way, through a side door, or else he could not have got in here at all.

Mr. MORRILL. It is raining now.

Mr. DOOLITTLE. I think not.

Mr. STEWART. I have a resolution that I should like to offer.

Mr. CLARK. I insist on my bill.

The VICE PRESIDENT. If the Senator from New Hampshire insists on proceeding with his bill, that is the business in order.

Mr. POWELL. I insist on my motion. I really cannot stand here while those ladies are outside in the rain. I think it is absolutely disgraceful to the Senate.

The VICE PRESIDENT. The motion is not in order while there is a bill before the Senate.

Mr. POWELL. I hope the Senator will withdraw his bill to enable me to make the motion.

Mr. HENDRICKS. I do not understand that the Senate is responsible for this business, and as one Senator I am not willing to undertake it.

Mr. DOOLITTLE. If Senators wish to take the responsibility of interfering with the arrangements that have been made, let them take it. That is all I can say.

The VICE PRESIDENT. The Secretary will proceed with the reading of the bill before the Senate.

The Secretary continued the reading of House bill No. 807.

Mr. CLARK. I do not know that anybody is listening to the reading of the bill, and I suggest that its further reading be dispensed with. It simply provides for the coinage of three-cent pieces.

Mr. POWELL. I move that the reading be dispensed with, and that all prior orders be postponed until we have the doors of the building opened. I understand some ladies are unwell out there.

Mr. CLARK. We shall get through with this bill in a moment.

Mr. POWELL. I object to anything being done until the doors are opened.

Mr. CLARK. I do not object to that.

Mr. POWELL. I do object to keeping ladies out there in the rain.

Mr. CLARK. I say I do not object to your motion.

The motion to postpone all prior orders was agreed to.

The VICE PRESIDENT. The Senator from Kentucky now moves that the Sergeant-at-Arms be directed to open the doors and admit such ladies as have tickets of admission to the galleries.

Mr. CONNESS. I desire to know whether that will include gentlemen who accompany them at present. ["Oh, no."] Very well.

Mr. HENDRICKS. Of course gentlemen with ladies.

Mr. GRIMES. They never have been allowed.

The VICE PRESIDENT. They were not included in the Senator's motion as stated by himself.

Mr. POWELL. I supposed that gentlemen escorting ladies would necessarily come in. I never knew them to be excluded in any civilized community.

The VICE PRESIDENT. Then the Chair will again state the question. The Senator moves that the Sergeant-at-Arms be directed to open the doors for the admission of such ladies and gentlemen as have tickets of admission.

Mr. CONNESS. I move to amend that motion by striking out "gentlemen."

Mr. POWELL. Only such gentlemen as have ladies under their escort.

Mr. COLLAMER. I object to that altogether. I know there are ladies enough out there who have tickets to fill all the gallery. Gentlemen never have been admitted.

Mr. POWELL. Let the ladies come in at all events.

The VICE PRESIDENT. If the Senator from Kentucky will state distinctly his motion in his own words, the Chair will put it.

Mr. POWELL. I will accept the motion just as the Chair put it first.

The VICE PRESIDENT. It is moved that the Sergeant-at-Arms be directed to admit such ladies as have tickets to the gallery.

Mr. SPRAGUE. I will suggest that it is impossible for Senators themselves in the present condition of the Capitol to get into the Chamber. I have been trying for the last twenty minutes to get through the barricade.

The motion of Mr. POWELL was agreed to; and in accordance therewith the doors were opened, and the spacious galleries were at once filled by ladies, whose very audible conversation materially retarded the transaction of public business.

#### COINAGE OF THREE-CENT PIECES.

The VICE PRESIDENT. The Senator from New Hampshire moves to dispense with the further reading of the bill before the Senate, House bill No. 807, to authorize the coinage of three-cent pieces, and for other purposes.

The motion was agreed to.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolution, which were thereupon signed by the Vice President:

A bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866, and for other purposes; A bill (H. R. No. 170) to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes; and

A joint resolution (H. R. No. 139) of thanks to Major General Thomas, and to the army under his command.

#### OVERLAND MAIL SERVICE.

Mr. STEWART submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That a committee of three be appointed to examine the condition of the overland mail service, and the manner of its performance, and to report to the Senate at the next session of Congress: *Provided*, That no charge shall be made on the Treasury therefor.

Mr. STEWART. I move that the committee be appointed by the Vice President.

The motion was agreed to; and

The VICE PRESIDENT appointed Mr. STEWART, Mr. NESMITH, and Mr. CONNESS.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. NICOLAY, his Secretary, announced that he had approved and signed the following enrolled bills and joint resolutions:

A bill (S. No. 380) supplemental to the act approved July 1, 1864, for the disposal of coal lands and of town property on the public domain;

A bill (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia;"

A bill (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army;

A bill (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry;

A bill (S. No. 62) to remove all disqualifications of color in carrying the mails;

A bill (S. No. 91) to quiet titles in favor of parties in actual possession of lands situated in the District of Columbia;

A bill (S. No. 122) for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker;

A bill (S. No. 171) further to amend an act entitled "An act for the collection of taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862;

A bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh;

A bill (S. No. 390) relating to the postal laws;

A bill (S. No. 443) to incorporate the Freedmen's Savings and Trust Company;

A bill (S. No. 472) to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska;

A joint resolution (S. R. No. 89) directing inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities; and

A joint resolution (S. R. No. 121) to purchase mail pouches or boxes of Marshall Smith's patent for the use of the postal service, and for other purposes.

#### MERCANTILE MUTUAL INSURANCE COMPANY.

Mr. HOWE. I move that the Senate resume the consideration of House bill No. 456.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 456) for the relief of the Mercantile Mutual Insurance Company of New York.

Mr. GRIMES. When the consideration of that bill was suspended this morning the Secretary was about to read the report of the committee. I call for the reading of that report.

The Secretary read the following report submitted by Mr. HOWE, from the Committee on Claims, on the 18th of February:

The Committee on Claims, to whom was referred an act (H. R. No. 456) entitled "An act for the relief of the Mercantile Mutual Insurance Company of New York," having carefully examined the same, and the evidence therewith submitted, respectfully report:

That on the 21st day of November, 1863, the Mercantile Mutual Insurance Company of New York entered into a contract with the firm of J. H. Brower & Co., by which they undertook the assurance of the safe transit of certain United States Treasury notes, (known as legal-tender notes), amounting to the sum of \$8,000, from New York to New Orleans in the United States mails on board the steamer Quincy.

In pursuance of said contract eight of said notes, numbered, dated, and described as follows, namely: one note A. No. 17,097, of 10th March, 1862, for \$1,000; one note A. No. 20,421, of 10th March, 1862, for \$1,000; one note C. No. 20,251, of 10th March, 1862, for \$1,000; one note B. No. 9,962, of 10th March, 1862, for \$1,000; one note D. No. 5,820, of 10th March, 1862, for \$1,000; one note D. No. 11,900, of 10th March, 1862, for \$1,000; one note D. No. 216, of 10th March, 1862, for \$1,000; one note D. No. 7,164, of 10th March, 1862, for \$1,000—were, by said firm of J.

H. Brower & Co. given to Edward Walter, the president of said insurance company, who caused a record of them to be entered on the application of said firm for insurance. Afterward, on the 7th day of December, 1863, Mr. Walter, in the presence of Edward M. De Rose, put three of the notes above described, namely, Nos. 17,097, 20,421, and 20,251, into an envelope, addressed to E. J. Hart & Co., at New Orleans, sealed them up, and gave the package to said De Rose, and it was by him, on said 7th day of December, deposited in the post office at New York.

On the 8th day of December, 1863, Mr. Walter, in the presence of Francis Mallaby, jr., put five of the above-described notes, to wit, Nos. 9,962, 5,820, 11,900, 216, and 7,164, into an envelope, addressed to E. J. Hart & Co., at New Orleans, sealed them up, and gave the package to said Mallaby, and it was by him, on the said 8th day of December, before two o'clock, p. m., deposited in the post office at New York.

It appears from the deposition of Thomas Clark, of New York city, that he is superintendent of the mails in the New York post office; that on the 8th day of December, 1863, a mail was made up under his direction to be sent to New Orleans by the steamer Quincy; that all letters destined for New Orleans deposited in the post office on the 7th and the 8th days of December, and before two o'clock, p. m., of the latter day, were placed in the mails and dispatched by said steamer.

From the depositions of John McCluskey, assistant engineer, and others on board of the steamer Quincy, it appears that that vessel, with all her freight and nearly all of her crew were destroyed by the foundering of that vessel on the morning of the 13th of December, at half past four o'clock, when about abreast of Hatteras light.

It also appears that after the loss of the steamer Quincy had been fully proved the petitioners, in fulfillment of their contract, paid Messrs. Brower & Co. the full amount of the notes, and took from them an assignment of all their interest in this claim.

The committee therefore report back the bill and recommend its passage.

All of which is respectfully submitted.

Mr. GRIMES. I have been unable to hear a word of that report.

The VICE PRESIDENT. Senators will be kind enough to be seated and in their places, and order will be observed in the gallery. The Chair has been requested to state by the committee of arrangements that ladies in the galleries are respectfully but earnestly requested to sit as closely in the seats as they conveniently can, in order that all who have tickets may be provided for. There are no seats in the gallery in the front, supposed to be filled, which will not hold additional persons; and the ladies are respectfully requested to observe this request of the committee, and also to observe good order.

Mr. TEN EYCK. I understand this bill involves the payment of a considerable sum of money; and it was impossible to hear one word that was read by the Clerk. I therefore move that it be laid on the table.

Mr. HOWE. I hope the Senator will not press that motion. I ask him to withdraw it.

Mr. TEN EYCK. I will withdraw it if I can hear what it is.

Mr. CONNESS. If gentlemen will come nearer to the desk they may understand what is going on, and they can do that much to accommodate each other.

Mr. HOWE. I trust we have not surrendered possession of the Senate Chamber.

Several SENATORS. Oh yes, we have; the ladies have got it.

The VICE PRESIDENT. Does the Senator from New Jersey withdraw his motion?

Mr. TEN EYCK. No, sir.

The VICE PRESIDENT. The question, then, is on laying the bill on the table.

The question being put, there were, on a division—ayes 11, noes 11; no quorum voting.

Mr. HOWE. I call for the yeas and nays, and let us know how many there are here.

The yeas and nays were ordered; and being taken, resulted—yeas 10, nays 17; as follows:

YEAS—Messrs. Buckalew, Collamer, Cowan, Font, Foster, Grimes, Sherman, Sprague, Ten Eyck, and Wade—10.

NAYS—Messrs. Anthony, Brown, Clark, Conness, Davis, Dixon, Farwell, Hale, Harris, Henderson, Hendricks, Morgan, Morrill, Stewart, Wilkinson, Willey, and Wilston—17.

ABSENT—Messrs. Carlile, Chandler, Doolittle, Harding, Harlan, Howard, Howe, Johnson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Nye, Pomeroy, Powell, Ramsey, Richardson, Kiddle, Saulsbury, Sumner, Trumbull, Van Winkle, and Wright—23.

So the motion was not agreed to.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. COLLAMER. I desire at least to have the yeas and nays on the passage of that bill.

The yeas and nays were ordered.

Mr. COLLAMER. My objection to the bill is that nobody except the committee who reported it knows anything about it.

The VICE PRESIDENT. There must be better order in the galleries, or the rule will be enforced in the galleries as well as on the floor of the Senate.

Mr. SHERMAN. Mr. President, this bill involves some very serious and very dangerous questions, which I do not think ought to be passed upon by the Senate at this stage of its proceedings. It involves the question of the liability of the United States for lost bonds, and the extent of the proof required in the case of lost bonds. Considering that we have in circulation over two thousand millions of various kinds of credits, this may establish a precedent of dangerous importance; and I trust the honorable Senator from Wisconsin will not press it. I am told that the committee that reported the bill is divided upon it. I know the Senate is divided on the subject. It is a bill proposing to replace bonds lost by an insurance company. It is not a case as strong as many others that have been before the Committee on Finance and before the Committee on Claims. I trust, therefore, that at this stage of the session it will not be pressed to a vote. This company is an organized incorporated company, not suffering for this money. There is no danger that they will die or starve on account of the want of this money. It has already realized a premium for carrying these bonds and the loss they have incurred. Under the circumstances I hope that the matter may be postponed until next December, and if it is not too late, I will submit a motion that the further consideration of the bill be postponed until the first Monday of December next.

Mr. SUMNER. The Senator understands that that is equivalent to an indefinite postponement.

Mr. SHERMAN. Certainly.

Mr. HOWE. I am really surprised at the opposition that this bill meets here. If I could suppose that the Senator from Ohio was any more watchful over the public interests than the Committee on Claims, I should feel bound to defer to the wish he has expressed here. The Senator says that the Committee on Claims was divided. I was not aware of the fact. I heard no opposition to the report of this bill. I accept notice of it now.

Mr. SHERMAN. The chairman is not for it.

Mr. HOWE. Somehow or other the Senator is better advised as to the opinions of the committee on which I serve than I am. I was not aware that there was any opposition. I know at one time the chairman of the committee doubted, as another member of the committee doubted, about the propriety of paying this claim; but I thought when the bill was reported it was reported with the unanimous approval of the committee.

Mr. POMEROY. I did not approve it.

Mr. HOWE. I stand corrected so far as one member is concerned. If the chairman assents, I stand corrected as to another.

If the Senate will allow me to tell them just what the case is, I think I can do so in a word. Eight thousand of your notes, the notes of the Government of the United States, belonging to the Mercantile Mutual Insurance Company of New York, went to the bottom of the Gulf of Mexico one day, with the vessel on which they were being transported, and all the crew but two or three, I do not now recollect the exact number. The simple consequence is this: you may replace those notes as you would if they were the notes of any one of you—and you would do it by the judgment of a court of law; you may replace those notes, and then the insurance company, I believe, has made eighty dollars, taking the expense of getting this claim through, the insurance having been one per cent., or you may refuse to pay this claim, and then you will make \$8,000; your notes are gone; they never can be presented to the Treasury for redemption, where you undertake to redeem them; the insurance company is out of pocket \$8,000, and you are in funds \$8,000. If you think that a fair transaction, that is the very point on which we are at odds. Remember, if it was the note of any individual here, instead of being the note of the

Government of the United States, it would be paid by the judgment of a court of law. If it is paid now, it is paid by the judgment of the Congress of the United States. The House has agreed to this bill. I ask a vote of the Senate upon it.

Mr. FARWELL. I am very sorry to differ from my friend from Wisconsin; but I know he will not have any feeling about it, as it is only in the discharge of our duty here, which I know he means to discharge faithfully and honestly, and I trust he will give me credit for the same thing. But I must say I have very grave doubts whether the Government of the United States ought to pay this money. I had occasion early in the session to allude to a case somewhat analogous to this. When there was talk about making claim upon the English Government for the great number of our vessels that have been destroyed by the British pirates, I put the question to Senators, to whom would that money belong? The underwriters had paid for them; but would the money belong to them if it should be recovered from the British Government, because they paid for the vessels? Why, sir, they have collected that money out of other customers; and I presume this insurance company has collected vastly more than this sum out of their premiums for insuring bank notes of the United States; for there are vast sums of them going from one place to another, upon which insurance is effected. It will really be a very nice business of insurance if the companies are to have the premium, and the Government is to stand by and pay the loss. That is what it results in. They have got their premium for insuring this money. Suppose it had been flour; suppose it had been gold; would they be here with a claim for us to pay it? They got their premium in bank notes; and it strikes me if this money is lost it is a little piece of good luck to the United States among all the hard luck they have been having. I cannot see that there is an equitable claim against the Government of the United States to refund to these parties either duplicate notes or the value of them. I may be all wrong about it; but this is my opinion.

The VICE PRESIDENT. The question is on the indefinite postponement of the bill.

Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 15; as follows:

YEAS—Messrs. Chandler, Collamer, Cowan, Farwell, Foot, Foster, Grimes, Hale, Lane of Indiana, Nesmith, Pomeroy, Powell, Sherman, Sprague, Ten Eyck, Trumbull, Wade, and Willey—18.

NAYS—Messrs. Conness, Davis, Dixon, Harris, Hendricks, Howard, Howe, McDougall, Morgan, Morrill, Nye, Stewart, Sumner, Wilson, and Wright—15.

ABSENT—Messrs. Anthony, Brown, Buckalew, Carlile, Clark, Doolittle, Harding, Harlan, Henderson, Johnson, Lane of Kansas, Ramsey, Richardson, Riddle, Saulsbury, Van Winkle, and Wilkinson—17.

So the bill was indefinitely postponed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker had signed the enrolled bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864; which was thereupon signed by the Vice President.

#### REPORTS FROM COMMITTEES.

Mr. HARRIS, from the Committee on Foreign Relations, to whom was referred the bill from the House for the relief of the personal representatives of Jonas A. Thurston, deceased, reported it without amendment.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the petition of Commander William Reynolds, of the Navy, praying to be restored to the active list, asked to be discharged from its further consideration; which was agreed to.

#### ENLISTMENT OF CRIMINALS.

Mr. MORRILL. I am instructed by the Committee on the District of Columbia to whom was referred the bill (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes or as volunteers in the Treasury [Army] or Navy, and to prevent frauds in the District jail in the city of

Washington, to report it back without amendment, and recommend its passage; and I should like to have the bill considered now if there is no objection to it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. SHERMAN. I cannot hear a word of what is going on.

Mr. TRUMBULL. I should like to know if it is not possible to have order in the Chambers so that we can hear what we are doing.

The VICE PRESIDENT. The Chair has made several efforts without reasonable success.

Mr. TRUMBULL. I think if the galleries understood that the Senate is transacting business, they certainly would have respect enough for the business of the nation to be quiet, so that we may hear what is being done; and if that cannot be done, I think the galleries ought to be cleared until the Senate has finished its business. It is impossible to tell what the Secretary is reading.

The Secretary proceeded to read the bill, which provides that it shall be unlawful hereafter for any person, with knowledge of the fact, to present or offer to any recruiting agent or officer, or to any other officer of the United States military or naval service, either as a volunteer or substitute for any other person, any person charged with the commission of any criminal offense, or confined or held to bail for trial for such offense within the District of Columbia. It is also to be unlawful for any person in any way or manner to abet, aid, or assist in procuring the offer or acceptance of any person so charged or held for trial, or released on bail and awaiting trial, either as a volunteer or as a substitute for any person drafted or liable to be drafted in the military or naval service of the United States, whether the person so drafted or liable to be drafted shall be a resident of the District of Columbia, or shall reside elsewhere; and any person who shall knowingly offend against the provisions of this section is to be deemed guilty of misdemeanor, and upon conviction before a court of competent jurisdiction in the District is to be punished by a fine of not less than \$250 and not more than \$1,000, and by an imprisonment in the District prison for a term not less than six months nor more than one year.

The second section provides that any officer of the jail of the District of Columbia, or any attaché or employé connected with the jail, who shall demand, or directly or indirectly receive, any compensation or reward or gratuity for any information given in respect to any person confined therein, or awaiting trial or bail, or for any service, assistance, or influence rendered, given, or exerted in any view intent, or purpose, of having such person thus confined or held for trial or bail to await trial, taken, offered, or used either as a volunteer or as a substitute for any other person in the military or naval service, or who shall corruptly receive for any act done by virtue of his office or employment any fee, compensation, reward, or gratuity, is to be deemed guilty of a misdemeanor, and on conviction in any district court of competent jurisdiction is to be punished by a fine of not less than \$250, and be imprisoned in the District prison for a term not less than three months nor more than one year.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. I do not know what the bill is or what we are voting upon. It is impossible to hear anything. Will the Senator from Maine tell us what it is about?

Mr. MORRILL. I will explain it. There has been a practice prevalent in the jail of this District of enlisting from the jail the criminals and persons confined there charged with crime as substitutes; and the employés in the jail have been implicated in the practice. This is to correct that evil, and to impose a penalty upon such practices. That is the whole of it.

The bill was ordered to a third reading, read the third time, and passed.

#### MILEAGE TO CLAIMANTS.

Mr. LANE, of Kansas. I move to take up the unfinished business when we took a recess this morning.

Mr. BROWN. I object.

Mr. SUMNER. What is it?



# THE CONGRESSIONAL GLOBE.

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THIRTY-EIGHTH CONGRESS, 2D Session.

SATURDAY, MARCH 4, 1865.

NEW SERIES.....No. 88.

Mr. LANE, of Kansas. A resolution to pay mileage to the Senators elected from Arkansas and Louisiana.

Mr. SUMNER. When was that offered?

Mr. SPRAGUE. At seven o'clock this morning.

The VICE PRESIDENT. The Senator from Kansas moves to proceed to the consideration of the resolution he has indicated.

Mr. BROWN and Mr. SUMNER objected.

The VICE PRESIDENT. It is not competent for Senators to object to the Senator's motion.

Mr. SUMNER. It is a resolution offered to-day.

The VICE PRESIDENT. The Chair understands it has had its first reading. It is therefore competent for any Senator to object to another reading on the same day.

Mr. LANE, of Kansas. It is not a joint resolution; it is a resolution of the Senate.

The VICE PRESIDENT. It is a resolution which takes money from the contingent fund, requiring three separate readings, like a bill or joint resolution.

EMIL COHEN.

Mr. HALE. I move that the Senate proceed to the consideration of House bill No. 787, changing the name of Emil Cohen.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which authorizes Emil Cohen, of the city of Washington, in the District of Columbia, from and after its passage, to take and use the surname of Cornely, and that his name hereafter be Emil Cornely; and all acts done and entered into by him under that name are to have the same effect and operation in law as if his name had originally been Emil Cornely, of Washington, in the District of Columbia.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## JOINT COMMITTEE ON COMMERCE.

Mr. SPRAGUE. I move, on behalf of the Committee on Commerce, that the Senate take up and concur with the House in the passage of the joint resolution (H. R. No. 178) to authorize the continuation of the Joint Committee on Commerce of the Senate and House of Representatives after the 4th day of March, 1865, to complete their investigations and make their report on the subject of trade with the rebellious States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution.

Mr. SHERMAN. I should like to inquire whether we can continue members of the House, whose terms expire on the 4th of March, as members of committees of the House. I do not think it is within the power of Congress to continue the term of a member of Congress beyond the constitutional period.

Mr. CHANDLER. This is a sub-committee from the Committee on Commerce in each House. I suppose it is competent for the body to continue the services of those individuals, although they cannot continue them as a committee. The resolution, however, does continue the members of that sub-Committee on Commerce on the part of the House.

Mr. GRIMES. The trouble about that is we do not know, and it is not known to anybody, that any one has been elected to the next House of Representatives, and there certainly has been no Committee on Commerce appointed for the House whose term commences at twelve o'clock to-day.

Mr. CHANDLER. It only continues the services of those individuals who have been members of that committee.

Mr. GRIMES. That is not the language of the resolution.

Mr. TRUMBULL. Let it be read. I should like to hear it.

The Secretary read it, as follows:

*Resolved, &c., That the Committee on Commerce on the*

part of the Senate, and the Committee on Commerce on the part of the House, acting as a joint committee in the Thirty-Eighth Congress for the investigation of trade with the rebellious States, by virtue of the resolutions of the House of Representatives and the concurrent resolution of the Senate and House, be continued after the 4th day of March, 1865, for the purpose of closing their investigations and making their report. And the report when completed shall, together with the evidence taken, be filed with the Clerk of the House, and the same be printed. And the chairman of either of the said committees shall have power to issue subpoenas and compel the attendance of witnesses in the same manner as the Speaker of the House or President of the Senate.

Mr. POWELL. It is evident that this Congress has no power to continue any of its committees in session after twelve o'clock to-day. I therefore move that the resolution be laid on the table.

The motion was agreed to.

## ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the Vice President:

A bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes;" and

A bill (H. R. No. 807) to authorize the coinage of three-cent pieces, and for other purposes.

## COMMERCE AMONG THE STATES.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 307. I desire to press a vote upon it. I understand the Senator from Maine [Mr. MORRILL] is entitled to the floor upon it when it is taken up.

Mr. CONNESS. I move to postpone all prior orders and take up the bill (H. R. No. 401) reported from the Committee on Territories.

The PRESIDING OFFICER. (Mr. Foot in the chair.) There is a pending motion. The Senator from Michigan moves to postpone all prior orders and proceed to the consideration of the bill (H. R. No. 307) to regulate commerce among the several States.

The motion was agreed to.

Mr. CONNESS. I believe this is what is known as the Camden and Amboy bill.

Mr. SUMNER. Let us have the yeas and nays upon it.

Mr. CLARK. I should like to have the Senator from Michigan explain the nature of the bill.

[Laughter.] Mr. CHANDLER. It is a bill regulating commerce among the several States. The Senator from Maine is entitled to the floor upon it, but if he is not here to retain his possession of the floor I ask the Senate to come to a vote upon it.

The PRESIDING OFFICER. The bill is before the Senate and open for consideration, and upon it the Senator from Maine is entitled to the floor. The bill is in the Senate, and the question is on ordering it to a third reading.

Mr. HALE. There is an amendment pending.

Mr. COLLAMER. I suppose the gentleman from Michigan will not press the bill, as the Senator from Maine, who has the floor upon it, is out of the Chamber for the moment.

The PRESIDING OFFICER. There is an amendment pending to the bill, which is now in order.

Mr. GRIMES. I call for the reading of the amendment.

The Secretary read the amendment proposed by Mr. Wilson, to add the following as an additional section:

*And be it further enacted, That no citizen of the United States shall be excluded from travel upon any railroad or navigable water within the United States on account of or by reason of any State law or municipal ordinance, or*

of any rule, regulation, or usage of any corporation, company, or person whatever; and all citizens of the United States shall be subject and amenable to the same laws, ordinances, rules, regulations, and usages; and any corporation, company, or person offending against the provisions of this act shall, upon conviction in any court of the United States, be punished by a fine of not less than \$500, or by imprisonment not less than six months: *Provided, That nothing herein contained shall interfere with any executive order made under the laws of the United States.*

Mr. CHANDLER. I hope that amendment will not prevail, as there is hardly time to send the bill back to the other House if it should be amended. The bill is very plain and simple in its provisions as it came from the House. I hope therefore that the amendment will be voted down, and that we shall come to a vote on the bill.

Mr. HALE. I move to amend the amendment by inserting in the third line after the word "States," the words, "nor from any meeting-houses, churches, or hotels." [Laughter.]

Mr. NESMITH. I should like to hear the amendment read as it will stand if amended.

The Secretary read it, as follows:

*Sec. 2. And be it further enacted, That no citizen of the United States shall be excluded from travel upon any railroad or navigable water within the United States, nor from any meeting-houses, churches, or hotels, on account of or by reason of any State law or municipal ordinance, or of any rule, regulation, or usage of any corporation, company, or person whatever; and all citizens of the United States shall be subject and amenable to the same laws, ordinances, rules, regulations, and usages; and any corporation, company, or person offending against the provisions of this act shall, upon conviction in any court of the United States, be punished by a fine of not less than \$500, or by imprisonment not less than six months: *Provided, That nothing herein contained shall interfere with any executive order made under the laws of the United States.**

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. CLARK. I move further to amend the bill by inserting after the words "United States" where they first occur the words "or any other country." [Laughter.]

The PRESIDING OFFICER. That is not now in order, not being an amendment to the pending amendment. The question is on the amendment of the Senator from Massachusetts as amended.

Mr. CHANDLER. I call for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 14; as follows:

YEAS—Messrs. Brown, Clark, Collamer, Cowan, Dixon, Donitt, Farwell, Foster, Grimes, Hale, Henderson, Lane of Kansas, Morrill, Nesmith, Pomeroy, Sumner, Ten Eyck, Wade, Wiley, Wilson, and Wright—21.

NAYS—Messrs. Chandler, Davis, Howard, Howe, Lane of Indiana, McDougall, Morgan, Nye, Powell, Ramsey, Sherman, Sprague, Stewart, and Trumbull—14.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Conness, Foot, Harding, Harlan, Harris, Hendricks, Johnson, Richardson, Riddle, Saulsbury, Van Winkle, and Wilkinson—15.

So the amendment as amended was agreed to.

Mr. NESMITH. I now move that the bill be referred to the committee on the conduct of the war. [Laughter.]

Mr. CHANDLER. I hope not. I hope we shall now take a vote on the bill. I believe the discussion is through. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 15; as follows:

YEAS—Messrs. Clark, Collamer, Cowan, Davis, Dixon, Hale, Lane of Indiana, McDougall, Morrill, Nesmith, Powell, Ten Eyck, Trumbull, and Wright—14.

NAYS—Messrs. Brown, Chandler, Howard, Lane of Kansas, Morgan, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Wade, Wilkinson, and Wilson—15.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Conness, Donitt, Farwell, Foot, Foster, Grimes, Harding, Harlan, Harris, Henderson, Hendricks, Howe, Johnson, Richardson, Riddle, Saulsbury, Van Winkle, and Wiley—21.

So the motion was not agreed to.

Mr. MORRILL. Mr. President—

Mr. SUMNER. Let us have a vote.

Mr. MORRILL. There is but half an hour left to pass this bill, and I am inclined to think that is not time enough. The Senator from Mas-

Massachusetts seems to exhibit a great deal of impatience for the passage of this bill. He has had ample time for its discussion, and undoubtedly thinks it of sufficient importance to press it upon the consideration of the Senate at this untimely hour. The Senator from Michigan has had his day in court; and the Senate will bear me witness that in season and out of season both he and the honorable Senator from Massachusetts have pressed it upon the consideration of the Senate without effect. Twice the judgment of the Senate has been most distinctly pronounced against this bill; and yet with only twenty-five minutes of this Congress left, the honorable Senators think it an opportune time to press a bill of the highest importance upon the consideration of the Senate, and that, too, when they have both been admonished that the bill is not to pass without discussion on this side. Now, if the Senate want to hear a speech on this subject I am prepared to make one; and I shall probably occupy so much time upon it that there will be very little opportunity of replying on the part of my honorable friend from Massachusetts. [Laughter.]

Mr. SUMNER. All that I want is a vote.

Mr. MORRILL. He wants a vote. He has had two votes, and I believe, putting the two together, got twelve in all; and still he manifests the same ardor for a vote that he did in the beginning. Now, Mr. President, if I could feel that the Senate were in a condition, seriously, for a speech ["Go on!"] I was never in better condition to make one than at the present moment. [Laughter.] But the subject is almost too large, not for the audience, but for the time. Mr. President, it cannot be the judgment or the desire of the Senate to hear a speech now, and therefore I move the indefinite postponement of this bill; and upon that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 21; as follows:

YEAS—Messrs. Collamer, Cowan, Davis, Dixon, Hale, Henderson, McDougall, Morrill, Nesmith, Powell, Ten Eyck, Trumbull, Wiley, and Wright—14.

NAYS—Messrs. Brown, Chandler, Clark, Conness, Farwell, Foot, Grimes, Howard, Lane of Indiana, Lane of Kansas, Morgan, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Wade, Wilkinson, and Wilson—21.

ABSENT—Messrs. Anthony, Buckalew, Carlile, Doolittle, Foster, Harding, Harlan, Harris, Hendricks, Howe, Johnson, Richardson, Riddle, Saulsbury, and Van Winkle—15.

So the motion was not agreed to.

#### NOTIFICATION TO THE PRESIDENT.

Mr. SHERMAN. I will ask the Senate to postpone further proceedings on this bill, with a view to submit the ordinary motion that a committee of three be appointed to wait on the President of the United States to inquire whether he has any further communications to make to Congress.

The motion was agreed to by unanimous consent; and Mr. SHERMAN, Mr. COLLAMER, and Mr. POWELL were appointed the committee.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. I hope we shall now have a vote on the bill to regulate commerce among the States.

The PRESIDING OFFICER. The question is on ordering the bill to a third reading.

Mr. HALE. I move that the Senate take a recess for ten minutes, and upon that motion I ask for the yeas and nays.

Mr. SUMNER. It requires unanimous consent to entertain the motion, and I object.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

Mr. CHANDLER. The Senator from Maine says that the Senator from Michigan has had his day in court. I hope we may get a vote on this bill; and I wish simply to say in reply that we have ran against Camden and Amboy every time we have taken up this bill, and I hope Camden and Amboy will get out of the way now and let us take a vote on it.

Mr. HALE. I hope so. I hope the Raritan will not suffer. [Laughter.]

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 207) for the relief of Charles F. Anderson.

#### COMMERCE AMONG THE STATES.

Mr. CHANDLER. I will ask if it is in order to take a vote on the bill pending before the Senate, and if there is time before twelve o'clock I will ask to have a vote taken by yeas and nays.

Mr. TRUMBULL. I move that all other business be suspended except that which is connected with the ceremonies of the day or with the reception of messages.

The motion was agreed to.

The VICE PRESIDENT (Hon. HANNIBAL HAMLIN) and the Vice President-elect (Hon. ANDREW JOHNSON) entered the Chamber, accompanied by Mr. DOOLITTLE, one of the committee of arrangements. Mr. JOHNSON was conducted to a seat to the right of the chair of the Vice President.

The VICE PRESIDENT resumed the chair.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes or as volunteers in the Treasury [Army] or Navy, and to prevent frauds in the District jail in the city of Washington; and it was thereupon signed by the Vice President.

#### CONDITION OF THE INDIAN TRIBES.

The VICE PRESIDENT. In virtue of a joint resolution of Congress, the Chair has been charged with the duty of designating a committee to make examination into the condition of the Indian tribes of the country and their treatment by the civil authorities, and announces Senator DOOLITTLE, Senator FOSTER, and Senator NESMITH, as that committee on the part of the Senate.

#### THE INAUGURATION.

For some time the Senate Chamber had been crowded with those distinguished persons to whom admission was accorded as witnesses of the inauguration ceremonies. The Judges of the Supreme Court of the United States, a large attendance of ambassadors from foreign Governments, officers of the Army and Navy, with innumerable others, and lastly, the members of the House of Representatives, with their Speaker and Sergeant-at-Arms at their head, entered and were conducted to the seats prepared for them, the Speaker, Hon. SCHUYLER COLFAX, being seated to the left of the Vice President. Extensive as is the area of the Senate Chamber, it was filled with a distinguished and brilliant assemblage.

#### ADJOURNMENT SINE DIE.

The VICE PRESIDENT. Senators: Amid these exciting scenes that mark the constitutional termination of this Congress, and as our official relations are about to cease, I ask briefly your indulgence.

I assumed the duties of this chair at a period of time unequalled in importance in the history of our country. War of a magnitude unknown in ancient or modern times has devastated the land—measures of deep and vital interest, affecting the very life of the Republic, demanded your investigation and determination; and if, amid these stirring scenes, in this chair, by any act of omission or commission, I have wounded the sensibilities of a single Senator, I take this occasion to ask for your forbearance, with the assurance that it has not been intentional. I know how deeply I am indebted to the Senate. Kindness, and courtesy, and cooperation I have received on all occasions. Whatever of success may have attended my efforts in the discharge of official duties in this position, I know how deeply I am indebted to the Senate for that confidence and cooperation. Permit me to tender to you my heartfelt and undissembled thanks for the kindness which has been bestowed by every Senator on all occasions. I shall bear with me in after life a cherished recollection of the associations that have been here formed and the kindness which has thus been here bestowed; and I can wish my friend and worthy successor no greater felicity than that the same relations shall subsist, as I think they will, between him and yourselves.

Thanking you again for your kindly aid as well as for the resolution commendatory of the manner in which the duties of the Chair have been

discharged, it only remains for me to tender to you my sincere wishes for a safe return to your families and your homes, and for your future welfare and prosperity in life, and hoping that the sun of peace now dawning upon us will soon shed its rays upon a united, a happy, and a free people.

Is the Vice President-elect now ready to take and subscribe the oath of office?

The VICE PRESIDENT-elect, (Hon. ANDREW JOHNSON, of Tennessee.) I am. [Then turning to the Senate he said:] Senators: I am here to-day as the chosen Vice President of the United States, and as such, by constitutional provision I am made the presiding officer of this body. I therefore present myself here in obedience to the high behests of the American people to discharge a constitutional duty, and not presumptuously to thrust myself in a position so exalted. May I at this moment—it may not be irrelevant to the occasion—advert to the workings of our institutions under the Constitution which our fathers framed and Washington approved, as exhibited by the position in which I stand before the American Senate, in the sight of the American people? Deem me not vain or arrogant; yet I should be less than man if under such circumstances I were not proud of being an American citizen, for to-day one who claims no high descent, one who comes from the ranks of the people, stands, by the choice of a free constituency, in the second place in this Government. There may be those to whom such things are not pleasing, but those who have labored for the consummation of a free Government will appreciate and cherish institutions which exclude none however obscure his origin from places of trust and distinction. The people, in short, are the source of all power. You, Senators, you who constitute the bench of the Supreme Court of the United States, are but the creatures of the American people; your exaltation is from them; the power of this Government consists in its nearness and approximation to the great mass of the people. You, Mr. Secretary Seward, Mr. Secretary Stanton, the Secretary of the Navy, and the others who are your associates—you know that you have my respect and my confidence—derive not your greatness and your power alone from President Lincoln. Humble as I am, plebeian as I may be deemed, permit me in the presence of this brilliant assemblage to enunciate the truth that courts and cabinets, the President and his advisers, derive their power and their greatness from the people. A President could not exist here forty-eight hours if he were as far removed from the people as the autocrat of Russia is separated from his subjects. Here the popular heart sustains President and Cabinet officers; the popular will gives them all their strength. Such an assertion of the great principles of this Government may be considered out of place, and I will not consume the time of these intelligent and enlightened people much longer; but I could not be insensible to these great truths when I, a plebeian, elected by the people the Vice President of these United States, am here to enter upon the discharge of my duties. For those duties I claim not the aptitude of my respected predecessor. Although I have occupied a seat in both the House of Representatives and the Senate, I am not learned in parliamentary law, and I shall be dependent on the courtesy of those Senators who have become familiar with the rules which are requisite for the good order of the body and the dispatch of its business. I have only studied how I may best advance the interests of my State and of my country, and not the technical rules of order; and if I err I shall appeal to this dignified body of representatives of States for kindness and indulgence.

Before I conclude this brief inaugural address, in the presence of this audience—and I, though a plebeian boy, am authorized by the principles of the Government under which I live to feel proudly conscious that I am a man, and grave dignitaries are but men—before the Supreme Court, the representatives of foreign Governments, Senators, and the people, I desire to proclaim that Tennessee, whose representative I have been, is free. She has bent the tyrant's rod, she has broken the yoke of slavery, and to-day she stands redeemed. She waited not for the exercise of power by Congress; it was her own act, and she is now as loyal, Mr. Attorney General, as is the State from which you come. It is the doctrine of the Federal Constitu-

tion that no State can go out of this Union; and moreover Congress cannot eject a State from this Union. Thank God, Tennessee has never been out of the Union! It is true the operations of her government were for a time interrupted; there was an interregnum; but she is still in the Union, and I am her representative. This day she elects her Governor and her Legislature, which will be convened on the first Monday of April, and again her Senators and Representatives will soon mingle with those of her sister States; and who shall gainsay it, for the Constitution requires that to every State shall be guaranteed a republican form of government?

I now am prepared to take the oath of office and renew my allegiance to the Constitution of the United States.

The oaths prescribed by law were then administered to the Vice President-elect by the retiring Vice President.

The VICE PRESIDENT. The term prescribed by the Constitution for the termination of this Congress having arrived, by virtue of the authority in me vested I now declare it adjourned without day.

## HOUSE OF REPRESENTATIVES.

FRIDAY, March 3, 1865.

The House met at eleven o'clock, a. m. Prayer by the Chaplain, Rev. W. H. CHANNING.

### READING OF JOURNAL.

The Journal had been partly read, when Mr. DAWES moved that the further reading of the Journal be dispensed with.

Mr. HOLMAN. I object; I think the Journal had better be read. No quorum is yet present.

Mr. DAWES. I desire simply to introduce a resolution which I think will give rise to no objection or discussion.

Mr. HOLMAN. I have no objection to allowing the reading of the Journal to be suspended until the resolution of the gentleman from Massachusetts [Mr. DAWES] has been introduced and acted on.

The SPEAKER. If there be no objection, the reading of the Journal will be suspended, with the understanding that it shall be resumed when the resolution of the gentleman from Massachusetts shall be disposed of.

There was no objection.

### LOUISIANA AND ARKANSAS ELECTION CASES.

Mr. DAWES, by unanimous consent, reported from the Committee of Elections the following resolution:

*Resolved*, That there be paid out of the contingent fund of the House to M. F. Bonzano, A. P. Field, W. D. Mann, T. M. Wells, and Robert W. Talliaferro, claimants for seats in this House as Representatives from Louisiana, and to T. M. Jacks, T. M. Johnson, and A. A. C. Rogers, claimants for seats in this House as Representatives from Arkansas, for compensation, expenses, and mileage, the sum of \$2,000.

Mr. WASHBURN, of Illinois. How much does this amount to?

The SPEAKER. The Chair cannot state.

Mr. DAWES. This resolution is the result of a conference between the Committee of Elections and the Committee on Mileage. It does not allow the full amount of mileage by any means; that would amount to a great deal more. It proposes simply to allow to each of the claimants the fixed sum of \$2,000. They have been here three months. They came here, not as adventurers, but under what they supposed to be the policy of the General Government. The Committee of Elections, adopting that theory, reported in favor of them all—whether rightly or wrongly no vote of this House has decided.

Mr. WASHBURN, of Illinois. At the last session of Congress we fixed, I believe, a sort of rule, by allowing to one gentleman who claimed a seat in this House from Louisiana \$1,500. I do not know that I would object to allowing that amount to each of these claimants. But I think I can hardly agree that they shall be paid the very large amount proposed by the resolution. If we make such large payments to men coming here in this way, we do not know when they will stop coming.

Mr. DAWES. I wish to say that gentlemen upon the Committee of Elections, who were opposed to the admission of these men, believed, from all the circumstances of the case, that

they had prosecuted their claims in good faith, and from the encouragement held out to them here, had every reason to believe that they would be admitted. They have been here three months prosecuting their claims; and I submit to the House, that whatever theories gentlemen may have with reference to the right of representation here, it is but fair to these men that this resolution should be adopted.

I now call the previous question.

Mr. JOHNSON, of Pennsylvania. Will the gentleman from Massachusetts yield to me a moment?

Mr. DAWES. Yes, sir.

Mr. JOHNSON, of Pennsylvania. I desire to make a single remark in explanation of the views under which I and other members on this side of the House will act upon this subject.

We propose to support this proposition of the Committee of Elections on the ground that these gentlemen were encouraged to come here; that they came here with an honest expectation of obtaining seats and in an honest effort to restore popular government to their States. I think that, coming as they do, they ought to have some compensation, aside from any question with regard to the rights of their States.

Mr. HALE. I ask the gentleman from Massachusetts to allow me to add to his resolution a provision for the payment of R. L. B. Clark, of Iowa, who was a contestant some years ago. The Committee of Claims have reported in favor of paying him, and a bill for that purpose is now on the Private Calendar.

Mr. DAWES. That very claim was before the Committee of Elections in a former Congress of which I was a member, and I believe in the justice of that claim. This, however, is based upon different principles, and I desire to have it put to the House in a way that no man will be committed to the policy that brought these men here. I want it to be so put that it cannot be drawn into a precedent.

Mr. HALE. What harm is there in letting my amendment come in?

Mr. DAWES. I am afraid that it would break it down. I demand the previous question.

Mr. BRANDEGEE moved to lay the resolution on the table; and on that motion demanded the yeas and nays.

Mr. ANCONA demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The question recurred on the motion to lay on the table.

The House divided; and there were—ayes 11, noes 55; no quorum voting.

The SPEAKER ordered tellers, and appointed Messrs. ANCONA and DAWES.

The House again divided; and the tellers reported—ayes 30, noes 64.

So the motion was disagreed to.

The previous question was seconded, and the main question ordered.

Mr. ANCONA demanded the yeas and nays on the passage of the resolution, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

Mr. STEVENS. I ask the gentleman to strike out the words "claimants for seats."

Mr. DAWES. I have no objection, if the gentleman thinks that ought to be done.

Mr. STEVENS. I do not want to recognize the idea that anybody on earth thinks that these men are entitled to seats.

Objection was made.

The resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The reading of the Journal will now be proceeded with.

Mr. GARFIELD. I move that it be dispensed with.

Mr. HOLMAN. I object.

Mr. GARFIELD. I move to suspend the rules.

The House divided; and there were—ayes 62, noes 22; no quorum voting.

The SPEAKER ordered tellers.

Mr. GARFIELD. I withdraw my motion.

R. L. B. CLARKE.

Mr. HOLMAN. I move to suspend the reading of the Journal until the House acts on the resolution of the gentleman from Pennsylvania.

Objection was made.

Mr. HALE moved to suspend the rules.

The motion was agreed to.

Mr. HALE submitted the following resolution:

*Resolved*, That there be paid to R. L. B. Clarke, out of the contingent fund of the House, as contestant from the first district of Iowa, in the Thirty-Fourth Congress, the sum of \$1,500, for expenses in contesting said election.

Mr. WASHBURN, of Illinois. When the House has passed the resolution paying these other men, I do not see how it can refuse to pay Mr. Clarke. It is the only case where a contestant has not been paid when the contest was made in good faith. His case was presented during the Thirty-Fourth Congress, but rejected by a political majority.

Mr. HOLMAN. Let me inquire whether the same Committee of Elections who reported against Mr. Clarke did not report in favor of giving him the ordinary pay and mileage of a member of Congress.

Mr. WASHBURN, of Illinois. I believe they did. I believe every committee that has acted upon this matter has reported in favor of the payment of the claim.

Mr. HALE. It is to pay him his expenses, and not mileage and per diem.

Mr. WASHBURN, of Illinois. I should be opposed to payment in any case where the party did not make a contest in good faith and show a *prima facie* claim to a seat in this House.

Mr. NOBLE. I desire to offer an amendment.

Mr. HOLMAN. I object to the gentleman from Pennsylvania yielding to any amendment of the resolution.

The SPEAKER. The gentleman from Pennsylvania cannot yield the floor except unconditionally.

Mr. WASHBURN, of Illinois. I desire to know of the gentleman from Pennsylvania whether this is a joint resolution or not.

Mr. HALE. It is not a joint resolution.

Mr. WASHBURN, of Illinois. If not a joint resolution it will do no good.

Mr. DAWES. This will not come out of the contingent fund, but out of a general appropriation. The claim which the gentleman from Pennsylvania presents is a claim which was contingent to another House, and therefore there should be an appropriation to pay it, if it is paid at all.

Mr. WASHBURN, of Illinois. I would ask the gentleman to modify his resolution and make it a joint one.

Mr. HALE. I will not do that, but by permission of the House I will withdraw my resolution and move that the Committee of the Whole be discharged from the further consideration of the bill (H. R. No. 256) for the relief of R. L. B. Clarke, and that the same be brought before the House for action.

The motion was agreed to, and the bill was before the House.

Mr. NOBLE. I ask the gentleman from Pennsylvania to allow me to offer an amendment.

Mr. HALE. I cannot; for the amendment the gentleman desires to offer will kill the bill. I call for the previous question.

The previous question was seconded; and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The reading of the Journal must be resumed, unless it is dispensed with by a vote of the House.

Mr. COX. I move that the further reading of the Journal be dispensed with.

Objection was made.

Mr. COX. I move to suspend the rules to enable me to make that motion.

The motion was not agreed to.

### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War transmitting, in compliance with



the act of August 26, 1862, a statement of the expenditures from the appropriation for the contingencies of this Department for the fiscal year ending the 30th of June, 1864; which was laid on the table, and ordered to be printed.

HUGH M. MARTIN.

Mr. NOBLE. I move to suspend the reading of the Journal to enable me to introduce a resolution.

The motion was agreed to.

Mr. NOBLE. I introduce the following resolution:

*Resolved*, That there be paid to Hugh M. Martin, out of the contingent fund of the House of Representatives, the usual mileage and pay up to the day when he withdrew his contest before the Committee of Elections as a contestant for a seat in the Thirty-Eighth Congress as a Representative from the fourth district of the State of Iowa.

This resolution is introduced in behalf of Hugh M. Martin, who, by the home vote of the fourth congressional district of the State of Iowa, was elected by some nine hundred and odd majority. This election took place prior to any decision against the constitutionality of the soldiers' voting law of that State.

Mr. HUBBARD, of Iowa. I would inquire of the gentleman whether or not Mr. Martin, the claimant, was not a member of the Legislature which passed that law; and whether, as a member of the Legislature, he did not vote for that law, upon the unconstitutionality of which he afterward contested the election?

Mr. NOBLE. Mr. Martin, I understand, was a member of the lower House of the Legislature of Iowa, and he probably sustained that law; but I will say that up to the time of the passage of this law the constitutionality of the question had not been decided. After Mr. Martin was elected by over nine hundred majority on the home vote of his district it was found that by counting the soldiers' votes, cast out of the State, he was defeated. Thereupon he was advised by his friends that according to the decisions of all the courts which up to that time had adjudicated upon the question the law was unconstitutional. Then he came here and made this contest in good faith. The district court of the State of Iowa, which is next to the court of last resort in that State, decided against the constitutionality of the law; the supreme court of Pennsylvania decided against the constitutionality of a similar law; the courts of Connecticut decided against the constitutionality of a similar law; and the courts of New Hampshire did the same thing.

Mr. THAYER. I wish to say that the decision to which the gentleman refers as being made by the courts of Pennsylvania has been reversed by the people of Pennsylvania.

Mr. NOBLE. I concede that, but it does not alter the question of the good faith with which this man entered into the contest. I concede that by a change of the judges of the supreme court of the State of Pennsylvania that decision was reversed. But it had not been reversed when Mr. Martin came here to make his contest. He came in good faith. He remained here until the 1st day of February, contesting this question. On that day he heard for the first time that the question had been adjudicated in the supreme court of Iowa, the State from which he came; and recognizing that decision as binding upon him, he withdrew his contest for a seat, and merely asked that the committee might report in favor of allowing him compensation up to that time.

Mr. STEVENS. I desire to know whether, counting the soldiers' vote, there was any doubt about the majority.

Mr. NOBLE. I think not.

Mr. STEVENS. Then he prosecuted his contest here with the view to deprive the soldiers of their votes. That is the whole of it.

Mr. NOBLE. No, sir; not to deprive the soldiers of their votes. As I have said, the district court in the State of Iowa, presided over by a gentleman who was not a political partisan of Mr. Martin, had decided that the law of Iowa in reference to the soldiers' vote was unconstitutional. I ask, then, whether he had not the right to recognize the decision of that court as correct. He did so. He came here, backed by a judicial decision of the highest tribunal of his own State that had adjudicated the question. He made his contest, backed by that decision. When, however, on an appeal to the supreme court that tribunal

reversed the decision previously given by the district court, Mr. Martin, recognizing the binding force of that decision, withdrew his contest.

Mr. HUBBARD, of Iowa. I would like to make a statement of facts in connection with this case.

Mr. NOBLE. I cannot yield to the gentleman for that purpose. If there is any question which he desires to ask I will endeavor to answer it.

Mr. HUBBARD, of Iowa. In order that the facts may be presented to the House I wish to ask this question: was not Mr. GRINNELL elected, counting the soldiers' vote, by a majority of some fourteen hundred?

Mr. NOBLE. I cannot answer as to the number of votes.

Mr. HUBBARD, of Iowa. This question of the legality of the soldiers' votes depended, as I understand, upon an act of the Legislature of Iowa.

Mr. NOBLE. I have answered substantially the question of the gentleman from Pennsylvania, [Mr. STEVENS.] I have said that, counting the soldiers' vote, Mr. GRINNELL was clearly elected. I have said that, not counting the soldiers' vote, cast beyond the territorial limits of the State of Iowa, Mr. Martin was elected by a large majority. I have said also that Mr. Martin founded his contest upon a judicial decision. No judicial tribunal in the United States had decided in favor of a similar law to that the constitutionality of which he disputed. He was backed, not only by the highest judicial decision that had been made in his own State, but by the highest in the State of Pennsylvania, the highest in the State of New Hampshire, and the highest in the State of Connecticut. He came here in good faith and made his contest. But when the supreme court of Iowa reversed the decision that had previously been made he withdrew his contest.

Mr. Speaker, I move the previous question.

Mr. ASHLEY. I desire to know whether the Committee of Elections have passed upon this claim and recommend its payment.

Mr. NOBLE. I understand that the Committee of Elections are ready to report in favor of the measure.

Mr. DAWES. I understand that the committee are not ready.

Mr. NOBLE. I understand that the Committee of Elections were ready to report on this case if it could have been referred to them before.

Mr. DAWES. There has been no hearing before the committee upon the question of compensation, nor indeed upon the merits of the case; for the contestant withdrew his claim before any action had been taken. There has been no hearing before the committee upon the subject.

Mr. NOBLE. I have spoken to different members of the committee, and they have expressed themselves as ready to hear and report upon the case. But it was never in my power to get the resolution referred to them. Hence they have not reported.

I move the previous question.

Mr. WILSON addressed the Chair.

Mr. NOBLE. I cannot yield.

The previous question was seconded, and the main question ordered.

Mr. STEVENS. I move that the resolution be laid on the table.

On agreeing to the motion there were, on a division—ayes 57, noes 41.

Mr. NOBLE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 67, nays 48, not voting 67; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Deming, Donnelly, Driggs, Eckley, Eliot, English, Farnsworth, Frank, Garfield, Gooch, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Littlejohn, Longear, Marvin, McClurg, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smithers, Spalding, Stevens, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Williams, Wilder, Wilson, and Woodbridge—67.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Blair, Brooks, James S. Brown, Coffroth, Cox, Denison, Eden, Edgerton, Finck, Ganson, Griswold, Hale, Herrick, Philip Johnson, Kernan, Knapp, Lazear, Long, Marcy, Middleton, William H. Miller, Noble, John O'Neill, Perry, Pruyn, Radford, Samuel J. Randall, William H.

Randall, James S. Rollins, Ross, Scott, Smith, John B. Steele, William G. Steele, Stiles, Strouse, Stuart, Sweat, Thomas, Townsend, Webster, Whaley, Wheeler, and Yeaman—48.

NOT VOTING—Messrs. William J. Allen, Alley, Bailly, Bliss, Blow, Boyd, William G. Brown, Chanler, Clay, Cravens, Creswell, Dawes, Dawson, Dixon, Edmund, Eldridge, Grider, Grinnell, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hooper, Hutchins, William Johnson, Julian, Kalbheisch, Kasson, Francis W. Kellogg, Orlando Kellogg, King, Knox, Law, Le Blond, Loan, Mallory, McAllister, McBride, McDowell, McIndoo, McKinney, Samuel F. Miller, Morrill, James R. Morris, Morrison, Leonard Myers, Nelson, Odell, Pendleton, Pomeroy, Alexander H. Rice, Robinson, Rogers, Shannon, Starr, Upson, Voorhees, Wadsworth, Ward, Chilton A. White, Joseph W. White, Windom, Winfield, Benjamin Wood, Fernando Wood, and Worthington—57.

So the resolution was laid on the table.

#### PUBLIC PRINTING PAPER.

Mr. BALDWIN, of Massachusetts. I move to suspend the reading of the Journal to submit a report from the Committee on Printing.

The motion was agreed to.

Mr. BALDWIN, of Massachusetts. I am directed to report back from the Committee on Printing, House joint resolution No. 174, to amend the joint resolution entitled "A joint resolution in relation to the public printing," approved June 23, 1860, with a substitute. The substitute provides that the Superintendent of Public Printing shall be authorized to purchase the paper required for the public printing by accepting the sealed proposals of the lowest bidder or bidders for any specific portion or portions or the whole amount of any particular kind of paper required, for either three months, six months, or one year; the minimum portion to be specified by the Superintendent in his advertisement for proposals, and to be as low as in his judgment will most increase competition and be most advantageous to the United States in all other respects. Further, that the proposals and contracts shall be subject to the conditions and requirements of existing law, and any contractor failing to comply with the terms of his contract under this resolution shall be liable to the same extent and in the same manner as provided in like cases in the resolution hereby amended. And it shall be the duty of the Superintendent to report fully in regard to the proposals and contracts for paper in his annual report to Congress, and also in regard to the proposals and contracts for lithographing and engraving.

Mr. STEVENS. I ask whether that has not already been provided for in the appropriation bill.

Mr. BALDWIN, of Massachusetts. The resolution referred to the committee was introduced by a member of the Committee of Ways and Means, and the substitute I will say has his approval. I understand that it has not been provided in the appropriation bill. The manufacturers of paper cannot bid for the whole amount, because they cannot manufacture the whole amount, and this enables them to bid for any portion of it. I demand the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the substitute was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BALDWIN, of Massachusetts, moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRINTING OF DOCUMENTS.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That ten thousand extra copies of the preliminary report, and any further report to be hereafter made by the Joint Committee on Commerce of the Senate and the House, together with all the testimony taken and to be taken, be printed for the use of the House.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. A. W. CLARK also, by unanimous consent, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

*Resolved*, That three thousand extra copies of the report

of the Committee on Public Expenditures, together with the accompanying testimony in regard to the New York custom-house, be printed for the use of this House.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I ask unanimous consent that the rules be suspended, in order to allow the Committee of Claims fifteen minutes of the time of the House in order finally to dispose of the business now before that committee.

No objection was made.

#### COLONEL WILLIAM GATES.

Mr. HOLMAN reported, from the Committee of Claims, a bill to authorize the Secretary of the Treasury to settle the accounts of Colonel William Gates, United States Army.

The bill was read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Cobb, one of its clerks, announced to the House that the Senate had passed a bill (H. R. No. 774) to establish certain post routes, with sundry amendments, in which he was directed to ask the concurrence of the House.

#### LOYAL CITIZENS OF LOUDOUN COUNTY.

Mr. WEBSTER, from the Committee of Claims, reported a joint resolution for the relief of loyal citizens of Loudoun county, Virginia.

The bill was read a first and second time.

Mr. WEBSTER. I will make a brief statement of the substance of this joint resolution, so as to take away the necessity of reading it at length.

Mr. PIKE. Let the joint resolution be reported.

The Clerk commenced reading the joint resolution. It directs the Quartermaster General to pay certain sums from any moneys appropriated for the use of the Quartermaster General's department to loyal citizens of Loudoun county, Virginia, named in the joint resolution.

Before the reading of the joint resolution was completed,

Mr. WEBSTER said: The remainder of the joint resolution is taken up by names and sums.

Mr. WASHBURN, of Illinois. I think it better be read, so that we may see how much is asked.

Mr. WEBSTER. The total amount is \$60,000. There is no other explanation than that given in the first part of the joint resolution. Then it proposes to give certain sums to A, B, C, D, E, F, G, H, and so on, for about two hundred names.

Mr. WASHBURN, of Illinois. As far as I can understand it, this is one of the most objectionable measures that we could be called upon to pass. I will raise the point of order if it involves an appropriation.

The SPEAKER. The Chair overrules the point of order. It is not an appropriation bill under the rules of the House. It provides for paying certain amounts from moneys appropriated for the use of the Quartermaster General's department.

Mr. HOLMAN. This bill appropriates for sundry persons in Loudoun county, Virginia, the proceeds of certain property seized and sold for the benefit of the Government. I do not think there can be any advantage from reading over all these items.

Mr. ASHLEY. When was this property taken?

Mr. WEBSTER. This property was taken under an order of General Sheridan to destroy the forage, barns, and mills in Loudoun county, and to carry off the live stock; which was all done in the course of a few days. This joint resolution does not propose to pay at all for the property destroyed; it does not involve that principle. It proposes to pay over to the loyal citizens—not disloyal citizens; they have been very carefully excluded from this resolution—the money which the Government has received from the sale of the live stock taken from these loyal citizens. This live stock was driven off to York, Pennsylvania;

and there sold for the benefit of the Treasury of the United States.

Mr. WASHBURN, of Illinois. Where is there any evidence to show the loyalty of the parties provided for here? And is there not a law of Congress which absolutely confiscates the property of these parties?

Mr. WEBSTER. No, sir; and the evidence upon the desk, which I sent up to the Clerk's desk with the joint resolution, is full upon that point, and shows that these are as truly loyal men as any in the country.

Mr. WASHBURN, of Illinois. There may be some loyal men there. I am told by a friend near me that a great many of these parties are loyal men. Perhaps they are, and it may be that they should be repaid. But I do not know that there is anything here to show that these people are loyal.

Mr. WEBSTER. The proposition is full and ample, and General Devens, who appointed the commissioners to examine into these matters, certifies to their loyalty.

Mr. ASHLEY. That is all I want.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. WEBSTER called the previous question.

The previous question was seconded, and the main question was ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was read the third time, and passed.

Mr. WEBSTER moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### JOHN HASTINGS.

Mr. HALE, from the Committee of Claims, reported back a bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh.

Mr. WASHBURN, of Illinois. Does this bill involve an appropriation?

Mr. HALE. It does not. It has been passed by the Senate three several times.

The bill was then read the third time.

The question was on the passage of the bill.

Mr. WASHBURN, of Illinois. I ask the yeas and nays.

The yeas and nays were not ordered.

Mr. HALE. I demand the previous question.

Mr. WASHBURN, of Illinois. I hope it will not be seconded. All I want to say is that the case has been here eight or ten years. I recollect hearing a discussion in relation to it in the Senate, in which a Senator from Pennsylvania, Mr. Cameron, argued that there was no merit in the claim, and he said Congress was not bound to indemnify the party.

The SPEAKER. The fifteen minutes allowed to the committee to report has expired.

Mr. HALE. I move to reconsider the vote by which the bill was ordered to be engrossed.

The SPEAKER. The motion will be entered. It cannot be acted on now.

#### CHARLES A. PITCHER.

Mr. HALE, by unanimous consent, moved that the Committee of the Whole be discharged from the further consideration of the bill (S. No. 338) for the relief of Charles A. Pitcher.

The motion was agreed to; and the bill being before the House, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HALE moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SUBSTITUTES IN THE DISTRICT OF COLUMBIA.

Mr. DAVIS, of New York, from the Committee for the District of Columbia, to whom was referred a bill (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes in the Army or Navy, and to prevent frauds at the District jail in the city of Washington, with leave to report at any time, reported back the same, with an amendment.

The first section of the bill provides that from and after the passage of the act, it shall be unlawful for any person, with knowledge of the

fact, to present or offer to any recruiting agent or officer, or to any mustering-in officer in the United States military or naval service, either as a volunteer or as a substitute for any other, any person charged with the commission of any criminal offense, and confined or held on bail for the trial of such offense, within the District of Columbia; and that it shall in like manner be unlawful for any person, in any way or manner, to abet, aid, or assist in procuring the offer or acceptance of any person so charged or held for trial, or released on bail and awaiting trial, either as a volunteer or as a substitute for any person drafted or liable to draft in the military or naval service of the United States, whether the person so drafted or liable to draft shall be a resident of the District of Columbia or shall reside elsewhere; and that any person who shall knowingly offend against the foregoing provisions, or either of such provisions, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof before a court of competent jurisdiction in said District, be punished by a fine of not less than \$250 and not more than \$1,000, and by imprisonment in the District prison for a term not less than six months nor more than one year.

The second section provides that any officer of the District jail of the District of Columbia, or any guard thereof, or any attaché or employé connected with said jail, who shall demand, or directly or indirectly receive, any compensation, fee, reward, or gratuity for any information given in respect to any prisoner confined therein, or awaiting trial upon bail, or for any service, assistance, or influence rendered, given, or exerted, with any view, intent, or purpose of having such person thus charged or held for trial, or held on bail to await trial, taken, offered, or used either as a volunteer or as a substitute for any other in the military or naval service, or who shall corruptly receive, for any act done by virtue of his office or employment, any fee, compensation, reward, or gratuity, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof in any district court of competent jurisdiction, be punished by a fine of not less than \$250, and not more than \$1,000, and by imprisonment in the District prison for a term not less than three months nor more than one year.

The third section provides that the act shall take effect immediately.

The amendment reported from the committee, which was to strike out the third section, was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS, of New York, moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title was amended by inserting after the word "substitutes" the words "or volunteers."

#### LUCRETIA M. PERRY.

Mr. BRANDEGEE, by unanimous consent, from the Committee on Naval Affairs, reported back a joint resolution for the relief of Lucretia M. Perry, widow of Nathaniel H. Perry, late a purser in the United States Navy.

The bill directs that there be paid, out of any money in the Treasury not otherwise appropriated, the sum of \$1,644 90 to Lucretia M. Perry, widow of Nathaniel H. Perry, late a purser in the United States Navy, being for money advanced by her in the settlement of the accounts of her late husband.

Mr. BRANDEGEE. This bill was sent to the Committee of Claims, and they unanimously decided in its favor; but having no opportunity to make a report the bill was withdrawn and referred to the Committee on Naval Affairs, who have also unanimously recommended it. If any gentleman desires to know the facts I will have the report read at the Clerk's desk.

Mr. TOWNSEND. Does this bill make an appropriation?

The SPEAKER. It does.

Mr. TOWNSEND. Then I object to its being considered in the House.

Mr. BRANDEGEE. I move to suspend the rules to allow the bill to be considered in the House.

The motion was agreed to, and the rules were suspended.

Mr. BRANDEGEE. Now I think I can state in a moment what I think will satisfy the House that this is a just claim. [Cries of "Oh, no!" "Oh, no!" on all sides.] Very well; I move the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRANDEGEE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MILITARY MATTERS.

Mr. SCHENCK. I desire to report back from the Committee on Military Affairs the joint resolution of the House (No. 170) with the Senate amendments, and with an amendment recommended by the Committee on Military Affairs to the Senate amendments. The committee had leave to report at any time. The resolution is a resolution declaring and defining the meaning of the law in relation to officers' servants.

The amendment recommended by the committee to the amendment of the Senate was read.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 697) further to provide for the verification of invoices;

An act (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge;

An act (H. R. No. 756) supplementary to the several acts relating to pensions;

An act (H. R. No. 779) to regulate the taking of depositions in certain cases;

An act (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;

An act (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington;

An act (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistant and clerks;

An act (H. R. No. 556) granting a pension to Ezekiel Darling;

An act (H. R. No. 565) granting a pension to Rachel Mills, widow of Peter Mills, deceased, late a major in the United States Army; and

An act (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José, in the State of California.

#### POST ROUTE BILL.

The SPEAKER. The Chair feels it his duty to lay before the House the Senate amendments to the post route bill. The Chair has examined the bill and finds that all the amendments are confined to post routes.

The Senate amendments were all concurred in.

#### CABINET OFFICERS IN CONGRESS.

The SPEAKER. The hour of one o'clock having arrived, in accordance with the order of the House last evening the House will now proceed to the consideration of the bill of the House (No. 214) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives.

Mr. PENDLETON and Mr. WILSON addressed the House. [Their remarks will be published in the Appendix.]

The bill was then laid aside informally, according to the previous understanding that no action should be taken upon it.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title:

An act (H. R. No. 707) to provide for the publication of the Opinions of the Attorneys General of the United States; when the Speaker signed the same.

#### EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following communication from the President, with the accompanying document:

EXECUTIVE MANSION,  
WASHINGTON, D. C., March 2, 1865.

SIR: I transmit herewith the report of the Secretary of War, which, with my permission, has been delayed until the present time, to enable the Lieutenant General to furnish his report.

ABRAHAM LINCOLN.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Mr. ANCONA. I move that the usual number of extra copies of the message and accompanying document be printed for the use of this House.

The motion went to the Committee on Printing, under the law.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting a statement of the number of clerks, &c., employed in that Department.

Laid upon the table, and ordered to be printed.

#### REPORT OF GENERAL M'CLELLAN.

Mr. COX. At the request of several officers of the army of the Potomac, I desire to call up a resolution in regard to the printing of the supplemental report of Major General George B. McClellan as to the artillery service.

No objection being made, the resolution was taken up and read, as follows:

Resolved, That the Secretary of War, if not incompatible with the public service, communicate to this House the supplemental report of Major General George B. McClellan, as to the organization and operations of the army of the Potomac, and having special reference to the organization and operations of the artillery service.

The resolution was adopted.

#### MILITARY MATTERS.

The SPEAKER, when the hour of one o'clock arrived to-day, fixed for the consideration of the special order, the gentleman from Ohio [Mr. SCHENCK] had the floor upon the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, with an amendment of the Senate, and amendments to the amendment, reported by the Committee on Military Affairs.

Mr. HOLMAN. I desire to move an amendment.

Mr. SCHENCK. The gentleman can move his amendment when we reach that portion of the bill.

Mr. Speaker, this joint resolution now before the House is an illustration of how a small ball in the beginning, rolling back and forth between the two Houses, may at length acquire formidable dimensions. Here was a joint resolution which passed this House regulating the pay of officers' servants, and declaring what the law is, and how it is to be construed in relation to that matter. The joint resolution went to the Senate, and the Senate, despairing of getting through certain measures between the two Houses, during this session, ingrafted upon this joint resolution, as a substitute for the one single section contained therein, an amendment embracing thirteen sections upon a variety of subjects. Those amendments of the Senate have been before the Committee on Military Affairs, have been scrutinized, and I now propose to explain the conclusions of the committee thereon.

As the first amendment of their substitute, the Senate adopt the very joint resolution which we sent to them. It has already been agreed to by the House, and it is unnecessary therefore for me to comment upon that.

In the second section of their amendment the Senate propose that non-commissioned officers and privates in the volunteer service of the United States shall receive the same amount of clothing as non-commissioned officers and privates of the same arm of the regular Army. That section embraces a proposition which I submitted last night as an amendment to an appropriation bill, and which was received favorably by the House. Therefore there can be no objection to having that incorporated in a general military bill.

The third section provides for the distribution of bounty to the children of soldiers who have been killed, to the mother of the soldier, to the

father, to the brother, in succession, according to the principles of law. It is merely declaratory of the general law upon this subject. It is precisely what has been recommended in regard to this subject by both the Committee on Pensions and the Committee on Military Affairs. I therefore need make no comment upon that provision.

Another section provides for an amendment of the law in this respect: under the provision for soldiers killed or wounded in battle, granting pensions, it has been decided that the words "in battle" do not apply to soldiers killed or wounded on picket duty, or in skirmishing, or when otherwise engaged in the ordinary line of duty as soldiers. This amendment provides that they shall be entitled to the same pension if wounded, or their heirs to obtain the same bounty if they are killed, although not killed or wounded in actual battle. I suppose nobody will object to that.

Mr. RICE, of Massachusetts. I would ask whether that amendment covers in its provisions persons in the Navy as well as in the Army? In a bill which was passed by the House some months ago the law regulating pensions was confined to persons in the military service, and those in the naval service were omitted.

Mr. SCHENCK. This is purely a military bill. I have not sought to cross the line into the domain of the gentleman [Mr. RICE, of Massachusetts] who represents the Committee on Naval Affairs.

The fifth section of the amendment of the Senate is of this character: this House and Congress at a former session passed a law that we thought to be sufficient to put upon the same footing, as to pay and allowance of bounty, the colored troops with the white troops. It seems, however, that a construction has been placed upon that provision which excludes from the operation of that law the troops in South Carolina called into the service of the Government by the general commanding. This amendment proposes to place them upon the same footing with the other troops. I am very sure that will not be objected to by anybody.

The sixth section provides for authorizing the President to enlist and organize out of the troops in the service six regiments of volunteer engineers. This corresponds with the action of the House at the last session on the bill which failed in the Senate. That, however, provided for ten and this provides for only six regiments. I presume there will be no objection to that section.

The seventh section, following out the same idea, provides for the present volunteer regiment, consisting of two companies less than the rule of organization would give them.

The eighth section is one which provides against an abuse said to prevail in the Army by keeping up by appointment of officers a greater number than is necessary for regiments reduced below the minimum number. That is only in aid of the existing law.

Then follow the ninth, tenth, eleventh, twelfth, and thirteenth sections of the Senate amendment. These sections are so arranged as to confuse the matter, I think, and we propose to strike them out, although we restore them in a rearranged order.

I turn now to the House amendments. The first is the adoption of one of the Senate sections, only reversing it in its meaning. The Senate have passed a very ingenious section that the officers by brevet in the regular Army shall receive the same pay and allowances as brevet officers of the same rank in the volunteer service, and no more. What is that? Just nothing at all.

This question was before the House on a former occasion on the report of a committee of conference. There had crept into an appropriation bill or a bill from the Committee on the Judiciary a provision that brevet officers of the regular and volunteer Army should neither of them receive the pay, even when performing the duties, of the brevet rank of regular assignment. The House decided, after full discussion of the subject, not to sustain the report. We reverse the matter; instead of bringing the officers of the regular Army down to the volunteers, and depriving both of brevet pay, we lift the volunteer officers up to the regular Army officers, as the law in reference to the latter has existed since 1818, giving them brevet pay when performing the duty. We dispose of the whole matter, adopting the principle that



brevet rank may carry along with it pay, but only in such cases where by special order an officer is assigned to a command corresponding with the brevet rank, and under that order is actually performing the duties. This being consistent with the former action of the House, I presume it will be agreed to.

Section ten is a provision on which there has been some question. It is a provision from the Military Committee, but one of the sections stricken out in order to be rearranged. It provides that whenever the head of any bureau in the War Department accepts any promotion or appointment to a higher rank, whether absolute or by brevet, than is appointed by law for the head of such bureau, then and in that case he shall be deemed as having vacated the position of head of such bureau, and shall be subject to detail for field or other duty as other officers. Inasmuch as the law has fixed the rank of those who are appointed to the head of the ordnance department, of the subsistence department, of the quartermaster's department, and so on, this provides that if they accept higher rank they shall vacate those positions and be liable to field and other duty corresponding with their new rank. My own opinion is it is a wholesome provision; that the Senate did well in calling the attention of Congress to a proposition of that kind, and in embodying it in a bill. The objection made to it is that it takes by surprise one particular officer. General Meigs, the head of the quartermaster's department, is brigadier general as chief of that department, but he has been brevetted as major general. This would vacate his office as brigadier general, if he had to leave the department, as he only holds that as chief of the department. It would subject him to be ordered to the field, or to other duties such as the necessities of the service or the opinion of his superior officer might require. The objection is that the provision is retroactive on that officer and takes him by surprise. As there has been some feeling manifested since the committee of the Senate acted upon the subject, and since the matter has been referred to the House Committee on Military Affairs, who have agreed to that proposition of the Senate, before I call the previous question I propose to permit any gentleman who desires to do so to move to strike out that provision.

Mr. FARNSWORTH. I will move to strike out the twelfth section of the Senate bill, which contains the provision referred to.

Mr. SCHENCK. That motion may be considered as made, and gentlemen may have a vote upon it.

The SPEAKER. That motion will be reserved, and a vote taken on it at the proper time.

Mr. HOLMAN. I desire to offer an amendment.

Mr. SCHENCK. I decline to yield for that purpose.

Mr. PIKE. I want to appeal to the gentleman in reference to one of the amendments of the Senate, which cannot be approved by him.

Mr. SCHENCK. Not at present. This brings me now to the next section proposed by the committee, and that is, that the President be authorized to transfer officers of the Army of the United States from the line to the general staff, and from the general staff to the line; or from one staff corps of the general staff to another and different staff corps; or from one arm of the service to another; or from the volunteer service to the regular Army, but upon condition that the officer, on being so transferred, shall only take such rank in the staff or corps in which he is placed as he held by commission in the staff or line before transfer.

Now, if this section is permitted to remain in the bill it will provide, perhaps, for this very case of General Meigs; because, although he might be required to leave the War Department if he holds on to this appointment as brevet major general, yet he would have the right to claim to be transferred from the staff to the line, or from one arm of the service to another, retaining the rank from which he is transferred.

This provision in reference to authorizing transfers to be made by the President is held to be a wholesome one. In proof that the House agree with me in that, I refer to the fact that the House has already incorporated in a bill which it has sent to the Senate a provision precisely like this. The difficulty with that, however, is

that the Senate not yet having acted on it, it is likely to fail. And hence it was introduced here. It is a section intended to enable the War Department to infuse new life into some of the bureaus of that Department. Gentlemen all know that there are men there who have been, as I have often had occasion to remark, so long in port that barnacles have formed upon them—officers who are moss-grown—and it is deemed absolutely essential to lodge the power somewhere to transfer from a bureau to the field, or from the field to a bureau, or from the Engineer corps to another corps, according as it is found that one officer is better qualified for one or another duty in a different arm of the service.

The Secretary of War, in corroboration of the propriety of passing some measure of this kind, remarked to me that it so happened that if he wanted to put General Grant himself at the head of the Military Academy he could not do it. Why? Because it is one of those close corporations by which it is understood that the West Point Academy belongs to the engineer department, and that he could not put anybody there who did not belong to the Engineer corps. I only refer to this by way of illustrating the propriety of giving the power of making these transfers, in order thereby to increase the efficiency of all arms of the service.

The next is a provision in regard to double rations. That provision has also been passed upon by the House. It was added as an amendment to an appropriation bill last evening, and I can explain it in a few words. It is not to pass any new law, but to declare what the law is. The law, since 1842, has confined the privilege of these increased rations to the commanders of military departments. It has been properly construed that the commander of a division, embracing several military departments, ought to have at least as much as his subordinates, and that we give to the commander of armies actually in the field. We merely repeat the language of 1842 and say that it is intended that these persons shall have these double rations, and that any general order that may have been made in favor of staff officers, or any one else other than those provided for by law, is illegal and void.

This matter was brought to the attention of the committee by the fact that we had referred to us an answer to a resolution showing that General Halleck had been drawing double rations since he was made chief of staff of General Grant, by order of the War Department. Since then he has been receiving double rations, as we think under a misapprehension of the law, and in violation of the provisions of the law itself. A staff officer has no command. Here, then, is an officer having no command pronounced by special order to be entitled to these double rations. The effect is, that in addition to commutation for fuel and quarters here in the city of Washington, General Halleck, who has no command, is drawing \$2,196 more than General Sherman, who commands the army in South Carolina. I should be very glad if all these officers were more liberally paid than they are now; but surely it is proper that we should not permit a construction to be put upon a law that it does not bear, and that, indeed, is directly contrary to the very letter of it.

The next section proposed by the committee is that the bounty to the heirs of volunteers called into the military service shall be extended to all volunteers, whether they enlisted for three years, two, or one. It does not provide for pensions where persons are merely wounded or disabled by sickness, but where a man has been actually killed in the service before his time has expired, extends the same bounty to his surviving heirs as if he had enlisted for a longer period.

The remaining provisions of the amendment are in substance the bill in relation to enrollment which has been passed upon by the House, and which has gone to the Senate. We are informed by the Committee on Military Affairs of the Senate that it is not likely to be reached and acted upon there.

We have therefore gone over the various sections of that bill and made two or three amendments, which the committee of the Senate insisted on, and which have already been passed upon by the Senate more than once. We have also added some new sections to the bill, which have already passed the House.

Mr. THAYER. What is the nature of those two new sections?

Mr. SCHENCK. I am just about to tell the gentleman. The first provides that where any revised enrollment in any congressional or enrollment district has been obtained or made prior to any actual drawing of names the quota of such district shall be proportioned to such revision instead of being based on the enrollment made before revision. That is one of the provisions on which the Senate insists. The next section is that no person owing military service shall be exempt from liability to perform the same on account of furnishing a substitute for the Navy unless the substitute is presented in person to the board of enrollment by which the principal is enrolled, and is accepted by the said board of enrollment. That is, I believe, the section to which my friend from Maine [Mr. BLAINE] objects; and it may be reserved for a separate vote.

Mr. PIKE. The whole effect of it is to give a monopoly to the large cities on the sea-coast.

Mr. SCHENCK. The next section is, that hereafter no officer in the military or naval service of the United States shall be dismissed except on the finding of a court-martial convened according to law; and it repeals section seventeen of an act entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," approved July 17, 1862. My colleague, to whom this section was particularly referred, [Mr. GARFIELD,] desires to explain it, and I yield for that purpose.

Mr. GARFIELD. The section which we propose to repeal is the seventeenth section of the act of July 17, 1862. It was enacted by the last Congress in consequence of the number of traitors who were in the Army at the beginning of the war. The President was empowered and requested to dismiss such officers without the intervention of a court-martial. It was an act demanded by public necessity, though in opposition to immemorial usage and military laws. The necessity for it has manifestly ceased to exist to any considerable extent. I desire to make a brief statement of the history of congressional legislation on this subject, and state the main considerations for and against the proposed measure. I do this in view of a doctrine lately announced in a pamphlet published by the Bureau of Military Justice, entitled "A Digest of the Opinions of the Judge Advocate General of the Army," and which I cannot but regard a novel and dangerous one. This doctrine has assumed an official form, and is stated on the 45th page of the pamphlet referred to under the head of "summary dismissal," as follows:

"From the foundation of the Government the President has been in the habit of summarily dismissing officers in the land and naval service. This power to do so seems to inhere in him under the Constitution, as Commander-in-Chief of the Army and Navy." "The power of summary dismissal by the President does not depend for its authority upon the act of Congress, (section 17, chapter 200, act of July 17, 1862,) the act being simply declaratory of the right which has been exercised by the President since the earliest history of the Government."

In the examination of this subject I shall notice some of the safeguards that have been thrown round the officer and the private soldier to protect him from arbitrary and illegal treatment.

1. September 20, 1776.

1. Trials to be held between eight, a. m. and three, p. m. (Art. 7.)

2. No sentence of a general court-martial shall be put in execution till after report shall be made of the whole proceeding to Congress, or to the General or Commander-in-Chief of the forces of the United States, and their or his direction be signified thereon. (Mil. Laws, 1863, sec. 14, art. 8, page 73.)

3. No commissioned officer shall be cashiered or dismissed from the service except by an order from Congress or the sentence of a general court-martial. (Ib., art. 13.)

4. No officer or soldier who shall be put in arrest or imprisonment, shall continue in his confinement more than eight days, or till such time as a court-martial can be conveniently assembled. (Ib., art. 16.)

5. Every officer to whom prisoners shall be committed, shall report in twenty-four hours the names and crimes of officers imprisoned, on pain of court-martial.

6. Any officer or soldier who thinks himself wronged by commanding officer may complain,

first to commanding officer, second, commanding general, third, Congress.

II. The above law was modified, but not essentially changed, by resolutions of Congress of May 27, and June 18, 1777.

III. May 31, 1786.

1. No officer shall be tried but by a general court-martial, nor by officers of inferior rank if it can be avoided. (Art. 11, p. 80.)

2. No change in the law of arrest or dismissal. (Art. 13-16, p. 80-1.)

3. Here, as before, revising officer can mitigate but not aggravate a sentence; for example, General Hull, doomed to die, was only dismissed.

IV. April 16, 1806.

1. Articles of War were established, borrowed mainly from British military law. They are still in force, and contain the same provisions concerning arrest and dismissal as were laid down in former acts. (Art. 75-9, p. 189.)

V. January 31, 1823.

1. President of the United States was authorized to dismiss a military officer for embezzlement of public funds. (Sec. 4, p. 316.)

VI. July 17, 1862.

1. An officer arrested shall be furnished with charges within eight days, and ten days thereafter shall be tried, unless necessities of service prevent; and thirty days thereafter shall be tried or arrest shall cease. If charges are not furnished within eight days, arrest shall cease. (Sec. 11, p. 527-8) By section seventeen of the same act the President may dismiss officers of the Army, Navy, or Marine corps for good of public service. This was the first instance in our legislative history in which this general power was vested in the President. It was done for the special purpose of ridding the Army of traitors and sympathizers with rebellion. The power of the President to remove officers appointed by him and the Senate was fully discussed and settled affirmatively by First Congress, in 1789, only so far as it related to heads of Departments.

That power has always been considered a dangerous one. (See *Federalist*, No. 77, also Cong. Deb., 1789, quoted by DeHart, p. 229.)

2. No sufficient reason appears why this power should apply to military officers, because it does to heads of Departments, who are the personal staff of the President.

3. This power has never been judicially recognized. (Kent's Com., vol. 1, p. 290.)

4. President Adams, in 1823, practically admitted he could not dismiss military officers without trial; other Presidents have thus dismissed; but prior to 1861 have always, on request, restored the officer for sake of trial, when trial was asked for.

5. The Constitution provides that "the Congress shall have power to make rules for the government and regulation of the land and naval forces." This power was exercised fully, April 16, 1806, when Congress enacted "Rules and Articles of War." These define every act which Congress considered a military offense, and prescribe punishment therefor by military courts. Congress for the first time in 1823 authorized the President to dismiss an officer for one class of crimes, and only one, without trial.

6. Prior to July 17, 1862, writers on military law recognized but three ways by which an officer could be discharged, namely, by resignation, by being honorably mustered out, by being dismissed in accordance with the sentence of a court-martial.

The words used in officers' commissions, "during the pleasure of the President," have been taken as a proof of the President's power to dismiss the holder of the commission without trial. The form of commission is borrowed from the British form, and was first introduced into this country June 17, 1775, by a committee of the Revolutionary Congress, who presented a draft of commission for General Washington. The form adopted was in these words, "during the pleasure of the Continental Congress." There has never been a word of legislation on the subject since the adoption of the Constitution of the United States. The only change made was to insert the word "President" in place of the words "Continental Congress." The form of commission, therefore, not being a matter of law, has no force or significance in relation to the power of dismissal. Not only the practice of our own Government, but

the opinions of the most eminent publicists, are strongly in favor of guarding with the utmost care the rights and reputation of officers in the Army and Navy. The old law maxim is most wise and just: "*Misera est servitus ubi jus est aut vagum aut incognitum.*"

Vattel says:

"The Government [with us the legislative department] ought precisely to determine the functions, duties, and rights of military men—soldiers, officers, chiefs of corps, generals."

If it be a sacred right of the citizen to be secure from punishment or disgrace by any officer of the Government without a trial in accordance with the laws of his country, it is a no less sacred right of the soldier that he shall be secure from a like evil except in accordance with the laws of war. Nothing but the overmastering necessity for the most summary measures to purify the Army from traitors for the salvation of the Republic could have justified the last Congress in conferring upon the President the power of summary dismissal. Under the supreme right of self-preservation they were no doubt justified; and in illustration of the urgency of the case attention is directed to the unusual language of the law of July 17, 1862:

"That the President of the United States be, and he hereby is, authorized and requested to dismiss and discharge from the military service," &c.

The dangers of 1861 and 1862 are now passed; the Congress and the people can trust both the Army and the Navy; and it is high time that the old safeguard around the American soldier should be restored.

The section now proposed was passed by the House last winter, almost unanimously, but met its fate in the Senate, after being referred to the War Department and returned with an elaborate argument against it, prepared by the Judge Advocate General of the Army. The main feature of the bill against which that officer's arguments were directed was that which allowed all officers summarily dismissed a trial, and, if acquitted, a restoration to the service. There are two singular statements in the Judge Advocate's paper to which I will refer. They were not made in immediate connection, but effectually answer each other, namely:

"The number of dismissals which have taken place since the beginning of the war is not large, all the circumstances of the service considered."

Toward the close of his paper, in summing up the objections to the bill, he says:

"The Government could not investigate through courts-martial the hundreds of cases which this bill would bring up for trial without such a draft upon the officers of the Army needed for active field service as must greatly impair the efficiency of the campaign now about to open in every part of the theater of war."

It is notorious that the number of summary dismissals has been very great, and is increasing. The files of general orders of the Army of the Cumberland show that in the space of ten months of the year 1863 one hundred and thirty commissioned officers of the Army were dismissed without trial by authority granted to its commander by the President. Such was the extent of the practice in a small segment of our Army, and there is no evidence that it is becoming any less. I believe, sir, the passage of this section will be hailed by the Army as a measure to protect them against the thousand intrigues which may so easily be conducted, under the forms of military administration, by an officer against his subordinate, and which may result in fixing an indelible stain upon the name and honor of a brave and worthy man. These dismissals are made, in the great majority of cases, on the recommendation of officers subordinate to the officer exercising dismissing power, and in almost every instance the dismissed party, no matter how guilty, is able to awaken sympathy in his favor from the fact that his case has been decided on *ex parte* statements.

In the suggestions I have cast no reflections upon the President or any of his military subordinates. Congress has authorized and requested him to use this summary power. The responsibility is here with us. The great purpose of this grant of power has been accomplished. To continue it longer is to undermine the independence and manliness of the officers of our Army and Navy. We should give them the strong assurance of law that they shall be heard when

assailed—that their position in the service of the Republic is based, not on the caprice of any man, but on the enduring foundation of law.

Mr. SCHENCK. I now come, Mr. Speaker, to the further sections just adopted for the bill as it passed this House. We have given up to the Senate one of the sections, which is section two of the bill as it passed the House, for the mustering out of persons enlisted for the unexpired term of regiments. We found that there was an impossibility of agreement between the Senate and House on this subject. It has been, in fact, something like a preliminary committee of conference. The Committee on Military Affairs was very reluctant to yield and leave that off the amendments proposed to the bill. We did not do so until we found that there was no possibility of passing it, and until we found that the Senate was so impressed by the representations made by the War Department, as to the injury that this would inflict on the Army, that we consented to yield the point.

Mr. HOLMAN. I trust the gentleman from Ohio will allow me this single suggestion. The House is pretty unanimous in favor of the section. I trust the gentleman will allow it to be offered as an amendment so that it may go to a committee of conference.

Mr. SCHENCK. If it be the pleasure of the House I will give the gentleman from Indiana that opportunity.

Mr. HOLMAN. Then I offer the following as an additional section:

*And be it further enacted, That in every case where any regiment, battalion, or company has been mustered out of the service of the United States by reason of the expiration of the term for which such organization had been accepted, the Secretary of War is authorized and directed to cause immediately to be mustered out all those non-commissioned officers and privates who, during the years 1862 and 1863 were enlisted with the assurance and understanding that they were to serve only for the unexpired term of any such organization; and in cases where regiments, battalions, and companies have not yet been mustered out, then such non-commissioned officers and privates as are above described he shall cause to be mustered out whenever the term of such organization shall expire: Provided, That before any such enlisted man is mustered out he shall sign a statement under oath that he enlisted with the distinct assurance and understanding that he engaged to serve only for the unexpired term of the organization into which he was mustered, such statement to be verified by the recruiting officer by whom he was enlisted, or by some commissioned officer having actual and personal knowledge of the facts in the case.*

Mr. SCHENCK. The House was unanimous on this subject in favor of the measure; and the Senate was about as unanimous against it. We have left out the sixth and seventh sections. One of them concludes the Government, no matter what may be the fraud in any case, where a substitute is received and mustered in. The provision is retained, however, that if the principal himself has been a party to any fraud practiced on the Government he shall be held responsible. That was a matter of discussion here the other day.

The Senate also insisted upon our leaving out the provision allowing to provost marshals commutation for quarters and fuel, and their actual expenses for stationery, office rent, &c. That, however, the committee were not willing to yield. They have, however, given up the ninth section, a provision that there shall be appointed for each of the States an assistant provost marshal general, with the rank of lieutenant colonel. With these exceptions the whole bill is precisely the enrollment bill as it passed this House.

In reference to the bill relative to officers' servants, which has grown to such formidable size, embracing now thirty-three sections, we have thought it appropriate to recommend a change of the title, so as to call it "An act in relation to various military matters, and to amend the law for enrolling and calling out the national forces."

Mr. ODELL. I desire to make an explanation in vindication of myself, in view of the statement of the chairman of the Military Committee with reference to the twelfth section. I understood that gentleman to say that the committee had agreed to that section.

Mr. SCHENCK. I do say so.

Mr. ODELL. I do not propose to gainsay that; but I will simply say that some members of the committee acted under a misapprehension.

Mr. SCHENCK. I believe the gentleman was not present when the committee acted on the subject.

Mr. ODELL. Yes, sir, I was. I do not gain-

say what the gentleman has said; I simply say that I did not understand the effect of the provision.

Mr. SCHENCK. I have said that since the committee made their decision such representations have been made in regard to the purpose and effect of that provision as place the question in a different light.

Mr. ODELL. I did not understand that this provision struck at a particular officer, and one of merit.

Mr. SCHENCK. Nor did I; nor do I now know that it does. But it seems to have that effect.

Mr. ODELL. I refer to General Meigs, the head of the quartermaster's department, to whom the country is much indebted.

Mr. FARNSWORTH. I desire to explain the reason of the motion which I made to strike out the twelfth section, which has been inserted by the Senate. That section provides that any head of a bureau of the War Department who shall receive a rank greater than that prescribed for the head of that bureau shall vacate his position as the head of that bureau. I do not know any officer whom this will strike except General Meigs, the very worthy head of the Quartermaster's Bureau. He has been brevetted a major general. The law prescribes that the head of that bureau shall be a brigadier general. Last summer, when this city was menaced by the rebels, General Meigs organized from the quartermaster's department some three thousand troops, and took them out into the trenches in defense of Washington. While thus engaged he received this brevet of major general. It was very well earned and very appropriately conferred. The effect of this twelfth section would be to turn General Meigs out of the quartermaster's department and assign him to some other duty. I think that this sort of personal legislation ought not to be indulged in. I have therefore moved to strike out that section. I think that the country cannot afford at the present time to dispense with the valuable services of the present head of the quartermaster's department. I hope, therefore, that the House will strike out this amendment of the Senate, and leave General Meigs where he is.

Mr. SCHENCK demanded the previous question.

The previous question was seconded, and the main question ordered.

The motion of Mr. FARNSWORTH to strike out the twelfth section was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 739) regulating the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States;

An act (H. R. No. 780) to extend the provisions of the first section of an act for the government of persons engaged in certain fisheries, approved June 19, 1813;

An act (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José, in the State of California;

An act (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior;

An act (H. R. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory; and

An act (H. R. No. 485) for the relief of the trustees of the mission church of the Wyandotte Indians.

Also, that the Senate had passed an act (H. R. No. 774) to establish certain post roads, with amendments, in which they requested the concurrence of the House.

Also, that the Senate had passed a bill of the following title, in which they requested the concurrence of the House:

An act (S. No. 43) to incorporate the Freedmen's Savings and Trust Company.

Also, that the Senate had agreed to the conference asked by the House on the disagreeing votes of the two Houses on bill H. R. No. 682, making appropriations for the current and contingent

expenses of the Indian department, and for fulfilling treaties with various Indian tribes for the year ending June 30, 1866.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 764) to incorporate the Continental Hotel Company of the city of Washington;

An act (H. R. No. 779) to regulate the taking of depositions in certain cases;

An act (H. R. No. 758) amendatory of the acts relative to the Attorney General's office, and to fix the compensation of his assistant and clerks;

An act (H. R. No. 756) supplementary to the several acts relating to pensions;

An act (H. R. No. 775) for the relief of the occupants of the lands of the ex-mission of San José, in the State of California;

An act (H. R. No. 556) granting a pension to Ezekiel Darling;

An act (H. R. No. 565) for the relief of Rachel Mills;

An act (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;

An act (H. R. No. 697) further to provide for the verification of invoices; and

An act (H. R. No. 749) providing for the confinement of juvenile offenders against the laws of the United States in houses of refuge.

#### MILITARY MATTERS—AGAIN.

The House resumed the consideration of joint resolution H. R. No. 170, declaring and defining the meaning of the law in regard to officers' servants.

The next question was on the motion to strike out the sixteenth section.

Mr. PIKE. I do not propose to discuss this question. The Committee on Military Affairs agree with me that this section is unjust to districts remote from the sea-board, and that its whole effect is to benefit a few seaport towns where the sailors congregate.

The motion was agreed to.

The question then recurred on the motion of Mr. HOLMAN, to amend the amendment of the Senate by adding a new section.

Mr. HOLMAN. This question is one of great public importance, and therefore, for the purpose of indicating the sentiment of the House on the subject, I desire to call the yeas and nays.

Mr. GARFIELD. I trust the gentleman will not do that. The House has never even divided on the question. It is nearly unanimous.

Mr. HOLMAN. I trust that the yeas and nays will be taken. It will consume but a few moments.

The yeas and nays were ordered.

The question was taken on Mr. HOLMAN's amendment; and it was decided in the affirmative—yeas 91, nays 31, not voting 60; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Arnold, Ashley, Baily, Augustus C. Baldwin, Baxter, Beaman, Bliss, Blow, Boyd, Brooks, Broomall, James S. Brown, Coffroth, Cox, Cravens, Dawes, Dawson, Denison, Dixon, Eden, Edgerton, Eldridge, Eliot, Finck, Ganson, Garfield, Grider, Grinnell, Harding, Benjamin G. Harris, Charles M. Harris, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Hutchins, Philip Johnson, Kalbfleisch, Kernan, Law, Lazear, Loan, Marcy, McAllister, McClurg, Middleton, William H. Miller, Daniel Morris, Amos Myers, Leonard Myers, Noble, Odell, John O'Neill, Orth, Perry, Pomeroy, Price, Pruyt, William H. Randall, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scofield, Scott, Smith, John B. Steele, William G. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Townsend, Tracy, Van Valkenburgh, Whaley, Wheeler, Chilton A. White, Joseph W. White, Wilson, Fernando Wood, Woodbridge, Worthington, and Yeaman—91.

NAYS—Messrs. John D. Baldwin, Boutwell, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Driggs, Gooch, Hooper, John H. Hubbard, Hulburd, Ingersoll, Kelley, Francis W. Kellogg, Marvin, McBride, Norton, Charles O'Neill, Shannon, Sloan, Smithers, Spalding, Upson, Elihu B. Washburne, William B. Washburn, Webster, Williams, and Wilder—31.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Anderson, Blaine, Blair, William G. Brown, Chanler, Clay, Creswell, Deming, Donnelly, Dumont, Eckley, English, Farnsworth, Frank, Griswold, Hale, Hall, Harrington, Herrick, Jenckes, William Johnson, Julian, Kasson, Orlando Kellogg, Kling, Knapp, Knox, Le Blond, Littlejohn, Long, Longyear, Mallory, McDowell, McIndoe, McKinney, Samuel F. Miller, Moorhead, Morrill, James R. Morris, Morrison, Nelson, Patterson, Pendleton, Perham,

Pike, Radford, Samuel J. Randall, Alexander H. Rice, Robinson, Rogers, Starr, Sweat, Thomas, Voorhees, Wadsworth, Ward, Windom, Winfield, and Benjamin Wood—60.

So the amendment was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 780) to extend the provisions of the first section of an act for the government of persons in certain fisheries, approved June 19, 1813;

An act (H. R. No. 745) granting land to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior;

An act (H. R. No. 567) granting a pension to Elizabeth B. Leppien;

An act (H. R. No. 454) granting a pension to Thomas Bootle; and

An act (H. R. No. 605) to increase the pay of midshipmen and others.

#### MILITARY MATTERS—AGAIN.

The question then recurred on Mr. THAYER's motion to strike out the following:

That in every case where a substitute is furnished to take the place of an enrolled or drafted man, and it is shown by evidence that shall be satisfactory to the Secretary of War that such substitute was, at the time of his enlistment, known by the party furnishing him to be *non compos mentis*, or in a condition of intoxication, or under conviction or indictment for any offense of the grade of felony at the common law, or to have been guilty of a previous act of desertion unsatisfied by pardon or punishment, or, by reason of any existing infirmity or ailment, physically incapable of performing the ordinary duties of a soldier in actual service in the ranks, or minor between the ages of sixteen and eighteen years, without the consent of his parent or guardian, or a minor under the age of sixteen years, it shall be the duty of the Provost Marshal General, on advice of the fact, to report the same to the provost marshal of the proper district; and if such person so enlisted and incapable shall have been, since the passage of this act, mustered into the service as a substitute for a person liable to draft and not actually drafted, the name of the person so liable who furnished such substitute shall be again placed on the list, and he shall be subject to draft thereafter as though no such substitute had been furnished by him; and if such substitute so enlisted and incapable as aforesaid shall have been, since the passage of this act, mustered into the service as a substitute for a person actually drafted, then it shall be the duty of the Provost Marshal General to direct the provost marshal of the district immediately to notify the person who furnished such substitute that he is held to service in the place of such substitute, and he shall stand in the same relation and be subject to the same liability as before the furnishing of such substitute: *Provided*, That no such decision shall be made by the Secretary of War unless made on notice to the party within thirty days after the substitute shall have been mustered into service.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 70, not voting 54; as follows:

YEAS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Beaman, Brooks, James S. Brown, Coffroth, Dawson, Denison, Eden, Edgerton, Eldridge, English, Fluck, Ganson, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hutchins, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Lazear, Le Blond, Long, Marcy, Middleton, William H. Miller, James R. Morris, Morrison, Odell, John O'Neill, Pendleton, Perry, Pike, Pruyt, James S. Rollins, Ross, Scott, Shannon, John B. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Thomas, Townsend, Tracy, Webster, Wheeler, Chilton A. White, Joseph W. White, and Yeaman—58.

NAYS—Messrs. Allison, Ames, Anderson, Ashley, John D. Baldwin, Baxter, Blaine, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Driggs, Eliot, Frank, Garfield, Gooch, Grinnell, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, King, Littlejohn, Loan, Marvin, McBride, McClurg, Moorhead, Morrill, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Scofield, Sloan, Smith, Spalding, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—70.

NOT VOTING—Messrs. William J. Allen, Alley, Arnold, Baily, Blair, Bliss, Brandegee, William G. Brown, Chanler, Freeman Clarke, Clay, Cox, Cravens, Creswell, Deming, Donnelly, Dumont, Eckley, Farnsworth, Grider, Griswold, Hale, Hall, Harrington, William Johnson, Julian, Kasson, Francis W. Kellogg, Orlando Kellogg, Knox, Longyear, Mallory, McAllister, McDowell, McIndoe, McKinney, Samuel F. Miller, Daniel Morris, Nelson, Noble, Patterson,



Radford, Samuel J. Randall, Robinson, Rogers, Smithers, Starr, William G. Steele, Sweet, Voorhees, Wadsworth, Ward, Winfield, Benjamin Wood, and Fernando Wood—54.

So the section was not stricken out.

Mr. SCHENCK moved that the vote by which the House refused to strike out the section be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question recurring on the substitute proposed by the Committee on Military Affairs to three sections of the Senate amendment, as before explained, it was put, and the substitute was adopted.

The Senate amendment, as amended, was then agreed to.

Mr. SCHENCK moved that the vote by which the amendment as amended was adopted be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DUTIES ON FOREIGN IMPORTS.

Mr. MORRILL. The Senate has returned to the House the bill of the House (No. 795) amendatory of certain acts imposing duties on foreign imports, with amendments.

I move that the House non-concur in all the Senate amendments, and ask a committee of conference.

The motion was agreed to.

The SPEAKER subsequently appointed Mr. STEVENS, Mr. COX, and Mr. GRISWOLD, as such committee on the part of the House.

#### ENROLLED BILLS.

Mr. POMEROY, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 739) to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States; when the Speaker signed the same.

#### FREEDMEN'S BUREAU.

Mr. SCHENCK. The committee of conference on the bill of the House to establish a Bureau of Freedmen's Affairs, having met, after full and free conference have agreed to recommend to the two Houses a bill as a substitute for that which was referred to them. The report has already been acted on in the Senate and agreed to by that body. I ask that the report be read, and upon its adoption I demand the previous question.

The report was read.

Mr. HOLMAN. I rise to a question of order. It is that the report does not come within the scope of the conference committee. It does not report the proceedings of the Senate, or an agreement by the committee on an amendment to the Senate's amendment to the House bill, but it reports an entire substitute for both the original bill and the substitute adopted by the Senate, and it establishes a department unprovided for by either of the other bills.

The SPEAKER. The Chair understands that the Senate adopted a substitute for the House bill. If the two Houses had agreed upon any particular language, or any part of a section, the committee of conference could not change that; but the Senate having stricken out the bill of the House and inserted another one, the committee of conference have the right to strike out that and report a substitute in its stead. Two separate bills have been referred to the conference committee, and they can take either one of them, or a new bill entirely, or a bill embracing parts of either. They have a right to report any bill that is germane to the bills referred to them.

Mr. HOLMAN. I take an appeal from the decision of the Chair.

The SPEAKER. The gentleman from Indiana takes an appeal from the decision of the Chair, and the question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. BROOKS. Upon that I call for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 89, nays 35, not voting 58; as follows:

YEAS—Messrs. James C. Allen, Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Cox, Henry Winter

Davis, Thomas T. Davis, Dawes, Driggs, Eckley, Elliot, Frank, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Orlando Kellogg, Knapp, Le Blond, Littlejohn, Loan, Longyear, Marvin, McClurg, Moorhead, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scofield, Shannon, Sloan, Spaulding, Stevens, Strouse, Thayer, Tracy, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—89.

NAYS—Messrs. Baily, Augustus C. Baldwin, Bliss, Brooks, Coffroth, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Herrick, Philip Johnson, Kalbfleisch, Kernan, Marcy, Middleton, William H. Miller, Nelson, John O'Neill, Pendleton, Perry, Pruyn, Rogers, Scott, John B. Steele, Stiles, Townsend, Chilton A. White, Winfield, and Yeaman—35.

NOT VOTING—Messrs. William J. Allen, Ancona, Anderson, Blair, James S. Brown, William G. Brown, Chandler, Clay, Cravens, Creswell, Deming, Dixon, Donnelly, Dumont, Farnsworth, Griswold, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, William Johnson, Julian, Kasson, Francis W. Kellogg, King, Knox, Law, Lazear, Long, Mallory, McAllister, McBride, McDowell, McIndoe, McKinney, Samuel F. Miller, Morrison, Noble, Odell, Patterson, Price, Radford, Samuel J. Randall, Robinson, Smith, Smithers, Starr, William G. Steele, Stuart, Sweet, Thomas, Wadsworth, Ward, Joseph W. White, Benjamin Wood, and Fernando Wood—58.

So the decision of the Chair was sustained.

Mr. SCHENCK. From the reading of the report, I apprehend that the House understand what it is. I therefore demand the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. COX. I move to lay the report on the table.

Mr. LE BLOND. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 52, nays 77, not voting 53; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Bliss, Brooks, Coffroth, Cox, Dawson, Denison, Eden, Edgerton, Eldridge, English, Finck, Ganson, Grider, Harding, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Philip Johnson, Kalbfleisch, Kernan, Knapp, Law, Le Blond, Long, Marcy, McAllister, McKinney, William H. Miller, James R. Morris, Morrison, Nelson, Odell, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, William H. Randall, Ross, Scott, John B. Steele, Stiles, Strouse, Stuart, Townsend, Voorhees, Wheeler, Chilton A. White, and Yeaman—52.

NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Henry Winter Davis, Thomas T. Davis, Dawes, Deming, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Price, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Spaulding, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Williams, Wilder, Wilson, Windom, and Woodbridge—77.

NOT VOTING—Messrs. William J. Allen, Anderson, Augustus C. Baldwin, Blair, Boyd, James S. Brown, William G. Brown, Chandler, Clay, Cravens, Creswell, Dixon, Donnelly, Driggs, Dumont, Eckley, Griswold, Hale, Hall, Harrington, Hooper, Hutchins, Jenckes, William Johnson, Julian, King, Lazear, Mallory, McDowell, McIndoe, Middleton, Samuel F. Miller, Noble, Perry, Pomeroy, Radford, Alexander H. Rice, Robinson, Rogers, Smith, Smithers, Starr, William G. Steele, Stevens, Sweet, Wadsworth, Ward, Webster, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Worthington—53.

So the House refused to lay the report of the conference committee on the table.

The question recurring on agreeing to the report, and it was agreed to.

Mr. ELIOT moved to reconsider the vote by which the report of the conference committee was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### USE OF THE HALL.

Mr. PRICE. I ask unanimous consent to offer the following resolution:

Whereas, there are many thousands of our soldiers in the hospitals in and around the city of Washington who have faced the enemy of our common country on many hard-fought battle-fields, and who are now recruiting their health from sickness and from wounds; and whereas, during their sojourn here for the purpose before indicated, they have, in order to protect themselves from the common foe of humanity, and particularly of the Army, associated themselves together in a total abstinence organization called Sons of Temperance; and whereas, these soldiers and others, thus organized, desire to hold a public

meeting for the encouragement of their members and the advancement of their cause: Therefore,

Be it resolved, That the Hall of the House of Representatives be, and the same is hereby, granted to said organization for a public meeting on the evening of Tuesday, the 7th instant.

Mr. WASHBURN, of Illinois. The House has adopted a resolution that this Hall shall not be used for the purpose of any public meeting during the recess.

Mr. J. C. ALLEN. I object to the resolution.

Mr. PRICE. I move to suspend the rules to enable me to offer the resolution.

The SPEAKER. The House made an order, and reconsidered and laid it on the table, that the Hall should not be used for any such purpose during the recess.

The rules were not suspended, two thirds not voting in favor thereof.

#### PUBLIC COAL LANDS.

Mr. HIGBY, from the Committee on Public Lands, asked leave to report back an act (S. No. 380) supplemental to the act approved 1st July, 1864, for the disposition of coal lands and of town property on the public domain.

Mr. J. C. ALLEN objected.

Mr. HIGBY. I move to suspend the rules, and on that I call for the yeas and nays.

The yeas and nays were not ordered.

The rules were not suspended, two thirds not voting in favor thereof.

#### QUARTERMASTERS' CONTRACTS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting an abstract of certain contracts made by the quartermaster's department; which was laid on the table, and ordered to be printed.

#### UNFINISHED BUSINESS.

Mr. SWEAT. I move to postpone all special orders, and that the House proceed to the consideration of unfinished business.

Mr. WASHBURN, of Illinois. I object.

Mr. COX. I move to suspend the rules for that purpose.

Mr. WASHBURN, of Illinois. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 89, not voting 56; as follows:

YEAS—Messrs. James C. Allen, Ashley, Augustus C. Baldwin, Boyd, Brandegee, Cox, Dawson, Edgerton, Eldridge, Griswold, Charles M. Harris, Herrick, Kalbfleisch, Knapp, Law, LeBlond, Marcy, Marvin, McKinney, William H. Miller, James R. Morris, Leonard Myers, Nelson, Noble, Pendleton, Perry, Alexander H. Rice, Ross, Scott, Sweet, Thomas, Townsend, Voorhees, Webster, Winfield, Wheeler, and Yeaman—37.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Baily, John D. Baldwin, Baxter, Beaman, Blow, Broomall, Chandler, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Dawes, Deming, Denison, Dixon, Driggs, Eckley, Eden, Eliot, Farnsworth, Finck, Frank, Ganson, Garfield, Grider, Grinnell, Harding, Benjamin G. Harris, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Philip Johnson, Kasson, Kelley, Orlando Kellogg, Kernan, Knox, Lazear, Littlejohn, Loan, Long, Longyear, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Morrison, Amos Myers, Norton, Odell, John O'Neill, Orth, Perham, Pike, Pomeroy, Pruyn, Samuel J. Randall, William H. Randall, John H. Rice, Rogers, Edward H. Rollins, Scofield, Sloan, Stevens, Strouse, Stuart, Thayer, Tracy, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Chilton A. White, Williams, Wilder, Windom, Woodbridge, and Worthington—89.

NOT VOTING—Messrs. William J. Allen, Anderson, Arnold, Blaine, Blair, Bliss, Boutwell, Brooks, James S. Brown, William G. Brown, Clay, Coffroth, Cravens, Creswell, Henry Winter Davis, Donnelly, Dumont, English, Gooch, Hale, Hall, Harrington, Holman, Hooper, Ingersoll, Jenckes, William Johnson, Julian, Francis W. Kellogg, King, Mallory, McAllister, McDowell, McIndoe, Charles O'Neill, Patterson, Price, Radford, Robinson, James S. Rollins, Schenck, Shannon, Smith, Smithers, Spaulding, Starr, John B. Steele, William G. Steele, Stiles, Upson, Wadsworth, Ward, Joseph W. White, Wilson, Benjamin Wood, and Fernando Wood—56.

So (two thirds not voting in favor thereof) the rules were not suspended.

The hour of half past four o'clock, p. m., having arrived, the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock, p. m.

#### PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts. I rise to a privileged question. I call up the motion to recon-

sider the vote in relation to Senate bill No. 382, to provide for the better organization of the Navy.

I will state that I propose to move to strike out the objectionable portions of the bill; in other words, all after the second section.

The question was taken; and the motion to reconsider was agreed to.

Mr. RICE, of Massachusetts. I now move to strike out all after the second section of the bill.

Mr. BLAINE. I move to lay the bill on the table.

The question was taken; and there were—ayes 30, noes 37; no quorum voting.

Tellers were ordered; and Messrs. RICE, of Massachusetts, and Dawson, were appointed.

The House divided; and the tellers reported—ayes 47, noes 36; no quorum voting.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 55, nays 42, not voting 85; as follows:

**YEAS**—Messrs. James C. Allen, Ancona, Ashley, Beaman, Blaine, Boyd, Cobb, Cole, Cravens, Dawson, Denison, Eden, Edgerton, English, Finck, Ganson, Charles M. Harris, Herrick, Holman, Hotchkiss, Hutchins, Philip Johnson, Kasson, Orlando Kellogg, Kernan, Le Blond, Loan, Long, McClurg, Middleton, Morrill, Daniel Morris, James R. Morris, Norton, Odell, John O'Neill, Orth, Pendleton, Perham, Price, Samuel J. Randall, William H. Randall, Shannon, Sloan, Smithers, Stiles, Strouse, Tracy, Upson, Elihu B. Washburne, Whaley, Wheeler, Joseph W. White, Wilson, and Winfield—55.

**NAYS**—Messrs. Allison, Ames, Baily, John D. Baldwin, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Dawes, Deming, Driggs, Elliot, Garfield, Grinnell, Asahel W. Hubbard, John H. Hubbard, Ingersoll, Jenckes, Kelley, Francis W. Kellogg, Law, Longyear, Marvin, McAllister, McBride, Amos Myers, Charles O'Neill, Pike, Alexander H. Rice, Edward H. Rollins, Schenck, Scofield, Spalding, John B. Steele, Thayer, Thomas, Van Valkenburgh, William B. Washburn, Wilder, Windom, Woodbridge, and Worthington—42.

**NOT VOTING**—Messrs. William J. Allen, Alley, Anderson, Arnold, Augustus C. Baldwin, Baxter, Blair, Bliss, Blow, Boutwell, Brooks, James S. Brown, William G. Brown, Chanter, Clay, Coffroth, Cox, Creswell, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Dumont, Eckley, Eldridge, Farnsworth, Frank, Gooch, Grider, Griswold, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Higby, Hooper, Hulburd, William Johnson, Julian, Kalbfleisch, King, Knapp, Knox, Lazarus, Littlejohn, Mallory, Marcy, McDowell, McIndoe, McKinney, Samuel F. Miller, William H. Miller, Moorhead, Morrison, Leonard Myers, Nelson, Noble, Patterson, Perry, Pomeroy, Pruyn, Radford, John H. Rice, Robinson, Rogers, James S. Rollins, Ross, Scott, Smith, Starr, William G. Steele, Stevens, Stuart, Sweet, Townsend, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Williams, Benjamin Wood, Fernando Wood, and Yeaman—85.

So the bill was laid on the table.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the bill was laid on the table; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COINAGE OF THREE-CENT PIECES.

Mr. KASSON, from the Committee on a Uniform System of Coinage and Weights and Measures, reported a bill to authorize the coinage of three-cent pieces, and for other purposes, which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KASSON moved to reconsider the vote by which the bill passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 774) to establish certain post roads;

An act (H. R. No. 51) to establish a Bureau for the Relief of Freedmen and Refugees; and

Joint resolution (H. R. No. 174) to amend the joint resolution entitled "Joint resolution in relation to the public printing," approved June 23, 1860.

#### CHARLES F. ANDERSON.

Mr. COFFROTH. I ask unanimous consent that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of bill of the Senate No. 307, for the relief of Charles F. Anderson. I will state that the bill has twice passed the Senate.

Mr. HOLMAN. I trust the report in the case will be read, and that the right to reject be reserved until it is read.

Mr. WASHBURN, of Illinois. I object to the bill.

Mr. COFFROTH. Then I move to suspend the rules.

The question was taken; and there were—ayes 37, noes 38; no quorum voting.

Mr. INGERSOLL demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. INGERSOLL called for tellers.

Tellers were ordered; and Messrs. INGERSOLL, and STEELE of New York, were appointed.

The House divided; and the tellers reported—ayes 51, noes 41.

So (two thirds not voting in favor thereof) the rules were not suspended.

#### E. WOODWARD AND G. CHORPENNING.

Mr. NELSON. I ask unanimous consent for leave to report from the Committee on Indian Affairs a joint resolution for the relief of Elizabeth Woodward and George Chorpenning, of Pennsylvania, against which I think nothing can be said, while if Congress will pass it it will save the parties from absolute want.

Mr. HOLMAN. Is there a report accompanying the bill?

Mr. NELSON. There is.

Mr. HOLMAN. Then I reserve the right to object until it is read.

Mr. NELSON. I ask unanimous consent to state the foundation of this claim reported from the Indian Committee. It will take less time than the reading of the report.

No objection was made.

Mr. NELSON. Mr. Speaker, Messrs. Chorpenning & Woodward were contractors for carrying the mails from Salt Lake City to California; they were the pioneers on that route. It is provided by an act of Congress that men within the Indian Territory, suffering damage in consequence of hostile acts of the Indians, and losing property by the Indians, if they do not take vengeance in their own hands, but as quiet citizens pursue the line of their duty and nothing more, then the United States Government will guaranty and protect them against loss.

These men sent out their teams, and in a number of instances every person that accompanied the trains were killed. Determined as these men seemed to be at all times to execute their contracts, Mr. Woodward set out in person with the train to carry the mail from Salt Lake City to California. The train was again attacked by the Indians, and every one was sacrificed in the performance of their duty except Mr. Woodward, who was severely, and, as it proved, fatally wounded. Mr. Woodward, wounded as he was, rode one hundred and fifty miles, when, faint and weak, and no longer able to continue his way, he tied his mule and lay down to rest, and that was his final rest upon this earth.

This bill merely asks the House to allow to be paid to him the amount which he actually lost in property, the amount of money to be paid to his widow and her children, and to Mr. Chorpenning, his surviving partner. It is not a speculative claim. It is one that has been reported upon favorably by four or five Committees on Indian Affairs, and not reported against by any committee. It will save from want and suffering the family of Mr. Woodward.

I now move to suspend the rules in order that I may report this joint resolution and put it upon its passage.

Upon the question of suspending the rules, the House divided, and there were—ayes 50, noes 42.

So the motion to suspend the rules was not agreed to, two thirds not voting in the affirmative.

Mr. WASHBURN, of Illinois. If the gentleman from New York [Mr. NELSON] will give me his attention for a few moments, I desire to say one word in regard to this claim.

Mr. HOLMAN. I object. The joint resolution is not before the House.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced to the House that the Senate had agreed to the report of the committee

of conference on the disagreeing votes of the two Houses upon a bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending 30th June, 1866.

#### SUBSISTENCE DEPARTMENT.

Mr. SCHENCK. I move to take up the bill (H. R. No. 600) for the better organization of the subsistence department, which has been returned from the Senate with amendments on which they have insisted.

The bill was taken up.

Mr. SCHENCK. I now move that the House insist upon its disagreement to the amendments of the Senate, and ask for a committee of conference.

The motion was agreed to.

#### DOCTOR MACGOWAN.

Mr. WHALEY, from the Committee on Agriculture, reported upon certain memorials from States and agricultural societies relating to the proposed expedition of Dr. MacGowan; which was laid on the table, and ordered to be printed.

#### FREEDMEN'S SAVINGS AND TRUST COMPANY.

Mr. ELIOT. I ask unanimous consent to take from the Speaker's table a bill (S. No. 443) to incorporate the Freedmen's Savings and Trust Company.

Mr. ELDRIDGE. I object.

Mr. ELIOT. I move to suspend the rules for the purpose of taking up that bill; and upon that motion I call for tellers.

Tellers were ordered; and Messrs. ELIOT and ELDRIDGE were appointed.

The House divided; and the tellers reported—ayes 72, noes 36.

So the rules were suspended, two thirds having voted in the affirmative.

The bill was read a first and second time.

Mr. ELIOT. I now call the previous question upon ordering the bill to be read a third time.

The previous question was seconded, and the main question ordered.

Mr. GANSON. I would ask where this bank or association is to be located?

Mr. ELIOT. In Washington city.

Mr. GANSON. It is not so stated in the bill.

Mr. ELIOT. That is an error. Then I ask unanimous consent to insert after the words "body-corporate" the words "in Washington city, District of Columbia."

No objection was made, and the amendment was adopted.

Mr. GANSON. I think there should be among the incorporators the name of some person in this District.

Mr. ELIOT. I move to amend by inserting the name of Salmon P. Chase among the trustees.

No objection was made, and the amendment was accordingly agreed to.

The bill was then ordered to be read a third time, and was read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TITLES IN THE DISTRICT OF COLUMBIA.

Mr. KERNAN, from the Committee on the Judiciary, reported back a bill (S. No. 91) entitled "An act to quiet titles in favor of parties in actual possession of lands situate in the District of Columbia," and moved that the House proceed to the consideration of the bill.

The motion was agreed to.

Mr. GANSON. Is this bill designed to meet some individual case, or is it general in its provisions?

Mr. KERNAN. This bill was not intended by the Committee on the Judiciary to meet any particular case. It was recommended by a committee of lawyers of this District. Since it was recommended I addressed inquiries to several gentlemen whom I knew to be men of character, and they have stated, in response, that the bill was prepared merely to quiet titles which are good in fact, but in reference to which there are defects on the record.

The bill was ordered to a third reading; and was read the third time.

Mr. BROWN, of Wisconsin. I desire to

inquire of the gentleman from New York [Mr. KERNAN] what class of cases this bill is intended to cover.

Mr. KERNAN. Cases where deeds have been acknowledged irregularly, sometimes before improper persons.

Mr. BROWN, of Wisconsin. Is it limited to cases of that description?

Mr. KERNAN. No, sir. It also provides for cases where women have made acknowledgments which are defective. It also applies to cases where acknowledgments have been made for corporations by their attorneys.

I may remark that I am myself disposed to be suspicious with reference to bills of this kind. Under the direction of the committee I made examination and inquiry with regard to the propriety of this measure. I consulted Hon. Reverdy Johnson, Mr. Carlisle, Mr. Gillette of New York, and various other gentlemen familiar with titles, and they pronounced the bill entirely proper.

The bill was passed.

MARY A. BAKER.

Mr. MILLER, of Pennsylvania, reported from the Committee on Invalid Pensions a bill (S. No. 122) entitled "An act for the relief of Mary A. Baker, widow of Brigadier General Edward D. Baker," and moved that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill was read. It provides for granting to Mary A. Baker a pension of fifty dollars per month, from the 21st day of October, 1861, to continue during her widowhood.

The bill was ordered to a third reading, was read the third time, and passed.

WIDOW OF GENERAL H. G. BERRY.

Mr. MILLER, of Pennsylvania, also reported from the Committee on Invalid Pensions a bill (S. No. 44) entitled "An act granting a pension to the widow of the late Major General Hiram G. Berry," and moved that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill was ordered to a third reading, was read the third time, and passed.

ELLEN M. WHIPPLE.

Mr. MILLER, of Pennsylvania, also reported from the Committee on Invalid Pensions a bill (S. No. 2) entitled "An act granting a pension to Ellen M. Whipple, widow of the late Major General Amiel W. Whipple," and moved that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill was ordered to a third reading, was read the third time, and passed.

COMMERCE AND NAVIGATION.

Mr. ELIOT. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of bill S. No. 310, entitled "An act for the promotion of commerce and the improvement of navigation."

Mr. WASHBURN, of Illinois. I hope that the gentleman will not press that motion. The bill simply provides for the purchase of some old maps and charts.

Mr. ELIOT. It is a very good bill, and it contemplates the purchase of no old maps or charts.

The motion was not agreed to.

COMMUNICATION WITH NEW MEXICO, ETC.

Mr. RICE, of Maine, reported from the Committee on Territories House joint resolution to facilitate communication with the Territories of New Mexico, Arizona, and Colorado, with an amendment in the nature of a substitute, and moved that the House proceed to the consideration of the joint resolution.

Mr. PRICE. I object.

Mr. RICE, of Maine. I move to suspend the rules for the purpose indicated.

The House divided; and there were—ayes 68, noes 24.

So (more than two thirds voting in the affirmative) the rules were suspended.

The question recurred on the substitute, and it was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time; and being

engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 547, for the relief of Jean M. Lander, widow of F. W. Lander, deceased; when the Speaker signed the same.

INDIAN APPROPRIATION BILL.

Mr. KASSON. I submit the following privileged report.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th June, 1866, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

1. That the House do agree to the first, second, third, fourth, fifth, eighth, ninth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, and sixteenth amendments of the Senate.

2. That the Senate recede from their tenth amendment.

3. That the House agree to the sixth amendment of the Senate with the following amendments: strike out the words "insurance and" where they first occur in said amendment, and add after the word "cents" wherever it occurs, the words "or so much thereof as shall be necessary."

To the seventh amendment of the Senate with the following amendment: strike out the words "this amount to supply a deficiency in."

To the seventeenth amendment of the Senate with the following amendments: insert in the eleventh line of said amendment after the word "Mississippi," the words "bands of Chippewas;" at the end of the thirteenth paragraph relating to the Chippewas, insert the words "or so much thereof as shall be necessary;" in the first line of the fifteenth paragraph strike out the words "eleven hundred;" in the fourth line of the same paragraph, after the word "at" insert the words "a rate not exceeding;" at the end of the same paragraph insert the words "or so much thereof as shall be necessary;" in the third line of the sixteenth paragraph after the word "at" insert the words "a rate not exceeding;" and at the end of the same paragraph add the words "or so much thereof as shall be necessary;" in the third, fourth, and fifth lines of the seventeenth paragraph strike out the following words: "being four hundred and thirty-five thousand six hundred pounds of pork and flour in packages," and insert in lieu thereof the words "at a rate not exceeding;" and at the end of the same paragraph add the words "or so much thereof as shall be necessary."

To the section relating to the payment in coin, with an amendment so that it will read as follows: "And he it further enacted, That the Secretary of the Treasury is authorized to pay in coin such of the annuities as by the terms of any treaty of the United States with any Indian tribe are required to be paid in coin."

To the section relating to the Stockbridge-Munsee tribe of Indians with the following amendment: insert after the words "subject to all duties" the words "and liabilities to taxation," and by adding to the title, "and for other purposes."

J. R. DOOLITTLE,  
JAMES HARLAN,  
JOHN CONNESS,

Managers on the part of the Senate.

JOHN A. KASSON,  
JOHN R. MCBRIDE,  
C. A. ELDRIDGE,

Managers on the part of the House.

Mr. KASSON. Mr. Speaker, it will be remembered that last night the amendments of the Senate were not in point of fact read to the House, owing to the short time left for action, and I ask, therefore, the attention of the House, that its better judgment may be passed upon the action the conferees have seen it their duty to take on the amendments of the Senate.

The first amendment of the Senate proposes a small sum, between four and five thousand dollars, for the Omaha band of Indians, to continue their saw-mill and appurtenances in operation, the same amount formerly provided by treaty; but the last installment under the treaty having expired, to prevent its going to ruin, and for the care a white man alone can give, the appropriation is made for this year.

The second amendment appropriates about six thousand dollars to the Indians therein named, being a balance of the proceeds of the sale of trust lands belonging to these Indians sold by order of Congress by an Indian agent, who paid over to the United States all the proceeds except these six thousand dollars, which he retains in his hands still, on some claim of having a counter claim against the Government. The liability

of the Government is admitted, but they have neglected to prosecute him to get the funds from his hands. The provision of law is ample, and it is the duty of the executive officers to prosecute.

The third amendment is simply a correction of figures, and reduces "eight" to "three" as the amount of interest on certain Indian funds.

The fourth appropriates some eight hundred dollars of a balance due some claimants for property taken from the Rogue River Indians. This amount was settled by a commission several years ago, the award fixed and reported, but it has only been paid in part. The portion remaining unpaid was always tied on to an appropriation for war damages, which was always rejected. It is proposed to adjust the claim now.

The fifth amendment provides a large amount, some sixty-four thousand dollars, to cover an amount paid for Indian annuities to replace annuity goods consumed by fire in their transit across the plains, and on a steamer. These goods were all insured; and the same amendment provides that the insurance money, when collected, shall be paid into the Treasury.

The sixth amendment is to pay for the insurance and transportation of annuities to the Flat-heads, under treaty stipulations.

The seventh amendment provides for installments omitted in the bill of the House, and called for by the treaty of 1863, with the Red Lake and Pembina Chippewas.

The eighth amendment also provides for an amount due a band of western Shoshonees. The appropriation was called for by treaty, and was omitted in the bill of the House.

The ninth amendment restores the appropriation for miltch and beef cattle for the California Indians as originally proposed by the House, and being the same amount as that paid last year and for years before.

The tenth amendment strikes out \$60,000 appropriated by the Senate to satisfy the claims of settlers upon reservations in California.

The eleventh amendment restores the appropriation for Oregon and Washington for subsistence and removal of Indians, in order to prevent disturbance on the part of the Indians.

The twelfth is a mere verbal correction.

The thirteenth is a proviso authorizing the expenditure of a part of the appropriation for the California Indians, for purchasing wool and other raw materials for the Indians to manufacture. It is not a new appropriation.

The fourteenth prescribes the Indian reservation in Arizona by drawing a line between two points, and confines the Indians within the reservation. It also appropriates \$12,900 for a deficiency in the expenditure for the Indians of Arizona. This amount was paid by the Indian agent in Arizona at a time when the Indians were about to break out into war. It was appropriated upon the spot in order to satisfy them and prevent an outbreak. It had that effect. At that time the present member from Arizona was in the Territory. The transaction was immediately reported to the Indian department and the act was approved by them.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had agreed to the report of the committee of conference upon the bill (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes," approved June 30, 1864.

Also, that the Senate had disagreed to the House amendments to the Senate amendments to the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants.

OFFICERS' SERVANTS.

Mr. SCHENCK. The Senate having disagreed to the amendments of the House to the amendments of the Senate to the joint resolution (H. R. No. 170) declaring and defining the meaning of the law in regard to officers' servants, I move that the House insist upon the amendments of the House disagreed to by the Senate, and ask a committee of conference.

The motion was agreed to.



The SPEAKER subsequently appointed Mr. GARFIELD, Mr. ODELL, and Mr. SCOFFIELD as such committee upon the part of the House.

#### INDIAN APPROPRIATION BILL—AGAIN.

Mr. KASSON. The fifteenth amendment provides for the formation of a new treaty with the Blackfeet Indians in order to induce them to abandon their reservation south of the Missouri river. That reservation covers a large part of the country destined probably to be the principal route to the Territories of Montana and Idaho. It is a valuable mineral region which it is considered desirable to secure to the white man at as early a period as it can be done. The appropriation is only \$15,000.

The sixteenth amendment is an appropriation to pay the Yanton-Sioux for property taken from them by our troops, and for the formation of a new treaty with the hostile Sioux. The appropriation for the Yanton-Sioux is to pay for property taken directly from them during the passage of our troops through their country, and for the shocking wrongs committed upon them. It is to replace to them the cattle, produce, and other property of which they were robbed.

The seventeenth amendment, and the last one of the Senate, arises mainly out of a new treaty approved by the Senate during the present session with the Chippewas of Mississippi, the Pillagers, and the Lake Winnebagoish Indians. The amendment appropriates the amount called for by that treaty.

These constitute the principal part of that class of amendments; but the Senate have further made an additional appropriation to which I wish to call the attention of the House.

Just before the outbreak of the rebellion there had been an arrangement made by law, or by treaty, with the Choctaws, for the payment of \$500,000 to them on account, and without a formal settlement of the claims they had against the United States. Of that amount thus appropriated \$250,000 was to be paid in money, and \$250,000 in bonds of the United States. This was in 1860. At that time, as is well known, they of the South who were preparing for the rebellion had the control, to a great extent, of the Government in Washington. They got hold of the \$250,000 in money and used it with the Indians to induce them to cooperate with them in their rebellion against the United States. That sum, therefore, went out of the Treasury. The \$250,000 in bonds could not be printed in time, and was not issued from the Treasury. The law, however, remained in force. The Senate proposes now to add to this bill that this \$250,000, instead of being issued in bonds, shall be paid in money for the benefit of those Indians who have remained loyal to the United States and who are now sought to be concentrated in Kansas, or in the Indian Territory near Kansas. There are sixteen thousand of these Indians in terrible destitution, having been driven by the combined forces of the white rebels and of the Indian rebels from their lands and territories. They are on the point of starvation. The testimony on that point certainly appeals to every member of both branches of Congress, and shows that they should be provided for, either by an explicit appropriation from the Treasury of the United States, or by the diversion of this \$250,000 in bonds, substituting money for it, and paying it for the care and protection of these Indians. I believe that explains that amendment.

The Senate has also added a section to the bill authorizing the Secretary of War, for the balance of this fiscal year, to provide from the quartermaster's and commissary departments sufficient to keep these Indians from present suffering. The information given to the Senate is that the \$250,000 will barely cover the amount already expended and be sufficient to carry them until the appropriation for the next fiscal year takes effect.

Now, unless there are some further questions to be asked, I will, in order to enable the clerks to get to work on this bill, either now, or after further action, move the previous question.

The previous question was seconded, and the main question ordered; and under its operation the report of the conference committee was agreed to.

Mr. KASSON moved to reconsider the vote by which the report of the conference committee was

agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADMISSION OF LADIES.

Mr. PENDLETON. I move that the rules be suspended in order that the doors may be opened for the admission of ladies of the families of members. They are not able to get seats in the galleries.

Mr. GANSON. I suggest that all ladies be admitted.

Mr. PENDLETON. Certainly. The rules were suspended, and ladies were admitted to seats on the floor.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled a bill (H. R. No. 51) to establish a Bureau for the Relief of Freedmen and Refugees; when the Speaker signed the same.

#### EMPLOYÉS OF THE HOUSE.

Mr. PENDLETON asked unanimous consent to offer the following resolution:

Resolved, That the Clerk of the House be, and is hereby, directed to execute the resolutions of the House of July 4, 1864, for the payment of certain allowances therein named to the officers, clerks, and other employés of the House, and the reporters of the Congressional Globe, including the employés of the Congressional Library, applying thereto so much of the addition made to the contingent fund of the House in the bill for legislative and other expenses, approved March 2, 1865, as may be required for that purpose.

Mr. HOLMAN. I object.

Mr. PENDLETON. I move to suspend the rules to enable me to offer the resolution.

Mr. WASHBURN, of Illinois, called for tellers on the motion to suspend the rules.

Mr. PIKE called for tellers on ordering the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The rules were suspended, (more than two thirds voting therefor,) and the resolution was introduced.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 43, not voting 51; as follows:

YEAS—Messrs. James C. Allen, Ancona, Baily, Bliss, Blow, Boyd, James S. Brown, Coffroth, Cox, Craven, Dawson, Denison, Driggs, Eckley, Eden, Edgerton, Eldridge, Eliot, English, Farnsworth, Ganson, Grider, Griswold, Herrick, Hooper, Asahel W. Hubbard, Hutchins, Philip Johnson, William Johnson, Kalbfleisch, Francis W. Kellogg, King, Knapp, Law, Le Blond, Loan, Long, Longyear, Marey, Marvin, McAllister, McBride, McClurg, Middleton, Moorhead, James R. Morris, Morrison, Leonard Myers, Nelson, Noble, Odell, Charles O'Neill, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, William H. Randall, Rogers, James S. Rollins, Ross, Schenck, Scott, Shannon, Smith, Smithers, Spaulding, John B. Steele, Stevens, Stiles, Strouse, Stuart, Sweet, Thayer, Townsend, Van Valkenburgh, Ward, Webster, Whaley, Wheeler, Chilton A. White, Joseph W. White, Williams, Wilder, Winfield, Woodbridge, Worthington, and Yeaman—88.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Brandegee, Ambrose W. Clark, Freeman Clarke, Cobb, Dawes, Deming, Finck, Grinnell, Hale, Harding, Higby, John H. Hubbard, Hubbard, Ingersoll, Kasson, Orlando Kellogg, Kernan, Littlejohn, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Orth, Perham, Pike, Pomeroy, Price, John H. Rice, Edward H. Rollins, Sloan, Upson, Elihu B. Washburne, and William B. Washburn—43.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blair, Brooks, Broome, William G. Brown, Chandler, Clay, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dixon, Donnelly, Dumont, Frank, Garfield, Gooch, Hall, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hotchkiss, Jencks, Julian, Keller, Knox, Lazarus, Mallory, McDowell, McIndoe, McKinney, William H. Miller, Norton, Patterson, Pruyn, Alexander H. Rice, Robinson, Scofield, Starr, William G. Steele, Thomas, Tracy, Voorhees, Wadsworth, Wilson, Windom, Benjamin Wood, and Fernando Wood—51.

So the resolution was agreed to.

Mr. PENDLETON moved to reconsider the vote last taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### STENOGRAPHER TO COMMITTEE.

Mr. MORRILL obtained the floor.

Mr. KASSON. I ask the gentleman from Vermont to allow me to offer a resolution which is necessary for the payment of one of the officers of the House.

Mr. MORRILL. I yield for that purpose. Mr. KASSON. The resolution is as follows:

Resolved, That the compensation of the stenographer appointed under the resolution of January 5, 1865, be paid out of the contingent fund of the House.

Mr. LOAN. I object.

Mr. KASSON. I move to suspend the rules. This officer has to be paid in some way.

The question was taken; and two thirds voting in favor thereof, the rules were suspended.

The resolution was then agreed to.

Mr. KASSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INTERNAL REVENUE BILL.

Mr. MORRILL. I rise for the purpose of making a report from the committee of conference on the internal revenue bill.

Mr. WASHBURN, of Illinois. I hope we shall have order in the House while the gentleman explains the report on the most important bill of the session.

Mr. MORRILL. As the report is long, perhaps I had better make an explanation of it; and if gentlemen desire to ask any questions I will answer so far as I can. If any gentleman afterward desires the reading of the report it can be read. If that course meets the acquiescence of the House I will proceed at once to make an explanation of the doings of the committee of conference.

Mr. WASHBURN, of Illinois. I will waive the call for the reading of the report at present.

Mr. MORRILL. Upon the amendment of the House creating ten revenue agents instead of five the Senate receded. We understand that one of these revenue agents has caused to be paid to the Government more than half a million dollars, and rather than consent to diminish the number it might be better to have them increased. The Senate also recedes from the amendment in relation to clerk hire. Their proposition to give seventy cents for every one hundred names returned to this purpose would have allowed clerk hire to every assessment district throughout the United States—not allowing enough where it is most needed, and allowing something where nothing at all is required.

On the subject of crude rock-oil or petroleum a compromise was made by allowing the duty to be fixed at one dollar per barrel, the Senate receding from their proposition to allow a drawback. There is consequently to be no drawback.

There was a proviso to the clause in relation to license for peddlers, providing that foreigners among us who refuse to be naturalized and enrolled shall not be licensed. The Senate had stricken that out, but the conferees have agreed to let it stand as proposed by the House.

In relation to the question of books the Senate had stricken out the whole provision in relation to the exemption of school-books inserted by the House, and finally the whole amendment in relation to that subject was abandoned by the House conferees, believing that it is a time when we should obtain all the revenue we can, from this or any other legitimate source.

In relation to cigars, the proposition of the Senate to create two prices and two grades was abandoned, and a new proposition, as a compromise, was inserted, levying the duty on cigars at ten dollars per thousand instead of sixty cents per pound. It is believed that this will be more satisfactory when applied to all kinds of cigars than it would be if levied upon the weight, and that it will be executed with greater facility. One rate of duty is indispensable, also, in the judgment of cigar-makers, as well as experts, if we are to collect the revenue without fraud or evasion.

In relation to the one hundred and third section of the present internal revenue law, the clause which will be best remembered as having been introduced by the gentleman from Wisconsin, was rejected by the Senate and abandoned by the conferees, the subject having been treated in the tariff bill, by which tonnage duties were levied upon our shipping. As the clause now stands, the tax will be as it has been heretofore, two and a half per cent. on the gross receipts of railroads and of vessels not subject to tonnage duties.

In relation to the amendment introduced by the

gentleman from Nevada, allowing logs and certain articles to be transported without any tax, that was abandoned, and in lieu thereof the amendment is now confined solely to silver ore, it having been found that all the ores of Lake Superior, as well as elsewhere—lead, copper, and iron—would have been transported to all parts of the country free if the former proposition had remained in the bill.

In relation to the income tax, the law as it stood last year was finally agreed upon by the conferees, so far as it regards the sale of real estate. Sales of real estate which have been purchased and sold within the year are to be taxed upon the gains or profits realized upon such real estate. Otherwise, the provisions touching the income tax stand as they passed the House.

In relation to stamps, the proposition which was submitted and adopted on motion of the gentleman from Pennsylvania [Mr. THAYER] has been left undisturbed. The proposition to change somewhat the stamp duties upon loans was abandoned by the House conferees, and the stamp duties in relation thereto remain as they have been heretofore.

The tax upon cotton, I regret to say, was stricken out by the Senate. The conferees of the House, after a prolonged conference, were unable to obtain any proposition to lay a tax upon cotton without a drawback was allowed on the raw material, or with a drawback upon manufactures of cotton for exportation. If a drawback should be allowed on the raw material, the revenue would derive little benefit from the tax, and if no drawback were to be allowed on the manufactures exported, that trade would be at once destroyed.

In relation to the tax upon banks, the only change that was made in the proposition as introduced by the gentleman from Iowa [Mr. WILSON] was to extend the time from January to July, giving six months more of time for the banks to wind up.

Mr. BROOKS. I would ask the gentleman if there was any change made in regard to brokers.

Mr. MORRILL. The Senate had a proposition on that subject which we did not adopt.

Mr. BROOKS. Did the Senate put it in?

Mr. MORRILL. I so understand it; but at any rate it was stricken out. There was another proposition in relation to the circulation of State banks; that when it shall be reduced below five per cent, it shall be free from taxation. If there are any other questions which gentlemen desire to ask me in relation to other parts of the bill, I will answer them as far as I can.

Mr. GANSON. I desire to ask the gentleman from Vermont [Mr. MORRILL] how the tax upon gross receipts of vessels stands, as recommended by the committee of conference.

Mr. MORRILL. Those that are subject to tonnage duties are exempt from any charge upon their gross receipts.

Mr. GANSON. What class does that provision embrace?

Mr. MORRILL. The vast majority of all that we have.

Mr. GANSON. Does that embrace canal-boats?

Mr. MORRILL. I think it does.

Mr. KERNAN. I would ask how the conference report leaves the tax on sales.

Mr. MORRILL. That was an amendment made by the Senate, having been rejected by the House, and being abandoned by the Senate conferees it could not properly be insisted upon by us.

Mr. A. MYERS. I understood the gentleman to say that the tax upon crude petroleum is fixed at one dollar per barrel, with no drawback.

Mr. MORRILL. That is so.

Mr. A. MYERS. I think that was a very sensible committee.

Mr. ELDRIDGE. Did the conference committee agree to the amendment of the Senate in regard to taxes upon sales?

Mr. MORRILL. I have already stated that that was an amendment made by the Senate and when the proposition was before the House, it was rejected by the House. But being abandoned by the majority of the Senate conferees, of course the committee of conference could not retain it.

Mr. BROOKS. I would ask what was done with the Senate amendment respecting commis-

sioners to be appointed to examine during the recess into the whole subject of taxation.

Mr. MORRILL. It was agreed to.

Mr. BROOKS. Will the gentleman be kind enough to state what was done in regard to savings banks?

Mr. MORRILL. They are to be taxed one half of one per cent. per annum upon their deposits.

Mr. LITTLEJOHN. I would ask what has been done by the conference committee in regard to property crossing the Canadian railroads from one part of the United States to another part of the United States.

Mr. MORRILL. The proposition of the Senate was acceded to by the committee on the part of the House, by which freight or passenger tickets, fares of persons and property starting from one point in the United States for another point in the United States, and passing through a foreign territory, will be required to pay the same rate of taxation as would be paid if they should pass altogether through the United States.

Mr. ANCONA. I would ask if the conference committee agreed to the amendment of the Senate in regard to malt liquors.

Mr. MORRILL. There was no amendment by the Senate in regard to malt liquors; therefore that subject was untouched. The tax remains at one dollar per barrel.

Mr. KERNAN. Do I understand correctly the report of the conference committee to agree to a tax of one half per cent. per annum upon deposits in savings banks where they are not banks loaning money?

Mr. MORRILL. I so understand it.

Mr. KERNAN. From what time?

Mr. MORRILL. My recollection is that the tax takes effect after the 1st of May next.

Mr. KERNAN. On all savings banks?

Mr. MORRILL. I think so; I may be mistaken, and it may be from and after the 1st of April.

Mr. BROOKS. There are two sections of the bill as amended which I should like to hear read; one with reference to the tax on banks, and the other for the appointment of commissioners to examine into the system of taxation during the recess.

The Clerk read, as follows:

And be it further enacted, That the Secretary of the Treasury is hereby authorized to appoint a commission, consisting of three persons, to inquire and report at the earliest practicable moment upon the subject of raising by taxation such revenue as may be necessary in order to supply the wants of the Government, having regard to and including the sources from which such revenue should be drawn, and the best and most efficient mode of raising the same, and to report the form of a bill; and that such commission have power to inquire into the efficiency of the present and past methods of collecting the internal revenue, and to take testimony, in such manner and under such regulations as may be prescribed by the Secretary of the Treasury; and such commissioners shall receive for their services \$300 a month for the time necessarily employed, and their necessary traveling expenses.

The Clerk also read the following:

That section one hundred and ten be amended by striking out, after the words "and redemption thereof," the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking."

Mr. MORRILL demanded the previous question.

The previous question was seconded, and the main question ordered; which was upon agreeing to the report of the committee of conference.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 57, not voting 37; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blaine, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Thomas T. Davis, Dawes, Deming, Dixon, Driggs, Eckley, Eliot, Frank, Garfield, Grinnell, Griswold, Hale, Higby, Hooper, Hutchins, Asahel H. Hubbard, John H. Hubbard, Ingersoll, Jencks, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, King, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Schenck, Shannon, Sloan, Smith, Smithers, Spalding, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Wheeler, Williams, Wilder, Wilson, Windom, Worthington, and Yeaman—88.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Bliss, Brooks, James S. Brown, Chanler, Coffroth, Cox, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, English, Fink, Ganson, Harding, Harrington, Charles M. Harris, H. H. Holman, Hulburt, Hutchins, Philip Johnson, William Johnson, Kalfheisch, Kernan, Knapp, Le Blond, Littlejohn, Mallory, Marcy, McKinney, Middleton, William H. Miller, James R. Morris, Morrison, Nelson, Noble, John O'Neill, Pendleton, Perry, Pruyn, Radford, Rogers, Ross, John B. Steele, Stiles, Srouse, Stuart, Sweat, Townsend, Ward, Chilton A. White, Winfield, and Woodbridge—57.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Blair, William G. Brown, Clay, Henry Winter Davis, Donnelly, Dumont, Farnsworth, Gooch, Grider, Hall, Benjamin G. Harris, Julian, Knox, Law, Lazear, Long, McAllister, McDowell, McIndoe, Odell, Patterson, Samuel J. Randall, Robinson, James S. Rollins, Scofield, Scott, Starr, William G. Steele, Voorhees, Wadsworth, Joseph W. White, Benjamin Wood, and Fernando Wood—37.

So the report of the committee of conference was agreed to.

Mr. MORRILL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that he had approved and signed joint resolution and bills of the following titles:

Joint resolution (H. R. No. 174) to amend the joint resolution entitled "Joint resolution in relation to the public printing," approved June 23, 1860;

An act (H. R. No. 791) granting a pension to Sophia Brooke Taylor, widow of the late Major Francis Taylor;

An act (H. R. No. 774) to establish certain post roads;

An act (H. R. No. 763) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862," and to amend an act amendatory thereof, approved July 2, 1864;

An act (H. R. No. 697) further to provide for the verification of invoices;

An act (H. R. No. 556) granting a pension to Ezekiel Darling; and

An act (H. R. No. 547) for the relief of Jean M. Lander, widow of F. W. Lander, deceased.

#### THANKS TO THE SPEAKER.

Mr. COX. I offer the following resolution.

The Clerk read the resolution, as follows:

Resolved, That the thanks of this House be, and they are hereby, tendered to Hon. SCHUYLER COLFAX for the dignified, able, and courteous discharge of the duties of Speaker during the present Congress.

Mr. COX. Mr. Speaker, (Mr. DAWES being in the chair as Speaker *pro tempore*,) in this unexampled and historic time, when our country is excited by the conflict which has called us to extraordinary legislation, when the passions and throes of a great nation have found more or less of their reflection in this Hall, it has been a difficult duty which has been discharged by the Speaker. To moderate these passions, restrain the urgency, clamor, and heat of debate, and to give dignity and independence to this popular, I may say almost tumultuous, assembly, has been devolved upon the distinguished gentleman from Indiana. He has, by his courtesy, kindness, and fairness, won our personal esteem and the public regard. I propose, without formality and with earnestness, to tender to him our thanks and good will. I trust, sir, that in the future the same moderation and benignity may radiate in this House which has radiated from the Chair during the present Congress. We shall part here with unusual good feeling. I wish this feeling could pervade our whole people. In the language of the Bible, and in this presence, I would all-reverently pray that "all bitterness, and wrath, and anger, and clamor, and evil-speaking be put away from you, with all malice," and that we should "be kind one to another, tender-hearted, forgiving one another, even as God for Christ's sake hath forgiven you."

Mr. DAWSON. I ask the gentleman from Ohio to yield to me for a moment.

Mr. COX. With pleasure.

Mr. DAWSON. Mr. Speaker, the labors of this Congress are nearly concluded, and we are

about to leave these Halls. Before separating to return to our homes I agree with my friend from Ohio that it is eminently proper to render to the Speaker some acknowledgment for his habitual kindness and courtesy as the Presiding Officer of this House. At no time so critical in the history of the country have the Representatives of the people been assembled to legislate on our national concerns. Coming together in the midst of a civil war, sanguinary and exasperated beyond parallel, it was hardly to be expected that the Presiding Officer of this House, however well poised his mental and moral constitution, could be entirely free from personal bias in his official action.

I believe, sir, I but express a general sentiment when I say that the House and the Speaker have well maintained the proprieties of the place. This has not been a bitter Congress. The intercourse of members upon this floor has been kindly and genial; and the Speaker in his official action toward political friends and foes, has uniformly observed the same high urbanity, frankness, and liberality. When the Representatives of the people can meet and discuss their differences in a spirit of self-abnegation, and with moderation and candor, it assuredly affords much matter of mutual congratulation. In a body such as this, representatives of many shades of clashing opinions, unanimity would in vain be looked for; and on some points we have honestly and widely differed touching the preservation of our common country and its free institutions. It is much, however, if in our differences we can lay aside our asperities and sacrifice all personal feelings in the effort to maintain individual and party sentiments.

I trust, sir, that in returning to our constituencies, once more to commingle with and form a part of the people, we will carry with us the same kindly feelings, and lose no occasion by example and precept to inculcate that charity and forbearance, that moderation and candor, which we have seen exhibited here with such favorable results.

Would, sir, that we could also indulge the hope that ere another Congress shall assemble within these Halls the noise of the battle shall have ceased, and the messenger of peace revisited our stricken country, to exert again its benign influences, under which infancy and age may rest under the shelter of home, and vigorous manhood may resume those pursuits which ennoble humanity and scatter blessings over the land.

I believe I can say that the Speaker will bear into his retirement the friendly regards of his associates, and their hearty wishes for his personal welfare and happiness.

Mr. COX. I call for the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

#### NATIONAL CURRENCY.

Mr. HOOPER. I ask unanimous consent to take from the Speaker's table the bill of the House (No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," which has just been returned from the Senate with an amendment.

No objection being made, the bill was taken up.

The amendment of the Senate, which was read, was to strike out section two of the bill, as follows:

*And be it further enacted*, That section one of said act be so amended as to authorize, under the direction of the Secretary of the Treasury, the employment of one chief of the division of currency, one chief of the division on organization of banks, one chief of the division of general correspondence and statistics, and one chief of the division of redemption, with an annual salary of \$2,200 each; and that the annual salary of the Deputy Comptroller shall be \$3,000.

Mr. HOOPER. I move that the House concur in the amendment, and on that I demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the amendment was agreed to.

Mr. HOOPER moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NIAGARA SHIP-CANAL.

Mr. SPALDING. I ask unanimous consent to take from the Speaker's table the joint resolution of the Senate (No. 118) authorizing surveys to

be made with a view to the construction of a ship-canal around the falls of Niagara.

Mr. GANSON. I object.

Mr. SPALDING. I move to suspend the rules to enable me to make that motion.

Mr. KERNAN. As this route has already been surveyed by an engineer at the expense of the Federal Government, and a report made, why should we appropriate \$10,000 more to make another survey?

Mr. SPALDING. I call for tellers on my motion.

Tellers were ordered; and Messrs. LITTLEJOHN and GANSON were appointed.

The House divided; and the tellers reported—ayes 69, noes 46.

So the rules were not suspended, two thirds not voting in favor thereof.

#### PERSONAL EXPLANATION.

Mr. STEVENS. The other day, during the discussion on the miscellaneous appropriation bill, I made some remarks in regard to the manner of letting out the contract on the Washington aqueduct, and mentioned the name of the engineer under whom it was done. I have received a letter from the Secretary of the Interior, who desires me to say—which I do cheerfully—that he assumes the responsibility both of the payments made out of the appropriation of last session and also of the letting out of the contract. I am very glad to be able to put it upon the right shoulders.

I desire to say further that when we were discussing the matter in reference to importing images and other statutory I mentioned the name of a firm in New York as an importer of those articles. I have been reminded that that fact took place some thirty years ago, and not by any firm now in existence in New York.

#### PRINTING THE TAX BILL.

Mr. MORRILL introduced the following resolution:

*Resolved*, That under the direction of the Secretary of the Treasury twenty thousand copies of the act amending the internal revenue laws be printed as amended, with all the amendments incorporated into the text so far as the same may be practicable, and with the new sections thereto annexed.

Mr. WASHBURN, of Illinois. I move to amend the resolution by adding the words "and an index."

The amendment was agreed to.

The resolution, as amended, was referred, under the rule, to the Committee on Printing.

#### ARMY APPROPRIATION BILL.

Mr. WILSON, from the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866, reported that the committee, having met, after full and free conference had agreed to recommend, and do recommend, to their respective Houses that the Senate recede from their fourth amendment; that the House of Representatives recede from their disagreement to the second and third amendments of the Senate; that the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate and agree to the same; and that as to the first amendment of the Senate, striking out the proviso at the end of the bill, the committee were unable to agree.

The report was signed by Messrs. WILSON, HOLMAN, and DAVIS of New York, managers on the part of the House; and by Messrs. TRUMBULL, FARWELL, and POWELL, managers on the part of the Senate.

Mr. WILSON. This report is precisely the same as that submitted by the former committee of conference, except as to the first amendment of the Senate, which was to strike out the proviso adopted by the House prohibiting the payment of any money appropriated by this bill to railroad companies who had received grants of land, for the transportation of troops and property belonging to the United States. Upon that proposition, as the report states, the conferees of the two Houses were unable to agree. But they have agreed as to all the other differences between the two Houses. Therefore, inasmuch as the House has acted upon the question involved in this report, and have confirmed the report of the

committee by a very large majority, I will call the previous question upon the adoption of the report. After the report has been disposed of, I desire to make a motion in relation to the disagreement remaining between the two Houses.

The previous question was seconded, and the main question was ordered; and under the operation thereof the report of the conference committee was adopted.

Mr. WILSON moved to reconsider the vote by which the report of the committee of conference was adopted; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

Mr. WILSON. I now desire to submit a motion in relation to the remaining disagreement between the two Houses upon this bill. I move that the House recede from its disagreement to the Senate amendment, and agree to the same with an amendment, as follows:

*Provided*, That no money appropriated by this act shall be used for the purpose of paying the Illinois Central Railroad Company for the transportation of property or troops of the United States.

I desire to say in relation to this motion that the conferees—at least a majority of the conferees on the part of the House—felt themselves instructed by what they understood to be not only the uniform but the very emphatic action of the House in regard to it. We therefore concluded that it was best to submit this question to the House, first having disposed of all the other disagreeing votes, in order that the bill might not be incumbered by any more than this one provision, upon which there was disagreement.

And now, unless some gentleman desires to say something upon the subject, I propose to ask the previous question on my motion.

Mr. DAVIS, of New York. Will the gentleman yield to me?

Mr. WILSON. Certainly; I will yield to my colleague upon the conference committee.

Mr. DAVIS, of New York. I have no personal interest, Mr. Speaker, in the question which has arisen upon the report of the committee of conference on which I had the honor to act.

But I have an interest in demanding the exercise of justice by my Government as well toward corporations as individuals, and I stand here now to demand justice for the corporation which has been assailed and traduced upon this floor.

The honorable gentleman of the committee of conference who preceded me [Mr. WILSON] stated that there had been a very emphatic expression of the House against the proposition to allow to the Illinois Central Railroad Company any compensation for the transportation over their road of any troops or munitions of war for the Government; but let me say to him that no full and fair expression of the intelligent judgment of the House was permitted by the honorable gentleman from Illinois, [Mr. WASHBURN,] who, after a bitter and vindictive attack upon the corporation, moved the previous question, so as to shut out debate and prevent a judgment upon the facts of the case.

I wish, Mr. Speaker, to discuss this question upon its merits. I wish to look a little at the other side of it, and not to be misled by appeals to our passions, based upon resentment or prejudice. I do not believe that the action proposed by the House in their former vote would be right, equitable, or honest; or that it would be supported by the judgment of any fair-minded or just man in the country when the real facts and merits of the question shall be understood.

It has been asserted by the honorable gentleman from Illinois, [Mr. WASHBURN,] I need not say upon the ground of personal prejudice or feelings, that the Illinois Central Railroad Company is a corrupt and pampered corporation. He says that it received from this Government a valuable gratuity, and that it is bound to perform, under the conditions of the grant which it accepted, that very service for which it now asks compensation at the hands of Congress.

Now I admit that the gratuity of this Government to the State of Illinois in behalf of the Illinois Central railroad was a munificent one. But let me tell the gentleman from Illinois [Mr. WASHBURN] that this Government has made millions, ay, untold millions, by the construction of that road. We gave lands which could not be sold for twenty-five cents an acre to aid in the con-



struction of the road on the line running from the northern to the southern portion of that State. In that grant we provided that the alternate sections reserved to the Government should be sold for \$2 50 per acre, and not for less. And now, instead of getting twenty-five cents per acre for its lands, the Government received \$2 50 an acre for every acre it sold after this grant on this line, thus making all the land which was worth but twenty-five cents an acre to the Government worth at least \$1 25 per acre.

More than this, sir; the construction of this road has developed the country, added to its wealth, to its productiveness, to its settlement, and to its capacity, in this hour of national trial and of pressing indebtedness, to bear its full proportion of national and State taxation. I suggest to the honorable gentleman [Mr. WASHBURN] to contrast the condition of his State when the grant of lands to secure the construction of this road was made by the Federal Government with its condition to-day.

The State of Illinois has grown rich, immensely rich, by reason of this gratuity of the Government, through which she was enabled to construct this great railway from her northern limit to her southern boundary. She has converted an immense wilderness into fertile fields, and a desert into countless towns and villages. This corporation, which the honorable gentleman [Mr. WASHBURN] calls an odious monopoly, has actually returned to the people of the United States, to the Federal Government, fivefold for every dollar which the Government has granted it. I will not then stand here silent when any gentleman, swollen with personal prejudice, undertakes to register the judgment of this House against this company. I will defend the right; I will demand justice.

The honorable gentleman from Illinois [Mr. WASHBURN] presents his bill of indictment against the Illinois Central Railroad Company, and urges against it the heinous crime of being a foreign corporation; and by way of explanation he alleges that its bonds and stock are largely held by British subjects and men who are hostile to this country.

I admit that the capital employed in the construction of this great improvement was largely foreign and British capital, and that British subjects to-day are extensive owners of its stock and its bonds. But I deny that the eminent gentlemen abroad who have thus contributed to the development of our western States are the enemies of our country. Cobden and Bright are not names to be thus arrayed in hostility to our free Government and institutions.

This charge comes with no air of grace from the Representative of a State which owes its wealth, its productiveness, its power, to the beneficent influence of capital from Europe, which constructed the canals of Illinois, which built its extended system of railway communication, and which was invested there only because our own capitalists of New York and New England, by their influence and coöperation, gave credit to western enterprise.

No State owes to foreign capital a weightier debt of gratitude than the State of Illinois, which, in the absence of this power, thus wantonly assailed, would to-day remain a desert, and my honorable friend from the Galena district [Mr. WASHBURN] would not have been a Representative upon this floor, because there would have been nobody there to be represented.

Mr. Speaker, I cannot agree to the proposition which has been asserted here, that the Illinois Central Railroad Company has failed fully and honorably to meet the obligations imposed upon it by the acceptance of the grant given by the Government to aid it.

In my judgment it has done for the nation and the State all that it promised to do—all that it was bound to do by law.

And when I speak of the law I am not to be told that I am to be bound by what Congress says is the law; not by declaratory statutes; nor by anything except the adjudication by the constitutional tribunals of the law of any question arising upon a statute of Congress. Congress may make a law, but it can neither interpret it judicially nor execute it physically. It has passed laws which, under and in violation of the Constitution, had not the force of law in any court of equity or con-

science under heaven, and thus would it be with any legislation which, in derogation of rights determined by the original grant, shall attempt to deprive this corporation of a fair remuneration for the service rendered to the Government.

History affords sometimes a fair construction to legislative enactments.

In 1822 the Government first gave to the State of Illinois a grant of land to aid in the construction of a canal from Chicago to the Illinois river, substantially on the line now occupied by the Illinois Central railroad for a long distance. This grant, let me say, was for a canal to be constructed by the State as an avenue of commercial communication for the public, but on which no one pretended or supposed that the State would ever construct or own one single boat for the purpose of general transportation. It was an avenue to be open to such vessels as should be placed upon it for commercial purposes by private companies or private citizens; and in respect to all boats or vessels thus employed the State reserved and held the right to impose tolls.

In this grant the Federal Government provided that the canal to be constructed should be a highway of the United States for the transportation of troops and munitions of war, without toll or other charge thereon. Did this mean that the State should furnish the canal-boats or other conveniences for the carriage of troops and munitions? By no means; nobody dreamed of such a construction. It meant only that the Government should have the easement, and that no tolls or charges should be made on such boats or vessels as the Government should charter or furnish for the transportation of troops and munitions.

The canal was not built, as contemplated by the grant of 1822; and in 1826, I think it was, the Federal Government authorized the appropriation of these lands for the purpose of constructing a railroad instead of a canal; and in that grant, the same, and only the same privileges are reserved to the Government as they would have been entitled to if the canal had been constructed instead of the railroad.

It is evident to me that this was a reservation of an easement or right of passage, free of tolls or other charge for the easement, and not upon transportation over the easement.

The mails would of course seek the expeditious line of a railway rather than the tedious transportation of a canal, and for this reason: the act authorizing the change of construction from a canal to a railroad provides that there shall be paid over the railroad, when constructed, for the transportation of the mails, such compensation as shall be allowed by law.

In times of peace no troops or munitions of war would seek for transportation over the line; the Government would have no cars, no agents, no other instrumentalities for this purpose; but the mails must still be carried, and the railroad company could easily furnish the facility for transportation. The transportation would be over a free road-bed, but not on the cars of the Government, and therefore compensation was to be paid as Congress should decide to be just. Certainly, if the transportation of vast armies, and the immense aggregate of munitions, was to be without charge, no allusion whatever would have been made to the payment of mail transportation, which, in comparison with the other, was entirely insignificant.

As matter of history, the canal was not built as contemplated; the railroad was not constructed in lieu thereof, as authorized; and in 1839 Congress bestowed upon the State of Illinois the three million acres of public land which have given rise to so much of development at home and to so much of criticism here. And yet in this same grant the same terms of reservation and privilege are contained as are found in the act of 1822 authorizing a canal, over which it was never pretended that anything more than an easement was granted.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 443) to incorporate the Freedmen's Savings and Trust Company;

An act (S. No. 44) granting a pension to the widow of the late Major General Hiram G. Berry;

An act (S. No. 122) for the relief of Mary A.

Baker, widow of Brigadier General Edward D. Baker;

An act (S. No. 2) granting a pension to Ellen M. Whipple, widow of the late Major General A. W. Whipple, of the United States Army;

An act (S. No. 171) further to amend an act entitled "An act for the collection of direct taxes in the insurrectionary districts within the United States, and for other purposes," approved June 7, 1862;

An act (S. No. 411) to amend an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia;" and

An act relating to the postal laws.

#### APPROPRIATION BILL—AGAIN.

Mr. DAVIS, of New York. It has, Mr. Speaker, been asserted time and again that this corporation is, by the terms of the grant to it, the effect of which I have stated, bound to furnish not only road-bed and track, but cars, locomotive power, fuel, engineers, and men, and all other facilities for the transportation of all the troops and military stores which may be offered by the Government for transportation.

I submit in all fairness, in all candor, in all equity, that such a construction is a gross denial of justice. Years and years ago, when this grant was given and accepted, and when Congress imposed the condition of transporting troops and munitions of war in time of war, neither the party imposing nor the party accepting the condition had in view any such condition of things as now exists or as has existed since 1861. Each acted in respect to the requisitions made upon the resources of the country in the wars which were a part of the history of the country—wars which called for a few thousand men and the transport of a limited amount of stores and munitions. The contract is now sought to be applied to conditions and circumstances not existing, not anticipated by either contracting party at the time of the contract, not in the mind of either, affecting the understanding, will, or judgment of the parties.

Mr. PIKE. Did not the parties to this contract contemplate the existence of war?

Mr. DAVIS, of New York. Yes, of such wars as we had known and in which we had participated; but not of a rebellion which had disturbed the quiet and pursuits of the whole country; which had called almost every able-bodied man to the field, and had tasked the capacity of every railroad for the transportation of thousands of troops and an incalculable amount of warlike munitions and material.

The demand upon the Illinois Central railroad has, I am assured, been so great as to exhaust at times all its rolling stock and incapacitate it from doing any portion of the ordinary business of the country through which it passes; not only has it taken all the rolling stock for the uses of the Government, but the War Department have found it necessary to seize upon the rolling stock of other roads and place it upon the line of this abused corporation.

The Chicago and Northwestern railway has thus been visited with a heavy hand, and the Chicago, Iowa, and Nebraska railroad, of which I happen to be a director, has, I am told, one hundred of its cars now used by the Government upon the Illinois Central. For six weeks together the cars laden with Army stores transported over the road for the Government have filled up fifteen miles of side tracks and turn-outs, because the Government could find no means of shipping the immense accumulation from the terminus of the road nor any room for their storage.

It is idle, it is childish, to say that any such service was ever contemplated by the party making or the party receiving the grant, and a court of equity, in my judgment, would hold that the contract must be interpreted in reference to things existing, contemplated, and understood at its execution by both parties, and not in reference to conditions and exigencies not contemplated or dreamed of by either.

Now, Mr. Speaker, I submit to this House whether we can justly, fairly, or equitably, refuse this company a remuneration for the essential service which it has rendered to the country—a service entirely beyond anything ever contemplated, and requiring for its performance an amount of equipment and power largely in excess of anything demanded for the performance of the

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business incident to its line in time of peace. Every other road, every other land-grant road, has been paid. Why should this road alone suffer for our injustice?

Mr. SLOAN. Has this railroad company ever transported any freight for the Government free of charge?

Mr. DAVIS, of New York. I do not know that it has; and according to my view of the case it was not bound to do so. The grant created an easement over the line for public transportation, free of tolls on the easement, but subject to charge for the motive power and vehicles for the transportation.

This is the construction which at all times before this has been placed upon it by the Departments of the Government and their legal advisers. It is the just view of the case now, and Congress can never, whatever its action may be, legislate away the inherent equities of the Illinois Central Railroad Company to just compensation.

It is no argument to say that this corporation has made money on its whole business. The honorable member from Illinois tells us that the receipts of the company have been enormous. He unfortunately neglected to say that their expenses were enormous also, approaching fearfully to the entire income.

The expenses of all railroads in these times are increasing rapidly on their gross receipts, and I learn that for the last six or twelve months the running expenses of the New York Central were eighty per cent. of the gross earnings. The Government allows to the Illinois Central railroad but sixty-six and two thirds per cent. of the ordinary prices for transportation, reserving thirty-three and one third for the use of the easement on road-bed. It receives less for its service by one third than other railroads. It seems to me the height of injustice to say that this Government will not allow it a remuneration for this service.

Mr. Speaker, I have occupied the floor by the courtesy of the honorable member from Iowa, [Mr. WILSON,] and although there are points to which I desired to allude in connection with the question before the House, I can no longer claim the indulgence of my friend, [Mr. WILSON,] but yield to him that he may, if he desires, call the previous question.

## MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. NICOLAY, his Private Secretary, announced that he had approved and signed bills of the following titles:

An act (H. R. No. 707) to provide for the publication of the Opinions of the Attorneys General of the United States;

An act (H. R. No. 51) to establish a Bureau for the Relief of Freedmen and Refugees; and

An act (H. R. No. 738) to regulate the fees of custom-house officers on the northern, north-eastern, and northwestern frontiers of the United States.

## ARMY APPROPRIATION BILL—AGAIN.

Mr. FARNSWORTH. I suppose that the House very well understands the provisions of the charter of the Illinois Central Railroad Company under which the Government retained an easement over the road for the transportation of troops and munitions of war free of charge. When this war broke out, and it became necessary for the Government to transport large bodies of troops and vast quantities of munitions of war and supplies over the Illinois Central railroad, the question was raised and presented to the War Department whether that company was entitled to pay for such transportation. The President, the Secretary of War, and the Attorney General of the United States, to whom this question was submitted, came to the deliberate conclusion that, inasmuch as the company furnish the rolling stock, the men to run the engines and the cars, &c., it was entitled to pay for the transportation of troops and munitions of war. It is now proposed to appeal from the decision of the Presi-

dent, the Secretary of War, and the law officer of the Government, to the House of Representatives.

It will be recollected, too, by gentlemen who have examined the charter of this company, that Congress provided, in the act granting these lands to the Illinois Central Railroad Company, that for the transportation of the mails of the United States the company should receive such compensation as should be provided by law. Now, can it be supposed for one moment that while the act reserved to the company the right to receive pay for the transportation of the mails of the Government, it was intended that they should never receive any pay for the transportation of these immense quantities of supplies and munitions of war, and these vast bodies of troops, the transportation of which has at times monopolized all the rolling stock upon that road? Why, sir, such a proposition, it strikes me, is absurd upon its face.

The decision arrived at by the Attorney General and the Secretary of War, and the contract made by them with this company, was that the company should receive two thirds of its ordinary tariff for like transportation. Thus the Government reserves thirty-three and one third per cent. for the use of the road; and any man who knows anything about railroads will tell you that thirty-three and one third per cent. is a very large estimate for the use of a railroad.

I am very sorry to differ with my colleague from the Galena district [Mr. WASHBURN] who lives at the northern terminus of this road. I do not ordinarily differ with him upon questions of this character. It seems to me that he must have some feeling of personal spite against this company. I should judge from his *ad captandum* remarks about its charges for way travel that he must be influenced by some feeling of private malice. Sir, what bearing have such considerations upon this great question between the Government of the United States and the Illinois Central Railroad Company? He says that this is a rich company. That may be true; but, sir, this question is to be decided on the principles of justice, not by the consideration as to whether this is a prosperous and a rich company. If a man grows rich, and does it honestly, is that any reason why we should rob him? Are you to rob a railroad because it is prosperous?

The State of Illinois has grown prosperous and rich through this railroad company, as has already been stated by the gentleman from New York, [Mr. DAVIS.] This railroad has developed every section of that State. It has opened to settlement, by a rich and flourishing population, the vast regions of the State of Illinois which were before nothing but a vast and deserted prairie. The State of Illinois has prospered by the prosperity of this railroad. The whole Government partakes and participates in this prosperity. Your grant to that railroad company was predicated upon the ground that it would enhance the value of the alternate sections reserved for the Government, and they were put up to twenty shillings instead of ten. Every acre of these lands has been sold long ago for double the price that the Government had been receiving, and that money has gone into the coffers of the Government. It has received upon the lands that it had reserved the full value of the lands that it had reserved and the lands that it had granted. I say to the House that it would be money in the pockets of the railroad company if they had purchased the lands and built the road.

This railroad pays seven per cent. on its gross earnings to the State of Illinois; it pays its taxes to the General Government; the whole country is prospering and growing rich in consequence of this railroad company. I hope this House will refuse to agree to this proposed amendment of the committee, or rather of the committee on the part of the House. I hope that the House will recede from their amendment. I am satisfied from a careful examination of the matter from first to last that it is the just and proper thing, that it is the equitable and legal thing, for us to do.

Mr. WILSON resumed the floor.

Mr. WASHBURN, of Illinois. I ask the gentleman to yield to me.

Mr. WILSON. I yield to the gentleman for five minutes.

Mr. WASHBURN, of Illinois. Mr. Speaker, I would not have troubled the House with a single remark on this question had it not been for the remarks of the gentleman from New York, [Mr. DAVIS.] I have observed here that whenever you touch a railroad, you touch my friend like a torpedo, and he goes off; he explodes. He has repeated to-night what has so often been said before. If a gentleman interposes here to save the money of the people in the Treasury, his influence is sought to be impaired by attributing reasons and motives which have no foundation in fact. However this may apply to individuals, I do not know how it can apply to a corporation like the Illinois Central Railroad Company, which has no soul.

My friend from Illinois [Mr. FARNSWORTH] alludes to my having some grievance. I have no grievance except the grievance of having \$1,500,000 taken from the Treasury and put into the pockets of this foreign railroad corporation, against law and against right.

The question is here to-night whether this House is to stultify itself. It has unanimously more than once decided that this company had no right to make this "grab" upon the Treasury. We decided it the other night on the proposition of the gentleman from Iowa, [Mr. WILSON.]

Mr. FARNSWORTH. Not unanimously.

Mr. WASHBURN, of Illinois. It decided unanimously in adopting at the last Congress the report of the gentleman from Indiana, (Mr. Porter,) which in express terms took the ground taken at this Congress. If my colleague had been as well posted as I am on this question he would have known what I said to be true.

Sir, I say that it is a question whether we are to stultify ourselves; whether, after having decided unanimously that this company should not be paid, within three weeks we will vote to pay this money to them.

The people must look with amazement at the power of this railroad company in Congress, when it can come here and in three weeks reverse all our action and say to the country the Army bill shall not pass if it shall be prevented from obtaining this gratuity, which our constituents, now groaning under taxation, must pay. No, sir, the Army bill is to be delayed in its passage to provide for the Illinois Central Railroad Company. The bronzed and brave veterans, who have carried the eagles of the Republic over half the nation in triumph and glory, cannot be paid by this Army bill until we shall pay tribute to these British bondholders.

Sir, I do not wish to take up the time of the House. I cannot believe, and will not believe until I see the vote recorded, that we are prepared now to reverse all that we have said on the record and vote this amount of money into the hands of the Illinois Central Railroad Company, when our soldiers are not paid and when their families at home are suffering. I said the other day when I spoke on this question that I would not argue the legal point because the House had precluded me on that subject, and I showed further that so far as the equities of the case were concerned the company had no equity; and now, thanking the gentleman from Iowa, I will detain the House no longer.

Mr. WILSON resumed the floor.

Mr. J. C. ALLEN. I ask the gentleman to yield me five minutes.

Mr. WILSON. I am satisfied the House do not desire that I yield any further.

The SPEAKER. The gentleman will state whether he yields the floor or not.

Mr. WILSON. Well, I think I ought to yield five minutes to the gentleman from Illinois, and I will do so.

Mr. J. C. ALLEN. I shall not detain the House long by any remarks I propose to make. My colleague from the Galena district seems to be

somewhat excited on this subject. I do not propose to answer all the points he has made in his argument, but simply to refer to them. His first position is that we are defeating the Army bill by insisting that this railroad ought to be paid for transporting the troops and Government property over their line, and second that by so paying the Central Railroad Company we are aiding the rebels in Canada to make raids upon our people. Now I have no answer to make to such arguments as that; they are mere appeals to men's prejudices. I must be permitted, however, to say a word in relation to the allusions which he makes on every occasion to the foreign bondholders who control the Central railroad stock. In answer to that I have simply to say that foreign capitalists, when we were poor and unable to build this railroad, stepped in and supplied the means to make the track, to put the rails upon it, and to furnish the rolling stock. They did it expecting of course to be remunerated for their expenditure, and I have no quarrel with them, nor ought my colleague to have, inasmuch as they came to our assistance when our people were unable to raise a dollar for carrying on this work.

But, sir, I arose more for the purpose of calling the attention of the House to the character of the amendment which it is now proposed to put into this bill. The Illinois Central railroad being a land-grant railroad is to receive nothing for transporting the Government troops over their line, while other land-grant railroads are. Why this discrimination between this road and other roads? Why not apply this rule to all other roads that have received land grants and have gone into operation and are engaged in business? There is but one answer you can make, and that is that the Illinois Central road is a rich corporation and can bear it. Well, I am not prepared to say whether they can bear it or not. I know they have expended vast amounts of money. I know that the road-bed cost a large amount of money; and it cost a large amount to put upon it the rolling stock and to build the depots. They invested \$12,000,000 in rolling stock alone. After having done that it is proposed that we shall use their road and their rolling stock without a cent of compensation from the Government.

Mr. WILSON. The action of this branch of Congress upon this question has been too consistently uniform during the Thirty-Seventh as well as the Thirty-Eighth Congress, for me to attempt to argue the question in dispute in the House at this time. I shall not therefore do it. During the Thirty-Seventh Congress this question was presented by one if not two of the Missouri railroads which had received grants of land upon the same terms as those of the Illinois Central road. Congress, in both Houses, declined at that time to agree to the construction which the gentleman from New York [Mr. DAVIS] seeks now to have this House adopt. They expressly refused to recognize that construction. On three other occasions during that Congress this House affirmed and reaffirmed that position, and on two occasions during this Congress this House has done the same thing. I therefore shall not occupy the time of the House in endeavoring to show that our action should continue in that direction.

There is one thing further that I desire every member to be apprised of, and that is this, that the Illinois Central Railroad Company has never carried the troops or property of the United States, either in time of peace or time of war, without charging therefor. They have always charged and received compensation. And inasmuch as the reduction of rates has been referred to, I wish to call the attention of the House to the fact that the various railroad companies of the United States, as I am informed by gentlemen who are well versed in railroad matters, agreed last winter to deduct thirty-three and a third per cent. in favor of the Government. Roads which never received any land grants, or any other gratuity whatever from the Government, deduct the same amount that is now said to be such a magnificent concession upon the part of this Illinois Central Railroad Company.

Mr. DAVIS, of New York. The gentleman makes the allegation that other roads have agreed to carry for the Government at a reduction of thirty-three and a third per cent. from their regular prices. I undertake to say that the Govern-

ment have deducted from the Illinois Central Railroad Company thirty-three and a third per cent. from the prices which they have paid to every other road.

Mr. WILSON. By an order issued from the War Department in 1861, that was true. But I am informed that the companies to which I have referred, during the last winter took this action in a convention held by the representatives of the various railroad companies of the country, by which they proposed to deduct thirty-three and a third per cent. from their charges in favor of the Government. This company never has done it in time of peace or in time of war.

Mr. WOODBRIDGE. I would ask the gentleman if the Illinois Central railroad prior to the rebellion transported materials for the Government, and charged, and received pay therefor.

Mr. WILSON. They did, and they received compensation therefor.

Mr. WOODBRIDGE. Was that prior or subsequent to the rebellion?

Mr. WILSON. It was prior to the rebellion, and during a time of peace.

But I do not wish to weary the patience of the House, and I therefore demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The first question was on agreeing to Mr. Wilson's motion to agree to the Senate amendment with an amendment, as follows:

Insert:

Provided, That no money appropriated by this act shall be used for the purpose of paying the Illinois Central Railroad Company for the transportation of the property or troops of the United States.

There being, on a division—yeas 46, noes 46, Mr. WILSON called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the affirmative—yeas 79, nays 61, not voting 42; as follows:

YEAS—Messrs. Ames, Ancona, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Boutwell, Boyd, Brandegee, James S. Brown, Cobb, Cole, Creswell, Dawson, Deming, Denison, Dixon, Driggs, Eckley, Eliot, English, Finck, Frank, Ganson, Garfield, Gooch, Grider, Hale, Harding, Herrick, Higby, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Orlando Kellogg, Marcy, Marvin, McBride, McClurg, Middleton, Samuel F. Miller, Moorhead, Daniel Morris, Amos Myers, Norton, Charles O'Neill, John O'Neill, Orth, Perlman, Pike, Pomeroy, Price, Samuel J. Randall, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Sloan, Smith, Smithers, Stevens, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, Chilton A. White, Williams, Wilson, and Windom—79.

NAYS—Messrs. James C. Allen, Allison, Arnold, Bliss, Blow, Brooks, Broomall, Ambrose W. Clark, Freeman Clarke, Coffroth, Cox, Cravens, Thomas T. Davis, Eden, Edgerton, Eldridge, Farnsworth, Grinnell, Griswold, Charles M. Harris, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Kernan, King, Knapp, Le Blond, Littlejohn, Long, Longyear, Mallory, McAllister, William H. Miller, Morrill, James H. Morris, Morrison, Noble, Odell, Pendleton, Perry, Fryn, William H. Randall, Alexander H. Rice, Ross, Scott, Shannon, John B. Steele, Sules, Strouse, Stuart, Townsend, Ward, William B. Washburn, Wheeler, Winfield, Woodbridge, Worthington, and Yaman—61.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blair, William G. Brown, Chanler, Clay, Henry Winter Davis, Dawes, Donnelly, Dumont, Hall, Harrington, Benjamin G. Harris, Hutchins, Julian, Kelley, Knox, Law, Lazear, Loan, McDowell, McIndoe, McKinney, Leonard Myers, Nelson, Patterson, Radford, Robinson, Spaulding, Starr, William G. Steele, Sweat, Van Valkenburgh, Voorhees, Wadsworth, Webster, Whaley, Joseph W. White, Wilder, Benjamin Wood, and Fernando Wood—42.

So the amendment to the amendment was agreed to.

Mr. WILSON moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on the Senate amendment as amended, and it was adopted.

Mr. WILSON moved to reconsider the vote by which the amendment as amended was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 703) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circu-

lation and redemption thereof;" when the Speaker signed the same.

#### INVALID PENSIONS.

Mr. GRISWOLD, from the special committee on invalid pensions, appointed December 20, 1864, made a report, which was laid on the table, and ordered to be printed.

#### QUESTION OF ADJOURNMENT.

Mr. BROWN, of Wisconsin. I rise to a question of order. It is now midnight, and I insist that the opinion of Thomas H. Benton on this subject is correct and sound, that whenever the time limited for the existence of Congress has arrived Congress has no further power to legislate, Congress cannot, by its mere failure to adjourn, be continued beyond the time fixed by law.

The SPEAKER. The Chair overrules the point of order. The existence of this Congress will expire, by constitutional limitation, at twelve o'clock on the 4th of March.

Mr. RANDALL, of Pennsylvania. I rise to a privileged question. I move that the House do now take a recess for one hour.

Mr. MALLORY. I move to amend by taking a recess till ten o'clock to-morrow morning.

Mr. RANDALL, of Pennsylvania. I would agree to that amendment if I thought it would carry, and if it would not interrupt public business.

Mr. MORRILL. I hope that no motion will be made to take a recess until after the miscellaneous appropriation bill shall be returned from the Senate and acted on. When that bill is returned and acted on I think the House may take a recess.

Mr. MALLORY. I withdraw my amendment. The question was taken on Mr. RANDALL's motion, and it was rejected.

#### NAVAL CONTRACTS.

Mr. GRISWOLD asked unanimous consent to report from the Committee on Naval Affairs a joint resolution in relation to naval contracts for the supply of provisions or materials.

Mr. SCOFIELD objected.

#### MINNESOTA LAND GRANTS.

Mr. WINDOM. I ask unanimous consent to have taken from the Speaker's table the Senate amendment to the act (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the State of Minnesota, and for other purposes.

Mr. HOLMAN. I object.

Mr. WINDOM. I move that the rules be suspended.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Messrs. WINDOM and COFFROTH were appointed.

The House divided; and the tellers reported—yeas 74, noes 31.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 37, not voting 51; as follows:

YEAS—Messrs. James C. Allen, Allison, Ashley, Baily, Augustus C. Baldwin, Baxter, Beaman, Blaine, Bliss, Blow, Boutwell, Boyd, Brandegee, Broomall, Ambrose W. Clark, Freeman Clarke, Cole, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Eden, Edgerton, Eldridge, Eliot, Frank, Ganson, Garfield, Gooch, Grinnell, Hale, Charles M. Harris, Herrick, Higby, Hotchkiss, Asahel W. Hubbard, Ingersoll, Philip Johnson, William Johnson, Kalbfleisch, Kasson, Francis W. Kellogg, Kernan, King, Knapp, Le Blond, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Orth, Patterson, Pendleton, Perlman, Perry, Pomeroy, Price, William H. Randall, John H. Rice, Edward H. Rollins, Schenck, Scofield, Scott, Sloan, Smith, Smithers, John B. Steele, Stiles, Strouse, Stuart, Sweat, Upson, Van Valkenburgh, Ward, William B. Washburn, Whaley, Wilder, Wilson, Windom, and Worthington—94.

NAYS—Messrs. Ancona, John D. Baldwin, Chanler, Cobb, Coffroth, Cox, Cravens, Creswell, Dawson, Deming, Denison, Finck, Grider, Holman, Hooper, John H. Hubbard, Hulburd, Kelley, Long, Mallory, Marcy, Middleton, William H. Miller, Morrill, Charles O'Neill, John O'Neill, Samuel J. Randall, Stevens, Thayer, Thomas, Tracy, Elihu B. Washburne, Wheeler, Chilton A. White, Williams, Winfield, and Woodbridge—37.

NOT VOTING—Messrs. William J. Allen, Alley, Ames, Anderson, Arnold, Blair, Brooks, James S. Brown, William G. Brown, Clay, Henry Winter Davis, Donnelly, Dumont, English, Farnsworth, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Hutchins, Jenckes, Julian, Knox, Law, Lazear, Littlejohn, Loan, McDowell, McIndoe, McKinney, Pike, Priyn, Radford, Alexander H. Rice, Robinson, Rogers, James S. Rollins, Ross, Shannon, Spaulding,



Starr, William G. Steele, Townsend, Voorhees, Wadsworth, Webster, Joseph W. White, Benjamin Wood, Fernando Wood, and Yeaman—51.

So (two thirds voting in favor thereof) the rules were suspended; and the amendment was taken from the Speaker's table.

Mr. WINDOM. I move to concur in the amendment of the Senate; and upon that I call the previous question.

Mr. HOLMAN called for the reading of the Senate amendment.

The Senate amendment was read. It was in the nature of a substitute for the bill of the House, and provides for granting to the State of Minnesota ten alternate sections of public land per mile within twenty miles of the line of railroads for which previous grants had been made, &c.

The previous question was seconded, and the main question was ordered.

The question was upon concurring in the amendment of the Senate.

Mr. HOLMAN called for the yeas and nays. The yeas and nays were not ordered.

The amendment of the Senate was concurred in.

Mr. WINDOM moved to reconsider the vote by which the House concurred in the amendment of the Senate; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced to the House that the Senate insisted upon their amendments to the bill (H. R. No. 600) for the better organization of the subsistence department, and agree to the conference asked by the House; and that the Senate have appointed Messrs. MORGAN, SPRAGUE, and POWELL on the part of the Senate.

#### TRADE WITH REBELLIOUS STATES.

Mr. WASHBURN, of Illinois. I ask unanimous consent to take up from the Speaker's table the Senate amendments to the House bill repealing the eighth section of the act of July 2, 1864, in regard to the cotton trade.

Mr. RANDALL, of Pennsylvania. I object.

Mr. WASHBURN, of Illinois. I move to suspend the rules for the purpose of taking up the bill (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, and for other purposes, with the amendments of the Senate.

The question was taken, and the rules were suspended.

The amendments of the Senate were as follows: Add to the first section the words "of the agents of the Government."

Add to the bill the following additional sections:

SEC.—And be it further enacted, That all cotton seized by the military or naval authorities, or surrendered to said authorities, shall be delivered to the officers of the Treasury, and vouchers shall be given to the owner of such cotton, entitling such owner or claimant personally to receive payment for such cotton at the end of the war, less taxes and expenses, in bonds of the United States, bearing six per cent. interest, redeemable in twenty years.

SEC.—And be it further enacted, That if any person or persons shall pass, alter, publish, or sell, or attempt to pass, alter, publish, or sell, any note, token, device, scrip, bond, or other evidence of debt of the so-called Confederate States, or any one of them, issued since the 1st of January, 1861, he or they shall be deemed and adjudged guilty of a felony, and shall, on conviction thereof, be punished by fine not exceeding \$5,000, and by imprisonment and confinement at hard labor not exceeding ten years, at the discretion of the court, according to the aggravation of the offense.

Mr. WASHBURN, of Illinois. I move that the House concur in the amendments of the Senate.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the House concurred in the amendments of the Senate; and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

#### JOHN HASTINGS.

Mr. HALE. I now call up the motion to reconsider the vote by which the House ordered the bill (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh, to be engrossed and read a third time.

The bill was taken up, and the question was upon the motion to reconsider.

Mr. HALE. I withdraw the motion to reconsider.

The SPEAKER. The Clerk informs the Chair that a motion was made by the gentleman from Illinois [Mr. WASHBURN] to lay this bill on the table.

Mr. WASHBURN, of Illinois. I withdraw my motion.

The bill was then read the third time and passed.

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

#### LUCIEN ANDERSON.

Mr. SMITH, from the select committee in the case of Hon. LUCIEN ANDERSON, made a report, with accompanying testimony, which was laid on the table, and ordered to be printed.

Also the following resolution:

Resolved, That the charges of bribery, corruption, and malfeasance in office, against Hon. LUCIEN ANDERSON, a member of this House, are not sustained by the proof in the case.

Mr. SMITH. I will say that this report is signed by every member of the committee except the gentleman from Illinois, [Mr. STUART], who was not present at any of its meetings, and desired me to say that he did not sign the report because he did not know anything about it. I now move the previous question on the adoption of the resolution.

Mr. MALLORY. I ask the gentleman from Kentucky [Mr. SMITH] to withdraw his call for the previous question until I can ask him a question in relation to the action of this committee.

Mr. SMITH. I will withdraw for a question.

Mr. MALLORY. I want to have read at the Clerk's desk a paper which I now hold in my hand, being the statement of Colonel Brown, of the State of Kentucky, in the service of the United States; and to inquire of the gentleman—

Mr. SMITH. I did not withdraw to have any paper read.

Mr. MALLORY. I want to base my question on that paper, and to ask why that paper was not received by the committee.

Mr. SMITH. My colleague [Mr. MALLORY] asked me to allow him to propound a question, and I withdrew the call for the previous question for that purpose only; instead of asking a question he sends a paper to the Clerk's desk to be read. I must resume the floor, and insist upon the previous question.

Mr. MALLORY. Does the gentleman intend to suppress any evidence?

Mr. SMITH. No, sir, I do not. The deposition of Colonel Brown has been taken, and is among the evidence reported from the committee. The previous question was seconded.

The question was upon ordering the main question.

Upon this question there were, on a division—yeas 65, noes 9; no quorum voting.

The SPEAKER appointed Messrs. SMITH and MALLORY to act as tellers.

Mr. MALLORY. I prefer to be excused from acting as teller.

Mr. SMITH. As my colleague [Mr. MALLORY] has declined to act as teller, I would also decline acting.

The SPEAKER appointed Messrs. BROOMALL, and O'NEILL of Ohio, to act as tellers.

The House again divided; and the tellers reported—yeas 68, noes 2; no quorum voting.

The SPEAKER. The Clerk will read the 31st rule.

The Clerk read, as follows:

"Every member who shall be in the House when the question is put shall give his vote unless the House shall excuse him. All motions to excuse a member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced."

The SPEAKER. The Chair requests gentlemen who have not voted to conform to the rules which they themselves have made and required the Chair to enforce.

The tellers continued the count; and reported—noes eighteen; no quorum yet voting.

The SPEAKER. The Chair again appeals to gentlemen to obey the rule. The rule states specifically that members who desire to be excused from voting must be excused before the House

divides. If members do not obey the rules they bring them into contempt.

Mr. BROOKS. The difficulty is that we do not know how to vote; we have no knowledge of the evidence.

Mr. ASHLEY. Does that excuse the gentleman from New York for violating the rules?

Mr. BROOKS. Well, enforce the rules. It is nothing new for members to decline to vote. I have known it to be done a hundred times.

Mr. ELDRIDGE. If there is not a quorum I move a call of the House.

The tellers, having continued the count, reported—yeas 67, noes 26.

So the main question was ordered.

The question recurred on agreeing to the resolution.

Mr. ELDRIDGE demanded the yeas and nays. The yeas and nays were ordered.

Mr. PRUYN. If it is in order now, I desire to ask to be excused from voting, and on that question I wish to say a word.

The SPEAKER. The question is not debatable.

Mr. MALLORY. I demand the reading of the evidence on which the report is based. How can I vote upon the report of a committee without knowing what is the evidence?

The SPEAKER. The gentleman has a right to ask to be excused from voting.

Mr. PRUYN. I think it unfair on the part of gentlemen on the other side not to permit that document to be read.

The question on excusing Mr. PRUYN from voting was decided in the negative.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of its clerks, announced that the Senate had agreed in part to the report of the committee of conference on bill (H. R. No. 683) making appropriations for the support of the Army for the year ending June 30, 1866, had insisted on its first amendment proposed to be amended by the House, asked a new committee of conference, and had appointed Messrs. HARRIS, HOWE, and WILLEY, to be managers of such conference on the part of the Senate.

Mr. WASHBURN, of Illinois. I move that the House insist, and appoint a new committee of conference.

The motion was agreed to.

#### LUCIEN ANDERSON—AGAIN.

Mr. ELDRIDGE. I desire to ask the gentleman from Kentucky [Mr. SMITH] a question.

The SPEAKER. It can be done by unanimous consent.

Mr. SMITH. I cannot agree to answer any question.

Mr. ELDRIDGE. Does the gentleman refuse to answer a question? Then he dodges.

Mr. LE BLOND. I move that the whole subject be laid on the table.

Mr. C. A. WHITE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 5, nays 83, not voting 94; as follows:

YEAS—Messrs. James C. Allen, Ancona, Denison, Ingersoll, and William Johnson—5.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Cox, Creswell, Henry Winter Davis, Dawes, Deming, Dixon, Driggs, Eldridge, Eliot, Frank, Gracie, Grinnell, Hale, Higby, Holman, Hooper, Hotchkiss, John B. Hubbard, Hulburd, Philip Johnson, Kasson, Kelley, Orlando Kellogg, King, Longyear, Marcy, Marvin, McBride, McClurg, McKinney, Samuel F. Miller, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Charles O'Neill, Perham, Perry, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, John B. Steele, Stevens, Thayer, Thomas, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilker, Wilson, Windom, and Worthington—83.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Augustus C. Baldwin, John D. Baldwin, Blaine, Blair, Bliss, Brandegee, Brooks, James S. Brown, William G. Brown, Chandler, Clay, Cravens, Thomas T. Davis, Dawson, Donnelly, Dumont, Eckley, Eden, Edgerton, English, Farnsworth, Finck, Ganson, Garfield, Grider, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Asahel W. Hubbard, Hutchins, Jencks, Julian, Kalbfleisch, Francis W. Kellogg, Kernan, Knapp, Knox, Law, Lazar, Le Mond, Littlejohn, Loan, Long, Mallory, McAllister, McDowell, McIndoe, Middleton, William H. Miller, Moorhead, James R. Morris, Morrison,

Nelson, Noble, Norton, Odell, John O'Neill, Orth, Patterson, Pendleton, Pike, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Scott, Spalding, Starr, William G. Steele, Stiles, Strouse, Stuart, Sweat, Townsend, Voorhees, Wadsworth, Ward, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman—94.

The SPEAKER. No quorum has voted.  
Mr. WASHBURN, of Illinois, moved that there be a call of the House.

The motion was agreed to.  
The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. James C. Allen, William J. Allen, Alley, Ames, Anderson, Augustus C. Baldwin, Blair, William G. Brown, Clay, Cox, Cravens, Thomas T. Davis, Dawson, Donnelly, Dumont, English, Farnsworth, Garfield, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hutchins, Julian, Kasson, Francis W. Kellogg, Knapp, Knox, Law, Lazear, Littlejohn, Loan, McDowell, McKinney, Middleton, Morrill, Odell, Charles O'Neill, Pike, Pomeroy, Radford, Samuel J. Randall, Robinson, Rogers, Ross, Spalding, Starr, William G. Steele, Wadsworth, Webster, Whaley, Joseph W. White, Benjamin Wood, Fernando Wood, Woodbridge, and Yeaman.

The SPEAKER. A quorum has now answered.

Mr. WILSON moved that all further proceedings under the call be dispensed with.

The motion was agreed to.  
Mr. LEBLOND, by unanimous consent, withdrew his motion to lay on the table.

The question recurred on the adoption of the resolution, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 29, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailly, John D. Baldwin, Baxter, Benham, Blow, Boyd, Brandegee, Broomall, James S. Brown, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Thomas T. Davis, Deming, Dixon, Driggs, Eckley, Eliot, Garfield, Gooch, Grinnell, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hubbard, Ingersoll, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel P. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Leonard Myers, Nelson, Norton, Odell, Charles O'Neill, Patterson, Perham, Pomeroy, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Stevens, Thayer, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Whaley, Wheeler, Williams, Wilson, Windom, Woodbridge, and Worthington—79.

NAYS—Messrs. James C. Allen, Aconna, Augustus C. Baldwin, Bliss, Chanler, Denison, Eden, Edgerton, Eldridge, English, Grider, Herrick, William Johnson, Kalbfleisch, Knapp, Mallory, Murey, McKinney, William H. Miller, James R. Morris, Noble, John O'Neill, Pendleton, Stiles, Strouse, Sweat, Townsend, and Ward—29.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blaine, Blair, Boutwell, Brooks, William G. Brown, Clay, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Dawes, Dawson, Donnelly, Dumont, Farnsworth, Finck, Frank, Ganson, Griswold, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Holman, Hotelkiss, Hutchins, Jencks, Philip Johnson, Julian, Kernan, King, Knox, Law, Lazear, Le Blond, Loan, Long, McAllister, McDowell, McInroe, Middleton, Morrison, Orth, Perry, Pike, Price, Pruyn, Radford, Samuel J. Randall, Robinson, Rogers, Edward H. Rollins, Ross, Scott, Spalding, Starr, John B. Steele, William G. Steele, Stuart, Thomas, Voorhees, Wadsworth, Webster, Chilton A. White, Joseph W. White, Wilder, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—75.

So the resolution was adopted.

During the call of the roll,  
Mr. MALLORY; (when his name was called.) I ask leave to be excused from voting, and I wish to state briefly to the House the reasons.

The SPEAKER *pro tempore*, (Mr. WASHBURN, of Illinois, in the chair.) The rule expressly declares that all motions to be excused from voting must be made before the call of the roll is commenced.

Mr. MALLORY. May I ask the unanimous consent of the House to make a statement?

The SPEAKER *pro tempore*. The roll is being called and the proceeding cannot be interrupted.

At the conclusion of the call, but before the result was announced,

Mr. MALLORY said: I again ask to be excused from voting.

The SPEAKER *pro tempore*. It is not in order now to ask to be excused from voting.

Mr. MALLORY. I appeal to the House to be excused from voting.

The SPEAKER *pro tempore*. The House is acting under the previous question, and no debate is in order.

Mr. MALLORY. I move to suspend the rules.

The SPEAKER *pro tempore*. Nothing of that kind is in order now.

Mr. BROWN, of Wisconsin. I move to reconsider the vote just taken.

The SPEAKER *pro tempore*. The result has not yet been announced.

The result was then announced, as above recorded.

Mr. SMITH. I move to reconsider the vote last taken; and also move to lay the motion to reconsider on the table.

The question was put on the latter motion, and the result was being announced, when—

Mr. MALLORY. I rise to a point of order. It is that the gentleman from Wisconsin [Mr. BROWN] distinctly, and in the hearing of the whole House, made the motion to reconsider before any other gentleman rose.

The SPEAKER. It is well known to the House that the mover of a resolution has the right to make the motion before anybody else.

Mr. BROWN, of Wisconsin. I rise to a point of order. It is that the Speaker did not, so as to be heard by the House, state the proposition made by the gentleman who proposed to reconsider and lay on the table.

The SPEAKER. The Chair stated the proposition very distinctly, and took the vote upon it.

Mr. ELDRIDGE. I call for the yeas and nays upon the motion to lay on the table.

The yeas and nays were ordered.

Mr. SMITH. I withdraw the motion.

Mr. ELDRIDGE. After the yeas and nays are ordered it is too late to withdraw the motion.

The SPEAKER. The Chair thinks it is in order to withdraw the motion at any time before action is taken upon it.

#### TARIFF BILL.

Mr. STEVENS, from the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill of the House (No. 795) amendatory of certain acts imposing duties on foreign importations, reported that the committee, having met, after a full and free conference had agreed to recommend, and do recommend, to their respective Houses that the House recede from their disagreement to the amendments of the Senate numbered one; two, six, seven, eight, nine, ten, eleven, and fourteen; and agree to the same; that the Senate recede from their amendments numbered three, five and a half, twelve, and thirteen; that the House recede from their disagreement to the fourth amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the words "on iron bars for railroads or inclined planes ten cents per hundred pounds;" that the House recede from their disagreement to the fifth amendment of the Senate and agree to the same with the following amendment: strike out "two and a half cents" and insert in lieu thereof "one cent."

The report was signed by Messrs. STEVENS, Cox, and GRISWOLD, managers on the part of the House; and by Messrs. CLARK, HENDRICKS, and FARWELL, managers on the part of the Senate.

Mr. STEVENS. There were but two amendments in which the House was particularly interested; one was in reference to the duty on railroad iron. The House had fixed that at fifteen cents per hundred pounds. The Senate struck it out. We believed it would be impossible to carry the bill unless we modified what the House had done in that respect. We therefore modified it by reducing the duty to ten cents per hundred pounds.

The Senate also added an amendment imposing a duty of two and a half cents per pound on wrought-iron tubes. That was reduced to one cent per pound.

I think these are the only material amendments. I do not suppose there is any necessity for saying anything further, and therefore I call the previous question on the adoption of the report.

The previous question was seconded, and the main question ordered to be put.

Mr. HOLMAN. I move to lay the report on the table.

There being, on a division—ayes 17, noes 76, Mr. HOLMAN called for the yeas and nays. The yeas and nays were not ordered.

The House refused to lay the report on the table. The report was then agreed to.

Mr. STEVENS moved to reconsider the vote by which the conference report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 761) extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes; when the Speaker signed the same.

#### CONSOLIDATION OF INDIAN TRIBES.

Mr. ASHLEY. I ask unanimous consent to have taken from the Speaker's table the Senate bill to provide for the consolidation of Indian tribes, and to establish civil government in the Indian Territory.

Mr. SHANNON. I object.

#### MILITARY MATTERS.

Mr. GARFIELD, from the committee of conference on the disagreeing votes of the two Houses on joint resolution No. 170, and the several amendments thereto, submitted the following report:

The committee of conference upon the disagreeing votes of the two Houses upon House joint resolution No. 170, and the several amendments thereto, having met, after full and free conference do agree and recommend to their respective Houses as follows:

1. That the Senate recede from the ninth section of its amendment.
2. That the House recede from its disagreement to the tenth section of the Senate amendment.
3. That the Senate recede from the eleventh section of its amendment.
4. That the Senate recede from the twelfth and thirteenth sections of its amendment.
5. That the House recede from the ninth section of its amendment.
6. That the House recede from its tenth amendment.
7. That the Senate recede from its disagreement to the eleventh amendment of the House.
8. That the committee agree upon the following substitute for the twelfth section of the House amendment: "And be it further enacted, That the bounty of \$100 provided by present laws to be paid to the heirs of volunteers killed in battle shall be extended to the widow, if living, or, if she be dead, to the children, of any volunteer who shall have been or may be killed in the service, whether he shall have enlisted for two years or a less period of time."
9. That the committee agree upon the following substitute for the thirteenth section of the House amendment: "And be it further resolved, That in case any officer of the military or naval service who may be hereafter dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal, or death, as the punishment of such officer the order of dismissal shall be void; and if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial, the sentence of dismissal shall be void."
10. That the Senate recede from its disagreement to the fourteenth, fifteenth, and sixteenth sections of the House amendment.
11. That the House recede from the seventeenth, eighteenth, and nineteenth sections of its amendment.
12. That the Senate recede from its disagreement to the twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, and thirty-first sections of the House amendment.
13. That the House recede from the thirty-second section of its amendment.
14. That the committee agree to the following title to the joint resolution: "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes."

HENRY WILSON,

J. M. HOWARD,

C. R. BUCKALEW,

Managers on the part of the Senate.

J. A. GARFIELD,

M. F. ODELL,

G. W. SCOFIELD,

Managers on the part of the House.

Mr. GARFIELD. I move the previous question on the report, and pending that I will state very briefly what its substance is. The history of this legislation is this: The House passed, a few days ago, a joint resolution defining the pay of officers' servants. That joint resolution went to the Senate, and in its place a bill of thirteen sections was substituted. The House took that bill of thirteen sections, adopted the first eight, cut off the remaining five, and added twenty-three sections of its own. The bill thus amended, having thirty-one sections, went over to the Senate. The Senate disagreed to the House amendments, and a committee of conference was appointed.

There were thirty points of difference between

the two Houses. On these thirty points the House receded from six; the Senate receded from twenty-two; and in place of the two others substitutes were agreed on by the committee. I will only mention the points on which the House receded and the two modified sections as being of interest to us.

First, in reference to bounties. The House section was modified so that bounties should be paid to the heirs of soldiers who were killed in battle, though they had not served two years; and such bounties should only go to their widow, or, if there be no widow, to their children, but shall not go to the legal heirs generally. The Senate refused to agree with the House amendment repealing section seventeen of the act of July 17, 1862, authorizing the President summarily to dismiss officers from the Army, Navy, or Marine corps. But the managers of the conference on the part of the House proposed a substitute for the repealing section, by which the power of dismissal is limited and regulated. The President may still dismiss an officer, but he is required, on application setting forth under oath that the dismissal was unjust, to order a trial of the officer by court-martial on the charges on which he was dismissed. If such trial is not had within six months after the application is made, the dismissal is made void. It will probably result from this amendment that no officer will be dismissed unless upon such charges, believed to be such, as would warrant a court-martial in doing the same. The managers on the part of the House believed that this section will in the main remedy the evil complained of.

In the next place the section of the House amendment to provide for the transfer of officers from one corps to another, from one arm of the service to another, and from the volunteer service to the regular service, the House recede from.

The motion in regard to declaring foreigners liable to draft, the House recede from, it being of doubtful constitutionality.

The section in regard to increasing the pay of provost marshals and enrolling officers the House recede from.

The section in regard to substitute brokers being authorized by the Secretary of War, the House recede from, believing that in other sections of the bill the country is sufficiently protected from the evils of the substitute broker system.

The last section of the bill, in regard to mustering out enlisted men who went into the service to fill up old regiments, we recede from, not, however, until we were satisfied that the Senate could not be induced to recede from their position, although adhering might involve the failure of the whole bill. The managers on the part of the Senate said that the Secretary of War had informed them that if this provision were adopted it would take forty-five thousand men immediately from the field, and thus very much impair the efficiency of the Army on the eve of a great campaign. In view of all the circumstances, the committee recommend that the House recede from that amendment. The House has put itself upon record in regard to that question, and has done all it can to show its position upon this subject. The House will bear witness that I have done all in my power, and have persisted almost to an unreasonable degree, in securing the passage of this measure. But I hope the House will not do anything to impede or jeopardize the passage of this bill, and I am satisfied that it will fail if we longer persist in demanding the adoption of this section.

Mr. HOLMAN. I hope the House will not adopt this report striking out the section in reference to discharging the recruits from old regiments who went into the service with the promise that they should be discharged from service with the regiment. I hope that section will not be stricken out.

Mr. GRINNELL. I have a duty to discharge to my people which I have had no opportunity to—

Mr. GARFIELD. It is too late to make up the record now. I call the previous question.

Mr. SCHENCK. Will my colleague withdraw that motion for a moment?

Mr. GARFIELD. I will do so, certainly.

Mr. SCHENCK. I wish to make but a single remark on behalf of the Military Committee. The committee earnestly desire to have these men mus-

tered out of service; and so with regard to the other matters. But it is a question of agreeing to this report upon the committee of conference or losing the whole bill. I wish the House to understand that in this bill is pretty much the whole military legislation of the session; everything relating to the enrollment.

Mr. GARFIELD. I will say that twenty-eight of the points of difference have been receded from by the Senate and conceded to the House, and I venture to say that it very rarely happens, where so many differences were involved, that one House gets so large a portion. I now call the previous question.

The previous question was seconded, and the main question was ordered.

The question was upon agreeing to the report of the committee of conference.

Mr. LE BLOND called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 57, not voting 54; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Baily, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Broomall, Ambrose W. Clark, Freeman Clarke, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Driggs, Eckley, Eliot, Garfield, Gooch, Griswold, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Kasson, Kelley, Orlando Kellogg, King, Littlejohn, Longyear, Marvin, McAlister, McClurg, Samuel F. Miller, Moorhead, Morrill, Amos Myers, Leonard Myers, Odell, Charles O'Neill, Orth, Patterson, Perham, Rice, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, James S. Rollins, Schenck, Scofield, Shannon, Sloan, Smith, Smithers, Upson, Van Valkenburgh, William B. Washburn, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—71.

NAYS—Messrs. James C. Allen, Ancona, Augustus C. Baldwin, Bliss, Boyd, Brooks, James S. Brown, Chanler, Cofroth, Cravens, Dawson, Edgerton, Eldridge, English, Farnsworth, Finck, Grinnell, Hale, Charles H. Harris, Herriek, Holman, Hotchkiss, Ingersoll, Philip Johnson, Kalbfleisch, Francis W. Kellogg, Knapp, Le Blond, Long, Mallory, Marcy, McKinney, William H. Miller, James K. Morris, Morrison, Nelson, Noble, Norton, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Ross, Scott, John B. Steele, Stevens, Stiles, Strouse, Stuart, Tracy, Voorhees, Ward, Elihu B. Washburne, Whaley, and Chilton A. White—57.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Blaine, Blair, Brandegee, William G. Brown, Clay, Cox, Deming, Denison, Donnelly, Dumont, Eden, Frank, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Hooper, Hutchins, William Johnson, Julian, Kernan, Knox, Law, Leazar, Loan, McBride, McDowell, McIndoe, Middleton, Daniel Morris, Pruyn, Robinson, Rogers, Edward H. Rollins, Spalding, Starr, William G. Steele, Sweat, Thayer, Thomas, Townsend, Wadsworth, Webster, Wheeler, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—54.

So the report of the committee of conference was agreed to.

Mr. GARFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. HOLMAN demanded the yeas and nays. Mr. GARFIELD. I withdraw the motion.

#### REMISSION OF ABSENTEES' FINES.

Mr. INGERSOLL. I ask unanimous consent to offer the following resolution:

*Resolved*, That all fines and fees imposed by the House on members for being absent without leave during the recent call of the House be, and the same are hereby, remitted.

Several MEMBERS. I object.

#### LEGISLATURE OF WASHINGTON TERRITORY.

Mr. RICE, of Maine. I ask unanimous consent to report from the Committee on Territories Senate bill entitled "An act amendatory of the organic act of Washington Territory." This bill simply allows the Legislature to meet biennially, instead of annually, by which the Government will save some thousands of dollars.

There was no objection; and the bill was read the third time, and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAPERS WITHDRAWN.

Mr. HALE. I ask leave to withdraw from the files of the House the papers in the case of H. A. Brigham; also in the case of Major Love. Leave was granted.

#### WAGON ROADS IN THE TERRITORIES.

Mr. HUBBARD, of Iowa. I move to take from the Speaker's table bill S. No. 472, entitled "An act to provide for the construction of certain

wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska."

The motion was agreed to.

The bill was read a first and second time, ordered to a third reading, and read the third time.

The question being on the passage of the bill, Mr. HUBBARD, of Iowa, demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. HUBBARD, of Iowa, moved, to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RAILROADS IN MICHIGAN AND WISCONSIN.

Mr. SLOAN. I ask unanimous consent to take from the Speaker's table Senate amendments to bill H. R. No. 710, entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin."

Mr. HOLMAN. I object.

Mr. SLOAN. I move to suspend the rules for the purpose of considering Senate amendments to this bill.

On agreeing to the motion there were, on a division—yeas 58, noes 32.

Mr. SLOAN demanded tellers.

Tellers were ordered; and Messrs. Sloan and HOLMAN were appointed.

The House divided; and the tellers reported—yeas 65, noes 27.

So the motion was agreed to.

The question recurred on concurring in the Senate amendments.

Mr. SLOAN demanded the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof the Senate amendments were concurred in.

Mr. SLOAN moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONDITION OF INDIAN TRIBES.

Mr. WINDOM. I rise to a privileged question. I present the following report from a committee of conference:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 69) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its first and second amendments.

That the Senate concur in the third amendment of the House.

JAMES R. DOOLITTLE,  
B. GRATZ BROWN,  
JAMES HARLAN,

*Managers on the part of the Senate.*

WILLIAM WINDOM,

PHILIP JOHNSON,

*Managers on the part of the House.*

The SPEAKER. The question is on agreeing to the report of the committee of conference.

Mr. WINDOM. I will take but a moment to explain these amendments. The Senate passed a resolution appointing a committee to investigate our Indian affairs. The House amended that so as to provide for a commission. The House recedes from that amendment. The second amendment provided for extending the investigation to Indian superintendents and agents, and in that the Senate concur. I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. BALDWIN, of Massachusetts, moved that the report be laid on the table.

The motion was disagreed to.

The report of the committee of conference was adopted.

Mr. WINDOM moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BARCLAY'S DIGEST.

Mr. COX, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, (in view of the numerous and material amend-



ments made to the rules at the present Congress, That John M. Barclay be authorized to furnish a new edition of his Digest for the use of the House of Representatives at the next Congress, to embrace such amendments, and decisions of questions of order, &c., to the close of the present Congress; the same to be furnished in the same manner and on the same terms as heretofore; and that the surplus copies of said Digest, Rules, and Manual now on hand in the Clerk's office be furnished to members of the present House for distribution.

Mr. COX moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

JOHN P. BROWN.

Mr. COX, by unanimous consent, from the Committee on Foreign Affairs, submitted a report in the case of John P. Brown; which was laid on the table, and ordered to be printed.

#### DISPOSAL OF COAL LANDS, ETC.

Mr. HIGBY. I move to take from the Speaker's table Senate bill No. 380, supplemental to an act approved July 1, 1864, for the disposal of coal lands and of town property on the public domain.

Mr. BROWN, of Wisconsin. Would it be in order to move that we dispose of the balance of the public lands? If it would I think that gentleman should make that motion.

Mr. RANDALL, of Pennsylvania. At the rate at which we have been proceeding, I do not think there will, after this session, be any public lands left to dispose of.

Mr. COX. I am opposed to the bill, and should like to give some reasons why it should not pass.

Mr. HIGBY moved to suspend the rules for the purpose indicated.

The motion was agreed to.

Mr. HIGBY demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was read a first and second time.

Mr. COLE, of California. I ask to offer an amendment. The bill ought not to pass in its present form. I wish to amend by excluding San Francisco from the operation of the bill.

Mr. HIGBY. I cannot yield for that purpose. Mr. COLE, of California. Under the bill as it now is a single person may claim a hundred or a thousand acres in a town or city and hold it if he has so much in possession. I protest against the bill as it is, and hope the previous question will not be sustained.

Mr. DAVIS, of New York, moved that the bill be laid on the table.

The House divided; and there were—ayes 31, noes 40; no quorum voting.

Mr. HIGBY demanded tellers.

Tellers were ordered; and Messrs. DAVIS of New York, and HIGBY, were appointed.

Mr. SHANNON. The Commissioner of Public Lands is in favor of this bill, and so is the Committee on Public Lands.

Mr. COLE, of California. If he has made such recommendation where is it? Let it be read.

The House was again divided; and the tellers reported—ayes 35, noes 60.

So the bill was not laid on the table.

The bill was ordered to be read a third time; and it was accordingly read the third time.

Mr. COLE, of California, demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The House divided; and there were—ayes 60, noes 34.

So the bill was passed.

Mr. WORTHINGTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN P. BRUCE.

Mr. VOORHEES. I ask unanimous consent to introduce a resolution which is concurred in by the Committee of Elections. It is simply for the purpose of correcting an error that occurred last session.

The resolution was read for information, as follows:

Resolved, That the Clerk of the House of Representatives pay out of the contingent fund to John P. Bruce, contestant of the right of BENJAMIN F. LOAN to a seat in the Thirty-Eighth Congress from the seventh congressional district of Missouri, the salary of a member of Congress, without mileage, from the 4th of March, 1863, to the 7th of December, 1863.

Mr. BALDWIN, of Massachusetts. I object.

Mr. VOORHEES. It was supposed that this was done last session; but it was not done. This resolution was concurred in by the Committee of Elections after the matter was inquired into, and it was considered as a matter of actual justice.

Mr. UPSON. So far as I know, the Committee of Elections have not concurred in the resolution.

Mr. VOORHEES. It was concurred in by a majority of the committee.

Mr. BALDWIN, of Massachusetts. I object to it.

Mr. VOORHEES. All I have to say is, that I present it from the Committee of Elections, and I call upon the chairman of the committee to sustain me in what I have stated.

Mr. FRANK. This whole matter was settled at the last session of Congress.

Mr. VOORHEES. The gentleman is mistaken. The resolution is not for the purpose of getting more money for the contestant than he ought to have.

Mr. SCHENCK. The resolution, I understand, is not before the House.

Mr. VOORHEES. Will the gentleman allow me a word? I do not want to be placed in the attitude of reporting a resolution from the committee which does not emanate from them. The gentleman from Michigan [Mr. UPSON] says he does not concur in this resolution. That may be so; yet it may be the act of the Committee of Elections.

Mr. UPSON. I stated that so far as I knew the Committee of Elections have not concurred in that resolution. So far as I know, the committee have never acted upon it at all.

Mr. BROWN, of Wisconsin. I will state that while I do not understand that there has been any formal action of the committee, yet I do understand that a majority of the committee have assented to the resolution as reported, and upon the ground that former Congresses have established a precedent by which they have given not only full pay, but have given persons contesting seats compensation for their expenses in getting up testimony.

Mr. UPSON. Does the gentleman understand that the resolution has been considered in the committee at all?

Mr. BROWN, of Wisconsin. I do not understand that there was any formal meeting of the committee on it, but that the individual members assented to it.

Mr. UPSON. I heard a report that such was the case, and I went around to the members of the committee, and every one of them disavowed it.

Mr. VOORHEES. It is well known that I have been absent almost the entire session, and it is well known that it has been on account of painful circumstances connected with my family. Now, I may be wrong in this matter, but I have been informed upon what I considered reliable testimony that a majority of the committee have concurred in the correctness of this report. If that is not so I am wrong. I am not able, of course, to make any point with the gentleman from Michigan [Mr. UPSON] based on my own knowledge. I think the resolution does simple justice, and simply what the House intended to do last session. They intended to give this contestant the pay of a member of Congress, and no mileage. They have gone heretofore so far as to give a contestant the salary of a member and mileage and the expenses incurred in contesting; and I have numerous cases at hand showing that fact. This proposition is to pay the salary while contesting, and no mileage.

Mr. UPSON. I must raise a point of order. There is no resolution before the House, and this debate is not in order.

Mr. FRANK. If I understand this matter this contestant received compensation at the rate of \$3,000 a year from the time the session commenced until he left the House. Not only that, but he received, I think, about a thousand dollars mileage, the same as the members of the House.

Mr. DAWES. I will say that at the last session this matter was referred to the Committee of Elections, under the rule, and when it came into my hands the committee were called together for the purpose of hearing the contestant within two or three weeks after the matter was referred. I do not recollect the exact date. But I was not

able to get a quorum of the committee, and the gentleman proposed to present his claim to those of the committee that were present, and he did so. He did not satisfy those of the committee present, and he asked the privilege of presenting his claim to the other members of the committee as best he could in the last days of the session. What he did with the other members of the committee I do not know. I only know as to the views of those who were present. He informed me, after seeing the other members of the committee, that he had the consent of a majority of the committee to present it to the House.

Now, I will tell the House just what he claims. When the contest was decided, the committee introduced a resolution giving him his mileage and the ordinary compensation from the commencement of the session until the day the case was disposed of; and that he was allowed and paid. He thinks that he ought to have compensation from the 4th of March down to the beginning of the session. For that time he received no compensation. The resolution reported by the Committee of Elections was the same as reported by the committee on all other cases. His claim is that he was put to a good deal of expense in the contest, and that it is but right he should have the compensation for the vacation that preceded. That is the claim which he presented to the committee at this session.

Mr. SCHENCK. If I understand the proposition, it is this: this gentleman, not having been elected, wants his pay to relate back to the time when he would have been elected if he had been. [Laughter.]

Mr. DAWES. The resolution reported by the committee was adopted, and he was paid his mileage and compensation from the first of the session to the day the case was decided.

Mr. UPSON. The chairman of the committee says that I was informed by the contestant that a majority of the committee assented to this resolution. I ask him if he was not subsequently informed that the members of the committee were seen, and that a majority of them disavowed any such thing.

Mr. DAWES. The gentleman from Michigan informed me so afterward.

Mr. BROWN, of Wisconsin. I was informed that a majority of the committee had concurred.

Mr. VOORHEES. In response to a suggestion made by the gentleman from Ohio, [Mr. SCHENCK.] I desire to say that I have numerous precedents, extending over many years, which justify this claim, where the House has uniformly paid contestants in accordance with the principle claimed here. I have precedent after precedent where pay was made, with mileage, and even where the House has paid for the expenses of the contestant. The House can do just as it deems right about it, and I will be content. But as objection has been made, I will be constrained to move the previous question, to test the question.

Mr. SMITHERS. I ask the gentleman from Massachusetts whether, at the hearing of the resolution to which he has referred, every member of the committee who was present was not unanimous against the resolution.

Mr. DAWES. I believe that is correct.

Mr. BROWN, of Wisconsin. I wish to say that I was there, and I never heard of that circumstance before.

Mr. VOORHEES. Do I understand the statement of the gentleman from Massachusetts to be that there was a majority of the committee against the resolution?

Mr. DAWES. No, sir. I say we did not get a quorum of the committee. The gentleman presented his case to those who were there. The gentleman from Delaware inquired what was the conclusion of that minority. It was that they all thought that the rule laid down last session was a proper one.

Mr. VOORHEES. Well, of course that is not the action of the committee.

Mr. SMITHERS. There never was any other action of the committee.

The question being on the motion to suspend the rules, it was not agreed to, two thirds not voting in favor thereof.

#### DISQUALIFICATION OF DESERTERS.

Mr. ALLISON asked leave to report from the Committee on Public Lands a bill (H. R.

No. 604), to prevent deserters and others therein named from acquiring public lands under the preemption and homestead laws.

Mr. LE BLOND objected.

Mr. ALLISON moved to suspend the rules.

The motion was not agreed to, two thirds not voting in favor thereof.

SAMUEL COLEMAN.

Mr. ODELL, from the Committee on Military Affairs, reported by unanimous consent a joint resolution for the relief of Samuel Coleman, heir-at-law of William Dean Coleman, deceased, which was read a first and second time.

The question being of its third reading,

Mr. RANDALL, of Pennsylvania. I should like to have an explanation of the joint resolution from the gentleman from New York.

Mr. ODELL. The facts of the case are simply these. This man was in the service of the United States but was not mustered in. He was killed in the battle of Corinth. The Government owes his father, a poor man living in my district, about six hundred dollars. I have examined the case and have been at the War Department in reference to it. It has the recommendation of Generals Rosecrans and Stanley, on whose staff this officer was killed.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ODELL moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COLORADO TERRITORY.

Mr. DRIGGS. I ask leave to report from the Committee on Public Lands a bill (H. R. No. 702) in relation to preemption rights in Colorado Territory.

Mr. MORRIS, of Ohio. I object.

Mr. DRIGGS. I move to suspend the rules so as to enable the committee to report the bill for action at this time. It proposes nothing but the application of the preemption law to the Territory of Colorado.

The motion was agreed to, and the rules were suspended.

The bill was reported from the committee, ordered to be engrossed and read a third time, and being engrossed, it was read the third time and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

STOCKBRIDGE, WISCONSIN.

Mr. SLOAN. I ask unanimous consent to take from the Speaker's table the Senate amendment to the bill (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, Wisconsin, and for other purposes.

There was no objection.

Mr. SLOAN. I move that the House concur in the amendment of the Senate.

The motion was agreed to.

Mr. SLOAN moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MAIL POUCHES.

Mr. COLE, of California. I ask unanimous consent to take from the Speaker's table a joint resolution (S. R. No. 121) to purchase mail pouches and boxes, of Marshall Smith's patent, for the postal service, and for other purposes.

This is for the purpose of allowing the Postmaster General to use an invention of Mr. Smith, boxes and pouches, in place of the old leathern bags, for carrying the mail. By using this invention, postmasters and post agents will be enabled to assort the letters and have them ready for delivery earlier at the stations where they are to be delivered. It has been recommended by the Post Office Committee of the Senate and by the Post Office Committee of the House. I think it can meet with no objection.

No objection was made.

The joint resolution was read a first and second time, ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. COLE, of California, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

REMISSION OF FEES AND FINES.

Mr. INGERSOLL, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That all fines and fees imposed by the House on members for being absent without leave during the recent call of the House be, and the same are hereby, remitted.

Mr. INGERSOLL moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

SUBSISTENCE DEPARTMENT.

Mr. SCHENCK. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses upon a bill (H. R. No. 600) for the better organization of the subsistence department.

I will, with the leave of the House, explain this subject. This bill is for the reorganization of the subsistence department. It provides that commissaries of subsistence shall have increased rank temporarily, as their responsibility is increased by being assigned to duty at principal depots, to armies in the field, military departments and divisions. The matter of dispute between the two Houses was this: the bill as passed by the House provided that these assignments should be made only from commissaries of the volunteer forces. The Senate amended the bill so as to require that two thirds of them only should be taken from the volunteers. There are twenty-nine officers in the regular subsistence department, those who are considered attached to the regular Army, while there are five hundred and fourteen officers of subsistence among the volunteers.

The question has been compromised by the committee of conference, so that the assignment shall be made in proportion to the numbers respectively in service in each force. This will give the increased rank to the volunteers in the proportion of about seventeen to one in the regular subsistence department. To this compromise we ask the House to agree, as the Senate has already done.

Mr. MORRIS, of Ohio. Has there been any amendment made to this bill in which both Houses have concurred?

Mr. SCHENCK. No, sir. There was an amendment made by the Senate to which the House disagreed, and upon which the Senate insisted. The House insisted upon its disagreement to the Senate amendment and asked for a committee of conference, to which the Senate agreed. The proviso to which I have referred was the only subject considered by the committee of conference.

I move the adoption of the report, and call the previous question.

The previous question was seconded, and the main question was ordered; and under the operation thereof the report of the committee of conference was adopted.

ENROLLMENT OF NATIONAL FORCES.

Mr. SCHENCK. I ask that the Committee on Military Affairs be discharged from the further consideration of the bill (S. No. 408) entitled "An act in addition to the several acts for enrolling and calling out the national forces, and for other purposes," and that the bill be laid on the table. The House has already acted upon another bill on this subject.

The motion was agreed to.

THANKS TO MAJOR GENERAL THOMAS.

Mr. SCHENCK. The Committee on Military Affairs, to whom was referred Senate amendment to joint resolution H. R. No. 139, giving a vote of thanks to Major General Thomas, have directed me to report it back with a recommendation that the House do not agree to that amendment.

The amendment of the Senate was not agreed to.

DEBORAH JONES.

Mr. KERNAN. I ask leave to withdraw from the files of the House the papers in the case of

Deborah Jones, that they may be sent to the Pension Office.

Leave was granted.

REPORT ON FLAX AND HEMP.

Mr. A. W. CLARK, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That thirty thousand extra copies of the report of the commission on flax and hemp be printed for the use of the members of this House, and five thousand copies for the use of the Department of Agriculture.

AMENDATORY INTERNAL REVENUE ACT.

Mr. A. W. CLARK also reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

*Resolved*, That under the direction of the Secretary of the Treasury, twenty thousand copies of the act amending the internal revenue laws, including an index, be printed as amended, with all the amendments incorporated into the text, so far as practicable, and with the new sections thereto annexed, with an index and marginal notes.

AGRICULTURAL REPORT FOR 1863.

Mr. A. W. CLARK also reported from the Committee on Printing the following resolution:

*Resolved*, That there be printed, for the use of the Department of Agriculture, five thousand extra copies of the Agricultural Report for 1863.

Mr. WASHBURNE, of Illinois. What need is there for printing these five thousand extra copies?

Mr. A. W. CLARK. The Commissioner of Agriculture, at this early day, finds himself entirely without any of these reports.

Mr. WASHBURNE, of Illinois. So do we.

Mr. A. W. CLARK. The Commissioner of Agriculture asks for this extra number that he may supply the correspondents who are constantly calling upon him for copies of this document.

Mr. WASHBURNE, of Illinois. I move to amend the resolution by striking out the words "Department of Agriculture," and inserting in lieu thereof the words "members of this House," so that the clause will read, "for the use of the members of this House."

Mr. A. W. CLARK. If that amendment should be made, I trust that the resolution will be rejected, because a sufficient number of copies are already provided for the members of this House.

The amendment was not agreed to.

The resolution was adopted.

Mr. A. W. CLARK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had insisted on their disagreement to the amendment of the House to the first amendment of the Senate to the bill (H. R. No. 653) entitled "An act making appropriations for the support of the Army for the year ending June 30, 1866."

Also, that the Senate had agreed to the report of the committee of conference on joint resolution S. No. 389, directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities.

VIRGINIA MILITARY DISTRICT OF OHIO.

Mr. ALLISON. I ask unanimous consent to report, from the Committee on Public Lands, House bill No. 812, which has been recommended by the Commissioner of the General Land Office, entitled "An act allowing the further time of five years to those holding lands by entries in the Virginia military district of Ohio, which were made prior to the 1st of January, 1852, to have the same surveyed and patented." I move that it be now considered.

There was no objection, and the bill was ordered to be engrossed for a third reading; and, being engrossed, it was accordingly read the third time, and passed.

Mr. ALLISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

D. FITZGERALD AND J. BALL.

Mr. JENCKES. I ask unanimous consent to report from the Committee on Patents a bill (S.

No. 244) entitled "An act for the relief of Daniel Fitzgerald and Jonathan Ball."

Mr. DAWES. I object.

Mr. JENCKES. I move to suspend the rules. The motion was not agreed to.

E. W. BARBER.

Mr. DAWES, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House pay to E. W. Barber, assistant reading clerk, out of the contingent fund of the House, such sum as may be necessary to give him the full amount of his present annual compensation from the commencement of the first session of the present Congress.

Mr. DAVIS, of Maryland, (at five minutes to four o'clock a. m.) I move that the House take a recess until nine o'clock.

The SPEAKER. The Chair feels it to be his duty to state that if the House takes a recess now two of the appropriation bills will probably be lost.

The motion was disagreed to.

#### DISBURSING CLERK OF THE HOUSE.

Mr. BROOMALL. I ask unanimous consent to offer the following resolution:

*Resolved*, That the salary of the chief or disbursing clerk of the House of Representatives be, and the same is hereby, increased to \$3,000 per annum, and that of the assistant disbursing clerk to \$2,500 per annum, beginning with the present Congress.

Objection was made.

Mr. BROOMALL. I move to suspend the rules for the purpose of introducing that resolution.

Mr. GRINNELL. I do not yield for that purpose.

#### CLERKS OF COMMITTEES.

Mr. MILLER, of Pennsylvania. I ask unanimous consent to submit the following resolution:

*Resolved*, That the clerks of committees of this House, not receiving an annual salary, shall be allowed a sum per diem for the time actually employed, commencing with the present session of Congress, equal to that allowed to clerks of committees of the Senate.

Mr. FRANK objected.

#### SPEAKER'S TABLE.

Mr. GRINNELL moved to proceed to business on the Speaker's table.

The motion was agreed to.

Mr. RANDALL, of Pennsylvania, moved to take a recess for one hour.

The motion was disagreed to.

#### CONSTITUTIONAL AMENDMENT.

The House proceeded to the consideration of business upon the Speaker's table.

The first business was Senate concurrent resolution requesting the President of the United States to transmit to the Executives of the several States the amendment proposed by Congress to the Constitution of the United States, respecting the extinction of slavery therein.

The House divided; and there were—ayes 54, noes 38.

So the resolution was concurred in.

#### REBEL DEBT.

The next business on the Speaker's table was Senate concurrent resolution against any recognition of the rebel debt or loan under any circumstances.

The resolution was concurred in.

#### DUTY ON PRINTING PAPER.

The next business on the Speaker's table was House joint resolution No. 141, reducing the duty on printing paper, unsized, used for books and newspapers exclusively.

Mr. WASHBURN, of Illinois, moved to concur in the Senate amendment, and demanded the previous question.

The previous question was seconded, and the main question ordered.

The amendment of the Senate was read, as follows:

In line four strike out "three" and insert in lieu thereof "fifteen;" so that it will read, "there shall be levied, collected, and paid a duty of fifteen per cent. *ad valorem*."

The House divided; and there were—ayes 51, noes 64.

Mr. HOLMAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in

the negative—yeas 53, nays 67, not voting 62; as follows:

YEAS—Messrs. Allison, Ancona, Arnold, Ashley, Augustus C. Baldwin, Baxter, Beaman, Blow, Boyd, Brooks, James S. Brown, Cobb, Cole, Driggs, Eden, Eliot, English, Garfield, Grinnell, Charles M. Harris, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Ingersoll, Kasson, Kernan, Longyear, Mallory, Marcy, Samuel F. Miller, William H. Miller, Morrison, Norton, Odell, Orth, Pomeroy, Price, Pruyn, Ross, Schenck, Scofield, Shannon, John B. Steele, Stuart, Townsend, Upson, Elihu B. Washburne, Webster, Whaley, Wheeler, Williams, and Wilder—63.

NAYS—Messrs. James C. Allen, Baily, John D. Baldwin, Bliss, Boutwell, Broomall, Chanler, Freeman Clarke, Coffroth, Cox, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dixon, Edgerton, Eldridge, Farnsworth, Finck, Ganson, Gooch, Grider, Griswold, Hale, John H. Hubbard, Hulburd, William Johnson, Kelley, Francis W. Kellogg, Le Blond, Long, Marvin, McAllister, McBride, McClurg, McKinney, Moorhead, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Noble, Charles O'Neill, John O'Neill, Patterson, Pendleton, Perham, Pike, Alexander H. Rice, John H. Rice, Scott, Smithers, Stevens, Stiles, Strouse, Thayer, Tracy, Voorhees, William B. Washburn, Chilton A. White, Wilson, Windom, Woodbridge, and Worthington—67.

NOT VOTING—Messrs. William J. Allen, Alley, Ames, Anderson, Blaine, Blair, Brandegee, William G. Brown, Ambrose W. Clark, Clay, Dawson, Deming, Denison, Donnelly, Dumont, Eckley, Hall, Harding, Harrington, Benjamin G. Harris, Herrick, Hooper, Hutchins, Jenckes, Philip Johnson, Julian, Kalbfleisch, Orlando Kellogg, King, Knapp, Knox, Law, Lazear, Littlejohn, Loan, McDowell, McIndoe, Middleton, Nelson, Perry, Radford, Samuel J. Randall, William H. Randall, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Sloan, Smith, Spalding, Starr, William G. Steele, Sweat, Thomas, Van Valkenburgh, Wadsworth, Ward, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—63.

So the amendment was non-concurred in.

Mr. FARNSWORTH. I move that the resolution lie on the table.

Mr. WASHBURN, of Illinois. Upon that motion I call the yeas and nays.

The yeas and nays were ordered.

The question was put; and it was decided in the negative—yeas 46, nays 63, not voting 73; as follows:

YEAS—Messrs. Ames, Baily, Bliss, Blow, Boutwell, Broomall, Ambrose W. Clark, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Driggs, Eliot, Farnsworth, Gooch, Griswold, Hale, Hall, Higby, John H. Hubbard, Jenckes, Kelley, Francis W. Kellogg, Marvin, McBride, McClurg, Moorhead, Daniel Morris, Amos Myers, Leonard Myers, Norton, Charles O'Neill, Orth, Patterson, Perham, Pike, Alexander H. Rice, John H. Rice, Shannon, Smithers, Stevens, Thayer, William B. Washburn, Whaley, Woodbridge, and Worthington—46.

NAYS—Messrs. James C. Allen, Allison, Ancona, Arnold, Ashley, Baxter, Beaman, Boyd, Brooks, James S. Brown, Chanler, Cobb, Cravens, Dixon, Eckley, Eden, Edgerton, Eldridge, Finck, Ganson, Garfield, Grinnell, Charles M. Harris, Asahel W. Hubbard, Hulburd, Ingersoll, William Johnson, Kernan, Le Blond, Long, Longyear, Mallory, Marcy, McKinney, James R. Morris, Morrison, Noble, Odell, John O'Neill, Pendleton, Price, Pruyn, Samuel J. Randall, Ross, Schenck, Scofield, Scott, John B. Steele, Stiles, Strouse, Stuart, Townsend, Tracy, Upson, Van Valkenburgh, Voorhees, Elihu B. Washburne, Wheeler, Chilton A. White, Williams, Wilder, Wilson, and Windom—63.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Augustus C. Baldwin, John D. Baldwin, Blaine, Blair, Brandegee, William G. Brown, Freeman Clarke, Clay, Coffroth, Cole, Cox, Dawson, Deming, Denison, Donnelly, Dumont, English, Frank, Grider, Harding, Harrington, Benjamin G. Harris, Herrick, Holman, Hooper, Hotchkiss, Hutchins, Philip Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, King, Knapp, Knox, Law, Lazear, Littlejohn, Loan, McAllister, McDowell, McIndoe, Middleton, Nelson, Perry, Radford, William H. Randall, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Sloan, Smith, Spalding, Starr, William G. Steele, Sweat, Thomas, Wadsworth, Ward, Webster, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—73.

So the resolution was not laid on the table.

Mr. WASHBURN, of Illinois. I move that the House insist upon its disagreement, and ask a committee of conference.

The motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act of the following title; when the Speaker signed the same:

An act (H. R. No. 805) to repeal the eighth section of an act entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, and for other purposes.

#### ARMY APPROPRIATION BILL.

Mr. THAYER, from the committee of conference on the disagreeing votes of the two Houses

on the amendments to the bill (H. R. No. 683) making appropriations for the support of the Army for the year ending the 30th of June, 1866, reported that the committee, having met, after full and free conference had been unable to agree.

The report was signed by Messrs. THAYER, D. MORRIS, and KERNAN, managers on the part of the House; and by Messrs. HARRIS, HOWE, and WILLEY, managers on the part of the Senate.

Mr. THAYER. The House will remember that the disagreement between the two Houses occurred upon the amendment of the Senate, striking out the proviso added to the bill by the gentleman from Iowa [Mr. Wilson] in regard to the Illinois Central railroad. The difference, Mr. Speaker, in opinion upon this question seems to me to be chiefly a difference in the construction of the law which is supposed to impose upon the Illinois Central Railroad Company the duty of transporting the troops and other property of the United States over their road free of charge. With a view to settling this disagreement in some manner which will save the decision of this important question of law upon which the proviso hinges, I will move that the House recede from its amendment to the Senate amendment, and agree to the Senate amendment with the following amendment:

*Provided*, That no money appropriated by this act shall be used for the purpose of paying the Illinois Central Railroad Company for the transportation of the property or troops of the United States: *And provided further*, That in case it shall be adjudged by the Supreme Court of the United States that the Illinois Central Railroad Company are not bound by the act of Congress, approved September 20, 1850, to transport the property and troops of the United States free of charge, then, and in that case, this provision shall be null and void; and for the purpose of enabling the said company to obtain a judgment of the said court upon the said question the said company are hereby authorized to bring a suit against the United States in the circuit court of the United States in the eighth circuit, to recover compensation for the transportation of any property or troops of the United States carried by said company, and the judgment of said circuit court of the United States may be reviewed by the Supreme Court of the United States, upon appeal or writ of error, as now provided by law in other cases; and the Attorney General of the United States is hereby required to appear for the United States in said suit, and defend its interest therein.

It seems to me, Mr. Speaker, that this is a question of so much importance, and involves such large interests to the Government, that we should make at least one more effort to put the question between the two Houses in a course of adjudication. I do not think that this House, unless it becomes absolutely necessary for the safety of this important bill, should abandon an attempt, at least, to enforce the contract which this company voluntarily assumed when it accepted this grant of land. The amendment which I have proposed in lieu of that which was stricken out by the Senate is simply a provision that will put this great and important question in a train for final adjudication by the highest judicial tribunal of the country. I cannot see that either of the parties to this important controversy can, with any degree of justice, object to this. And I hope that before we abandon the assertion of what I consider an important principle we will at any rate make one more effort to secure the interests and the rights of the Government as contemplated when this grant was made.

Mr. KERNAN. I do not believe that the adoption of this amendment would change the result in the committee of conference, and therefore we should not lose time upon it. It seems to me that unless we are to endanger the bill we should have a vote as to whether the House will not recede from its amendment. I do not think that any further conference, so far as I can judge, will reconcile the views of the two Houses on this amendment.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 274) for the relief of John Hastings, collector of the port of Pittsburgh;

An act (S. No. 380) supplemental to the act approved 1st July, 1864, for the disposal of coal lands and of town property on the public domain;

Joint resolution (S. No. 89) directing inquiry into the condition of the Indian tribes, and their treatment by the civil and military authorities; and Joint resolution (S. No. 121) to purchase mail



pouches or boxes, of Marshall Smith's patent, for the postal service, and for other purposes.

#### ARMY APPROPRIATION BILL—AGAIN.

Mr. MORRILL. Mr. Speaker, in my judgment we have pursued this controversy as long as it is profitable. The proposed legislation is on a bill which ought to be free from any sort of legislation that might endanger its passage. In my judgment these provisos attached to appropriation bills are at all times objectionable, and at such a time as this more objectionable than at any other. The proposition of the gentleman from Pennsylvania [Mr. THAYER] is to submit this as a question of law to be decided by the courts. Technically the law may or may not be on our side; but do we want a lawsuit of this sort? Ought we not rather to permit the Executive Departments to do what is honorable and just?

Now, Mr. Speaker, I submit to the judgment of every member of the House whether, if he had a contract of this kind with any of his neighbors, he would feel that he could, in honor, enforce it. I am not disposed to assert but that the law may be on our side. But no one supposed at the time of the grant to this railroad that we were to have a war which would monopolize its whole capacity and absorb its entire revenues in performing the business of the Government. The road can afford to be liberal with us, but we cannot afford to pursue it and its stockholders regardless of national reputation at home as well as abroad. "It is the letter of the law that killeth and the spirit that maketh alive." What we ought to do in this case I am not quite prepared to say. But to say that the managers of this road have not evinced a spirit of fairness would be, I think, saying too much. They have allowed the entire use of their property, and have furnished men, and paid out their money, for the benefit of the Government. And yet they are willing to take one third less than the Government is willing to pay to any other road for similar services. Under these circumstances I do not think that it is to our credit to push this thing too far.

Now, Mr. Speaker, in regard to this matter, unless we can have speedy action on this bill we are certainly in some danger of losing the bill. It is the Army bill, and ought to pass at once. I shall move that the House recede from its disagreement with the Senate. The judgment of the Senate is at least as much against the provision as that of the House is for it. I hope it will be believed on the part of all members of the House that, whatever they may think of the merits of the question itself, we have pushed the controversy as far as it is profitable.

Mr. WASHBURN, of Illinois. I had supposed, Mr. Speaker, that when the gentleman from Pennsylvania [Mr. THAYER] offered this proposition it would be received in a spirit of compromise and without any objection from gentlemen who have been opposed to the original proposition of the gentleman from Iowa [Mr. WILSON.] The position that was taken was that under the law this railroad company is entitled to be paid. I did not suppose that anybody, particularly my friend on the Committee of Ways and Means [Mr. MORRILL] would come in and present this railroad company *in forma pauperis*, because I have shown to the gentleman from Vermont that this company has made by the war more than it would have made had there been no war. I think this has been fully demonstrated by me in remarks heretofore made by me on this subject.

And now, sir, the only question for us to decide is this: whether we shall have this question fairly and justly adjudicated, that we may know what are the rights of the Government and what are the rights of the road; and I would ask, what is the objection to letting the courts pass upon this question? There is no force in the point which the gentleman from Vermont [Mr. MORRILL] has urged, that we have not the time to consider this matter now. We have yet seven hours before this session closes. I have seen the most important bills that could possibly be considered by Congress settled by committees of conference in the very last hours of the session. There certainly ought to be no doubt whatever that if we adopt this provision presented by the gentleman from Pennsylvania [Mr. THAYER] the Senate will

concur in it. Let the House adopt this amendment, and it will settle the question not only in regard to this road, but all the other roads. Let me state to gentlemen in States which have land-grant roads that it is important to them to have this question settled.

It is proposed to settle this controversy by the action of the judicial tribunals. I trust that this House will not recede from its position; that this railroad shall not be permitted to go into the Senate of the United States and demand nearly a million dollars before this appropriation bill should be allowed to pass. That is what it amounts to. This railroad goes there in the Senate and says, "Unless you give us this bounty of so much money, we will allow the bill to be defeated." I trust the House is ready to vote upon this question, and therefore I call the previous question.

Mr. WOODBRIDGE. Will the gentleman withdraw that call for the present?

Mr. WASHBURN, of Illinois. I will do so.

Mr. WOODBRIDGE. I understand the argument of my friend from Illinois [Mr. WASHBURN] to rest upon two grounds. And it seems to me that the first and most important one with him is that when he travels between local stations on the Illinois Central railroad they charge him seven cents per mile. With that I have nothing to do. It is a controversy, if my friend thinks the charge too much, between himself and the law of Illinois or the regulations of the railroad.

After that comes the proposition, as I understand it, that the Illinois Central Railroad Company is making too much money, and hence we ought to legislate in some way to prevent the stockholders of that company, the more especially as they are English stockholders, from making so large a dividend. Sir, let me say to him and to this House that had it not been for English and German capital the railroads which now permeate the West and bring it within a stone's throw, as it were, of the great commercial center of this nation would never have been built. It is to foreign capital that we are indebted for the great degree of success and prosperity which those roads have now realized, and because they have realized that success, and because the question is settled, so far as these railroads already built are concerned, my friend from Illinois [Mr. WASHBURN] comes here and says that inasmuch as this Illinois Central railroad is owned by gentlemen belonging to a nation which arms, mans, and sends out ships against us—and I am sorry to say that is the case—we should be unjust to the road which they own, so far as they have an interest in it.

Mr. MORRILL. I desire to ask my colleague [Mr. WOODBRIDGE] if he supposes it would prejudice the road if it were a fact known to this House that it was owned to some extent by foreign bondholders—such men as Richard Cobden and John Bright among them?

Mr. WOODBRIDGE. There is no man who admires Richard Cobden and John Bright more than I do. But allow me to say the argument, it seems to me the *ad captandum* argument, of the gentleman from Illinois [Mr. WASHBURN] has been that the men who own this road were British capitalists; hence we, as citizens of free America, should do what we could to injure their interests. That is the only inference that can be drawn from the argument which the gentleman used upon the floor of this House yesterday, or when this bill was under consideration.

Now, sir, the proposition is to leave this to a court of law; that is the proposition. It comes from my legal friend from Pennsylvania, [Mr. THAYER,] a man whom I admire for his legal learning and ability. But let us look and see how we, as the American people, will stand should we adopt a proposition of that character. As a lawyer, and construing the contract between the Government and this railroad company upon pure and simple law, I might possibly agree with the gentleman, and say that when it came before the court, and is subjected to a pure legal construction, it might work just the result which my friend from Illinois [Mr. WASHBURN] desires. But the whole question is within the American Congress. We do not sit here as mere lawgivers; we do not sit here as mere arbitrators between the people and the strict rules of law. I hope, sir, that we sit here for the purpose of doing justice; and I submit that the proposition of the gen-

tleman from Pennsylvania is not fraught with the spirit which should characterize our legislation.

Mr. SMITHERS. If my friend from Vermont will allow me, I desire to ask him whether there is any principle of equity which allows one party to enjoy the advantages of a grant while withholding from the other party the consideration which was the inducement to that grant.

Mr. WOODBRIDGE. I will answer that question by and by.

The SPEAKER. The gentleman's five minutes have expired.

Mr. WOODBRIDGE. All I have to say is simply this: that, doing equity between the Government and this railroad company, it is impossible for us to adopt the proposition of the gentleman from Pennsylvania; and, doing equity, it is quite preposterous for us, notwithstanding the obligation resting upon that company, to say that we will not pay whatever may be right for the transportation of troops and munitions of war over that road. I wish that I had time to elucidate my proposition; but I must conclude.

Mr. THAYER. Mr. Speaker, I must express my surprise that the gentleman from Vermont, [Mr. WOODBRIDGE,] who was so swift to pronounce my proposition an absurdity, should have presented to this House an argument of the character of that which he has advanced. Sir, he has yielded the whole question which has been in issue between the parties to this controversy. This matter, when it was previously before the House, was discussed as a question of law; and the gentleman from Illinois, upon my left, [Mr. FARNSWORTH,] who made an able argument on the side of the company, put their case upon what he alleged to be a legal construction of the act making this grant. Now, sir, the gentleman from Vermont says that he might agree with me that the law is on the side of the Government; but he makes an appeal to the House in behalf of what he calls "equity." Well, sir, if this company come here begging mercy at the hands of the Government, begging to be released from the contract into which they deliberately entered, they place themselves in an attitude quite different from that in which the advocates of the company presented them when this question was previously before the House.

But wherein consists the absurdity of my proposition? If the gentleman admits that the company have a just claim to the hundreds of thousands of dollars which are being paid to them, as we say, without warrant of law; if the company deny they are liable to this obligation, and I present to the House, as I have presented, a simple method for the settlement of this question of law, wherein is the absurdity of the proposition? I am astonished that a gentleman who was so swift to make such an assertion should have attempted to sustain it by so weak an argument.

What injustice is proposed by the proposition I have put before the House? On the one hand, this company deny their legal responsibility; on the other, it is alleged that they are subject to that responsibility. On that point a disagreement has arisen between the two Houses. The proposition which I have made by way of amendment puts this legal question upon which the parties differ in train for judicial settlement. Why should not that question be thus settled? If this company are not liable, if they are pronounced by the Supreme Court to be not liable, they escape from the burden which we say was imposed upon them by the act which they accepted. If, on the contrary, they do rest under this obligation, why should they not discharge it? The gentleman says that they should not discharge it because of some vague theory of equity which he sets up. Sir, when this company shall come to this House with a claim founded upon any principles of equity, and asking exemption from an admitted liability, I for one, will vote to extend to them every facility for the deliberate examination and decision of their case. But I am opposed to extending this treatment to a company who deny the legal responsibility which they once assumed. Sir, they have no right to occupy this double ground. If they would admit their liability and throw themselves upon the generosity of the Government, we could understand their position and could deal with them accordingly.

Mr. WASHBURN, of Illinois, demanded the previous question.

The previous question was seconded, and the main question ordered.

The question was first upon the motion of Mr. MORRILL that the House recede from its disagreement with the Senate.

On the question there were, on a division—ayes 54, noes 41.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 47, not voting 72; as follows:

YEAS—Messrs. James C. Allen, Allison, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Bliss, Boutwell, Brooks, Broomall, Chanler, Ambrose W. Clark, Coffroth, Cole, Cox, Cravens, Creswell, Thomas T. Davis, Eden, Edgerton, Eldridge, Farnsworth, Garfield, Grinnell, Griswold, Higby, Ingersoll, William Johnson, Kasson, Kelley, Francis W. Kellogg, Kernan, Knapp, Le Blond, Littlejohn, Long, Mallory, Marcy, McAllister, McKinney, Morrill, James R. Morris, Morrison, Noble, Odell, Pendleton, Pomeroy, Pruyn, William H. Randall, Ross, Schenck, Scott, John B. Steele, Stiles, Strouse, Stuart, Townsend, Voorhees, William B. Washburn, Whaley, Chilton A. White, Windom, and Worthington—63.

NAYS—Messrs. Ames, Ancona, Beaman, Boyd, James S. Brown, Cobb, Henry Winter Davis, Dawes, Dixon, Briggs, Eckley, Eliot, Finck, Frank, Ganson, Gooch, Hale, Holman, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Jenckes, Marvin, McBride, Samuel F. Miller, Moorhead, Daniel Morris, Norton, Charles O'Neill, John O'Neill, Orth, Patterson, Price, Samuel J. Randall, Alexander H. Rice, Scofield, Sloan, Smithers, Stevens, Thayer, Upson, Van Valkenburgh, Elihu B. Washburn, Williams, Wilson, and Worthington—47.

NOT VOTING—Messrs. William J. Allen, Alley, Anderson, Bailey, Baxter, Blaine, Blair, Blow, Brandegee, William G. Brown, Freeman Clarke, Clay, Dawson, Deming, Denison, Donnelly, Dumont, English, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Hooper, Hutchins, Philip Johnson, Julian, Kalbfleisch, Orlando Kellogg, King, Knox, Law, Lazear, Loan, Longyear, McClurg, McDowell, McIndoe, Middleton, William H. Miller, Amos Myers, Leonard Myers, Nelson, Perham, Perry, Pike, Radford, John H. Rice, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Shannon, Smith, Spalding, Starr, William G. Steele, Stevens, Stuart, Sweet, Thomas, Tracy, Voorhees, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—72.

So the House receded from its disagreement.

Mr. J. C. ALLEN moved to reconsider the vote by which the House receded from its disagreement; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS. I move that we take a recess until nine o'clock. There seems to be no likelihood of anything coming from the Senate.

Mr. MORRILL. I hope not. I hope that we will have no recess. It is now broad daylight.

Mr. WASHBURN, of Illinois. Is the question debatable?

The SPEAKER. It is not.

The motion was disagreed to.

#### LOCAL STEAMBOAT INSPECTORS.

The SPEAKER. The next business on the Speaker's table is House bill No. 667, to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes," with Senate amendments.

Mr. WASHBURN, of Illinois. I move to non-concur in the amendments of the Senate, and ask for a committee of conference.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DISQUALIFICATION OF COLOR.

The next business on the Speaker's table was Senate bill No. 62, to remove all disqualification of color in carrying the mails.

The SPEAKER stated that a call for the previous question was pending on the third reading of the bill.

Mr. ELDRIDGE moved that the bill be laid on the table.

Mr. EDEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in

the negative—yeas 30, nays 65, not voting 87; as follows:

YEAS—Messrs. Ancona, Bliss, James S. Brown, Chanler, Coffroth, Cox, Cravens, Eden, Edgerton, Eldridge, Finck, Knapp, Knox, Le Blond, Long, Marcy, Middleton, James R. Morris, Noble, John O'Neill, Price, Pruyn, Samuel J. Randall, William H. Randall, Ross, Scott, Stiles, Strouse, Townsend, and Chilton A. White—30.

NAYS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Dawes, Dixon, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Kelley, Littlejohn, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Norton, Charles O'Neill, Orth, Patterson, Perham, Pomeroy, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Sloan, Smithers, Thayer, Upson, Van Valkenburgh, Elihu B. Washburn, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—65.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Augustus C. Baldwin, Blaine, Blair, Brandegee, Brooks, William G. Brown, Freeman Clarke, Clay, Thomas T. Davis, Dawson, Deming, Denison, Donnelly, Driggs, Dumont, English, Ganson, Grider, Hale, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hooper, Hotchkiss, Hutchins, Philip Johnson, William Johnson, Julian, Kalbfleisch, Kasson, Francis W. Kellogg, Orlando Kellogg, Kernan, King, Law, Lazear, Loan, Mallory, McAllister, McDowell, McIndoe, McKinney, William H. Miller, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Odell, Pendleton, Perry, Pike, Radford, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Smith Spalding, Starr, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Thomas, Tracy, Voorhees, Wadsworth, Ward, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—87.

So the bill was not laid on the table.

The question recurred on seconding the previous question.

The previous question was seconded, and the main question ordered; and under its operation the bill was read the third time, and passed.

Mr. GRINNELL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 558) to authorize the issuing of patents for certain lands in the town of Stockbridge, State of Wisconsin, and for other purposes; and an act (H. R. No. 710) to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin; when the Speaker signed the same.

#### COLORED PERSONS IN THE DISTRICT.

Mr. SCHENCK, from the Committee on Military Affairs, to which was referred the letter of the Secretary of War in reference to colored people going from the District without passes, reported that the committee had had the subject under consideration, and had recommended the adoption of the following resolution:

Resolved, That in the judgment of this House the order of the major general commanding the department of Washington and the twenty-second Army corps, issued on the 12th day of July, 1864, directing that no colored man should be allowed to leave Washington city, going North, without a pass, is a regulation which makes an odious discrimination, in conflict with the law of the United States, which has declared free alike citizens and residents of the District of Columbia; and that the President is hereby requested to direct said military order to be at once revoked.

Mr. HOLMAN. For the purpose of having time for reflection on this subject I move that the House take a recess till nine o'clock.

The SPEAKER. It is the duty of the Speaker, at the closing period of the session, to advise the House as to the condition of public bills necessary to carry on the Government. There are two important bills yet to be acted on.

The question was taken on Mr. HOLMAN's motion, and it was rejected.

Mr. MORRIS, of Ohio. I suggest that the word "odious" in the resolution should read "odorous." [Laughter.]

Mr. RANDALL, of Pennsylvania. I suggest that the words "or come to" be added to the resolution so that it will read "no colored man shall be allowed to leave or come to Washington city."

Mr. COX. I move that the resolution be laid on the table.

Mr. VOORHEES. I would like to inquire whether it is not true that every member of this House has had issued to him a pass by the military commander of this department to go through the defenses of Washington.

Mr. COX. We are white men. [Laughter.] Mr. VOORHEES. I know that I have such a pass. Part of the defenses of Washington lie between here and Baltimore, and we cannot go through them without having military passes.

Mr. UPSON. No man is required to show a pass to go to Baltimore.

Mr. VOORHEES. Part of the defenses of Washington lie between this city and Baltimore.

Mr. UPSON. I ask the gentleman if he has been ever required to show a pass going on the railroad?

Mr. VOORHEES. I will answer that question.

Mr. UPSON. A military pass going from Washington to Baltimore?

Several MEMBERS. Railroad passes.

Mr. ASHLEY. The imputation which my friend from Indiana casts on colored men—

Mr. VOORHEES. I cast no imputation on them. I want to see whether we are on an equality with them. [Laughter.]

Mr. GARFIELD. The gentleman had better consult his clergyman if he has any doubt about it.

The question being on the motion to lay the resolution on the table,

The SPEAKER ordered tellers, and appointed Messrs. ORTH and STILES.

The House divided; and the tellers reported—ayes 23, noes 69.

So the House refused to lay the resolution on the table.

The question being on the adoption of the resolution,

Mr. COX called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 24, not voting 83; as follows:

YEAS—Messrs. Allison, Ames, Arnold, Ashley, Bailey, John D. Baldwin, Baxter, Beaman, Bliss, Blow, Boutwell, Boyd, Broomall, Ambrose W. Clark, Cobb, Cole, Creswell, Henry Winter Davis, Thomas T. Davis, Dixon, Driggs, Eckley, Eliot, Farnsworth, Frank, Garfield, Gooch, Grinnell, Griswold, Hale, Higby, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Kasson, Kelley, Francis W. Kellogg, Littlejohn, Longyear, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, Moorhead, Morrill, Daniel Morris, Amos Myers, Norton, Odell, Charles O'Neill, Orth, Patterson, Perham, Pike, Pomeroy, Price, Alexander H. Rice, John H. Rice, Schenck, Scofield, Shannon, Smithers, Thayer, Tracy, Upson, Elihu B. Washburn, William B. Washburn, Williams, Wilder, Wilson, Windom, Woodbridge, and Worthington—75.

NAYS—Messrs. Ancona, Augustus C. Baldwin, Coffroth, Cox, Cravens, Eden, Eldridge, Knapp, McKinney, James R. Morris, Morrison, John O'Neill, Pendleton, Pruyn, Samuel J. Randall, Ross, Scott, John B. Steele, Stiles, Strouse, Townsend, Voorhees, Whaley, and Wheeler—24.

NOT VOTING—Messrs. James C. Allen, William J. Allen, Alley, Anderson, Blaine, Blair, Brandegee, Brooks, James S. Brown, William G. Brown, Chanler, Freeman Clarke, Clay, Dawes, Dawson, Deming, Denison, Donnelly, Dumont, Edgerton, English, Finck, Ganson, Grider, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Herrick, Holman, Hooper, Hotchkiss, Hutchins, Jenckes, Philip Johnson, William Johnson, Julian, Kalbfleisch, Orlando Kellogg, Kernan, King, Knox, Law, Lazear, Le Blond, Loan, Long, Mallory, Marcy, McDowell, McIndoe, Middleton, William H. Miller, Leonard Myers, Nelson, Noble, Perry, Radford, William H. Randall, Robinson, Rogers, Edward H. Rollins, James S. Rollins, Sloan, Smith, Spalding, Starr, William G. Steele, Stevens, Stuart, Sweet, Thomas, Van Valkenburgh, Wadsworth, Ward, Webster, Chilton A. White, Joseph W. White, Winfield, Benjamin Wood, Fernando Wood, and Yeaman—83.

So the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, announced to the House that the Senate insist upon its amendments disagreed to by the House, and agree to the committee of conference asked for by the House on the bill (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes;" and had appointed Messrs. GRIMES, CHANDLER, and MORRILL, as such committee on the part of the Senate.

Also, that the Senate insist upon its amend-

ments disagreed to by the House, and agree to the committee of conference asked for by the House, on the joint resolution (H. R. No. 141) reducing the duties on printing paper, unsized, used for books and newspapers exclusively; and had appointed Messrs. HOWE, ANTHONY, and LANE of Kansas, as such committee on the part of the Senate.

#### ELLIS NORRIS.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Ellis Norris; which was read a first and second time by its title.

The bill, which was read, directs the Secretary of the Interior to place the name of Ellis Norris, of Barnstable, Massachusetts, upon the pension roll, at the rate of eight dollars per month from the 15th of April, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANNA E. WARD.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Anna E. Ward, widow of Lieutenant Joseph D. Ward; which was read a first and second time by its title.

The bill, which was read, directs the Secretary of the Interior to place the name of Anna E. Ward, widow of Joseph D. Ward, lieutenant of the second regiment of Kentucky volunteers, who died of wounds received in the battle of Buena Vista, Mexico, February 23, 1847, on the pension roll from the 4th of February, 1865, at the rate of seventeen dollars a month during her natural life, or widowhood, and in case of her marriage or death the same to be paid to her children until the youngest reaches the age of sixteen years.

Mr. PRICE. I move that the further consideration of the bill be postponed until the second Tuesday of December next.

Mr. KELLEY. I understand the bill provides that the pension shall cease when the youngest child shall attain the age of sixteen. But the man died in 1847, some eighteen years ago. According to that the pension would have ceased two years ago.

The SPEAKER. The bill states that the wounds were received in 1847, but does not state when the man died.

Mr. WHALEY. I will say to the gentleman from Pennsylvania that the case will have to stand or fall upon the report in the case. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The first question being on the motion to postpone,

Mr. PRICE called for tellers.

Tellers were ordered; and Messrs. WHALEY and PRICE were appointed.

The House divided; and the tellers reported—ayes fourteen, noes not counted.

So the bill was not postponed.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 600) for the better organization of the subsistence department; when the Speaker signed the same.

#### MARY A. MILLINGER.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Mary A. Millinger, widow of Christian B. Millinger; which was read a first and second time by its title.

The bill, which was read, directs the Secretary of the Interior to place the name of Mary A. Mil-

linger, widow of Christian B. Millinger, captain of company I, eleventh regiment Iowa volunteers, on the pension roll, at the rate of twenty dollars a month, from the 20th of March, 1864, to continue during her widowhood; and in case of her death the same to be paid to her children until the youngest shall have reached the age of sixteen years.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CATHERINE MOCK.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Catherine Mock, widow of W. H. Mock; which was read a first and second time by its title.

The bill, which was read, directs the Secretary of the Interior to place the name of Catherine Mock, widow of ordnance sergeant W. H. Mock, on the pension roll at the rate of eight dollars a month from the 25th day of January, 1862, to continue during the period of her natural life or widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WHALEY moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HALE. I would inquire whether these bills which the gentleman from West Virginia has reported have been examined by the Committee on Invalid Pensions.

Mr. WHALEY. Informally. I have failed to get a quorum of the committee together.

Mr. PERHAM. I think I ought to say, as one of the committee, that I know nothing of these cases. I understand that some members of the committee have examined them. I believe I have attended all the meetings of the committee, but I know nothing about them, whether these bills are right or wrong.

Mr. ODELL. Is it in order to move to reconsider the votes by which these pension bills have just been passed?

The SPEAKER. That motion would be in order.

Mr. WHALEY. I have not reported these bills as having been acted on by the committee as a committee; but I said I was authorized by the committee to report them. I stated in reply to gentlemen that I was authorized to report them by a majority of the committee. The reports can be read, and the House can judge of the merits of these bills.

Mr. PERHAM. Were they examined in the room of the committee, or somewhere else?

Mr. WHALEY. The gentleman, as a member of the committee, is aware that we have failed to get a quorum of that committee for nearly a month. These bills were not considered in the committee-room. It was not my fault, for I have given, from time to time, notice to members to appear there.

Mr. PERHAM. I think I ought to state further that I was informed a few days ago by the chairman of the committee [Mr. WHALEY] that he had such reports made out, and I told him that if he would bring them around to me I would examine them.

Mr. WHALEY. I have been three different times to the desk of the member, and could not find him there.

Mr. PERHAM. I believe I have been in my seat as constantly as almost any other member.

Mr. ODELL. If it be in order, I move to reconsider the votes by which the House passed the bills reported by the chairman of the Committee on Pensions, [Mr. WHALEY.] I did not act intelligibly upon the subject, for I supposed it was the unanimous action of the Committee on Pensions, and I think gentlemen all around me were of the same opinion.

Mr. INGERSOLL. I hope the motion of the gentleman from New York [Mr. ODELL] will not

prevail. I have listened very attentively to the report of the Committee on Pensions, and I am satisfied its chairman [Mr. WHALEY] has examined these claims in reference to the interests of the Government as well as the interests of the claimants; and I am convinced we would be doing gross injustice by reconsidering our vote as proposed by this motion. In support of the report of the chairman of this committee, and in support of the position I assume, I ask the Clerk to read what I now send to the desk.

The Clerk read, as follows:

"Child of the patriotic dead,  
A nation's land rests on thy head;  
A nation's heart beats close to thine,  
The country fondly calls thee 'mine!'"

"On battle-fields, as death's cold chill  
Steals o'er the heart, the patriot's will  
Gives up, upon that blood-stained sod,  
His child to country and to God.

"What legacy so rich? Who loved so well  
As these—bequeathed 'mid shot and shell—  
The flesh and blood of him who bore  
A freeman's flag on southern shore?"

"Remembered be thy father's grave,  
Remembered all he died to save;  
And welcome to our hearts and home  
The babes he cherished as his own.

"How base the heart, how lost to shame,  
That calls thee by a pauper's name;  
That, grudging, has an alms to give  
For those who died that we might live!"

"Nay, dear one, think not this shall be  
The kindness we will show to thee;  
But gather round the homestead board  
With every blessing bounteous stored.

"The memory of thy father's deeds  
Entwined with all thy wants and needs,  
Makes all we do but sweet employ,  
And gives each heart a lasting joy.

"Close to our hearts, ye noble band;  
Yours, for a heritage, this princely land;  
In thanks, a nation, with its care,  
Will watch and guard you everywhere."

Mr. J. C. ALLEN. To whom are those verses addressed?

Mr. INGERSOLL. To the members of the Thirty-Eighth Congress by one who has some sympathy for those who have suffered in our country's cause.

In quick succession we pass enrollment bill after enrollment bill, in order to draft the husband and father into the military service; and while we are doing that I insist we shall not be indifferent to the claims of their widows and orphans to our protection and gratitude. These war-stricken relics of the heroic dead should not be turned away from these Halls to proclaim to the world that republics are, indeed, ungrateful. To say that we make such ample provisions for the immolation of their husbands upon their country's altars, and so tardy and so inadequate relief for their widows in their time of bereavement, is no compliment to ourselves. I recognize the justice of the claims which these living monuments of the heroism and patriotism of their dead husbands and fathers have upon us; and I implore and warn the House not to disregard them. And, when the chairman of the Pension Committee reports in favor of allowing the small pittance of eight dollars a month to these war-afflicted ones, it pains me to the heart to hear a Representative of a patriotic people object to its consideration, or move its postponement, (which, when understood, means forever.) It becomes us to look after our widows and orphans, and see that their claims upon us are acknowledged and adjusted.

Mr. COX. Whom does the gentleman mean by "our widows?"

Mr. INGERSOLL. "Our widows" are those who have said to their husbands, "Go and fight for liberty and the integrity of our country;" they are those whose husbands fill soldiers' graves at Antietam, Chancellorsville, Gettysburg, Vicksburg, Mission Ridge, Shiloh, and a hundred other ensanguined fields of this war. "Our widows" are those who have been bereft of all that is dear to them in life by this storm of war, and have thus been doomed to a life of suffering and desolation. These are "our widows," and I insist they shall not be neglected by the Government.

Mr. COX. That explanation is perfectly satisfactory.

Mr. INGERSOLL. If we expect to maintain that enthusiasm which has given us brave men for our armies, and success to our efforts to crush



the rebellion, we must not only be just to the gallant soldier who offers up his life for our country, but we must care for his bereaved widow and orphaned children. Let us not turn a deaf ear to the widow, who, with a "God bless you" on her lip and a tear of affection in her eye, bade her husband "good-by," as he went forth to battle for the right, and has fallen in the service of his country. Do not let us wrong the dead by denying justice to the living. And these children of war's desolation should be adopted by the Government, and to some extent be made to feel that for the father they have lost they have found a guardian and protector in a grateful country.

"The memory of thy father's deeds,  
Entwined with all thy wants and needs,  
Makes all we do but sweet employ,  
And gives each heart a lasting joy."

You should be thankful that you have it in your power to alleviate to some extent their sufferings. You can do but little at most. You cannot pay for blood. The hero-patriot's blood is above all price. You cannot restore the husband and father; he is gone, and forever. Then, in the name of Heaven, when they ask for bread, do not give them a stone.

Mr. WHALEY. In reply to the gentleman from New York [Mr. ODELL] I wish to say only this: he was sitting within a few feet of me, and heard the reply which I made to the gentleman from Maine, that there had been no quorum of the committee for nearly a month. He also must have heard my previous statement that a report accompanied every bill, and that, whether the cases had been considered by the committee or not, each case must stand or fall on its own merits. While he professes to be a religious man, he has not shown himself a worthy member of this House. [Laughter.]

Mr. HOLMAN. I move that the motion to reconsider be laid on the table.

The motion was agreed to.

#### CAPTAIN G. W. KNABE.

Mr. WHALEY, by unanimous consent, reported from the Committee on Invalid Pensions a bill (H. R. No. 785) granting a pension to Captain G. W. Knabe; which was read a first and second time.

The bill, which was read, provides for paying a pension of twenty dollars per month to Captain George W. Knabe, in consideration of disability incurred while over-exerting himself in the line of his duty.

Several MEMBERS. Let us hear the report.

The Clerk proceeded to read, when—

Mr. UPSON said: I rise to a point of order. I submit that no report has been made. The gentleman from West Virginia [Mr. WHALEY] has himself said that there has been no formal action of the committee in these cases.

The SPEAKER. The gentleman from West Virginia has stated the circumstances. The document will be read as a part of his remarks.

The Clerk then concluded the reading of the document.

Mr. WHALEY. Mr. Speaker, this is a bill that has been read twice, referred to the Committee on Invalid Pensions, and reported back with a recommendation that it pass.

Mr. UPSON. I move that it be recommitted.

The motion was not agreed to.

Mr. HOLMAN. I move to amend the bill by striking out the words "while over-exerting himself in the line of his duty," and inserting in lieu thereof the words "while engaged in the line of his duty as a soldier."

Mr. WHALEY. I have no objection to that amendment. I demand the previous question.

The previous question was seconded, and the main question ordered.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill, Mr. UPSON moved that the bill be laid on the table.

The motion was not agreed to.

The bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 683) making appropriations for the support of the Army for the year ending 30th June, 1866; and

An act (H. R. No. 795) amendatory of certain acts imposing duties upon foreign importations.

#### MISCELLANEOUS APPROPRIATION BILL.

A message from the Senate, by Mr. COBB, one of their clerks, announced that the Senate had passed the bill (H. R. No. 786) making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1866, and for other purposes, with amendments, in which they requested the concurrence of the House.

Mr. KASSON. I move that the House non-concur in the amendments of the Senate, and appoint a committee of conference.

The motion was agreed to.

#### MARY F. B. ZEVELY.

Mr. MILLER, of Pennsylvania, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Mary F. B. Zevely; which was laid on the table.

#### INDIAN GOVERNMENT.

Mr. ASHLEY. I move that the House proceed to the consideration of the bill (S. No. 459) to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory.

#### RECESS.

Mr. WASHBURN, of Illinois. I move that the House take a recess till nine o'clock.

Several MEMBERS. Say "ten."

The SPEAKER. The Chair will state, though he dislikes to make suggestions to the House, that, if the miscellaneous appropriation bill which has just gone to a committee of conference, is to pass, there will be little enough time to pass it between nine and twelve o'clock.

Mr. BROOKS. The committee of conference cannot act on that bill in two hours.

Mr. WILDER. I demand the yeas and nays on the motion of the gentleman from Illinois.

The yeas and nays were not ordered.

The motion of Mr. WASHBURN, of Illinois, was agreed to.

So the House (at ten minutes after seven o'clock a. m.) took a recess till nine o'clock a. m.

The House, at nine o'clock a. m., (March 4,) resumed its session.

Mr. WASHBURN, of Illinois, moved, as no quorum was present, that the House take a recess for fifteen minutes unless a report should be ready from a committee of conference.

The motion was agreed to.

At the expiration of the time indicated the House again resumed its session.

#### INDIAN GOVERNMENT.

The SPEAKER stated the pending question to be on the motion of Mr. ASHLEY to take up Senate bill No. 459, to provide for the consolidation of the Indian tribes, and to establish civil government in the Indian Territory.

The bill was read.

Mr. HOLMAN. I object to the consideration of that bill.

#### DOCUMENTS FOR STATE DEPARTMENT.

The SPEAKER. If there be no objection the Chair will lay before the House Senate joint resolution No. 114, authorizing additional copies of public documents to be printed for the Department of State. The State Department feels a great interest in the adoption of this joint resolution.

Mr. HOLMAN. I object.

#### FEEDING REFUGEE INDIANS.

The SPEAKER. Senate joint resolution No. 85, authorizing the Secretary of the Treasury to pay to the Secretary of the Interior \$250,000, in lieu of certain bonds for feeding certain refugee Indians, has been passed in another form, and if there be no objection it will be laid on the table.

There was no objection, and it was ordered accordingly.

#### COMMITTEE ON ENROLLED BILLS.

The SPEAKER announced, that under the authority conferred upon him, he appointed Mr. PRUYN an additional member of the Committee on Enrolled Bills.

#### ADDITIONAL INSPECTORS.

Mr. WASHBURN, of Illinois. I make a privileged report from the committee of conference on the disagreeing votes of the two Houses on House bill No. 667, to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for collection districts of Memphis and Oregon, and for other purposes."

The Senate recede from their amendments.

The report of the committee of conference was adopted.

#### ENROLLED BILLS.

Mr. PRUYN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution and bill of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 161) in relation to certain railroads; and

An act (H. R. No. 657) to amend the third provision of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th day of June, 1865, and for other purposes," so far as the same relates to witnesses in the courts of the United States.

#### CHARLES F. ANDERSON.

Mr. BLAIR. I move to take up Senate bill No. 207, for the relief of Charles F. Anderson.

Mr. HOLMAN. I object.

Mr. BLAIR. I move to suspend the rules.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 64, nays 29, not voting 89; as follows:

YEAS—Messrs. James C. Allen, Ancona, Anderson, Bailey, Baxter, Blair, Boyd, Brooks, Broomall, Chanler, Coffroth, Cox, Denison, Eden, Eldridge, English, Finck, Ganson, Grider, Grinnell, Griswold, Hale, Herrick, Jenckes, Philip Johnson, Francis W. Kellogg, Kernan, Law, Le Blond, Long, Longyear, Mallory, Marcy, Marvin, McAllister, McBride, McClurg, Moorhead, James R. Morris, Morrison, Amos Myers, Odell, John O'Neill, Orth, Pendleton, Pike, Pomeroy, Price, Pruyn, William H. Randall, Alexander H. Rice, John H. Rice, Scott, Shannon, Siles, Strouse, Stuart, Townsend, Joseph W. White, Williams, Wilder, Woodbridge, Worthington, and Yeaman—64.

NAYS—Messrs. Allison, Ames, Boutwell, Ambrose V. Clark, Cobb, Cole, Thomas T. Davis, Dawes, Eliot, Gooch, Higby, Holman, Hulburd, Kelley, Samuel F. Miller, Morrill, Daniel Morris, Norton, Charles O'Neill, Patterson, Perham, Edward H. Rollins, Scofield, Smithers, Spalding, Thayer, Van Valkenburgh, Elinu B. Washburne, and William B. Washburn—29.

NOT VOTING—Messrs. William J. Allen, Alley, Arnold, Ashley, Augustus C. Baldwin, John D. Baldwin, Beaman, Blaine, Bliss, Blow, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Clay, Gravens, Cresswell, Henry Winter Davis, Dawson, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Edgerton, Farnsworth, Frank, Garfield, Hall, Harding, Harrington, Benjamin G. Harris, Charles M. Harris, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hutchins, Ingersoll, William Johnson, Julian, Kalbfleisch, Kasson, Orlando Kellogg, King, Knapp, Knox, Lazear, Littlejohn, Loan, McDowell, Melndoe, McKinney, Middleton, William H. Miller, Leonard Myers, Nelson, Noble, Perry, Radford, Samuel J. Randall, Robinson, Rogers, James S. Rollins, Ross, Schenck, Sloan, Smith, Starr, John B. Steele, William G. Steele, Stevens, Sweat, Thomas, Tracy, Upson, Voorhees, Wadsworth, Ward, Webster, Whaley, Wheeler, Chilton A. White, Wilson, Windom, Winfield, Benjamin Wood, and Fernando Wood—29.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was accordingly taken up and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOLMAN. I move that the bill be laid on the table.

The motion was not agreed to.

The question was taken on the passage of the bill; and there were, on a division—yeas 59, noes 32.

The SPEAKER voted in the affirmative, making a quorum.

So the bill was passed.

Mr. BLAIR moved that the vote by which the bill was passed be reconsidered; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### NORTHEASTERN FRONTIER.

Mr. RICE, of Maine. I ask unanimous consent to report back from the special committee on the defense of the northeastern frontier a bill of the House (No. 541) to provide for the defense of the northeastern frontier. I do not desire action on it now.

Mr. HOLMAN. I object.  
Mr. RICE, of Maine. I merely wish to say that this bill has the unanimous approbation of the committee to which it was referred. It would have been reported back had the committee been called. It has not been called and we have had no opportunity to report it. In these last hours of the session I do not feel like pressing it to a vote. I do not think a bill of this magnitude should be pressed through in that way. I therefore simply ask that the bill, as amended, may be reported back, laid on the table, and printed.

Mr. HOLMAN. I have no objection to that. The bill was accordingly received, laid on the table, and ordered to be printed.

#### WILLIAM ROBINSON BOYER.

On motion of Mr. PERHAM, the Committee on Invalid Pensions was discharged from the further consideration of a petition for the relief of William Robinson Boyer; and the same was referred to the Committee on Pensions.

#### KENDRICK AND FISHER, AND OTHERS.

On motion of Mr. DAVIS, of New York, leave was granted to withdraw from the files of the House, on condition of leaving copies thereof, the papers in the cases of Kendrick & Fisher, and of Eaton, Gage & Co.

#### RAILROAD COMMUNICATION WITH NEW YORK.

Mr. GARFIELD. I desire to call up the motion to reconsider the vote by which the bill in regard to an air-line railroad to New York was referred to the Committee on Military Affairs.

Mr. HOLMAN. I object.

The SPEAKER. The gentleman has a right to call it up.

Mr. GARFIELD. I only wish to say that I will not trouble the House at this time with any action upon the bill. I have given way when I could have gone on, because I was assured by those who had charge of the important public business that it would block up the way to such business. I wish to say to those parties who feel interested in this matter that nothing but the overmastering necessity of the public business has kept me from bringing it forward, and that I intend at an early day next winter to press it with what force I can; and being a measure of such manifest justness and importance, I have little doubt it will pass the next Congress, as it would have passed this had I been able to get it up in proper time.

Mr. HOLMAN. I move to lay the motion to reconsider on the table.

The motion was agreed to.

#### ENROLLED BILL.

Mr. PRUYN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 139) of thanks to Major General George H. Thomas and the army under his command; when the Speaker signed the same.

#### JOHN T. JONES.

Mr. WILDER. I ask unanimous consent to report back from the Committee on Indian Affairs a bill of the Senate (No. 251) for the relief of John T. Jones.

Mr. HOLMAN. I object.

Mr. WILDER. I move to suspend the rules to enable me to do so.

The rules were not suspended.

#### PACIFIC RAILROAD.

Mr. COLE, of California. I am authorized by the select committee on the Pacific railroad to report a bill, and as there is not time to pass it through the two Houses this session, I ask that it be laid on the table and printed. It is a bill in reference to which the committee were unanimous, and I report it in hopes that it will receive

the attention of members before another Congress. It is a bill granting lands to aid in the construction of certain railroads in the State of California.

The bill was laid on the table, and ordered to be printed.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (H. R. No. 170) to amend the several acts heretofore passed to provide for enrolling and calling out the national forces, and for other purposes; when the Speaker signed the same.

#### CITIZENS OF SALT LAKE CITY.

Mr. KINNEY. I ask unanimous consent to report a bill for the relief of citizens of Salt Lake City, in the Territory of Utah.

Mr. HOLMAN. It is too late to consider that now.

Mr. KINNEY. It is precisely the same bill that passed last session. The committee would have reported it the present session if they had had an opportunity.

Mr. THAYER. If it does not come from a committee, I object.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, an act (H. R. No. 682) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1866; when the Speaker signed the same.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. WILLIAMS, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers touching the revolutionary claim of Jacob Brooker, deceased.

#### GEORGE J. STUBBLEFIELD.

Mr. HALE. I ask the unanimous consent of the House to have taken up and passed joint resolution authorizing the adjustment of the claim of George J. Stubblefield for chewing tobacco furnished to the United States.

Mr. STEVENS. I move to put in smoking tobacco.

Mr. ALLISON. I object to the bill.

Mr. HALE. I move to suspend the rules.

The question was taken; and (two thirds not voting in favor thereof) the rules were not suspended.

#### MISCELLANEOUS APPROPRIATION BILL.

Mr. DAVIS, of Maryland. I rise for the purpose of making a report of the committee of conference on the disagreeing votes of the House to the amendments to the miscellaneous appropriation bill. If it be required the report can be read, but perhaps I can accomplish the same purpose by stating briefly and more intelligibly the substance of it.

Mr. Speaker, owing to an error on my part in reference to the chairmanship of the committee, it so happens that I took the notes of the conference instead of my honorable friend from New York, [Mr. LITTLEJOHN,] and by his courtesy I make a statement of the result.

The items for light-houses, objected to by the Senate, were all agreed to, and also the necessary appropriation for a room for the consultations of the Supreme Court.

The provision in reference to the Gas-Light Company in the city of Washington was also agreed to.

The provision for the repairs of the basement of the Capitol was agreed to by the House. The repairs to East Capitol street, the provision for sweeping Pennsylvania avenue and repairing it, and for a flag pavement before the President's house, and for sewers in Seventeenth street and Twentieth street, were all agreed to be stricken out.

The provision for surveys in one or two of the western Territories was agreed to with this modification, that the rate of pay for the surveys should be stricken out, but the aggregate sum left for the surveys, to be applied according to existing law.

The provision for printing the report of the Academy of Sciences was agreed to, and likewise that of increased pay of revenue agent at New York. Two small items for additional pay of clerks were agreed to. The expenses of the commission under the British treaty in Washington Territory was agreed to.

The appropriation for altering the Senate Hall, amounting to \$160,000, was agreed to be stricken out.

The appropriation of five or six thousand dollars was agreed to be appropriated on application of the Coast Survey for fog signal on Long Island sound.

A provision for paying the revisers of the District laws was agreed to.

The appropriation for repairs to the Naval Academy at Annapolis was agreed to be reduced from \$100,000 to \$50,000.

The Washington aqueduct appropriation was stricken out.

A provision of \$2,000 for an additional greenhouse was agreed to.

A provision for the expense of the Nebraska militia, which involved the transfer of the appropriation for their legislative expenses to pay the militia called out to protect them against the Indians, upon the understanding that the session of the Legislature would be dispensed with, was agreed to.

The section of the House bill relating to the organization of certain bureaus in the Treasury Department were all agreed to be stricken out.

An appropriation of \$200,000 for additional siege trains, having already been incorporated in another bill, was also stricken out.

Also a provision to pay Brigham Young, and one or two other items of small moment, together with the appropriation for a cob dock at Brooklyn, were stricken out.

A provision for the payment of the interest on the Smithsonian fund in gold—on the ground that it was a debt which existed prior to the conversion of money from gold to paper—was agreed to.

The proposed pay for Pennsylvania soldiers was stricken out.

The compensation to Missouri was agreed to be retained—on the ground that the case was an exceptionable one in every particular, and that the payment of this money involves substantially the peace and perhaps the preservation of the State from the scourge of guerrilla desolation during the summer.

These, Mr. Speaker, cover all the business details of the various amendments of the House and Senate. Having passed over the amendment which was the subject of controversy in the House until we reached this point, we then reverted to it and found that there was a radical diversity of opinion, and perhaps an irreconcilable one, between the representatives of the House and those of the Senate. The gentlemen on the part of the Senate stated that while a majority of the Senate concurred in the principle involved in that amendment, yet that the majority of the Senate had refused upon two votes, deliberately determined, not to pass the amendment as a part of this bill. It was then proposed to them that they should take the section in the form in which it had passed the House, carry it into the Senate and pass it immediately as a separate bill, and send it to the House in order that we might act upon it immediately, upon which condition we were ready to have agreed to recommend the House to allow the bill to pass without this amendment. The gentlemen thought that they could not accomplish that in the present state of the feeling and temper of the Senate, and declined to make the effort. Under these circumstances it remained for a majority of the House committee to determine between the great result of losing an important appropriation bill, or, after having raised a question of this magnitude touching so nearly the right of every citizen to his personal liberty and the very endurance of republican institutions, and to insure its prompt consideration fastened it on an appropriation bill, to allow it to be stricken out of the bill as a matter of secondary importance. The committee thought that their duty to their constituents, to the House, and to themselves, would not allow them to provide for any pecuniary appropriations at the expense of so grave a reflection upon the fundamental principles of the Government.

The situation is a grave one. The President has now by law—a law insanely passed by the last Congress, to repeal which this House early in its first session unanimously passed a bill which to this day the Senate has refused even to consider—the absolute authority to deprive every officer of the United States of his commission at his will, on his own judgment, and at his pleasure or caprice alone. The law does not merely authorize, but it requests, the President to use the power conferred.

There are laws upon the statute-book which subject to trial by courts-martial, composed of these officers, thus dependent upon the will of the President, large classes of our fellow-citizens.

The practice of the Government has introduced into the jurisprudence of the United States principles unknown to the laws of the United States, loosely described under the general term of "the rules and usages of war," and new crimes, defined by no law, called "military offenses;" and without the authority of any statute, constitutional or unconstitutional, and pointing these laws—confined by the usage of the world to enemies in enemies' territory—against our own citizens in our own territory, has repeatedly deprived many citizens of the United States of their liberty, has condemned many to death, who have only been redeemed from that extreme penalty by the kindness of the President's heart, and aided doubtless by the serious scruples he cannot but feel touching the legality of the judgment that assigned them to death.

There have been many cases in which judgments of confinement in the penitentiary have been inflicted for acts not punishable either under the usages of war or under any statute of the United States by any military tribunal; crimes for which the laws of the United States prescribe the punishment have been visited with other and severer punishments by military tribunals; violations of contract with the Government, real or imputed, have been construed by these tribunals into frauds, and punished as crimes; excessive bail has been demanded, and when furnished impudently reduced; and the attempt of Congress to discriminate between crimes committed by persons in the military forces and citizens not in those forces has been annulled, and the very offenses it specifically required to be tried before the courts of the United States have been tried before military tribunals dependent upon the will of the President.

The President, when petitioned humbly, has refused or neglected more than once to stop the illegal proceedings and submit the case to the courts of the United States. "Courts-martial are organized to convict!" is the sinister declaration of the Assistant Secretary of the Navy; and the President still tolerates his presence.

That hand inserted, under the innocent title of a bill to increase the paymasters of the Navy, a section subjecting every agent and servant of the Navy Department to trial by a court-martial, which passed the Senate and the House without discovery or exposure, and now hangs on a motion to reconsider.

It was the settled purpose of oppression disclosed by that act which occasioned this amendment, and forbids its abandonment.

The committee remember that such things are inconsistent with the endurance of republican Government. The party which tolerates or defends them must destroy itself or the Republic. They felt they had reached a point at which a vote must be cast which may break up political parties, or, if it do not, will break up or save a great republican Government. Before these alternatives they could not hesitate. They thought it best, now, at this time, to leave this law standing as a broken dike in the midst of the rising flood of lawless power around us, to show to this generation how high that flood of lawless power has risen in only three years of civil war, as a warning to those who are to come after us, as an awakening to those who are now with us.

They have therefore come to the determination, so far as the constitutional privileges and prerogatives of this House will enable them to accomplish the result, that this bill shall not become a law if these words do not stand as part of it—the affirmation by the Representatives of the States and of the people of the inalienable birthright of every American citizen; and on that

question they appeal from the judgment of the Senate to the judgment of the American people.

Mr. LITTLEJOHN. Believing, sir, as I do, that this great Republic could not have been given to posterity except by the exercise of the very power of which the amendment of my friend from Maryland [Mr. DAVIS] seeks at this time to deprive the Executive, I agreed with the Senate committee, and it was our desire to report unanimously, advising that the House recede from its amendment. We could not agree, however, and hence we have narrowed down the question as much as possible. I propose, therefore, if it be in order, that the House concur in the report of the committee of conference upon all except the amendment known as the Winter Davis amendment, and upon that I move that the House recede, so as to bring the question to a direct vote. And upon these motions I move the previous question.

The SPEAKER *pro tempore* (Mr. GARFIELD in the chair) put the question, and declared that the previous question was seconded.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. COBB, one of their clerks, informed the House that the Senate had passed, without amendment, bill of the House No. 807, to authorize the coinage of three-cent pieces, and for other purposes.

The SPEAKER resumed the chair.

Mr. KERNAN. I appeal to the gentleman from New York to yield to me for a moment.

Mr. LITTLEJOHN. At this late hour of the morning I cannot do so.

Mr. ELDRIDGE. I move that there be a call of the House.

The SPEAKER. A motion for a call of the House is not in order during the operation of the previous question unless it appears by actual count that a quorum is not present.

Mr. ELDRIDGE. The previous question has been seconded.

The SPEAKER. That is a question of fact as to which the Chair must appeal to the record. He is informed that the previous question was seconded. The gentleman who occupied the chair at the time will state what occurred.

Mr. GARFIELD. I was occupying the chair, and put the question, and considered that by a very large rising vote the previous question was seconded, and so announced. But at that very same moment a message from the Senate came in, and there was no opportunity for any call for a further division; otherwise I would have entertained a call for a division.

The SPEAKER. The Journal Clerk states that the previous question was seconded.

Mr. ELDRIDGE. I move to reconsider the vote by which the previous question was seconded; and upon that I demand the yeas and nays.

The SPEAKER. The Chair is informed that the Globe reporters have the same statement, that the previous question was seconded.

Mr. COX. I rise to a point of order. I call the attention of the Chair to the statement of the temporary Speaker, my colleague, [Mr. GARFIELD], that he was prepared to entertain a call for a division.

Mr. GARFIELD. The Chair put the motion, and announced that in the opinion of the Chair the previous question was seconded, and at that moment a message was announced, so that there was no opportunity for a division to be called.

Mr. ELDRIDGE. I ask the gentleman from Ohio if he called for a negative vote on the question at all. It was not called.

The SPEAKER. The Chair is of opinion that the previous question was seconded; but in view of the contrariety of opinion that prevails he will put the question again.

Mr. ELDRIDGE. Does that cut off my motion for a call of the House?

The SPEAKER. It does; as the House is now dividing.

Mr. ELDRIDGE. I insist on my motion to reconsider the vote by which the previous question was seconded.

Mr. PENDLETON. I move that the House do now adjourn.

Mr. HARDING. I demand the yeas and nays on that motion.

The SPEAKER. Then the Chair understands, from the making of that motion, that it is con-

ceded that the Journal is correct, and that the previous question has been seconded.

Mr. ELDRIDGE. That may be the decision of the Chair, but it is not the understanding of the House.

The SPEAKER. The Chair regrets that he was not present, so as to know the actual facts of the case. If gentlemen had been anxious to have the matter settled as the majority determined they would have recognized the propriety of taking the vote over again. The gentleman from Wisconsin, however, moves to reconsider the vote by which the previous question was seconded, and the gentleman from Ohio moves that the House do now adjourn; and upon the latter motion the yeas and nays are demanded.

The yeas and nays were ordered.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 744) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864; when the Speaker signed the same.

#### ADJOURNMENT.

The question was taken on Mr. PENDLETON's motion; and it was decided in the negative—yeas 7, nays 126, not voting 49; as follows:

YEAS—Messrs. James C. Allen, Brooks, Henry Winter Davis, Eden, Herrick, Kalfheisch, and Radford—7.

NAYS—Messrs. Allison, Ames, Ancona, Anderson, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boutwell, Boyd, Broomall, Chandler, Ambrose W. Clark, Freeman Clarke, Clay, Cobb, Coffroth, Cole, Cravens, Thomas T. Davis, Dawson, Deming, Denison, Driggs, Eckley, Edgerton, Eldridge, English, Finck, Frank, Ganson, Garfield, Grider, Grinnell, Griswold, Harding, Charles M. Harris, Higby, Holman, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Jenckes, William Johnson, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Keruan, King, Knapp, Law, Littlejohn, Longyear, Mallory, Marcy, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Morrill, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Pendleton, Perham, Perry, Pike, Pomeroy, Price, Pruyn, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Seafield, Scott, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stevens, Stiles, Strouse, Stuart, Thayer, Townsend, Tracy, Upson, Elihu B. Washburn, William B. Washburn, Webster, Whaley, Wheeler, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Woodbridge, Worthington, and Yeaman—126.

NOT VOTING—Messrs. William J. Allen, Alley, Brandegee, James S. Brown, William G. Brown, Cox, Creswell, Dawes, Dixon, Donnelly, Dumont, Eliot, Farnsworth, Gooch, Hale, Hall, Harrington, Benjamin G. Harris, Hotchkiss, Philip Johnson, Julian, Knox, Lazard, Le Blond, Loan, Long, McDowell, McIndoe, McKinney, Middleton, Nelson, Samuel L. Randall, Robinson, Rogers, Ross, Schenck, Smith, Starr, William G. Steele, Sweet, Thomas, Van Valkenburgh, Voorhees, Wadsworth, Ward, Chilton A. White, Benjamin Wood, and Fernando Wood—49.

So the House refused to adjourn.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

The question recurred on Mr. ELDRIDGE's motion to reconsider the vote by which the previous question was seconded.

Mr. MALLORY. I move to lay the whole subject on the table.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 23, nays 118, not voting 41; as follows:

YEAS—Messrs. Bliss, Cravens, Henry Winter Davis, Dawson, Denison, Eden, Eldridge, Holman, Kalfheisch, Knapp, Le Blond, McKinney, James R. Morris, John O'Neill, Pendleton, Perry, Radford, Samuel J. Randall, Stiles, Strouse, Townsend, Chilton A. White, and Joseph W. White—23.

NAYS—Messrs. James C. Allen, Allison, Ames, Ancona, Anderson, Arnold, Ashley, Bailey, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Blow, Boutwell, Boyd, Brooks, Broomall, Chandler, Ambrose W. Clark, Cobb, Coffroth, Cole, Cox, Thomas T. Davis, Dawes, Deming, Driggs, Edgerton, English, Finck, Frank, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Charles M. Harris, Herrick, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Jenckes, Philip Johnson, William Johnson, Kasson, Kelley, Francis W. Kellogg, Orlando Kellogg, Keruan, King, Littlejohn, Long, Longyear, Mallory, Marcy, Marvin, McAllister, McBride, McClurg, Samuel F. Miller, William H. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, Orth, Perham, Pike, Pomeroy, Price, Pruyn, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Edward H. Rollins, James S. Rollins, Ross,



Scotfield, Scott, Shannon, Sloan, Smithers, Spalding, John B. Steele, Stevens, Stuart, Thayer, Thomas, Tracy, Upson, Elihu B. Washburne, William B. Washburn, Wheeler, Williams, Wilder, Wilson, Windom, Winfield, Woodbridge, Worthington, and Yeaman—118.

**NOT VOTING**—Messrs. William J. Allen, Alley, Brandegee, James S. Brown, William G. Brown, Freeman Clarke, Clay, Creswell, Dixon, Donnelly, Dumont, Eckley, Eliot, Farnsworth, Ganson, Hall, Harrington, Benjamin G. Harris, Hotchkiss, Julian, Knox, Law, Lazear, Loan, McDowell, McIndoe, Middleton, Morrill, Patterson, Robinson, Schenck, Smith, Starr, William G. Steele, Sweat, Van Valkenburgh, Voorhees, Wadsworth, Ward, Webster, Benjamin Wood, and Fernando Wood—41.

So the House refused to lay the whole subject on the table.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 667) to provide for two assistant local inspectors of steamboats in the city of New York, and for two local inspectors at Galena, Illinois, and to reestablish the board of local inspectors at Wheeling; and also to amend the act approved June 8, 1864, entitled "An act to create an additional inspector of steamboats and two local inspectors of steamboats for the collection districts of Memphis and Oregon, and for other purposes;" when the Speaker signed the same.

#### MISCELLANEOUS APPROPRIATION BILL—AGAIN.

Mr. KASSON. I ask leave to make a proposition which ought to be made now, if at all, to gentlemen upon the other side of the House. There is an appropriation in this bill for the support of the patients at the insane asylum, and also for the deaf and dumb, and one for furnishing oil, &c., to the light-houses to protect life and property. I appeal to gentlemen upon the other side of the House to let those provisions, which are intimately connected with what appeals to us all, pass as a separate bill, and then we can continue our contest over the further items of the bill.

Mr. ELDRIDGE. I understand that my friends are willing that the bill which has been acted on this morning shall be laid aside to allow other important matters of legislation to be taken up to which nobody objects. There is no desire upon this side of the House to prevent action in the House on anything but this bill.

Mr. PRUYN. We agree to that.

Mr. KASSON. Then I ask unanimous consent that these three items in the bill shall be passed in a separate bill.

Mr. ELDRIDGE. We have no objection to that, with the understanding that no other items of the bill are to be added.

Mr. KASSON. Only the appropriation for the coast survey.

Mr. DAVIS, of Maryland. I am in earnest in this matter, and am determined that not one item of this bill shall pass without the whole of it.

Mr. KASSON. I appeal to the gentleman to allow the appropriation for the insane to be made.

Mr. LITTLEJOHN. I agree with the gentleman from Maryland. I object to any such proposition. This whole bill must pass through, or none of it.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 807) to authorize the coinage of three-cent pieces, and for other purposes; when the Speaker signed the same.

#### ADJOURNMENT.

Mr. ELDRIDGE. I rise to a privileged motion. I move that this House do now adjourn, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 2, nays 134, not voting 46; as follows:

**YEAS**—Messrs. James C. Allen, and Rogers—2.

**NAYS**—Messrs. Allison, Ames, Ancona, Anderson, Ashley, Baily, Augustus C. Baldwin, John D. Baldwin, Baxter, Beaman, Blaine, Blair, Bliss, Blow, Boutwell, Boyd, Brooks, Broomall, Chanler, Ambrose W. Clark, Freeman Clarke, Cobb, Coffroth, Cole, Cravens, Creswell, Henry Winter Davis, Thomas T. Davis, Dawes, Dawson, Denison, Driggs, Dumont, Eden, Edgerton, Eldridge, English, Finck, Frank, Ganson, Garfield, Gooch, Grider, Grinnell, Griswold, Hale, Harding, Charles M. Harris, Herrick, Higby, Holman, Hooper, Hotchkiss, Asabel W. Hubbard, John H. Hubbard, Hulburd, Hutchins, Ingersoll, Philip Johnson, Kalbfleisch, Kelley, Francis W. Kellogg,

Orlando Kellogg, Kernan, Knapp, Law, Le Blond, Littlejohn, Loan, Long, Longyear, Marcy, Marvin, McAllister, McBride, McClurg, McKinney, Middleton, William H. Miller, Moorhead, Daniel Morris, James R. Morris, Morrison, Amos Myers, Leonard Myers, Nelson, Noble, Norton, Odell, Charles O'Neill, John O'Neill, Orth, Patterson, Perham, Perry, Price, Pruyn, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Edward H. Rollins, Ross, Scotfield, Scott, Shannon, Sloan, Smith, Smithers, Spalding, John B. Steele, Stevens, Sutes, Strouse, Stuart, Thayer, Thomas, Townsend, Tracy, Upson, Van Valkenburgh, Elihu B. Washburne, William B. Washburn, Webster, Whaley, Joseph W. White, Williams, Wilder, Wilson, Windom, Winfield, Woodbridge, Worthington, and Yeaman—134.

**NOT VOTING**—Messrs. William J. Allen, Alley, Arnold, Brandegee, James S. Brown, William G. Brown, Clay, Cox, Deming, Dixon, Donnelly, Eckley, Eliot, Farnsworth, Hall, Harrington, Benjamin G. Harris, Jenckes, William Johnson, Julian, Kasson, King, Knox, Lazear, Mallory, McDowell, McIndoe, Samuel F. Miller, Morrill, Pendleton, Pike, Pomeroy, Samuel J. Randall, Robinson, James S. Rollins, Schenck, Starr, William G. Steele, Sweat, Voorhees, Wadsworth, Ward, Wheeler, Chilton A. White, Benjamin Wood, and Fernando Wood—46.

So the House refused to adjourn.

#### DUTY ON PRINTING PAPER.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I am instructed by the committee of conference on the disagreeing votes of the two Houses on the joint resolution of the House reducing the duties on printing paper, unsized, to make a report, which I send to the Clerk's desk.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the House joint resolution (No. 141) "reducing the duties on printing paper, unsized, used for books and newspapers exclusively," having met, after full and free conference have agreed to recommend, and do recommend, that the House recede from their disagreement to the amendment of the Senate to said joint resolution.

T. O. HOWE,

J. H. LANE,

Managers on the part of the Senate.

E. B. WASHBURN,

JAMES F. WILSON,

Managers on the part of the House.

Mr. WASHBURN, of Illinois. I call the previous question on agreeing to the report.

Mr. KELLEY. I move to lay the report on the table; and on that motion I demand the yeas and nays.

A MEMBER. What would the duty be under the report of the committee of conference?

The SPEAKER. Fifteen per cent.

The yeas and nays were ordered.

#### ENROLLED BILL.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes or as volunteers in the Army or Navy, and to prevent frauds at the District jail, in the city of Washington; when the Speaker signed the same.

#### DUTY ON PRINTING PAPER—AGAIN.

The SPEAKER. The question recurs upon the motion to lay on the table the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill relating to duty upon paper, upon which the yeas and nays have been ordered.

Mr. LE BLOND. I ask to be excused from voting upon that question; and upon that I call the yeas and nays.

The yeas and nays were ordered.

#### COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. WASHBURN, of Illinois. I move that a committee of two members of this House be appointed to wait upon the President to inquire if he has any further communication to make to Congress.

The motion was agreed to.

The SPEAKER appointed Mr. WASHBURN, of Illinois, and Mr. LAW, as such committee.

#### EXCUSING FROM VOTING.

The Clerk proceeded to call the roll upon the motion to excuse Mr. LE BLOND from voting upon the motion to lay upon the table the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill in relation to the duty upon paper.

During the roll-call,

#### MESSAGE FROM THE PRESIDENT.

A message was received from the President, by Mr. NICOLAT, his Private Secretary, informing

the House that the President had this day approved and signed a bill of the following title:

An act (H. R. No. 798) to prevent the enlistment of persons charged with crime in the District of Columbia as substitutes or as volunteers in the Army or Navy, and to prevent frauds at the District jail, in the city of Washington.

Mr. WASHBURN, of Illinois, from the committee to wait upon the President, reported: that the committee had discharged that duty, and had been directed by the President to inform the House that he had no further business to communicate to them.

#### EXCUSING MR. LE BLOND FROM VOTING.

The Clerk resumed the calling of the roll upon the motion to excuse Mr. LE BLOND from voting.

The call was suspended after having proceeded as far as the name of Mr. JESSE O. NOXON, with the following result:

**YEAS**—Messrs. James C. Allen, Ames, Ancona, Ashley, Baxter, Boutwell, Brooks, James S. Brown, Chanler, Freeman Clarke, Cole, Dixon, Eckley, Grinnell, Herrick, Hooper, Hurlburt, Kasson, Kelley, Orlando Kellogg, Kernan, King, Law, Loan, Longyear, Marvin, McBride, Daniel Morris, Morrison, and Amos Myers—30.

**NAYS**—Messrs. Allison, Anderson, Arnold, Baily, Augustus C. Baldwin, Blair, Boyd, Broomall, Cobb, Coffroth, Cox, Thomas T. Davis, Dawes, Eden, Edgerton, Finck, Frank, Ganson, Garfield, Grider, Harding, Charles M. Harris, Holman, Asabel W. Hubbard, Hutchins, Jenckes, William Johnson, Kalbfleisch, Knapp, Littlejohn, Long, McKinney, Nelson, Noble, and Norton—35.

**NOT VOTING**—Messrs. William J. Allen, Alley, John D. Baldwin, Beaman, Blaine, Bliss, Blow, Brandegee, William G. Brown, Ambrose W. Clark, Clay, Cravens, Creswell, Henry Winter Davis, Dawson, Deming, Denison, Donnelly, Driggs, Dumont, Eldridge, Eliot, English, Farnsworth, Gooch, Griswold, Hale, Hall, Harrington, Benjamin G. Harris, Higby, Hotchkiss, John H. Hubbard, Ingersoll, Philip Johnson, Julian, Francis W. Kellogg, Knox, Lazear, Le Blond, Mallory, Marcy, McAllister, McClurg, McDowell, McIndoe, Middleton, Samuel F. Miller, William H. Miller, Moorhead, Morrill, James K. Morris, and Leonard Myers—53.

#### SPEAKER'S ADDRESS.

The hour of twelve o'clock m. having arrived, The SPEAKER. Gentlemen of the House of Representatives, the parting hour has come; and yonder clock, which "takes no note of time but from its loss," will soon announce that the Congress of which we are members has passed into history. Honored by your votes with this responsible position, I have faithfully striven to perform its always complex and often perplexing duties without partisan bias and with the sincerest impartiality. Whether I have realized the true ideal of a just presiding officer, aiding, on the one hand, the advance of the public business, with the responsibility of which the majority is charged, and, on the other hand, allowing no trespass on the parliamentary rights of the minority, must be left for others to decide. But looking back now over the entire Congress, I cannot remember a single word addressed to you which "dying I would wish to blot."

On this day, which by spontaneous consent is being observed wherever our flag floats as a day of national rejoicing, with the roar of cannon greeting the rising sun on the rock-bound coast of Maine, echoed and reechoed by answering volleys from city to city, and from mountain peak to mountain peak, till from the Golden Gate it dies away far out on the calm Pacific, we mingle our congratulations with those of the freemen we represent over the victories for the Union that have made the winter just closing so warm with joy and hope. With them we rejoice that the national standard, which our revolutionary fathers unfurled over the land, but which rebellion sought to strike down and destroy, waves as undisputed at this glad hour over the cradle of secession at Charleston as over the cradle of liberty at Faneuil Hall, and that the whole firmament is aflame with the brilliant glow of triumphs for that cause so dear to every patriot heart. We have but recently commemorated the birthday of the Father of his Country, and renewed our pledge to each other that the nation he founded should not be sundered by the sword of treason. And the good news that assures the salvation of the Republic is doubly joyous, because it tells us that the prayers of the past four years have not been unanswered, and that the priceless blood of our brave defenders, so freely offered and so profusely spilt, has not been shed in vain. We turn, too, to-day, with a prouder joy than ever before to that banner, brilliant with stars from the heavens and radiant with glories from the earth, which from

# APPENDIX

TO

## THE CONGRESSIONAL GLOBE,

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

SECOND SESSION THIRTY-EIGHTH CONGRESS.

---

BY F. & J. RIVES.

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CITY OF WASHINGTON:  
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# APPENDIX

## TO THE CONGRESSIONAL GLOBE.

38TH CONG....2D SESS.

Message of the President.

SENATE & HO. OF REPS.

### MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES.

*Fellow-Citizens of the Senate  
and House of Representatives:*

Again the blessings of health and abundant harvests claim our profoundest gratitude to Almighty God.

The condition of our foreign affairs is reasonably satisfactory.

Mexico continues to be a theater of civil war. While our political relations with that country have undergone no change, we have, at the same time, strictly maintained neutrality between the belligerents.

At the request of the States of Costa Rica and Nicaragua, a competent engineer has been authorized to make a survey of the river San Juan and the port of San Juan. It is a source of much satisfaction that the difficulties which for a moment excited some political apprehensions, and caused a closing of the inter-oceanic transit route, have been amicably adjusted, and that there is a good prospect that the route will soon be reopened with an increase of capacity and adaptation. We could not exaggerate either the commercial or the political importance of that great improvement.

It would be doing injustice to an important South American State not to acknowledge the directness, frankness, and cordiality with which the United States of Colombia have entered into intimate relations with this Government. A claims convention has been constituted to complete the unfinished work of the one which closed its session in 1861.

The new liberal constitution of Venezuela having gone into effect with the universal acquiescence of the people, the Government under it has been recognized, and diplomatic intercourse with it has opened in a cordial and friendly spirit. The long-deferred Aves Island claim has been satisfactorily paid and discharged.

Mutual payments have been made of the claims awarded by the late joint commission for the settlement of claims between the United States and Peru. An earnest and cordial friendship continues to exist between the two countries, and such efforts as were in my power have been used to remove misunderstanding and avert a threatened war between Peru and Spain.

Our relations are of the most friendly nature with Chili, the Argentine Republic, Bolivia, Costa Rica, Paraguay, San Salvador, and Hayti.

During the past year no differences of any kind have arisen with any of those republics, and, on the other hand, their sympathies with the United States are constantly expressed with cordiality and earnestness.

The claim arising from the seizure of the cargo of the brig Macedonian in 1821 has been paid in full by the Government of Chili.

Civil war continues in the Spanish part of San Domingo, apparently without prospect of an early close.

Official correspondence has been freely opened

with Liberia, and it gives us a pleasing view of social and political progress in that republic. It may be expected to derive new vigor from American influence, improved by the rapid disappearance of slavery in the United States.

I solicit your authority to furnish to the republic a gunboat at moderate cost, to be reimbursed to the United States by installments. Such a vessel is needed for the safety of that State against the native African races; and in Liberian hands it would be more effective in arresting the African slave trade than a squadron in our own hands. The possession of the least organized naval force would stimulate a generous ambition in the republic, and the confidence which we should manifest by furnishing it would win forbearance and favor toward the colony from all civilized nations.

The proposed overland telegraph between America and Europe, by the way of Behring's straits and Asiatic Russia, which was sanctioned by Congress at the last session, has been undertaken, under very favorable circumstances, by an association of American citizens, with the cordial good-will and support as well of this Government as of those of Great Britain and Russia. Assurances have been received from most of the South American States of their high appreciation of the enterprise, and their readiness to cooperate in constructing lines tributary to that world-encircling communication. I learn with much satisfaction that the noble design of a telegraphic communication between the eastern coast of America and Great Britain has been renewed with full expectation of its early accomplishment.

Thus it is hoped that with the return of domestic peace the country will be able to resume with energy and advantage its former high career of commerce and civilization.

Our very popular and estimable representative in Egypt died in April last. An unpleasant altercation which arose between the temporary incumbent of the office and the Government of the Pasha resulted in a suspension of intercourse. The evil was promptly corrected on the arrival of the successor in the consulate, and our relations with Egypt, as well as our relations with the Barbary Powers, are entirely satisfactory.

The rebellion which has so long been flagrant in China, has at last been suppressed, with the cooperating good offices of this Government, and of the other western commercial States. The judicial consular establishment there has become very difficult and onerous, and it will need legislative revision to adapt it to the extension of our commerce, and to the more intimate intercourse which has been instituted with the Government and people of that vast empire. China seems to be accepting with hearty good-will the conventional laws which regulate commercial and social intercourse among the western nations.

Owing to the peculiar situation of Japan, and the anomalous form of its government, the action of that empire in performing treaty stipulations is inconstant and capricious. Nevertheless, good progress has been effected by the western Powers, moving with enlightened concert. Our own pecuniary claims have been allowed, or put in course

of settlement, and the inland sea has been reopened to commerce. There is reason also to believe that these proceedings have increased rather than diminished the friendship of Japan toward the United States.

The ports of Norfolk, Fernandina, and Pensacola have been opened by proclamation. It is hoped that foreign merchants will now consider whether it is not safer and more profitable to themselves, as well as just to the United States, to resort to these and other open ports, than it is to pursue, through many hazards, and at vast cost, a contraband trade with the other ports which are closed, if not by actual military occupation, at least by a lawful and effective blockade.

For myself, I have no doubt of the power and duty of the Executive, under the law of nations, to exclude enemies of the human race from an asylum in the United States. If Congress should think that proceedings in such cases lack the authority of law, or ought to be further regulated by it, I recommend that provision be made for effectually preventing foreign slave traders from acquiring domicile and facilities for their criminal occupation in our country.

It is possible that, if it were a new and open question, the maritime Powers, with the lights they now enjoy, would not concede the privileges of a naval belligerent to the insurgents of the United States, destitute, as they are, and always have been, equally of ships-of-war and of port and harbors. Disloyal emissaries have been neither less assiduous nor more successful during the last year than they were before that time in their efforts, under favor of that privilege, to embroil our country in foreign wars. The desire and determination of the Governments of the maritime States to defeat that design are believed to be as sincere as and cannot be more earnest than our own. Nevertheless, unforeseen political difficulties have arisen, especially in Brazilian and British ports, and on the northern boundary of the United States, which have required, and are likely to continue to require, the practice of constant vigilance, and a just and conciliatory spirit on the part of the United States as well as of the nations concerned and their Governments.

Commissioners have been appointed under the treaty with Great Britain on the adjustment of the claims of the Hudson's Bay and Puget Sound Agricultural Companies, in Oregon, and are now proceeding to the execution of the trust assigned to them.

In view of the insecurity of life and property in the region adjacent to the Canadian border, by reason of recent assaults and depredations committed by inimical and desperate persons who are harbored there, it has been thought proper to give notice that after the expiration of six months, the period conditionally stipulated in the existing arrangement with Great Britain, the United States must hold themselves at liberty to increase their naval armament upon the lakes if they shall find that proceeding necessary. The condition of the border will necessarily come into consideration in connection with the question of continuing or modifying the rights of transit from Canada through the United States, as well as the regula-

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tion of imposts, which were temporarily established by the reciprocity treaty of the 5th June, 1854.

I desire, however, to be understood, while making this statement, that the colonial authorities of Canada are not deemed to be intentionally unjust or unfriendly toward the United States; but, on the contrary, there is every reason to expect that, with the approval of the imperial Government, they will take the necessary measures to prevent new incursions across the border.

The act passed at the last session for the encouragement of emigration has, so far as was possible, been put into operation. It seems to need amendment which will enable the officers of the Government to prevent the practice of frauds against the immigrants while on their way, and on their arrival in the ports, so as to secure them here a free choice of avocations and places of settlement. A liberal disposition toward this great national policy is manifested by most of the European States, and ought to be reciprocated on our part by giving the immigrants effective national protection. I regard our emigrants as one of the principal replenishing streams which are appointed by Providence to repair the ravages of internal war, and its wastes of national strength and health. All that is necessary is to secure the flow of that stream in its present fullness, and to that end the Government must, in every way, make it manifest that it neither needs nor designs to impose involuntary military service upon those who come from other lands to cast their lot in our country.

The financial affairs of the Government have been successfully administered during the last year. The legislation of the last session of Congress has beneficially affected the revenues, although sufficient time has not yet elapsed to experience the full effect of several of the provisions of the acts of Congress imposing increased taxation.

The receipts during the year, from all sources, upon the basis of warrants signed by the Secretary of the Treasury, including loans and the balance in the Treasury on the 1st day of July, 1863, were \$1,394,796,007 62; and the aggregate disbursements, upon the same basis, were \$1,298,056,101 89, leaving a balance in the Treasury, as shown by warrants, of \$96,839,905 73.

Deduct from these amounts the amount of the principal of the public debt redeemed, and the amount of issues in substitution therefor, and the actual cash operations of the Treasury were: receipts, \$884,076,646 57; disbursements, \$865,234,087 86; which leaves a cash balance in the Treasury of \$18,842,558 71.

Of the receipts, there were derived from customs \$102,316,152 99; from lands, \$588,333 29; from direct taxes, \$475,648 96; from internal revenue, \$109,741,134 10; from miscellaneous sources, \$47,511,448 10; and from loans applied to actual expenditures, including former balance, \$623,443,929 13.

There were disbursed, for the civil service, \$27,505,599 46; for pensions and Indians, \$7,517,930 97; for the War Department, \$690,791,842 97; for the Navy Department, \$85,733,292 77; for interest of the public debt, \$53,685,421 69—making an aggregate of \$865,234,087 86, and leaving a balance in the Treasury of \$18,842,558 71, as before stated.

For the actual receipts and disbursements for the first quarter, and the estimated receipts and disbursements for the three remaining quarters of the current fiscal year, and the general operations of the Treasury in detail, I refer you to the report of the Secretary of the Treasury. I concur with him in the opinion that the proportion of moneys required to meet the expenses consequent upon the war derived from taxation should be still further increased; and I earnestly invite your attention to this subject, to the end that there may be such additional legislation as shall be required to meet the just expectations of the Secretary.

The public debt on the 1st day of July last, as appears by the books of the Treasury, amounted to \$1,740,690,489 49. Probably, should the war continue for another year, that amount may be increased by not far from \$500,000,000. Held as it is, for the most part, by our own people, it has

become a substantial branch of national, though private, property. For obvious reasons, the more nearly this property can be distributed among all the people the better. To favor such general distribution, greater inducements to become owners might, perhaps, with good effect and without injury, be presented to persons of limited means. With this view, I suggest whether it might not be both competent and expedient for Congress to provide that a limited amount of some future issue of public securities might be held by any *bona fide* purchaser exempt from taxation and from seizure for debt, under such restrictions and limitations as might be necessary to guard against abuse of so important a privilege. This would enable every prudent person to set aside a small annuity against a possible day of want.

Privileges like these would render the possession of such securities, to the amount limited, most desirable to every person of small means who might be able to save enough for the purpose. The great advantage of citizens being creditors as well as debtors, with relation to the public debt, is obvious. Men readily perceive that they cannot be much oppressed by a debt which they owe to themselves.

The public debt on the 1st day of July last, although somewhat exceeding the estimate of the Secretary of the Treasury made to Congress at the commencement of the last session, falls short of the estimate of that officer made in the preceding December, as to its probable amount at the beginning of this year, by the sum of \$3,995,097 31. This fact exhibits a satisfactory condition and conduct of the operations of the Treasury.

The national banking system is proving to be acceptable to capitalists and to the people. On the 25th day of November five hundred and eighty-four national banks had been organized, a considerable number of which were conversions from State banks. Changes from State systems to the national system are rapidly taking place, and it is hoped that very soon there will be in the United States no banks of issue not authorized by Congress, and no bank-note circulation not secured by the Government. That the Government and the people will derive great benefit from this change in the banking systems of the country can hardly be questioned. The national system will create a reliable and permanent influence in support of the national credit, and protect the people against losses in the use of paper money. Whether or not any further legislation is advisable for the suppression of State bank issues, it will be for Congress to determine. It seems quite clear that the Treasury cannot be satisfactorily conducted unless the Government can exercise a restraining power over the bank-note circulation of the country.

The report of the Secretary of War and accompanying documents will detail the campaigns of the armies in the field since the date of the last annual message, and also the operations of the several administrative bureaus of the War Department during the last year. It will also specify the measures deemed essential for the national defense, and to keep up and supply the requisite military force.

The report of the Secretary of the Navy presents a comprehensive and satisfactory exhibit of the affairs of that Department and of the naval service. It is a subject of congratulation and laudable pride to our countrymen that a navy of such vast proportions has been organized in so brief a period, and conducted with so much efficiency and success.

The general exhibit of the Navy, including vessels under construction on the 1st of December, 1864, shows a total of 671 vessels, carrying 4,610 guns, and of 510,396 tons, being an actual increase during the year, over and above all losses by shipwreck or in battle, of 83 vessels, 167 guns, and 42,427 tons.

The total number of men at this time in the naval service, including officers, is about 51,000.

There have been captured by the Navy during the year 324 vessels, and the whole number of naval captures since hostilities commenced is 1,379, of which 267 are steamers.

The gross proceeds arising from the sale of condemned prize property, thus far reported, amount to \$14,396,250 51. A large amount of such pro-

ceeds is still under adjudication, and yet to be reported.

The total expenditures of the Navy Department of every description, including the cost of the immense squadrons that have been called into existence from the 4th of March, 1861, to the 1st of November, 1864, are \$238,647,262 35.

Your favorable consideration is invited to the various recommendations of the Secretary of the Navy, especially in regard to a navy-yard and suitable establishment for the construction and repair of iron vessels, and the machinery and armature for our ships, to which reference was made in my last annual message.

Your attention is also invited to the views expressed in the report in relation to the legislation of Congress at its last session in respect to prize on our inland waters.

I cordially concur in the recommendation of the Secretary as to the propriety of creating the new rank of vice admiral in our naval service.

Your attention is invited to the report of the Postmaster General for a detailed account of the operations and financial condition of the Post Office Department.

The postal revenues for the year ending June 30, 1864, amounted to \$12,438,353 78, and the expenditures to \$12,644,786 20; the excess of expenditures over receipts being \$206,652 42.

The views presented by the Postmaster General on the subject of special grants by the Government in aid of the establishment of new lines of ocean mail steamships and the policy he recommends for the development of increased commercial intercourse with adjacent and neighboring countries, should receive the careful consideration of Congress.

It is of noteworthy interest that the steady expansion of population, improvement, and governmental institutions over the new and unoccupied portions of our country has scarcely been checked, much less impeded or destroyed, by our great civil war, which at first glance would seem to have absorbed almost the entire energies of the nation.

The organization and admission of the State of Nevada has been completed in conformity with law, and thus our excellent system is firmly established in the mountains which once seemed a barren and uninhabitable waste between the Atlantic States and those which have grown up on the coast of the Pacific ocean.

The Territories of the Union are generally in a condition of prosperity and rapid growth. Idaho and Montana, by reason of their great distance and the interruption of communication with them by Indian hostilities, have been only partially organized; but it is understood that these difficulties are about to disappear, which will permit their governments, like those of the others, to go into speedy and full operation.

As intimately connected with and promotive of this material growth of the nation, I ask the attention of Congress to the valuable information and important recommendations relating to the public lands, Indian affairs, the Pacific railroad, and mineral discoveries contained in the report of the Secretary of the Interior, which is herewith transmitted, and which report also embraces the subjects of patents, pensions, and other topics of public interest pertaining to his Department.

The quantity of public land disposed of during the five quarters ending on the 30th of September last was 4,221,342 acres, of which 1,538,614 acres were entered under the homestead law. The remainder was located with military land warrants, agricultural scrip certified to States for railroads, and sold for cash. The cash received from sales and location fees was \$1,019,446.

The income from sales during the fiscal year ending the 30th of June, 1864, was \$678,007 21, against \$136,077 95 received during the preceding year. The aggregate number of acres surveyed during the year has been equal to the quantity disposed of; and there is open to settlement about 133,000,000 acres of surveyed land.

The great enterprise of connecting the Atlantic with the Pacific States by railways and telegraph lines has been entered upon with a vigor that gives assurance of success, notwithstanding the embarrassments arising from the prevailing high prices of materials and labor. The route of the main line of the road has been definitely located for one

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hundred miles westward from the initial point at Omaha City, Nebraska, and a preliminary location of the Pacific railroad of California has been made from Sacramento eastward to the great bend of the Truckee river in Nevada.

Numerous discoveries of gold, silver, and cinabar mines have been added to the many heretofore known, and the country occupied by the Sierra Nevada and Rocky mountains, and the subordinate ranges, now teems with enterprising labor, which is richly remunerative. It is believed that the product of the mines of precious metals in that region has, during the year, reached, if not exceeded, one hundred millions in value.

It was recommended in my last annual message that our Indian system be remodeled. Congress, at its last session, acting upon the recommendation, did provide for reorganizing the system in California, and it is believed that under the present organization the management of the Indians there will be attended with reasonable success. Much yet remains to be done to provide for the proper government of the Indians in other parts of the country to render it secure for the advancing settler, and to provide for the welfare of the Indian. The Secretary reiterates his recommendations, and to them the attention of Congress is invited.

The liberal provisions made by Congress for paying pensions to invalid soldiers and sailors of the Republic, and to the widows, orphans, and dependent mothers of those who have fallen in battle, or died of disease contracted or of wounds received in the service of their country, have been diligently administered. There have been added to the pension rolls, during the year ending the 30th day of June last, the names of 16,770 invalid soldiers, and of 271 disabled seamen, making the present number of Army invalid pensioners 22,767, and of Navy invalid pensioners 712.

Of widows, orphans, and mothers, 22,198 have been placed on the Army pension rolls, and 248 on the Navy rolls. The present number of Army pensioners of this class is 25,433, and of Navy pensioners 793. At the beginning of the year the number of revolutionary pensioners was 1,430; only twelve of them were soldiers, of whom seven have since died. The remainder are those who, under the law, receive pensions because of relationship to revolutionary soldiers. During the year ending the 30th of June, 1864, \$4,504,616 92 have been paid to pensioners of all classes.

I cheerfully commend to your continued patronage the benevolent institutions of the District of Columbia which have hitherto been established or fostered by Congress, and respectfully refer, for information concerning them, and in relation to the Washington aqueduct, the Capitol, and other matters of local interest, to the report of the Secretary.

The Agricultural Department, under the supervision of its present energetic and faithful head, is rapidly commending itself to the great and vital interest it was created to advance. It is peculiarly the people's Department, in which they feel more directly concerned than in any other. I commend it to the continued attention and fostering care of Congress.

The war continues. Since the last annual message all the important lines and positions then occupied by our forces have been maintained, and our arms have steadily advanced; thus liberating the regions left in the rear, so that Missouri, Kentucky, Tennessee, and parts of other States have again produced reasonably fair crops.

The most remarkable feature in the military operations of the year is General Sherman's attempted march of three hundred miles directly through the insurgent region. It tends to show a great increase of our relative strength that our General-in-Chief should feel able to confront and hold in check every active force of the enemy, and yet to detach a well appointed large army to move on such an expedition. The result not yet being known, conjecture in regard to it is not here indulged.

Important movements have also occurred during the year to the effect of molding society for durability in the Union. Although short of complete success, it is much in the right direction, that twelve thousand citizens in each of the States of Arkansas and Louisiana have organized loyal

State governments, with free constitutions, and are earnestly struggling to maintain and administer them. The movements in the same direction, more extensive, though less definite, in Missouri, Kentucky, and Tennessee, should not be overlooked. But Maryland presents the example of complete success. Maryland is secure to Liberty and Union for all the future. The genius of rebellion will no more claim Maryland. Like another foul spirit, being driven out, it may seek to tear her, but it will woo her no more.

At the last session of Congress a proposed amendment of the Constitution, abolishing slavery throughout the United States, passed the Senate, but failed for lack of the requisite two-thirds vote in the House of Representatives. Although the present is the same Congress, and nearly the same members, and without questioning the wisdom or patriotism of those who stood in opposition, I venture to recommend the reconsideration and passage of the measure at the present session. Of course the abstract question is not changed; but an intervening election shows, almost certainly, that the next Congress will pass the measure if this does not. Hence there is only a question of time as to when the proposed amendment will go to the States for their action. And as it is so to go, at all events, may we not agree that the sooner the better? It is not claimed that the election has imposed a duty on members to change their views or their votes, any further than, as an additional element to be considered, their judgment may be affected by it. It is the voice of the people now, for the first time, heard upon the question. In a great national crisis like ours, unanimity of action among those seeking a common end is very desirable—almost indispensable. And yet no approach to such unanimity is attainable unless some deference shall be paid to the will of the majority simply because it is the will of the majority. In this case the common end is the maintenance of the Union; and, among the means to secure that end, such will, through the election is most clearly declared in favor of such constitutional amendment.

The most reliable indication of public purpose in this country is derived through our popular elections. Judging by the recent canvass and its result, the purpose of the people, within the loyal States, to maintain the integrity of the Union, was never more firm, nor more nearly unanimous, than now. The extraordinary calmness and good order with which the millions of voters met and mingled at the polls, give strong assurance of this. Not only all those who supported the Union ticket, so called, but a great majority of the opposing party also, may be fairly claimed to entertain and to be actuated by the same purpose. It is an unanswerable argument to this effect, that no candidate for any office whatever, high or low, has ventured to seek votes on the avowal that he was for giving up the Union. There have been much impugning of motives, and much heated controversy as to the proper means and best mode of advancing the Union cause; but on the distinct issue of Union or no Union the politicians have shown their instinctive knowledge that there is no diversity among the people. In affording the people the fair opportunity of showing, one to another and to the world, this firmness and unanimity of purpose, the election has been of vast value to the national cause.

The election has exhibited another fact not less valuable to be known—the fact that we do not approach exhaustion in the most important branch of national resources—that of living men. While it is melancholy to reflect that the war has filled so many graves and carried mourning to so many hearts, it is some relief to know that, compared with the surviving, the fallen have been so few. While corps and divisions and brigades and regiments have formed and fought and dwindled and gone out of existence, a great majority of the men who composed them are still living. The same is true of the naval service. The election returns prove this. So many voters could not else be found. The States regularly holding elections both now and four years ago, to wit: California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hamp-

shire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin, cast 3,982,011 votes now against 3,870,222 cast then, showing an aggregate now of 3,982,011. To this is to be added 33,762 cast now in the new States of Kansas and Nevada, which States did not vote in 1860, thus swelling the aggregate to 4,015,773 and the net increase during the three years and a half of war to 145,551. A table is appended showing particulars. To this again should be added the number of all soldiers in the field from Massachusetts, Rhode Island, New Jersey, Delaware, Indiana, Illinois, and California, who by the laws of those States could not vote away from their homes, and which number cannot be less than 90,000. Nor yet is this all. The number in organized Territories is triple now what it was four years ago, while thousands, white and black, join us as the national arms press back the insurgent lines. So much is shown affirmatively and negatively by the election. It is not material to inquire how the increase has been produced or to show that it would have been greater but for the war, which is probably true. The important fact remains demonstrated that we have more men now than we had when the war began; that we are not exhausted nor in process of exhaustion; that we are gaining strength and may, if need be, maintain the contest indefinitely. This as to men. Material resources are now more complete and abundant than ever.

The national resources, then, are unexhausted, and, as we believe, inexhaustible. The public purpose to reestablish and maintain the national authority is unchanged, and, as we believe, unchangeable. The manner of continuing the effort remains to choose. On careful consideration of all the evidence accessible, it seems to me that no attempt at negotiation with the insurgent leader could result in any good. He would accept nothing short of severance of the Union—precisely what we will not and cannot give. His declarations to this effect are explicit and oft repeated. He does not attempt to deceive us. He affords us no excuse to deceive ourselves. He cannot voluntarily reaccept the Union; we cannot voluntarily yield it. Between him and us the issue is distinct, simple, and inflexible. It is an issue which can only be tried by war, and decided by victory. If we yield, we are beaten; if the southern people fail him, he is beaten. Either way, it would be the victory and defeat following war. What is true, however, of him who leads the insurgent cause is not necessarily true of those who follow. Although he cannot reaccept the Union, they can. Some of them, we know, already desire peace and reunion. The number of such may increase. They can at any moment have peace simply by laying down their arms and submitting to the national authority under the Constitution. After so much, the Government could not, if it would, maintain war against them. The loyal people would not sustain or allow it. If questions should remain, we would adjust them by the peaceful means of legislation, conference, courts, and votes, operating only in constitutional and lawful channels. Some certain, and other possible, questions are, and would be, beyond the executive power to adjust; as, for instance, the admission of members into Congress, and whatever might require the appropriation of money. The executive power itself would be greatly diminished by the cessation of actual war. Pardons and remissions of forfeitures, however, would still be within executive control. In what spirit and temper this control would be exercised can be fairly judged of by the past.

A year ago general pardon and amnesty, upon specified terms, were offered to all, except certain designated classes; and it was, at the same time, made known that the excepted classes were still within contemplation of special clemency. During the year many availed themselves of the general provision, and many more would, only that the signs of bad faith in some, led to such precautionary measures as rendered the practical process less easy and certain. During the same time also special pardons have been granted to individuals of the excepted classes, and no voluntary application has been denied. Thus, practically, the door has been, for a full year, open to all, except



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such as were not in condition to make free choice—that is, such as were in custody or under constraint. It is still so open to all. But the time may come—probably will come—when public duty shall demand that it be closed; and that, in lieu, more rigorous measures than heretofore shall be adopted.

In presenting the abandonment of armed resistance to the national authority on the part of the insurgents as the only indispensable condition to ending the war on the part of the Government, I retract nothing heretofore said as to slavery. I repeat the declaration made a year ago, that "while I remain in my present position I shall not attempt to retract or modify the emancipation proclamation, nor shall I return to slavery any person who is free by the terms of that proclamation, or by any of the acts of Congress." If the people should, by whatever mode or means, make it an executive duty to reenslave such persons, another, and not I, must be their instrument to perform it.

In stating a single condition of peace, I mean simply to say that the war will cease on the part of the Government whenever it shall have ceased on the part of those who began it.

ABRAHAM LINCOLN.

DECEMBER 6, 1864.

Table showing the Aggregate Votes in the States named, at the Presidential Election respectively in 1860 and 1864.

	1860.	1864.
California.....	118,840	*110,000
Connecticut.....	77,246	66,616
Delaware.....	16,039	16,924
Illinois.....	339,693	348,235
Indiana.....	272,143	280,645
Iowa.....	128,331	143,331
Kentucky.....	146,216	*91,300
Maine.....	97,918	115,141
Maryland.....	93,502	72,703
Massachusetts.....	169,533	175,487
Michigan.....	154,747	163,413
Minnesota.....	34,709	42,534
Missouri.....	165,538	*90,000
New Hampshire.....	65,953	69,111
New Jersey.....	121,125	128,680
New York.....	675,156	730,664
Ohio.....	442,441	470,745
Oregon.....	14,410	114,410
Pennsylvania.....	476,442	572,697
Rhode Island.....	19,931	22,187
Vermont.....	43,244	55,811
West Virginia.....	46,195	33,874
Wisconsin.....	152,180	148,513
	3,870,223	3,982,011
Kansas.....	17,234	
Nevada.....	10,528	
		33,762
Total.....		4,015,773
* Nearly.	† Estimated.	

## Report of the Secretary of the Navy.

NAVY DEPARTMENT, December 5, 1864.

SIR: In submitting the annual report of the transactions of this Department and of the Navy, with those of the several bureaus for the year, it affords me pleasure to assure you that the condition of affairs is satisfactory, and that the discipline and efficiency of the service continue to be faithfully maintained. After many years of peace and comparative inactivity, the officers and sailors of our Navy were suddenly called to the performance of extraordinary and exacting duties, and, during nearly four years of exhausting civil war, they have manifested their attachment to the Union and their fidelity to the national flag by rigidly enforcing a gigantic blockade of our coast, by vigilantly patrolling the great national rivers of the interior, and by a succession of ocean and coastwise expeditions, achievements which have not only added to our naval renown but greatly promoted our national integrity and strength.

When the change of administration took place in March, 1861, the war had already been virtually begun—the forts, and arsenals, and custom-houses, and mints, and navy-yards, and national property within the rebel States had been seized without resistance. The retiring Administration manifested its inability to assert the national authority, and its disinclination to vindicate the national supremacy, and closed its term, and that of the Thirty-Sixth Congress, without any preparatory measures for the tremendous convulsion

which was even then shaking the Union to its center and threatening our existence as a nation.

In six weeks after I had entered upon the administration of this Department, a blockade, extending over more than three thousand five hundred miles of our coast, was ordered; and for this stupendous work, pronounced to be impracticable by the highest foreign authorities, we had a feeble Navy, reduced to the lowest peace establishment, composed largely of sailing vessels, most of which were dismantled or dispersed abroad. Of the limited number of seamen authorized by law, only about two hundred were available at all our naval stations and receiving ships. Many of the officers became demoralized and deserted. In this enfeebled condition, without men, or ships, or ordnance, or resources placed at its disposal, the Department was called upon to establish and enforce the most extensive blockade that was ever undertaken to be effectually maintained by any nation.

To make available every naval vessel, to recall our foreign squadrons, to increase our force by building new vessels, and by procuring for naval purposes, from the merchant service, every steamer which could be made a fighting vessel, to enlarge at once the capacity of the navy-yards, to put in requisition the foundries and workshops of the country for supplies of ordnance and steam machinery, to augment the number of seamen, and to supply the deficiency of officers by selecting experienced and able shipmasters and others from the commercial marine, were among the important and responsible duties which were precipitated upon the Department at that exciting and interesting period.

The measures promptly and energetically adopted caused an immense navy to spring into existence, not to carry on a maritime war, for the rebels had no navy to stimulate our sailors to glorious deeds, nor commerce to reward their activity; but men, and ships, and ordnance, and supplies were speedily collected for the onerous naval duties needful to sustain our national unity and preserve our national rights.

Besides instituting the extensive blockade of the coast, naval expeditions were organized at the earliest possible period to assert and restore the national authority at important points within the insurrectionary region. The first of these expeditions was organized and sailed from Hampton Roads in August, under the command of Rear Admiral Stringham, and resulted in the capture of Hatteras, and was the first reconquest of a strong position which was effected on our coast. This was followed a few weeks later by the victory of Rear Admiral Du Pont at Port Royal, which secured a commodious harbor for the ships of the South Atlantic squadron. The achievements on the lower Mississippi, where Rear Admiral Farragut dashed open the gates of the passage to New Orleans, and restored to the Union the commercial metropolis of the South, were accomplished the following spring. Those three important expeditions, comprising, in each case, a larger fleet than had ever been fitted out on this continent, and two of them seldom surpassed in naval annals, were planned, organized, and carried into execution in the first year of the war, in addition to an immense blockade, which was at the same time so vigilantly and rigorously enforced that the rebels even then felt and complained of its exhausting severity. Other harbors and places have from time to time been seized and occupied, the last being the bay of Mobile and the fortifications at its entrance, effected by the same distinguished officer who had thrown open the lower Mississippi to uninterrupted navigation two years before. Nor have the prowess and skill of our Navy in this unhappy contest, involving the integrity of the Union and our national supremacy, been felt upon the seaboard alone. On our inland waters, at Fort Henry, at Donelson, at Shiloh, at Island No. 10, at Memphis, at Arkansas Post, at Vicksburg, at Port Hudson, and at almost every important place on the Mississippi, the Cumberland, the Tennessee, and other rivers of the Southwest, the Navy has been active in reestablishing the national authority. A fleet of more than one hundred vessels has been put afloat on those waters, and most of them are now patrolling those rivers in the national cause.

It has been the policy of this Department, rigidly adhered to under all circumstances, and from which it has not allowed itself to be diverted, never to permit the efficiency of the blockade to be impaired during these domestic troubles. Hence no large squadrons have been maintained on foreign stations. Cruisers and men-of-war have been sent out or ordered to important points to protect American interests, and capture or destroy the few predatory rovers which from time to time have ventured abroad to depredate on our commerce.

## THE BLOCKADE.

The blockade of a coast line of three thousand five hundred and forty-nine miles in length, greater in extent than the whole coast of Europe from Cape Trafalgar to Cape North, is an undertaking without precedent in history. During our last war with Great Britain, when that Power had eight hundred naval vessels in commission, not a single port of the United States was thoroughly closed. The most serious attempts of the great maritime Powers have consisted in endeavors to interdict trade at a few of the principal ports of a belligerent. Immediately after closing the ports of the States in rebellion, and giving that act the character of a blockade, the efforts of this Department were directed toward securing several harbors at comparatively equidistant points, as bases of operations for the several squadrons, where our naval vessels could receive their supplies and maintain themselves at their stations and on their cruising ground, without returning to northern ports for repairs and refittings. To have done this would not only have endangered the efficiency, but in some instances might have involved an abandonment of the blockade. To this end there were set on foot various coast expeditions which have resulted in our taking possession of or closing all the ports excepting Wilmington. From various causes, Cape Fear river is more difficult to blockade than any port on the coast of the United States. The two main entrances are forty miles apart, and these two are subdivided into several others, each of which affords an entrance to vessels. The water shoals gradually and regularly to the shore line, and numerous isolated batteries are erected along the coast, so that a blockade runner of light draught is not under the necessity of making directly for the entrance, but can, by the lead, run close under the land protected by the batteries, and pass in over the bar at leisure. When coming out, a steamer will select her own time, thus securing every advantage, and she can pass either up or down the coast before making an offing, or she may proceed straight out to sea, trusting for her escape to the night and favoring darkness and mists, and the fact that she is under full speed, while the steamers blockading must have low steam.

Almost every vessel employed in violating the blockade has been constructed in England with great skill, regardless of cost, and with sole reference to engaging in this illicit trade, the profits of which are almost as remunerative as those attending the slave trade, a kindred traffic, that all Christendom discountenances, and the most powerful maritime nations have combined in vain to suppress; yet the slave trade is carried on within limits which measure but a fraction of our extended blockade. The cupidity of English merchants, aided by their vast resources, together with the advantages derived from those triangular depots of blockade runners and of rebel supplies—the ports of Halifax, Bermuda, and Nassau, ports which will always be in sympathy with the enemies of this country—has induced them to engage in this trade. The illicit traffic with the rebels, who are making war upon our Government, belongs to that code of commercial morals which prompted the smuggling of opium into China, and the rule of those who engage in it is to trade, legally or illegally. If it be illegal, it is the business of the Chinese and Americans, not of Englishmen, to prevent it.

Many who have failed to make themselves acquainted with the facts connected with the Wilmington blockade have been free and severe in their censures of the manner in which it has been conducted. The intelligent officers of the naval and merchant service who have labored with untiring zeal and assiduity, and watched with sleep-

less vigilance through weary months of winter and summer, and in all weathers, stimulated by the hope of benefiting their country and receiving its thanks, as well as by every inducement to fame and pecuniary reward, if successful, do not concur in the opinion that the port of Wilmington can be entirely closed by blockade.

Convinced, as this Department always has been, that it is necessary to take possession of the entrances, so as to permit our armed vessels of light draught to go inside, no opportunity has been omitted to impress the necessity of joint naval and military operations for that purpose. The Navy has been at all times ready to perform its part in such an expedition; but the Army has not yet been able to unite in a conjoint movement. Neither branch of the service can expect to be successful in an attack upon this position independent of the other. Were there deep water at Wilmington, as at New Orleans, Mobile, and Port Royal, either of those operations could be repeated at that point, but by reason of the shoalness of the water, an exclusively naval operation cannot be relied upon to be successful.

#### WESTERN GULF SQUADRON.

An object earnestly cherished by the Navy, but which had been delayed for Army coöperation, was the possession of the bay of Mobile. In anticipation that this would receive early attention, Rear Admiral Farragut rejoined his squadron in January; but the operation was still further postponed for military demonstrations in Texas and on Red river.

Commodore Bell, who had been left in charge, actively coöperated with the Army in its movements for the occupation of certain points in Texas.

The possession and occupation of Brownsville, briefly mentioned in my last report, was followed by a like movement at Brazos, Avansas, and Cabello passes, in all of which the naval forces detailed by Commodore Bell, and placed under command of Commander J. H. Strong, afforded all required assistance.

Prior to the occupation of the left bank of the Rio Grande, the mouth of that river had been made the rendezvous of vessels of various nationalities engaged in violating, indirectly, the blockade; the demoralized condition of Mexico, and the mutual rights of the two countries on the river and at its entrance, affording unusual facilities to the illicit traders. Commander Strong reported some sixty vessels anchored in the Mexican waters of the Rio Grande, carrying on an extensive trade, chiefly in cotton, with the rebels through Matamoros, which had thus suddenly become a great commercial mart. This traffic, which had been prosecuted with success, in consequence of our inability, under treaty stipulations, to completely blockade the Rio Grande, was effectually stopped by the occupation of Brownsville, which was followed by the President's proclamation of February 18, 1864, relaxing, conditionally, the blockade of that port.

But this possession of the several ports of Texas was of short duration. After a few months' occupation the military forces were withdrawn, and the duty of guarding that extensive coast was thus again devolved exclusively upon the Navy. Under orders of August 18 to Rear Admiral Farragut, the blockade was resumed on the 9th of September, and has been since maintained.

The bay of Mobile, guarded at its entrance by two imposing fortifications constructed by the Federal Government in former years, was difficult to blockade, and was one of the principal ports for illicit trade with the rebels. It had been the steady purpose of this Department to get possession of that bay as soon as operations on the Mississippi would permit the detachment of a sufficient coöperating military force for the expedition. But repeated coöperative movements having this purpose in view were commenced, and then abandoned for Army operations elsewhere. In the mean time the rebels, availing themselves of this delay and of the advantages of this position, proceeded to the collection and construction of a formidable navy, with a view of raising the blockade.

The information received was of such a char-

acter that the Department deemed it important that Rear Admiral Farragut should resume his command, which he did, and on the 18th of January arrived off Mobile. It was no part of the plans or intentions of that officer or of the Department to await the offensive movements of the rebel commander. To attack, not to defend, was his policy; and it was with some impatience that he awaited the means to justify him in putting that policy into successful operation. Knowing the disadvantage of attacking iron-cased vessels with wooden ones, and that, too, in the face and under the guns of heavy fortresses without a coöperating land force, he deferred the movement until the necessary elements of success could reach him. But in the mean time he stood ever ready to meet and measure his strength with the iron-clad fleet of Buchanan, should it venture to come out. Thus he constantly threatened an attack on Mobile, thereby aiding the Army in its general movements elsewhere.

Military coöperation was secured in the early part of August, and two iron-clads from James river and two from the Mississippi having reached him, Rear Admiral Farragut, at 5.40 o'clock on the morning of the 5th of August, got his fleet under way and entered Mobile bay, passing between Forts Morgan and Gaines. Silencing their guns as he passed, he encountered the rebel squadron, which by 10 o'clock was dispersed, captured, or destroyed. This engagement, in many respects one of the most remarkable on record, and which added new luster even to the renown of Rear Admiral Farragut, was not without serious loss on the part of his fleet. The most serious of these was the destruction of the iron-clad *Tecumseh*, one of his most formidable vessels, by a torpedo, early in the action, and the loss of her gallant commander, T. A. M. Craven, and nearly all of her brave officers and crew. It was from the *Tecumseh* that the first shot was fired at Fort Morgan. The total casualties, not including those of the *Tecumseh*, were fifty-two killed, and one hundred and seventy wounded.

After the capture of one of the rebel gunboats by the *Metacomet*, and the retreat of two others under the guns of Fort Morgan, the iron-clad ram *Tennessee*, bearing the flag of the rebel Admiral Buchanan, maintained the contest. For awhile the action was fierce and sanguinary. The wooden ships defiantly encountered the *Tennessee*, although her armor was impervious to their guns, while our iron-clads grappled fiercely with their formidable antagonist. The *Manhattan*, with one of her 15-inch shot, broke through the armor of the *Tennessee*, and a monitor shot also disabled the steering gear, and thus rendered her helpless. At ten o'clock she surrendered. Twenty officers and about one hundred and seventy men were captured in this vessel, and ninety officers and men in the *Selma*. The capture of these two vessels, and the retreat of the two remaining rebel gunboats under the guns of Fort Morgan, terminated the glorious battle of the 5th of August.

On the following day one of the iron-clads shelled Fort Gaines with such effect that Colonel Anderson, the commander, sent a communication to Rear Admiral Farragut offering to surrender. General Granger, commanding the United States military forces, was sent for, and the terms of capitulation were signed by the respective parties on board of the *Hartford*.

From this time onward movements were in progress for capturing Fort Morgan, and on the 23d of August, at day dawn, a bombardment was opened from the shore batteries, the monitors and ships inside, and the vessels outside the bay. At six a. m. of the 23d a white flag was displayed by the rebels, and at two o'clock p. m. the fort was unconditionally surrendered to the Navy and Army of the United States. A naval shore battery did good service on this occasion.

Fort Powell had been already attacked on the night of the 5th and blown up, the guns falling into our hands.

The capture of Forts Powell, Gaines, and Morgan, and the destruction of the rebel fleet, gave us possession of the bay and closed the port to all ingress or egress of blockade runners. This was all that was contemplated. Possession of the city of Mobile could not make the blockade more effectual, and without a sufficient coöperating land

force, which could not then be spared, to take and hold the place, further demonstration was not advisable.

To obstruct naval operations the bay had been strewn with torpedoes, and as late as the 13th of September Rear Admiral Farragut wrote the Department that he was still engaged in removing them. One hundred it was reported had been placed in the bay by the rebels.

#### EAST GULF SQUADRON.

The limits of the Eastern Gulf squadron have been extended so as to embrace within its cruising grounds the waters of the Bahamas and the vicinity of Cuba.

On the 7th of August Acting Rear Admiral Bailey, whose health was suffering from the debilitating influence of the climate, turned over the command of the squadron by permission of the Department to Captain Theodore P. Greene, the officer next in rank, and came North. Captain Greene continued in command until the 12th of October, when he was relieved by Acting Rear Admiral C. K. Stribling.

Notwithstanding the sanitary precautions adopted for the health of this squadron, many of the vessels failed to escape the infection of the yellow fever, so much and so justly dreaded, and had to seek a northern climate during the summer. The system of promptly ordering vessels to a healthier locality the moment they become infected has been in its effect salutary, the ravages of the disease have thereby been checked, and the ship's complement soon restored to the usual standard of health.

Although the squadron was temporarily reduced by these withdrawals, no serious interruption took place in the disposition of the blockade, which has continued to be effective. Less frequent captures, and other indications, demonstrate that the traffic and communication with the Florida coast has pretty much ceased.

The monotony of blockade life has, in repeated instances, been broken by boat expeditions and armed incursions for the destruction of salt manufactories, which abound on the Florida shore, many of which are the public property of the insurgents. These expeditions, although apparently unimportant when compared with the great naval achievements which have given renown to our sailors in neighboring waters, have nevertheless inflicted serious injury upon the rebels, by exhausting their resources, and have developed the zeal and energy of our officers and seamen. A number of such expeditions have been organized during the year and conducted to a successful issue with little loss of life, and without relaxing or neglecting the special and paramount service of the blockade.

In May an expedition was planned by the rebels for capturing or destroying one of our blockading steamers off Appalachicola. The organization consisted of some hundred men led by rebel naval officers. Information of the proposed movement was timely received, and a joint naval and military force was dispatched against the party and succeeded in capturing some of them, with six of their seven boats, their ammunition, flags, and accompaniments. Detailed reports of this affair, as well as of others, which are creditable to the officers and men engaged in them, form a part of the appendix to this report.

#### SOUTH ATLANTIC SQUADRON.

The coast under blockade by the South Atlantic squadron is about three hundred miles in extent, and a considerable portion of it is a network of inlets and sounds. Within the limits of this command are two of the chief seaports of the insurgents—Charleston and Savannah—cities of wealth and marts of commerce in other days, but the war which they commenced, and which they still continue to wage against the Union, has caused each of them to be sealed up, and has destroyed their wealth and prosperity.

The craving for commerce and luxuries at Charleston, which the rebellion has not extinguished, with the increasing hazards of running the blockade at Wilmington, have prompted some reckless adventurers to expose their fortunes in efforts to elude the squadron of Admiral Dahlgren. Several valuable steamers having been lost in these

attempts, the efforts were for a time almost entirely discontinued.

Charleston and Savannah, besides being among the best defended points on the Atlantic coast, possess advantages for a navy, on which the insurgent leaders felt much reliance in the early days of the rebellion. There they have had armored vessels, and rams, and torpedo-boats, or "Davids" and "Divers," elements with which they threatened to achieve success over the open warfare of the naval forces of the Union. Charleston, disaffected without cause, and aspiring without enterprise, having, after long and persistent efforts, succeeded in seducing others to engage with her in assailing the national Government, and attempting a dismemberment of the Union, fails to become either a naval or commercial emporium. She has dragged down others without elevating herself, and is fast becoming a waste.

No formidable independent operations, in the form of naval conflicts, have been made by the squadron during the year. A steady, unrelenting blockade has been rigidly enforced, with no attractive and exciting incidents, but which has been effective and exhausting upon the rebels.

In February a detachment of vessels was sent to the St. John's river to aid a military force intended to be thrown into Florida. Rear Admiral Dahlgren accompanied the expedition in person, saw the proper cooperative arrangements made, and assigned an adequate naval force, which is holding possession of all points on the St. John's occupied by our Army. In March a diversion was made at Bull's bay. In May a force was detailed to cooperate in an effort to sever the railroad between Charleston and Savannah. A detachment of iron-clads crossed Stono bar in July to assist General Foster in a demonstration upon the rebel works on Stono river and James island. Rear Admiral Dahlgren conducted the naval force in person. In these and other military movements the Navy has been always active and ready to extend cordial cooperation to every Army operation.

In February permission was given to Rear Admiral Dahlgren to leave his squadron in command of Commodore S. C. Rowan. On resuming his duties in May, he found that General Gillmore had been called, with the greater part of his army, to another field, leaving behind, however, a sufficient defensive force when sustained by the Navy. The withdrawal of so large a portion of the military force, necessarily put a stop to further serious demonstration against Charleston.

The retention of the harbor, as well as the entire safety of that coast, depended thenceforward mainly on the iron-clads. They were indispensable for the continued possession of Morris Island by our troops, and they could not have been withdrawn without putting in jeopardy the blockading fleet which, as well as the land force, would have been assailed by the armored rebel vessels. The capability of the monitors to hold position off Morris Island had been controverted by the former intelligent commander of the squadron, who denied its practicability, and had deemed it his duty in June, 1863, to enter a protest against it. His representations, with those of the officers therein command of the iron-clads, that those vessels could not remain off the harbor, nor nearer to that point than North Edisto, with other suggested difficulties, caused the Department to consider well its purpose before carrying out the original order, that the monitors should remain inside the bar and off Morris Island, as the only effectual method of entirely closing the port, and making any further demonstrations.

The views of the Department were sustained by other naval officers of judgment and ability. Younger officers also made a voluntary tender of their services, as well as some of those who had doubted, each offering to take the risks which the great stake justified; while the sailors, always ready for any service or to encounter any hardship, imitated and emulated their example.

The result has been that Rear Admiral Dahlgren has kept these vessels for seventeen months where it was insisted they could not remain, to the great injury of the original seat of the rebellion. The work has been irksome and laborious, unremunerative, and perhaps not sufficiently appreciated, for it has been quiet and undemonstrative, without those occasional captures which, before

taking possession of the harbor, enlivened and rewarded the officers and crews.

Intelligence that the rebels were strengthening Fort Sumter, building bomb-proofs, and mounting heavy guns on the channel faces, led Rear Admiral Dahlgren early in the summer to entertain the thought of attacking that fortification and attempting the passage with his iron-clads. It was a question of great responsibility, for the assault, if made, would draw upon the vessels the concentrated fire of many powerful batteries; he therefore called a council of his officers in command, and, after a full discussion, a large majority deemed it, under the circumstances, unadvisable. It was consequently abandoned.

Several creditable incursions have been made at various points within the limits of this command, resulting in the discomfiture of the rebels. Details of these, as of those of the other squadrons, are appended to this report. Occasional assaults have been made upon our vessels off Charleston by torpedo-boats, and in one instance with success, by sinking the steam sloop-of-war Housatonic, but fortunately with little loss of life.

#### NORTH ATLANTIC SQUADRON.

The number of vessels and officers and men employed in the North Atlantic squadron exceeds that of any other, and its importance is certainly not less. In addition to blockading the only remaining port of commercial intercourse in the rebel States, on this squadron has devolved the duty of guarding and holding possession of the great inland waters of North Carolina and Virginia, and an extensive cooperation with the armies which are threatening Richmond and its vicinity.

In order to secure the most thorough and efficient discharge of duty that is possible in every department of this squadron, and especially that of the blockade off Wilmington, Acting Rear Admiral Lee, by direction of the Department, established four divisions of the squadron, namely: one on James river, one in the sounds of North Carolina, and two off Cape Fear and adjacent inlets, each of which was placed under an experienced officer, and Acting Rear Admiral Lee removed his headquarters in July from Hampton Roads to Beaufort.

For some months previous to May last the rebels had been left in quiet possession of James river for a considerable distance below Richmond, but the progress of the Potomac army toward the rebel capital was the signal for active operations in another quarter. On the 5th of May Major General Butler moved his army from Newport News, under convoy of a naval force which had been assembled for the purpose, up James river, and made the following night a successful landing at Bermuda Hundred and City Point. The movement was quietly performed, and the landing was promptly effected. The absence of a military or naval force on the James river had been improved by the rebels to plant in its bed formidable torpedoes, by which two of the light-draught boats were destroyed.

From the landing of the army of the James in May, a naval force competent to meet the armored vessels and rams of the insurgents, had they made a demonstration, has been maintained on the upper waters of the James. On various occasions sharp but brief engagements have occurred between our vessels and the rebel batteries forming the defense of Richmond.

The naval force had anticipated an encounter with the rebel fleet which had been in the course of preparation for two years, but the military commanders, out of abundant precaution, ordered obstructions to be placed in the channel by sinking vessels for the protection of the large transport fleet that was in attendance upon the Army, and which it was apprehended might be disturbed and perhaps endangered in the narrow waters, were a demonstration to be made by all or any portion of the rebel navy. The security of the transports was justly deemed of vital importance to the Army, and required to be placed beyond any contingency. Hence this obstruction of the river, in addition to the protection afforded by our iron-clads and other naval vessels, was doubtless a wise military precaution, although it restricted the movements of the Navy.

The operations in the sounds of North Carolina

have been interesting and important. It had been a cherished idea of the rebel leaders to repossess themselves of the sounds, and to regain the principal places on them, which had been wrested from rebel authority early in the war by the united efforts of the Army and Navy. Preparations were long in progress for the construction of armored vessels, and others of light draught, on the Roanoke and Neuse rivers, with intent to descend and drive out from the sounds our fleet of slightly-built wooden boats, recapture Plymouth, Newbern, and other points held by our arms, and reestablish rebel power in that quarter. These schemes, though partially successful at the commencement, soon closed in disaster.

Delays in the completion of the armored vessels ordered by the Department, and especially intended for service in shallow waters, which were inaccessible to the monitor vessels already built, jeopardized our possession of the sounds. There was also the want of an adequate military force in that quarter.

On the 17th of April the rebels besieged Plymouth, and two days after the rebel ram Albemarle descended the Roanoke river and attacked the wooden gunboats lying off that town. On the 20th the defenses were carried, the garrison became prisoners, and the rebels obtained possession of the upper sound. In consequence of Army reverses, vigorous measures were immediately taken by this Department to prevent further disaster. Captain Melancthon Smith, an officer of much naval experience, was sent to the sounds with vessels of heavier armament, and instructed to take command, attack the armored ram at all hazards, and use all means to destroy her. On the 5th of May the ram came out of Roanoke river, and Captain Smith engaged her with his gunboats. The action continued from 4.40 to 7.30 p. m., when darkness intervened, and the Albemarle retreated up the river. Shot fell from her armor apparently without effect, and the efforts to run her down were unsuccessful. Her consort, a small Army steamer which had been captured and converted into a naval vessel, was recaptured.

On but one subsequent occasion did the Albemarle make her appearance, and then she quickly retired on being fired at. As there was no known cause to prevent her making another demonstration, a competent naval force was always in readiness to meet her. But the inactivity of awaiting her movements was irksome and paralyzing, and her destruction by other means became an object.

Lieutenant W. B. Cushing, a young officer who had on previous occasions gained the admiration of the Department by his daring and adventurous heroism, was selected to destroy the Albemarle by a torpedo, properly arranged in a light picket boat, to be placed at his disposal. The torpedo is the invention of Chief Engineer W. W. Wood, and possesses extraordinary power. It was arranged and applied to the picket boat at the suggestion and under the direction of Rear Admiral F. H. Gregory and his able assistants. Lieutenant Cushing was directed to have the means for carrying out the views of the Department prepared, and when these were completed it was quickly and brilliantly executed. With fourteen brave officers and men, who volunteered for the service, he, on the night of October 27, ascended the Roanoke to Plymouth, assailed the ram at her wharf, though guarded by a military force on shore, as well as by her crew, and sunk her. Only himself and one of his party escaped death or capture.

This daring and successful exploit removed the reliable defense of Plymouth. Commander Maccomb, senior officer in the sounds, promptly availed himself of the advantages of Lieutenant Cushing's achievement. With the naval force at his command he pressed on to Plymouth, drove the rebels from their rifle-pits and batteries, and on the 31st of October took possession of the place, capturing a few prisoners, thirty-two cannon, small-arms, and ammunition, thus reestablishing the Union supremacy in the sounds of North Carolina.

From July, 1863, when the rebels were driven from Morris Island by the combined forces of Rear Admiral Dahlgren and Major General Gillmore, and the Navy thereby gained command of



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the entrance to, and possession of Charleston harbor, so that monitor vessels could remain inside, blockade running ceased almost entirely in that quarter, and was transferred to, and vigorously prosecuted at Wilmington.

This locality possesses singular natural advantages to resist a blockade, to which the rebels have added others in the way of earthworks, with powerful guns, to cover the blockade runners, and to open on our vessels whenever they come within range. These shore batteries were made to command the several channels and the numerous inlets in that quarter.

The difficulties of closing this port entirely, while rebel forts command the channels, and which none of our ships with heavy broadside batteries can approach, by reason of the extreme shallowness of the water, can be rightly appreciated by those only who are familiar with the locality, and have had experience on that station. Without a coöperating land force, it is not expected that we could close the port of Wilmington. There has been no time within the last two years when the Navy has not been ready and anxious to perform its part in such an expedition, for the possession of the entrances to Cape Fear river is a necessity to stop entirely all ingress to or egress from that place. Running the blockade at that point has been made a matter of business by foreign capitalists, as well as by the rebels. Such has been and is the stringency of the blockade, that articles of commerce command fabulous prices throughout the whole insurrectionary region, thereby stimulating the cupidity of reckless neutrals. But while a successful trip begets large profits, the blockade has not been violated with impunity. Heavy losses have befallen most of those who have been engaged in the illicit trade. Sixty-five steamers, the aggregate value of which, with their cargoes, will scarcely fall short of thirteen million dollars, have been captured or destroyed in endeavoring to enter or escape from Wilmington. Over fifty such results have occurred since Rear Admiral Dahlgren anchored his monitor fleet inside of Charleston bar and closed that port to commerce.

Some idea of the difficulty of closing the main entrances to Cape Fear river, which are nearly forty miles apart, can be formed when it is considered that with fifty of our steamers, some of them the fastest in the service, stationed and distributed by naval officers of intelligence and experience, off those entrances, blockade runners, watching their opportunity, and availing themselves of dark nights, good pilots, and extraordinary speed, succeed in getting into and out of Wilmington.

Acting Rear Admiral S. P. Lee, who for two years has been in command of this squadron, discharging his arduous duties with intelligence and fidelity, was relieved by Rear Admiral Porter, who took command of the North Atlantic squadron on the 12th of October.

#### MISSISSIPPI SQUADRON.

The events of the year have furnished additional proof of the wisdom of the policy which dictated the organization of a powerful and efficient squadron on the rivers of the interior. Its usefulness has been demonstrated on many occasions and in various ways: Whether in convoying transports laden with soldiers or supplies destined for the Army, or merchandise and produce of the people; in assisting in repelling attacks upon weak military posts; in rendering more safe the navigation of the streams to commerce and travel; in independent naval expeditions, or in coöperating in extensive military movements, its importance has been manifested.

To obtain possession of the Mississippi, and constantly patrol that great stream from Cairo to New Orleans, is in itself a work of vast magnitude. By it the rebel combinations have been broken, and their organization severed, as it were, by an impassable gulf. The Ohio, Tennessee, and Cumberland rivers have likewise been patrolled. Thus loyal citizens in their vicinity have been protected, refuge has been afforded to those escaping from anarchy and oppression, and partisan bands have been dispersed.

To insure a systematic and vigorous execution of the duties devolving on the squadron, the wa-

ters traversed by it have been divided into ten naval districts, each under the command of an experienced officer. While the vessels in each district have their appropriate field of duty, they are held ready to support each other when occasion requires, and can be readily concentrated when an emergency demands it.

The squadron is composed, to a great extent, of boats that had been employed in the carrying trade, but which have been purchased, strengthened, and fitted for war purposes. They are necessarily inferior to naval-built vessels in strength; they are lightly armed, and consequently more liable to disaster. But their cost is greatly inferior to that of iron-clad vessels, or those of heavy structure for ocean service. The most extensive operations of the Mississippi squadron during the year have been in connection with the military expedition on the Red river, which, with the attending incidents, form an interesting page in the annals of the war. The failure of this conjoint expedition to accomplish the important results desired and anticipated are attributable to causes beyond human control, and to the want of success on the part of the military arm of the service. So far as the Navy was concerned, the expedition was chiefly one of coöperation with the Army. It possessed, however, within itself the elements of success under ordinary circumstances, and had not natural obstacles intervened, its history might have been not less brilliant than the record of other achievements of this squadron.

On the 7th of March Rear Admiral Porter had assembled at the mouth of Red river a formidable fleet of iron-clad vessels and of light-draught wooden boats for coöperation with the Army, and was there joined by a portion of Major General Sherman's force in transports, under the command of General A. J. Smith.

The joint forces moved up the river on the 12th of March to form a junction with Major General Banks at Alexandria. In their progress some of the vessels branched off into the Atchafalaya, while the main portion continued up Red river. The rebels were driven in turn from Simmsport and Fort DeRussy, the latter falling again into our possession, with its guns and munitions of war and a few prisoners. Some of the fleetest vessels were dispatched to Alexandria with the hope of cutting off the rebels in their retreat, but without success. That place was occupied by our forces, and about the 1st of April both Army and Navy commenced to move up the river toward Shreveport. A part only of the naval force could proceed further up the river than Alexandria, and it was with difficulty they reached that point. But the assistance of the gunboats was so essential to success, that some risks had to be taken, and extraordinary exertions were made to pass the vessels over the falls so as to give the required coöperation. Main force had to be used to haul the gunboats. But Grand Ecore was reached without accident, and occupied without opposition. There were at this time indications of the usual rise of the season in the river, and everything promised success. Twenty-three heavy guns had been captured from the rebels since the entry into that river. Springfield landing was designated as the point for the next junction of the coöperating forces, and it was reached at the appointed time, three days after leaving Grand Ecore, by six gunboats and twenty heavy transports. Here they learned that the Army under General Banks had met a reverse, and was falling back to Pleasant Hill, some distance below. Rear Admiral Porter was therefore compelled to turn back, with the full knowledge that in retracing his steps he would be interrupted at every assailable point. The rebels, flushed with their success against the Army, availed themselves of every opportunity which offered for harassing the gunboats and transports.

Their cavalry and artillery taking advantage of the winding stream moved rapidly from point to point, attacking on every available occasion. But the gunboats successfully fought their way, and from time to time repelled their assailants with terrible slaughter.

On the 14th of April Rear Admiral Porter got back to Grand Ecore, where he found the vessels which he had left at that point still detained above the bar. The river instead of rising as customary

at this season had fallen during his absence. The Army was preparing to move back upon Alexandria; the water having so receded there was little hope of getting the vessels out, and destruction apparently awaited the best portion of the squadron. But, in the words of the admiral, "Providence provided a man for the occasion." Lieutenant Colonel Joseph Bailey, acting engineer of the Nineteenth Army corps, an intelligent and efficient officer, devised a plan for the construction of a series of dams across the rocks at the falls; thus by artificial means to supply that which nature withheld—a sufficient depth of water for the passage of the vessels. Extraordinary as was the project, and received with incredulity, the mind that conceived it was enabled to carry it into successful execution. Men were set at work; woodcutters collected; quarries opened; and after some weeks the undertaking was accomplished. The dams were built, the vessels passed safely over the falls to the delight of the assembled Army and Navy who had mutually participated in the work, and on the 16th of May Rear Admiral Porter had the satisfaction of announcing that the fleet was relieved from danger. There is probably in naval history no other instance of such peril and difficulty so successfully and skillfully surmounted.

Congress very appropriately acknowledged the meritorious services of Lieutenant Colonel Bailey on this occasion, and they have been still further recognized by his promotion.

Interesting details of this and minor expeditions on the Washita, Arkansas, Black, and Yazoo rivers, will be found in the official appendix to this report.

Rear Admiral Porter, having been for nearly two years on arduous and exhausting duty in this command, received leave to return East in the summer, and was subsequently detached in order to take command of the North Atlantic squadron. Captain A. M. Pennock, senior officer on the station, was left in charge. On the 1st of November Acting Rear Admiral S. P. Lee assumed command of the Mississippi squadron, and entered on the discharge of his duties.

#### POTOMAC FLOTILLA.

The limits of the Potomac flotilla embrace also the waters of the Rappahannock, and at present and during the year have been under the command of Commander Foxhall A. Parker. Upon the flotilla has devolved the duty of arresting the contraband trade attempted to be carried on across the Potomac from Virginia with the lower counties of Maryland, and extending from Alexandria to Chesapeake bay, including the bay itself. It has also been necessary to patrol and guard the Rappahannock. The small craft, which are the vehicles of this traffic, and adapted to it, are well calculated to elude detection. Those engaged in it are reckless, unscrupulous, and unprincipled, so that on no station are greater vigilance and more unceasing watchfulness required than on the part of the officers and men of the flotilla. It is scarcely possible to wholly prevent this species of illicit traffic and blockade running. With so long a line of communication to be patrolled, opportunities will sometimes be found by the contrabandists, who are ever on the watch, and who are aided by sympathizing associates on either shore, to elude detection and capture. Numbers have, however, been captured during the year while in transit; others have been ferreted out and their boats have been destroyed.

At all times and on all occasions the flotilla has given its active and willing coöperation to the military movements. While the Army was in the vicinity of Fredericksburg last spring and summer, the services of the smaller steamers on the Rappahannock were efficient and invaluable. They opened communication with the military forces; cleared large numbers of torpedoes from the river; drove the rebels from its banks; convoyed transports with troops and supplies going to the Army and returning with the wounded and sick from the battle-field. The vessels which are employed in this service are of light draught, and their construction is necessarily slight, consequently those who serve on board of them in a hostile country are exposed to more than ordinary peril. But whether in clearing the banks of the Rappahannock of sharpshooters, or removing

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from its bed dangerous torpedoes, no less daring and energy have been exhibited than by others in vessels of larger proportions and with greater protection.

## PACIFIC SQUADRON.

There has been no material change in the strength of this squadron within the past year. The new steamer *Waterlee* joined it, and orders have been given detaching the *Narragansett* and ordering her to the Atlantic States.

Acting Rear Admiral Charles H. Bell, having had command of the squadron for three years, has been recently relieved by Acting Rear Admiral George F. Pearson; the transfer took place at Panama on the 25th of October.

No hostile craft has made its appearance in the Pacific, and our commerce has been carried on in its usual channels without interruption, other than that necessarily caused by the measures of foreign Powers in an attitude of hostility toward each other.

The blockade of Mexican ports on the Pacific by the French fleet rendered it important for Acting Rear Admiral Bell to remain several months in that quarter with his flag-ship, in order to look after the interests of the United States. An exception in favor of the steamers of the Pacific Mail Steamship Company, made in the declaration of blockade, gave them the continued use of the harbor of Acapulco as an intermediate depot, and the presence of the flag-ship, or some other one of the vessels at that port, has aided in giving protection to the property of the company against the acts of lawless persons, and inspired those on board the steamers with a feeling of security from assaults of insurgent cruisers from seaward.

About the middle of April Acting Rear Admiral Bell proceeded from Acapulco to Panama, and thence to Callao, at which port he arrived on the 25th of May, 1864.

Difficulties had arisen between Peru and Spain, which resulted in the seizure, by the naval squadron of the latter, of the Chincha Islands, and it was essential that our extensive fleet of guano vessels frequenting that quarter should have within reach an armed vessel of their own country to give aid and security in the event of unnecessary interruption of their interests. The threatening attitude of these two Powers induced Acting Rear Admiral Bell to remain with the flag-ship at Callao from May until the 5th of October. The remaining vessels of the squadron have visited the Mexican and Central American ports, and it is not known that they have failed in any respect to respond to all proper appeals of our countrymen for aid and encouragement, or to observe and scrupulously regard the rights of, and courtesies due to, friendly nations.

Rumors or reports of a rebel privateer fitting out at Victoria, Vancouver's Island, drew to that quarter the United States steamer *Narragansett* from San Francisco. The probability of such a scheme being carried into effect was ascertained to be not greater than that which had but a short time previously drawn the United States steamer *Saginaw* to that locality. After cruising, therefore, a short time in the straits of Fuca and Puget sound, and receiving the friendly assurances of her Britannic Majesty's authorities that every effort would be made to discountenance and arrest any proposed violation of neutrality, the *Narragansett* returned to San Francisco.

## WEST INDIA SQUADRON.

The West India squadron, as an organization, has been discontinued. Acting Rear Admiral James L. Lardner, who had command of it at the date of my last annual report, arrived at Hampton Roads, in the *Powhatan*, on the 3d of October, in pursuance of orders of the Department.

The principal objects for which this squadron was created had ceased to be prominent, and the chief duties originally assigned to it have been transferred to the East Gulf squadron. There have been no depredations committed in that quarter during the past year. The vessels of the squadron have, in turn, given safe convoy to the California steamers over the most exposed section of their route. This convoy has been since, when expedient, extended over the entire route, by detaching an armed vessel to accompany each steamer.

## PIRATICAL CRUISERS.

The three English-built piratical cruisers which, under the rebel flag, have, during the last two years, roamed the seas, robbing and destroying our merchantmen, shunning all armed antagonists, and have found refuge and protection, and too often supplies and other assistance in neutral ports, have terminated their predatory career. Their unrestrained warfare has undoubtedly had the effect of diminishing American tonnage, and caused a transfer of American shipping to English and other flags. Whether the maritime nations of the world will be ultimately benefited by this policy of fostering rebel belligerents may well be doubted. We have been compelled to encounter it as one of the incidents of this extraordinary and unnatural conflict. While notoriously engaged in plunder and in the wanton destruction of our merchant sailing ships, these English-built, and almost exclusively English-manned, rovers have never, during their entire piratical career, and of all their many captures on various seas, sent in for adjudication and condemnation a single ship or cargo. The less bulky and more valuable portions of their robberies were taken on board the corsairs to be sold or covertly transferred in neutral ports, while the stolen chronometers and a few mementoes were retained as memorials of their achievements. All else was destroyed.

The *Alabama*, eluding our naval vessels at the Cape of Good Hope and straits of Sunda, after committing sundry devastations, returned westward and proceeded to the French port of Cherbourg. Information of her arrival was communicated to Captain Winslow, of the *Kearsarge*, then at Flushing, who at once proceeded off the harbor, and at twenty minutes past ten a. m. on Sunday, June 19, the *Alabama* was discovered standing out accompanied by a French iron-clad steamer and the English yacht *Deerhound*. When the *Alabama* was descried the *Kearsarge* was about three miles from the entrance of the harbor, and to avoid any question as to the line of jurisdiction, as well as to draw the *Alabama* off the shore, so that if disabled she could not flee in for protection, the *Kearsarge* stood seaward until she had attained the distance of about seven miles from the shore. At fifty minutes past ten she came quick about and approached the *Alabama*, and at fifty-seven minutes past ten the *Alabama* commenced the action with her starboard broadside at one thousand yards range. At eleven the fire was returned by the *Kearsarge*, and the vessels came fairly into action at about nine hundred yards distance.

Captain Winslow says it was soon apparent that Semmes did not seek close action, and fears were entertained that after some fighting he would make for the shore. To defeat this Captain Winslow determined to keep full steam on, run under the stern of the *Alabama* and rake; but the *Alabama*, by sheering and keeping her broadside to the *Kearsarge*, was forced with a full head of steam into a circular track.

On the seventh rotation the *Alabama* headed for the shore, disabled and at the mercy of the *Kearsarge*. A few well-directed shots brought down her flag, a white one was displayed, and the fire of the *Kearsarge* was reserved. The *Kearsarge* replied, steamed ahead and laid across the bows of the *Alabama* for raking. The fire of the *Kearsarge* being again reserved, boats were lowered and an officer in one of them came alongside at ten minutes past twelve and surrendered the *Alabama*, which he said was in a sinking condition, and at twenty-four minutes past twelve she went down.

The launch and second cutter of the *Kearsarge*, the only boats not disabled, were sent to receive the officers and crew of the sinking vessel, and Captain Winslow requested the *Deerhound*, which came alongside, to assist in the rescue. The pilot-boats were also engaged in picking up the crew. Six officers and sixty-four men were brought on board the *Kearsarge*. At ten minutes past three the *Kearsarge* let go her anchor in seven fathoms water.

The *Alabama* is reported to have discharged three hundred and seventy or more shot and shell in this engagement, but inflicted no serious damage on the *Kearsarge*. Thirteen or fourteen took

effect in and about the hull, and sixteen or seventeen about the masts and rigging.

The *Kearsarge* fired one hundred and seventy-three projectiles, of which one alone killed and wounded eighteen of the crew of the *Alabama*, and disabled one of her guns.

Three persons were wounded on the *Kearsarge*. The number of killed and wounded on the *Alabama* is unknown. Seventeen of the wounded, two of them in a dying condition, were brought on board the *Kearsarge*. One hundred and fifteen officers and men of the *Alabama*'s crew reached the shores of England and France.

The battery of the *Kearsarge* consisted of seven guns, namely, two 11-inch, one 30-pounder rifle, and four light 32-pounders. That of the *Alabama* consisted of eight guns—one heavy 68-pounder, of nine thousand pounds weight; one 100-pounder rifle, and six heavy 32-pounders. In the engagement the *Alabama* fought seven guns and the *Kearsarge* five.

This has been the only fair and open sea fight which our naval men have been able to secure, as yet, during the war; and it occurred in the English Channel, in sight of the two great maritime Powers of Europe. In size, armament, and complement of men, the combatants were as near equal perhaps as could have been arranged. Most of the crew of the *Alabama* were Englishmen, and the gunners admitted to have been picked men of her Majesty's gunnery ship the *Excellent*.

Some latent remains of pride which belong to the profession, and which animated his earlier and more honorable life while sailing under the American flag, undoubtedly had an influence in inducing the pirate commander to meet a naval antagonist, after his long career of robbery and plunder of unarmed vessels, in the vain hope that it might, if successful, restore to him some portion of the respect he had forfeited, and at the same time relieve him of some of the debasement he has never ceased to feel; even when applauded by those foreign partisans who hated the country he had deserted. But the same dishonor marked his conduct on this occasion as during his whole ignoble career. Before leaving Cherbourg he deposited the chronometers and other trophies of his robberies on shore. When beaten and compelled to surrender, he threw overboard the sword that was no longer his own, and abusing the generous confidence of his brave antagonist he stole away in the English tender, whose owner proved himself, by his conduct, a fit companion for the dishonored and beaten corsair.

Having surrendered, he cannot relieve himself of his obligations as a prisoner of war until he shall be regularly exchanged. He, and each of his surviving officers and crew, whether received upon the *Kearsarge* or the *Deerhound*, are, and will be, held to be prisoners of war and amenable to the laws which govern civilized communities. A predatory rover may set the laws of nations, as well as those of his own country at defiance, but in doing so he must bide the consequences.

The *Florida* originally sailed from England under the name of *Oreto*, and under that name she was, on reaching Nassau, brought before the court through the efforts of the American consul, who was satisfied that she was in the rebel interest and intended as a rebel cruiser. The neutral authorities decided in favor of the vessel, which was permitted to proceed. Leaving Nassau she went to Green Cay, where she received on board the armament sent out for her from England, ran into Mobile, changed her name to *Florida*, and has since, fleeing from all naval vessels, carried on predatory war on American commerce, capturing and destroying unarmed merchantmen, without ever sending in a vessel for adjudication.

In February last, availing herself of a dark night, she escaped from Brest, eluding the *Kearsarge*, which was off that port. In June she visited the neutral port of St. George's, Bermuda, and remained there nine days, receiving all the coal and supplies necessary for a long piratical cruise. Leaving St. George's on the 27th of that month, she remained outside, but in sight, for three or four days, boarding all vessels that approached the island. On the 10th of July she captured the *Electric Spark*, near our coast, while several vessels were cruising for her, but she escaped, and was next heard from at Tenerife, on

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the 4th of August. Subsequently, entering the bay of San Salvador, Brazil, she encountered the steamer Wachusett, commanded by Commander Collins, to whom she surrendered, and by whom she was brought in a leaky and dilapidated condition to Hampton Roads. Here, while at anchor, an Army transport came in collision with the shattered vessel, which sunk a few days after near the wreck of the Cumberland.

The Georgia, another English-built naval vessel which cruised under the rebel flag, repaired to Cherbourg in February, and thence proceeded to the Mersey, where she changed owners. Her armament was removed from her and she left Liverpool for Lisbon. On the 15th of August Commodore T. T. Craven, of the Niagara, fell in with her in latitude 39° 16' north, longitude 90° 39' west, sailing under the English flag. Commodore Craven took possession of the vessel as a lawful prize, and putting a prize crew on board of her, he sent her to the United States.

The Tallahassee, an English-built blockade runner from Liverpool, which port she left in the early part of the spring under the name of the Atlanta, was engaged in violating the blockade, running between Bermuda and Wilmington. I am not aware that any valid transfer of ownership of this vessel has ever taken place, but am induced to believe she is now, while deprecating on our commerce, registered as a British vessel in the custom-house at Liverpool. Whatever may be the fact in that particular, this English-built neutral vessel, which had been previously engaged in the unneutral employment of carrying supplies to the rebels who are waging war upon our Government, came out of Wilmington early in August, armed, officered, and manned for predatory warfare, and, under the command of J. T. Wood, formerly of our Navy, commenced the piratical work of destroying peaceful merchant ships, robbing them of money and other valuables, and retaining as trophies of his heroism the stolen chronometers. Information of the operations of this vessel reached the Department on the 12th of August, and orders were immediately sent for all the available vessels within convenient distance to start at once in pursuit. Several vessels proceeded to sea that evening, and within forty-eight hours sixteen vessels from New York, Boston, Philadelphia, Newport, and Hampton Roads were in search of her. But she reached Halifax in safety. Instead of remaining there nine days getting supplies, as did the Florida at Bermuda, the authorities would permit her to receive only a limited quantity of coals, and she was therefore but a short time in that port. The Pontoosuc arrived in pursuit of her a few hours after her departure. She was, at last accounts, in Wilmington.

## THE NAVAL FORCE.

The subjoined statements present a general exhibit of the Navy, including vessels under construction on the 1st of December, 1864, with a comparative statement of the Navy in December, 1863 and 1864.

A tabular statement is appended of the number of naval vessels, of every class, that have been constructed or are in the course of construction since March 4, 1861.

General Exhibit of the Navy, including Vessels under Construction, December, 1864.

No. of vessels.	Description.	No. of guns.	No. of tons.
113	Screw steamers especially constructed for naval purposes.....	1,426	169,231
52	Paddle-wheel steamers especially constructed for naval purposes.....	524	51,878
71	Iron-clad vessels.....	275	80,586
149	Screw steamers purchased, captured, &c., fitted for naval purposes.....	614	60,380
174	Paddle-wheel steamers purchased, captured, &c., fitted for naval purposes.....	921	78,762
112	Sailing vessels of all classes.....	850	69,549
671	Total.....	4,610	510,396

Comparative Statement of the Navy, December, 1863 and 1864.

No. of vessels.	Description.	No. of guns.	No. of tons.
671	Total Navy, December, 1864.....	4,610	510,396
588	Total Navy, December, 1863.....	4,443	467,967
83	Actual increase for the year.....	167	42,429
26	Total losses by shipwreck, in battle, capture, &c., during the year.....	146	13,084
109	Actual addition to the Navy from December, 1863, to December, 1864.....	313	55,513

Vessels constructed for the Navy since March 4, 1861.

No.	Description.	Guns.	Tonnage.
7	Screw sloops, Ammonoosuc class, 17 to 19 guns, 3,213 to 3,713 tons each.....	121	23,637
1	Screw sloop Idaho, 8 guns and 2,638 tons.....	8	2,638
8	Screw sloops, spar deck, Java class, 25 guns and 3,177 tons each.....	200	25,416
2	Screw sloops, spar deck, Hassalo class, 25 guns and 3,365 tons each.....	50	6,730
10	Screw sloops, clippers, single deck, Comstock class, 13 guns and 2,348 tons each.....	130	23,480
4	Screw sloops, Kearsarge class, 8 to 12 guns, and averaging 1,023 tons each.....	40	4,092
6	Screw sloops, Shenandoah class, 8 to 16 guns and 1,367 to 1,533 tons each.....	74	8,584
2	Screw sloops, Ossipee class, 10 to 13 guns and 1,240 tons each.....	23	2,480
8	Screw sloops, Scorpion class, 12 guns and 1,380 tons each.....	96	11,040
4	Screw sloops, Resaca class, 8 guns and 831 to 900 tons each.....	32	3,462
8	Screw sloops, Nipsic class, 7 to 12 guns and 593 tons each.....	71	4,744
23	Screw gunboats, Unadilla class, 4 to 7 guns and 507 tons each.....	123	11,661
9	Screw tugs, Pinta class, 2 guns and 350 tons each.....	18	3,150
2	Screw tugs, Pilgrim class, 2 guns and 170 tons each.....	4	340
13	Paddle-wheel steamers, double-enders, Octorara class, 7 to 11 guns and 730 to 1,555 tons each.....	98	11,024
26	Paddle-wheel steamers, double-enders, Sassacus class, 10 to 14 guns and 974 tons each.....	272	25,324
7	Paddle-wheel steamers, of iron, double-enders, Mohongo class, 10 guns and 1,030 tons each.....	70	7,210
1	Paddle-wheel steamer, of iron, double-ender, Wateree, 12 guns and 974 tons.....	12	974
141	IRON-CLAD VESSELS.	1,442	175,986
2	Sea-going casemated vessels, New Ironsides and Dunderberg.....	28	8,576
3	Sea-going turret vessels, Puritan, Dictator, and Roanoke.....	12	9,733
4	Double turret vessels, Kalamazoo class, 4 guns and 3,200 tons each.....	16	12,800
1	Double turret vessels, Monadock class, 4 guns and 1,564 tons each.....	16	6,256
1	Double turret vessel, Onondaga, 4 guns and 1,250 tons.....	4	1,250
4	Double turret vessels, Winnebago class, 4 guns and 970 tons each.....	16	3,880
8	Single turret vessels, Canonicus class, 2 guns and 1,031 tons each.....	16	8,272
9	Single turret vessels, Passaic class, 2 to 4 guns, and 844 tons each.....	21	7,596
20	Single turret vessels, Yazoo class, 1 to 2 guns, and 614 tons each.....	35	12,280
2	Single turret vessels, Sandusky and Marietta, 2 guns each.....	4	953
3	Single turret vessels, Ozark, Nesho, and Ossage, 2 to 7 guns each.....	13	1,624
2	Casemated vessels, Tusculum and Chillicothe, 5 and 3 guns respectively.....	8	768
62	Total.....	189	73,988
203	Total.....	1,631	249,974

The foregoing tabular statement exhibits the number and description of vessels that have been

constructed, or put in the course of construction for the Navy since the institution of active measures for the suppression of the rebellion. Some of them have been built by contract; others by the Government, in the several navy-yards. If we add to the number of those constructed under similar circumstances, and within the same period, that have been lost by shipwreck, in battle, &c., namely: the sloops Housatonic and Adirondack, and the iron-clads Monitor, Weehawken, Keokuk, Indianola, and Tecumseh, the aggregate would be 210 vessels, 1,675 guns, and 256,755 tons.

Picket boats, and small craft built for especial purposes, are not embraced in this statement.

## CONSTRUCTION OF NAVAL VESSELS.

At the commencement of the rebellion the Navy consisted of sailing vessels, a few paddle-wheel steamers, and screw vessels with auxiliary steam power. Among the latter, the principal and most important were the steam frigates, which, on account of their great draught of water, were unsuitable for any other purpose than that of cruisers on foreign stations as flag-ships, for which, indeed, they were intended. These vessels had been built to meet the conditions of their day; some of them, the Mississippi for instance, had been in service more than twenty years. When constructed the principal object in view was armament, not speed, and they were equal, if not superior, to the vessels of other naval Powers. For attacks on forts, when accessible to naval attacks, or to protect troops in landing, they can still render service. Time was required to repair and place in proper condition such of these vessels as were dismantled, and also those which were recalled from service abroad. The sailing men-of-war had become useless for fighting purposes. In the emergency that devolved upon it at the beginning of hostilities, the Department resorted to the commercial marine, and purchased every available merchant steamer that could advantageously be converted into a naval vessel, and be used to enforce the blockade.

The want of a class of small, heavily armed, propeller vessels was felt, and the Department immediately proceeded, on its own responsibility, and without any appropriation or authorization by Congress, to contract for the construction of twenty-three gunboats, of which the Unadilla, Pinola, and Wissahickon may be taken as the type. Some of these vessels were afloat, armed, and manned within four months from the date of contract, and participated in the attack on Port Royal; others took part on the lower Mississippi in passing the forts and in capturing New Orleans. These gunboats continue to maintain a good reputation, and their steam machinery gives satisfaction. Well adapted as they are in guarding our coast, a larger description was needed for ocean service, and four vessels of the class of the Ossipee, mounting each two guns of eleven inches, were built. There were also four vessels of slightly less tonnage constructed, carrying the same armament, of which the Kearsarge is the type. The Shenandoah is the type of six vessels, mounting each three 11-inch guns, all of which sustain a high reputation. The heavy guns mentioned constitute the principal armament of the several classes named, but they each have in addition from two to six guns of less caliber. All of these vessels are screw steamers, suitable for sea cruising; but for the shallow sounds and bays, the rivers and bayous, often narrow and tortuous, another and different class, drawing less water, was found to be necessary, and for them competition was invited. To turn in these frequently restricted channels is difficult, and sometimes impossible, and the necessities of the case suggested the principle of a fighting vessel with a double bow and rudder at each end. Twelve paddle-wheel steamers constructed on this principle were built, some in the navy-yards and others by contract. The Port Royal and the Sonoma are types of this class. An additional number, amounting to twenty-seven, of these double-bowed paddle-wheel vessels have been built, almost all of them by contract. The Sassacus, which was distinguished in the attack on the rebel ram in Albemarle sound, the Metacomet, conspicuous in Mobile bay, and the Eutaw, are types of these vessels. Eight of this class are



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built or building of iron, and will have strength sufficient for sea service as well as for inland waters. One of them, the *Waterer*, sent round Cape Horn, reached San Francisco in September last, and is on duty in the Pacific.

In order to have armed vessels suitable for naval operations on the Mississippi and its tributaries, the Department invited plans and propositions from ship-builders and others acquainted with those waters, and the vessels built on those rivers have been chiefly from the plans submitted by parties thus invited. Two of these vessels, built at St. Louis, participated in the action with the rebel ram *Tennessee*, and have done good service in Mobile Bay.

The entire class of monitor or turreted vessels has been brought into existence during this war, and the coast and harbor iron-clads have been serviceable in James river, at Charleston, and at Mobile. Modifications and improvements have been made in this class of armored vessels.

The pressure for iron-clads of light draught, which could ascend the rivers and penetrate the sounds and bays along our coast, was felt to be a necessity. The operations of our armies in the vicinity of the inland water and adjacent to the rivers required the constant presence of gunboats. But the men thus employed, as well as the magazines and machinery of the vessels, are exposed, especially in the narrow streams with high and wooded banks. Some vessels, and not a few valuable lives, have been lost by these exposures, and in order to afford all possible protection to the gallant men who encounter these dangers, the Department considered it a duty to provide armored vessels of light draught for their security. Contracts were entered into for the construction of twenty vessels on the monitor principle, each to carry two 11-inch guns, in order to be efficient, and to draw but seven feet of water.

It was ascertained, however, when the first two approached completion that their draught of water was more than was intended. The heavy armor and the two 11-inch guns, with the machinery to give them proper speed, involved the necessity of enlarging the capacity of each of them. When making these necessary alterations it was deemed advisable, under applications from some of the commanders of squadrons for boats that should present but a small rise above the surface of the water, to dispense with the turrets in five of these light-draught vessels, with a view to special operations. The remaining fifteen were ordered to be enlarged by raising their decks, thereby giving them additional tonnage and greater draught, and making them more efficient, but in other respects carrying out the original design. This work is now being performed, and more of the vessels are near completion.

The exigencies of the times and the necessities of the war have stimulated the inventive facilities of our countrymen to vast improvements in vessels, in engines, in ordnance, and projectiles. That in some instances they are not at first entirely successful is not surprising. Mistakes and even failures will occur. In nearly every class of vessels that has been built, and especially those that are armored, more or less alterations have been found necessary while they were being constructed. Only two of the monitor class of vessels—the *Dictator* and the *Puritan*—are proposed for sea service. Their success, of which the inventor and builder is sanguine, is among the experiments that the period and the exigencies of the country have imposed upon the Department.

Four turreted vessels have been built in the navy-yards of wood and cased with iron, differing therein from the original monitors, which are exclusively of iron. One of them, the *Monadnock*, now in commission, has performed her trips from Boston to Hampton Roads with entire satisfaction, giving assurance that this experiment, deviating in essential respects from others, is likely to be successful. The draught of water of the *Monadnock* is twelve feet, and with two independent screws she has a speed of ten knots. Four other similar vessels of a still more formidable and invulnerable character are building.

The only sea-going iron-clad ships, besides the two turreted vessels already mentioned, are the *New Ironsides*, built in 1862; the *Roanoke*, one of the old frigates which has been armored, and

the *Dunderberg*, a casemate vessel. For this vessel the contractor has promised a speed of fifteen knots at sea.

The Department has, on several occasions, invited propositions for iron sea-going armored ships, but Congress having declined to make the necessary appropriations, no measures have been taken for their construction.

The vessels recently built, and at present constructing in the navy-yards, are of wood, the smaller class of them being gunboats, eight of which are of the class of the *Nipsic*, of 600 tons, mounting one heavy pivot and four broadside guns. There are four of the class of the *Nantucket*, of 900 tons, mounting one heavy pivot, with six broadside guns. In addition to these there are four vessels of the class of the *Algona*, with a tonnage of 1,350 tons, and proportionate armament. All of these vessels have very considerable steam power, and will, as some of them have already proved, be efficient cruisers at sea.

The immediate wants of the blockade having been supplied by the vessels built and altered in the navy-yards, and by purchase of the best merchant steamers capable of bearing heavy armament, the attention of the Department has been bestowed on larger and more imposing ships, such as would be formidable not only for home defense but for foreign service. The position and influence of a nation among the great commercial and maritime Powers of the world are to a great extent dependent on its naval ability. Limited appropriations have already been made by Congress for vessels of this character. Each succeeding year of this war has produced from foreign ship-yards steamers of greater speed to run the blockade, and the reliable preventive of this illicit trade must be found in vessels of increased steam power. By making them of sufficient size they will be formidable, not only to neutral violators of our laws, but to any enemy. Of the vessels on which some sacrifice of armament has been made to obtain speed there are seven building, three of which are already launched, and the others will soon be ready. Two of these vessels are being built by contract, and five in the navy-yards. This class of vessels is represented by the *Ammonoosuc* and the *Chatanoga*. There are also in progress of construction twenty vessels with steam machinery of rather less power, but which are to be much more heavily armed. Ten of these, of the class of the *Illinois*, the *Guerriere*, and the *Java*, have covered gun decks, and will carry twenty heavy guns. Two will have a plating of thin iron as a protection from shells. The remaining ten, of the class of the *Contocook* and *Manitou*, building in the navy-yards, are of less size but with equal machinery and intended for greater speed. As all of them will be provided with masts and sails, they can be cruising vessels and used on foreign stations.

#### STEAM MACHINERY.

As our Navy has become not only exclusively a steam Navy, but a very large one, with an enormous consumption of coal and great expenditure for the construction and repair of machinery, it becomes a matter of the first consequence that only the best machinery be obtained for it. This problem is one of very difficult, costly, and slow solution. The great maritime countries of England and France have not yet solved it, either in the commercial or war marine, and at this hour the best authorities do not agree upon it. So many conditions enter into the problem that as prominence is given more or less to one or the other different conclusions are reached. It is evident that as the question is purely a practical one, it can only be answered by extensive experience and accurate observations. Mindful of the importance of this matter, the Department, notwithstanding the great pressure upon its resources by the war, has kept it in view and promoted by every means the acquisition of the necessary information. The proportions of hulls have been varied with a view to determine the relative development of speed in proportion to given power; machinery has been constructed upon different types and systems, and the Department has encouraged all offers from citizens, as well as from its own officers, to build new machinery that gave promise of improvement. The Navy at this moment contains marine ma-

chinery on an extensive scale of every kind; their results are in its log-books, from which can be determined their various merits, both for general service and for particular applications.

In the new screw gunboats machinery has been used designed by Corless, of Providence, Rhode Island; J. Ericsson, of New York; William Wright, of Woodruff & Beach's establishment, at Hartford; Merrick & Sons, of Philadelphia, and the Bureau of Steam Engineering of the Department. This was competitive machinery to be of equal power propelling the same hull.

In the double-bowed paddle-wheel steamers machinery has been employed designed by Merrick & Sons, of Philadelphia; by E. N. Dickerson, and by the Bureau of Steam Engineering.

In the large sloops-of-war, of three thousand tons and over, competitive machinery is being placed by the above parties, and by J. Ericsson.

In the frigates and sloops of the old Navy, and in some of those built during the early part of the present Administration, machinery was employed designed by most of the principal establishments in the country. The Fulton Iron Works and Morgan Iron Works, of New York; Messrs. Woodruff & Beach, of Hartford, Connecticut; Harrison Loring, and the Atlantic Works, of Boston; Merrick & Sons, of Philadelphia; the Vulcan Works, of Baltimore, and the Bureau of Steam Engineering.

In these vessels nearly every variety and type of engine, of valve gear, of rate of expansion, of surface condenser, of screw propeller, and of boilers, have been thoroughly tested; but the results thus far show that the machinery designed by the Steam Engineering Bureau of the Department has not been surpassed, perhaps not equaled, by any of its competitors, while in many cases their results have been greatly below it.

In its iron-clads the Department has experimented by the construction of different classes and sizes, both in wood and iron, propelled by one screw, and by two screws, working independently of each other. In its most recent constructions, of the *Miantonomah* class, a wooden vessel designed by the naval constructors and built at the navy-yards, with Ericsson turrets, and machinery designed by the Bureau of Steam Engineering, a high rate of speed, perfect ventilation, impregiability, and the enormous battery of four 15-inch guns, have been combined in a vessel of the moderate size of fifteen hundred and sixty-four tons, drawing only twelve feet of water. These vessels are free from the disadvantage of fouling, which so greatly reduces the speed of iron ones.

Others of this type, but of increased tonnage, are in process of construction, to have still higher speed and be adapted to coast service.

In the steamers bought from the commercial marine of the country, and in the captured blockade runners, now adapted for naval service, are to be found every variety of machinery, both screw and paddle-wheel, constructed either in this country or Great Britain. So far as the exigencies of the war would permit, the different types of machinery have been submitted to careful experiment to ascertain their relative merits. Nearly every variety of boiler and of expansive gear, of rate of expansion, and of saturated and superheated steam, has been made the subject of accurate experiment, and it is believed that the files of the Department contain the latest and most reliable information on these subjects. A chief engineer of the Navy has been sent to Europe to collect information on these topics in addition to the published accounts and official reports.

Nearly all the kinds of coals of the seaboard States have been the subject of careful experiment, with a view to ascertain their comparative value for naval purposes. A board of engineers has also experimented with petroleum as a substitute for coal in naval steamers.

As opinion appears to have settled upon the horizontal and the vertical tubular boilers as the only ones proper for naval service, the Department has had one of each kind manufactured, according to designs furnished by a board of nine engineers, employed in the principal private steam-engine manufacturing establishments of the country, and by the Bureau of Steam Engineering, for the purpose of accurate experiments to determine their respective merits. These

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experiments will be of the most elaborate nature, and will, it is presumed, enable a choice to be made. They are now in progress.

A commission of nine, on practical engineering, has been appointed by the Department, consisting of three from the Academy of Science, three from the Franklin Institute, and three on the part of the Department—all eminent in physical science—to devise the proper apparatus and make the necessary experiments therewith, to ascertain by practical results the economy of using steam with different degrees of expansion. These experiments, which are now in progress, will be as elaborate and as complete as it is possible to make them. And under the practical conditions of steam engineering, it is believed they will indisputably set at rest the amount of gain to be obtained from using steam with different measures of expansion, and also determine the relative merits of different kinds of valve gear, steam pressure, &c., besides settling many incidental questions of great importance.

Nothing has been left undone in the way of ascertaining and putting in use all valuable improvements in steam machinery, and no occasion neglected of experimentally determining the data necessary for correct opinion.

The competitive engines and boilers now under construction and trial will furnish information which will be of great public utility.

#### NAVY-YARD FOR IRON VESSELS AND MACHINERY.

The introduction of steam as a motive power for naval vessels is causing a revolution in maritime warfare which the ablest minds have long predicted would be the result of this agency, but which is not yet to its fullest extent appreciated. It changes the whole character of blockade, and in future wars it will be found that a few fast privateers by steam will harass or annihilate the commerce of the most powerful belligerent nations.

Our country has been compelled by this civil war to take the initiative in organizing a vast steam navy with which to establish and enforce the blockade of our whole coast from the Chesapeake Bay to the Rio Grande; and also to suppress the depredations of semi-piratical privateers, built by skilled English mechanics in English ship-yards, and manned by Englishmen, which, under the rebel flag, have roved the ocean, destroying our merchant shipping, and have found refuge and supplies in English and neutral ports.

When hostilities commenced, our Government had provided no suitable navy-yard with machine shops and foundries to manufacture the necessary machinery for our rapidly increasing and expanding Navy; but the Department was compelled to rely on the few private establishments, which it could divert from other engagements, for the immense work that was calling out the resources of the nation.

Great embarrassment was experienced in consequence of this neglect of the Government at the very commencement of the war, and although the naval service and the country are suffering constantly from this neglect, measures for the establishment of a suitable navy-yard for the construction and repair of iron vessels, their armature and steam machinery, are still delayed.

As early as March, 1862, and on several occasions since, I have had the honor to present my views to Congress on this subject. The earnestness and frequency with which it has been brought forward must find an apology in its great importance.

It has never been the purpose of the Department, in any of its suggestions or recommendations, to increase the number of our navy-yards, nor to alter their local distribution. The yard which we now have at Philadelphia is altogether inadequate to our present or future wants. It was proposed, therefore, to substitute a new one on the Delaware, in the vicinity of Philadelphia. League Island, within the limits of that city, if adopted as a site, must gradually absorb the works at the present yard, which would then be discontinued.

All of our present navy-yards, it will be remembered, were established for the construction and repair of wooden sailing vessels. Steam and armored vessels have superseded these, and the inability of our present establishments for the work imposed by this war has been the source of inex-

pressible anxiety, and often of great disappointment and public injury. To relieve the navy-yards from work which they have but limited means to execute, and to secure necessary repairs, the Department has been compelled to establish stations for machinery and means of refitment at Mound City, Memphis, New Orleans, Ship Island, Pensacola, Key West, Port Royal, Beaufort, Norfolk, and Baltimore. But these and all the private establishments of the country, besides other calls upon them, have been insufficient to keep the present Navy in necessary order, so that, if to the duty of blockading there were added ocean conflicts with a naval Power by which our ships would be often disabled, the sad spectacle would be presented of our naval vessels laid up in time of war for want of a proper establishment with the shops and means to repair them.

Our country, whose strength and power among nations must ever be identified with and maintained by its Navy, and which possesses in such abundance the means of creating and sustaining one, has not, in all the navy-yards combined, the appliances possessed by single establishments in England and France. Were there outside of our navy-yards establishments to perform promptly the requisite work in time of war, I should not at this time again press the subject of a navy-yard for iron work for the construction of vessels upon the consideration of our authorities. But although the Department has generally been ably and zealously seconded in its efforts by private contractors, yet the fact that there is no customer but the Government for much of this heavy class of iron work, forbids us to expect that individual enterprise will be prepared to execute it without full remuneration for all the outlay for shops, tools, and machinery which may be required in preparation. Besides this, unlimited time is taken by them for the completion of the work. It may be proper to mention, as an instance of the delay to which the Government is subjected, that in October, 1862, contracts were made with a manufacturer of reputation and ability for making and setting up the turrets of the Tonawanda and Minotomah, which were to have been completed in February, 1863, but they will probably not be finished until February, 1865, two years after the expiration of the time specified in the contract. At the commencement of hostilities this Department had equipped, and at its immediate disposal, three vessels of war. Those which were laid up, and those which were recalled from abroad, had to undergo extensive repairs, for which no provision had been made. The Government has not even at this time an establishment where a shaft can be made for our steamers or a plate for our iron-clads. The frontage or wharfage at all our navy-yards, so important for repairs, is less than is required at each of them.

Our next contest may be with a naval Power which will attempt to direct upon our shores a course of operations similar to those which we have applied to the southern coast for suppressing the rebellion. One yard, at least, where iron vessels, iron armor, and iron shafting can be manufactured, is now imperatively necessary. Among the considerations that should control the selection of a site for such a yard and establishment, which shall become the depot for materials collected in years of peace, with which to build and repair our naval vessels, and where will be aggregated machinery and tools such as at present are not to be found in this country, and which, when once procured, could not, if destroyed, be easily or readily replaced, will be its absolute safety from attack by sea or land. So far as is possible we should avail ourselves of natural advantages in obtaining the indispensable security for such an establishment, without depending entirely on fortifications and artificial means, which would be more costly than the navy-yard itself.

The additional military defenses of Portsmouth, England, rendered necessary by the proximity of that great naval station to the ocean, and its consequent assailability by modern ordnance, are now being constructed at an expense of \$50,000,000.

A navy-yard, if we have one for naval iron work, should be established on fresh water, for this is essential to the preservation of iron vessels, which cannot be laid up in salt water during peace. Ready access to coal, iron, and timber, is also

important, for these essential articles should be always available on the inland waters without exposure to an enemy by coastwise transportation. The vicinity of a large city where skilled artisans can be obtained without difficulty, and the facilities of markets and tenements are abundant, should be considered. A foundation of gravel would, for the purposes of machinery, be preferable to stone. An extensive water frontage must also be secured. For such a depot and establishment, where costly machinery and material would accumulate during years of peace, the advantages of an interior location are most manifest. These favorable conditions are to be obtained nowhere else so completely as on the Delaware river; and the position of League Island, within the limits of the city of Philadelphia, presents probably a stronger combination of the points that are necessary than any other location.

It is to be regretted that competition for supposed local benefits should interfere with, retard, and perhaps entirely defeat the Government in its efforts to secure so important a national establishment. If in such a conflict for sectional favor the country should lose forever the best situation for such a navy-yard and establishment, the result would be always deplored. The Department has studiously avoided the controversy which has arisen in consequence of the efforts to secure a navy-yard at New London, which is foreign to the question of enlarging or substituting a more commodious establishment at Philadelphia. A multiplicity of small yards, similar in character, crowded into one section of the country, was not the object or purpose of the Department in the suggestions and recommendations which it has from time to time urged upon Congress. There are already three navy-yards east of the Hudson, and should Congress deem it advisable to add another to that section or elsewhere, it is to be hoped that such determination will not interfere with or prevent the Government from having a proper establishment for the construction of iron vessels, iron armor, and iron work of every description for naval purposes in the immediate vicinity of the iron and coal region of the more central portions of the Union. Such an establishment as the Department has advised on the Delaware would not add to the number of yards, but would be a mere substitution, without one dollar's expense to the Government for land, of the more commodious and extensive grounds and water front of League Island, in place of the present limited and restricted site at Philadelphia, which is wholly inadequate and insufficient for the purposes of a yard for even wooden ships.

Among the reasons which impel me again to introduce this subject, and earnestly press it upon the immediate attention of Congress, is the fact that the great Pennsylvania Central railroad has moved with a view of obtaining a portion of the least valuable part of League Island for a depot. The objections urged against that position for a navy-yard, with its workshops, have no weight with this company, which requires shops and heavy work, and knows its own interest. Unless, therefore, this free gift of over six hundred acres of land, with a water front of twenty-three feet depth, extending for more than two miles, within the limits of Philadelphia, should be accepted during the present session of Congress, it will probably pass into private hands, and the most desirable and available position in this country for such a yard will be diverted to other purposes, and lost forever to the Government. As a measure of ordinary prudence, it is most earnestly recommended that the offer of League Island be without delay accepted. When plans for its improvement shall be submitted, and an appropriation asked, with a view of transferring the works at the present yard to the new location, Congress can then exercise its discretion in determining the amount of expenditure proper for this purpose.

#### NAVY-YARD ON THE MISSISSIPPI.

By an act of Congress, approved June 30, 1864, the Secretary of the Navy was "authorized and empowered to appoint a commission, consisting of one naval officer, one officer of the engineer corps, and one civilian, to select the most appropriate site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries,

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and to report to the next session of Congress." In pursuance of the authority conferred on me by this act, a commission has been constituted, and is now engaged in making the required examinations. Rear Admiral Charles H. Davis, who has had experience as commanding officer of the Mississippi squadron, was appointed senior member of the commission. The Secretary of War having been requested to name a suitable officer of the engineer corps to be associated on this commission, and having named and detailed Lieutenant Colonel A. H. Bowman for the purpose, that officer was appointed. George W. Blunt, a civilian of nautical reputation and ability, of the city of New York, is the third gentleman of the commission.

## NAVAL RANK.

There is in the naval branch of the public service no rank corresponding with that of lieutenant general. Congress has established the grade of rear admiral, which corresponds with that of major general, and it would be an act of recognition eminently deserved, and which would be fully appreciated by the gallant men of the Navy, were Congress to authorize the appointment of a vice admiral. Such honors and preferments stimulate heroes.

Among eminent commanders in our naval service, of whom the nation may well be proud, we have one who, all will acknowledge, merits by his achievements as high rank as that of any naval officer in any country.

On the occasion of the recent brilliant victory in the bay of Mobile, more glorious, perhaps, in some of its incidents, even than the memorable conflict that gave us the possession and ultimately restored the free navigation of the Mississippi, it was, beyond question, the spontaneous sentiment of the country that the veteran hero who had illustrated our naval annals by these grand successes was worthy of the highest honors, and should be promoted to the highest naval rank. In recommending, therefore, that the office of vice admiral should be created, and the appointment conferred on Rear Admiral David G. Farragut, I but respond, as I believe, to the voice and wishes of the naval service and of the whole country.

The attention of Congress, through the Naval Committee, has heretofore been called to the fact that the number of officers on the active list in the grades of commodore, captain, commander, and lieutenant commander, is not equal to the number of vessels of the different rates required by law to be commanded by officers of these grades. A small increase was recommended, as well as an alteration in the law relative to filling vacancies in the grade of admiral in time of peace. My letter on this subject, with the accompanying draft of a bill, making provision also for the incorporation into the regular service of a few volunteer officers who, by zeal, ability, and service during the war, have merited this reward, will be found in the appendix to this report.

## ENLISTMENT

The enactments of the last session of Congress in regard to enlistments have been in their operation beneficial to the naval service, and in a great degree have corrected the unfortunate legislation of the preceding session. Not only the full complement of men required has entered the service, but a surplus of many thousands of landsmen have offered, who could not be received. But the want of seamen is still felt. Large numbers of that valuable class were induced to enter the Army when high bounties were given to the soldiers and withheld from the sailors. Many thousand trained seamen, under those extraordinary inducements, enlisted in the Army before the legislation for the two branches of the public service was equalized. Although the law now authorizes their transfer to the Navy, a very considerable portion of them still remain in the Army, where landsmen would be of equal service. Seamen are experts, and cannot be procured by draft, or secured for an emergency like the present, any more than engineers or accomplished gunnery officers.

Stimulated by patriotic impulse, men may volunteer to serve their country in any capacity, but they cannot be made available as seamen without training and experience at sea.

The organization of a man-of-war is very different from that of a merchant vessel. A first-rate sailor will soon make himself at home on board of any ship; but the division of duties—the system of petty officers, the exercise at quarters and in boats, the discipline, the observances, and the thorough and complete system of a man-of-war, are unknown out of naval ships. There are no means by which to teach landsmen to become sailors except on shipboard, and there is difficulty in inducing native Americans to enter either the naval or merchant service. In other countries the field of adventure is restricted; here the avenues are many, besides ocean life. I am not aware that any State but Massachusetts has a nautical school. Encouragement is given to the young in every other calling; but the naval and merchant service, in time of peace, depend almost entirely upon the foreigners and the homeless for mariners to sail their ships. These men who hardly touch the shores without finding themselves the victims of land sharks, and who scarcely receive a thought in the vast and generous sanitary operations, put in motion by wealth and beneficent patriotism, have enriched our country by their labors in commercial employments; and in danger, privation, and hardship have adhered with unwavering fidelity to the flag, never disappointing us, and never giving us defeat.

With a view of doing some measure of justice to this meritorious but too much neglected class, and as a preliminary step toward their elevation and usefulness, the Sabine has been fitted up for the purpose of a school-ship for boys. This is, in fact, a revival, with some modifications, of the apprentice system, which, while it was continued, worked beneficially for the sailor and the country. Some measures are requisite to elevate the condition and the character of this class now, when the sailor is neither flogged nor taught to become a drunkard, two important steps in the right direction toward making him a man to be trusted on shore as well as afloat.

Commencing as apprentices on the school-ship, it would be well to open to the sailor boy the way to promotion by giving him an opportunity, if he shall deserve it, of entering the Naval Academy. From among the apprentices on the school-ship a selection of one half of the midshipmen annually appointed might be made with great advantage to the service of the country. These apprentices, in their preliminary training on the school-ship, will have developed their capabilities and aptitude for the profession, and in transferring them to the Academy there will not be the manifold errors which attend so large a portion of those who are appointed under the present system. Were each congressional district authorized to place two or more apprentices on the school-ship, and the annual selection of midshipmen, or one half of the midshipmen, directed to be made from these apprentices, it would be most beneficial to the sailor, as well as the schools and the service. It would popularize the Navy, and open to those who may have enlisted the highest positions and honors of the service.

## NAVAL ACADEMY.

Congress having, by the act approved May 21, 1864, directed that "the United States Naval Academy shall be returned to and established at the Naval Academy grounds in Annapolis, in the State of Maryland, before the commencement of the academic year 1865," it will be necessary that preparations should be commenced for putting the buildings and grounds in order as early in the ensuing spring as the War Department can leave them. The School and the service will be benefited by having the institution permanently established, and when this is effected it will be enabled to pursue its career under circumstances more favorable to the efficient training of the midshipmen.

The able Superintendent, Commodore George S. Blake, has preserved his connection with the School during its unsettled state, and its management, under many disadvantages, has been creditable to him and his associates.

## CADET ENGINEERS.

Preliminary measures have been taken to carry into effect the law of the last session of Congress

authorizing the education at the Naval Academy of cadet engineers, to be selected from youths not over eighteen years of age, who shall have been engaged at least two years in the fabrication of steam machinery. A circular has been issued and printed in the papers of the great manufacturing cities, inviting applications in conformity to the law.

Before this plan shall be put in operation, it is respectfully submitted, in view of the radical changes which have been wrought by steam as a motive power for naval vessels, whether steam engineering should not be made to constitute hereafter a necessary part of the education of all midshipmen, so that in our future Navy every line officer will be a steam engineer, and qualified to have complete command and direction of his ship. Hereafter every vessel-of-war must be a steam-vessel. Those designed for ocean service will be furnished with sails in order to economize fuel while cruising; the present and future Navy will therefore combine sails and steam as motive power, and seamanship and steam-engine driving will each be necessary to make the finished professional officer. The officers to sail and navigate a ship and the officers to run the steam engine are about equal in number.

The Department is not aware that any line officer, whatever attention may have been given by him to the theoretical study of steam, is yet capable of taking charge of an engine, nor are steam-engine drivers capable of taking charge of a man-of-war, navigating her, fighting her guns, and preserving her discipline. When vessels were propelled exclusively by sails, there were but two officers, excepting in flag-ships, the surgeon and paymaster, who were not line officers. But under the present naval system a new and additional corps is introduced, as many steam engineers being required for a vessel as there are line officers; and, while cruising under sail, or lying in port, or performing any duty when the engine is at rest, one half of the officers are, by existing regulations, idle and incapable of participating in duties that are often laborious and oppressive on the officers of the line, comparatively speaking. The engineers would willingly share these duties were they acquainted with them. But half the officers of a steamship cannot keep watch, cannot navigate her, cannot exercise the great guns or small-arms, nor, except as volunteers under a line officer, take part in any expedition against the enemy. On the other hand, the other half of the officers are incapable of managing the steam motive power, or of taking charge of the engine room in an emergency, nor can the commander of a vessel, though carefully taught every duty of a sailor and drill officer, understand, of his own knowledge, whether the engineers and firemen are competent or not.

The remedy for all this is very simple, provided the principle were once recognized and adopted of making our officers engine drivers as well as sailors. It would not be expedient to interfere with the present status of line officers or engineers—the change would be too radical; but we should begin by teaching each midshipman to be able to discharge the duties of line officers and steam engineers; to combine the two in one profession, so that officers so educated can take their watch alternately in the engine room and on deck.

Objections may be made that the duties are dissimilar, and that steam-engine driving is a specialty. The duties are not more dissimilar than seamanship and gunnery. When seamanship was the only education given to an officer it was not believed he could ever learn to teach sailors to drill, and a sergeant of marines performed the duty which is now so admirably discharged by the graduates of the Naval Academy. When gunnery became a specialty, it was inconsiderately and unwisely proposed to have a corps of ordnance officers ingrafted upon the naval service, a separate organization which should draw to itself the knowledge so necessary to each, and therefore proper to be distributed among all the officers.

Fortunately our naval officers are taught seamanship, gunnery, and the infantry drill, and the service thereby saved from distinct organizations in these respects, which would inevitably have impaired its efficiency. It only remains to commence at this time, and as preparatory to the future of the Navy, to teach the midshipmen steam



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engineering as applied to running the engine. This would be independent of the art of designing and constructing, which is purely a specialty and nowise necessary in the management and direction of the ship. And to this specialty, as a highly scientific body of officers, would the present corps of engineers be always required as inspectors and constructors of machinery. With the adoption of the suggestions here made we shall in due time have a homogeneous corps of officers who will be masters of the motive power of their ships in the future as they have been of seamanship in the past. By this arrangement there will be in each ship double the number of officers capable of fighting and running the vessel without additional appointments or expense. Innumerable other advantages commend the plan as worthy of trial, and it is presented for favorable consideration. The work can be commenced and carried forward at the Naval Academy without any additional appropriation, and the authority of Congress is invoked in behalf of the suggestions here submitted.

## PRIZES AND PENSIONS.

The number of vessels captured by the squadrons since the last annual report, and reported to the Department prior to November 1, is 324, classified as follows: schooners, 105; steamers, 83; sloops, 40; brigs, 3; barks, 3; small boats, 85. The total number of captures since the commencement of the rebellion is 1,379, namely: schooners, 652; steamers, 267; sloops, 171; brigs, 33; barks, 29; ships, 15; yachts and small boats, 117.

The gross proceeds arising from the sale of condemned prize property amount to \$14,396,250 51; expenses, \$1,237,153 96; leaving for distribution, one half to the captors, and one half to the United States as a naval pension fund, \$13,190,841 46.

Annexed to this report is a table giving the names of vessels captured, date of capture, name of capturing vessel, &c. Also a list of cases already adjudicated, showing the gross proceeds of sale, the expense of condemnation, and the net amount for distribution.

A joint resolution of Congress, approved on the 1st of July last, authorized the Secretary of the Navy to invest so much of the naval pension fund as was not required for the immediate payment or pensions in the registered securities of the United States. Under the authority conferred upon me, I have invested \$5,000,000, as provided in the resolution, and on the 1st of January next there will be the further sum of \$2,000,000, which can be invested without interfering with the prompt payment of pensions. This amount will yield an annual income of \$420,000, sufficient for the payment of the entire pension roll. It affords me no little gratification to be able to state that our brave officers and seamen, besides realizing handsome sums for themselves, doubtless, be ample for the payment of the authorized pension to those who have been wounded, and to the widows and orphans of those who have been killed in the service, or died from disease contracted in the line of duty, without calling upon the national Treasury.

The pension roll on the 1st of November, 1864, was as follows:

769 invalids with pensions amounting to...	\$50,401 10
640 widows and orphans amounting to.....	139,958 00

1,609 persons receiving a total amount of....	\$189,659 10
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In this connection I ask attention to the suggestions of the Chief of the Bureau of Medicine and Surgery relative to naval pensions. The act of Congress approved July 11, 1862, regulating pensions, makes no provision for the new grades of the Navy—rear admiral, commodore, lieutenant commander, &c.—authorized by act of Congress on the 16th of July of the same year. The act should be so revised as to include these grades, and it is suggested that a better adaptation of the amount of pension to the responsibility of the officer might be advantageously made. The highest pay now authorized is thirty dollars per month, the family of a captain receiving no more than the family of a master commanding, and is a reduction of twenty dollars per month from the amount formerly paid. The act of Congress approved on the 4th of July last provides that a person in the "military service" who shall lose both feet shall

receive a pension of twenty dollars per month, and those who shall lose both hands twenty-five dollars per month. As the law is construed not to include persons in the naval service, those who have suffered a similar loss in the Navy continue to receive but eight or ten dollars per month—an inequality which it is believed was not intended. I suggest such changes in the law as will place the sailor upon the same footing as the soldier.

## PRIZE LAW.

The seventh section of the act in relation to abandoned and captured property, approved July 2, 1864, reverses the law of prize as it stood prior to the present rebellion, and also as adjudged and applied since the commencement of the rebellion by the courts in their exercise of prize jurisdiction. It reverses also for the future the public policy of the country upon the subject, as manifested in the legislation of Congress both before the rebellion and since its commencement up to the date of this act.

This abrupt reversal of settled law and of public policy in regard to "property seized or taken upon any inland waters of the United States by the naval forces thereof," was not, I apprehend, well considered, and does not appear to have undergone discussion in either branch of Congress. Whether the words "no property seized or taken upon any inland waters of the United States by the naval forces thereof" comprehend not only cargoes, but vessels, may be questioned; but it can hardly be supposed that Congress intended to deny that naval vessels captured in naval conflict, as at New Orleans, or Memphis, or in Mobile bay, are the legitimate subject of prize. The same is true also of transports, armed or unarmed, conveying the troops or munitions of an enemy, which may be captured. It seems improbable that to deprive such captures of the character of prize could have been deliberately intended.

Do the words "any inland waters of the United States" embrace the Chesapeake and Delaware bays, the bay of Mobile, and Lake Pontchartrain?

By the terms of this section the naval officer seizing or taking property has the option either to send it in to the courts or to turn it over under the act of March 12, 1863, to the Treasury agent. No one but the naval seizer has this option. All other persons must turn over their seizures to the Treasury agent. It is difficult to perceive the purpose for which this distinction is made. The property seized is either liable to capture and condemnation as prize, or it is not. If it be so liable, he is bound to send it to the prize court. Why, then, should we have authority to turn it over to the Treasury agent? and if it be not so liable, why should the naval seizer alone be relieved from the obligation of sending it to the Treasury agent?

If it be the object of the section to take away the character of prize of war from all property which may be captured by naval forces on the inland waters of the United States, it is respectfully submitted whether its repeal is not demanded by the highest considerations of public policy. The inland waters of the United States constitute cruising stations of vast extent, and so situated as to be of supreme importance in the prosecution of this, or, indeed, of any maritime war. These waters offer the readiest naval access to vast amounts of commercial property belonging to those who are now waging war against the Government. The property, both public and private, found upon these waters and along their shores belonging to the enemy is, under the public law of war, liable to capture by naval belligerents, and when so captured, to condemnation as prize of war. By the exercise of this right, a naval force can reach and capture property which should be taken from an enemy, and which is yet left untouched by our statutes.

Upon the inland waters within the insurrectionary region, or affording access to or egress from it, our naval vessels are now in great numbers, and while the war lasts will continue to be engaged in belligerent operations. Why should the law intervene and deprive that part of the Navy of one of its primary belligerent rights? It certainly could not have been intended to cripple the power of the Navy to cripple the enemy, or by law

to hedge round and protect from capture and condemnation an enemy's property. The service on inland waters is not less difficult, perilous, and harassing than that on the sea, that there should be this discrimination against it, nor has it been less useful to the country.

Under the operation of this act no more of the proceeds of any capture go into the Treasury than under the law of war, because the sixth section authorizes the allowance of a moiety to "informers, collectors of the customs, and other persons," as an incentive to "vigilance in protecting the public interest." In taking this moiety from the officers and crews who make the captures, and conferring it on the informer or custom-house officer, the Treasury and country are not benefited. The right to make capture or prize of war, in all places and upon all property, subject to the law of war, is one of the encouragements which maritime nations have extended to their navies in all time, and ours has been no exception until this enactment. The exercise of this right, in cutting off the resources of an enemy, is one of the chief methods by which nations seek to bring war to a close.

There is no reason why in this war against the rebellion an ancient and rightful proceeding should be abandoned, and a rule adopted that must operate to our national injury in all wars. I can see no reason upon which to conclude that in fighting down this rebellion we should reverse all previous usage and law, either as against the rebels themselves, or their abettors, or the property upon which they rely for their resources, or why, indeed, we should relinquish any one belligerent right. On the contrary, it will be well to preserve to our Navy upon all the waters where it can float or fight all its rights of war unimpaired.

With these views the expediency of a repeal of the seventh section of the act alluded to is recommended, and the substitution in its place of some provision of like effect to that which is found in the last section of the act upon the same subject approved March 12, 1863.

## CONTRACTS.

The present contract system is open to many and serious objections. Whatever may have been its merits when originally established, the condition of the country and of trade has so changed as to render essential modifications necessary, if not the abrogation of the system itself. The instability of prices, and a rising market during the progress of the war, have made it difficult, and, in some instances, almost impossible to procure offers for contracts to furnish yearly supplies for the Navy from honest and reliable contractors at a rate which does not contemplate the highest market price of gold, as well as long delay in the time of payment. Any change for the better in the condition of the country or the market will be a gain to the contractor who has an annual contract, and a corresponding loss to the Government.

A proposal made the present year for the annual supply of flax canvas, which is mostly imported, illustrates this point. The bids were received when exchange was at nearly the highest rate it has attained, and from an honorable and reliable contractor who has for years supplied the Government faithfully. The aggregate of the offer was, for payment in currency, \$1,428,719 50, or for payment in gold, or its equivalent, at the time each bill was paid, \$536,923. There was no alternative under the law other than to accept the currency bid, and as the rate of exchange has fallen, there has been a corresponding increase of profits to the contractor.

In this case, and others of like character, the true interest of the Government would undoubtedly be promoted, were the Department permitted to assume the risk, and omit making annual contracts, relying upon purchases as wanted, under the direction of the Department, at the current market price. The Government is seldom benefited by a rise in prices; for while the laws compel its agents to pursue a definite course of action, the contractor generally finds little difficulty in evading penalties, and a losing contract is therefore abandoned. It is worthy of serious consideration whether, for the present at least, it would not be for the true interest of the Government to

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relinquish the system of annual contracts altogether, and authorize purchases to be made by agents of probity, whose fidelity and integrity have been tested through years of faithful service, and who have a life-long commission as well as a character to lose as a penalty for malfeasance.

Another source of embarrassment in procuring naval supplies has been the delay and uncertainty of payment. Unless a definite time for payment is fixed, and bills are promptly met, or unless interest be allowed during the delay of payment, the Government will inevitably become a large sufferer. Many of the best merchants in our principal cities, who have heretofore sought dealings with the Government, now decline accepting an order on any terms.

It has never been the policy of this Department to advance money to its agents, and they cannot for this reason make cash payments. Requisitions are drawn on the Secretary of the Treasury only for matured bills, and every day's delay in the payment of a fulfilled contract is a wrong and a loss to the holder, and of ultimate serious injury to the Government. As a consequence, the Government is driven to other, and often less honest dealers, and is compelled to pay for subsequent purchases higher rates. Government, instead of being shunned and distrusted for neglecting to make prompt payment for value received, should, for its prompt payments, be a favored purchaser in any market—enabled to deal with the manufacturer or producer at first prices instead of with second and third hands.

If supplies are procured when wanted and as wanted, at the market price, either in open purchase, by an honest agent, or upon bids received for immediate delivery, with prompt payment, immense sums would be saved to the Department and the Government.

I have heretofore referred to the defects and abuses practiced under the existing laws of awarding annual contracts for naval supplies to the lowest bidder. Whatever may be the character or reputation of the bidder for fair and honest dealing, no discretion is given to any officer of the Government in the premises, nor can any officer decline the contract, though it may be obvious the bidder cannot furnish good articles at the prices which he proposes.

Contracts are made under the operation of existing laws which cannot be honestly fulfilled; and under the practice that has prevailed the whole system has become tainted with demoralization and fraud, by which the honest and fair dealer is too often driven from the market. Articles inferior in quality and deficient in quantity are delivered and passed. Bribery and other improper practices are resorted to, to induce persons in the employment of the Government to aid in these frauds.

Malfeasance on the part of officials in connection with the purchase and delivery of supplies was alleged to exist, and with the purpose of investigating and bringing such fraudulent practices to light application was made to the War Department, which detailed an officer to prosecute these inquiries. The result is that many and great frauds have been discovered. Proceedings have accordingly been instituted, and are now in progress against some of the parties implicated before military tribunals under the statute, and against others in the civil courts.

## INCREASE OF SALARIES.

In consequence of the greatly increased prices that prevail, many who are in the clerical employment of the Government, at a compensation established prior to the war, are receiving a remuneration wholly insufficient. The state of the currency, with other causes, has so affected prices that these men are receiving relatively but about one half the pay of former years, and the effect has been such as to compel many of the best clerks in this Department to leave the Government service. This is a public injury, especially in a crisis like the present. The place of an experienced and accomplished clerk is at no time easily supplied; but when such place is vacated for the reason that it is not remunerative, or that the pay is below corresponding situations in private establishments, the difficulty is increased. It is therefore suggested that the salaries of the clerical force, or

a portion of the clerical force, be increased until the close of the war, or until the currency shall return to a specie standard.

This recommendation is made with some reluctance, and only under a sense of its absolute necessity at this time.

## MASTER'S MATES.

When the rate of pay for master's mates was established it was thought to correspond with that of other grades, but the changes in currency and values which have since taken place render it difficult to retain in service a sufficient number of this highly serviceable and meritorious class of officers. I would therefore recommend that the pay of master's mates be increased from forty to sixty dollars per month.

## EXPENSES AND ESTIMATES.

On the 1st day of July, 1863, there was an unexpended balance standing to the credit of the Department of.....	\$39,101,970 34
The appropriations for the fiscal year ending June 30, 1864, were.....	76,663,567 36
Total available means.....	\$115,765,537 70
The expenditures of the Department during the same time were.....	85,733,292 77
Leaving a balance at the commencement of the present fiscal year of.....	\$30,032,244 93
The appropriations for the current year are.....	109,256,714 54
Making the total available resources for the fiscal year ending June 30, 1865.....	\$139,289,059 47

The estimates submitted for the fiscal year ending June 30, 1866, are as follows:

Pay of the Navy.....	\$23,327,722 50
Construction and repair of steam machinery.....	17,145,000 00
Construction and repair of vessels.....	24,530,000 00
Ordnance and magazines.....	9,187,615 00
Fuel, hemp, and equipment of vessels.....	14,050,000 00
Provisions and clothing.....	13,923,280 75
Navy-yards and superintendents.....	4,577,313 00
Navigation and Naval Academy.....	562,636 00
Surgeons' necessaries and hospitals.....	315,000 00
Marine corps.....	1,599,087 70
Contingent and miscellaneous.....	2,970,018 33
Total.....	\$112,187,663 28

The expenditures of the Department since the 4th of March, 1861, have been as follows:

From 4th of March to close of fiscal year, June 30, 1861.....	\$6,245,357 63
For fiscal year ending June 30, 1862.....	42,200,529 06
For fiscal year ending June 30, 1863.....	63,211,105 27
For fiscal year ending June 30, 1864.....	85,733,292 77
From July 1, 1864, to November 1, 1864.....	41,257,976 72
Estimated expenditures from November 1, 1864, to March 4, 1865.....	42,000,000 00
Total for four years.....	\$280,647,261 45

This exhibits an average annual expenditure, through four years of expensive war, prosecuted under many and great disadvantages, of \$70,161,813. Could the transactions of the Department have been conducted on the true standard of value, that of gold and silver, or of paper convertible into money at the will of the holder, our naval war expenses would scarcely exceed, perhaps not equal, the current expense of either of the great maritime Powers during the same period. There is also this great difference: those Powers have a navy already constructed and in commission. We have had to create and pay for one, in addition to our annual current war expenses. Were the cost of our vessels deducted from the amount above stated, the expenses of this Department would fall millions below those of other Governments. As the vessels which were built and purchased have an intrinsic value, the money paid for them may be considered to be well invested.

The condition of the currency, which has enhanced the cost of all materials and supplies, has swelled the naval expenditures many millions, while the failure to pay promptly when due the bills of contractors and others has still further increased the aggregate of expenditures and augmented the difficulties in the work of creating and organizing the naval force.

## THE BUREAUS.

The reports of the chiefs of the several bureaus present in detail the operations of their respective departments for the year. As they will be printed at the commencement of the session of Congress,

it is unnecessary that I should do more than refer to the principal subjects embraced in them.

The chief of the Bureau of Yards and Docks calls attention to the great increase in the cost of materials and labor, and the consequent deficiency in some of the appropriations. He urges a change in the present contract system, and gives it as his opinion that, in consequence of its operation, the bureau is compelled to pay twenty per cent. more than the market price for some of the smaller articles, which could better be procured by open purchase. The intelligence, judgment, and great experience of this officer entitle his suggestions to respectful consideration. The delay in passing the appropriation bill until near the close of the long session of Congress is considered another fruitful source of evil. The purchase of additional land at Boston and Philadelphia to enlarge the navy-yards at those places is recommended. More water front is indispensably necessary.

The report of the chief of the Bureau of Construction and Repair explains in detail the kind of vessels it is proposed to build, and for which estimates are submitted. He recommends that provision be made for procuring and keeping on hand a supply of building timber and material, the accumulations of past years having been exhausted. He also recommends that measures be taken to increase the facilities in the several navy-yards for the construction of vessels. In case of a foreign war, an additional number of dry docks would be required. Many important suggestions are made relative to the size of steam war vessels and the construction of armored vessels for sea-service.

The report of the chief of the Bureau of Steam Engineering contains a review of the operations of the bureau since the commencement of the war. Detailed statements are made of the size and power of the different classes of engines designed by the bureau and by other parties, and of the results attained in each case. Particular notice is given to the experiments which have been made to test the relative value of engines and boilers; the economy of using super-heated over saturated steam, as well as steam with different measures of expansion; the value of the different kinds of coal, and of petroleum as a substitute; and of other less important combinations which enter into the construction and working of steam machinery. Drawings and specifications have been furnished for the machinery of one hundred and sixteen steamers, having an aggregate burden of 149,906 tons, besides supplying the necessary drawings and directions for the alteration and renewal, in whole or in part, of the machinery of a very large number of other vessels.

The chief of the Bureau of Equipment and Recruiting states the personnel of the Navy at about 6,000 officers and 45,000 men. Under the operation of the acts of Congress, giving seamen the same bounties as soldiers, and crediting their enlistment upon the quotas of towns, the naval deficiencies have been filled. There are now about two hundred and fifty apprentice boys on the school-ship Sabine, and the system, as well as the proficiency of the pupils, is well spoken of. The consumption of coal this year will be about five hundred thousand tons. The ropewalk at the Charlestown navy-yard furnishes all the larger sizes of rope required, but the facilities at the Washington navy-yard are entirely inadequate to supply the needed quantity of cables and anchors, and additional establishments are recommended.

The report of the chief of the Bureau of Ordnance presents a résumé of the history and economy of our naval ordnance. The constant demands of the Navy during the year for ordnance and ordnance stores have been promptly met, and at the same time full attention has been given to the many new and important ordnance questions of the day. Among other suggestions, is that of the removal of our large magazines from their present locations to more secluded situations. The importance of the permanent organization of a gunnery-ship, as a school for the instruction of officers and men preparatory to being placed on board cruising vessels is again presented. Owing to the great increase of ordnance work and the accumulation of material at the New York navy-yard more room is needed. To meet this requirement, the bureau has commenced the filling up of

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the unoccupied marsh adjacent to the cob-dock, which, when completed, will afford ample accommodations as well as furnish a park for two thousand cannon, with all appliances for fitting them for service.

The chief of the Bureau of Provisions and Clothing recommends a new arrangement of store-houses, and that they be entirely disconnected from the navy-yards. Also the establishment of two Government bakeries, and the preparation by the Government of the preserved meats and desiccated vegetables which now form a part of the Navy ration. He also recommends an increase in the number of paymasters and assistant paymasters in the regular service, and the establishment of the grade of passed assistant paymaster. The extraordinary rise in the price of provisions and clothing, and the increased number of men in the service, render additional appropriations necessary.

The chief of the Bureau of Navigation submits the usual reports of the Naval Observatory, Nautical Almanac office, and the general administration of his department. Nearly all the nautical instruments used in the Navy, which, prior to the war, were procured abroad, are now of American manufacture, not excepting chronometers and comparing watches. The same gratifying advance cannot be stated with reference to material for flags, as we still sail under foreign bunting. Notwithstanding the large quantity used by the Army, the Navy, and the commercial marine, scarcely any progress has been had in inducing American establishments to undertake its manufacture.

The chief of the Bureau of Medicine and Surgery states the number of casualties reported during the year to be 171 killed and 351 wounded. Total number of cases of sickness under treatment, 61,229; of which number 1,048 died, 58,070 were returned to duty or discharged, leaving 2,111 under treatment at the close of the year. The total number of deaths is 1,560. He suggests a reorganization of the medical department so as to place it in better harmony with the growth and expansion of other branches of the service, and to adapt it more efficiently to present wants. With the existing organization and pay, it is found impossible to procure the requisite number of medical officers, the superior inducements held out to enter the land service attracting many in that direction who would otherwise prefer service in the Navy. The statistics forming a part of the report show the large number of resignations, as well as the large proportion of those now in the volunteer service who decline positions in the permanent corps. Since January, fifty-two resignations have occurred, and quite a number are now before the Department unaccepted, simply because of the impossibility of filling the vacancies. It is suggested that the only remedy is to make the medical commission more desirable in pay and position. The subject is commended to the attention of Congress. Additional appropriations are required for the completion of hospitals, and an alteration of the law of March 3, 1851, relating to the value of rations of sick transferred to hospitals, is suggested. Authority to purchase the balance of square No. 948, in the city of Washington, for a naval hospital, is also requested. The Government already owning a portion of the land makes it desirable, on many accounts, that the remainder (some fourteen thousand feet) should also be under control of the Department.

The colonel commandant of the Marine corps reports his command in a good state of discipline. Although its number is now fully equal to the quota authorized by law, he is unable to comply with all the requisitions for guards for sea-going vessels. The reports from the several squadrons and vessels of the service show that, in the gallant deeds of the Navy, the marines have borne an honorable part.

## CONCLUSION.

In this, my fourth annual report, I have submitted somewhat in detail the condition of the Department and the service. This report presents the distribution and employment of a maritime force which, including the additions to it now in progress and near completion, constitutes, for all the purposes of defense, if not of attack and conquest, the most powerful national navy in the world. In four preceding similar communica-

tions, including that submitted to you upon the assembling of Congress in the extra session of 1861, it has been my duty to exhibit the methods and measures of administration, by which, from a comparatively small beginning, and under the pressure of an unexampled exigency, this vast naval power has, since your accession to the Presidency, been brought into existence; to state the contributions which have been made to it from our commercial marine; to indicate the application of all the resources of our public naval establishments to its construction and preparation for service; to show how individual energy and skill and capital have come successfully in aid of insufficient governmental provision for the due prosecution of the work, and to trace in general outline the processes and results of inventive genius and scientific experiment which have changed to a great extent the materials and forms of naval structure and armor and armament, and have enabled our country, while in so brief a period assuming a foremost place among maritime nations, to create also a new era in the development and application of naval force.

In connection with such account of the sudden creation of a new American naval power, it has been at the same time my privilege in these communications to make official record of a series of naval enterprises and achievements wholly without precedent or parallel. No previous conception of efficient blockade; no former endurance under the fire of fortified batteries; no audacity and success heretofore known of naval attack upon such fortresses, through formidable submarine obstructions spread for their defense; no similar penetration by war vessels of internal waters through a reach of navigation almost continental; no other gigantic scale of coöperation of naval with army forces in expeditions and combats hundreds of miles from the seaboard, and along the course of rivers precarious and dangerous of navigation, can anywhere be found of a character to compare with the triumphs in all these forms of naval effort which it has been the duty of this Department during the past three years to organize and to report.

If in the prosecution of duties so arduous, complicated, and exacting, the trust confided to this Department shall appear to have been faithfully and fitly discharged, then certainly my acknowledgments are still due, as they have been heretofore expressed, to the gentlemen associated with me in its management, to the whole clerical force, to the several chiefs of bureaus, and especially to the invaluable services of the Assistant Secretary and the chief clerk of the Department.

But it is to the officers and men of our naval service that the great renown of what has thus been done, and is doing, justly belongs. The best administration of this Department can do little more at any time than to give them the adequate means and the right opportunity of action. To them, therefore, first and always, be the honor, when their own country and the world shall recognize in this expansion and these exploits of our naval power a spectacle of patriotic and virtuous heroism worthy of the cause in which it is displayed, and of the national life which it illustrates and defends.

GIDEON WELLES,

Secretary of the Navy.

To the PRESIDENT.

## Report of the Postmaster General.

POST OFFICE DEPARTMENT,  
November 2, 1864.

SIR: The postal revenues for the year ending the 30th June last were \$12,438,253 78, and the expenditures of this Department during the same period were \$12,444,785 20, showing an excess of the latter of \$206,532 42. The accompanying table, No. 1, (see appendix,) exhibits the annual postal revenues and expenditures from 1854 to 1864, from which it will be seen that the average annual receipts of this Department from 1859 to 1861, inclusive, were \$8,745,362 62, and the average annual expenditures for the same period were \$14,432,008 44, showing an average annual excess of expenditures over receipts of \$5,736,725 82; and the average annual receipts from

1862 to 1864, inclusive, were \$10,871,530 97, and the expenditures \$11,694,785 72, showing an average annual excess of expenditures over receipts of \$823,254 75.

The excess of receipts in 1864 over 1861, the first year of the rebellion, was \$4,088,957 38.

Although the proportion of receipts as against the expenditures has, doubtless, been increased, on account of the suspension of the postal service in the insurrectionary States, the above exhibit furnishes the evidence of an improving financial condition of the Department, highly creditable to the administration of my immediate predecessor.

The details of the financial operations of the Department during the last fiscal year are set forth in the accompanying report of the Auditor. (See No. 21 of the appendix.)

The estimate of expenditure for 1864 was fixed at \$13,000,000, in which was included the sum of \$1,000,000, specially appropriated for the overland mail service, being \$355,213 80 more than the amount actually expended.

On the other hand, the revenues of 1864 were estimated at an increase of five per cent. on those of 1862, making \$8,714,000, while they actually reached \$12,438,253 78, or \$3,724,253 73 more than the estimate. This increase equals 42½ per cent.

The increase of expenditures in 1864, compared with those of 1863, is 11½ per cent., and the increase in the revenues for the same year 11½ per cent.

This exhibit promises an increase of the revenues for 1865 over the estimate submitted in the report of last year.

## Estimates for 1866:

The expenditures of all kinds for the fiscal year ending the 30th of June, 1866, (see table No. 2,) are estimated at..... \$14,098,500 00

The gross revenue for the year 1866, including foreign postage and miscellaneous receipts, is estimated at an increase of six per cent. on the revenue of 1864, making..... 13,184,547 79

Estimated deficiency of revenue compared with estimated expenditures..... \$913,952 21

From this sum must be deducted the amount of the permanent appropriations to compensate the Department for carrying free mail matter, under acts of March 3, 1847, and March 3, 1851..... 700,000 00

By which the estimated deficiency is reduced to..... \$213,952 21

The grants for the transportation of free mail matter for the last two fiscal years have not been expended. Assuming that the amount of \$700,000 for the last year is still available, no appropriation for any deficiency in the revenues will be required.

In making the estimate of probable expenditures for 1866, the amounts actually expended under the several heads during the past fiscal year have been taken as a basis; but an increase in several of the items named has become necessary, particularly in the appropriation for postage stamps and stamped envelopes, the estimated cost of the latter being increased \$140,000 per annum, according to the terms of a new contract elsewhere referred to in this report.

The whole number of drafts and warrants issued during the year to the creditors of the Department, in payment of balances reported to be due by the Auditor, was 16,608. The warrants were drawn on the Treasurer of the United States, five Assistant Treasurers, and seven designated depositories; and the drafts on sixty-five post office depositories, and on the postmasters at three hundred and sixty-one draft offices. Of the above-named post office depositories, forty-five were established on January 1, 1864.

About 80 per cent. of the net revenue of the Department for the year, or \$7,083,179 81, was concentrated in the hands of the above-named depositories and at draft offices. Of this amount \$5,327,761 was disbursed during the year, leaving subject to draft on July 1, 1864, \$1,755,418 81.

The remainder of the revenue was collected by means of orders issued by the Auditor on postmasters at collection offices, and through payments made by postmasters to special mail carriers and mail messengers.

During the fiscal year 334,054,610 postage stamps, of the value of \$10,177,327, 26,644,300 stamped envelopes, amounting to \$765,512 50,



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and 1,574,500 newspaper wrappers, amounting to \$31,490, were issued. The total value of these issues was \$10,974,329 50, which, compared with the issue of the previous year, (\$10,338,760,) shows an increase of \$635,569 50, or about 6 1/4 per cent. The value of the stamps and stamped envelopes sold was \$10,776,589 58, and the amount used in the prepayment of postage was \$9,878,155 61. The details are exhibited in tables Nos. 3 and 4 of appendix.

Notwithstanding this enormous issue, the losses of stamps in the mails amounted only to \$1,206, and of envelopes to \$31 80. This result may be in part attributed to the system of registering each package of stamps and envelopes mailed, and to the fact that route agents and postmasters at separating offices are also instructed to keep a record of all such packages passing through their offices. During the year 1859, (the year immediately preceding the adoption of this system of registration,) the value of postage stamps issued amounted to \$5,279,405, while the losses in transmission during the last six months of that period were \$4,373. Since that time the losses have decreased, although the issue has increased about 92 1/2 per cent.

The number of packages of stamps sent out during the year was 58,500, of stamped envelopes 18,688, and the claims allowed for deficiencies in the number of stamps amounted to only \$29, and in the stamped envelopes 80 cents, showing great care on the part of those intrusted with this branch of the business.

Postage stamps are regularly supplied to the armies of the Potomac and Cumberland, through special agents of the Department located at or near the headquarters of each. Since the inauguration of this practice—about the 1st of July last—the agent stationed at City Point, Virginia, has sold stamps amounting to \$29,773 96, and the agent of the army at Chattanooga \$5,210.

Under the act for "the relief of postmasters who have been robbed by confederate forces or rebel guerrillas," one hundred and thirty-nine claims have been made, representing losses of postage stamps and money amounting in the aggregate to \$5,958 97. Of the claims thus reported, sixty-two have been examined and reported on favorably, the aggregate of the credits allowed being \$2,130 50. The balance of the claims—seventy-seven—representing \$3,828 47, are still pending, the evidence furnished being in most cases insufficient.

Losses of a somewhat different character frequently occur, relief for which cannot be granted without additional legislation. I refer to cases where, by reason of the presence of armed forces, a post office is destroyed, and the postmaster loses the fixtures and furniture, and to cases where the loss is occasioned by our own troops. The report of my predecessor two years since recommended that such losses be provided for, and I invite attention to the subject, as several such claims have been made, where the losses have occurred through no fault of the postmaster.

During the last session of Congress a bill was passed for the relief of the contractor for furnishing the Department with stamped envelopes and newspaper wrappers; under the provisions of which the existing contract expired on September 11, 1864, when a conditional contract was made, to expire December 31, 1864, at an advanced rate for stamps and envelopes.

After the award of the contract above referred to, the Department and the contractor received a protest from a party in New York claiming to be the patentee of newspaper wrappers, with notice that he should assert his rights. Under these circumstances, and in view of the enormous advance in the contract price of the article, the Department decided to discontinue the issue for the present.

Notwithstanding the advance of every article used in the manufacture of stamps, and the large increase in the number required by the Department, the National Bank Note Company, of New York, have fulfilled in a satisfactory manner all their obligations. It is due to these contractors to add that they receive for postage stamps but twelve cents per thousand, while the contractors for internal revenue stamps receive thirty-three cents per thousand.

Seven temporary clerks have been employed

for several years, who are paid out of the appropriation for postage stamps and stamped envelopes, and as they constitute a portion of the necessary force of the Department, I suggest the propriety of providing for them by law.

## CONTRACTS.

Table A (No. 5) exhibits the service as it stood on the 30th of June last in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, West Virginia, Michigan, Indiana, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Kentucky, California, Oregon, Kansas, and the Territories of New Mexico, Utah, Nebraska, Washington, Colorado, Dakota, and Nevada, at which time there were in operation in those States and Territories 6,083 mail routes, the number of contractors being 5,953. The length of these routes was 139,173 miles, and the service as follows, namely:

Railroad, 22,616 miles; steamboat, 7,278 miles; "celerity, certainty, and security," 109,278 miles—costing \$5,818,469, divided as follows, namely: railroad, 23,301,942 miles of transportation at \$2,567,044, about 11 cents a mile; steamboat, 2,112,134 at \$253,274, about 12 cents a mile; "celerity, certainty, and security," 30,901,281 at \$2,998,151, about 9 7-10 cents a mile.

The length of routes was decreased 425 miles, while there was an increase in the annual transportation of 89,342 miles, and in the cost of \$77,893.

The aggregate compensation of route agents, local agents, mail messengers, baggage masters in charge of express mails, and agents employed on steamers conveying mails to southern ports, was \$546,753 48, which, added to the cost of service in operation on 30th June, 1864, (\$5,818,469,) makes the total cost of mail transportation at that date \$6,365,222 48.

The contract term for the middle section, comprising the States of New Jersey, Pennsylvania, Delaware, Maryland, and Ohio, expired on the 30th of June last, and the new term commenced on the 1st of July following. The service under these lettings, for the first quarter of the contract, ended September 30, 1864, is exhibited by the annexed statement, namely:

	Miles.	Miles of annual transportation.	Cost.
Railroad.....	7,492	7,334,701	\$932,349
Steamboat.....	392	216,088	17,735
"Celerity, certainty; and security".....	21,193	6,845,996	407,071

Other tables, showing the operations of the Contract office, are appended to this report. (See No. 5, B, C, D, E, and F.)

Notwithstanding an express provision of law, (section twenty-nine of act of July 2, 1836,) which provides "that no person whose bid for the transportation of the mail may be accepted shall receive any pay until he shall have executed his contract according to law and the regulations of the Department," but few of the railroad companies engaged in carrying mails are under contract; and the practice of recognizing their service from quarter to quarter has been necessary for a series of years, to enable the Auditor to issue orders in favor of the companies, for the collection of moneys in the hands of postmasters on the routes, and the adjustment of accounts for services rendered.

Attention has been called to this subject by my predecessors for the purpose of securing additional legislation investing the head of this Department with power to compel compliance with the law by prohibiting payments except on executed contracts. The matter is discussed by Postmaster General Holt in his report of December 3, 1859, and again alluded to December 1, 1860, and also by my immediate predecessor in his reports of December 2, 1861, and December 1, 1862; but, believing that the law is sufficiently explicit as it now stands, I do not propose further legislation, in the hope that the several railroad companies will no longer refuse to enter into the obligations assumed by all other persons contracting with the Government. Should I be disappointed in this reasonable hope, I shall not fail to call upon Congress for such legislation as the necessities of the service require.

In the last annual report attention was called to the unsettled accounts of persons employed to

convey mails by sea to the military and naval forces and inhabitants at New Orleans, Pensacola, and other ports, rendered necessary by the insurrection in the southern States, and also for service performed in steamships on the North Pacific coast during the winter of 1862, when the usual land routes were interrupted by extraordinary floods. These services were necessary to provide for communication with the soldiers and sailors engaged in the defense of the country, and the people isolated by an act of Providence, and were authorized by several acts of Congress. The Auditor of the Treasury for this Department, adjudging the contracts illegal, declined acting on the accounts of contractors and orders of the Postmaster General, rendering an appeal to Congress necessary. This resulted in the legislation contained in the fifth section of the "act to provide for the conveyance of mails to foreign ports," &c., approved March 25, 1864, under which the sum of \$18,050 has been paid to several parties for the sea service performed by order of the Postmaster General on the Atlantic coast and Gulf of Mexico, to the 30th of September last.

The claim made by the steamship owners for service on the North Pacific coast, during the floods of 1862 on the land, was at the rate of \$8,000 per month for three months, but the amount deemed adequate by the Department was \$8,642 for the whole service, and this was the sum reported to the Auditor as due the claimants; but Congress having fixed the sum to be paid for this service at \$1,500, which they declined to receive, the claim is still unadjusted.

The contract for service on the route from the Missouri river, via Salt Lake, to Placerville, California, under act of March 2, 1861, expiring on the 30th of June last, an arrangement was made with the same parties for continuing the service on the same terms to September 30, 1864.

Under an advertisement dated March 22, 1864, inviting proposals for service from Atchison, Kansas, or St. Joseph, Missouri, to Folsom City, California, John H. Heistand, of Lancaster, Pennsylvania, was the lowest bidder, at \$750,000 per annum; but his bid having been subsequently withdrawn, contracts have been made with Ben. Holladay, of New York, for the service between Atchison, or St. Joseph, and Salt Lake City, at \$365,000, and with W. B. Dinsmore, president of the Overland Mail Company, also of New York, from Salt Lake City to Folsom City, at \$885,000, making an aggregate of \$750,000 per annum. These parties are believed to be able to fulfill their obligations. The contracts are from October 1, 1864, to September 30, 1868; the trips to be made in sixteen days eight months in the year, and in twenty days the remaining four months; to convey through letter mails only, mail matter prepaid at letter rates, and all local or way mails.

Paper and document mails for the Pacific coast are to be carried by sea, via New York and Panama, temporary arrangements having been made for their conveyance, within the sum named in the law of March 25, 1864, namely: \$160,000 per annum; making the whole expense of territorial and Pacific mails not over \$910,000 per annum, or \$90,000 less than under the former contract.

Owing to Indian depredations, the overland service was much interrupted during the months of August and September last, and, for a period of four or five weeks, the whole mail for the Pacific coast and the Territories was necessarily sent by sea from New York.

The contract for the California and Oregon route—Sacramento to Portland—terminating September 16, 1864, proposals were invited for the continuance of the service to 1866 and 1868. But one bid was received, that of the California Stage Company, at \$250,000 per annum, which was deemed extravagant for the service required, and accepted to June 30, 1865, only, with a view to again invite competition, which has been done.

Pursuant to the eighth section of the act of March 2, 1861, and the second section of the act of February 24, 1863, the contract for service on the route from St. Cloud, Minnesota, to Pembina, in Dakota Territory, was extended to June 30, 1865, and the trips increased from one to two per week, at an increase of compensation of \$17,167 per annum. As the contracts on all other routes in the State expire June 30, 1866, this will be re-

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Report of the Postmaster General.

SENATE &amp; HO. OF REPS.

let for one year only, so that it may be embraced in the contract section to which it belongs.

The topographer of the Department having been instructed by my predecessor to prepare a set of maps, by States or groups of States, designed to show all the permanent routes, distances, and post offices thereon, in the United States, with other statistical information, I have to communicate that progress has been made in their preparation. It is found, however, that in consequence of the enhanced price of all articles purchased through the contingent fund, chargeable with the expenses, that the fund, as previously estimated, will be insufficient, having regard to other demands upon it; and I therefore recommend that an appropriation of \$10,000 be made for preparing and publishing these maps. It is believed that the proceeds of the sale of such as will not be needed for the use of this Department will eventually more than reimburse the entire outlay, leaving a surplus which will diminish, to that extent, future appropriations for contingent purposes.

The number and description of mail bags and mail locks purchased during the fiscal year ending June 30, 1864, and the cost thereof, appear in statement No. 6, in the appendix to this report.

By resolution of Congress, approved July 1, 1864, the Postmaster General was "authorized to examine and adjust the claim of Carlisle Doble for carrying the mails between Taylor's Falls, Minnesota, and Superior, Wisconsin, from April to November, 1857, and to pay him such sum of money as shall be found to be justly and equitably due." Under the authority thus conferred the claim was examined and the sum of \$3,968 46 allowed, which was reported to the Auditor for payment on the 26th September last.

On the 3d of March, 1864, the Inspection office of the Department, in its distinct and separate form, was abolished, and its duties transferred to the Contract office, in charge of the Second Assistant Postmaster General.

The net amount of fines imposed and deductions made during the year from the pay of mail contractors for failures and other delinquencies, was \$44,375 55.

By the seventeenth section of an act of Congress approved July 1, 1864, chapter one hundred and ninety-seven, page 339, it is enacted "that the special agent of the Post Office Department on the Pacific coast shall receive a compensation of five dollars per diem." The salary of this officer was \$2,500 per annum under the act of March 2, 1861, and for all traveling and incidental expenses no greater sum than two dollars for each day employed could be allowed under the act of March 3, 1845.

It is not supposed that Congress intended to reduce the pay of this officer from \$3,230 to \$1,825, but such is the effect of the law, and I therefore recommend such a modification of that section as will restore his full salary of \$2,500 per annum from the date of the passage of said act, and to provide for his actual traveling expenses a sum not exceeding five dollars per diem. Although, at the time of the passage of the said act, two dollars per diem was considered sufficient for the traveling and incidental expenses of these officers, it is now inadequate, and I recommend that all other special agents be allowed a sum not exceeding four dollars per day while employed.

For several years after the occupation of the Pacific coast by the United States, the agent of this Department stationed at San Francisco had larger powers than usually confided to special agents in the Atlantic States, particularly in reference to the adjustment of contractors' accounts, the practice being for him to give certificates of service performed under mail contracts, on which the postmaster at San Francisco made payments. The accounts were then transmitted to the Auditor for entry and final settlement. In this manner payments to mail contractors were expedited; but doubts arising as to the authority of the Postmaster General to confer such powers on a subordinate officer, they were withdrawn, and the Pacific agent is now on the same footing with all other officers of his class. It is believed that the functions of this officer could be enlarged with advantage to the public service, and, as previous legislation is necessary, attention is called to the subject.

In this connection it is proper to add that, from information which has recently reached me, I am apprehensive that the postal service in the Pacific States is not in as good condition as should be desired; and I may have occasion to communicate with Congress upon the subject during its approaching session.

Inquiry has been made of Lieutenant General Grant relative to the existing arrangements for supplying our armies with mails, with the assurance of my earnest purpose to cooperate with him in carrying into effect any desired improvements of that service; and I am gratified to learn from his reply that the system of receiving and forwarding mails now in operation is entirely satisfactory; and that "our soldiers receive their mail matter with as much regularity and promptness as is possible for armies in the field, and perhaps with as much celerity and security as the most favored portions of the country." He also informs me that the policy originally adopted of excluding civilians from the mail service within the lines of the Army, and detailing for that duty enlisted men of intelligence and reliability, will be continued.

For many years the regulations of this Department have required that every post office should mail letters direct to every other office not on the route to any distributing office, and that all other letters should be mailed to the first distributing office on the route to their destination, involving considerable expense and delays in the transmission of the mails. This subject has been frequently referred to in the reports of this Department. Elaborate distribution schemes have been proposed to improve the existing system, which is still considered defective.

The majority of letters are now subjected to delays, while the expense attending the work in twenty-two distributing post offices amounted, during the fourth quarter of 1864, to nearly \$200,000, being at the rate of \$800,000 per year, or about sixty-two per cent. of the whole expense of clerk hire in all offices.

The mailing of all letters direct from one office to another, however situated, in so vast a territory as that embraced within the United States, is objectionable. The ordinary distributing post offices not meeting the necessities of the service, experiments have been commenced with railway or traveling post offices. The requisite cars for the purpose are prepared for one daily line between Washington and New York, and by means of clerks taken, temporarily, from the post offices at Washington, Baltimore, Philadelphia, and New York, letters intended for distribution at either of those points are distributed in the cars, and so arranged that they can be dispatched without delay on connecting routes. Thus it is found that the transmission of letters is expedited from twelve to twenty-four hours, being the time usually lost in distributing offices. Similar experiments have been made on the routes from Chicago, Illinois, to Clinton, Davenport, and Dubuque, Iowa, with equally satisfactory results.

Attention has been given to the putting in operation the railway distribution to other prominent points, and the companies which have been asked to furnish the necessary car facilities have generally responded favorably. On the great eastern and western routes to Cleveland, as well as between Washington and New York, the size and importance of the mails and the amount of distribution to be done are such as to require accommodations to the extent of an entire car. West of Cleveland only a portion of a car will be used on each route.

In order to make the work of railway post offices effectual, a change in the mode of mailing letters is necessary. All offices cannot mail direct, neither can all mail to a railway office. The work will, therefore, be divided between head offices and route offices, the former being those which are the initial or terminal points of routes, and the latter those offices or stations on the direct line of a road from which there are no post roads diverging. Additional clerks, as well as superintendents and traveling postmasters, will be required, for whom I recommend provision be made by law.

The introduction of the proposed scheme will

necessarily be attended with difficulties, and must be accomplished gradually. The classification of offices alone will require time and labor, and for the present operations will be limited to a few principal railroad lines. Until the necessary classification is completed, and the railway distribution organized, it is anticipated that additional expenses will be involved; but it is hoped that the final effect will be to reduce the expenses connected with the present plan of distribution. Under the new law, also, which took effect 1st of July last, all accounting for paid letters has been dispensed with, thus saving much labor heretofore required in mailing letters and in keeping accounts. The transcripts of mails sent and received under the old system at five of the principal offices amounted to 50,000 folios. The accounts from the same offices for the quarter ended 30th September last, during which changes were only partially introduced, show a saving in this respect of nearly fifty per cent. Thus in various ways the ordinary expenses of post offices are expected to be diminished so as to compensate for the cost of railway distribution. But, whether this result be fully attained or not, the expedition of mails will be insured.

#### FOREIGN MAIL SERVICE.

The statistics of the foreign service for the fiscal year ended June 30, 1864, are fully exhibited in the tables prepared by the Auditor of this Department, also in statement No. 7 annexed to this report, and show the following general results, namely:

The aggregate postage (sea, inland, and foreign) upon the correspondence exchanged with Great Britain, Prussia, France, Hamburg, Bremen, and Belgium, amounted to \$1,399,605 69, being an increase of \$174,930 48, as compared with the last year, and \$21,458 37 in excess of the largest amount realized in any previous fiscal year. The collections in this country amounted to \$881,730 68, and in Europe to \$517,875 01—excess of collections in the United States \$363,855 67. This result is significant and gratifying, showing a largely increased correspondence with Europe, notwithstanding the civil troubles agitating the country, and the interruption of postal communications with the southern States.

The transatlantic mail transportation was performed as follows:

By the foreign steamships of the New York and Liverpool, Canadian, Bremen, and Hamburg lines, \$770,365 01.

By British contract mail packets of the Cunard and Galway lines, \$629,240 68.

The amount paid by this Department for mail steamship service to and from Europe was \$371,740 44—the steamships employed receiving the sea postage on the mails conveyed as compensation for the service. Of this amount the Liverpool and New York and Philadelphia Steamship Company received \$202,914 34 for fifty-two outward and fifty-three inward trips between New York, Queenstown, and Liverpool; the Canadian mail packets, \$77,175 30 for fifty-three round trips between Portland and Liverpool, and Quebec and Liverpool; the North German Lloyd Steamship Company, \$46,149 61 for sixteen outward and fifteen inward trips, and the New York and Hamburg Steamship Company, \$45,501 18 for thirteen outward and twelve inward trips, between New York and Southampton.

The total postages on the correspondence exchanged with British North American provinces during the year amounted to \$307,371 39, being an increase of \$81,628 09 over the amount reported last year, and of \$129,618 88 over that for the previous fiscal year. The postages collected in this country amounted to \$163,755 74, and in the provinces to \$138,615 64—excess in favor of the United States, \$30,140 10. This extraordinary increase of correspondence is probably partly owing to the fact that large numbers of rebel agents, sympathizers, and refugees have taken up their temporary abode in Canada and the other provinces.

The total postages on the mails conveyed to and from the West Indies amounted to \$59,990 18, and the cost of transporting the same to and from Havana and other West India ports was \$40,337 03, being \$19,653 15 less than the United States post-

ages on the mails conveyed. Heretofore the steamers employed in this service received as compensation the gross amount of United States postages upon the correspondence transported, without allowing for the expenses of the inland service; but as no contracts were executed with the Department, calling for the performance of a specified number of trips, according to a fixed schedule of sailing days, and as the mails they conveyed received no greater care or attention while in transit than is ordinarily given to first-class freight, it was considered by my predecessor proper that the compensation for the sea portion of the service should be so adjusted as to prevent loss to the postal revenues; and arrangements were accordingly concluded by him with the proprietors of all the steamship lines, except two, plying between New York and Havana, for a fixed compensation by the trip of \$125 each way, or \$250 per round trip, if not exceeding the United States postages on the mails conveyed. The proprietors of two of the steamship lines in question declined to accede to this rate of compensation, claiming that they were entitled to the gross amount of postages under the provisions of the fourth section of the act of June 15, 1860, which authorizes the Postmaster General to cause the mails to be transported between the United States and any foreign port or ports, by steamships, allowing therefor the sea and inland postage if by an American vessel, and the sea postage only if by a foreign vessel. The provisions of this section have not been construed by this Department as requiring the Postmaster General to allow the sea and inland postages on the mails conveyed, to all American vessels, but simply as limiting the compensation in any case to that amount.

The payment of \$250 per round trip, limited to the postages, having been generally accepted by the proprietors as ample remuneration for the steamship service between New York and Havana, no reason occurs to me why it should not be adopted as the uniform compensation for all the steamships employed on that route.

As doubts have arisen relative to the proper construction of the fourth and fifth sections of the act of the 14th of June, 1858, and the fourth section of the act of the 15th of June, 1860, which, in effect, superseded the last-mentioned section, I recommend additional legislation authorizing the Postmaster General to cause the mails to be transported between the United States and any foreign port or ports, or between ports of the United States touching at a foreign port, by steamship, allowing and paying therefor, if by an American vessel, any sum not exceeding the sea and United States inland postage, and if by a foreign vessel, any sum not exceeding the sea postage on the mails so conveyed.

To protect the postal revenue from losses incident to the unauthorized conveyance of letters by private ships or vessels departing from the United States for foreign countries, I recommend the passage of a law requiring, as a condition of clearance, that the master or commander of any steamship or other vessel departing for a foreign port or ports, shall make oath or affirmation that he has not received on board his ship or vessel, and has not under his care or within his control, any letters addressed to a foreign country which have not been received directly from the post office at the port of departure, except such as are directed to the consignee of the ship or vessel.

The United States postages upon the correspondence exchanged with Central and South America, via Aspinwall and Panama, amounted to \$14,208 51, all of which was paid to Cornelius Vanderbilt for the sea and Isthmus transportation.

The provisions of article three of the United States and Canada postal convention have been so modified, by agreement between the respective post departments, as to abolish the international letter postage of fifteen cents per single rate, heretofore levied upon letters passing between Canada and California, Oregon, and Washington Territory, thus establishing a uniform international postage for letters of ten cents the single rate, prepayment optional, between Canada and all parts of the United States, without regard to distance or route of conveyance; and the benefit of

the same uniform international rate of ten cents has also been extended to the correspondence exchanged with the province of New Brunswick.

Our arrangement with Canada adopts the principle of optional prepayment, in both countries, of the combined rate of international postage, each country retaining all the postage which it collects. It is the most simple form of international postal arrangement, inasmuch as it dispenses entirely with accounts between the respective post departments, and has been adopted with all the other provinces except Newfoundland. With the view of securing uniformity in our postal relations with those provinces, a recent effort was made to obtain the concurrence of Newfoundland in a like arrangement, which I regret to say was unsuccessful; the British post department declining to give its assent to the measure, on account of the additional British packet postage of fourpence sterling which is levied for the sea service to and from the island, and accrues to Great Britain.

The initiatory steps taken to conclude similar postal arrangements with the colonies of Vancouver's Island and British Columbia, referred to in the last annual report, have not as yet been attended with the success anticipated.

Additional articles to the United States and British postal convention have been agreed upon, constituting the British packet agency at Colon an office for the exchange of mails with the post office of New York, by means of the United States packets plying between those ports; the object being to prevent the delay to correspondence forwarded from the United States to ports and places on the Atlantic coast and interior of New Granada, previously caused by its transit across the Isthmus to and from Panama. A copy of these articles is annexed, (No. 8.)

An arrangement has also been concluded for expediting the transmission to destination of unpaid letters addressed to the United States, received at Panama by British packets from countries on the west coast of South America; this Department agreeing to collect, and account to Great Britain, through the office of the British packet agency at Panama, for the unpaid postage charged thereon.

An additional article to the United States and Bremen, and to the United States and Hamburg conventions, respectively, was executed on the 28th of March last, authorizing the conveyance of the international correspondence in time of war, or threatening war, by steamships sailing under neutral flag, whenever the same cannot be safely conveyed by United States, Bremen, or Hamburg steamships. Copies are annexed, (Nos. 9 and 10.) In view of the apprehension then felt that the war pending in the north of Europe might interrupt the mail service so long and advantageously performed by the Bremen and Hamburg lines of mail packets, steps were taken to ascertain whether the neutrality of the said steamers might not be secured by means of diplomatic correspondence, but this Department has not been advised of the result. Our postal conventions with Great Britain and Mexico, respectively, recognize the principle that, even in time of war between the contracting parties, their respective mail packets shall continue their navigation without impediment or molestation until six weeks after a notification given by either of the two Governments, and delivered to the other, that the service is to be discontinued; and as all Governments have a common interest in claiming exceptional treatment for mail packets in case of war, to the end of maintaining regularity in international postal communication, it is a subject worthy of consideration whether, by treaty stipulations between nations or otherwise, a like principle might not be established between all Governments, with proper safeguards against the transportation of persons or articles contraband of war.

During the past year a new line of French mail packets has been established between France and the United States, the steamships plying, for the present, direct between Havre and New York, and making regular departures from each port, on Wednesday of every fourth week. The United States exchange offices of New York, Boston, and Philadelphia, dispatch and receive mails regularly by means of this line, corresponding with the French exchanging offices of Paris and Havre, and

with the French mail agent embarked on board of each packet.

This Department has also concluded an arrangement for the transportation of the mails, fortnightly, between Boston and Halifax, Canso, and Pictou, (Nova Scotia,) and Charlottetown, (Prince Edward's Island,) the proprietors of the steamer to receive, as full compensation for the sea service, a moiety of the United States postages on the mails conveyed.

A correspondence has been opened with several of the post departments represented by commissioners at the Paris international postal conference, having for its object the negotiation of postal conventions, on the basis of the Paris resolutions, with those countries on the continent of Europe with which the United States has hitherto sustained no direct postal relation, as well as for the revision and amendment of existing postal conventions, so as to make them conform as nearly as practicable to the liberal principles of postal progress recommended by that conference as the basis of international arrangements. Favorable responses have been received from the several post departments interested in this subject.

In conformity with the provisions of the act "to authorize the establishment of ocean mail steamship service between the United States and Brazil," approved May 28, 1864, an advertisement was issued inviting proposals for carrying the mails of the United States by a monthly line of first-class American sea-going steamships, between a port of the United States north of the Potomac river, and Rio de Janeiro, in Brazil, touching at St. Thomas, in the West Indies, and at Pernambuco and Bahia, in Brazil, for a contract term of ten years, to commence on or before the 1st day of September, 1865, and to date from the day the first steamship of such line shall leave the United States with the mails for Brazil.

Three proposals were received for this service, the lowest and the accepted bid being that of the New York, Nuevitas, and Cuba Steamship Company, with Thomas Asencio & Co. and Manuel J. Mora, of New York, as guarantors, for the performance of the required service, at the sum of \$240,000 per annum, to be divided equally between the two Governments.

The act authorizing the establishment of this line of American steamships was the beginning of a new era in the history of our ocean mail service, which is being performed principally by steamers sailing under foreign flags. The Government, by this measure, adopted the policy of coöperating with the individual enterprise of our citizens in establishing a direct mail steamship communication with the principal country of South America, with the object of providing a reliable and speedy transmission of correspondence, and developing a profitable commerce, legitimately belonging to us by reason of our geographical position, but which has been diverted into other channels by means of regular steamship communications with other countries not so favorably situated as ours for conducting an extensive trade with Brazil.

At present our only regular and reliable route of postal communication with Brazil and adjacent South American States is by the circuitous route via Great Britain or France, each of those countries maintaining a subsidized line of mail steamers plying to and from Rio de Janeiro, established nominally for postal purposes, but really in the interest of commerce, which is fostered and developed by regular mail steamship communication.

There are other ocean routes besides the one to Brazil, which can be safely and profitably occupied by American lines of mail steamers, among which the route between San Francisco, Japan, and China, at present unoccupied by foreign mail packets, is perhaps the most important in a commercial point of view, and may be made available in securing to us a large participation in the commerce of the East, the greater portion of which is now enjoyed by Great Britain through her mail steamship connections, via Suez, in the Indian ocean and China seas.

The central position of the United States between eastern Asia and western Europe, affording routes but little longer, if any, than those now traversed between these distant regions, aided by the superior expedition of railway transportation



between the Atlantic and Pacific coasts, will furnish such facilities as will make their adoption a practical necessity for the commercial intercourse between Europe and the populous countries of eastern Asia. These considerations, and others which will readily suggest themselves, render it important that the Pacific routes properly belonging to us should be occupied by American mail steamers, the profits of which, with the addition of a small subsidy for the mail service, would justify the establishment of one or more steamship lines, which would be remunerative to the proprietors.

Experience has demonstrated the impolicy of appropriating large sums of money out of the public Treasury to gratify a spirit of national emulation in the support of expensive mail service upon routes the profits of which are shared by the steamships of other nations, and without regard to the compensatory benefits to be derived from the development of our national resources; instead of granting incidental aid to such projected steamship lines to neighboring countries as promise to be self-supporting after their establishment, and open up to our citizens new avenues of profitable trade and commerce.

The principle adopted in the law authorizing mail steamship service to Brazil, of inviting competition for the service, is in such harmony with the spirit of our commercial policy, and promises so beneficial, results as to commend itself to my approval as one that should be invariably adhered to. But if there be a departure from this policy it may be well to consider the expediency of adopting the plan of using a portion of the large number of Government vessels that will be unemployed upon the restoration of peace, in the forming of mail lines with the principal commercial marts of the world in such manner as will promote the interests of commerce in the transportation of persons and property.

#### APPOINTMENTS.

Including the suspended post offices, the whole number on the 30th June, 1864, was 28,878; of which 19,976 are in the loyal, and 8,902 in the disloyal States. The number of presidential offices is 705, and 28,173 are under the appointment of the Postmaster General. The number of offices in each State and Territory at the close of the fiscal year is shown in the appendix, (table No. 11.)

During the year, 619 post offices have been established, 788 discontinued, and 211 changes made of names and sites. The number of cases acted upon was 5,579. Four thousand seven hundred and thirteen postmasters have been appointed, of whom 3,028 were to fill vacancies occasioned by resignations; 674 by removals; 259 by deaths; 133 by change of names and sites, and 619 on establishment of new offices. The details appear in the appendix, (table No. 12.)

Under the provisions of the act approved July 1, 1864, "to establish salaries for postmasters, and for other purposes," the salary of the postmaster of New York, and of the postmasters at offices of the first, second, and third classes, have been fixed as provided by law. (See appendix, table No. 13.)

The fifth section of the act above referred to authorizes the Postmaster General to allow at the office of New York, and at the offices of the first and second classes, a reasonable sum for the necessary cost of rent, fuel, lights, and clerks. No authority is given to allow for other necessary items, such as repairs of furniture, cleaning, stationery, printing, and other incidentals, required in large offices, and I beg leave to suggest that the necessary authority be given to appropriate a reasonable amount out of the revenues of the respective offices to meet such contingencies.

At the close of the fiscal year there were 20 special agents, whose salaries amounted to \$34,100; 414 route agents, receiving \$313,912; 53 local agents, \$32,009; and 105 baggage masters in charge of through and express mails, \$6,780.

The free delivery of mail matter by carriers has been introduced at 66 offices, employing, at present, 685 carriers, at an aggregate annual compensation of \$317,061 22.

Tables are herewith annexed, showing the op-

erations of the system. (See appendix, Nos. 14 and 15.)

#### DEAD LETTERS.

The number of dead letters of every description received and examined during the year was 3,508,825, being an increase of 958,409 over the preceding year, attributable mainly to the return of large numbers of Army and Navy letters which it was found impracticable to deliver.

During the year there were registered and remailed to the respective owners, as containing money, 25,752 letters, containing an aggregate of \$131,611 24, of which number 20,059, containing \$104,665 84, were delivered; 4,412 letters, containing \$20,485 49, were returned to the Department, being addressed chiefly to soldiers and sailors, and persons transiently at places of mailing or address.

The number of dead letters containing papers of value, other than money, as deeds, bills of exchange, drafts, checks, &c., received, registered, and returned for delivery to the owners, was 12,436, and the nominal value of the inclosures therein was \$1,615,694 75, being an increase over the previous year of 4,104, or about fifty per cent., while the increase in the value of the inclosures was but \$71,416 94. The number of these letters delivered was 11,378, or ninety per cent.

During the year 45,380 letters and packages were received containing photographs, daguerreotypes, and articles of jewelry. Of this number, 29,999 were sent out for delivery, 26,607 of which contained photographs and daguerreotypes, 1,410 articles of jewelry, and 1,982 other miscellaneous articles. Of the whole number sent out, 18,213 were delivered to either the senders or parties addressed, the postage on which amounted to \$1,944 24.

In May last a large number of packages containing miscellaneous articles which had been accumulating for several years, were classified and sold at public auction, the proceeds amounting to \$1,175 27.

The number of valuable dead letters registered and sent out for delivery was 68,187, being 23,574 more than the preceding year, and there were returned to the Adjutant General's, Quartermaster General's, and other public offices, 11,116 letters and packages containing muster rolls, descriptive lists, and soldiers' discharge papers; 66,691 letters containing postage stamps and money in less sums than one dollar, or articles of less than one dollar in value, were returned to the senders.

The number of letters which it was found impossible to forward from the offices where deposited, or to deliver to the parties addressed, because of the postage being unpaid, or on account of being illegibly directed, and which were in consequence sent to the dead letter office, was 115,812. Of this number, 72,074 were "held for postage," being addressed to foreign countries, to which the prepayment of postage is compulsory, or to those countries with which the United States have no postal arrangement; 38,068 of the number were "misdirected," or so imperfectly or illegibly addressed that their destination could not be ascertained. A large number of this last class were without any address whatever, and in many instances contained inclosures of value.

During the year there were received at the Department 5,112 applications for missing letters, for all of which examinations were made and the applicants notified of the result.

A large number of letters addressed to rebel localities have been returned from various sources to the dead letter office, amounting in the aggregate to 31,423, of which number 28,421 were of domestic, and 3,002 of foreign origin. They were all indorsed "mails suspended," and returned, the domestic to the writers, and the foreign to the countries in which they originated.

Within the past year, 4,256 letters addressed to fictitious persons or firms were sent by postmasters to the dead letter office, and thence returned to writers or senders. The addresses were assumed, evidently, for the purpose of conducting some fraudulent business, and in many instances these letters were found to contain remittances.

Under the provisions of the act approved January 21, 1862, 1,068,499 ordinary dead letters, or those not evidently worthless, were returned to the

writers, after having been placed in new envelopes. Out of this number, 4,044 were returned to banks and insurance companies, 90,856 to business firms, and 917,599 to individuals. Included in the above aggregate are 9,761 letters returned free of postage; these consisted of official letters from the various Departments, and letters sent to the various hospitals for sick and wounded soldiers. Forty-one thousand and sixteen dead letters written in foreign languages were also returned during the year.

About 24½ per cent. of the whole number sent out for delivery to the writers failed to be delivered, and were again returned to the Department.

The gross revenue derived from the dead letter postage collected on the letters sent out and delivered amounted to \$23,558 28, out of which were paid the clerks employed in directing them. The collection of postage on such returned letters complicates the accounts under the law fixing salaries for postmasters. These letters must be entered at the mailing, and then at the receiving office, and postage collected; and such as cannot be delivered must be credited to the postmaster when sent to the dead letter office. The aim of the Department is to have no unpaid letters in the mails, and to collect all revenues by means of postage stamps, avoiding the necessity of keeping accounts. In future postmasters are to enter in their accounts only unpaid letters, which are mostly from or to foreign countries, and it seems inconsistent to send thousands daily from this Department with instructions to enter them and collect postage. The amount is comparatively small, and yet the attendant labor very considerable. I therefore suggest, as a matter for the consideration of Congress, the propriety of restoring prepaid letters to the owners free of postage, especially in view of the fact that a very large proportion go to persons of moderate means.

The number of domestic letters of all descriptions sent out from the dead letter office during the year was 1,403,998. In addition to these, large numbers of letters, bearing requests for their return to the writers if unclaimed a specified time, are returned by postmasters without passing through the dead letter office, and constant efforts are made to promote this mode of return.

The number of letters returned unopened to foreign countries during the year was 162,591, the amount of unpaid postage on which was \$9,161 53. The number received from foreign countries in the same condition during the same period was 62,427, and the amount of unpaid postage thereon \$2,088 57. (For particulars see table No. 16 of appendix.)

During the first year of the rebellion the number of letters which passed between the United States and European countries decreased, while at the same time the ratio of letters returned increased. Each subsequent year the correspondence has been increasing, while the ratio of dead letters returned to Europe has decreased. (See table No. 17 of appendix.)

By authority of an act of Congress, the unclaimed money from dead letters is used to promote the efficiency of the dead letter office, by providing temporary clerks to assist in the examination and return of letters. The fund thus realized was \$5,083 47, to which was added the proceeds of the sale hereinbefore referred to—\$1,175 27—making a total of \$6,258 74. Deducting the amount expended for clerks, \$2,966 82, and incidental expenses, \$32 80, a balance remained June 30, 1864, of \$3,259 12.

#### POSTAL MONEY-ORDER SYSTEM.

The act approved May 17, 1864, authorized the Postmaster General to establish, "under such rules and regulations as he may find expedient and necessary, a uniform money-order system at all post offices which he may deem suitable therefor;" and it further provided that this system should be put into operation during the fiscal year ending June 30, 1865.

A superintendent and assistant have been appointed, one hundred and forty-one post offices have been designated as money-order offices, and the operation of the system commenced on the 1st instant.

38TH CONG... 2D SESS.

Report of the Secretary of the Interior.

SENATE &amp; HO. OF REPS.

## Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, December 5, 1864.

SIR: I have the honor to submit for your information, and the consideration of Congress, the following synopsis of results attained during the past year in those branches of the public service which have been placed by law under the supervision and control of this Department.

From the foundation of the Government to the present time the management and disposal of the public lands have engrossed a large share of the public attention. Of the 2,000,000,000 acres embraced in the territorial extent of the United States, 1,400,000,000 belonged to the public domain.

By a liberal policy in granting and selling lands, about one third of this vast patrimony has been disposed of, leaving about 1,000,000,000 acres still the property of the Government. About one fourth of all the laws that have been enacted by Congress relate to the public lands, and to the settlement of the land claims derived from the Governments which formerly had jurisdiction of the soil.

At some periods of our national history, a considerable income to the Treasury was derived from sales, and at others, the cash receipts declined to a sum but little exceeding the cost of administering the land system. During the first sixty years of the present century, the average income from sales was \$2,750,000 per year, and the quantity disposed of by sales, and for military bounties, was about 205,000,000 acres.

During the last ten years the income from lands was less than during the preceding decade. This was occasioned by the large quantities of land—granted for internal improvements and for military and other purposes—which have competed, in the market, with the lands of the United States; and, more recently, by the passage of the homestead law, under which large quantities have been entered at nominal rates. The annual receipts from ordinary sales for four years past have been as follows:

For the year ending June 30, 1861.....	\$884,887 03
For the year ending June 30, 1862.....	125,048 30
For the year ending June 30, 1863.....	136,077 95
For the year ending June 30, 1864.....	678,007 21

The depressing influences of civil war have been felt during the last three years, but the results for that just closed demonstrate a revival of the annual demand for the public lands, particularly for settlement and cultivation.

During the year ending June 30, 1864, public lands have been disposed of as follows:

Acres sold for cash.....	432,773.90
Acres located with military warrants.....	515,900.00
Acres located with agricultural scrip.....	214,418.14
Acres certified to States for railroads.....	857,180.87
Acres taken under the homestead law.....	1,261,592.61

Acres disposed of during the year.....	3,381,865.52
During the quarter ending September 30, 1864, the aggregate quantity taken for the same purpose was.....	939,476.90

Making a total of.....4,321,342.42

The cash receipts for sales, homestead and location fees for the same five quarters, were \$1,019,446 44.

The aggregate quantity of public lands surveyed, but not disposed of, was, on the 30th September last, 133,517,587 acres. This has been the average quantity for several years past. The amount surveyed annually has been about equal to that disposed of annually.

Nineteen States have accepted the provisions of the acts donating lands "for the benefit of agriculture and the mechanic arts," and have received land and land scrip amounting to 4,950,000 acres.

The jurisdiction conferred on this Department by the act of Congress of March 3, 1851, for the definite location of confirmed private land claims in California was taken from it by an act approved June 14, 1860, but has been recently restored under the act approved July 1, 1864. The quantity of land embraced in all the confirmations to the present date is 4,366,974 acres; of which 2,430,906.60 acres have been finally surveyed and patented. What remains to be done, in the important work of severing the private from the

public lands in that State, will be prosecuted with diligence, and brought to completion as rapidly as possible.

Under the acts of Congress of July 1, 1862, and July 2, 1864, making grants of land to aid the construction of railroad and telegraph lines to the Pacific coast, the initial point of the main line of railroad from the Missouri river westward has been fixed at Omaha, Nebraska, and the definite location of the road for one hundred miles west from that point has been approved by the President. The route of the Pacific railroad of California has been selected, and a map of the preliminary location thereof, from Sacramento eastward to the great bend of the Truckee river, in Nevada, has been filed in this Department. The lands along these routes for twenty-five miles, on both sides, have been withdrawn from market, pursuant to the requirements of the act of 1862.

In the administration of the laws regulating the grants of swamp lands to the States, and authorizing the allowance of indemnity in certain cases, where swamp lands have been sold by the United States, a liberal construction has been adopted and a generous policy pursued. No alteration of these laws is demanded by principles of justice. An extension of the indemnity, or of the time now prescribed by law for selecting swamp lands, would, in my opinion, be prejudicial to the interests of the United States.

The claim of the Missionary Society of the Methodist Episcopal church to lands at the Dalles of the Columbia river in Oregon, based upon the first section of the act of Congress approved August 14, 1848, having been brought before this Department upon appeal on the 27th of April last, I requested the advice of the Attorney General of the United States touching the law arising upon the facts disclosed by the papers in the case. On the 27th of May I had the honor to receive his reply, stating that, in his opinion, the question presented was "purely judicial, and not proper to be determined by an executive officer." In deference to this opinion, the Department declined making a decision in that and a similar case then before it. Proceedings in all such cases under that act have been suspended in the General Land Office and in the subordinate offices in Oregon.

For further details in reference to the public lands, I respectfully refer to the annual report of the Commissioner of the General Land Office.

During the past year additional discoveries of precious metals, particularly of silver, have been made in the region flanking, on the eastward, the extended mountain ranges of the Sierra Nevada. A vast belt of some one or two hundred miles in width, and eight or nine hundred in length, embracing portions of Idaho, Nevada, and Arizona, is rich in silver ore. Owing to the remote locality of these mines, and the difficulty of transportation thereto, but little machinery well adapted to the rapid and economical reduction of the various ores has been introduced. In that portion of Nevada through which the Pacific railroad will pass, many rich veins have been found, and it is estimated by persons familiar with the subject, that, if the mines now opened there were supplied with the proper machinery, they would yield \$10,000,000 per month. In the same region vast beds of salt have also been found, which, from its value in the process of separating the silver in the ores, has given a fresh impulse to mining. When we reflect that the region of country in which deposits of the precious metals abound includes large portions of three States and six Territories, and that the richest veins of ore heretofore discovered are as yet but slightly developed, while new discoveries are constantly made, it will be perceived that the annual product of the mines in the United States must soon reach a magnitude without precedent in the history of mining operations.

The wealth imbedded in the rocks of that extensive region is actually inexhaustible, and it will furnish in future years, indirectly, a principal part of our means of liquidating the debt contracted by the Government for the overthrow of the great rebellion. As a measure tending to accelerate the reduction of these vast mineral deposits into available wealth, and to strengthen the

The maximum amount for which a money order can be issued is fixed by law at thirty dollars, the object of the system being to afford a cheap, immediate, and safe agency for the transfer through the mails of small sums of money. The tendency of the system is to exclude money from the mails, the presence of which in letters is a frequent cause of the loss of correspondence; even when the latter does not contain money. The limit of thirty dollars is believed to be sufficiently large to include all that class of remittances now sent in money through the mails, but in exceptional cases more than one order can be procured. The average amount contained in each money letter received at the dead letter office during the fiscal year 1862 was \$4 53; during 1863, it was \$4 20; and in 1864, \$5 18; showing that, as a rule, money remittances by mail are made in small amounts.

The mode by which safety in the transfer of money is secured, consists in leaving out of the order the name of the payee or party for whom the money is intended. In this respect a money order differs from an ordinary bank draft or check. When a money order is applied for, the postmaster will furnish the applicant with a printed form of application, in which the latter will enter all the particulars of amount, the name, address, &c., required to be stated in the money order and advice. From the items contained in such application the postmaster will fill up the money order and also the corresponding form of advice. The order, when completed, is handed to the applicant, upon payment of the sum expressed therein and of the fee chargeable thereon. By the mail immediately following the issue of a money order, the postmaster transmits the corresponding advice to the postmaster at the office upon which it is drawn. The latter is thus furnished, before the order itself can be presented, with the necessary information to detect fraud, if any should be attempted. A money order is rendered invalid unless it is presented to the postmaster on whom it is drawn within ninety days from its date; but the Postmaster General can issue a new order on the application of the payee, upon the payment of a second fee. The same course is to be pursued should the order be lost. In this case, the payee is to furnish a statement, under oath, that the order has been lost or destroyed, accompanied by the certificate of the postmaster that it has not been paid, and will not be paid if thereafter presented. The payee may transfer his order to another party by his indorsement to that effect; but more than one indorsement is prohibited. Persons, therefore, residing at places in the vicinity of those designated in the list of money-order offices can generally avail themselves of this system.

In commencing the money-order business, it has been deemed expedient to begin with the larger offices, and extend it to others as rapidly as possible. Measures will also be taken for its introduction in the Army.

The establishment of the system in this country will no doubt lead to arrangements for the interchange of international money orders with the several foreign countries with which we have direct postal relations.

By the eleventh section of the act above referred to, postmasters are prohibited from depositing in any bank, money-order funds of which they have the custody. I would respectfully suggest that the business would be facilitated by enabling the postmasters having moneys from this source to deposit in the national banks designated by the Secretary of the Treasury as depositories of the public moneys, to their own credit, and at their risk, and thereby relieve the Department from the necessity of furnishing vaults and safes. Substantial advantages would also result to the public interests by permitting all deputy postmasters to deposit in these banks any public moneys in their hands, under like conditions; and I recommend such modification of the law as will authorize such deposits to be made under the direction of the Postmaster General.

I have the honor to be, very respectfully, your obedient servant,

WILLIAM DENNISON,  
Postmaster General.

The PRESIDENT.

public credit by an authentic publication of our vast resources, I respectfully recommend that provision be made for the appointment of experienced and skillful mineralogists to make a scientific examination of the principal mining localities, and of the mineral regions generally, and to report the results. Their reports should be printed and widely circulated. An appropriation would be required for these purposes.

Much interest has been manifested in favor of the establishment of a bureau of mines and minerals, to which the administration of all details in respect to this important subject should be committed. I am satisfied that such legislation will, before many years, be found necessary, if it has not already become so.

The attention of Congress has frequently been called to the importance of securing an income to the national Treasury from the products of the mines and placers. By the laws of Spain and Mexico, and according to the principles generally accepted in civilized countries, the property in these precious deposits is vested in the Government exercising sovereignty and jurisdiction over the soil.

The first annual report from this Department contained a number of suggestions relating to the protection of this property, and to securing a revenue from the annual products. Since that time the same subject has been frequently mentioned in the annual reports of this Department, but Congress has never taken legislative action. Sound policy dictates the propriety of levying a revenue tax upon those who are engaged in gathering individual wealth from this national property. The Bureau of Internal Revenue, recently established in the Department of the Treasury, furnishes a ready and suitable instrumentality for collecting it. The requirement of a moderate license fee from each person engaged in placer mining upon the public domain, and a reasonable tax upon the products of all mines, which might be graduated according to the cost of production, would be just to the Government and satisfactory to the mining interest.

When it is considered that a nominal tax of one per cent. upon the present product of the mines would yield a larger income than is now derived from the sales of the public lands, with an expense of collecting it comparatively small, and that the prospective revenue from this source is so great, the impolicy of granting the mines and mineral lands in fee, without consideration, must be apparent to all. It should, however, be borne in mind that the business of developing the mineral resources of those regions is yet in its infancy, and that all legislation bearing upon it should have for its object the increase of the annual products of the precious metals, and should, in its inception, be directed to the encouragement of the miner, by affording him security in his possessions and stability to his business, rather than to obtaining an immediate income to the Treasury.

With the prospect of returning peace, and the consequent increase of migration to the mining regions likely thereafter to ensue, it seems to be demanded of Congress that the rights of miners should be defined and secured by law, and the prosperity of those regions and the preservation of good order therein thus insured.

The mines of New Mexico and Arizona are probably not inferior in richness to any within the limits of the United States. Owing to their inaccessibility they are indifferently wrought. All efforts to make them available must necessarily be feeble and attended with but partial success until roads shall have been constructed through those Territories from the Atlantic States or from the navigable waters of the Pacific. Since the acquisition of this portion of our domain, now a period of seventeen years, the United States have received no income from the sale of lands within it, and but an inconsiderable sum from the sale of lands in southeastern California. It is believed that the larger portion of the land in that section, adapted to agriculture, is covered by Spanish and Mexican grants or set apart for Indian pueblos. There is therefore but a slight prospect that anything will be realized from sales of the lands, or that they will ever be located by homestead settlers. The wants and habits of the population

are not such as to give any assurance or afford any expectation that they will undertake from their own means to prosecute to a successful completion the roads necessary to the development of the vast mineral riches of the country.

A further discouragement to the settlement of Arizona and southern California has been the continued drought which has prevailed for the last two years, and from which most of the herds of cattle and sheep accustomed to graze there have perished.

The desert of California, known as the Colorado desert, covering a territory of nearly one hundred miles in extent, was evidently at one time watered by the Colorado river. Being for the most part depressed below the bed of that river, it is susceptible of reclamation from its present condition, by means of dams and acequias, the construction of which, although not difficult, is, without substantial aid from Congress, beyond the means of the inhabitants. These combined difficulties render it probable, nay, almost certain, that the Government will, under existing circumstances, derive no benefit either from the barren lands or from the mineral wealth which abounds in those Territories.

There can be no doubt that the public resources would be much increased by the immediate working of the mines to the extent of their capacity, and by the settlement of those regions by an enterprising and industrious population, though no direct income should be derived from the sale of the lands. It is therefore worthy of consideration whether it would not be expedient to grant all, or such portions of the lands, as are requisite to insure the construction of the necessary railroads, and the conversion of the sterile lands to a condition of fertility. The benefits resulting from such roads would not be confined to the product of the mines. A new highway, at all times exempt from obstruction by snow, would be open to the Pacific. Passing by the valley of the Rio Grande to El Paso, it would receive a large portion of the rich commerce of central and western Mexico. These benefits are so obvious and of such surpassing importance, that I do not hesitate in expressing my earnest conviction that the Government should embrace any suitable opportunity which may be offered to secure the completion of a railroad upon the terms suggested.

It appears from a communication of General Dix, the president of the Union Pacific Railroad Company, that it has, since the adjournment of Congress, expended more than half a million dollars upon the main line of the road leading westward from Omaha, of which one hundred miles have been permanently located, and forty miles are in process of construction.

The company has surveyed lines to Salt Lake City, through the South Pass, Laramie Plains, Bridger's Pass by way of Timpanagos and Weber rivers, to determine the most feasible route. Parties have also been engaged in explorations in Colorado Territory through Berthold's Pass and up the Caché la Poudre river, and also in examining the topography of the country in the vicinity of the one hundredth meridian of longitude, and in locating the line from Omaha to Fort Kearney. Considering the limited time which has elapsed since the action of Congress enabled this company to prosecute the work with energy, satisfactory progress has been made, and the country has no reason to apprehend any tardiness in the prosecution of this great enterprise.

The progress made in the construction of the branch road in Kansas, known as the Union Pacific railroad, eastern division, has not met the reasonable expectations of the public. There was just reason to believe that the second section of forty miles of that road would have been rapidly approaching completion, if not actually completed, by this time; instead of which, forty miles only of the track are laid, and that not yet in a condition to be examined by the commissioners appointed by the President to inspect and report upon the work.

For this unexpected state of affairs the company is not altogether without excuse. The assassination of its contractor in July last, soon after the adjournment of Congress, the continued insurmountable difficulties of obtaining the necessary materials, either by river or rail, from causes

known to all, prevented them for a time from prosecuting the work. Since these difficulties have been partially removed, a commendable energy has marked the conduct of the company. The first section of the road to Lawrence, to which place the track is laid, will undoubtedly be open to the public and in use within a few days. The company in California is also making satisfactory progress with its portion of the road.

The President has appointed George Ashmun of Massachusetts, Springer Harbaugh of Pennsylvania, Charles T. Sherman of Ohio, Jesse L. Williams of Indiana, and Timothy J. Carter of Illinois, to be directors, on the part of the United States, in the Union Pacific Railroad Company, and these gentlemen have accepted the appointment. The wisdom of Congress in providing for the appointment of such officers cannot be doubted.

Being impressed with the conviction of the importance of securing the interest of the Government in the roads connecting with the main line, and the faithful compliance, by the companies constructing them, with the terms and conditions upon which they are entitled to the munificent bounties offered by Congress, I should not hesitate to recommend, if it were deemed practicable, that such directors should be *ex officio* members of the board or other governing authority of each of such companies. I submit this subject to the consideration of Congress, with the hope that some means will be devised by which a supervisory control over the action of such companies may, within proper limits, be conferred upon the directors on the part of the United States.

The management of the Indians during the past year has been attended with difficulty. In addition to the war against that portion of the Sioux that committed the massacres in Minnesota in 1862, and who are yet unpunished and unsubdued, military operations have been carried on against the combined bands of the Sioux of the plains and of the Upper Missouri, as well as against a considerable portion of the Cheyennes and Arapahoes, particularly those who have been accustomed to inhabit the country of the Upper Platte river, and who were parties to the treaty of Fort Laramie. It is not necessary to inquire whether, by adopting conciliatory measures, these military operations might not, to a great extent, have been avoided. Those who desire to investigate the subject may, with advantage, consult the report of the Commissioner of Indian Affairs. The question of interest is, what course shall hereafter be pursued with these Indians in order to reduce them to subjection, and to afford all needful protection to our citizens? The overland mail to Colorado, and to the States and Territories west thereof, as well as a large proportion of the carriers of goods, and of the emigrants to those regions, passes over the Laramie plains, which are infested during a large portion of the year by these Indians. The route of the Pacific railroad passes through the same country, and the Government is, by act of Congress, under obligation to extinguish the Indian title. The Government has but one treaty—that of Fort Laramie—with the Sioux (of Dakota) and with the Cheyennes and Arapahoes between the forks of the Platte river, which these latter Indians have ever acknowledged. This treaty was ratified by the Senate with amendments, and its benefits to the Indians, by virtue of the limitations imposed by the Senate, are about to terminate. A sufficient reservation for the Cheyennes and Arapahoes has been established on the Upper Arkansas, in the vicinity of Fort Lyon, and efforts have been made which promise success to make it a suitable and permanent home for them. The treaty referred to forbids the occupation of the Platte country by the whites, and only permits their transit through it.

To enable the Union Pacific Railroad Company to establish its line of road through this country, it is necessary that the United States shall have the unmolested possession of the route, and of much of the adjacent country. To secure that object, however, I do not think it important that any further treaties should be made with these Indians. Their violation of the existing treaty, in making war upon our people, renders this unne-



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## Report of the Secretary of the Interior.

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cessary, if the views which are hereinafter expressed shall be approved by Congress. As the most expeditious mode to accomplish the object, it is recommended that the agency at the Upper Platte be abolished, and that the number of military posts along the line of the railroad and overland mail route be increased sufficiently to protect it and exclude the Indians therefrom.

This Department will make provision for such Indians as will submit to its authority and locate upon the reservation. Those who resist should be pursued by the military, and punished.

With these Indians—the Sioux—and all others in hostility with the United States, trade and intercourse should be interdicted until they yield to the will and direction of the Government. To this end, I recommend that a law be passed, making it a penal offense for any person to carry goods, or supplies of any kind whatever, into their country, for traffic; and that all persons, of whatever pursuit, shall be prohibited from trading or trafficking with them while they are in a state of hostility.

Much has been said, and the public mind has lately been agitated, against the policy of the Government in making treaties with Indian tribes, and some persons in authority advise an abrogation of all existing treaties; but it is presumed that, while this nation is governed by the rules of civilization, such a proposition will not be entertained to the injury of all the tribes and nations of Indians who are in amity with the United States. Where the Indians have kept faith with the Government, no question of expediency or policy will justify a violation of its pledges to them. There are, however, many Indians within the domain of the United States, with whom the Government has no treaties acknowledging the primary right of soil in the tribes; with these, possibly, with some exceptions, it would be wise to abstain from making any treaty recognizing such right. Suitable reservations should be selected for them, and means adopted to establish them thereon, and to enable them, by their own industry, to sustain themselves. This policy has already been introduced successfully in the management of the Indians in California, and may properly be applied, to a considerable extent, in the neighboring States and Territories. In negotiating new treaties, where good policy or existing engagements will admit of that course of action, stipulations for the payment of money annuities should be avoided.

The propriety of the removal of the Navajos of New Mexico and Arizona to the Bosque Redondo reservation has been a subject of much contrariety of opinion. This Department, upon the best information at its command, consented to their removal. As the reservation has been set apart, and a large sum of money expended by the military authorities in the endeavor to permanently establish the Indians there, great fickleness of purpose would be manifested in abandoning the enterprise before it shall have been fully and fairly tested. I am strongly inclined to the opinion, notwithstanding all that has been urged against it, that, if the scheme receives a fair and just support, it will prove a success, and these Indians, so long the foes of the Government, will become its faithful supporters.

For further and detailed information on the subject of Indian affairs I respectfully refer to the elaborate report of the Commissioner.

The liberal provisions of law for the payment of pensions to soldiers and seamen who have been disabled in the service of the country, and to the widows, orphans, and dependent mothers and sisters of such as have fallen in battle or died of disease or wounds, have been administered with industry, fidelity, and promptitude.

The very interesting and instructive report of the Commissioner of Pensions affords valuable information, and presents important suggestions, in which I fully concur.

Of those patriots to whom pensions for services in the revolutionary war had been awarded five still survive at very advanced ages. At the beginning of the year twelve were living, and 1,418 widows of revolutionary soldiers were receiving pensions, making 1,430 pensioners of this class—the aggregate of whose yearly stipends was \$115,217 43.

The number of Army pensioners (other than

revolutionary) who were paid during the fourteen months ending the 30th of June last was 22,767, and of widows, (other than revolutionary,) orphans, and dependent mothers, 25,433.

The total number of persons who received pensions during that period was therefore 49,630, and the amount paid for Army pensions during the year ending June 30, was \$4,340,368 60.

The number of Navy pensioners who were paid during the fourteen months preceding the date mentioned was 1,505; and the amount of money paid them during the year was \$164,247 92. The whole number of pensioners on the 30th June last was 51,135, requiring, for their annual compensation, \$4,595,376 33.

During the year ending September 30, 1864, 1,812 bounty land warrants were issued, requiring 286,960 acres of land to satisfy them.

The act of Congress, approved July 14, 1862, entitled "An act to grant pensions," is believed to be one of the wisest and most munificent enactments of the kind ever adopted by any nation. Its beneficial provisions extend to the disabled survivors, and to the widows, orphans, dependent mothers, and dependent orphan sisters of the deceased soldiers and seamen of every grade and rank.

During the past year more than \$3,500,000 have been paid for pensions granted on account of disability or death ensuing from service in the war of the rebellion. During the continuance of the war, no reliable estimate can be made of the amount of money that will be required eventually to meet the obligations thus assumed by the Government to our soldiers and seamen.

The list of pensioners is constantly undergoing both increase and diminution, and at present, and for months to come, it must be rapidly augmented, even should peace be restored without further hostilities. It is estimated that more than \$7,000,000 will be required to satisfy the claims accruing under the pension laws during the current fiscal year.

In fixing the grade of disability of invalid pensioners, and in discriminating as to the connection of the causes of disability or death with the service, the Pension Office is often involved in doubt and uncertainty.

It is believed that a commission of experienced surgeons might devise and mature such a schedule of usual causes of disability and death, in cases where pensions have been and are claimed, as would greatly aid the Pension Office in reaching correct conclusions—in discriminating between those cases where the cause should be regarded as incident to the service, and those in which the cause has no relation to, or connection with, military or naval duty. While it is conceded that, in cases of great doubt and uncertainty, conclusions should be in favor of claimants, all must agree that a wise precaution should be taken to guard against mistakes, and that every means of enlarging information upon the topic suggested must be promotive of justice both to claimants and to the Government.

The report of the Commissioner of Pensions shows the importance of the provisions of law requiring periodical examinations of invalid pensioners, and contains a list of the names of the examining surgeons.

This Department has recently been advised that, under the joint resolution of Congress, approved July 1, 1864, the sum of \$5,000,000 of the Navy pension fund has been invested in registered bonds of the United States.

I commend to the consideration of Congress the suggestion of the Commissioner, that an appropriation for pension purposes should be made of a portion of the proceeds of abandoned and confiscated property on land. It occurs to me as eminently proper that some of the means derived from these sources should be applied to the establishment of homes for those who have been, or may hereafter be, permanently disabled and rendered helpless by reason of their service during the existing war.

It was recommended to Congress at its last session that an act be passed requiring the national banks to discharge the duties of pension agents. It was believed that by that instrumentality the convenience of the pensioners would be greatly promoted, and the expense attending the employ-

ment of agents avoided. Since the adjournment of Congress, communications have been received from most of those banks, expressing a willingness to perform the duty without charge to the Government. I renew the recommendation that a law be passed charging the banks with the payment of pensions whenever it shall be the pleasure of the Department to require it of them.

Since the last annual report of this Department, seven additional agencies for paying pensions have been established, and it is believed that the number now in operation will be sufficient to transact the business, should the present system of payments be continued.

The business operations of the Patent Office for the year ending September 30 last have been very satisfactory. During the period above named, 6,740 applications for patents and 989 caveats were filed; 29 applications also were made for the extension of patents previously granted. During the same period 4,843 patents, including reissues and designs, were issued, and 40 extensions granted. The number of applications awaiting the payment of the final fee required by law before patents can be issued has largely increased, numbering now over 1,000. The finances of the office are in a prosperous condition, as appears by the following short statement:

The balance in the Treasury to the credit of the patent fund on October 1, 1863, was \$37,732 63. The receipts of the office to September 30, 1864, amounted to \$230,838 60, making a total sum of \$268,571 23. The expenditures during the same period were \$212,453 84, leaving a balance of \$56,117 39 on hand on October 1, 1864, being \$18,384 76 more than the balance as exhibited on October 1, 1863.

The report of the Commissioner of Public Buildings presents many details of interest to the citizens and residents of this District, and contains information in respect to the manner in which various appropriations for local purposes have been applied. The condition of the streets and avenues of Washington city is a matter of frequent and just complaint. The United States has never assumed any general jurisdiction of the subject, although appropriations for improving the avenues have been frequently made.

The city authorities, apparently relying upon the liberality of Congress, have abstained from making expenditures in improving and opening streets commensurate with the constant increase of population and business. This state of affairs is likely to continue until a definite arrangement is established between the Government and the city in relation to the matter under consideration. I therefore renew the recommendation made last year, that street commissioners should be appointed to determine the description and extent of the annual repairs and improvements to avenues, streets, and alleys; and that the funds requisite should be provided by the United States and the city in proportions to be fixed by law. The property-holders of Washington, moved by a just pride in the prosperity and beauty of the city, will not hesitate to tax themselves liberally to maintain a constant and efficient system of street improvement. The present rate of municipal taxation, for all purposes, is about one per cent. on real and personal property, which is less than is paid in any other city with which I am acquainted. The tax-payers here are not charged with the expense of maintaining a State government, or those institutions of a benevolent character which are usually sustained by other communities, and they will not shrink from taxation for local purposes, when their property is yielding a rate of income equaled in few other cities and towns of the country. The propriety of these remarks is still more apparent, when it is considered that the expenses of the judicial tribunals for both civil and criminal business, and of the police force, are principally paid by the Government; and are not charged to the property-holders of the city or District. Recognizing, however, the duty of the Government to make provision for the improvement and repair of streets extending through public grounds, and to aid in keeping in a suitable condition such as are in front of the public buildings, I would respectfully recommend that provision be made by Congress for paying F street, between Seventh and Ninth streets. The

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*Report of the Secretary of the Interior.*

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Nicholson pavement, by reason of its durability, smoothness, and elasticity, has met with marked favor. In view of the probability that measures will be adopted by Congress providing some plan for suitably paving Pennsylvania avenue, and other principal thoroughfares of the city, I have obtained an estimate of the expense of laying the Nicholson pavement in F street, along the southern front of the building occupied by this Department.

By joint resolution No. 56, of June, 1864, the Secretary of the Interior was, among other things, directed to "prevent the improper appropriation or occupation of any of the public streets," &c., in the city of Washington. One of the objects of this resolution evidently was to prevent the rebuilding of the Center market-house upon its present site. Notice was accordingly given to the authorities of the city to desist from the erection of the building that had just been commenced, and they thereupon suspended the work upon it. The authorities manifest a commendable disposition to make this necessary improvement in such place and manner as will meet the approbation of Congress.

The substantial and rapid progress of the city for the last three years, its increasing and energetic population, and the certainty of its future prosperity, evince the importance of immediate action having for its object the improvement of its sewerage, the cleansing of the canal—so as to correct, as far as possible, its present unwholesome and offensive condition—and the adornment of the streets and public grounds, thereby making the metropolis of the nation healthy and attractive. To that end, in addition to the suggestions contained in my last annual report, it is recommended that Congress provide by law for the removal of the Center market-house from its present site, and the extension of the Smithsonian grounds to Pennsylvania avenue. It is also advised that the public reservations bordering on the canal and adjoining the Smithsonian grounds be added thereto. The enlarged area which the proposed change would give to these grounds, their adornment by the planting of trees and shrubbery, and the erection of fountains, would add greatly to the comfort, health, and pleasure of a populous portion of the city, and be most agreeable and attractive to transient visitors. The space occupied by the canal from Seventh street to Sixth street and the contiguous reservation, would afford ample room for the market-house. The expense of making this space available is not worthy of consideration, in view of the substantial benefits to be obtained by extending the Smithsonian grounds to the avenue. It is believed that Congress may, without interfering with any right of the city of Washington, make such disposition of the canal as it shall deem proper; and if it should be determined to extend the sewer, now being constructed through the botanic garden, along and in the canal to the river, and to fill up the residue of the canal, there can be but little doubt that the grounds thus reclaimed for building and other useful purposes will be equal in value to the expense of this improvement.

The approaching completion of the Capitol, under the direction of the architect, Mr. Walter, imparts much interest to his report upon that and kindred subjects. Accompanying it are plans and drawings of the surrounding grounds which he proposes to add to those of the Capitol, in order to render them, in his opinion, reasonably spacious and suitable to the building. His views appear to me to be correct and judicious. They do not require the purchase of any private property, and should they be adopted by Congress, it is recommended that measures be taken and the necessary appropriations be made to grade, embellish, and inclose the grounds.

Owing to the increased cost of construction, additional appropriations for the completion of the work are necessary. I refer to the report of the architect for particulars upon this subject.

The east and west wings and the north front of the building occupied by this Department have never been thoroughly repainted since their erection. The pavements of the corridors in the south front, now much worn, and partly laid with bricks, should be relaid with marble, so as to conform to those in the newer portions of the building. For

these purposes an estimate for an appropriation has been submitted.

The work upon the Potomac dam and Washington aqueduct, authorized at the last session, has been prosecuted with all practicable dispatch. The extreme scarcity of skilled labor and well known local causes have, however, seriously impeded its progress; and its condition is not so far advanced as was confidently anticipated. An appropriation of \$51,945 is required to pay for the work now under contract, and which should be completed before the close of the present fiscal year. The report of the engineer contains full information in regard to the expenditures hitherto made, as well as those that will be required to finish the aqueduct in a proper manner.

The ninth annual report of the Board of Visitors of the Government Hospital for the Insane shows that the institution has rendered very valuable service to the country during the past year. The whole number of patients under treatment during the year ending June 30, 1864, was 787, of whom 565 were from the Army, 35 from the Navy, and 6 were rebel prisoners. The number of patients remaining at the end of the year was 351, of whom 191 were from the Army, 18 from the Navy, 4 from the rebel army, 2 from the Soldiers' Home, and 136 from civil life. The number discharged during the year as "recovered" was 288, "improved" 69, "unimproved" 5, deceased 74; total 436. The financial exhibit made by the board in their report is satisfactory. The extended service performed has necessarily involved an expenditure somewhat beyond the appropriation. The deficiency will, I doubt not, be supplied by Congress. The report of the superintendent points out the improvements upon the buildings and grounds that are deemed desirable.

The Columbia Institution for the Instruction of the Deaf and Dumb and the Blind appears, from the annual report of the board of directors, to be in a prosperous condition. Hon. Amos Kendall, to whose liberality and philanthropy it is indebted for its existence, retired from the presidency thereof some months since and was succeeded by Mr. E. M. Gallaudet, its former efficient and accomplished superintendent. A collegiate department for the deaf and dumb has been inaugurated under the recent act of Congress authorizing the board to confer degrees. The Potomac water has been conveyed to the premises; but the arrangements for lighting the building with gas have not been completed. The appropriation of \$26,000 made at the last session of Congress for enlarging the grounds has been expended in the purchase of nearly fourteen acres contiguous to the former premises on the north and west. The number of pupils on the 1st day of July, 1863, was fifty-two, and on the 1st day of July, 1864, fifty-eight. During the year eighty-one have received instruction, of whom seventy-two were mutes, and nine blind; and at the date of the report there were seventy-three pupils.

The State of Maryland having established an institution at Baltimore for the blind, the board has expressed the opinion that the blind of this District, on account of their small number, could be better instructed at Baltimore, and has recommended that their transfer to and support in that institution be sanctioned by law. This recommendation is submitted to the consideration of Congress.

The report of the president of the board of police commissioners, prepared in obedience to the requirements of the fourth section of the "act to create a metropolitan police district," &c., gives information in respect to the service performed by the officers and men during the past year. The number of patrolmen is one hundred and fifty, officered by a superintendent and ten sergeants. The police district embraces about seventy square miles, with a population of 150,000 or 160,000 souls. The number of arrests made during the past year was 23,545; of those thus arrested there have been committed to jail 1,010; given bail for appearance at court, 586; turned over to military authorities, 2,271; committed to the workhouse, 1,223; entered into bond to keep the peace, 710; punished by fine, 8,743; other punishment of a light nature, 343; dismissed, 7,757; cases, of which final disposition was not reported, 902. The fines imposed amount in the aggregate

to \$33,197 50. The police force during the same time has furnished lodgings to 2,483 destitute persons found in the streets and highways, restored 102 lost children, and assisted to carry 170 disabled persons to hospitals, besides taking up estrays, giving fire alarms, and attending to many other similar duties. A detective corps and a sanitary company have been in successful operation. During the year a fire-alarm and police telegraph has been erected. This will prove to be of very great value in rendering the police force more effective, and in insuring the safety of property against the ravages of fire and the dangers of riot. It is believed that after this telegraph has been used for a few months, and the members of the police have become familiar with the very many uses to which it may be applied, the necessity of an increase in the number of policemen will not be felt as heretofore. I respectfully recommend that an appropriation be made by Congress to meet the expense incurred.

The warden of the jail in the District of Columbia, appointed by authority of the act of Congress, approved February 29, 1864, entered upon his duties on the 11th of April last. The average number of prisoners since that time has been about one hundred, though occasionally much greater. The jail has become dilapidated and insecure, and a new and more spacious one should be erected. This recommendation has been submitted by my predecessors for several years past, and at one time the Senate called upon this Department to furnish a plan and estimate for this object. Congress, however, has never authorized the erection of such a building. The necessity for it increases with the increase of population and of transient sojourners in Washington, and is undeniably much greater to-day than heretofore. I have considered carefully the suggestion of the warden, that ample means for the construction of such a building might be obtained by the sale of the vacant square on which the jail now stands. This square, so near to the Capitol and Smithsonian grounds, will not be necessary for beautifying the city, or for affording it ample ventilation. According to an estimate which has been submitted to me, it contains four hundred and thirty-five thousand two hundred and eighty-six square feet of ground, which, if laid off into lots and sold, would at present prices command a large sum. The new jail might be located upon the square on which the City Hall stands, in the rear of that building. If erected after the most approved modern plan, it would not prove detrimental to private property, while the erection of dwellings or buildings for business purposes, upon the square which it is proposed to sell, would tend greatly to enhance the value of private property in the vicinity. The warden of the jail, and the grand jury that served at the June term of the court, as well as the police commissioners, have called attention to the large number of juvenile offenders in the District, and to the great impropriety of incarcerating them with veterans in crime. Youths so treated are often discharged from jail more depraved than when they entered it. The recommendation made last year in favor of the erection of a house of correction for such offenders is respectfully renewed. It should be so regulated as to combine punishment with means of instruction and reform. The necessity for the erection of a penitentiary in this District was fully set forth in the last annual report of this Department. Additional force cannot be given to the recommendation then made by a repetition of the views therein presented.

The clerical force engaged in the compilation of the statistics of the census becomes gradually less with the progress of the work devolving upon it, and its duties should be completed at an early period. The volume on population has been printed and distributed, and meets with favor throughout the country. That on agriculture is nearly ready for distribution, and the subsequent volumes will appear in succession; the whole presenting a complete exhibit of the material interests and progress of the country up to the period of the rebellion.

The numerous demands of States, Departments, members of Congress, and individuals for statistical information, illustrate the importance of the organization of a permanent bureau of statistics, heretofore recommended to Congress. The

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maintenance of such a bureau, charged, among other duties, with that of compiling the census returns and superintending the publication thereof, will not, it is believed, be attended with any additional expense to the Government.

The building occupied by the United States for the use of its courts in the city of New York is held under an expired lease. Notice has been given by the lessors that it is their intention to sell the premises as soon as the fair value can be obtained therefor. The attention of Congress to this subject is earnestly solicited, and an appropriation is recommended adequate to the purchase of a building adapted to the service.

The enforcement of the measures adopted by Congress for the suppression of the African slave trade has been attended by the most auspicious results. It is believed that in no port of the United States has a vessel been fitted out to engage in that nefarious traffic. Several prizes have been taken before the mixed courts of justice sitting at Sierra Leone and the Cape of Good Hope, but the result has not yet been communicated to the Department.

I am, sir, respectfully, your obedient servant,  
J. P. USHER, Secretary.  
To the PRESIDENT OF THE UNITED STATES.

### Report of the Secretary of the Treasury.

TREASURY DEPARTMENT, December 6, 1864.

In presenting to Congress his annual report on the state of the finances, in obedience to the requirements of law, the Secretary of the Treasury feels that, while there is no occasion to distrust the ability of the people of the United States to bear the great and increasing burdens imposed upon them by the arduous and prolonged struggle for national existence in which they are engaged, there is, nevertheless, much in the financial condition of the Government which requires careful and anxious consideration. Among the serious duties devolved upon him, the Secretary recognizes a full and clear exposition of that condition as first in importance, in order that the wisdom of Congress may provide a remedy for existing evils, and guard against the recurrence of similar evils in the future.

The Secretary's assumption of office was so nearly coincident with the commencement of the present fiscal year that he would be naturally impelled to begin by stating the exact condition of the Treasury upon that day. Before proceeding to do so, however, a brief review of the financial measures adopted since the outbreak of the rebellion, and of their operation and effect, may not be without value in endeavoring to arrive at just conclusions with regard to the future.

On the 4th day of March, A. D. 1861, the national debt was, comparatively, so inconsiderable as hardly to deserve the name. Accustomed to a degree of prosperity before unexampled in the history of nations, the people of the United States had grown rich and powerful, without being conscious of national burdens, and equally unconscious of their own vast and increasing ability to sustain a weight which, could it have been anticipated, might have seemed altogether beyond their strength. Unaccustomed, for a long course of years, to great national efforts, it was fortunate that their power of endurance should be tested only by degrees, as the struggle which Providence had prepared for them developed its vast proportions, and the necessity of great and long-continued effort became apparent. Had it been then foreseen that what was believed to be a contest for months was to be continued for years, and that hundreds of millions of public debt would be swollen into thousands of millions before the close of that contest, it may well be doubted whether, ignorant as they were of their own immense resources, the people might not have shrunk appalled from an undertaking which contemplated sacrifices so far exceeding all former experience.

In his first report to Congress, made on the 4th day of July, 1861, my predecessor estimated the whole amount required for the service of the fiscal year ending June 30, 1862, at \$318,519,581 87. To meet this anticipated expenditure, Congress, by an act approved July 17, 1861, authorized a loan of \$270,000,000, which, with the ordinary

revenues, was considered an ample provision for the exigencies of the year. By an act approved August 5, 1861, Congress further authorized a direct tax of \$20,000,000, and a tax of three per cent. on the excess of all incomes over \$800 per annum. It was not anticipated, however, that any revenue, derived from the last-mentioned sources, would be available within the year.

Experience proved that the estimate of the Secretary, though founded on what seemed to be reliable data, was altogether inadequate; and in his report of December 9, 1861, he was compelled to ask Congress to provide for a probable deficiency of \$213,904,427 62. In the same report he estimated the expenditures of the fiscal year commencing July 1, 1862, at \$475,331,245 51.

On the 30th of December, 1861, and soon afterwards, most of the State banks suspended specie payments.

In view of this condition of affairs, and of the large appropriations called for to meet the public wants, Congress passed various laws, which need only be alluded to. It had become manifest that, while much the largest portion of the amount required must be provided by loans in some form, resort must be had to a wider and more stringent taxation in order to preserve the credit of the Government. Accordingly, the act of July 1, 1862, called the internal revenue law, was passed, providing for a levy of duties on various domestic manufactures, upon trades and occupations, and also providing a system of stamp, income, and other duties. This important measure, it was hoped, would, in connection with the duties on imports, and the sums derived from other sources, furnish such a proportion of the revenue needed as would place the national credit upon a stable foundation, through the evidence thus afforded of a readiness to impose on the present a reasonable share of public burdens, leaving to the future no more than in justice it ought to bear. If these hopes were not realized, the disappointment was, perhaps, imputable, in a great degree, to the facts that the system adopted was one to which the people had not been accustomed, that the machinery was complicated, the officers who were to execute it inexperienced, and that sufficient allowance was not made for the important element of time, which alone can give to any such system the requisite efficiency.

With a like view to increase the revenue, and to sustain our own industry under the burden imposed by the internal revenue law, Congress, by an act approved July 14, 1862, largely increased the duties on imports. It was justly believed that these measures could hardly fail to inspire confidence in the ability and purpose of the nation to meet all its obligations in the present and the future.

The necessities of the Treasury were, however, immediate. To raise money in large amounts by taxation, and even by loans, requires more time than can always be afforded with large armies in the field and great navies afloat. The demands of war are imperative, and cannot await the slow process of financial negotiations. To meet a demand thus urgent, Congress, by acts of February 25 and July 11, 1862, saw fit to authorize the emission of United States notes to the amount, including \$60,000,000 of Treasury notes previously authorized, which were to be redeemed and canceled, of \$300,000,000, as a substitute for coin, declaring them a legal tender for debts, public and private, and clothing them with all the requisites of currency. These notes were convertible, at the will of the holder, into bonds of the United States, paying interest at six per cent., semi-annually, in coin, to secure which the revenue from customs, also payable in coin, was specifically pledged. The same act of February 25, 1862, authorized the issue of bonds to the amount of \$500,000,000, increased subsequently to \$511,000,000, redeemable after five years, and payable in twenty years from date.

Notwithstanding the ample provision supposed to be made by Congress for the expenditures of the fiscal year ending on the 30th of June, 1863, the report of the Secretary, submitted on the 4th of December, 1862, showed a deficiency for the current year of \$276,912,517 66; while the estimated amount of expenditures over receipts from ordinary sources for the succeeding year was \$622,388,186 56. To provide for the aggregate of these amounts, Congress, by an act

approved March 3, 1863, authorized the loan of \$300,000,000 for the then current, and of \$600,000,000 for the then next fiscal year. By the second section of the same act the Secretary was authorized to issue, as a part of said loan, \$400,000,000 in amount of Treasury notes, bearing interest at a rate not exceeding six per cent. per annum, payable in lawful money, which notes, payable at periods expressed on their face, might be made a legal tender at their face value. By the third section \$150,000,000 in amount of United States notes, of a like character with those previously issued under the provisions of former acts, were authorized as a part of said loan.

It will be seen that by the several acts of Congress referred to, Government paper, as a substitute for coin, under the respective designations of United States notes and Treasury notes, might be issued to the amount of \$850,000,000, namely: United States notes, not bearing interest, to the amount of \$450,000,000, but of which \$50,000,000 were to be held in reserve for the redemption of temporary deposits, and to be replaced as soon as possible, thus leaving the whole amount intended for circulation but \$400,000,000; and \$400,000,000 of Treasury notes, bearing interest, and which it was hoped and believed would not remain in circulation, as they could be made a legal tender only for their face value, without interest.

In the preceding enumeration of the several acts passed by Congress with a view to provide the large means required to meet annual expenditures to a period including the fiscal year 1864, no reference has been made to several auxiliary measures, designed to meet the exigencies of the hour, but neither enlarging nor diminishing the amount required, and serving no other purpose than a mere temporary resource. Of such was the act of March 1, 1862, authorizing the issue of certificates of indebtedness, payable one year or less after date, with six per cent. interest, and the several acts authorizing the Secretary to receive deposits at the Treasury for a period not less than thirty days, to be repaid at ten days' notice. Of a somewhat similar character, from its necessarily limited amount, is the fractional currency authorized by the fourth section of the act of March 3, 1863.

The object of the Secretary in calling attention to these various acts of Congress in connection with the estimates of his predecessor is to show—

First. The utter impossibility, in times like the present, of ascertaining with any degree of certainty prospective demands upon the Treasury. Estimates, apparently on the most liberal scale, may be, as they have been, found inadequate. Hence arise large deficiencies, occasioned by an unexpected increase of military force in the first place, and upon a rise of prices for material invariably consequent upon military operations conducted upon a gigantic scale, even if the currency could be maintained in a sound and natural condition.

Second. The difficulty of fixing upon any policy not subject to the contingencies of the hour. It is, in the Secretary's judgment, not only difficult but impossible to apply fixed rules to a condition of affairs constantly changing, or to meet contingencies which no human wisdom can foresee by a steady application of general laws, especially in a Government, and with a people, where public opinion is the controlling element, and that opinion is not under the direction of those who may happen to administer public affairs. Accordingly it has been seen that the attempt to conduct financial operations, on so immense a scale, upon a strict specie basis soon proved impracticable.

Resort to some other species of currency of a national character became unavoidable, as was unanswerably demonstrated by my predecessor in his report of December, 1862. Fraught with danger as Government paper has almost invariably proved, there was, under the circumstances, no other resource. Of course, the danger increases with enlarged demands upon the Treasury, growing out of increased expenditures, a rise of prices occasioned by an increase of taxation on articles of consumption, the withdrawal of labor from productive pursuits, accompanied by an aggravated demand for products and material incident to a state of war. The problem to be solved is how to mitigate the evil, if it cannot be wholly avoided. If loans can be negotiated at reasonable rates, and



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the Treasury can be thus kept in a condition to meet current demands, it is not difficult to restrain the circulation of Government paper within safe limits. But this, not always certain in a time of peace, though with abundant resources it always should be, is often impossible when war upon a large scale, and long continued, has created distrust. Hence it has followed that, under the acts referred to, our bonds have assumed various forms, to suit what was supposed to be the choice of lenders. Our notes have shown a similar diversity of character, while it has been found impossible to avoid the necessity of using them to an extent which could not but aggravate the troubles incident to the necessities of our condition.

Yet, though forced to resort to the issue of paper for the time, the idea of a specie basis was not lost sight of, as the payment of interest on long loans in coin was amply secured. And though in several of the acts authorizing the issue of bonds at long periods payment of the principal at maturity in coin is not specifically provided, the omission, it is believed, was accidental, as there could have been no intention to make a distinction between the different classes of securities in this regard. It is respectfully recommended to remove all doubt upon this point by proper legislation.

Although the wisdom of thus securing the payment of interest on bonds in coin has been questioned, and the pledge of the receipts from customs, to be collected in coin for that purpose, has perhaps facilitated the operations of those disposed to enhance the price of gold for speculative purposes, the Secretary is of the opinion that these measures were not only wise but necessary at the time, and greatly aided in sustaining public credit.

The expenditures for the preceding fiscal year so slightly exceeded the estimates of the Department, that at the last session of Congress it was not considered necessary to increase the amount authorized to be borrowed by existing laws. Experience had shown, however, that some changes of form were advisable. By an act approved March 3, 1864, authority was given to the Secretary to issue bonds to the amount of \$200,000,000 in lieu of so much of the loan authorized by act of March 3, 1863, redeemable after any period not less than five years, and payable not more than forty years from date. At a subsequent period of the session, June 30, 1864, the authority conferred by the first section of the act of March 3, 1863, was repealed, except so far as it affected an amount of \$75,000,000 then advertised, and power was given to borrow \$400,000,000 on bonds redeemable after five years, and payable not more than forty years from date. By the second section of the same act authority was conferred to issue, in lieu of the same amount of bonds, \$200,000,000 in Treasury notes, which might be made a legal tender at their face value, bearing interest at a rate not exceeding seven and three tenths per cent., payable in lawful money, and convertible, at the pleasure of the Secretary, into bonds issued under the authority of said act. The Secretary was further empowered to substitute for Treasury notes issued under former acts an equal amount of notes such as were therein authorized.

A table is appended to this report, showing the amounts issued under the several acts hereinbefore referred to, to the beginning of the present fiscal year, from which it appears that, by the laws in force on that day, the Secretary had authority to borrow, on the credit of the United States, the amounts following, namely:

1. Under the act of March 3, 1863, so much of \$75,000,000 advertised previously to June 30, 1864, as had not been awarded to bidders.....	\$33,459,700 00
2. Under the act of March 3, 1864, so much as had not been subscribed for, and paid into the Treasury, namely.....	127,693,530 00
3. Under the act of June 30, 1864.....	400,000,000 00
4. Amount of Treasury notes issued under former acts, which had been redeemed and canceled, and which the Secretary was authorized to replace by notes issued under the act of June 30, 1864.....	62,191,400 00

Total available resources under laws authorizing loans.....	622,254,630 00
To this may be added the actual balance in the Treasury, July 1, 1864.....	18,842,588 71
Total.....	\$641,097,208 71

A statement of the receipts and expenditures, estimated and actual, for the year ending June 30,

1864, will show how this balance in the Treasury is obtained, and the increase of the public debt during the year, namely:

RECEIPTS.		
	Estimated.	Actual.
From customs.....	\$72,562,018 42	\$102,316,152 99
Lands.....	436,182 09	588,333 29
Miscellaneous.....	5,641,542 04	47,511,448 10
Direct tax.....		475,648 96
Internal revenue.....	77,599,713 59	109,741,134 10
Total.....	156,239,456 14	260,632,717 44
Add balance, July 1, 1863.....	5,329,044 21	5,329,044 21
Aggregate.....	161,568,500 35	265,961,761 65
Receipts from loans.....	594,000,000 00	618,114,884 92
Total.....	\$755,568,500 35	\$884,076,646 57

EXPENDITURES.		
	Estimated.	Actual.
For civil service.....	\$34,267,811 52	\$27,505,599 46
Pensions and Indians.....	7,840,314 81	7,517,930 97
War Department.....	835,479,511 11	690,791,242 97
Navy Department.....	112,979,186 60	85,733,292 77
Interest on debt.....	59,165,136 38	53,685,421 69
Total.....	1,099,731,960 42	\$865,234,087 86
Deduct estimated balances undrawn.....	350,000,000 00	
Amount.....	749,731,960 42	
Balance.....	\$5,835,539 83	\$18,842,588 71

From actual receipts from loans.....	\$618,114,884 92
Deduct balance on hand July 1, 1864.....	18,842,588 71
It shows amount received from loans applied to service of year ending June 30, 1864.....	\$599,272,326 21

The statement may be more intelligible in another form, as follows:

Actual expenditures for fiscal year.....	\$865,234,087 86
Deduct receipts from ordinary sources, and balance from preceding year.....	265,961,761 65
Balance provided from loans applied to service of year.....	\$599,272,326 21

The amount derived from loans, specifically stated, is as follows, namely:

From fractional currency, exceeding amount redeemed.....	\$2,702,421 25
Five-twenty bonds, act of February 25, 1863.....	321,557,283 41
Six per cent. bonds, act July 17, 1861.....	39,565,875 45
Ten-forty bonds, act March 3, 1864.....	73,337,600 00
Twenty-year 6 per cents., act March 3, 1863.....	42,141,771 05
United States notes, act February 25, 1863.....	43,259,821 46
One-year 5 per cent. notes, act March 3, 1863.....	44,520,000 00
Two-year 5 per cent. notes, act March 3, 1863.....	152,854,800 00
Three-year 6 per cent. compound interest notes.....	15,000,000 00
Certificates of indebtedness exceeding amount redeemed.....	4,098,758 35
Whole amount.....	730,642,410 97
Of which amount there was applied to repayment of public debt.....	112,527,526 05
Which deducted, it leaves applicable to expenditures.....	618,114,884 92
Deduct balance July 1, 1864.....	18,842,588 71
Balance applied to service of the year.....	\$599,272,326 21

The public debt, as stated by my predecessor in his report of December 10, 1863, was.....	\$1,093,793,161 37
To this should be added amount paid into the Treasury previous to July 1, 1863, for which evidences of debt were subsequently issued.....	23,782,423 20
Amount of debt July 1, 1864.....	1,122,575,604 57
Add amount of loans applied to actual expenditures as above, and balance in the Treasury July 1, 1864.....	618,114,884 92
It gives amount of public debt July 1, 1864.....	\$1,740,690,489 49

The very large comparative receipts from miscellaneous sources require explanation. They are accounted for as follows:

From captured and abandoned property.....	\$2,146,715 09
Premium on gold shipped from San Francisco to London.....	2,799,920 64
Sales of prizes and due to captors.....	4,088,111 42
Internal and coastwise intercourse fees.....	5,809,287 20
Premium on sales of gold coin.....	16,498,975 49
Commutation money.....	12,451,896 15
All other sources.....	3,716,542 11
Total.....	\$47,511,448 10

The Secretary is of the opinion that not over \$25,000,000 can be safely calculated upon as likely to accrue from similar sources during the current year.

The item of "premium on gold shipped from San Francisco to London," may also require further explanation. In March, 1863, it became necessary to transmit a considerable amount of funds to London, for a special purpose, for which an appropriation had been made by Congress, and it was thought advisable to deposit a certain amount of our securities with an eminent London banker, against which bills might be drawn. Five-twenty bonds to the amount of \$10,000,000 were accordingly placed in the hands of two distinguished citizens, to whose care the negotiation was committed. The negotiation failed, and \$6,000,000 of the \$10,000,000 were returned to the Treasury and disposed of. It was thought advisable that the amount of \$4,000,000 should remain, and that exchange should be drawn against it, and the bonds disposed of abroad, if a favorable market should be found. It appears, however, that very nearly this amount of issue is in excess of the \$511,000,000 authorized by existing laws, \$510,756,900 having been disposed of. The act of June 30, 1864, authorizes the Secretary to dispose of "any bonds known as five-twenties remaining unsold." It is at least questionable whether by this clause power is conferred to dispose of an amount beyond that fixed by existing laws. Additional legislation may remove that doubt, should Congress think it advisable, otherwise they may be canceled.

Exchange having been drawn, it became necessary to provide funds to meet the bills at maturity, which was accomplished by shipments of gold from California.

The expenditures for the current fiscal year were estimated in the last report of the Secretary as follows:

Estimated balance of former appropriations.....	\$350,000,000 00
For the civil service.....	27,973,194 81
For pensions and Indians.....	9,631,304 73
For the War Department.....	536,204,127 77
For the Navy Department.....	142,618,785 40
For interest on the public debt.....	85,397,677 15

Aggregate.....	1,151,815,089 86
Deducting, as likely to remain unexpended, on the 30th of June, 1864.....	400,000,000 00

Leaving to be provided for.....	751,815,089 86
And the receipts from ordinary sources were estimated in the aggregate at.....	206,836,539 93

Leaving to be provided by loans.....	\$544,978,549 93
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This estimate, like all others of a similar character, was necessarily based on past experience with regard to unexpended balances, and upon estimates from the different Departments, which, in a time of war, must be liable to great uncertainty. Additional information enables me to state the probable expenditures with a nearer approach to accuracy. As corrected by including so much of the actual balance of former appropriations as is liable to be used during the year, those made at the last session of Congress, the additional amounts called for to meet probable deficiencies, and reducing the balance of unexpended appropriation at the end of the year, as from amounts expended during the first quarter would seem necessary, the estimate is as follows:

Actual unexpended balance as above.....	\$589,387,050 23
For the War Department.....	625,945,741 63
For the Navy Department.....	110,047,359 96
For the civil service.....	21,765,572 50
For pensions and Indians.....	6,590,089 12
Indefinite appropriations.....	9,152,067 11
For interest on public debt.....	91,810,215 18

Amount.....	1,245,729,135 75
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Add public debt matured and maturing during the year, namely:

Certificates of indebtedness.....	160,720,000 00
Texas debt.....	2,149,000 00
Loan of 1842.....	196,808 45
Treasury notes under act of March 2, 1861, and prior thereto.....	278,511 64
Total.....	\$1,409,682,455 84

The amount of certificates outstanding on the 1st of November, 1864, was \$238,593,000. This being a much larger amount than the market ought to bear, it would not be wise to calculate upon these securities as available for the service of the

38TH CONG...2D SESS.

## Report of the Secretary of the Treasury.

HO. OF REPS.

year, beyond \$75,000,000. The available probable resources for the current year may then be stated as follows:

From customs.....	\$70,271,091 96
From lands.....	642,185 84
From internal revenue.....	249,562,859 92
From miscellaneous sources.....	24,020,171 44
From direct tax.....	16,079 86
From certificates of indebtedness.....	75,000,000 00
Aggregate.....	419,512,389 02

To this should be added:

Probable unexpended balances June 30, 1865.....	350,000,000 00
Balance of cash July 1, 1864.....	18,842,558 71
Total resources.....	\$788,354,947 73

Which, deducted from expenditures, leaves balance to be provided by loans..... \$630,727,508 11  
If, however, an additional sum of \$50,000,000 should be realized, as proposed by the Commissioner, from internal duties, the amount to be raised by loans would be..... \$570,727,508 11  
From this should be deducted the public debt redeemed..... 88,353,320 09

Leaving as increase of the public debt at the close of the year\*..... \$482,374,188 02

Stated in the usual form by taking the actual receipts and expenditures of the first quarter as a distinct basis of calculation, the result is the same, namely:

For the first quarter of the current year, ending September 30, 1864, the actual receipts, as shown by the books of the Treasury, were as follows:

From customs.....	\$19,271,091 96
From lands.....	342,185 84
From direct tax.....	16,079 86
From internal revenue.....	46,562,859 92
From miscellaneous sources.....	9,020,171 44
	75,212,389 03

Add actual balance in the Treasury July 1, 1864..... 18,842,558 71

Receipts from all sources excepting loans, 94,054,947 73

For the three remaining quarters, ending on the 30th of June, 1865, the estimate is:

From customs.....	\$51,000,000 00
From internal revenue.....	203,000,000 00
From lands.....	300,000 00
From miscellaneous sources.....	15,000,000 00
	269,300,000 00

Total receipts from ordinary sources, actual and estimated, with balance on hand July 1, 1864..... \$363,354,947 73

The expenditures for the first quarter, ending September 30, 1864, were as follows, namely:

For civil service.....	\$8,712,422 51
For pensions and Indians.....	4,935,179 31
For War Department.....	286,200,288 52
For Navy Department.....	33,292,916 49
For interest on public debt.....	19,921,054 48

Total, exclusive of principal of public debt, 353,061,861 31

For the three remaining quarters the estimated expenditures, based upon appropriations and estimated deficiencies, are:

For the civil service.....	\$26,852,489 47
For pensions and Indians.....	6,516,595 72
For War Department.....	677,479,384 39
For Navy Department.....	109,939,644 16
For interest on public debt, 71,889,160, 70	
	892,667,274 44

Total of expenditures, actual and estimated, 1,245,729,135 75

These estimates include all unexpended appropriations from former years, and there may be deducted, as a probable unexpended balance at the close of the year, 350,000,000 00

Leaving total amount, actual and estimated, for the current year..... 895,729,135 75

Deducting from the total expenditures the total of receipts, actual and estimated.. 363,354,947 73

There will remain..... 532,374,188 02

If Congress should adopt measures for increasing the internal revenue at an early day, the Secretary believes there may be added to the receipts from that source, 50,000,000 00

Which being deducted, there will remain to be provided..... \$482,374,188 02

\* In addition to the liabilities before stated, it may be mentioned that the 7.30 notes, so called, the issue of 1861, and the one-year five per cent. legal tenders, amounting to \$13,585,000, also become payable during the current year. The conversion of the former being provided for, however, by the act of August 5, 1861, and the latter by a power of substitution under the act of June 30, 1864, they have been excluded from this estimate. The amount of 7.30 notes redeemed in money to November 1, 1864, is only \$63,500, charged to current expenditures; while the whole amount converted to that date is \$125,864,900.

The public debt, matured and maturing, during the year, is, as before stated..... \$163,353,320 09  
From this may be deducted, as likely to be provided by new certificates of indebtedness..... 75,000,000 00

Add this sum to balance to be provided for expenditures of the year..... 482,374,188 02

It makes whole amount to be provided from loans..... 570,727,508 11  
But as this would include so much of the existing public debt as would be redeemed, exceeding certificates issued within the year, namely..... 88,353,320 09

This sum is to be deducted from the amount to be obtained by loans, namely, \$570,727,508 11, showing the probable increase of the public debt during the year to be..... 482,374,188 02  
Which added to..... 1,740,690,489 49

Would make the public debt on July 1, 1865..... \$2,223,064,677 51

subject to such increase as may be occasioned should Congress not provide for additional revenue, or should the income from ordinary sources fall short of the estimates submitted.

Any estimate which may be made of the probable receipts and expenditures for the next fiscal year must necessarily be liable to still greater uncertainty. This remark applies more particularly to expenditures. For while, if existing laws remain unchanged, the amount of revenue may be calculated with reasonable certainty, it is impossible to anticipate what the exigencies of war may require. On the one hand this may call for increased effort, and on the other it may be confidently hoped that the great struggle is near its termination, and that, consequently, the estimate now submitted will prove far beyond the wants of the year. While any doubt remains, however, it would be unsafe to assume any other basis of calculation than one predicated upon the existing state of affairs.

The receipts for the year ending June 30, 1866, are estimated as follows:

From customs.....	\$70,000,000 00
From internal duties.....	300,000,000 00
From lands.....	1,000,000 00
From miscellaneous sources.....	25,000,000 00
Aggregate.....	\$396,000,000 00

The expenditures are estimated as follows:

Balance of unexpended appropriations..	\$350,000,000 00
For the civil service.....	33,082,697 24
For pensions and Indians.....	14,196,050 64
For the War Department.....	531,758,191 11
For the Navy Department.....	112,319,666 18
For interest on the public debt.....	127,000,000 00

Aggregate..... 1,168,256,005 17

But from this aggregate there may be deducted, as likely to remain unexpended at the close of the year..... 350,000,000 00

Total..... 818,256,005 17

Deduct estimated receipts from ordinary sources..... 396,000,000 00

There will remain to be provided for by loans..... 422,256,005 17

To this should be added, for redemption of excess of certificates of indebtedness, 47,365,000 00

Making the whole amount to be provided for by loans..... \$469,621,005 17

Assuming the correctness of these estimates, the whole debt on July 1, 1866, would be found by adding the foregoing amount of \$422,256,005 17 to the estimated debt on July 1, 1865, \$2,223,064,677 51, giving \$2,645,320,682 68 as the amount of the debt at the close of the next fiscal year. This calculation is made on the same basis of receipts as that assumed for the current year. It is quite probable, in the judgment of the Commissioner of Internal Revenue, that \$300,000,000 may be received in another year from that source, without the additional legislation suggested by him. Should this supposition be verified, and the new taxes proposed for this year be laid and continued, an additional \$50,000,000 might be expected from internal revenue. The Secretary has, however, thought it wiser to name \$300,000,000 as all that would probably be realized.

It will be observed that the actual receipts from ordinary sources, for the last fiscal year, varied materially from the estimates, particularly from customs and internal revenue. This variation is

imputable, in great part, to the legislation of Congress at its last session, increasing largely the rates of duty on foreign and domestic articles. It is apprehended, however, that similar results will not follow for the residue of the present year in both these particulars. The increase of duties on imports, under the act of June 30, 1864, has already had the effect to decrease importations to a considerable extent, and the same effect will be likely to continue; so that, estimating the receipts of the three remaining quarters by those of the first, in the light of former experience, it will not be safe to calculate upon revenue from customs much exceeding \$70,000,000 for the current year.

In the judgment of the Secretary, this disadvantage, in a financial point of view, is more than counterbalanced by the stimulus afforded to domestic industry, and the consequent increased revenue from that source.

From internal revenue a different and far more favorable result may be anticipated. It will be noticed that, instead of \$77,599,703 59, there was received from this source in the past year \$108,260,320 59, under substantially the same law which, in ten months of the preceding year, yielded only \$37,640,787 95.

The new law which went into operation on the 1st of July last, largely increasing these duties, although it will probably fail to produce the amount of revenue hoped for, may, if not materially changed, together with the special income tax imposed by the joint resolution of July 2, 1864, be safely estimated to produce the sum of \$250,000,000, should the business of the country be ordinarily prosperous. The same causes which, under preceding laws, produced so large an increase in the second year, would be likely to have a similar effect, to some extent, under the new, so that at least the amount of \$250,000,000 may be expected from it in another year without the aid of a special income tax.

But this amount is not and ought not to be satisfactory. Three hundred millions, at least, should be realized from internal duties. It is for Congress to select the sources and devise the modes in which this most desirable result can be attained, and the report of the Commissioner of Internal Revenue is referred to for his views on this important point, as well as for many valuable suggestions having reference to the same general subject.

The Secretary will venture, with great deference, to remark that, in his judgment, a commission, properly constituted, for the purpose of inquiring as to profitable sources of revenue, and devising improvements in the modes of its collection, might, in a country of such varied production, and among a people of such diverse industrial pursuits, elicit much information which would materially assist the deliberations of Congress, and lighten its labors, upon a subject so new to legislative experience on this continent. As, however, a resolution pointing to this end did not meet the approval of Congress at its last session, the Secretary did not feel authorized to institute an inquiry through such instrumentality, and he has been unable to adopt other effective measures for the same purpose.

After much reflection, and a careful revision of his opinions heretofore expressed in another place, to which, under the circumstances, he may be pardoned for referring, the Secretary feels obliged to say that he sees no other resource for raising the additional revenue, so necessary to the national credit, than those pointed out by the Commissioner. He is aware of the great difficulties attending the collection of the duties proposed, and feels all the objections heretofore made to their imposition. He nevertheless believes that a tax on tobacco in the leaf, or unmanufactured, if it can be enforced, is the only mode by which the duty on that article can be collected fairly and equally, and through which an adequate amount of revenue can be obtained from it. He believes, also, that, although a tax on sales would probably fail of collection to some extent, yet, by applying to it stringent rules, requiring frequent periodical returns, verified by oath, coupled with the power to compel an exhibit of books of account, it might become a very large and important item of revenue. The Secretary would further suggest whether the income tax should not be collected upon all, without exemp-

tion. As the law is, it opens the door to innumerable frauds, and in a young and growing country the vast majority of incomes are small, while all participate alike in the blessings of good government. The adoption of a scale, augmenting the rate of taxation upon incomes as they rise in amount, though unequal in one sense, cannot be considered oppressive or unjust, inasmuch as the ability to pay increases in much more than arithmetical proportion as the amount of income exceeds the limit of reasonable necessity.

From the results of experience, as well as from all the information received, the Secretary is well convinced that much revenue fails to be collected through an imperfect execution of the law, and more through a fraudulent evasion of its provisions. Time and effort will, it is hoped, remedy these evils in a great degree, and the confident expectations of those who framed it be realized. In the mean time no effort should be spared to perfect it, as far as possible, and no experiment to increase its efficiency, of which there is a reasonable hope of success, should be left untried.

In connection with the subject of increased taxation, and the necessity of providing additional revenue from ordinary sources, the Secretary cannot but call the attention of Congress to our public domain, and more especially to that portion of it abounding in the precious and other metals which, by the policy of the Government, has been reserved to the nation. He can add little, however, on these points, to what has been heretofore so ably set forth by his predecessor. The agricultural region has, through the operation of the homestead law, almost ceased to afford a direct revenue. Whatever might be the opinions of the Secretary as to the good effects of this law, either in a State or national point of view, it is not probable that any expression of those opinions would tend to effect any material change or modification. Possibly, had the struggle in which the nation is now engaged been foreseen, or even apprehended, Congress might have deemed it prudent not to adopt a system which renders so large a portion of the public domain unavailable as a basis of credit, either by way of pledge of its proceeds, or an appropriation of those proceeds, permanently, to the creation of a sinking fund for the ultimate redemption of the public debt. In either aspect that domain might have been made to render material aid. But it may still fairly be questioned whether, and to what extent, such aid has not been afforded by the inducements offered to an immigration which is daily augmenting the resources and power of the Republic. With regard to the mineral lands, the question is freed from this embarrassment. These are still the property of the nation, and may be disposed of as Congress shall determine. That they should yield a revenue to the owner, independent of all the collateral advantages derived from individual enterprise in extracting the precious metals, would seem to admit of no dispute. On the one hand it may be said that to sell them absolutely is to part with an unequalled and inexhaustible source of wealth and power, the control of which should always remain in the hands of the Government; on the other, that all attempts, hitherto, to realize any considerable amount of revenue from any system of rents have proved unsuccessful. It is to be hoped that Congress may be able to devise some mode by which these lands may be made available, to an extent in some just measure proportionate to their yearly production. The question is one involving a knowledge of the subject which the Secretary does not now possess, and requiring an amount of study and reflection which, thus far, he has been unable to bestow. The attention of Congress is invited to a paper on this subject, prepared by direction of the Secretary, which accompanies this report, and will repay an attentive perusal.

The act of February 25, 1862, provides that the coin received for duties on imports shall, after paying interest on bonds and notes, be appropriated to the purchase of one per cent. of the public debt, to be set apart, with its accruing interest, as a sinking fund, as the Secretary might from time to time direct. All experience has proved that in time of war, when expenditures must largely exceed receipts from ordinary sources, and large sums are borrowed in each

year, the attempt to establish a sinking fund invariably fails. It is, in fact, simply borrowing to lend again. For this reason no attempt to carry out this provision has yet been made. As the time is approaching, however, when the present unnatural condition of affairs may be expected to terminate, it is well to consider whether some legislation postponing for a time the operation of the provision referred to, and designating a board of officers as commissioners of the sinking fund, under proper regulations, may not be advisable; their duties to commence at such time as the Secretary of the Treasury may designate. Such legislation would at least show that the provision for a sinking fund is not intended to remain a dead letter upon the statute-book when peace shall return, and with it the power to render that provision effective. Should any further aid be necessary the Secretary would respectfully suggest whether such income as may be received from the public domain, from sales, or in the shape of rents or royalty, may not be beneficially appropriated to the same purpose.

From preceding statements it appears that exclusive of the receipts from ordinary sources the amounts following are to be provided:

For the fiscal year ending June 30, 1865...	\$570,727,508 11
For the fiscal year ending June 30, 1866...	469,621,005 17

1,040,348,513 28

Deduct amount now authorized, and balance in the Treasury July 1, 1864.....	560,063,188 02
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It leaves a balance to be provided for by additional legislation of.....	\$480,285,325 26
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It will be observed that this balance is predicated upon contingencies which may not occur, and calculations which may prove deceptive. It would be unsafe, therefore, to limit so closely the provision to be made by Congress for meeting the expenditures of this and the succeeding years.

To raise a large portion of the amount necessary to meet these anticipated expenditures, it is obvious that recourse was to be had to loans; which have been already, in part, negotiated. The necessities of former years have led to many expedients, as is apparent from the diversity of forms which our securities present. As the debt increases, from year to year, borrowing becomes more difficult. Embarrassed as the country is with two systems of banking, and obstructed as the Government is by a currency wholly beyond its control, it is manifest that to push its own circulation far, if at all, beyond its present limit, could only be justified by absolute necessity. To thrust our securities upon the market in such amounts as it is not able to bear, and to retain no check upon stockjobbing combinations, must exercise a disastrous effect upon public credit, and operate injuriously upon large numbers who have heretofore invested their means, liberally and confidently, in Government issues.

The Secretary is not unmindful that, in the opinion of many persons conversant with financial matters, recourse should be had to foreign markets; and in two acts of Congress, one of which is still in force, authority has been given to negotiate a foreign loan. This, if practicable at all, on terms which the Secretary could feel justified in accepting, would, in his opinion, at the present time and under existing laws, be so inconsiderable in amount, that its effects would be merely temporary, and would afford an alleviation rather than a relief. Our bonds have already, to a considerable amount, been sought for abroad, and to that extent the home market has been relieved and strengthened. Communication with Europe is now so easy and regular, intelligence is transmitted so rapidly, business facilities are so abundant, that foreign markets are almost at our own doors, and a demand abroad is felt almost at the moment, and supplied without injurious delay. To effect a foreign loan would not, as it has seemed to the Secretary, add much, if at all, to the whole amount of sales, unless stimulated by efforts and inducements which our financial condition has not, as yet, called for. And, although a certain advantage might be gained in the power to control, in some degree, the rate of foreign exchange, by the deposit of a large sum to be drawn against as occasion might require, the possible benefit thence to be derived has not seemed

sufficient to counterbalance other and opposing considerations.

This nation has been able, thus far, to conduct a domestic war of unparalleled magnitude and cost without appealing for aid to any foreign people. It has chosen to demonstrate its power to put down insurrection by its own strength and furnish no pretense for doubt of its entire ability to do so, either to domestic or foreign foes. The people of the United States have felt a just pride in this position before the world. In the judgment of the Secretary, it may well be doubted whether the national credit abroad has not been strengthened and sustained by the fact that foreign investments in our securities have not been sought by us, and whether we have not found a pecuniary advantage in self-reliance.

But, however this may be, it seemed to the Secretary that, even if inclined to attempt the negotiation of a foreign loan, the time was unpropitious, and the difficulty attending such a negotiation, while exchange was subject to rapid and violent fluctuation, upon any safe terms, appeared almost insurmountable. Whatever risk was to be incurred must necessarily fall upon the Government. He thought it wiser, therefore, to wait until events should have more fully demonstrated the inevitably favorable result of the contest in which the nation is engaged—which time he believes to be near at hand—rather than venture upon an experiment which, if successful, could afford but temporary relief, and a failure in which might be attended with evils of a very serious character. Believing that the country can, if it will, sustain, for a long time to come, any burden which the war is likely to impose, the Secretary has deferred an undertaking which seemed to him so doubtful of success, and so questionable in its results. It may be added to these considerations that, to have the interest on our public debt payable at home, and to our own rather than to a foreign people, are advantages the value and importance of which can hardly be too highly estimated.

The whole amount of national circulation, not bearing interest, exclusive of fractional currency, and of notes issued by national banks, is limited to \$400,000,000, subject to slight occasional increase from the \$50,000,000 held in reserve for the payment of temporary deposits. Of five per cent. interest-bearing notes there were outstanding, on the 1st of November last, \$120,519,110. To a considerable extent these notes have been, and will continue to be, used as currency. Those with coupons have been found particularly objectionable, as, though withdrawn to a certain extent while the interest is maturing, they are liable to be periodically rushed upon the market. In consideration of this feature, a large amount, namely, about \$90,000,000 of the original issue of \$150,000,000 of these coupon notes, have been withdrawn and destroyed, and their place occupied by notes payable in three years, bearing interest at six per cent., compounded semi-annually. This is believed to be the best form of interest-bearing legal-tender notes, as being more likely to be withdrawn and held until maturity as an investment. Of these, \$15,000,000 in amount were issued under the act of March 3, 1863, and about \$90,000,000 under the act of June 30, 1864. The total amount of interest-bearing notes outstanding on the 22d of November last was \$210,222,870. What proportion of these may be considered as an addition to the circulation, I am unable to determine. To that extent, whatever it may be, they contribute to the amount of currency, and thus in some degree occasion, and in still greater degree sustain, an increase of prices, and depress values.

The amount of bills issued to the national banks, as appears from the books of the Comptroller of the Currency, was, up to the 22d of November inclusive, \$65,160,210. As these banks have absorbed capital which might otherwise have been invested in State corporate institutions, and in many instances have taken the place of those institutions, by conversion, their issues cannot be regarded as so much addition to the body of currency. The returns on file at the Department show that the whole circulation of the State banks on the 1st of January, 1864, was \$169,926,129, while the whole circulation of such banks for the



month of July, 1864, returned to the Internal Revenue Bureau, and which embraced, with a few trifling exceptions, all of these institutions outside of the rebellious States, was only \$126,196,606 72. The diminution is \$43,729,522 28, which, deducted from \$65,160,210, leaves \$21,436,687 72 as the amount of increase to November 22, 1864, on the supposition that the circulation of State banks has not been enlarged since July.

The subsequent returns, though incomplete, would tend rather to show a diminution since that date. Arguing from the fact that the notes of State banks have almost ceased to be current in some of the northwestern States, it may well be doubted whether, under the limitations of the law authorizing national banks, the establishment of these institutions has not had the effect rather to limit than to enlarge the whole amount of circulation.

It is observable that, notwithstanding the apparently large circulation of paper money issued under the authority of the various acts of Congress before enumerated, its scarcity in the market has occasioned no slight embarrassment in the negotiation of loans. This can be accounted for only upon the supposition that large amounts are carefully held by the people, thereby exhibiting their confidence in its character and value, and that the impetus given to trade of every description by the large and increasing wants of Government requires a largely increased amount of the circulating medium. A rise of prices tends, proportionately, in the same direction.

Believing, however, that, with the large addition made to the volume of currency by State banks through their various forms of credit, the whole amount far exceeded the limit of necessity, it was with extreme reluctance that the Secretary felt himself compelled to replace the five per cent. coupon notes, which had been withdrawn, by an issue of six per cent. compound-interest notes under the act of June 30, 1864, and even to exceed that amount to a small extent. But the necessities of the hour left him no choice. And he will now proceed to state the condition of financial affairs which, in his judgment, rendered such action imperative.

On assuming office, upon the 5th day of July last, the Secretary found his condition peculiarly embarrassing. The cash balance in the Treasury was, on the 1st of July, as before stated, \$18,842,558 71. The unpaid requisitions on the 5th were \$71,814,000. The amount of certificates of indebtedness outstanding was \$161,796,000. The daily expenditures could not be calculated at less than \$2,250,000. The larger portion of unpaid requisitions was for pay to the Army, and the Secretary was obliged to look forward to an increase, from the same quarter, of over \$50,000,000 on the 1st of September. Thus situated, he could not avoid scrutinizing with some anxiety his probable means of meeting these most pressing claims upon the Treasury, and also of providing for the additional daily expenditures. He could look nowhere but to the receipts from ordinary sources, and to the power to borrow money under existing laws. From customs he could expect no substantial aid, and the returns for the first quarter of the current year will show that, beyond the revenue pledged to pay the interest upon bonds issued and to be issued during the year, comparatively little assistance could be derived from this source. With regard to internal revenue the Secretary felt more encouraged. Congress had wisely provided for a large increase of internal duties, by a law which went into operation on the 1st day of July. Under former laws the amount received had been steadily increasing during the three preceding months, and in the month of June had reached very nearly to \$15,000,000. The Secretary confidently hoped that for July and the succeeding months it would reach, if it did not exceed, the daily average of \$750,000. But this hope, if realized, would still leave him with a very large deficiency, to meet which, in part, he might issue certificates of indebtedness to public creditors. It was desirable, however, to avoid, could other means be found, increasing the amount of these securities. He might have recourse to the power conferred by the act of June 30, 1864, and put an additional \$200,000,000 of legal-tender notes upon the mar-

ket, and even increase that amount by some \$60,000,000, in substitution for five per cents., issued under the act of March 3, 1863, which had been destroyed or were ready to be destroyed. Flushed as the money market was with circulation, sufficiently, at least, to meet the necessities of business, he was anxious, if possible, to avoid so doubtful an expedient.

The prospect of negotiating a loan in the ordinary way was by no means flattering, as the notice for a loan of \$33,000,000, advertised on the 25th day of June, had been withdrawn on the 2d of July, the Secretary having reason to believe that such loan would not be taken on terms which it would be for the interest of the Government to accept.

Under these circumstances, the Secretary thought it advisable, in order to meet pressing emergencies, to borrow upon bonds or notes, authorized by the various acts referred to, \$50,000,000 of the banks in the cities of New York, Philadelphia, and Boston, and met the representatives of a large number of these institutions in New York for the purpose of effecting that object. The result proved, however, that, notwithstanding a professed, and, as the Secretary was convinced, a real desire to aid the Government, these institutions were not able to furnish the assistance required upon terms which, under existing provisions of law, the Secretary felt authorized to accept. He had then no other alternative than to issue legal-tender notes to a very large amount, or again to advertise for a loan; and he had no hesitation as to which course should be adopted. Accordingly, on the 25th of July he issued proposals for a national loan, under the act of June 30, 1864, upon notes payable in three years, with semi-annual interest at seven and three tenths per cent. per annum in lawful money. He incurred a considerable expense in advertising this loan, believing that it should be as widely diffused and as generally understood as possible, and offered liberal inducements to stimulate the efforts of corporations and individuals to dispose of the notes. His success, though not what he hoped for, or anticipated, has been such as not to diminish his confidence in the disposition and ability of the people to relieve the wants of their Government. A serious obstacle to greater success has been, the Secretary believes, the amount of other desirable national securities pressing upon the market, and presenting more favorable opportunities for investments.

Failing to raise the means required in the ordinary mode, and urged by the conviction that the large amount of suspended requisitions, swollen to more than \$130,000,000, should be reduced, the Secretary resolved to use all the means at his command to pay so much, at least, as was due to our brave soldiers, who were suffering from the long delay in satisfying their just claims; but still continuing to serve their country with unflinching courage and uncomplaining devotion. To effect this object he was compelled to replace the whole amount of five per cent. notes which had been canceled, amounting to more than \$80,000,000, and even slightly to exceed that sum. More fully to accomplish his purpose, the Secretary resolved to avail himself of a wish expressed by many officers and soldiers, through the paymasters, and offered to such as desired to receive them, seven-thirty notes, of small denominations. He was gratified to find that these notes were readily taken in payment to a large amount, our gallant soldiers, in many instances, not only receiving them with alacrity, but expressing their satisfaction at being able to aid their country by loaning money to the Government. The whole amount of notes thus disposed of exceeded \$20,000,000, and the Secretary has great satisfaction in stating his belief that the disposal thus made was not only a relief to the Treasury, but proved a benefit to the recipients, in affording them a safe and valuable investment, and an easy mode of transmitting funds to their families.

To meet other pressing demands, the Secretary again offered to public competition bonds issued under the act of March 3, 1863, amounting to about \$32,000,000. This offer was most favorably received, the bids reaching nearly \$70,000,000, and the whole amount offered being taken at a premium of four per cent. and upward; the Treas-

ury receiving, premiums included, the sum of \$33,179,614 33.

Subsequently, on the 1st of October, the Secretary advertised for another loan of \$40,000,000, upon five-twenty bonds, issued under the act of June 30, 1864. At the time of this offer the money market was in a feverish condition, arising from violent fluctuations in gold, and other causes, and serious doubts were entertained whether acceptable offers would be made. Under these circumstances, and with the hope of affecting favorably the market price of certificates of indebtedness which had become somewhat depressed by the large amount to which the issue had been necessarily increased, the Secretary decided to receive one fourth of the subscription in these securities. The result was, that, notwithstanding the anticipated failure of the loan, bids were received amounting to nearly \$60,000,000, and the whole amount offered was taken at a rate above par, and averaging to the Government a fraction less than one per cent.

These negotiations have afforded satisfactory evidence, not only of the ability of the people to furnish, at a short notice, such sums as may be required, but of the entire confidence felt in the national securities. After nearly four years of a most expensive and wasting war, the means to continue it seem apparently undiminished, while the determination to prosecute it with vigor to the end is unabated.

In some particulars the Secretary has found himself embarrassed by the restrictive provisions of the act of July 2, 1864, and he will, therefore, at an early day, suggest such modifications as he considers necessary. In his judgment, a wide discretion should be intrusted to the officer charged with the duty of negotiating loans, in order that he may be enabled to avoid unexpected difficulties, occasioned by possible conditions of the money market. This delicate and responsible duty must necessarily be intrusted to somebody, and the people can have no other reliable security for faithfulness than may be found in the established character of the individual charged with so important a trust, whoever he may be. The discretion thus confided should, in the opinion of the Secretary, include the power of increasing the currency. To no individual would any considerable addition to the circulation, in any form, be more objectionable than to the present head of the Treasury Department, and no one would resort to such a measure, when the circulation was adequate to the wants of business, with more reluctance. Nor does he believe that a patriotic people, struggling for national existence, and possessed of ample means, would compel him to adopt a measure so fraught with injurious consequences as an issue of paper money beyond the limit so prescribed. The question, however, would be one for that people to decide. They have pronounced for a continuance of the war, until its great objects shall have been accomplished, in unmistakable terms. It is for them further to determine whether the necessary means shall be furnished by way of loan, and the circulation be restrained within safe limits, or whether they will prefer to endure the evils of exorbitant prices, with a loss of credit in the present, and a debt of needless magnitude entailed upon the future. Their financial officer can only submit to their decision, and act as the necessities of the occasion may demand. But the Secretary confidently believes that, judging from past events and recent demonstrations, there can be little question what the public voice will be upon a question so vital.

It is the province of Congress to indicate, and determine upon, the terms that may be offered to those who are invited to invest their means in Government securities; and it would seem both wise and prudent to make those terms sufficiently liberal. If our public debt must necessarily be large, and require a long course of years for its liquidation, its wide diffusion is most desirable. Such advantages should be offered as will induce all who have anything to spare beyond the amount required for their own support, or use, to invest that surplus, or a portion of it, in the national securities. These advantages can only be found in an increased rate of interest, an exemption from public burdens, and security of possession. What

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limit should be fixed, in either of these particulars, it is for the practical experience and wisdom of Congress to ascertain and determine.

The experience of the few past months cannot have failed to convince the most careless observer that, whatever may be the effect of a redundant circulation upon the price of coin, other causes have exercised a greater and more deleterious influence. In the course of a few days the price of this article rose from about \$1 50 to \$2 85 in paper for \$1 00 in specie, and subsequently fell, in as short a period, to \$1 87, and then again rose, as rapidly, to \$2 50; and all without any assignable cause, traceable to an increase or decrease in the circulation of paper money, or an expansion or contraction of credit, or other similar influence on the market, tending to occasion a fluctuation so violent. It is quite apparent that the solution of the problem may be found in the unpatriotic and criminal efforts of speculators, and probably of secret enemies, to raise the price of coin, regardless of the injury inflicted upon the country, or desiring to inflict it. All such attempts should be indignantly frowned upon by a patriotic community, and the efforts of all good citizens invoked to counteract such nefarious schemes. A law, providing for the exemplary punishment of combinations for such a purpose might tend to vindicate, if it could not fully protect, the public rights in this regard, and should be, so far as possible, rigidly enforced.

But whatever success might attend any effort to check speculation in coin, or to counteract its injurious effect, it is still obvious that, so long as there remains a large and increasing necessity for its use, and a limited supply, it will command a price commensurate with the necessity and the difficulty of obtaining it. This necessity arises from the demand for foreign exchange, for customs duties, and to pay the interest on the public debt. The matter of foreign exchange I do not propose to discuss. The demand for duties on imports, and that to pay the interest on a large portion of the public debt, are so far identical that one is dependent upon the other. The laws authorizing the issue of bonds bearing interest in coin specifically pledged the revenue from customs to the payment of that interest, and provided for the collection of those duties in the same currency. In the opinion of the Secretary, that pledge should not be violated. A departure from it could only be vindicated by one of those state necessities which justify a nation in temporarily postponing its obligations in order to preserve the power to discharge them at a future day. When the pledge was given, no one anticipated a possible continuance of the war for such a length of time as would involve the increase of the public debt to the point it has already attained, or the possible payment of interest in coin to an amount beyond the ability of duties on imports to supply. It will be noticed, however, that our annual coin interest now exceeds \$56,000,000. Should the additional amount required for the expenditures of the present fiscal year be raised upon bonds bearing interest in coin, and the revenue from customs not exceed the estimate predicated upon the receipts of the first quarter, it is quite manifest that resort must soon be had to some other source of supply, or recourse must be had to the emission of securities of a different character. It could not be expected that such securities would stand on a level with those the interest upon which is payable in coin, unless an increased value should be given them by a higher rate of interest, or their payment should be secured by a specific lien upon revenue.

In view of the serious considerations presented by this question, whether as affecting the market value of coin or the ability of Government to meet its specie interest, should the war continue, from the revenue now specifically appropriated to that purpose, the Secretary is forced to the conclusion that we should in the future rely, for the most part, upon securities bearing interest in currency, convertible into bonds, the interest of which is payable in coin. Notes bearing an increased rate of interest, payable in currency, redeemable in three or five years, and convertible at maturity into five-twenty bonds, would be preferable, in the judgment of the Secretary, to any other form of security. Bonds at long date, the interest of which is payable in currency at the usual rates,

would be less attractive, and in the end involve a much greater sacrifice. The seven and three tenth notes authorized by the act of June 30, 1864, and now offered to the public, present as many advantages as any form of currency security, uniting a high rate of interest with convertibility. At the period of their maturity it may be confidently believed that the country will have been restored to a state of unity and peace, with all disturbing elements quieted, its population and resources increased and increasing, its strength confirmed, and with ample ability to meet all its obligations from its ordinary resources.

In the report of the Comptroller of the Currency will be found statements of the number of national banks organized since his last annual report, the States and Territories wherein organized, the amount of capital paid in, circulation, and bonds deposited. The statement exhibits a large and rapid increase, and demonstrates the popularity of the system. The rapid and extensive conversion of State institutions of established character, conducted through a long series of years by men of recognized financial ability, into banks organized under the new system, could not have taken place unless after full and careful consideration as to its safety and superior advantages. If it should be said that, perhaps, these advantages may be rather to those individually interested than to the community at large, the reply is that a single uniform currency, possessing the same value throughout the whole country, has been too long a general object of desire to have its importance questioned. If to this great and obvious good be added the benefits to Government, in its financial operations, of being freed from all the uncertainties and embarrassments arising from a currency over which it can exercise no control, the advantages of any system which will effect these objects can admit of no debate. The Secretary was not among the first to approve the plan adopted by Congress, and which seems to be receiving the popular sanction. Time and observation of its effects have, however, convinced him that the system, if not without defects, is based upon sound principles, and is entitled to all the benefit of a fair trial; and it is quite apparent that the good to be hoped cannot be fully realized so long as another system, at war with the great objects sought to be attained, shall continue to exist, unchecked and uncontrolled.

While, therefore, the Secretary would not advise the adoption of unfriendly or severe measures, likely to embarrass the business of the country, especially when the indications are so favorable that the national system will soon replace all of a merely local character, he is yet of the opinion that such discriminating legislation should be had as will induce the withdrawal of all other circulation than that issued under national authority, at the earliest practicable moment.

For a statement of the transactions of the Treasury during the past year, you are respectfully referred to the report of the Treasurer. The labors of that officer are largely increased by the number of depositories which have been designated under the act "to provide a national currency." The labors of the Treasurer, and also those of the Assistant Treasurers in the principal cities, and the depositories designated under the act of August 6, 1864, are necessarily proportionate to the vast amounts passing through their hands; and the pecuniary responsibilities of some are such as few men, whose character and capacity would justify so important a trust, are willing to assume. Necessarily obliged to surround themselves with a large number of assistants, for whose care and integrity they must be answerable, and to give bonds in amounts that few private fortunes would meet, a high degree of courage is required to endure the perplexities and incur the hazards of such an office. In view of these facts, and of the much better compensation readily paid to such men for labors much lighter, and responsibilities far less important, I cannot but recommend that the salaries of the Treasurer, and of the Assistant Treasurers, and of some of the designated depositories, be increased. Within the current year the Assistant Treasurer at New York having been compelled by ill health to resign, after long and most useful and honorable service, it became necessary to find a person qualified by his knowledge of business

and financial affairs, by spotless character and acknowledged ability, to discharge the duties of that most important position. This the Secretary found to be extremely difficult, principally because the great pecuniary risk deterred men who had anything to lose, while the compensation allowed by law was much lower than is customarily paid for similar, but far inferior, service. The office was most reluctantly accepted by the present incumbent, who relinquished an honorable position, with a much higher salary, at the urgent solicitation of the Secretary, purely from a sense of patriotic duty. Impelled by the same honorable feeling, the Assistant Treasurer at St. Louis consented to withdraw his resignation, which had been tendered to the Department. Not only justice, but the best interests of the Government, require that such compensation be paid to all public officers as will enable them to discharge important trusts, freed from the harassing cares and anxieties attendant upon inadequate incomes, and bearing a just proportion to the nature and amount of service.

The difficulty of inadequate compensation has occasioned much embarrassment in other operations of this Department. Many persons of experience and skill, and who could readily command higher pay in similar employment elsewhere, have resigned their places in the Department. These places it has been found extremely difficult to fill, although there has been no reason to complain of a lack of applicants for employment. But in the vast and complicated affairs of the Treasury Department many persons are required possessing a high order of ability, derived both from study and experience, and without whose aid those affairs could not be well and speedily transacted. Such persons cannot be expected to remain in the public service and be content with a compensation too small for the daily wants of themselves and families, when solicited to accept other situations justly and even liberally remunerated. While, therefore, the Secretary does not favor high salaries, and feels as strongly as any one the necessity of strict economy, he is compelled to state this condition of things for the consideration of Congress.

The high rates of duties on imports, imposed by recent laws, afford such temptation to smuggling, and such facilities are presented for successful attempts to evade the revenue laws, by the extent and nature of our sea-coast, and more especially of our frontier, that the necessity of strenuous efforts to prevent and punish offenses of this kind is impressed upon this Department with daily increasing force. The attention of Congress is particularly invited to so much of the report of the Commissioner of Customs as relates to this very important subject. The act "to prevent smuggling, and for other purposes," approved June 27, 1864, contains important provisions, which, if properly enforced, will, it is believed, prove highly efficient. Sufficient time, however, for all the preparations necessary to carry all of these provisions into effect has not as yet been afforded. In the mean time, a careful preliminary inspection has been made by the Commissioner, under instructions from the Secretary, along our sea-coast and frontier lines, and the result of his observations leads to the conviction that preparations on a large scale are in progress for extensive and systematic operations in smuggling across our northern and northeastern border. To prevent, or even to check these operations, an increase of preventive force will be absolutely necessary, and means should be placed at the disposal of the Department for that purpose, to be expended in such manner as the exigency may require. From the report of the Commissioner, and the nature of the case, it is no less obvious that an increase in the number of revenue boats, especially on the lakes, is not only expedient but necessary; and the appropriation for that object should also be increased, so as to meet the wants of the service.

The act approved July 2, 1864, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," modified, in several important particulars,

preexisting laws upon the same subjects. So much of the act of July 13, 1861, as authorized the President to permit commercial relations in insurrectionary States and sections was repealed, except in certain specified cases. The rules and regulations with regard to commercial intercourse previously adopted have been modified accordingly. The second section largely extended the powers and responsibilities of this Department, by placing in its charge abandoned lands, houses, and tenements in insurrectionary States, for the purposes of occupation and lease, and still further by directing that provision should be made "in such lease, or otherwise, for the employment and general welfare of all persons within the lines of national military occupation within said insurrectionary States, formerly held as slaves, who are or shall become free." This clause is regarded as placing all such persons under the protection of this Department, through which their general welfare is to be provided for.

In framing rules and regulations to carry the provisions of this act into effect, as directed in section eleven, such as were deemed essential to the proper execution of the powers conferred in relation to freedmen, were made, and approved by the President as required. It was, however, found necessary to suspend their operation for a time. This class of persons had been, and were yet, under the protection of the War Department, and the necessary provision for their welfare had been afforded under military authority and supervision. The arrangements made for this purpose contemplated a continuance of the system adopted through the current year. It was deemed advisable, therefore, to defer action in this regard until the time should arrive for commencing the operations of a new year, and in the mean time to allow the freedmen to remain as they had been, under military protection.

The eighth section of said act authorizes the Secretary of the Treasury, with the approval of the President, to appoint agents to purchase, on certain specified terms, any products of States declared in insurrection. The amount of funds placed at the disposal of the Secretary for that purpose was, however, so limited, that large operations on a cash basis were out of the question. In fact, the proper execution of the authority conferred by this provision of the statute has been attended with great embarrassment. After much consideration, however, a series of regulations was framed and approved, and several agents have been appointed, who have commenced operations under the law; but their appointment is so recent that no sufficient time has elapsed to afford a basis for any reliable opinion of the probable result. The Secretary is, however, of the opinion that, whether the hopes which may have been indulged of a considerable revenue to the Government from this source are realized or not, the incidental advantages of getting to market a reasonable supply of the products referred to would compensate any effort made by Government in that direction.

A copy of the rules and regulations, as revised, together with those relating to abandoned lands, houses, and tenements, providing for the care and employment of freedmen, and for the purchase of products, are appended to this report.

The Secretary has great satisfaction in stating that all expenses connected with executing the several acts restricting commercial intercourse, have been much more than paid by fees arising under the regulations heretofore adopted.

While the Secretary has great pleasure in stating that, so far as his personal knowledge extends, and so far as he is informed, the affairs of this Department have been well and satisfactorily conducted during the past year, an incident has occurred of a painful character, involving a possible loss to the Government, and tending to excite suspicion as to the integrity of some person, or persons, employed in conducting its operations.

On the 5th day of June last, Mr. C. P. Bailey, chief clerk and superintendent of the loan branch, connected with the Secretary's office, addressed a letter to the Secretary, stating that one hundred bonds, partially prepared for issue under the acts of July 17 and August 5, 1861, of \$1,000 each, were missing, and no trace of them could be found. The bonds were numbered from 34,301 to 34,400, inclusive, and were a part of one thousand trans-

mitted by the National Bank Note Company on the 26th of September, 1863. In his letter to the Secretary Mr. Bailey states: "I have exhausted all the resources at my command in endeavoring to find them, and nothing is left for me but to report the facts." A strict inquiry as to all the facts connected with the affair was immediately instituted, but no light was obtained further than to show that on the 29th of September previous Mr. Bailey sent the bonds in an open basket, with a weight placed on them, by two messengers, one of whom was an old clerk of established character, to the Register's office, and there offered them to the clerk who usually received the coupon bonds in the Register's room, who objected to taking charge of them on the ground that there was no place in the office where they could be safely kept, and requested that they might be taken back to the loan branch where there were good safes. Mr. Bailey was sent for, and after some consultation as to the proper place of deposit, consented that they should be taken back and deposited in the safe in his office, and they were accordingly carried back by the same messengers, taken out of the basket, laid on the table, and in the course of the day placed in the safe, where they remained, as supposed, until called for by the Register. They were called for and delivered from time to time from March 17 to June 5, 1864, when the loss was discovered. The character of all the parties concerned is reported as above suspicion, and nothing has since transpired to elucidate the matter, or to furnish any indication as to what has become of the missing bonds.

As they had not been signed by the Register, or sealed, they cannot be negotiated. The coupons, however, were sealed and complete, and payable to bearer on January and July 1, in each year. A careful examination was made of the January coupons paid on bonds of that issue, but it does not appear that any of them had been paid. These would be known by their numbers. Instructions were given the Assistant Treasurers to watch carefully for these coupons, but nothing further has been elicited. No other steps have been taken, as none appeared likely to be attended with any effect. With this exception, I am not aware that any loss has occurred in the Department.

For the detailed operations of the Mint and its branches I respectfully refer to the report of the Superintendent of the Mint. The total value of the bullion deposited at the Mint and branches during the last fiscal year is \$24,920,808 47, of which \$23,986,989 92 was in gold and \$933,818 55 in silver. Deducting the redeposits, there remain the actual deposits, amounting to \$24,012,741 49. The coinage for the year was, in gold coin, \$21,649,345; gold bars, \$2,333,403 31; silver coin, \$548,214 10; silver bars, \$301,872 89; cents, \$463,800; total coinage, \$25,296,635 30. The number of pieces of all denominations coined was 46,983,396. Of this coinage \$3,560,436 40, in 45,114,276 pieces, was at Philadelphia; \$19,536,809 02, in 1,869,120 pieces, at San Francisco; and \$1,876,377 04, in gold and silver bars, at New York.

The branch mint at Denver has confined its operations to melting, refining, assaying, and stamping bullion. The number of bars thus stamped was five hundred and thirty-two, of the value of \$486,329 97. The cost of transportation from the Denver mint to the seaboard, coupled with the disturbed condition of the Indians on the route, have operated thus far to prevent the full development of the usefulness of this branch mint. I have hopes that the efforts now making may prove successful, so far as to obviate in great part the difficulties referred to.

A question of title to the proposed site of the branch mint at Nevada, authorized by Congress, has intervened to prevent any further steps from being taken toward its establishment, and no further steps can be taken until Congress shall have perfected the title.

As soon as proper information can be obtained, the necessary measures will be taken for the establishment of a branch mint at Dailes City, Oregon, in pursuance of the act of July 4, 1864.

Preliminary examinations and reports have been ordered relative to a new building for the mint at

San Francisco, authorized by the act of July 2, 1864.

As in preceding years, the great value of the coast survey is constantly impressed upon the Government. While its operations upon the northern coast have been continued without interruption, details of its officers have continued to be furnished to the Army and Navy, who have rendered services of great importance in the conduct of the war, and contributed largely to the success of various military and naval operations, not only upon the coast, but in the interior, as frequently testified by the officers in command.

The light-houses and buoys in charge of the Light-House Board have been maintained at the recognized standard of excellence. Some suggestions are made by the board tending to render the system still more efficient, to carry out which estimates have been submitted. The restoration of lights, injured or destroyed by the rebels, has been proceeded with as rapidly as the territory has been brought within the control of the United States forces. And it is believed that the same unbroken chain which was exhibited before the war will soon be reestablished along the whole coast of the United States.

The Secretary refers with satisfaction to the reports of the heads of the several bureaus and offices, as exhibiting the onerous duties devolving upon them, and the great amount of labor performed, all of which has been, with few exceptions, bestowed cheerfully and assiduously. An increase of force is required in the bureaus of the Second and Third Auditors, and the Second Comptroller, to prevent a vast accumulation of business, injurious to claimants and embarrassing to the Government.

The lease of the premises now occupied as a custom-house in New York will expire on the 1st day of May next. It may, under the provisions of the contract of lease, be purchased by the Government for \$1,000,000, if notice to that effect is given three months before its termination. The premises are suitable and convenient for custom-house purposes, and of greater value than the sum named. If the purchase is to be made, the Secretary should be seasonably authorized to give the stipulated notice, and the necessary appropriation made before the adjournment of Congress. This purchase has been heretofore recommended in two successive reports, and in that recommendation the Secretary fully concurs.

In closing this report, the Secretary feels that he cannot but follow the example of his predecessor, in gratefully acknowledging the obligation he is under to the Assistant Secretaries and other officers of the Treasury Department, not only for the cheerfulness and devotion with which their own peculiar duties have been discharged, but for the kindness and zeal with which they have striven to lighten his labors, and enable him to sustain, however imperfectly, the weight of a most onerous and embarrassing position.

W. P. FESSENDEN,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

#### NAVAL DEPOT FOR IRON-CLADS.

#### SPEECH OF HON. S. J. RANDALL, OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,  
December 13, 1864,

On the bill (H. R. No. 536) authorizing a survey at and near New London, Connecticut, and the establishment of a navy-yard for iron-clad vessels thereat, the pending question being upon the following substitute proposed by Mr. KELLEY:

Strike out all after the enacting clause, and insert: That the Secretary of the Navy be, and he is hereby, authorized and directed to accept from the city of Philadelphia a title to League Island on behalf of the Government, if said title be perfect, and to establish thereat a navy-yard and depot for the construction, docking, and repair of iron, iron-clad, and other vessels.

Mr. RANDALL, of Pennsylvania, said:  
Mr. SPEAKER: The question of the location and construction of a navy-yard for the building of iron-clad vessels has been before Congress for its consideration and action for a long time, and has



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been discussed at so much length as to render it unnecessary for me at this period of the debate to enlarge. I shall therefore confine myself to a few points which I consider should have weight in determining the judgment of this House.

New London, Connecticut, Chester, and League Island, on the Delaware river, are the locations which have engrossed the attention of the committee who have had the subject immediately under consideration. The friends of New London in and out of this House have been most assiduous in their labors, and all that ingenuity and the political power of eastern association could do has been brought to the aid of the New London site, and yet it is manifest that while it possesses a good harbor and sufficient depth of water, there are still insurmountable difficulties to its selection.

In case of any foreign war or domestic rebellion—such as now exists—New London would not, in my judgment, be beyond the reach of an enemy's ships of war, gunboats, or iron-clad rams, and would be in constant danger of occupancy by soldiers of our foe. This is quite sufficient to place New London out of the list of competing locations. Gentlemen on this floor find it necessary to devote in its behalf much exhibition of apparent scientific knowledge to turn aside this fact. So paramount did the board of officers, appointed under the act of Congress approved July 15, 1862, entitled "An act to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes," consider it that they set forth this importance among cardinal rules adopted for the performance of their duty, as follows:

"Security from attack by an enemy, and facility and economy of defense. To be easily defended from its own topographical advantages. To be easily reinforced by troops from a dense population within easy marching distance. Not easily blockaded. Not too near the mouth of a bay or river."

And, if further proof of this fact were necessary, I beg leave to refer to the report of an efficient and competent board of naval officers who assembled in 1820, who were called together as to coast defenses, wherein this point is perhaps more strongly presented.

The majority report, in summing up under this head, state, in comparing League Island with New London, as follows:

"The board is of the opinion that either of the sites under examination may be promptly and efficiently defended, and that upon this question they may be regarded as equal."

You will mark the mildness of the expression, as contradistinguished from the minority report on the same point:

"In security from an attack by an enemy, and facility and economy of defense, League Island, which is seventy miles from the mouth of one of the most defensible rivers of the United States, is greatly superior as a site for a navy-yard to Winthrop's Point, which is three and one eighth miles from the mouth of the Thames river. League Island is secure from a naval attack by rifle projectiles; Winthrop's Point is not. The permanent defenses of Philadelphia defend League Island, and with obstructions in the channel, defended by temporary or permanent works, and iron-clads above them, the river is amply secure. The defenses required by the site itself are almost nothing. Neither of these remarks applies to the Thames river. The present works on the Thames would be insufficient for defense of a naval depot from even a water attack, and expensive works would be required to defend the station from a land attack, either from the east and north or from the south and west. League Island is easily defended by its own topographical advantages, being separated from the main land by an arm of the river which requires bridging or a causeway, and is therefore defensible. League Island has greatly the advantage in regard to defense by troops, from a dense population within easy marching distance. The militia draft within twenty miles of Philadelphia is 142,932 men, while within twenty miles of New London it is but about six thousand men. League Island is nearer to New York than Winthrop's Point is. The Thames river is as easily effectively blockaded as the Delaware; probably it will be more so when a fort shall have been erected at the breakwater. Winthrop's Point has been already stated to be near the mouth of the river Thames. Dutch Island harbor was rejected on this, among other grounds, and is three and five eighths miles from Narragansett entrance. The defenses of the Delaware, except the fort at the breakwater and field-works, are finished; those for the Thames, to defend a navy-yard site, are yet to be made. Fort Trumbull (a permanent work of a small class) and Fort Griswold (an earthenwork) will not suffice for the defense of a first-class navy-yard; on the contrary, very expensive permanent works must be added for this purpose. The position of a navy-yard commanded by heights of some sixty to eighty feet, within distances of from one half to two miles, is an unsafe one, and would be the case of a navy-yard at Winthrop's Point, near New London. The filling of League Island over a space of one hundred acres, would reduce

nineteen acres of Red Bank, five eighths to one fourth mile distant, to four feet above mean high water. Therefore it would not even be necessary to fortify Red Bank for the protection of the navy-yard, though it might be expedient, from other considerations, to do so, at least by temporary works.

"The expenditure necessary to render moderately secure the site of a navy-yard near Winthrop's Point from a combined naval and land attack in front and on the flanks would be out of all proportion to the object to be gained, whereas that at League Island is rendered secure by the defenses necessary for the city of Philadelphia, which are below it, nearer to the mouth of the river, as Fort Mifflin, Fort Delaware, and other less permanent works, in co-operation with which would be floating batteries and obstructions of the river, protected from removal by temporary or permanent works, and by floating batteries or iron-clad steamers."

Now, after reading these two reports on this particular question of the controversy between the two locations, can any one doubt? The first one is, to say the least, equivocal, while the last is full, clear, and convincing. And upon this question of a proper defense nothing can be left to doubt. As to League Island there is none, and it should carry conviction to every mind, and decides the main and all-important consideration in favor of League Island. For what use would a navy-yard be, if, in time of war, when most wanted, it was liable at any time to be captured or destroyed by fire through the means of shells?

The next point is the importance of fresh water as in comparison with salt water. On this both parties seem to agree, in so far as iron vessels are concerned, and I believe the proposed yard is for such.

The most of scientific or mechanical men who have had experience in this respect speak without hesitation, and say that fresh water is indispensable to the construction of iron vessels.

League Island is located in fresh water; New London is not. Listen to the two reports. The New London report says:

"At League Island the water is fresh, and in this respect the board is of the opinion that the advantage is with League Island, so far as iron vessels are concerned."

The League Island report says:

"The water is perfectly fresh at League Island at all periods of the tide, and under all its variations and those of the winds. The site is therefore vastly superior to that of Winthrop's Point, where the water is salt at all times, especially for iron vessels. The bottom of an iron vessel fouled by a sea voyage would be cleaned and perhaps the grass be killed, by remaining at League Island anchorage. The fresh water at League Island has little or no effect upon the iron of a vessel, while the salt water of Winthrop's Point corrodes the material more or less rapidly even when coated, and the coating itself is an expensive operation."

"The spray from salt water in storms is very injurious to machinery near the sea shore, and to this the works at New London would be exposed, while those at League Island would not."

After reading these two statements no candid mind can avoid yielding to League Island superiority. This is the second great advantage in favor of League Island.

The third and last point is as to the means of procuring supplies and materials for the construction of vessels.

The supplies necessary have certainly as good if not a better market at Philadelphia than they would have at New London; but this is a small matter as compared with the iron, machinery, coal, and timber.

As to iron and coal, no one can deny the proximity of League Island to the immense iron ore beds; and the inexhaustible mines of coal answer in behalf of that site. On this all of the board and all who have spoken or who have written agree.

The means of manufacturing machinery are quite as ample in Pennsylvania as in Connecticut. And I am not aware that New London has any advantage over League Island in ability to procure the proper growth of timber.

Thus I have shown that upon the three main points which should be considered in the choice of a location for a navy-yard, League Island has greatly, and beyond dispute, the advantage.

I have made no attempt to color either one favorably, or the other unfavorably. I have taken each report and placed them side by side in contrast, so that all may judge, each one for himself.

I have made no allusion to the position of the great State of Pennsylvania and the claim she may be supposed to have at this time upon the General Government. My wish has been only to fairly state the facts, and having done so, I leave the matter to take its proper course in this House.

# NIAGARA SHIP-CANAL.

SPEECH OF HON. DE W. C. LITTLEJOHN,  
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,  
February 1, 1865,

On the bill (H. R. No. 126) to construct a ship-canal around the falls of Niagara, and amendment to construct a ship-canal from the Mississippi to the Lakes.

Mr. LITTLEJOHN said:

Mr. SPEAKER: I regret to be obliged to oppose the amendment proposed by the gentleman from Illinois [Mr. ARNOLD] to the bill which I have introduced, having for its object the construction of a ship-canal around the falls of Niagara within our own territory. I am not hostile, nor do many who propose to vote with me against the amendment, feel hostile to the construction of a canal from Chicago to the Mississippi river. I oppose it, because I fear the adoption of the amendment will defeat the whole bill, many members upon this floor being decidedly opposed to the union of these measures in the same bill. There are many, sir, very many, upon this floor who, while they are in favor of both projects, the communication around the falls of Niagara, and the Illinois ship-canal, cannot and will not assent to uniting them in one act, as it would encourage propositions for other works of a similar character. I am opposed to omnibus bills. Wise legislation demands that each measure should stand or fall upon its own merits.

Now, sir, I propose to show how much more important to the East and West is the canal around the falls of Niagara than the canal proposed by the amendment of the gentleman from Illinois. First, let us examine the question in its military point of view. The President of the United States has notified the English Government of our intention to rescind that portion of the treaty of 1817 which limits each Power to one armed vessel upon the great northern chain of lakes. Under this notice it will become necessary for the defense of a frontier three thousand miles long, forming a navigable boundary for eight of the most important States of the Union, with an aggregate population of over ten millions, with its numerous large towns and cities engaged in an inland commerce far exceeding the entire foreign commerce of the whole nation, to construct at great cost and maintain distinct and independent naval fleets upon Lake Ontario below and the upper lakes above the falls.

The Niagara ship-canal, when constructed, it will readily be perceived, does away with the necessity for this double fleet, affording a means of concentrating our vessels-of-war at any given point upon any one of the entire chain of lakes, thus rendering all the lakes practically one for purposes of defense.

On Lake Ontario and St. Lawrence river the commercial marine of the Canadians greatly exceeds the American tonnage; while on the upper lakes above the falls it is almost exclusively American, consisting of over sixteen hundred vessels. A large proportion of these are of a class too large to pass the locks of the Welland canal even if its use should be accorded to us by the Canadian government.

Mr. GANSON. I desire to ask my colleague a question: how wide is the Niagara river below the falls to Lake Ontario?

Mr. LITTLEJOHN. It is sufficiently wide for the purpose to navigation.

Mr. GANSON. By the maps and from my own knowledge, it is about a quarter of a mile wide. The heights on the Canadian side, as my colleague knows, command the American side, and from the Canadian side a shell could at any moment be dropped into the locks of this canal, causing an explosion which would tear them to pieces, and render the canal entirely useless as a means of communication for defensive purposes.

Mr. LITTLEJOHN. I am aware of the objection stated by my colleague. This communication, if it be constructed, can be used for the purpose of concentrating our Navy up to the hour of the declaration of war. When a declaration of war has been made by the English Government or our own, then the protection of this communication as well as of the city which the gen-

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deman represents, lying under the guns of Canada, would demand that a sufficient force should cross the river to take immediate possession of the western bank.

Mr. GANSON. I would say to my colleague that my constituents and their neighbors, in case of a difficulty with Great Britain, propose to march over and have the fight on the Canadian side, and take the entire peninsula, without relying on gunboats.

Mr. LITTLEJOHN. That is precisely my proposition; in that respect we agree.

Now, sir, England has constructed a perfect communication from the Atlantic to the lakes and through the lakes. She has to-day a canal ten feet deep, with locks two hundred feet long and fifty feet broad, around the rapids between Montreal and Ogdensburg. She has also an inland canal called the Rideau canal, constructed for military purposes alone, with locks one hundred and forty feet long by thirty-three in width, connecting Montreal with Kingston. The Welland canal, about thirty miles in length, with locks one hundred and fifty feet in length and twenty-six feet in width, with ten feet depth of water, connects Lakes Erie and Ontario on Canadian soil, a few miles inland to the west of Niagara river, with capacity to pass vessels and gunboats of four hundred tons burden.

The English Government has located naval depots at Kingston, on Lake Ontario, Malden, on Lake Erie, and Penetanguishene, upon Georgian bay, on Lake Huron, and those depots are well supplied to-day with naval stores and munitions of war, ready for a conflict. She has in her waters a hundred gunboats of a size adapted to the navigation of the canals referred to which can be thrown upon these lakes at once; and, sir, if she contemplates a war, they will be placed upon the lakes before the declaration of war is made, and the whole frontier, every city from Ogdensburg to Chicago, will be under the guns of British gunboats.

It will be admitted, then, that her communications are perfect. She has intended for the last half a century that they should be so. Now, what do we propose? Why, sir, to make this great chain of lakes one sea by this communication for all purposes of military and naval defense. Sound policy demands that no reliance be placed on any canal of six feet depth of water, whether from the Mississippi to Chicago or the Hudson to Lake Ontario to supply the lakes with gunboats of size, capacity, and caliber to contend with the larger and superior class of boats which it has been shown are at the command of our northern neighbors. Boats of such draft of water and such dimensions could never withstand the tempests of the lakes, and would therefore be wholly inadequate for purposes of defense. It becomes the American people, then, to provide every means of defense in the power of the Government upon the lakes themselves.

As I remarked when interrupted by my colleague, there are sixteen hundred merchant vessels upon the lakes above the falls, most of them too large to pass the Welland canal, if its use was accorded to us by the Canadian authorities. Those vessels could be converted into gunboats in the space of six or eight weeks, and could be concentrated by the proposed canal on Lake Ontario for purposes of defense to meet the British fleet when it leaves the St. Lawrence and enters the lakes at or near Kingston. It must be admitted that if there is a great naval battle upon any of these lakes, it will be first fought on Lake Ontario. Is that lake not the key to the whole? Naval success on Lake Ontario, where her waters seek the St. Lawrence in their progress to the ocean, is a guarantee of protection to the entire chain of lakes, while success confined to Lake Erie or the upper lakes alone would be an abandonment of Lake Ontario to the enemy. The inland commerce of our northern lakes, in magnitude twice as great as all the foreign commerce of the whole nation, and in which ten million American citizens are interested, demands immediate protection. It is threatened by a foreign Power unscrupulous in times of war. The construction of one fleet, having the range of the entire chain of the northern seas, is the only efficient mode of defense now within our reach. It would be sui-

cidal to incur even the hazard of interruption of this trade and commerce. While the westward-bound commerce is highly important to the comfort and prosperity of the western States, their agricultural products are indispensable to the eastern States. The arrest of the eastward-bound movement of food by British supremacy on the lakes, even for a short period, would create a state of suffering to the inhabitants of New England and the Atlantic States unparalleled in the history of our country. And yet, as it were, under the guns of a foreign nation jealous of our commercial prosperity and increasing national power, and constantly assuming a threatening attitude toward us on the slightest pretenses, these great municipal and commercial interests are utterly unprotected.

These, sir, are briefly some of the military considerations which imperatively demand the construction of the canal provided for by this bill. But, sir, it is no objection to the construction of this canal as a military proposition that it is of great importance to both the East and the West as a commercial avenue or highway. I make here the broad assertion, to which I call the attention of western members, that the figures will show that the construction of this ship-canal will cheapen the transportation of every bushel of grain sent to the eastern markets at least five cents a bushel. Figures prove this, and you ask me how. It has been the policy of the State which I have the honor in part to represent on this floor to compel the products of the great West to pass over her long line of canals, three hundred and forty-five miles from Lake Erie to the Hudson. Construct this ship-canal, and the inland canal navigation from the lakes to the Hudson will not exceed one hundred and seventy miles. The difference is over one hundred and fifty miles. You thus substitute deep water, free lake navigation, and save over one hundred and fifty miles of expensive canal transportation. The toll levied upon that length of canal is, on wheat, corn, and flour, and like property, one dollar per ton. By the terms of this bill it is provided that on similar property the toll shall not exceed twenty cents per ton. Here, then, is the saving of eighty cents per ton upon all property which requires to be transported from the Northwest to the East in the item of tolls alone.

The cost of transportation will be further diminished by the substitution of large vessels for small.

The cost of one trip of a steam propeller of four hundred tons by the present Welland canal is	\$1,541.	Per ton.....	\$3 85
The cost of one trip of a steam propeller of one thousand tons by the proposed Niagara ship-canal would be	\$2,435.	Per ton.....	2 43

Difference in favor of large propeller per ton.....\$1 42 equal to \$1,420 on a single trip. This with the saving in tolls would give a total of about \$2 20 per ton. Those familiar with the tonnage of the lakes will appreciate the importance of the proposed improvement. Those who do not will understand the interest the northern States have in this question when they learn that the eastward movement of western property the last two seasons by all eastern communications reached nearly five million tons each season.

The capacity of the proposed Niagara canal will be about thirty-two thousand tons per day, or equal to about eight million tons in an ordinary season of navigation.

Mr. WILSON. I desire to ask the gentleman from New York what assurance he can give to the people of the West that the tolls upon the canal from Oswego will not be increased so as to preserve the equilibrium of tolls between that point and between Buffalo and tide-water?

Mr. LITTLEJOHN. I should have reached that point in a moment; but I will answer the gentleman. The construction of the Niagara ship-canal, passing vessels of twelve or fifteen hundred tons to the lower end of Lake Ontario, will compel the State of New York to enlarge her canal from Oswego, and will also compel the State, in competition with the St. Lawrence, to place the tolls at the lowest possible rates.

But there is another guarantee upon which I place the more reliance, and that is, private competition. Permit the grain and other products of

the Northwest to reach the lower end of Lake Ontario, and the capitalists of New York and the Northwest will construct through lines of railroads from that point to the Hudson, which will compel the State of New York to reduce the toll from the figure at which it now stands. Twenty-four hours would suffice to pass the grain from Lake Ontario by a line of railway one hundred and sixty miles in length to the Hudson, elevated at one quarter of a cent per bushel from the lake vessel to the cars and transferred to the barges on the Hudson river by the laws of gravitation. This I deem a conclusive reply to my friend from Iowa. While grain and produce generally cannot be carried cheaply on long lines of railroads, as from Lake Erie to the Hudson, yet, on a short line like this referred to, and on descending grades, the cost will little if any exceed the charge by canal.

The friends from the Northwest know that there are to-day lying in the depots of the Erie and the Central railroads thousands of tons of property which was placed there before the close of navigation, and which cannot yet be transported to New York.

Mr. WILSON. I desire to ask the gentleman, inasmuch as I represent a district lying far to the west of Chicago, to inform this House how that great region of country which lies west of Chicago, is to avail itself of the benefits of this cheap transportation without a water line of transportation which shall run westward from Chicago, and connect the region west of the Mississippi with this cheap water line of transportation to the East?

Mr. LITTLEJOHN. Sir, it is contrary to human wisdom to enlarge the sources of a mountainous stream without opening first its outlets, and my friend from Iowa may pile the corn and wheat of Iowa and other western States mountains high upon the shores of Lake Michigan, and without large additional facilities eastward it will avail him nothing.

Mr. WILSON. Mr. Speaker, I think I can suggest a remedy, certainly one which would be perfect when peace shall be restored, and yet I fear that the remedy which I would propose would not meet with favor at the hands of the gentleman from New York, and that is, to so improve the navigation of the Mississippi river, that great highway of the commerce of the West, as to make it an uninterrupted water communication from St. Paul to the Gulf of Mexico. A proposition will be submitted, if not as an amendment to this bill, as an original bill in this House, to canal the two rapids in the Mississippi river, which will give to the western country a water communication connected with the Baltimore and Ohio railroad and with the Pennsylvania Central railroad; so that we shall have that advantage as well as the one which the gentleman proposes to give us.

Now, from the remarks which the gentleman from New York has made in relation to the pending amendment of the gentleman from Illinois, [Mr. ARNOLD,] I fear that this proposition will not meet with more favor than that, and yet I may say to him that unless we can secure these lines of transportation between Chicago and the great country west of it his proposed improvement will amount to but very little.

Mr. LITTLEJOHN. In reply to my friend from Iowa, I will say that so far as my own views are concerned on this question, I am in favor of the most liberal construction of communications, whether by rail or by water, in all parts of the United States. Such has been the position I have always occupied in my own State, and such will be the position I shall occupy upon this floor. Like the gentleman from Illinois, [Mr. INGERSOLL,] I claim to be a citizen of the United States, and of no single State. As an independent proposition, I will vote for any measure that the gentleman from Iowa may bring in, but I do object to loading down a more important proposition with amendments until it sinks by its own weight, and fails to receive the approval of a majority of the members upon this floor.

Mr. SLOAN. I desire to say to the gentleman from Iowa that it seems to me that the States west of the Mississippi river will participate in the benefits of this Niagara canal as well as those lying upon the lakes. The products of the States west of the Mississippi river are now carried to the Atlantic sea-board through the navigable

waters of the lakes, and hence those States will enjoy the benefits of the cheaper transportation which this proposed ship-canal will afford to the States bordering upon the lakes.

Mr. WILSON. I will suggest, in reply to the gentleman from Wisconsin, that the country lying west of Chicago, without water communication with that city, will be at the mercy of the railway corporations connecting that western country with the lines of lake transportation, and that gentleman knows full well—at least I know full well—that the tariffs of freights upon those railways running west of Chicago are so adjusted as to make up the difference in the reduction of freights east from Chicago, and this work would be no accommodation to us unless we had through water communication to Chicago. What we may gain in saving of transportation by this means will be made up by the persons controlling the lines of railroad west from Chicago by an increase of rates of freight.

Mr. LITTLEJOHN. Mr. Speaker—to resume my remarks where I left off—the construction of this ship-canal permits a vessel laden with the products of the West to seek the lowest point on the chain of lakes nearest tide-water before breaking cargo. I have undoubtedly convinced the mind of every member on this floor that it will cause a saving on the New York canals of eighty cents per ton, which is nearly three cents per bushel. There is still another saving that will be effected. Very few vessels are now being constructed on the lakes of a size that can pass the Welland canal. Vessels of a larger size, being more economical, are built, confining the trade to the long line of canals terminating on Lake Erie above the falls. Hence, year by year, the trade of the great West with Lake Ontario is being lessened. When a ship-canal shall be opened that will allow a larger class of vessels to pass, then these vessels that are now confined to the upper lakes will come into competition with those of a smaller class. You will find vessels of fifteen hundred tons running from Buffalo to the lower end of Lake Ontario, a distance of over one hundred and fifty miles, in twenty-four hours, in competition with the canal-boats of two hundred tons burden the same distance on the Erie canal. This difference in capacity further cheapens the cost of transportation to an amount fully equal to the saving in tolls.

Again: time is an important consideration in the movement of the products of the great food-producing States of the West. A steam propeller, laden with thirty thousand bushels of grain or other property, would make the passage from Chicago to the lower end of Lake Ontario in five or six days. Her cargo, by the rail proposed, would be delivered to the barge on the Hudson in one day, and by that barge be placed alongside of ship for transhipment to a foreign market in one day more, making a total of seven or eight days from Chicago to the sea-coast. It would be safe to assume the average time would not exceed ten days. Thus if the State of New York did not provide adequate facilities by her canals the products of the West could be taken, in the mode indicated, with regularity, in eight or ten days from the city of Chicago to the docks of New York. And what I say about New York applies equally to New England.

What are the facilities that you have now for the transportation of products east and west? The Baltimore and Ohio railroad, the Pennsylvania railroad, the New York and Erie, the New York Central, and the Erie canal. Last year there were not transportation facilities for one ton where there were two tons ready for shipment. In 1862 the western States sent to eastern markets one hundred and thirty-five million bushels of grain. Ten years hence, with enlarged and adequate means of transportation, that amount will be increased to five hundred millions. There are now in Illinois two hundred million bushels of grain, one fourth of which will never reach tide-water for want of avenues either by rail or water.

Let us see what are some of the advantages to be derived from opening this communication. I have shown the saving of toll, and the saving by the substitution of large craft for small. Put the two together, and you have a clear saving of five cents on every bushel of grain. Five cents a

bushel on the one hundred and thirty-five million bushels transported in 1862 gives you a total of \$6,750,000 of saving, to be divided between the producing States of the Northwest and the consumers of New England and New York, Pennsylvania and New Jersey. There is one law of trade which is to be observed, and that is, that all competing lines are brought to a level, or to nearly a level, with the cheapest. If the lake route is cheaper, then must every competing line reduce its rates of transportation in order to retain its business, so that the construction of this canal will benefit the entire northern States of the Union. Increase the amount of grain transported to two hundred million bushels, and I hope it will reach that amount the present year, and the saving in the cost of transportation will be \$10,000,000, to be divided between the consumers and the producers. When this communication and others shall be opened, and when the amount shall be increased to five hundred million bushels, the annual saving will be \$25,000,000 annually.

But that is not the whole of the saving. It is well known by those who deal in the products of the West, that whenever the present limited means of communication are filled to excess, the rates advance from five cents to twenty-five cents a bushel. I have known fifty cents a bushel to be paid for the transportation of wheat from Chicago to the Atlantic; while, under the communication that we propose, these rates would be, almost universally, within twenty cents.

The cost of the proposed canal, in consequence of its size, the rock excavation, and its great amount of lockage, will be so large that private enterprise cannot undertake its construction; the State of New York will not. The only mode left, then, is to apply to the General Government. I submit, therefore, whether wise statesmanship, at a time when our people are groaning under taxation, incident to the war, does not most clearly demand that we should grant Government aid to the amount sought by this bill, and in bonds, too, not payable for twenty years, when it is so clearly demonstrable that the people will save each year not less than the whole amount asked for. I desire to be placed upon record as predicting that, upon the completion of the Niagara ship-canal, and the consequent increased facilities from Lake Ontario to the tide-water which will inevitably follow, that the annual saving to producer and consumer in transportation will average over fifteen million dollars during the lifetime of the bonds proposed to be loaned. Our duty then is plain.

Mr. Speaker, I did not intend when I arose to occupy so much of the time of the House. I will trespass but a moment more, and then close. I have shown to the Northwest the important interest which she has in the construction of this communication. I trust I have convinced members representing the food-producing States that it is of more importance to them that this eastern outlet should be immediately opened than that the Illinois ship-canal should be built, and that its construction should not be defeated or risked by coupling it with any other measure.

It is important, perhaps, to show when you reach the lower lakes what means of communication will connect you with the Atlantic. There is the railway communication by way of Rochester and the Central and Erie railroad, and so on to the Pennsylvania mines. Application has been made to the Legislature of New York for a charter to construct a ship-canal from Sodus bay, on the south shore of Lake Ontario, to pass through Cayuga and Seneca lakes to a point near the Pennsylvania line, in order to receive the anthracite coals of Pennsylvania, and distribute them at the lowest possible price over the whole Northwest.

A railroad is being constructed from Sodus south via Auburn to Binghamton, connecting with the Erie and Delaware and Lackawanna railroads, while a road is already being operated from Oswego in connection with the same roads, forming continuous lines to New York, the coal fields of Pennsylvania, and the city of Philadelphia. By these roads the coal fields of Pennsylvania are brought much nearer the lakes than by any other lines which now exist or can hereafter be made.

At Oswego the enlarged Oswego and Erie canal connects with the Hudson river at Troy, with its double tier of locks eastward from Syracuse.

Two railroads also connect this important point with the Central railroad.

At Cape Vincent the Rome and Watertown railroad now receives large consignments of lake produce and delivers the same in New York either by Central railroad or the Erie canal from Rome.

The projected railroad from the Hudson to Lake Ontario via Saratoga is being rapidly pushed to completion, and will form an important avenue for western produce.

From Ogdensburg you have a railroad over which the city of Boston last year supported a line of fifteen steam propellers in her trade with the western States, a trade likely to be interrupted instantly by an order in council of the Canadian board of works in prohibiting the use of the Welland canal. By this line large amounts of property are sent to New York via Lake Champlain and canal. Then again at Montreal you have a railway connection with Portland by which commerce is destined in the future to grow to immense proportions. Again, there are those engaged in our lake commerce who contend that the cheapest water communication which can ever be opened with the lakes is from the St. Lawrence river at Montreal through Lake Champlain, leaving only a canal of sixty miles in length from the foot of Lake Champlain to the navigable waters of the Hudson.

The construction of the Niagara ship-canal of the size proposed gives to the West all these competing lines in addition to those now available to her use, from the lakes above the falls. I respectfully call the attention of my friend from Iowa [Mr. Wilson] to these additional avenues. If, however, the eastern States are so far negligent of their interests as to withhold facilities for transportation through and into their territories, then the Northwest, by permission of the Canadian authorities, can use the St. Lawrence river as an easement to the ocean. In my judgment it will only be availed of under such circumstances.

Mr. BLOW. The gentleman from New York [Mr. Littlejohn] has alluded to the St. Lawrence. I desire to remind him that we have a stream running through our country; and that upon that stream and its tributaries there is as great a tonnage as upon the lakes. I ask him, what does he propose to do with that immense tonnage when the navigation of that river is again fully restored? Is that tonnage to remain idle, or is it to be compelled, by the building of such canals as he proposes, to contend with the great routes to New York? I assert that before this rebellion broke out we transported the grain of Illinois and Iowa by way of New Orleans to the Atlantic ports at one fourth of the price that it is being transported for to-day. Let the gentleman meet that question before he asks us to throw open a connection with the lakes by way of the Illinois river.

Mr. LITTLEJOHN. I have already stated that there are many upon this floor who oppose this amendment who will vote for it as an independent proposition.

Mr. BLOW. Will the gentleman refer me to any time in the history of this Government when thirty thousand miles of inland seas have ever been improved by a public appropriation of any magnitude?

Mr. LITTLEJOHN. The greatest lake of the whole chain was connected with the lower lakes by St. Mary's canal, built by a donation from the United States Government. That is an argument in favor of the construction of the canal around the falls of Niagara. But I desire to correct my friend from Missouri [Mr. Blow] in one thing. I hold in my hand an extract from the annual report of the Secretary of the Treasury for the year ending August 31, 1860, to show the importance of the Mississippi river as an outlet for the products of the northwestern States. I do not intend to depreciate the trade supposed to be confined to that river, but to show the little importance of that river to the producing States of the northwest.

In 1860 New Orleans exported to foreign ports 2,189 bushels of wheat, as against 1,880,908 bushels from New York; 224,000 bushels of corn, as against 1,580,014 bushels from New York. Of flour there was exported from New Orleans 80,540 barrels; from New York, 1,187,200 barrels. Now, sir, I do not refer to this in the way of opposition to



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the navigation of the Mississippi river; I refer to it to show that we can never depend upon that river for the transportation of grain, in consequence of the great heat of that climate. A gentleman near me asks how much pork was exported from New Orleans. From that port there was exported 4,250 barrels; from New York, 109,379 barrels. Sir, what has been in the past will be in the future. I repeat that the cheapest outlet for her products which the Northwest can have upon American soil is by using the entire chain of lakes—that chain proposed to be made available by the construction of the Niagara ship-canal. Had the Niagara river been unbroken by the falls, had it been left by nature navigable as is the Detroit, no one will for a moment contend that a vessel bound toward tide-water with her cargo would ever have broken bulk until she reached the nearest point to that tide-water, namely, the foot of Lake Ontario. This proposed canal removes nature's obstructions.

Sir, what is the interest of the eastern States, of my own State of Pennsylvania and New Jersey, in this question? I warn gentlemen who represent those States, engaged in an honorable competition for the trade of the Northwest, that if the State of New York should oppose herself to this proposition, she will compel what the Northwest has asked for, what Illinois sent a committee appointed by her Legislature to ask of the Canadian Government, the construction of the Ottawa ship-canal. I desire to call the attention of Representatives from New York, and Pennsylvania, and New Jersey, and the New England States, to this consideration; if you desire to part with this great trade of the Northwest, then withhold this communication, compelling thereby, as you will, the immediate construction of the Ottawa ship-canal. What is that? A slack-water navigation for vessels of one thousand tons' burden, from Georgia bay to Montreal, placing Montreal ninety miles nearer to Chicago and Milwaukee than is the city of Buffalo by water, and six hundred miles nearer by water than the city of New York, Boston, or the city of Philadelphia. Has not the East the same interest in this great question? Shall we withhold the construction of this great communication? If so, for what reason? The present means of transportation are overburdened. Point me, if you can, to a single new line of railway or canal, projected or being constructed, between the West and the East. What steps is the State of New York taking for the enlargement of her communications? Where is the Northwest to find an outlet for the next ten years if this outlet be denied to them? What will be the amount of those products ten years hence? Why, sir, she will raise one thousand million bushels of grain for a market over her own consumption. Not one acre in ten of the great grain-producing States of the Northwest is yet under cultivation. When this war shall have closed this country will go forward in a tide of prosperity never witnessed before in the history of the world. Emigration from the Old World and from the eastern States will scatter itself far and wide over the western prairies and the southern soil. I predict, sir, we cannot too soon provide outlets to distribute our productions to the markets of the Old World.

Sir, we have a deeper interest still. When the war shall have closed, we shall have contracted, for the preservation of the Government, a debt of perhaps three or four thousand million dollars. Is it not proper that we should look to the means of extinguishing that debt by sending our produce to Europe, every bushel bringing back a gold dollar? Where would we stand to-day with an exportation of five hundred million bushels to European markets? Independent, financially, of every Power upon the face of the globe. Gentlemen may say that foreign markets cannot consume such an amount of our products. I have here a letter from Baring Brothers & Company, of England, showing that when the price reaches a certain low price, still a remunerative figure to us, the European markets can, if there be cheap communication with the West, receive and consume five hundred million bushels of grain.

This question grows in magnitude as we discuss it. I hope that this bill will pass without any amendments, except such as are calculated to perfect it. As I prepared the bill, I will call the

attention of the House to its main features, and then resume my seat. The State of New York last winter refused to charter a company to come here and ask aid to construct this canal. That, in my judgment, was because its importance was not appreciated. I desire to say that although there is no great party in that State, yet it is well known that there is a party adverse to the opening of short lines through the State, contending that it would reduce the revenue of the Erie canal. This, perhaps, is not the place to discuss that question. This bill provides that a ship-canal shall be constructed about the falls as a military work. It directs the President to appoint commissioners to survey this line. After the survey is made and the route determined on, the President is directed to procure the right of way by negotiation if possible; if not, by an application to the court for the appointment of commissioners to appraise the damages upon the principle on which damages are appraised under the railroad act of New York.

Up to that point the General Government acts. And now, in order to benefit by private enterprise, in order to save to the Government a large expenditure of the Government money, the President, having procured the right of way, is authorized to contract with any responsible corporate company to enter upon those lands and construct this canal. The bill further provides that Congress shall loan to this company \$6,000,000 of twenty-year bonds, in consideration for which the company is bound to give to the United States forever the practical ownership of the canal for all military and naval purposes whatever. It also compels the company to open up the canal as a grand highway of commerce at a rate of tolls not to exceed the rate of toll now charged upon the Welland canal through Canada, which upon grain, wheat, and corn, is twenty cents, and upon flour twenty-five cents, per ton.

The bill also provides for a board of revision, to revise and alter the tolls every five years, thereby protecting the commerce of the country. It also provides that the Government may at any time enter upon and purchase this canal from the company, by adding ten per cent. to its actual cost.

The bill has been framed with great care to protect the Government and the commercial interests of the country. No company is yet formed, and the names of no persons are yet decided upon; but if the design of those who have moved in this measure be carried out, the leading commercial men of Portland, Boston, New York, Philadelphia, Baltimore, Chicago, and of the other lake cities, will be invited to come forward and take this work as trustees or agents of the Government and construct this canal forthwith.

The bill provides that it shall be completed within three years, or the contract shall be forfeited and the work revert to some other company. Lest some objection may be raised to the right of the General Government to build this canal over the lands of the State of New York, I will state that a joint resolution was passed by the Legislature of the State of New York, in these words:

"Resolved, (if the Senate concur.) That the consent of this Legislature is hereby given to the construction, by the Government of the United States, of a ship-canal around the falls of Niagara, and that the Senators and Representatives of this State in the Congress of the United States be requested to use their best efforts to procure the passage of a bill for this purpose."

The consent, then, of the State of New York has been given to the United States to enter upon and take land for the construction of this great highway.

Now, sir, twenty-five or fifty years hence, from the Atlantic to the Pacific will be a continuous tier of States, members of this Union, and over those States will run the iron horse of the Pacific railroad. Members who reside upon the far western coast have also an interest, then, in this highway. The products of Asia wafted over the Pacific ocean, and then by rail, can be shipped upon the waters of Lake Michigan and pass to the Atlantic by this great improvement, and the merchandise of Philadelphia, of Baltimore, of New York, of Boston, and of Portland, will be sent westward over these waters and will find a way to the coast of the Pacific, and even to China and India

for sale and consumption. And not only that, sir; the time is coming, within the next half century, when this Republic will dictate laws, not only in the arts and sciences, but in pecuniary matters, to the whole world. The moneyed center of the world is to be transferred from English to American soil, if we be but true to ourselves and use and develop the resources and advantages bountifully bestowed upon us by nature. England must abandon her lines of communication with her eastern possessions and become tributary to the lines that we propose to construct between the Atlantic and the Pacific. Her business men and emigrants seeking China and India must cross our continent and pay tribute to our enterprise and the genius of our institutions.

BOARD OF ADMIRALTY.

## SPEECH OF HON. H. W. DAVIS,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1865.

The House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, the pending question being the amendment submitted by Mr. Davis, of Maryland, to add to the bill the following:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

*Sec. — And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

*Sec. — And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel of war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

*Sec. — And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

*Sec. — And be it further enacted*, That the Secretary may add to the board, from time to time, other officers of the Navy eligible to the position of chief of bureau, not exceeding three, at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mr. DAVIS, of Maryland, said:

Mr. CHAIRMAN: I should have been glad, but for the importance of this subject, to have allowed the vote to be taken upon the amendment which I have offered without making any observations on it. But the condition of the Navy, and its great importance in the adjustment of accounts which we will have to adjust with other nations, so soon as this rebellion shall be suppressed, make it a matter of vital moment that we should not be deluded by any apparent strength, that we should not allow weakness to be covered up under great numbers, whether of vessels or of guns, nor allow ourselves to be persuaded, by articles adroitly inserted in newspapers in various portions of the country, into the belief that we are a great naval Power of the first magnitude, till that illusion be dispelled by some

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day of disastrous memory. For these reasons I desire to offer a few observations in support of the amendment which I have proposed.

This amendment is not introduced upon my own judgment, is not one hastily drawn and thrown before the House to provoke a discussion; but it was introduced after great deliberation, not deliberation in my own mind, but after deliberation in connection with the first officers of the Navy of the United States, the men who must bear your flag, navigate your ships, fight your guns, and maintain the honor of your country with the means you place at their disposal. They are the men who tremble at the present condition of the Navy.

The honorable gentleman from Ohio, [Mr. SPALDING,] on the Naval Committee, was prompt and anxious to thrust aside, unconsidered, this amendment when it was introduced the other day, because it was under consideration before the Naval Committee. But it is proper to say that the bill was referred to the Naval Committee at the last session; not late in the session—three months before its close; and if they have not considered it, it is because they do not wish a vote upon it or do not consider it worthy of consideration. I have more than once applied to one or two of the gentlemen upon that committee to take the bill up and consider it, and to report it, even if they reported unfavorably upon it, so that the country might have an opportunity of having the judgment of this House and the vote of this House upon that measure.

Mr. SPALDING. Will the gentleman allow me a moment?

Mr. DAVIS, of Maryland. For a moment.

Mr. SPALDING. I would say that the Naval Committee has considered the bill, and agreed to report unfavorably upon it.

Mr. DAVIS, of Maryland. Then, sir, there is no further reason for delay. Perhaps the House will understand why that report is made now, when it can be no longer delayed. At an earlier stage, as an independent measure, there would have been a chance of having a consideration of the bill. When I saw that there was a purpose that there should be no consideration of it, I moved it as an amendment to the appropriation bill. *The Naval Committee were not then ready to express their judgment upon it.* Now that it is here, and the House must act upon it, they have suddenly made up their opinions—upon what consideration it is for them to say—and throw the weight of their judgment against it when it is up for consideration before the House. Sir, their judgment will, of course, not have the weight and consideration of a committee under ordinary circumstances; but that they have deliberated for nearly a year without deciding on it, looks as though their opinion were given now for the purpose of accomplishing what they did not accomplish by smothering the bill.

There are, I agree, grave objections to incorporating important measures upon the appropriation bills. But before this amendment was moved the House, by an almost unanimous vote, had greatly changed the organization of the Navy by increasing largely the number of cadets allowed at the Naval Academy. And the objection urged to incorporating this amendment upon the appropriation bill struck me as very remarkable, when an amendment of that kind had already been adopted within half an hour before I made my motion, on the motion of the honorable gentleman now in the chair, [Mr. WASHBURN, of Illinois,] amended and enlarged upon the motion of the chairman of the Committee of Ways and Means, [Mr. STEVENS.]

There are circumstances where grave and important measures may with propriety be put into an appropriation bill; and while that precedent surely justifies this amendment in point of parliamentary law, there is an additional consideration why this should be incorporated here. The declaration of the gentleman from the Committee on Naval Affairs sufficiently shows that this measure does not meet with favor at the other end of the avenue; that the people whose hands are to be tied by the presence of responsible advisers prefer that the fetters should not be put upon them. And we have experienced more than once in this Congress that measures of national moment,

passed unanimously by this House, have rested unacted upon elsewhere. Sir, there is small prospect of securing the passage of any measure which has to be forced upon opponents at the other end of the avenue. It is impossible to get even a vote upon such measures unless they are placed upon bills that put them before the public eye and require a vote either in the affirmative or negative. I avow, sir, that it was not to insure the passage of the amendment, but to compel a vote on it, that I moved it when I did.

Mr. Chairman, we are creating a navy at enormous cost; not increasing a navy; not merely continuing the ordinary expenses of a navy; we are creating one. We are driven to the necessity of passing from a second or a third-rate into the class of a first-rate naval Power; and the question that we have to decide is, under what responsibility, by whose advice, under whose auspices, shall that great change be made? We have now had the experience of four years of war. The changes that have been made have been made under the auspices of the Secretary of the Navy and his irresponsible Assistant Secretary, who is the real and acting Secretary of the Navy, and on the suggestion of the chief of the Bureau of Engineers; and beyond that responsibility there is no responsibility to the people or the country for anything that has been done heretofore or anything that may be done hereafter.

What has been the result? We are taught to believe that we are a great naval Power. We have the semblance certainly; whether we have the reality is something that remains to be seen. We are told by authority that we have 671 vessels-of-war, and that we have 4,610 guns afloat, or for which vessels are being built. If that be so, then we are a great naval Power, though perhaps not of the first class. But, sir, it is important to analyze that statement and see what there is of substance in it—how many guns there are afloat that must go down in the first collision, how many that can bear the flag of the Republic in the face of the force of a great naval Power. When we scan the figures given us by the Department, and analyze in the light of the reports of the Department the origin, structure, and speed of the vessels which bear the guns, and apply to it the judgment of naval men, the laws and conditions which are to be observed in the construction of naval vessels—matters upon which I am not entitled to express an opinion, but on which I may quote the opinion of those who are professionally competent—we find that these figures dwindle to more modest proportions, that the real navy is greatly less than the apparent navy of the report.

The aggregate given by the Secretary's report is 651 vessels, with 4,610 guns. But there are 112 sailing vessels, with 850 guns. The Secretary of the Navy tells us that sailing vessels are useless for the purposes of modern war. It is useless, after that authority, to quote any other; for if the Secretary of the Navy knows it, then every midshipman at least knows it, and everybody else in the country. Then 850 guns are to be taken from the apparatus of war of the Navy. We have besides 174 paddle-wheel steamers bought; that is to say, merchant vessels, with all their machinery exposed, so that a single shot subjects them to the fate of the *Hatteras*, exploded and sunk by the *Alabama* in the Gulf of Mexico. They are not war vessels, built for naval service, but ordinary mercantile vessels, purchased by the United States for the purposes of the blockade. Now, sir, I do not criticise the propriety of those purchases; on the contrary, I think they were eminently wise when they were made. Whether they were made as economically as possible is a matter that I do not propose to consider. But to place them among the war vessels of the Navy, and to think that those 174 vessels carrying 921 guns are to be accounted part of the naval strength of the United States in the event of a naval war, is a delusion that must result in disaster.

There are, besides, 149 screw vessels, light-propeller vessels, likewise bought from the mercantile marine. Every naval man knows that no vessel constructed for mere mercantile purposes is or can be made a vessel-of-war fit to be placed in line of battle in a great naval struggle. They answer possibly

to cruise after the commerce of the enemy. But when the flag of England shall float over a fleet representing in this day that which Nelson commanded at Trafalgar, that nation that meets such a fleet with vessels built for the merchant service is doomed to disaster; and when we have a statement which includes such vessels as a part of the naval strength of the country, no man who values the honor of the country or its safety in a day of naval battle can permit such a statement to pass without saying that it is a delusion and a snare. When you sum up those vessels you find from the aggregate of 671 you have stricken off 435 vessels and 2,385 guns, and left 236 vessels bearing 2,225 guns.

But let us go a step further. There are likewise of the vessels built for naval purposes, under the auspices of the Department, 47 paddle-wheel steamers—double-enders, as they are called—ferry-boats, river steamers, hawks to catch blockade runners; but for a day of naval battle no naval man will allow them to be called war vessels at all. Their machinery is all exposed, their boilers are exposed. Whatever may be their availability for blockade purposes, though they escape a chance shot from a rover, as part of the naval force of the United States they must be stricken from the list, for it is not possible they could survive a collision with vessels of equal armament constructed on naval principles. And we must also deduct five paddle-wheel steamers of the old Navy. These two classes of paddle-wheel steamers carry 524 guns; and if they are deducted from the 2,225 guns, there remain 1,701 guns on 184 vessels-of-war properly so called. So when we have analyzed the real naval force of the country that stands between us and aggression from abroad, we are reduced to the number of 184 vessels and 1,701 guns—a respectable increase, but an increase which leaves us exposed to overwhelming disaster if we stop there; a difference between the official statement and the real condition of the naval force of the Government to which the attention of the people should be called.

In order to give a clearer idea of the real force existing and what has been added by the Department since the rebellion broke out, it is necessary to say that of these 184 vessels, 25 are screw steamers of the old Navy that I guess can sink all the wooden vessels which have been added of the new Navy by the mere weight of their batteries, 62 iron-clads, and 97 wooden vessels, mostly of small size; none at least of large size, none beyond the grade of a sloop-of-war of moderate size, at present afloat, for 28 vessels included in that 97 are, I believe, now upon the stocks, and that 28 include all the larger cruisers mentioned in the Secretary's report. So that our fleet actually afloat is reduced to about 156 vessels, bearing 1,192 guns. And there we stand to-day if we have a declaration of war with England to-morrow.

The organization of the Navy Department, as I have already said, leaves the whole responsibility of the construction of all naval vessels, their forms, structure, armament, machinery, and materials, limited only by the amount of money appropriated for their construction, at the irresponsible discretion of the three persons I have named; for the organization of the Navy Department is a Secretary who administers it, an Assistant Secretary who administers him, and the chiefs of bureaus who are the ministerial fingers and hands of the gentleman at the head of the Navy Department. Such an organization of a Navy Department exists nowhere else in the civilized world among naval Powers. In our fast American style we sneer at the slow motions and grave deliberation that mark every step of the great naval Powers of the world, France and England; yet to-morrow we are unable to cope with either of them with one half of their force in ranged battle on the ocean.

Their organization, Mr. Chairman, is a different one. In England we know that the office of Lord High Admiral is exercised by a board of six commissioners who are called Lords of Admiralty, and a chief Secretary of the Admiralty. The First Lord of the Admiralty is a member of the cabinet, and the Secretary must be a member of the House of Commons, where he is charged with the naval estimates. The powers which are exer-

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eised in England by the Board of Admiralty are here exercised by the Secretary of the Navy. The Board of Admiralty in England is charged with the responsible and discretionary administration of the Navy as the Secretary is here; both having ministerial officers under them which with us are called chiefs of bureaus.

The French navy is administered by the minister Secretary of State for the Marine and the Colonies. He is surrounded by a Council of Admiralty composed of three naval officers of high grade, vice or rear admirals, and three high officers of colonial administration, named by the Crown, presided over by the minister, and charged to give its advice on all measures relating to maritime and colonial legislation, the administration of the colonies, the organization of the naval force, the modes of supplying it, naval structures and buildings, and to the direction and employment of the naval force in time of war. This council is intended for advice on the higher matters of legislation and administration. But the minister is provided with another Council of Naval Works composed of the inspector general of naval constructions, the inspector of artillery, the inspectors general of hydraulic constructions, two captains of the navy, a director of naval constructions, and an engineer of the navy, acting as secretary, with a deliberative voice, the whole presided over by one of the Council of Admiralty, and charged to give its advice on matters submitted to it by the minister, on the plans and estimates for naval constructions, hydraulic works, material of artillery, and all works in navy-yards, on the preparation of regulations for the execution of naval works of all kinds, on the preparation of proposals for contracts for any of the above objects, on the adoption of inventions, and everything relating to improvements of naval structures, artillery, or hydraulic works. Thus the minister Secretary of State for the Marine and Colonies, aided by a large naval staff of professional officers for professional advice, is charged with the responsible administration of the French navy. They deliberate in common, constitute the council of the Secretary of the Navy, as we should call him, his cabinet, whose advice is to guide and enlighten the administrative discretion of the minister. It is to the minister, aided by the deliberations of those responsible bodies, that the great duties of creating and employing the French navy is confided.

What I propose is this: that we shall create a Board of Admiralty, adhering to the American idea of the unity of the executive or administrative officer, but surrounding him with responsible advisers, appointed by the President, not depending upon the caprice and will of the Navy Department; men of professional standing, competent ability, and of high and permanent rank, without whose knowledge and advice nothing can be done within the purview of the bill; not that their assent shall be necessary to any order or act, but that no material step shall be taken with reference to the various subjects included in the bill without their advice having been previously taken in writing and spread upon the records of the Department. The general effect of that is, that there can be no such thing as mere improvidence, mere charlatanism, mere ignorance, or the mere application of civil ideas to military matters. We have learned something during this war; we have learned that every man is not born a soldier or a sailor; he may be born a President of the United States, but he is not born with the special knowledge belonging to and required of this Department. What is necessary in order that there shall be a navy created is that there shall be men of competent professional knowledge, who shall advise in a responsible form, authentically, in writing, and if their advice be neglected the responsibility will lie with those who neglect it. The mere existence of such a responsible body of advisers infinitely diminishes the chances of error, or corruption, or ignorance, or plausible and dangerous charlatanism, or rash and improvident conduct. It will be to the Secretary what the Cabinet is to the President—an aid, not a hindrance.

We have repeatedly resorted to temporary boards of this kind; one of them was adopted in 1860 to consider the application of steam to our

sailing vessels; another was organized by the Department to devise the plan of blockade; another was organized under a law of Congress for experiments in iron-clads; and another, summoned by the Department, was called to advise upon the engines of the Navy. Others are now, we are informed by the report of the Secretary of the Navy, engaged in investigating various questions respecting steam machinery. But boards of this kind are made *pro hac vice*, are liable to the particular influences prevailing at the moment; made rather to accomplish a particular purpose than to give independent advice; and if created under the authority of Congress, and therefore of an independent character, they are temporary in their purposes, their influence is not permanent, and the effect of their opinions passes off the moment they are dissolved.

What I propose by the bill is that there shall be a board composed of men of the first responsibility in the Navy, which shall be headed by the vice admiral, who is neither an old fogey nor a charlatan, nor an enemy of the Secretary, but one of the great officers of the Navy, possessing the confidence of the Department, whose opinion they ought to be bound to consult and respect, whom the nation has honored by creating a new title and new grade, whom all the officers of the Navy will cheerfully follow, and constituted of the other officers of designated rank, to be appointed by the President and confirmed by the Senate, to advise the Secretary in all matters relating to naval organization.

While I cannot go into the details of the condition of the Navy Department at this time, I think that the opinion of the naval officers is that it is a failure as a machinery for successful administration. There is no responsibility anywhere to be found; everything is managed by a subordinate in the name of the Secretary, and it is more to that than to any intentional abuse of power or neglect on the part of the Secretary that I attribute the rash empiricism, the scandalous improvidence, and the costly failures which mark the administration of that Department. The way to avoid that is not to howl about them in Congress, but to provide the Secretary with responsible advisers on naval construction and the armament and machinery of vessels, on the organization and location of navy-yards.

The House has been deprived of the services of the Committee on Naval Affairs a large portion of the last year while they were engaged in investigations to advise the Navy Department on the selection of a navy-yard for iron-clads—a matter which, while they were competent to determine, I submit any one single experienced officer of the Navy was more competent to determine. And when my friend, the honorable gentleman from Ohio, [Mr. SCHENCK,] before me, who accompanied them on one trip, was a little sensitive at my suggestions of such superiority, he could not refuse his assent to my avowal that I would take with more confidence the opinion of his distinguished brother of the Navy than his own upon that subject. I think if there had been a board of competent advisers to the Secretary of the Navy on the topics embraced in the second section of this bill, that there are some expeditions that would not have been undertaken by the Navy Department; I think the nation would have been saved from some failures; and I think some successes would have been followed up, and the fruits of victory reaped which to this day are barren. I think half a dozen rebel cruisers could not have swept our commerce from the ocean, driven it to take refuge under foreign flags, and destroyed many millions of property and lighted every sea with the conflagration of our ships for three years with absolute impunity, had any body of competent naval officers been invited to devise a systematic plan for their pursuit and capture. I think that the great day at Port Royal would have produced something more than a secure foothold for the boats of the blockading squadron. With proper advice around the Secretary when Savannah and Charleston were exposed half armed, that blow would have been followed up by others which should have reduced those places; we should have been spared the humiliation of a fruitless bombardment before Charleston for a year and a half, a bombardment utterly ineffec-

ive, leaving the rebel fortifications there to-day as absolutely beyond the reach of our naval forces there as they were before Gillmore battered Sumter. It would not have been left for Sherman and his army, after three or four years of war in the West, to march across the continent and take Savannah, but it would have been taken long ago by forces actually there. But without any competent advisers, the Navy Department rested upon the laurels of Port Royal, and left it barren to the nation beyond the immediate result. I think if the head of the Department had had proper advisers there would have been no such thing as an attack upon three hundred guns in Charleston harbor by thirty-six guns, if any naval opinions, good or bad, retired or active, had been listened to or even asked in the Navy Department. It would not have been reserved to the Department to vindicate naval opinion and condemn its own rash presumption on that occasion by sending four hundred and fifty guns to batter Fort Fisher with its fifty or sixty guns, after sending thirty-six guns to tear in pieces the enormous fortifications of Charleston bristling with three hundred guns. One or the other is an unspeakable folly; and history has already declared which.

But what I wish more particularly to remark upon is what has been accomplished by the Navy Department. Where are we now, and how did we get there? I desire that it should be borne in mind that I am not now seeking to cast imputations upon any one, to show his incompetency, but to expose the evils of a merely personal and irresponsible administration of the Department, and to demonstrate the necessity of a remedy. I make no suggestions for which I do not propose an adequate remedy. I state the failure that gentlemen may be enabled to judge of the propriety of the remedy. If they can say that a lack of advice does not exist, then let them say so. But if they admit that there is that lack, and admit the results, then give me a judgment upon my remedy.

The first great thing that we are called upon to deal with is the subject of iron-clads. Congress was conscious that it was going into a new department of naval expenditure. But it failed in the drawing of the act which it passed upon that subject. It created a board of skilled and eminent naval officers, and upon their advice the Secretary of the Navy was authorized to cause one or more iron-clads to be built. That board, of which Admiral Charles Davis, of Boston, was the scientific head, met and advised the construction, upon a consideration of multifarious plans, of one of each of three types of vessels, which are now known to history as the Galena, the Ironsides, and the Monitor. They were constructed merely as experiments, their value to be subsequently determined; to be determined, I take it, not by acts of Congress, not by the irresponsible and unscientific judgment of the Secretary of the Navy, however honest, respectable, and praiseworthy, but by competent men to advise after the idea had been embodied in a vessel-of-war, and was ready to be tried, or had been tried in action.

Now, what were the facts? Had the board which I propose been in existence we could not have been suffering as we now are from the neglect of those precautions. How came it that the monitors which we know now to be failures were multiplied, while the Department neglected the Ironsides, the only one of all the iron-clad vessels, with perhaps one doubtful exception, that has met the approval of naval officers?

The Monitor accidentally came into Hampton Roads as the Merrimac was trying to destroy, as it had already destroyed, some of our vessels. A collision took place. Neither party was destroyed; neither vessel was sunk; neither party was whipped, as the boys said; and the country ran wild over two guns in a cheese-box on a raft, not having done anything, and not having been defeated. People forgot that our vessels were either sailing vessels at anchor or steamers which had run aground in the narrow channel; that the Merrimac drew more water than they and could not reach them, and was no stronger than the Minnesota, her duplicate, and therefore weaker when burdened by her armor, and liable to be run down by our steamers when afloat, and beyond



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reach of the Merrimac when aground. And upon the simple fact that the Monitor and Merrimac exchanged shots and did not sink, without consultation with one single naval officer anywhere, without the judgment of any one professional man upon the floating or the fighting qualities of this class of vessels, without any additional consideration except that the Department tells us it had been well persuaded in its own mind beforehand by the spirit of prophecy that that type of iron-clad was to be successful, and had proved itself successful, the Secretary orders twenty of them at a cost of from four hundred thousand to four hundred and sixty thousand dollars each, amounting to \$9,200,000. This was done upon the fight between the Monitor and the Merrimac, and no other consideration whatever. So the Department tells you in its report.

From that day to this monitors have been a gold mine for iron contractors, and to doubt their perfect success is as much as any naval officer's chances of command or promotion are worth.

That is the consideration that was given to this great topic, on an accidental collision between one vessel and another, without any of its scientific bearings having been adjudged and considered by competent officers; \$9,200,000 were spent in constructing upon that type, without any material change, twenty vessels of that character. And so closely did they stick to the model that one of the most distinguished officers of the Navy, who now enjoys the highest consideration of the Navy Department, told me that he had to battle day after day with Ericsson and the men who were building them to get them to put upon those vessels the most ordinary naval appliances to fit them to be used at all in Charleston harbor.

Following up that, the Department proceeded likewise, without any naval advice or investigation, to order the Dictator and the Puritan, under the authority of Congress, which improvidently left everything to the Department and the contractors and speculators, at a cost of \$2,300,000. Each monitor was to carry about two guns, which would make each gun cost about two hundred and fifty thousand dollars. The Dictator and the Puritan were to carry, I think, the former about two, the latter four guns, which would make the cost of each gun of the Dictator \$575,000, and of each gun of the Puritan \$287,500. Then they ordered the Dunderberg, not yet completed, but on the plan of the casemated batteries of the rebels, likely to be more formidable than the vessels on the monitor principle, for she will have a battery of ten guns. So that just at one breath, by one stroke of the pen, the Department expended in this type of vessels, without any other consideration or advice whatever, \$13,000,000. I submit, sir, that after the resolution of this House, passed last year, to make additional compensation to the constructors of the Dictator and Puritan in addition to the enormous contract already made with them, the honor and dignity of the country required that more consideration should have been given, more scientific advice should have been asked, before such enormous sums were expended in forms so totally new, which no experience had then justified, which no naval opinion had then advised, and which no naval opinion at this day now advises.

Then, sir, there were others built, I suppose, at the navy-yards. I do not see any details respecting them in the reports, and I cannot speak in regard to them. That, sir, was the work of 1862, as the Department informed us.

In 1863, when the additional monitors were ordered, to which I am now going to refer, there had been no trial of the original monitor, excepting that one accidental and partial experiment in Hampton Roads, in smooth waters, of a drawn battle, and excepting the failure on the Ogechee to silence a land battery that mounted four guns, and the experience of the attack in Charleston harbor on the 7th of April, 1863, when one half of the monitor force was silenced in forty minutes. On that discouraging experience, listen to the Secretary's account of new contracts for more monitors:

"The pressure for iron-clads of light draught, which could ascend the rivers and penetrate the sounds and bays along our coast, was felt to be a necessity."

That is, the pressure was felt to be a necessity.

Well, so it was. The pressure of iron contractors, I take it, not of naval officers.

The Secretary proceeds:

"The operations of our armies in the vicinity of the inland water and adjacent to the rivers required the constant presence of gunboats. But the men thus employed, as well as the magazines and machinery of the vessels are exposed, especially in the narrow streams with high and wooded banks. Some vessels, and not a few valuable lives, have been lost by these exposures, and in order to afford all possible protection to the gallant men who encounter these dangers, the Department considered it a duty to provide armored vessels of light draught for their security. Contracts were entered into for the construction of twenty vessels on the monitor principle, each to carry two eleven-inch guns in order to be efficient, and to draw but seven feet of water."

Now, contracts for those vessels were made in the course of 1863, from March to August. They cost from \$386,000 to \$395,000 each vessel, amounting in the aggregate to \$7,800,000! Upon what advice? Upon whose opinion? Upon what consideration? Upon what specification? Upon what calculation? To accomplish what purpose? Let the gentlemen who represent the Department answer. So carelessly, so absolutely without scientific consideration, that the Department has been forced in its report at this session to confess and smooth over its failure in the construction of vessels—utter, absolute, ridiculous, disgraceful—a failure, Mr. Chairman, which is inexcusable, because, irrespective of the naval or fighting qualities of a vessel, the weight of iron, the weight of water, the ratio of displacement, and exactly how the vessel will float, when dimensions and material are given, is a question of mathematical and physical research, settled for centuries, that no school-boy would hesitate at if the conditions of the problem were placed before him. Yet, so carelessly were these vessels, at those enormous sums, ordered, that there was an absolute failure of the whole fleet. All of them had to be materially altered. Some nearly sank when they were launched, and I learn had to be shored up with barrels in the harbor, before the workmen would go on them in order to complete them. One at Pittsburg sank, went straight to the bottom when launched. But I do not pretend to precise accuracy in these things. These are the rumors. But here is the official confession of the failure, which is more than enough. The Secretary tells us: "It was ascertained, however, when the first two approached completion, that their draught of water was more than was intended." Had the weight of water changed, or the weight of iron, or had the laws of arithmetic changed? Was the calculation proved to be false after it was made? Or indeed was there any calculation? Did Mr. Fox sit in his office, and when a man came in with the model of a monitor of light draught and heavy cost, ask him, How much water will that draw? So much. How much will it weigh? So much. Then build me that thing. Is that administration in time of war and debt and danger?

The report says:

"The heavy armor and the two eleven-inch guns, with the machinery to give them proper speed, involved the necessity of enlarging the capacity of each of them."

There was another question of arithmetic, and of the twenty not one could carry their machinery or their guns. Who devised their machinery? I suppose the head of the engineering department. Who advised the form, capacity, or weight of the monitors? It is nobody, or Mr. Fox.

"When making these necessary alterations, it was deemed advisable, under applications from some of the commanders of squadrons for boats that should present but a small rise above the surface of the water, to dispense with the turrets in five of these light-draught vessels, with a view to special operations. The remaining fifteen were ordered to be enlarged by raising their decks, thereby giving them additional tonnage and greater draught and making them more efficient, but in other respects carrying out the original design. This work is now being performed, and most of the vessels are near completion."

So the Secretary informs us that he dispensed with the turrets upon five of the light-draught vessels. Why? Because with the turrets they were not light draughts. The only thing in which the monitor differs from an iron box is this revolving turret, and when the turrets were taken away they failed to be monitors at all. Yet the monitor price was paid, with a large addition to cover the official blunder. The remaining fifteen were ordered to be enlarged to make them draw

less water! Their decks were raised in order to give them additional tonnage—an official euphuism, raising them above the water in spite of their original weight. They had too much draught before, and they would not float unless they had more cubic contents to buoy them up! The Department wanted light draughts, not heavy draughts. Those built before were too heavy to get into shoal waters. The Secretary says that in all other respects the original design is being carried out—they have only been made more efficient. But the original design was for light-draught monitors and nothing else; yet the light draught has been abandoned on all for heavier draught, which excludes them from answering the original design wholly; and on five the turret is gone—so they are neither monitors nor light-draughts! What part of the original design remains but to give \$7,000,000 to iron contractors to be invested in worthless iron? If there was any consideration on that subject, if any advice was taken, the officer who gave it ought to be cashiered. If there was no consideration, no professional advice asked, I leave it to the judgment of the Naval Committee what judgment should be pronounced upon the Department.

We come next to the consideration of the sea-going iron-clads, because even the Secretary of the Navy will not submit to allow American genius to be chained to our own coast. For that purpose we are told by the Department—I beg to be understood that I am using official information obtained from official documents, and nothing else—we are told by the Department that they wanted two swift sea-going iron-clads that should be able to cross the ocean and dictate the law abroad; and therefore one was called the Dictator, and the other was called the Puritan—a singular mingling of the religious and warlike element, I suppose in memory of the great Puritan Dictator. But when he dictated, it was to kings on the field of battle; but the things they have made here, and marked with the names of power, will dictate nowhere except at the bottom of the ocean. The two were to cost \$2,300,000. I think the Dictator was to carry two guns of enormous caliber, and the Puritan four, I think. Divide and you will find what each gun costs. They are to go to sea. Sir, the Dictator cannot carry more than six days' supply of coal with her armament, ammunition, and necessary provisions for sea, without going to the bottom. She cannot steam ten knots an hour. "Swift to pursue the enemy!" Why, sir, she cannot go over six miles an hour, I believe, burning fifty-four tons of coal a day at that; for that, I am told, has been proved by the result of her trip from New York to Fortress Monroe. But in this matter I am outside of the record and official information.

Mr. RICE, of Massachusetts. Will the gentleman give me his authority?

Mr. DAVIS, of Maryland. I prefer not to mention names. I make this statement upon what I suppose to be good authority; the log of the Dictator can correct it if erroneous. She started from New York to join in the attack on Fort Fisher. I have not official authority for saying, but I think it will not be controverted, that she did not go there because her machinery broke down in going from New York to Fortress Monroe, and I understand she is detained there undergoing material repairs. Then that is not a sea-going iron-clad, nor a swift iron-clad, nor one available for offensive war. However destructive she may be if the enemy consult her convenience by taking position within her range, yet the swiftest vessel has the choice of field, and the enemy will not stay within her range unless it is to close on and board her, or to shut up her port-holes by rapid and concentrated and continuous fire which will prevent her using the enormous shots which go once in seven or eight minutes, or crush her thin decks with shot as heavy as her own.

But these are matters for Navy men to settle; all that is now known is that the Dictator is as useless for a sea-going vessel-of-war as the light-draught monitors are to go in shallow water.

A moment as to the providence with which the contract was made. I remember to have heard—and the records of the Department will correct me if I am not correctly informed—there were claims

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made for extra compensation on those two vessels, and a board was summoned, consisting of officers whose names I will not mention. I do not know how much, but perhaps two hundred thousand dollars were demanded. The board declined to recommend it. Another board was summoned of more pliant material, and they recommended the allowance not only of what was asked but greatly more; and if I am not misinformed—and here again I am speaking outside of the record—the award was so much beyond what was asked that application was made, formal and informal, to withdraw the original application. The Secretary of the Navy shrank from acting under the advice of such a board. The claimants then came here to Congress, and Congress at its last session, upon the motion of the honorable gentleman from Massachusetts, [Mr. Rice,] passed a resolution making material additions to the compensation awarded; how much, nobody knows. The result has been that the Puritan remains, I believe, upon the stocks, uncompleted, and nobody knows when, if ever, she will be completed. The Dictator lies with her machinery broken on her first trip from New York to Fortress Monroe.

Such is the investment of the Department in sea-going iron-clads, and there it stops. When the Dunderberg comes out we shall know more about her; but she is not of the monitor class. Her engines are not of bureau device, but by the builders; she will bear ten guns, and may be a powerful floating battery, hardly anything more. We are without a single sea-going iron-clad capable of cruising alone, the Ironsides alone excepted.

Now, sir, to what purpose are these vessels of the monitor type adapted? They have no ram. Their engines are so weak that in collision they can do no harm. Their draught is eleven and a half feet, perhaps twelve, instead of ten. They have no sails; they cannot attack; they cannot escape if attacked; they cannot batter forts with any success; they have never yet silenced a sand-battery or shaken a stone of a casemated fort, anywhere, at any time. It does not appear that, in the course of a year's operations before Charleston, any impression has been made there upon any fortification of any kind. At Fort McAllister, the rebel officers mounted the ramparts and smoked their cigars between the shots. They cannot stand heavy and continuous battering, for, though the turret be not pierced, their machinery for turning the turret, closing the ports, and working the guns, is so delicate as to deprive them of half their fire by constant derangement; and if a line-of-battle ship has half her guns silenced it is supposed she is materially damaged in the conflict, though hull and engine survive. Of the seven monitors that went into action in Charleston harbor, four of them were partially or wholly disabled in forty minutes. That is a proportion of loss that Trafalgar did not show.

Safe? Why, sir, their liability to sink, whether from a tornado or the storms of the ocean, when going down the coast, is more fatal to life than an ordinary general action. Two or three of them, including the original Monitor itself, have already sunk, out of the twenty that have been built and launched, carrying down nearly all the crews. One went down in perfectly quiet water in Charleston harbor, carrying thirty men with her; one nearly sank lying at the Washington navy-yard; the original Monitor went down on its way to Port Royal; one was sunk the other day by a torpedo in Charleston harbor, and carried down some seventy men, it is said; and the Tecumseh sunk in the action at Mobile, burying Craven and all but three or four of her crew. The unpublished health reports exhibit disastrous and unprecedented results. The ratio of loss, taking the liability to sickness, the chances of sinking, together with the chances of losses in action, shows that they were no safer, and less effective in fight, than ordinary wooden vessels. And everybody will appreciate the remark of Admiral Porter when he intimates that he had rather stand behind his wooden walls and take what comes, than be confined in one of these iron coffins. And it is remarkable that this class of vessels have nowhere received, and cannot now get, the suffrages of any respectable proportion of the American Navy as

any form of national defense at all, unless it be behind obstructions across the entrance of a port where they cannot be reached; and casemated batteries, with numerous and equally heavy guns, not costing \$250,000 a gun, can do that duty with equal effect. And any one who will read, what I have not now time to read, the special report of Admiral Porter on these vessels at Fort Fisher, will find that, while he complacently decorates them with words of vague eulogy, yet his criticism leaves them nothing of peculiar value, and his consent could never be gotten to build another monitor. The single exception is the Monadnock, whose sailing qualities he speaks highly of; but her engines were not built under the auspices of the Navy Department. He did not venture to put the ammunition on board these vessels before they started; he did not venture to put their coal on board; but they towed every one of them down the coast to Beaufort; and when they got there their ammunition and coal were placed on them for the first time. And any one who will compare the results in Mobile Bay with the results at Fort Fisher will find that the effective instruments in each case were the broadside vessels, with their concentrated and rapid fire, covering the whole field of battle with their shells, rendering it untenable to any one; while, as I have already mentioned, when the monitors alone were engaged at Fort McAllister, the officers did not hesitate to stand upon the ramparts and smoke their cigars between the shots. Admiral Farragut is entitled to be heard upon the question of naval armament, and he did not ascribe any decisive influence on the result at Mobile, one of the great days of our Republic, to our iron-clads. He did not think that the monitors defeated the enemy in that conflict, the most serious conflict between vessels during the rebellion. Hear his report:

"Our iron-clads, from their slow speed and bad steering, had some difficulty in getting into and maintaining their position in line as we passed the fort, and, in the subsequent encounter with the Tennessee, from the same causes were not as effective as could have been desired; but I cannot give too much praise to Lieutenant Commander Perkins, who, though he had orders from the Department to return North, volunteered to take command of the Chickasaw, and did his duty nobly.

"The Winnebago was commanded by Commander T. H. Stevens, who volunteered for that position. His vessel steers very badly, and neither of his turrets will work, which compelled him to turn his vessel every time to get a shot, so that he could not fire very often; but he did the best under the circumstances.

"The Manhattan appeared to work well, though she moved slowly. Commander Nicholson delivered his fire deliberately, and, as before stated, with one of his fifteen-inch shot broke through the armor of the Tennessee, with its wooden backing, though the shot itself did not enter the vessel. No other shot broke through the armor, though many of her plates were started, and several of her port-shutters jammed by the fire from the different ships."

That is not my judgment nor the judgment of an officer at war with the Department, but the judgment of an officer whose name in history will rest on that day. It is not magnanimous to depreciate the merits and power of the vessels and arms which did his work; and he could not have penned that report if the monitors were the dominant power in the battle. He was on board his wooden vessel with his other wooden vessels, their rapid and powerful batteries converging on the Tennessee from every quarter and silencing her fire, and their rapid rush, or, as a gentleman very appropriately said, the mobbing of the Tennessee by the wooden vessels, which determined the contest, and not the slow, unmoving, helpless, powerless monitors that were there to look on at a battle in which they barely participated. The same thing has been experienced elsewhere; but I quote Admiral Farragut because his testimony is in print, and because there can be no question as to its meaning; because everybody knows that he is a naval man, and one who would make use of every means placed in his hands and fairly distribute the merits of the result.

[Here the hammer fell.]

Mr. RICE, of Massachusetts. I move that the gentleman from Maryland have leave to proceed and conclude his remarks.

Mr. PIKE. With the understanding that there shall be ample time to reply.

Several MEMBERS. Of course.

The CHAIRMAN. Is there any objection to allowing the gentleman from Maryland to proceed? There was no objection.

Mr. DAVIS, of Maryland. Mr. Chairman, this is the first time that I have ever accepted a courtesy of this kind at the hands of the House; and I do it now with very great reluctance, and only because there are one or two other things which I desire to state as intelligibly as I can—not, as I said before, for the purpose of casting imputations upon anybody, but to show where the evil is, and to endeavor to find the remedy.

Again, at Fort Fisher monitors mingled their fire with the heavy fire of broadside vessels; and none is so competent to speak of the value of the monitor as Admiral Porter. He says:

"Compared with the Ironsides, their fire is very slow and not at all calculated to silence heavy batteries, which requires a rapid and continuous fire to drive men from their guns; but they are famous coadjutors in a fight!"

Why, certainly, anything will help upon a pinch—

"and put in heavy blows which tell on casemates and bomb-proofs."

But they never yet destroyed a bomb-proof or tore to pieces a casemate! After a bombardment of two days at Fort Fisher, when it is said all the guns were dismounted, and the work torn to pieces, twenty-five hundred men with whole skins rose from beneath the ruins ready to dispute the possession of that fort, and held it during five hours of hand-to-hand conflict with the army led by the heroic Terry.

If that were all the effect of four hundred and fifty guns of the whole fleet, how much is to be ascribed to the ten guns of the monitors? And how much was effected by the first bombardment of two or three days with the same enormous force, if so soon the fort was ready for defense?

But Admiral Porter proceeds:

"The smaller class of monitors, as at present constructed, will always require the aid of a steamer to tow them and take care of them. In smooth weather they ought to go along by themselves, and when towed the tow-ropes should never be less than two hundred fathoms in length. It strains them very much to have a short tow-line."

Then he thinks them worthless as sea vessels, incapable of independent action as at present constructed; that is, as monitors built at the cost of \$250,000 a gun!

He proceeds:

"I do not know yet what their real durability is or would be in a continuous fire against their turrets. Solid eleven-inch or two hundred-pounder rifles are apt to break something when they strike, and I should be much better satisfied myself to be behind wooden bulwarks and take what comes, than to be shut up in an iron turret, not knowing whether it is properly constructed. This, though, is the prejudice of a sailor, and should have no weight whatever."

So he thinks not much more of their defensive than of their aggressive qualities, and prefers the risk with the power of broadside vessels. That is the naval opinion, not my judgment, upon the monitors at Fort Fisher.

The Monadnock, a turreted vessel, but not a monitor, alone attracted Porter's good opinion:

"As to the Monadnock, she could ride out a gale at anchor in the Atlantic ocean. She is certainly a most perfect success so far as the hull and machinery are concerned, and is only defective in some minor details, which in the building of these vessels require the superintendence of a thorough seaman, and a practical and ingenious man. The Monadnock is capable of crossing the ocean alone, (when her compasses are once adjusted properly,) and could destroy any vessel in the French or British navy, lay their towns under contribution, and return again (provided she could pick up coal) without fear of being followed."

But her speed is no merit of the Department, for her engines were not on their plans. If she could work such wonders abroad, why not try her on Charleston? And the coal question seems to interpose an insuperable barrier to transatlantic exploits, unless she is to remain there.

The admiral turns to the Ironsides:

"I have never yet seen a vessel that comes up to my ideas of what is required for effective operations as much as the Ironsides. The most important is the comfort with which the people on board of her live, though she would be no match for the Monadnock in a fight, the latter having more speed.

"The accuracy of fire is, I think, in favor of the Ironsides, judging from what I have seen here. The turrets get filled with smoke, and do not clear as quick as the Ironsides, though that defect could be avoided by not firing both guns so near together."

Yet this class of vessels, of which the Department have, I believe, but one, which was built upon the recommendation of the original commis-

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sion, has not been multiplied. They propose to build no more. She can go abroad; she can make her cannon heard on the shores of Great Britain; she can sail as well as steam; and she can carry coal enough to enable her to steam to any extent that may be necessary for the success of her operations. She cost only \$780,000, just \$80,000 above what the Department paid for a single engine in 1863.

Now, sir, it is material to observe that as the judgment of a Navy man upon this iron-clad, the Ironsides. It was one built upon the advice of naval men. She is one that has not been repeated. She is the one that has not been accepted by the Department. Why? No one can tell, unless it be that the Navy Department had gone crazy on monitors, and was so deeply engaged in their construction that no money or thought remained for anything else. Can any one doubt but that others of the Ironsides class would have been built if naval men had been consulted?

Now, sir, I pass from that to the other question, on which I have something to say. I cannot say as much upon this as I desire. I come to the great question of machinery; no corruption in contracts—nothing of the kind—but to the responsible advice on which the existing machinery of the Navy has been made; simply as a business transaction, treating it as a question of prudence and common sense in the administration of the Government. We have twenty-three screw gunboats of the Unadilla class, twelve double-enders of the Miami class, ten of the Juniata class, twenty seven double-enders of the Eutaw class, and one or two other vessels made of iron, and I believe likewise of the double-ender class, whose machinery was built on the plans and designs of the Bureau of Engineering; so the head of the bureau tells us in his report. There are likewise four other vessels built by the Department, the Oneida, the Tuscarora, Wachusett, and Kearsarge, duplicates of the Iroquois, the Mohican, the Wyoming, and the Seminole. Their machinery was not devised by the Bureau of Steam Engineering, but was copied from the machinery of the other four vessels of which they were duplicates, and on principles which the Department discarded in the machinery designed by the bureau, and placed in its vessels of the four classes above enumerated.

In the course of the year 1862, as the screw sloops of the Juniata class and the paddle-wheel double-enders were being completed and put afloat, a serious question arose as to the efficiency and durability of machinery. The Department summoned a board of the first engineers of the United States to take their opinion on what the Department had done without the advice of anybody. That body was requested to convene and investigate the machinery of the screw steamers Juniata, Monongahela, and Lackawanna class, and of the paddle-wheel steamers then building, and report to the Department upon a series of questions. That report was made, printed, and a copy of it has been handed to me. Now, the first thing to be observed is, that on page 69 of that report, this commission of civil engineers summoned by the Secretary of the Navy to judge his machinery, say the ability to propel naval vessels of proper model at a high rate of speed is an essential point in designing the machinery, and not less than twelve knots per hour for screw vessels should be attainable on emergencies, under favorable circumstances at sea. They then proceed to give their opinion upon the machinery. I will read for the instruction of the committee a few passages, to show how great was the divergency of judgment between the engineers selected by the Department and the engineer officers who constructed the machinery, at a cost of \$1,000,000, which now renders our naval vessels in point of speed the laughing stock of every blockade runner. They say:

*Interrogatories.*

"1. On the valve gear, whether it admits of using the steam with such degree of expansion as is usual or desirable with marine engines for the naval service, and whether it is a proper one for screw and paddle-wheel engines, as the case may be?

"In reply to the first interrogatory, we separate our opinions in relation to the screw and paddle-wheel engines. For the screw engines it is considered by the board (with

the exception of two members named hereafter) that the principle adopted in admitting and exhausting steam by one slide-valve, actuated by the link motion, though not deemed the best in all cases, is, all things considered, proper in the present case, combining simplicity of construction with such a range of expansion as is usual or desirable in the naval service. But the use of very large steam ports, so much in excess of the proportions adopted by the best builders, while, by permitting a free exhaust, it may afford a slight advantage, has involved a serious loss of steam, in our opinion overbalancing such an advantage. It has also entailed all the evils of great travel of valve, namely, difficulty of reversing, increased friction and wear, and a system of gear to work it of excessive size, weight, and cost, both in construction and maintenance.

"For the paddle-wheel steamers, it is believed that, although it would have been better to have adopted a form of valve gear having an arrangement for adjusting while in motion, yet that the principle adopted must be considered a proper one for the purpose, since the admitting and exhausting of the steam are accomplished by different valves and different movements; which in the use of slowly reciprocating engines for marine purposes is very desirable. It is also believed that little if any loss of fuel will result from controlling the engine by the throttle in those cases of emergency when it is ordinarily deemed proper to quickly alter the rate of expansion. We are, however, compelled to object in this case, as in the other, to the great and unnecessary size of ports used, much in excess of that which in our judgment is requisite; entailing, as it does, a great loss of steam as well as additional expense of construction.

"2. On the boilers, whether they are superior, equal, or inferior to others in use, in compactness, durability, efficiency, and proper adaptation to the conditions of the naval service?"

"1. In regard to compactness; to obtain an equal amount of evaporation under ordinary circumstances, the boiler used in the steamers under consideration is inferior to the horizontal tubular boiler, requiring about ten percent. more cubical space. 2. In regard to durability. We regard the boiler used in these steamers as equal in this respect to the horizontal tubular boiler, proper care and attention being bestowed in each case. 3. In regard to efficiency, including economical effect and evaporative power, with natural draught. In the former particular, economy, taking all the conditions of the use of naval boilers into consideration, we think the vertical tubular boiler used in these steamers is equal to the horizontal tubular. A further note on this subject, by five of the members, will be found in a subsequent part of the report. As to the second particular, namely, evaporative power under natural draught, irrespective of economical effect, the vertical tubular is inferior to the horizontal tubular boiler, requiring one third more cubical contents to produce the same amount of steam. 4. In regard to accessibility for cleaning and repair. In this respect, taking into consideration the liability to derangement from carelessness, and the facilities for cleaning fire and water spaces, and for effective repairs, both at sea and in port, we consider the vertical water tube boiler in use in these steamers as, upon the whole, inferior to the horizontal tubular boiler. 5. Power of producing large evaporation with least sacrifice of economical effect, by artificial means. In this respect we consider the vertical tubular as inferior to the horizontal tubular boiler. The former is in this respect open to serious objections. It requires the use of artificial means to produce an evaporation which is ordinarily obtained with ease in the horizontal tubular; and when these means are employed for any length of time, the fire spaces become clogged.

"We reply, therefore, to your second interrogatory, that, on the whole, we are compelled to consider the type of boiler used in these steamers as inferior to the horizontal tubular boiler which is generally used by other nations, and by this country in the mercantile marine."

"4. On the general design and arrangement of the machinery in the different cases, and whether on the whole, all the conditions of the naval service being duly considered, there is any other arrangement in use that would give superior results.

"In reply to this interrogatory we have to report that the general design and arrangement of the machinery for the screw steamers is inferior to that of other types in use in the following particulars: 1. Compactness. It occupies more cubical space than either the ordinary back-acting engine, (this phrase objected to by Mr. Everett,) or the direct-acting engine; either of which, with the same stroke, could have been gotten into these vessels. 2. Liability to derangement. It is more liable to derangement than either of those types, owing to the greater number and weight of the moving parts, and comparative inaccessibility of some of them. 3. In reference to economy of fuel. The consumption of steam as applied to the propulsion of the vessel, must be proportionally greater in these engines than in those of ordinary proportions, owing to the excessive weight of the reciprocating parts to be put in motion at each alteration of movement, involving additional friction, and also to the employment of such large steam ports, involving loss of steam even after allowing for the gain by free exhaust so obtained, as well as the expenditure of power due to great travel and friction of the valves. 4. Owing to the peculiar arrangement of the smaller pumps and of the valve gearing, they are more inaccessible for care and adjustment when in motion and for repairs either at sea or in port. Taking all these points into consideration, we believe, first, that the direct acting engine presents the greatest number and amount of advantages for marine service in the Navy; and can state that the space allotted for the machinery in these vessels would have permitted the introduction of the direct acting engine in place of that adopted, having the same stroke of piston, a sufficient length of connecting rod, and ample surface in the journals to bear the same maximum strain brought upon the recip-

rocating parts without sacrificing any of the essential elements of a successful performance; second, that the saving of cubic contents occupied in the vessel, due to such change of type, would have been not less than twenty per cent.; and third, that the employment of the proportions used by the best practice for the various parts of these engines would have resulted in a saving of weight amounting to not less than sixty tons, involving reduced cost, other conditions being the same.

"With regard to the paddle-wheel engines, we consider the general plan adopted as not open to serious objection, inasmuch as the space to be occupied in these vessels is of secondary importance. It affords the necessary accessibility for care and adjustment during operation, and for repairs at all times. It is not peculiarly liable to derangement, and has superabundant journal surface. We object, however, to the weight of some of the parts of the engine proper, which, judged by the proportions used in the best practice, is excessive. This objection applies especially to the first paddle-wheel boats. In both classes, however, it is believed to be of importance, as involving additional displacement to carry it and increased cost of construction. We object also to the large proportions of the condensing apparatus (except the condensers proper in the second class of engines) as being in our opinion unnecessary, and to the size of steam ports, valves, &c., about double that of the best practice hitherto, on account of the loss of steam caused thereby. The overhanging wheels and their construction are approved. We approve also of the adoption of single engines for vessels of this class.

"5. Whether, had the drawings and specifications of this machinery been submitted to you before their construction, you would have objected to anything in it as likely to render its performance in any way inferior to other machinery in use, for the same purpose and under the same conditions.

"We should have objected to many of the points of arrangement and detail in these plans and specifications, as giving results inferior to what might in our opinion have been obtained had changes been made in them.

"6. You will please also give, in the event of your disapproving of all or any part of the machinery, the reasons therefor; and state what, in your opinion, it should have been.

"In compliance with this request we have to state that we should have placed more power, both of engines and boilers, in the screw steamers, recognizing the great importance to naval steamers of having the capability to maintain continuously a high rate of speed when desired; and believe that in both respects the power could have been proportionately increased by a change in type and detail—as indicated in previous replies—to the extent of at least one third more, without adding to the space occupied by the whole, reducing the coal space, or equaling the total weight.

"By such a change, obtained without sacrifice of room or displacement, a higher rate of speed would have been attainable; while in ordinary cruising, both engines and boilers could have been worked at a less pressure of steam and managed in a manner most conducive to economy of fuel and their greater durability.

"We should also have objected to certain points of detail and proportion, as indicated in our replies to previous interrogatories. A further objection and proposed change is submitted by four members of the board, in a subsequent part of this report."

"Objections to answer the first interrogatory by Messrs. Coryell and Wright, who object to so much of the foregoing answer as relates to the principle adopted for the valve gear used in the Juniata class of engines, for the reason that it will not allow of the proper motion of the steam valve for an engine working expansively, in combination with a proper opening of ports for the exhaust; in other words, all engines should have a separate valve and motion for working steam expansively. The type of valve motion used on the Iroquois, Wachusett, and vessels of that class, though not combining everything desired for an efficient expansive gear, is in every respect superior to that in use in the Juniata class of engines."

"Addition to answer to sixth interrogatory by Messrs. Hibbard, Wright, Loring, and Coryell; who add to the foregoing answer by stating that they regard the diameter of the cylinders of the Juniata class of engines as too small to develop in the most economical manner the power of the steam that can be generated by the boilers, as they require the steam to be admitted at a pressure of thirty to thirty five pounds per square inch above the atmosphere for about three fourths of the stroke, to develop their ordinary full working power. With larger cylinders, say fifty-four inches in diameter, cutting off the steam at about three eighths the stroke, and using the same pressure and volume of steam, would in their opinion develop more power from it, and at the same time, by cutting off at a larger point, enable the engines to work for a limited time with a large excess of power in an emergency, or at full power with a lower pressure of steam, as would be very desirable in case the boilers were weakened by wear or other causes, or if the pressure of the steam became accidentally lower, or if from leaking or other derangement of the fresh-water condenser it became necessary to work the boilers with salt water, and that such increased size of the cylinders would not materially increase the cubic space occupied. The size of cylinders used do not in our opinion permit the best rate of expansion that the valve gear will give, except at a low rate of speed of the vessels."

"It is true that the best screw vessels in the Navy for speed and efficiency are provided with an independent cut-off apparatus; but this superiority is not necessarily due to the use of an independent cut-off. We believe there are no vessels built for the Navy before the date mentioned (1861) without an independent cut-off."

Then we have on page 127 of the supplemental report, this remark of the board:

"We did not, for example, in our report allude to one



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disadvantage of the form of boiler now used in the naval service, although it was fully discussed, namely, the impossibility in the gunboats or sloops, of reducing its height so that the crown of the boiler can be below the main load water-line of the vessel. This can be done by other forms of multitubular boiler, either horizontal or vertical, while the ordinary horizontal tubular occupies somewhat less height, when properly designed, to give the same effect."

Now, the effect of having machinery exposed in action was disastrously illustrated when the *Sassacus* was exploded in Albemarle sound, and the *Hatteras* disabled by the Alabama in the Gulf of Mexico, by a single shot passing through a portion of their steam machinery.

And then we have another significant fact on this point in the remark they make, that the engines differ from those of the best practical engineers. They were mere innovations. However they may be justified hereafter, they were against the opinion of the profession when adopted, and against the experience of the best vessels in the United States service as the commission of engineers report, and they are different from those vessels which now make the best time at sea under the ordinary conditions of the application of machinery to the propulsion of vessels. They were mere innovations; ideas that came across the head of the chief of the Bureau of Steam Engineering; and they, engines and boilers, stand condemned by this commission, which was summoned by the Department to pass its judgment upon them.

On one innovation, made without experiment or any proposed advantage, the board speak, as follows:

"Both in the naval and merchant marine large sums of money have been expended in constructing elaborate machinery, especially required to accomplish long ranges of expansion. On the other hand, during the past two years, some twenty-five or thirty vessels (mostly in the Navy) have been provided with machinery constructed on a different theory, namely, that it was more economical to make the steam cylinders of such dimensions that a small range of expansion could be used.

"We respectfully submit that a knowledge of the fact of which of these systems is the most economical, would be productive of so great a moneyed economy to the Government that we cannot but earnestly recommend that you will authorize the necessary experiments to determine this question, particularly as an expenditure not to exceed from fifteen to twenty thousand dollars only would be required, which, in comparison to the importance of the subject, is insignificant.

"The members of this board, in their individual capacity, will cheerfully devote their services in devising the mode in which these experiments should be made, and also devote the necessary time to conduct them."

Then the board advised experiments to test the relative values of the horizontal and vertical tubular boilers, chiefly out of deference to the Department's partiality for the latter, which they had condemned in the form used by the Bureau of Engineering. This report was made in February or March, 1863, and it condemned everything that had been done at that time, every engine that had then been placed by the Department in a naval vessel. We are told that these investigations are now going on, in the report of the Secretary to this session. The Bureau of Steam Engineering informs us that now, that is to say in December, 1864, when the report came in, commissioners were sitting to determine those two problems proposed for solution in February, 1863, and were carrying on their investigations in November and December, 1864, to advise the Department what course it should pursue in creating new engines.

Now, what has been the course of the Department while that investigation was going on? Why, sir, I hold here a report of the chief of the Engineer Bureau, of the 28th November, 1864, which, after eulogizing the form of boiler which that board of engineers condemned, and giving us his assurance that his subsequent experiments quite justify his opinion, condemned by the board of engineers, informs us that, on the 28th of November, 1864,

"A board, consisting of the principal steam-engine builders of the country and the chief of this bureau, is now experimenting with critical accuracy on two boilers of the respective types, for the purpose of definitely determining their relative merits for the naval service under every variety of circumstance and of proportion. It is believed the results will be of the utmost importance to all engaged in the manufacture and use of steam machinery.

"Another board, consisting of three members of the Franklin Institute, three of the Academy of Sciences, and three on the part of the Department, are now experimenting with the utmost precision on machinery devised by Mr. Horatio

Allen, of the Novelty Iron Works, New York city, one of the board, to determine by practical results the economy of using steam with different measures of expansion, under different conditions of mechanism, pressure, and back pressure. It is believed these experiments will give a correct practical solution to a very vexed problem, and be of incalculable benefit."

That is to say, experiments of vital moment proposed in February, 1863, to guide the Department in the expenditure of millions, and to determine the value of the whole machinery of the Navy, have been cleverly protracted from February, 1863, till November, 1864, that is, during twenty-one months, nearly two years; and while this was going on, we are informed that the Department has solved those problems in its own sense; and in the face of this report of the board of engineers and its judgment upon the machinery of the bureau, it has ordered machinery of its own condemned types, to the amount of millions of money, for I cannot tell how many vessels. The statement of contracts for steam machinery, made by the Bureau of Steam Engineering since the 1st of August, 1863, that is, six months after the report of the board of engineers, shows contracts for twenty-one engines at \$400,000 each, four at \$580,000 each, two at \$600,000, and two at \$700,000 each, amounting to about twelve million dollars; all after August, 1863; all after the condemnation of the board of engineers; all pending the experiments which were to determine their structure! In what year the last were ordered is perhaps not quite certain, for the dates are not very distinctly set forth; but all seem to be in 1863.

What I ask the attention of the committee to is the fact that a board of engineers, summoned by the Department, condemned all the machinery the Department had placed in any wooden vessel up to the date of its sessions, and that the Department, instead of changing its course, goes on and constructs machinery upon identically the same principle, as the Bureau of Engineers informs us. I speak now upon the report.

And then, as if to add mockery to this abuse of the public confidence, they tell us that now, after the time which has elapsed between February and March, 1863, and November, 1864, they are diligently pursuing investigations to settle questions which they have practically solved by the expenditure of millions of dollars upon work which has been condemned by a board authorized by the Department itself more than a year ago, and pending experiments intended to determine some of the most vital points of the machinery! If that is wise action, then let others explain it. If there are differences of opinion so grave as that, then it is time to stop until the problem is solved, and not say that, after having built a whole navy at such stupendous sacrifice of money, they are now diligently pursuing investigations for the purpose of solving a problem which they have practically solved by this great expenditure. That is a trifling with the country which should bring down upon them the indignation of this House. And if no other fact existed, that should be a sufficient reason to surround the head of the Navy Department with responsible advisers, whose opinions he cannot disregard, whose opinions he cannot push away in the pigeon-holes of the Department, where they may lie until they are brought out after weeks of investigation by our committees, but who would command respect from the head of the Department, or bring down condign punishment upon his head if neglected. It is to prevent such an abuse of the public confidence as is shown by the report of the board of engineers on the one side and the report of the Engineer Bureau on the other that I have drawn the proposition I have offered; and in drawing it I have embodied in it as nearly as I could, and as the system of our Government would allow, the provisions which have by the experience of other countries and our own from time to time been found useful to guide and aid the discretion of the Secretary when novel ships or great expenditures on new forms of naval defense were about to be hazarded, and to prevent this great squandering of the public money. In my judgment it will be a guarantee of an efficiency of service hereafter such as we have never had heretofore.

I have already detained the House longer than

I intended. I merely wish to say now that so far as I can get information from any source whatever, the speed of the engines placed in the naval vessels constructed by the Department up to this time falls two or three miles short of what they ought to have attained according to the board of engineers. When the question was raised upon that subject in the newspapers some time ago, the statement that the screw sloops of the Department could not exceed between nine and ten knots, it drew out a reply from a distinguished officer in the Navy, who said that it was very far from being true that none of the vessels of the Navy could go more than nine or ten miles an hour under steam continuously, under the conditions of the naval service—not running down the Potomac without armament, or coal, or ammunition, or water, or provisions, and in smooth water, but as sea. It is the only direct, authentic published statement that I have ever seen from any naval officer respecting the speed of any of the vessels of the United States built by the present Department which carried their speed above ten miles an hour. But the contradiction is solved by noting the names of the vessels forming the exceptions. Captain Craven, the heroic officer who went down with the monitor *Tecumseh* in Mobile bay, is the officer referred to, and his card, in answer to the suggestion that none of the Department vessels would go more than ten knots an hour under naval conditions, stated that he had commanded both the *Kearsarge* and the *Tuscarora*, and that they could go thirteen knots an hour.

Now, I wish to call the attention of the House to the fact that the *Kearsarge* and the *Tuscarora* are not provided with machinery built by the Department or the Bureau of Engineering, but they are two vessels-of-war which were duplicates in structure and machinery of the *Iroquois*, the *Mohican*, and the *Seminole*, vessels constructed by the last Administration, whose engines are constructed on the principles that the new Bureau of Engineering has condemned—principles which it has discarded in the construction of the new engines, but which prevailed in the structure of the old vessels of the United States Navy, and of the vessels constructed in navies abroad. And I say that this is evidence in corroboration of the fact that none of the vessels whose machinery is devised by the bureau can approach the speed which it is said by the board of engineers ought to be attained, and can be attained, with proper machinery, under naval conditions for naval vessels. The number of revolutions of the screw, not exceeding sixty or sixty-two a minute, and the pitch of the screw, limit the speed of the screw sloops to less than ten knots an hour, unless a vessel can go faster than her propeller; and that such is the limit appears officially by the report that the *Monongahela*, in sailing full speed against the *Tennessee*, made sixty-two revolutions, manifestly the utmost limit of her power; and that they are under twelve knots an hour is implied by the board of engineers assigning that as the desirable limit, while they condemn the machinery and say might, by change in type and detail, have in the screw steamers been increased in power to the extent of one third. It is plain they thought the speed of the sloop not over nine knots. The impunity of the *Alabama* and her consorts for three years is the practical result.

Now, sir, without going further into details upon this subject, for I desire to stop where official data stop, I submit that the course of the Department with reference to the iron-clads and its course with reference to the construction of machinery, all other matters being laid aside, show the necessity of some supervising board, some advisory power beyond the authority which is at the head of the Navy Department, to secure us against disaster in some great day of battle, and to secure to the nation the benefit of the money that it is now expending in the structure of vessels. We have spent already, sir, over \$280,000,000 on our Navy, and yet at this day there has been accomplished scarcely anything which ought to be satisfactory to the nation or which materially adds to its security. I trust, sir, that by the adoption of this amendment a security will be provided for the future, for nothing can remedy the squandering of the past.

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Board of Admiralty—Mr. Rice.

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## BOARD OF ADMIRALTY.

SPEECH OF HON. A. H. RICE,  
OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1865.

The House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the bill (H. R. No. 676) making appropriations for the naval service for the year ending June 30, 1866, the pending question being the amendment submitted by Mr. DAVIS, of Maryland, to add to the bill the following:

*Provided*, That no money appropriated for the naval service shall be expended otherwise than in accordance with the following provision, so far as it is applicable; that is to say, that the President, by and with the advice and consent of the Senate, shall appoint a Board of Admiralty, which shall consist of the vice admiral and one rear admiral, one commodore, one captain, one commander, and one lieutenant commander, over which the Secretary of the Navy or the officer highest in rank present shall preside; and when the subject under consideration shall appertain to the duties of any bureau in the Navy Department, the chief of such bureau shall be a member of the board, and entitled to sit and vote on the consideration of the subject.

*Sac.*—*And be it further enacted*, That the board shall deliberate in common and advise the Secretary on any matters submitted by him relating to naval organization, naval legislation, the construction, equipment, and armament of vessels, navy-yards, and other naval establishments, and the direction, employment, and disposition of the naval forces in time of war. All such opinions shall be recorded.

*Sac.*—*And be it further enacted*, That no vessel-of-war shall be built or materially altered, nor any guns of new construction ordered or adopted, nor any engine for any vessel-of-war adopted or ordered, nor any permanent structure for naval service executed, until the plans, estimates, proposals, and contracts for the same shall have been submitted to the board, and its opinion and advice thereon communicated in writing to the Secretary; nor shall any patented invention be bought or adopted for the naval service without first the opinion of the board thereon having been taken; and all experiments decided to test inventions and naval plans and structures shall be conducted under the inspection of the board, or members thereof named by the Secretary, and submitted to the board for its opinion thereon.

*Sac.*—*And be it further enacted*, That all invitations for plans or proposals for any of the works above mentioned shall be prepared by the board, subject to the approval of the Secretary; and all bids or offers or proposals for the same shall be opened in the presence of the board, and the award made by it, subject to the approval of the Secretary.

*Sac.*—*And be it further enacted*, That the Secretary may add to the board from time to time other officers of the Navy eligible to the position of chief of bureau, not exceeding three at any time, for consultation on any of the above subjects. The board may take the opinion of eminent practical engineers, mechanics, machinists, and architects, in their respective branches of art or industry, when in their opinion the public service will be promoted by it, and pay them such reasonable compensation as the Secretary may approve.

Mr. RICE, of Massachusetts, said:

Mr. CHAIRMAN: I am at the present time very ill prepared to reply to the remarks which have been made by the honorable gentleman from Maryland; but I am not willing that this speech shall have been made in this House and pass out to the country without my saying a single word upon the subject, although I am obliged to speak without special preparation and in the absence of certain statistics which would be most valuable to me if I had them here at hand.

It is but natural, too, that I should rise under some embarrassment, with some feelings of diffidence, to reply upon the spur of the moment to the elaborate speech which has been delivered by the honorable gentleman from Maryland, a speech for which, it is quite manifest, he had made a careful collection of such statistics as might serve his purpose, and in which he has discussed the subject in hand with that degree of warmth and enthusiasm which is apt to arise from the fervor of some measure of personal hostility.

I think the gentleman has been unfortunate in the selection of the proposition which he has submitted to the House. It is, sir, nothing more nor less than that this Congress and the Navy Department of the United States shall throw away all the teachings of experience, both at home and abroad, and shall take a retrograde step, placing the administration of our naval affairs where it was nearly a century ago.

The honorable gentleman has taken occasion, in the opening portion of his remarks, to refer to the action of the Committee on Naval Affairs upon the bill which he has discussed, and which he has brought in here and submitted, I think,

contrary to all rule and to all precedent, as an amendment to an appropriation bill, and before there was opportunity for the Committee on Naval Affairs, to whom that subject had been referred, to present the report upon which they had concluded long before his amendment was offered.

Now, sir, I desire to say for the members of that committee, that if any gentleman in this House chooses to call in question their diligence, their industry, and their patience, let him resort to the room, and to the records of the committee, and find how far their patience has been tried and their time absorbed by useless investigations thrown upon their hands in a resolution submitted by the honorable gentleman from Maryland, during the last session of Congress.

Sir, the resolution to which I allude was a sweeping one, aimed at no particular point, looking to the correction of no particular evil; but one starting out this Committee on Naval Affairs upon an exploring expedition to ransack the whole transactions of the Naval Department; the mysteries of the construction of steam machinery, and the investigation of professional and scientific, as well as of practical questions. The subjects for investigation ran also into matters of personal quarrels; into the connection of alleged and fictitious abuses on the part of persons connected with the Navy Department, and into other acts through the agency of other persons which I will not consume the time of the House, or tire its patience even by relating. The character of this labor and its results are to be found in the report of the Naval Committee recently submitted to the House.

Now, sir, in prosecuting the labor imposed by that resolution alone, the Committee on Naval Affairs consumed more than seventy sittings during the last session of Congress, an average of three days every week of the session from the time the resolution was offered; and the investigation, with all the diligence, all the labor, and all the care which could be bestowed, was not concluded until the very last days of June. And since the present session of Congress convened it has devolved upon the committee to prepare a report covering that vast mass of documentary evidence and testimony which the House, affrighted by its magnitude, refused on Monday last to allow to be printed. It has been necessary during this session to examine and analyze that whole testimony, to collect all the facts and statistics, to separate the wheat from the chaff, and to select that which was true out of that which was false, and to report the result to the House. And, sir, without instituting any invidious comparison between the labors and diligence of that committee and those of any other committee of this House, I should do great injustice to my colleagues upon that committee if I did not bear testimony to the fact that neither their personal convenience nor comfort has been allowed to interfere with the diligent discharge of their duties. So much, sir, in regard to the amount of labor and attention which have been bestowed by the Committee on Naval Affairs upon the subject referred to them by the gentleman from Maryland.

The question of the expediency of putting the Navy Department under the surveillance of a board of examiners, or a board of administration, the committee proceeded to consider as soon as they could gain time from the pressure of other and more important matters; and, as I said before, weeks ago they were ready to submit their action and conclusions to this House as soon as its rules would permit, and, if necessary to do so, to submit the reasons for the decision to which they arrived.

Now, I desire to say here, that the report which the committee are ready to make whenever they have an opportunity, is adverse to the proposition submitted by the honorable gentleman from Maryland, [Mr. DAVIS,] and if the House will indulge me I will proceed to state, with as much brevity as the circumstances permit, some of the reasons which have led us to that conclusion. The proposition of the honorable gentleman is substantially that the Navy Department of the United States shall be put under a similar kind of administration to that by which the British navy is at present controlled; and I need not say to any gentleman who has examined that subject, that

the British Board of Admiralty is to-day, of all administrative things in England, the most unpopular among the people and Government of that nation.

The administration of the navy of Great Britain was vested originally in an officer called the "Lord High Admiral of the British Navy," an office which has not been filled, except for a very short period, for nearly one hundred and eighty years, the exception being its occupation by the Duke of Clarence in 1827; at all other times it has been placed in commission, as the phrase is, a commission consisting of two lords, four commissioners, and two secretaries, the incumbents being so appointed and retired as to be in harmony and sympathy with the dominant party in the Government for the time being. And what has been the result? Just precisely what one would expect would be the result of the action of an organization having no individual responsibility, and feeling the stimulus of no executive power.

We all know that after the accession of Louis Napoleon to the throne of France, and when that wonderful man commenced, as he did almost immediately, to bestow his attention upon the condition of the navy of that empire, and its comparative magnitude and prowess with that of Great Britain, Parliament and the British people were both intensely excited at the rapid strides France was making in the construction of a great navy, and the periodicals and the leading men of Great Britain in Parliament summoned to the bar of public opinion this irresponsible and inactive Board of Admiralty, that they might, if possible, give an account of how it happened that the British navy had gone into disrepute, and was so far behind everything which it should have been when compared with the wants of the nation, or the vast sums of money expended upon it; and four years ago, when the war broke out in this country, and the stupendous achievements that were made by the Navy Department of the United States, in constructing our naval force, became known across the water, they also attracted the attention of the Government and the people of Great Britain, and now, more than ever before, public opinion condemned the inefficiency of this Board of Admiralty, and interrogated them to show why it was that when France was making these rapid strides, and the Government of the United States was outstripping France even, the British Board of Admiralty sat supinely in their seats and were doing absolutely nothing to preserve the relative naval force of Great Britain.

The United Service Magazine, published in London, a high British authority, said in 1862, while discussing the British admiralty system, that—

"There is something so clumsy in the machinery of a board, that the leading statesmen of all parties who have of late years devoted their attention to the reconstruction of the large Government departments, have given their opinion against this mode of conducting public business."

The select committee on military organization, which sat in 1860, and which was composed chiefly of Prime Ministers and ex-Prime Ministers, of Secretaries and ex-Secretaries of State, of First Lords and ex-First Lords of the Admiralty, also reported as follows, upon Lord Grey's proposal that the army should be governed by a board:

"This board would be a new experiment; it undoes all that has been done." \* \* \* "Instead of concentrating responsibility it redistributes it. The machinery of boards is known to be cumbersome and uncertain in its operation; it only works well when the head of it acts as if he alone were responsible. A board, therefore, would be a retrograde measure, which we cannot recommend."

According to the same authority—

"Even Sir James Graham, who favors the continuance of the present system of naval administration, states that if the command of the navy were a new machinery to be constructed he should not wish to have a board such as the Board of Admiralty."

Other leading men and authorities have spoken of this board in even stronger terms of disfavor, as a feeble and unsatisfactory mode of administering the Navy, and this in such numbers as to lead one to suppose that nothing but the proverbial unwillingness to make a radical change in any part of their governmental organization would tolerate its continuance. And let me call attention to the fact that it is not against the *personnel* of this Board of Admiralty that the objection lies, but against the *system* itself; for the Board of

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Admiralty of Great Britain has from time to time embraced some of the wisest, some of the most experienced, and some of the most judicious naval authorities in Great Britain. But during all the time of its existence down to the present it has hardly been able promptly and efficiently to put forth the efforts which were necessary to provide against the exigencies of war which at all times are liable to occur. As I have already shown, British authorities who have investigated for themselves the subject, declare in their periodicals, reports, and speeches, that this Board of Admiralty is an organization which is defective in its very nature, and therefore it cannot be made of paramount value by the administration of any men, however efficient, excellent, and experienced they may be. Yet this, let me say, is substantially the system which the honorable gentleman from Maryland, [Mr. Davis,] if I understand him, desires we shall establish here; a system which after a test of more than two hundred years in Great Britain is more than almost anything else connected with their Government in disrepute, both with the Government and with the people, and has singularly failed in presenting any positive advantage, as the present condition of the British navy shows. This is the system which the honorable gentleman from Maryland [Mr. Davis] desires us to institute here. This is the kind of trammel that he desires to put over the chief officer of our Navy Department.

I have alluded to the accession of Louis Napoleon to the throne of France, and to the immediate attention which he bestowed upon the construction of the navy of that empire, and to the effect which the naval movements of France have had upon Great Britain. I need not inform this committee that the navies of France and Great Britain are constructed almost wholly with reference to a single point, and that is, the relative power of the two nations. They are rivals in everything, and jealous of each other. They are hostile to each other, and their hostility and their jealousy extends to everything connected with the interests or with the power of either of those nations.

Now, sir, as soon as the emperor of France looked out upon what was supposed to be the formidable navy of Great Britain, and which indeed was formidable among the navies of the world at that period, he found that if he were to secure his throne, if he were to maintain the dignity of France, if he were to retain the fealty and the confidence of his subjects, he must provide a power that should be able to meet the navy of Great Britain on any sea, and that should be able to protect the coast of France against any assaults that might be made by Great Britain. Therefore, sir, the construction of the English navy and of the French navy has, as I have said, in a great degree become a reciprocal operation. When Great Britain builds a ship, then France builds a ship; and when France builds an iron-clad, Great Britain must build an iron-clad; and so they go on multiplying day after day, and year after year—not because of any particular exigency that is pressing upon those nations at the moment, but because neither can afford to be behind the other in the number and the armament of its ships.

Well, sir, Louis Napoleon is known to the world. When he ascended the throne of France he became France. He is that voltaic battery placed on the seat of power in the nation, whose touch sends the vital impulses throughout his whole empire. He is the head of the navy of France, as he is the head of everything else that is great connected with that nation. He wants no boards of admiralty to sit down and dream over what in some possible exigency it may be expedient to do. He wants no board of admiralty that shall hamper the progress of the French armies or navies when the exigency arrives. But he, sir, is the living and the vitalizing power, and when he speaks the word it is done; when he commands, every man and everything under the power and control of the French nation stands fast to service and duty.

The administration of the French navy, therefore, is a totally different organization from that of the British Admiralty. The British Admiralty is responsible to nobody. Each board is more-

over involved with its successor and with its predecessor, as a serpent involves its coils; and if there be faults or omissions arising in the administration of the navy, it is almost as impossible to fix the precise point of responsibility among these successive boards of admiralty as it is to fix the precise point of motive power in a serpent's body. The board of administration of France is, on the contrary, an organization having, through all its departments, the element of individual responsibility and of special attention. Every man who has a duty to perform in connection with the administration of the French navy is responsible; he can be ferreted out; the exact measure of his responsibility can be fastened upon him; and everybody knows what is the fate of an irresponsible or unfaithful officer before the man who sits upon the French throne.

Now, sir, the gentleman from Maryland in proposing this measure has not only run contrary to the experience of France and of England upon this subject, but he proposes to leap over the whole period of time during which this Government has had an existence. Why, sir, when the Navy of the United States first came into being, in 1775, we then had a Marine Committee. In 1776 we had what was called a Continental Navy Board. In 1779 we had a BOARD OF ADMIRALTY. In 1798 a Navy Department was established, with a Secretary of the Navy. In 1815 we had a Board of Navy Commissioners appointed. In 1842 all these irresponsible boards, these debating societies organized to discuss and to settle the principles upon which our Navy should be constructed and administered, were wiped out of the way, under the experience which the Government had had through this long period, and a Navy Department, substantially like that which we now have, was established. We got along very well from 1842 up to 1862, the second year of this war, under the Navy Department as it was organized in 1842. And, sir, what did the wisdom of Congress determine after two years of experience amid the trials of this war, added to the long experience in a peace establishment? What did the wisdom of Congress decide was expedient to be done in 1862, when the height of the pressure of this war was upon us, when new exigencies were arising every day, when there was a demand for the loftiest and broadest wisdom and experience that the country could furnish in respect to the best method of administering the Navy? Why, sir, it did not establish a board of admiralty; it did not establish a board of commissioners; it did not run across the water and adopt the system of admiralty which the Government of Great Britain was just then trying earnestly and laboriously to dispense with. But Congress did amplify the existing Navy Department, changing none of its material features, but enlarging it to meet the added necessities which were brought upon it and upon the country by this gigantic war.

So, sir, it is only two years since the Navy Department was reorganized and indorsed in its present form; and I hazard nothing in saying that, as a Department, I think it is the most complete and among the most efficient and responsible of all the Departments of the Government. It approximates nearer to the idea of a Department than does any other branch of the executive power of this land that I know of. We have at its head a Secretary of the Navy; and under him are subdivisions of the Department, eight in number, styled bureaus, each of which bureaus has its own specialty, with its own officer placed at its head, men of broad experience and versed in the particular subjects and duties they are called upon to consider and discharge; men who are responsible both to the country and to Congress, and to the head of the Navy Department, inasmuch as they stand in conspicuous positions and cannot screen from observation the nature and character of their duties or the manner in which they perform them. Each head of a bureau is supposed to know everything in detail belonging to the particular branch of naval duty which belongs to that bureau, and to have the executive ability to bring his work to completion. He makes up the annual estimate of the amount which will be required to be expended upon the particular objects of that bureau; but he cannot expend a single dollar of the money which Congress appropriates for the

Navy, nor enter into any engagement, except by the permission of the Secretary of the Navy himself; so that under this system we have combined the advantages of individual skill and responsibility supervised and ultimately controlled by a general head.

The head of each one of these bureaus is therefore directly responsible to the chief of the Navy, and yet the chief of the Navy is not hampered by the divided counsel of those bureau chiefs. He is the man who, after all, is called upon to stand up before Government and people and assume the responsibility of whatever appertains to the administration of that department of the public service.

So, sir, we have in the amendment of the gentleman from Maryland no new proposition whatever, but one which we have already tried, improved upon, and discarded.

But the honorable gentleman says no other country has such a system as our own.

Well, sir, if I mistake not, it is no novel or strange thing for the United States to be found differing from the rest of the world either in the nature of its Government or in its administration. If I remember rightly, there are many particulars in which the progress of this nation, and in which the means and facilities and power of this nation, differ and have always differed from any other nation on the face of the earth.

And I will say just here that I have no prepossession for or any prejudice against anything, whether it appertains to the Navy or to any other Department of the Government, because it is or is not foreign in its origin and use. I recognize the fact that there are many things appertaining to the Governments and the people of nations of the earth which are specialties of their own, which are national peculiarities, immediately recognized and known of all men, but they do not necessarily constitute in themselves standards of merit; and simply because a thing is or is not found elsewhere, does not bring to my mind any argument for either adopting it or dismissing it here, except so far as it may have been proved to be valuable or useless by the experience of other nations or our own. I hold that the experience of mankind is the property of mankind; and if it be true that whoever, acting as an individual or as a member of a Government, disregards the experience of the world, may travel possibly into a slough of trouble and difficulty from which that experience might have saved him, it is also true that if a man plant himself entirely upon that which some other man has experienced under the same or different conditions and circumstances, his fate will be hardly happier than that of him whom I have described in antithesis.

Now, it will be seen that the proposition submitted by the gentleman from Maryland is not in favor anywhere in the world where it has been submitted to the test of experience. It will be found that it has been tried already, over and over again, in a great variety of forms, and that it has been cast aside because it has been proved here to be, as it will prove, to be wherever it is tried, irresponsible, inefficient, and uncertain in its operation.

But, Mr. Chairman, I think no man who has listened to the speech delivered by the honorable gentleman from Maryland can have failed to see that he had a double purpose in making it, and that his amendment was only a precursor, and a small one at that, to the real object which he had in view. In the hour and a half or three quarters during which he discussed this subject, he spent but a very small portion of it in elaborating or elucidating facts or arguments in support of the establishment of a board of naval administration, while he did occupy the larger portion of his time in discussing what he is pleased to indicate as the faults and failures of the Navy of the United States.

I remember, sir, because I am reminded of it by the speech of the gentleman from Maryland, that this proposition which he has introduced here was made as long ago as last April. It seems to me that if the question of the efficiency or of the failure of the Navy of the United States is to be discussed in the interest of those who complain, it would have been much better, in the light of history and of events, for the gentleman



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to have discussed it at the time when it was originally submitted.

Let us see, sir, what are some of the facts in regard to this Navy which the gentleman would have us bring into disrepute, which he would have us put under surveillance, which he would have us hamper with a Board of Admiralty, to discuss every topic, great or small, that should arise in the service. All the resources of the country, vast as they are, whether public or private, have been brought into requisition, in one form or another, to deliver the country from the perils in which it was involved by this gigantic civil war. I need not remind members of this committee that in December, 1860, the State of South Carolina passed an ordinance of secession, to take that State out of the Union, and that early in the following year several of the Gulf States followed the example of South Carolina, so that before the President was inaugurated in March, 1861, and before any of the Departments were organized in harmony with the head of the Government, and in accordance with the legally expressed will of the people of the country, some seven or eight States had already left the Union, as far as it was possible for them to do so, by passing ordinances of secession. Gentlemen need not be reminded that before the Navy Department was organized there was not a single place between Chesapeake bay and the Rio Grande, on the Atlantic coast or on the Gulf coast, that was not in possession of the rebels. They need not be reminded that, in taking possession of this vast extent of territory, the rebels also took possession of two of the five navy-yards belonging to the United States, one of them the most important of all the navy-yards of the country, that of Norfolk. Not only did the rebels capture these navy-yards, but they captured some of our ships in them, and a vast amount of ordnance and naval supplies. They captured at the Norfolk navy-yard more than two thousand pieces of heavy ordnance three hundred of which were Dahlgren guns, more also at Pensacola, and a vast amount of small-arms and naval stores.

In what condition was the country then left—with more than thirty-five hundred miles of sea-coast and with more than thirty-five hundred miles of navigable inland waters to take care of? What means did the Government then possess for the performance of that mighty and stupendous work? Our whole Navy consisted at that time of but forty-six vessels, and of these nearly one half were out of commission. A part of those that were in commission were on foreign stations, and at the time of the secession of the rebel States there were but four naval vessels left available to the Government of the United States with which to proceed to reclaim the navy-yards, forts, and territory that had been seized by the rebels, in accordance with the avowed purpose of the President of the United States, to which both Houses of Congress and a vast majority of the people heartily responded.

Here was the work; to recover and to guard this vast extent of sea-coast and inland waters, to be done with old ships, if at all, or to be done by new means and instrumentalities devised by that man who holds the responsible position of Secretary of the Navy. Does any one suppose, sir, that it would have been possible for the Secretary of the Navy to have built ships enough to have guarded the whole coast of the Atlantic, from the capes of the Chesapeake to the Rio Grande, and to navigate the inland waters of the country, wresting them, place by place, one after another, from the hands of the rebels, if he had had to wait until he could build the ships, and cast and finish the ordnance necessary to perform this gigantic undertaking? It is an absurdity to make such a suggestion. Then I want to know what was left open for the Secretary of the Navy to do but just precisely that which he did do, and which is here at this time made the subject of hostile criticism and animadversion by the honorable gentleman from Maryland, [Mr. Davis.] He went out to his countrymen, and said to them: "Give me your ships; give me your yards; give me your foundries; give me your machine-shops; give me your rope-walks; give me everything that you have suited to the purpose, in order that I may, according to the best of my ability use them

for my country, and while you and I stand alike in the face of mankind to be tried by its judgment, as to whether we can or cannot accomplish this gigantic undertaking, while the friends of despotism, and the enemies of republics are looking on and hoping that we shall fail, I ask you to come forward and give me your ships, and your facilities, be they what they may, in order that we may vindicate the patriotism, skill, and capacity of American workmen and people, in quenching this fire of rebellion; that we may have the pleasure, the inexpressible and unbounded pleasure, of showing to mankind that however great your disadvantages; that however small the resources at the command of the Government, yet, when the national life is assailed, there is no limit to the power which the American people will bring out for the use of their Government to enable them to save the national life from any hand by which it may be assailed, whether it be foreign or domestic."

The appeal of the Secretary of the Navy did not go out to his countrymen unregarded and unheeded. They responded to it. They brought out every ship that was available for naval service, and put them at the disposal of the Navy Department; and the Navy Department availed itself to the utmost of the ability of our citizens, limited only by the resources of the country, in procuring ships and ordnance and men and material of every kind, to enable it to carry out the gigantic undertaking that rebels and traitors had forced upon its hands. Nor did it act unwisely in this particular. If gentlemen can translate themselves from this present hour, in February, 1865, back to 1861, and contemplate the necessity that then existed of contributing in any manner and in every manner of the resources of the country; if they can recall the anxiety they then felt that the Navy should do all that it could, and vastly more than it was doing, I think that in that state of mind they will not be prepared to condemn the Navy Department because it availed itself of the ships of the merchant service when there were none belonging to the Navy, and when all the yards of the Government, and all the shops of the country were working night and day, and were all totally inadequate to supply the immediate and pressing exigencies under which the Government was then laboring.

The honorable gentleman comments upon the character of these merchant vessels, and dwells upon the absurdity of counting them in among the naval resources of the country. But I think that, if he had dwelt upon the topic in all its lights and in all its bearings, he could not have failed to discover that, under that generic term "the Navy," there is a great variety of duty to be performed, and that there is duty that can be performed as well, or nearly as well, by vessels that were built for the merchant service as by those which were built especially for the naval service.

But passing from this point, for it is not worth while to discuss it in the light of the facts, the alternative then presented was, will you have these ships or will you have no ships? Will you do all you can to arrest the progress of this rebellion, or will you sit down supinely, as a board of admiralty might have done, sucking your thumbs and saying that the undertaking is totally beyond the capacity and genius of the American people to enter upon and to accomplish? Not only was the Government without vessels and without ordnance, but in the first year of the war, out of the small number of officers that composed the Navy two hundred and fifty-nine resigned or went over to the enemy in order that they might command the ships and make use of the ordnance which they had stolen from the Government of the United States at Norfolk and Pensacola and elsewhere. So that our losses were not only losses to ourselves in ships and material, but they were gains in the same kind and degree to the rebels; and they gained in addition a large number, if not all, of the one hundred and fifty-nine officers of the American Navy to make use of those ships and of those materials.

Well, sir, during this year 1861, starting in the spring with only four vessels available for the whole uses of this gigantic war, to blockade all the southern ports, to recover all the places that had been stolen from us, to open the great inter-

nal channels of commerce—starting, I say, with those four vessels, before the close of the year 1861, the first year of the war, during a period of only about nine months, the number increased from four vessels to two hundred and twenty-six. This is the work accomplished, so far as outfitting a navy is concerned, by this Department in the first nine or ten months of the war. During the second year that number was increased to between three and four hundred. During the next year, if I remember rightly, it rose up to more than five hundred and eighty. And now, sir, at the end of the fourth year, we have a Navy of six hundred and seventy-one vessels; not all built on one plan, not all built of one size, not all built of one fashion and for one use, as the honorable gentleman from Maryland would seem to imply by his argument would have been judicious, but various in their construction and appliances, adapted to the ever-changing, ever-new exigencies and necessities of this great war.

Now, sir, not to leave entirely out of sight the value of the advice that may be derived from a board of consultation, I desire to state here that, while all the responsibility settles down upon the head of the Navy, and upon the chiefs of the bureaus of the Navy Department, yet, sir, without a board of administration which it is obliged by the force of law to consult and to defer to, the Navy Department has hardly taken a single step of great importance without summoning, as the chief of that Department has the undoubted right to do, a board of consultation and advice from those who are experienced in the Navy in commanding our ships, experienced in all the details of war, as well as in all naval literature and practice, that he might have the benefit both of their experience and of their professional knowledge. Those boards have been constituted over and over again as specialties have demanded. They have not been exceptional cases; they have been the rule rather than the exception. And the Secretary of the Navy, feeling that it rested upon him to take the responsibility, to assume accountability for what shall be actually done, without regard to the character of the advice which he may receive, has, after hearing the opinions that have been expressed by those whom he has consulted, moved forward, in accordance with the dictates of his own judgment, to do those things which he believed to be best for the interest of the country and the accomplishment of the gigantic work which he had in hand.

Why, sir, almost immediately after the Administration was organized, it became indispensable that there should be certain points upon the Atlantic coast recovered and put in possession of the Government as depots for naval supplies, as places of resort for vessels that were doing duty on the Atlantic. And what did the Secretary of the Navy do? Why, sir, he did not send in here and ask you to give him a board of naval administration, but he sent out to some of the most experienced officers of the Navy, to those who were most familiar with the coast; and he sent to the Coast Survey office; he had all the geography of the country and all the knowledge and experience of the country bearing upon the topic laid before him; and the opinion of a commission was taken as to the particular points that could be most advantageously recovered and most advantageously used after they were so recovered. And when the naval expeditions started out under Stringham and Du Pont for the capture of these places on the Atlantic coast, they started, sir, with a definite object to be accomplished, and that object was determined upon by the Secretary of the Navy after he had made use of all the means and all the resources at his command, including a commission of men specially versed in this department of his duty.

[Here the hammer fell.]

Mr. ASHLEY. I move that the gentleman be allowed to proceed.

There was no objection.

Mr. RICE, of Massachusetts. I have spoken, Mr. Chairman, very much longer than I anticipated when I arose, and I appreciate the kindness and courtesy of the House in allowing me an opportunity further to proceed; and I will endeavor to show my appreciation by not trespassing upon the patience of members further than may be abso-

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lutely necessary to present the case which I have in hand.

Now, sir, I was about to say that I would not go over a long and tedious recital of the number of boards which the Secretary of the Navy has from time to time summoned, that he might acquaint himself with their opinions, and, so far as he should determine, act in accordance with their advice. So far as that is concerned, he and the Department have had all the practical benefits of a board of admiralty without the loss of executive ability. And upon that one point of executive ability let me say that you may look over the annals of mankind, from the dawn of civilization to the present time, and you will find nowhere in the records of any nation so gigantic a performance in the way of constructing a navy in the same length of time as has been performed by the Navy Department of the United States.

Now, Mr. Chairman, it is well to say right here—because it is pertinent to the remarks made by the gentleman from Maryland—that not only has this Navy Department had its attention carefully fixed upon absorbing the resources of its navy-yards and the private establishments of the country in the building of ships and ordnance and machinery, but it has also had closely at heart the grand result to which all naval warfare tends, or should tend, and that is, a victory; and in carrying out that idea, it has not groped only among naval administrative reports of foreign countries; it has not blindly followed the lead of any nation; not merely imitated what the brains of some other man or some other people had devised, but taking the issues of the living present before it, and studying them, has addressed itself, whether by old means or by new means, at all events by successful means, to the accomplishment of the result to which, as I said before, all naval warfare should tend, victory.

And let me say here what is the distinctive American idea upon the subject—an idea differing entirely from the theories of either England, France, or any other nation on the face of the earth—and that is, in the first place, in respect to vessels, and in the second place in reference to ordnance; for, as has been well and justly said, since this war commenced the United States have reformed the whole system of naval warfare twice: first, in respect to the construction of ships; and secondly, in respect to the construction of ordnance. And that idea, the main idea, is this, to take away as far as possible in the construction of your ships the target to the enemy's guns; and in the second place, in the construction of your ordnance to put the greatest weight of metal into the smallest possible compass; and, sir, whether for weal or for woe, whether in success or in defeat, that is the American idea which has been working out and which is now working out in the construction of the American Navy.

Why, everybody knows that the first change which took place in naval ships—I speak not now of the period since the war commenced—was to dispense with sails and to adopt steam as the motive power. But since this war commenced the idea has been not only to construct steam vessels, but to construct iron vessels also; and in constructing iron vessels, not to construct broadside vessels only, carrying a large number of guns and standing many feet out of water, but to put the vessels as low in the water as practicable, and to compress, as I said before, the weight of your ordnance-metal into the smallest possible compass. And if anybody desires a practical illustration of the wisdom and efficiency of this theory when carried out to practical results, let me carry his mind back to that memorable Saturday morning in March, 1862, when your frigates with their immense broadsides lay in Hampton roads waiting and watching there for anything which might come to them from the harbor of Norfolk. And what did come? Why, sir, the Merrimac, a great and powerful iron-clad, came down on Saturday and sent to the bottom of the ocean your frigate Cumberland and your frigate Congress with as apparent ease as you would crush an egg-shell in your hand. And, sir, nothing under heaven saved the rest of that fleet except the fact that they were in very shoal water where the Merrimac was not able to follow them.

And how did it happen that the Merrimac, when

she came down the next morning, did not make a similar disposition of the remainder of the fleet? How did it happen that she did not come along the coast, and up the Potomac, shell this seat of Government, and lay this capital in ruins? Why did she not go to Baltimore, why not to Philadelphia, why not to New York, Boston, and other important commercial places on the sea-coast, and lay them under contribution, and capture or destroy their shipping and defenses? Because on that Sunday morning the first practical development of this American idea of dispensing with a target for your enemy, and of concentrating the weight of your metal into the smallest possible compass, was made. The Merrimac came down just as confidently on Sunday morning as she had come down on Saturday; but, if I mistake not, and if history is not altogether at fault, she went back with an entirely different message to the southern confederacy on Sunday from that which she took back on Saturday. She met there, as the gentleman from Maryland has said, if not originally, yet felicitously, a raft with a cheese-box on it; and the result of that raft with a cheese-box on it, the result of that practical American idea, in which it differed from France and from England and from the world, was that when she discharged her immense guns into the sides of the Merrimac, that vessel, gigantic as she was, found that she was entirely unable to cope with this diminutive, untried Yankee notion. This experiment, for it was nothing more nor less than an experiment then, this first practical embodiment of the American idea, sent the gigantic rebel monster, constructed more after the plans of France and England, skulking back into the harbor of Norfolk, from which she never came out afterward.

And so, also, wherever this American idea has been subsequently tested the same result has followed. How was it in the case of the Fingal, constructed on the Clyde, and sent over here as a blockade runner, one specimen of those vast contributions which our former friend and—if I speak not unadvisedly—our recent enemy, has made to the southern confederacy in the building and supply of ships and ordnance to enable the rebels to tear down the pillars of this Government and to destroy our national life? How was it in the case of the Fingal, which came over here under the guise of a merchant vessel, which was taken up to Savannah and there altered, at an expense of millions of dollars, into a rebel iron-clad? After she was completed she came out at the appointed time, commanded by one who had served under the old flag, and filled with officers who were ingloriously transferring not only their allegiance but their experience to the flag of our enemy, and accompanied by transports filled with gay people, who were coming out as on a festive occasion, to witness the conflict between the Atlanta—which the Fingal had now become—and the Weehawken, commanded by that noble sailor and just and honest man, John Rodgers.

And what was the result of that trial between the combination of British and confederate skill and this American idea? Hardly had the Atlanta got into position, before a fifteen-inch shot from the Weehawken struck against her side, prostrated forty men upon her decks, and scattered barrels of splinters, of wood and iron, as the first announcement to the officers of the Atlanta of how great an advance had been made by this theory of compressing the weight of your metal into the smallest possible compass. After that one shot was fired it was utterly impossible for the commander of the Atlanta to bring his men back again to their guns; and before the Nahant, the cooperating vessel of the Weehawken, was able to get into position and fire a single shot, the white flag appeared on the Atlanta and she became a prize—a prize to this American idea. And she now floats under the stars and stripes, and is doing good and efficient service, as I understand, in the American Navy. Almost every successful naval battle that has been fought has been fought partly with the use of those monitors. The honorable gentleman from Maryland has stated what he would have us believe to be the testimony of high officials in the naval service in condemnation of these monitors, and yet if he will read the testimony of these men candidly and impartially he

will find that they not only declare in their favor, but that they are unwilling to go into any great and important action without their assistance.

The gentleman from Maryland has referred to the magnificent and glorious achievements of Farragut in Mobile bay. But does the honorable gentleman desire me to tell him that before Admiral Farragut made his movement in Mobile bay he waited for iron-clads, and four of them did join his fleet before the action commenced, and I have here the testimony of Admiral Porter, if I could consume the time of the committee in reading from testimony, as the gentleman has done, but it is not worth while; whether it be on the Atlantic, or in the Gulf, or upon the Mississippi, the result is the same. For they have built iron-clads and iron vessels on the Mississippi and its tributaries as well as upon the Atlantic and in the Gulf, and everywhere they have turned out to be the most efficient and most powerful and the most formidable vessels ever constructed.

Now, Mr. Chairman, I shall be obliged, in the fulfillment of my promise not to weary the House more than is necessary, to pass over many important features of this discussion. I want to say next, that when the fight took place between the Merrimac and the Monitor at Hampton Roads, a high British authority declared that the naval force of England amounted to but three or four vessels. I cannot quote his language precisely; but it was substantially that the naval force of Great Britain was wiped out; that they must begin *de novo*; that they must cast aside their Warriors, their Agincourts, and all the other like ships they had constructed, because the fight in Hampton Roads proved that the Monitor vessels, which presented no broadside to be perforated by the shot of the enemy, also carried a gun that would crush in the sides of the vessels built upon the English and the French plans. That demonstrated that the countless millions that they had expended under the wisdom and forecast of this Board of Admiralty was all for nothing.

We have to-day accomplished, in the construction of our naval vessels, the two things which the Government started out to accomplish when it entered upon this gigantic undertaking, so far as the theory of the construction of vessels is concerned. In the first place they desired to devise a vessel that would carry an armor which the ordnance of no foreign nation could shoot through, and then to place upon these ships guns throwing a weight of metal which, if it would not perforate, would crush in the side of any ship belonging to any other nation. And I say here, without the fear of contradiction, that that result has been accomplished, and that we to-day have vessels whose armor is a complete protection against the guns of any nation on the face of the earth, and that we also have on those vessels, on the Monitor vessels, guns that will drive from the ocean any vessel that may come in conflict with our ships.

Now, sir, I think that fact is not new on the other side of the water, if it is new here. That fact is not new in France and in England, if it be new in the United States. That fact is probably not new in the Parliament of Great Britain, or in the Chamber of Deputies of France, if it be new in the Congress of the United States. Let me say to you, that those Governments are to-day studying the monitor system of the United States with the most careful and anxious solicitude, to see by what means they may be able, if by any means whatever, to put themselves on an equality with the gigantic, and at present all but, if it be not altogether, irresistible naval power of the United States. Why, sir, is it a matter that need be told here, that the Governments of several foreign nations have sent special commissions here since the fight took place between the Monitor and the Merrimac, and the Weehawken and Atlanta, to study out if it may be this wonderful power that has been improvised amid the excitements and necessities of a gigantic and unexampled war? And besides that, every item of information which goes out from us in respect to this conflict to France and Great Britain, with whom we are in the closest communication, is sought for and maturely studied. Have gentlemen forgotten that Sweden has sent her officers here to specially study this system? And have you forgotten that the imperial Government of Russia sent

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a fleet over here, bringing some of her most accomplished officers, that they might acquaint themselves with the nature and character and probable results of these wonderful, improvised systems and implements of American naval warfare? Nor, sir, need I remind you or the honorable gentleman from Maryland that the imperial Government of Russia, sitting apart at the head of the eastern continent, overlooking it and ourselves, studying, watching, observing closely and anxiously the naval progress of all the naval Powers of the world—that the Russian Government, immediately after learning of the trial of one of these monitor vessels, ordered thirteen of them constructed to take their places as an efficient part of the Russian navy. And, sir, if need be, let me inform the gentleman from Maryland and everybody else, that for such results it was that the naval officers of that great Power came by the boards of admiralty of Great Britain and by the better naval organization of France, over here, across the Baltic and across the Atlantic ocean, to study here, upon American soil and in American waters, the nature and character of American ships and of American ordnance, and the ways and means by which such gigantic results have been produced in so short a period of time.

Sir, the honorable gentleman from Maryland directed his animadversions also against another class of vessels, the double-enders, or ferry-boats, as he was pleased to term them, but which everybody else recognizes as gunboats, constructed to meet the new exigencies which had arisen in the progress of this war. Everybody knows that this war has been mainly a defensive war—so far as foreign nations have been concerned, entirely so. It is known also that it has been necessary, in the prosecution of the war by the Navy, that there should be classes of vessels suited to a great variety of purposes and uses, and among others, that vessels especially were wanted that should be able to move into the rivers and into the shallow harbors of the southern coast. It is known also that when a vessel gets up into a river it takes a great deal of time to turn about, and that there are exigencies that would prevent its turning about, and all means of escape be consequently cut off. Hence it was that these vessels were constructed with double bows, in order that rather than wait perhaps under the fire of an enemy the time necessary to turn, or rather than be placed perhaps in a position where they could not turn, they might be able to retire without delay and without molestation. And those vessels have been among the most successful ships of the Navy.

Sir, it was told us some time ago, just as the gentleman has told us this morning, that the Dictator will not run over six knots an hour; it was told us that there was not a new vessel in the Navy that would make more than six or seven knots an hour. Well, sir, when the Committee on Naval Affairs undertook the investigation instituted by the resolution of the honorable gentleman from Maryland, there were two naval vessels frozen in by the ice at the Washington yard. By direction of the committee, I immediately notified the Secretary of the Navy that the Committee on Naval Affairs would require one or both of those vessels before they should leave the Potomac river, in order that a practical test of their speed might be made. I learned on inquiry that those vessels were the *Sassacus* and the *Eutaw*, two of this very lot of forty-seven double-enders to which the honorable gentleman from Maryland has alluded. Finding that they were duplicates of each other, and that it was useless to try the same thing over twice, I said to the Secretary that it would answer the purpose of the committee to try one of those vessels. Said he, "Which will you have?" Speaking entirely at random, for I knew nothing whatever of the vessels, I chanced to say, "We will take the *Eutaw*." And, sir, we took that vessel. I then said to the Navy Department that the committee would wish to have upon this vessel, during this trip, some practical engineer who is independent of the Navy Department and beyond the scope of its influence, and who would be competent to watch all the manipulations of the ship, the performance of her machinery in every particular, and able to report to the committee fairly and intelligibly con-

cerning her performance. The services of an experienced practical engineer from the city of New York were secured, a gentleman who had constructed a vessel with which it was said no vessel of the Navy could successfully compete in speed. He accompanied the Committee on Naval Affairs and other gentlemen on that trial trip of the *Eutaw* down the Potomac river. Further than that, the committee were determined that the test should be made with such accuracy and such guarantees that the result should be beyond mistake; and we sent to the Coast Survey, asking the head of that department to detail officers with the proper charts and instruments to enable them to determine the distances run and the speed made from point to point. With that engineer to inspect the performance of the vessel, and with those officers of the Coast Survey to mark the distances and note the time, that experiment was made, and I have submitted to this House the official reports of those gentlemen upon that subject. They state that a vessel that could do nothing—that vessel that was a "failure," as forty-six others are, according to the honorable gentleman from Maryland—made a speed of 13½ knots an hour, equal to sixteen miles per hour. I have no reason to believe that her speed was greater than that of many others belonging to her class. There is the practical test made by a committee of this Congress, a committee of this House, appointed by its authority, and acting in obedience to its instructions. That is the result testified to by an accomplished engineer having no connection whatever with the Navy Department, and an officer who belongs to the Coast Survey office, and, so far as I know, having no partialities and no ends to subserve elsewhere.

Now, sir, I do not think it necessary for me to pursue and answer, in tedious detail, all the complaints made, whether in Congress or out of Congress, by men who, instead of elevating their minds to the consideration of the gigantic and successful achievements of the Navy and the best means of sustaining them, muse only in dissatisfaction, seeking for those things alone which they may visit with hostile criticism. Suffice it to say that during the progress of the investigation and in obedience to the instructions of this House in respect to these ships, and especially in respect to the machinery of those ships upon which the honorable gentleman has dilated, the committee spared neither time nor labor in examining every witness who was summoned before us. Some of them were before us two or three weeks, and the committee sat and heard their statements, and I hazard nothing in saying that a more triumphant vindication of any man or any Department was never made than is made by the testimony and the evidence gathered under that investigation. Such is the opinion of the committee.

The honorable gentleman from Maryland would have us believe that there have been great and important changes made in the construction of the vessels and the machinery of our Navy. I have already said something of the differences in the construction of the vessels. I have also intimated the difference which has taken place in the construction of ordnance, so that instead of scattering guns all around the side of a vessel, we compress the equivalent into ten, fifteen, and twenty-inch guns. And if the gentleman wants to know something else besides what he has mentioned which cannot be found anywhere else except in the United States, I can tell him two things which he cannot find elsewhere, and those are the fifteen and the twenty-inch guns. I can tell him that that fifteen-inch gun and that twenty-inch gun, which he cannot find anywhere else, is precisely the instrument and the only instrument on the face of this earth which will shoot through or crush in the sides of any naval vessel not sailing under the flag of the United States. And they can only be floated on the monitor, for the reason that in building a broadside vessel two or three hundred feet in length, and standing anywhere from twelve to fifteen feet out of water, in order to put upon her side a sufficient weight of metal to render her impervious to shot, you would get on so much weight as to send her to the bottom; whereas in the monitor vessel there is but little length compared with this broadside vessel, and instead of standing many feet out of water, she

only stands a few inches out of water. Therefore, while the English cannot put upon their broadside vessels more than from four and a half to six inches of iron, through which we can shoot and crush their sides, we are able to support twelve and fourteen inches of iron upon so much of the sides of the monitor as are exposed to the shots of the enemy. And then our great guns are not distributed upon the broadside or deck of the vessel of the monitors, but are put into turrets twenty or more feet in diameter, the sides of which are protected by twelve or eighteen inches of iron, which cannot be shot through by any ordnance yet constructed.

And while upon this topic let me say a single word in regard to these monitors which the gentleman from Maryland has criticised so severely, saying that they would "dictate" to nothing except at the bottom of the ocean. Would it be very marvelous, if in the excitement and under the tremendous pressure of this war, the Navy Department, or the engineers of the country, should sometimes make a mistake?

Where is the man who has angelic wisdom, who goes to the fountain of all knowledge and dips out of its plenitude that measure which shall guaranty him against the common accidents and the common fallibilities of human nature? Tell me where the man is, what his name is, and then I shall perhaps be able to cite to you a man who can undertake a great and gigantic and untried experiment, prosecuted under unparalleled difficulties, and find no possibility for improvement on his first effort.

Now, sir, it is no extraordinary thing for a vessel to have a greater draught of water than she was designed to have. It is no extraordinary thing, as I am told, in vessels, whether they be built for the Navy or the commercial marine, that there should be some slight variation from the calculations in that respect. Is that such an unpardonable sin, then, as to call for the arraignment of a Department of this Government, as that it should be held up for censure here in the Congress of the United States before the people of the country and before the people of the world—some of them already sufficiently hostile to us and to our purposes? Is it so great a crime that the Navy Department, or those acting for it, should on one occasion or more, have made a small miscalculation of draught of water in the construction of a new and untried class of vessels?

But what does this error amount to? Why, it amounts to this, that these monitor vessels, which were designed to draw some six or seven feet of water, drew, if I recollect aright, some twelve or fifteen inches more than they were designed to draw? That fact was discovered when the first of these vessels was launched, and in season for the correction of the error in all but five; these five were taken for special use as torpedo boats. If they had not been applied to that use vessels would have had to be constructed for that purpose. What is the real importance of the mistake in constructing these vessels? It is not that they are ruined. It is that they must have on their sides one or two more courses of iron, just precisely as if a man were building a house one and a half story high, and should find when he got it along tolerably well toward completion that it would be more convenient and better suited and perhaps necessary to his purpose if he were to raise the roof a little higher and make it a complete two-story house. That is the sum of the matter. A few courses of iron have been added to the sides of these vessels, carrying their decks up higher, increasing their tonnage very materially, and involving an increased cost of about eighty-four thousand dollars apiece. That, sir, is what the mistake of these light-draught monitors amounts to.

And now, Mr. Chairman, to bring these remarks to a close, although I have by no means exhausted the subject, I desire to call the attention of the committee to the fact that, in the long investigation which the Naval Committee had in reference to the construction of the engines and the boilers and the condensers and the valve gear in this naval machinery, they were found to be in accordance, for the most part, with the best authorities, with the best testimony; not only up to but surpassing the vessels which had been previously built in the Navy, so far as they were tested by



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their speed. And that is one way, I take it, in which we are to bring this question of ships and of machinery in ships to a practical test. I say here, as the result of investigation, that there is an increase of speed in the vessels built since over those built before the accession of the present Administration. Not only that, but I say that the vessels yet completed and put into service are not, according to this investigation, the vessels that have been built for the special accomplishment of speed; and I hazard nothing in saying that when those being built with that object are put into service, we will probably have the fastest as well as the most formidable defensive navy in the world.

Now it seems to me to be a very strange time and a very singular selection of opportunity, after our experience in this war, to summon up here to the judgment of the country, for condemnation and censure by Congress and the country, the Navy Department of the United States. Why, sir, from the very dawn of this rebellion the Navy has been in efficient service. It has been created from four ships up to six hundred and seventy-one ships. The gentleman from Maryland [Mr. Davis] has called the attention of the House to the vast expenditure of money, the wasteful squandering of large sums, upon what he characterizes as useless and unavailable ships of the Navy. Sir, let me tell you that according to British authority this American Navy has been created, has been put afloat and armed, and the Department carried on at an expense of less by \$5,000,000 than it cost Great Britain to maintain her fleet during the same period of time, though she has been at peace. These two examples illustrate the practical working of our system and theirs. The British navy is conducted by a Board of Admiralty whose defects are sufficiently described by their own people as attended by delays, divided councils, and the lack of economy and of executive power. It results from the fact that they are following old examples, and England regards what France does, and France regards what England does; whereas we have a navy organization that is vitalized, that is responsible, that acts upon the spur of the moment; and because it is able to seize the earliest opportunities and the best facilities for supplying its wants, may be always ready to meet exigencies and perils as they arise. And I think I hazard nothing in saying, in the presence of the facts, that there are claims now before the Naval Committee, from the manufacturers of the machinery of our Navy, asking for remuneration in the sum of millions of dollars which they have lost, because the bargains of the Navy Department were made so close, were so nicely scrutinized; that they have not been able under the exigencies of the war to do the work they contracted for at the estimated cost. Here we are to-day called upon virtually to pass a vote of censure upon the Navy Department, and to put it under the surveillance of an independent legalized board, in the presence of all that it has accomplished, whether it be in the construction of ships or in the achievement of victories.

Why, sir, as I have already said, from the dawn of the rebellion until now the Navy has been everywhere that it could be, and always has done glorious and efficient service. The Mississippi and its tributaries are open to commerce again; every port for blockade runners upon the Atlantic and the Gulf has been closed; all the strongholds seized by the enemy upon the coast have been recovered, and nearly every corsair driven from the ocean. The Navy was at Hat-teras, at Port Royal, at Charleston, at Island No. 10, at Fort Donelson, at Fort Henry, at Shiloh, at Memphis, at Vicksburg, at Arkansas Post, at Port Hudson, at Mobile Bay, and at Fort Fisher. And in all those places it added radiance to the American name, and glory to the American naval history, which no lapse of time shall be enabled to obliterate. It has placed upon the imperishable record of fame, to be transmitted amid the plaudits of mankind to the latest generations, such names as Stringham, and Foote, and Du Pont, and Farragut, and Goldsborough, and Porter, and Dahlgren, and Rodgers, and Rowan, and Davis, and Winslow, and Cushing; and I should consume the day if I attempted to name them all. Their reputation is secure in history; it is secure in the hearts of their countrymen; and when the

final history of this war shall be written out, and the comparison shall be made of the manner in which the different Departments of this Government have executed the high and laborious and responsible trusts committed to them, faithful and earnest as they have been, there will not be one of them that will stand brighter, or that will be more loudly or warmly commended by our successors, than will the Navy Department. And, sir, I cannot think that the well-earned fame of the naval service, this just meed of praise, will be diminished or obscured by any gentleman, however lofty his standing or however brilliant his abilities, who asks you, in the light of these facts, to put over your Navy Department a board of administration which shall be a change without improvement, or who cites to you the fact that, in the accomplishment of the gigantic labors that have fallen to the lot of that Department, it made a mistake in regard to the draught of a monitor, or an alleged but not admitted mistake in the construction of a double-end.

## BOARD OF ADMIRALTY.

## SPEECH OF HON. F. A. PIKE,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

February 4, 1865.

The House having resumed the consideration of the bill making appropriations for the naval service for the year ending the 30th of June, 1866, and the amendments thereto—

Mr. PIKE said:

Mr. CHAIRMAN: The gentleman from Maryland [Mr. Davis] asked yesterday why the Naval Committee had not at least reported the proposition which he had submitted to it. He said, and correctly, that he applied to members of that committee to have a report, whether it were in favor of or opposed to his proposition. If the gentleman means to treat the Naval Committee fairly, he should have stated further that that committee took up that measure at once. I was one of the persons to whom he applied, and the day after his application to me that measure was taken up in the Naval Committee. It was there discussed and put in train for report; but from that day to this there has been no opportunity when, under the rules of the House, that committee could make a report. And that was the reason, and the sole reason, why the report has not been made. The gentleman from Maryland had not the slightest reason to accuse the Naval Committee of an intention to smother his bill.

The gentleman further said that the Naval Committee, in their action on his bill, reflected the views of the Navy Department, as if the only desire of that committee was to register the decrees of that Department. I suppose the gentleman would not make that statement unless he had some evidence to sustain it; but for myself, as a member of that committee, while I am far from considering it a crime to act in conjunction with that Department on this or any other measure, I have never had any conversation with the Secretary or the Assistant Secretary of the Navy upon the subject, and I do not know to-day whether they are in favor of or opposed to this bill. I do not know how it may be with the other members of that committee in reference to the opinions they hold on the subject; but I have no doubt that they have acted with equal independence of the Navy Department. And as to the gentleman from Maryland, I do not know what his relations are with the Navy Department, further than from the indication he gave yesterday and last session I was led to suppose that they are unfriendly. I say, with all respect to him, that I neither know nor care whether he is friendly or unfriendly to the gentleman at the head of the Navy Department.

Mr. DAVIS, of Maryland. The gentleman does not mean to make, of course, reference to my relations with the Navy Department.

Mr. PIKE. I have said that I know nothing about them except what he stated in his place here. He said further, by way of illustration, that the Naval Committee had spent a large portion of their time—so I understood him—at the

last session running around the country to find a location for a navy-yard, and that that matter had better be committed to professional hands; which is doubtless true. But let me state that I, sir, as a member of that committee, took part in that examination, or most of it; and I will say to the gentleman and to the House that, although I did attend the committee on a trip to look at a site for a navy-yard, and came back with that committee, I was absent during the whole of the last session only one single sitting of the House upon the business of searching for a site for a navy-yard.

Such allegations, sir, by the distinguished gentleman from Maryland seemed to me to call for a reply; for a gentleman who can be so careless in his statement of facts about his associate members upon this floor, can hardly expect that his statement upon other and more important matters shall be implicitly relied upon.

But all these matters are personal and unimportant. The gentleman from Maryland propounded a grave question to this House, and that was, "Have we a Navy?"—a question not to be answered by eloquence nor by brilliant declamation. If it were, I should decline to interpose my rude speech. But, sir, a ship-of-war is, as Mr. Carlyle says, a "great fact." Ay, sir, a perfect ship-of-war is a great fact which has been sought for by all maritime nations for centuries; and it is because it rests among facts and not among theories, that I propose to discuss briefly the important question he has propounded.

The gentleman says that not only have we no considerable Navy, but we have no organization by which that result can be brought about. That is a statement of fact, which, if true, in view of the not improbable contingencies of a foreign war, it is well for this House now and here to discuss, in order to ascertain whether the allegation be correct.

It is a preliminary question whether or not there is an organization that in the future can produce a respectable Navy. The gentleman from Maryland has produced his plan. Here it is: a board of naval administration which is to be a panacea for all the ills under which we now suffer. I hold in my hand the original measure, but which I understand has been modified somewhat since. It provides that the vice admiral and four other officers of the Navy shall constitute a board, and that that board shall have the advising of the construction and management of the Navy.

It is proposed to make this board permanent, for the smaller experiments which have been tried from time to time in the Navy Department, and which is an ordinary and almost daily means of obtaining the opinion of an advisory board, will not satisfy the gentleman. He must have this a permanent board, under the appointment of the President and sanction of the Senate. So he would retire our distinguished vice admiral from active service, and take him and four or five other distinguished officers of the Navy and lay them up in ordinary here, imposing upon them simply the duty of advising the Secretary of the Navy, which advice he may or may not be expected, in his discretion, to follow. In addition to the serious objection of retiring so many good officers, we can readily imagine the conflicting views which will arise, the discordant councils, and the balancing and shifting of responsibility from the head of the Navy Department to the naval board, and back again from the naval board to the Secretary of the Navy. Either one or the other of them must be responsible. It will not be as it is now, where you have provided your Secretary of the Navy with heads of bureaus who shall advise him of all the details of their particular departments. If the Secretary desires to contract for a ship he goes to the head of the Bureau of Construction, of whom Admiral Du Pont said, "The nation is largely indebted to him for his valuable services in constructing our best vessels, and under any other form of government he would long ago have been knighted."

If the Secretary wishes to contract for the construction of an engine he applies to the head of the bureau whose special duty it is to attend to that particular thing. If he wants to act in other directions, he inquires of the admirals and other experienced and able officers who are at the head of the other bureaus, and taking their advice sin-

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gly and collectively, as he does from time to time, he makes up his opinion and acts accordingly. Thus you have the principle of individual and strict responsibility, and at the same time have all the benefit of consultation and advice which could possibly be obtained from an advisory board of the character proposed.

It is asked now that we shall change all this; and why? Why, because other maritime nations have done so. We should call in a Board of Admiralty because England has had a Board of Admiralty, and the gentleman from Maryland has copied his plan partially from that of England and partly from that of France.

Well, sir, the Board of Admiralty at the time of its creation in England was progress and reform. Bad as it is it was better than its predecessor. It succeeded the Lord High Admiral. He was a prince of the blood. The office was held by a natural son of Henry VIII when he was but eight years of age, and afterward by various branches of the dull family who at present occupy the British throne.

Sir, it was progress and reform to take the management of the navy out of such hands, and place it under the control of the British Board of Admiralty. These reforms do occasionally occur in Great Britain. But one considerable reform satisfies that moderate people for a century; and this organization is nearly two centuries old, and it is time, as it is worn out, corrupt, and effete, that it should give place to a modern organization that shall free itself from existing errors, and answer the purposes of the present generation.

Sir, I cannot say, as my distinguished friend from Massachusetts [Mr. Rice] said yesterday, that I have no prejudices upon this subject. I am frank to confess that I have prejudices, and of two systems equally good, the one our American system, and the other an English system, I confess that my prejudices would lead me always to select the American system. But, sir, I do not wish to depend upon prejudices. I wish to produce here authority for what I say about the British Admiralty. I took occasion the other day when this subject came up to go into the Library, and found there only three books upon this subject, and I examined them to see what intelligent British criticism had to say about this Board of Admiralty. I do not propose to cite from those authorities at length; but I invoke the attention of the House to some brief extracts. And the first is a book published in London about four years ago, entitled Admiralty Administration, by a very intelligent author, who, if I mistake not, is a distinguished naval officer. He says of this Board of Admiralty:

"It is most important to remember that this distribution of business is an internal arrangement by which the board delegates to its several members a portion of its own duties; that each member is responsible to the board, and to the board alone, for his performance of those duties; and that for each and all of those duties the responsibility upon Parliament and the country is that not of the individual lord, but of the board in its collective capacity."

That is precisely applicable to this bill. Well, what was the effect? This writer describes the effect; he says:

"It is unnecessary to insist at any length on the evil of divided councils, which must often occur among six persons brought together by the chapter of accidents, without previous knowledge of each other's views, and in fact the Admiralty often represents nothing so completely as the endless diversity of opinions which prevail among naval officers; a diversity which on the other hand is partly accounted for by the absence of any standard course of policy to be discovered in the conduct of successive naval administrations."

And he winds up by saying:

"With respect to naval officers the case is not more encouraging, for the only one subject on which there is general agreement among them is the utter hopelessness of any good result arising from a system which is felt to hang like a blight over the navy."

Now, sir, I hold in my hand a series of letters written by a distinguished British admiral, Sir Charles Napier, in which he describes this system, having served under it for a long period. Let us see what he says about it. He says:

"I have been forty years in the service; and with the exception of commanders of sloops, first lieutenants, senior midshipmen of ships of the line and frigates, being promoted in consequence of the capture of a superior or equal force, I have seldom observed anything like common justice in the distribution of promotion. First lieutenants might be the best and most zealous officers in the service

—that was seldom a sufficient recommendation for promotion."

Again, sir, he says:

"What Sir George Cockburn, Sir George Clark, and I believe Sir Byam Martin foretold, has come to pass. There is no responsibility whatever, for the responsibility of six gentlemen composing the Board of Admiralty is not worth a straw. May I ask your lordship who is responsible for the millions of money thrown away in building an inefficient steam navy; who is responsible for the iron steam fleet that the Admiralty do not know what to do with? It was only the other day that, raising a tank and the dunnage under it, in one of these precious vessels, they found a hole in her bottom through which the water passed, and a fish in it, on which, if I am not mistaken, one of their lordships breakfasted."

And again:

"Believing, as I do, that no permanent good can be done for the service until the Board of Admiralty is abolished, I shall point out what appears to me would be the best mode of ruling the navy, although that step has not been taken."

And that mode, sir, was to have one head of the navy, on whom the undivided responsibility of its management should rest.

So much for Sir Charles Napier. I now read from another book entitled Our Naval Position and Policy, written also by a naval officer, and published in London in 1859; and this is what he says upon the subject. He quotes from Sir George Cockburn, and approves the sentiment:

"Having filled the station of confidential or principal Sea Lord of the Admiralty for more than seventeen years, I feel that my opinion regarding the constitution of the board may sooner or later be deemed worthy of consideration and attention. I am induced, therefore, to place in writing the decisions to which my experience has brought me on this point."

"I have no hesitation in stating that I consider the present establishment of that board to be the most unsatisfactory and least efficient for its purpose that could have been devised."

So much for the authority of intelligent British criticism upon the Admiralty Board of England.

Suppose, now, that you examine that board in the light of their accomplishments. What did the board do when the great transition came from sailing vessels to steam? It was tried, as our present Navy has been tried, by war. They had the Crimean war, in which England and France combined, and the universal opinion of naval writers was that the naval administration of Great Britain was a failure. The Admiralty Board only covered themselves with ridicule by building a hundred and fifty extra and useless gunboats and parading them before the public after the war was over, to show that there was still some life left in the old board.

And how was it, sir, with regard to the iron-clads, the second transition period of the Navy? They had long years the start of us. Twenty-odd years ago we began one single battery, and there we stopped with it still on the stocks in New Jersey. We saw no need of any further efforts in that direction, and made none. But England and France both began to arm themselves in this new mode of naval warfare, and what was the result? I do not call upon my prejudices for an answer. I have it here from British authority. I will ask the Clerk to read an extract from one of the best naval mechanical magazines in Great Britain, the London Mechanics' Magazine.

The Clerk read, as follows:

"The event foreshadowed in the Mechanics' Magazine more than two years since is close at hand. The fleet of experimental iron-clads, of which the Warrior is the type, must, if they are to be in a condition to cope with the armor-plated ships of foreign Powers, be reconstructed. What a bitter sarcasm is this announcement on Admiralty management! The Warrior has been held up to the admiration of the naval world as the most perfect specimen of a screw iron-clad frigate. Quite recently, it was represented on Whitehall authority, that 'her excellent sea-going qualities and rate of speed under steam were unrivalled,' and she was 'just in such splendid order in all her internal arrangements as can only be attained by unremitting exertions at the close of an ordinary term of commission.' It seems incredible that this magnificent vessel, which, we are told, the Admiralty officials 'feel a just pride in calling the finest and fastest of her Majesty's iron-clad fleet,' is suddenly discovered to be utterly defenseless as a ship-of-war."

"We were prepared for this discovery. While she was still under construction we pointed out that the unprotected condition of her bows and stern would be fatal to her in action, as it would enable a completely armored antagonist to make a wreck of her two ends, and in her crippled state leave her no choice but destruction or surrender. Representations to that effect were urged on the notice of the Admiralty, but disregarded with sublime indifference by 'my lords' and their noble secretary. Remonstrance was in vain; the square fighting box, occupying two hundred feet in length of the center of the ship, was a capital invention. The batteries and the gunners were safe in this iron for-

treis; the arrangement was perfection, nothing could be better. The controller and his staff were jubilant; they treated with disdain the sinister predictions of professional and civilian critics, and, not content with one experimental iron-clad on the fighting-box system, costing nearly half a million, they induced the Admiralty to order three others on the same principle. Four ships, at a cost of nearly a million and a half, were built on an untried plan, and now, after their completion, by a trial, which might and ought to have been made long before the first of the number was ready for sea, it is discovered that the objectors, whose opinions were treated with scorn, are right, and the plan is a failure."

"The recent shell practice against the target-ship Alfred, at Portsmouth, has suddenly opened the eyes of the 'lords' who witnessed it to the unpleasant fact that a Warrior with her bows and stern unprotected by iron armor would be no match for a Gloire, much less for a Couronne or a Magenta."

"A panic has seized the controller of the navy and his chief constructor, and spread to the board. The fear of Parliament is before their eyes. Hastily, 'the Warrior is to be paid out of commission, and is ordered to be thoroughly dismantled, everything being returned to store, and her machinery taken to pieces.' Three reasons are spoken of as having influenced the Admiralty in paying her out of commission: 'First, want of men for the three-decker Victoria; secondly, the defective condition of the ship's boilers; and, thirdly, the intended alterations and continuation of the armor-plating around the bows and stern.' The two first reasons are mere pretexts—the last is the true one. At length the murder is out. The famous Warrior, the splendid iron-clad, cannot meet an enemy without being doomed to destruction and without disgracing England's flag. The remedy is a bitter pill for the Government to swallow; but there is no avoiding it. The Warrior must be reconstructed; and this will commence the reconstruction of our entire iron-clad navy. The Warrior or elastic system of armor plating—iron on wood backing—elastic, with slight modification, is adopted for every plated ship, as we have frequently shown, is defective in principle, and must be replaced by a system of greater rigidity. The expense will be enormous, but it is unavoidable."

"The intended alteration to the Warrior's bow and stern will necessitate the opening and lengthening of the ship's frame forward and aft, otherwise she would be unable to carry the additional armor-plating, and would be ruined in her present excellent sea-going qualities and speed. In plain words, it is found necessary to cut the Warrior into three parts, and reunite them by splicing (to use a familiar term) at both ends. This work will necessitate the removal of the armor-plates and backing at the two extremities of the ship, the reconstruction and replating of the latter, and probably alterations in the masting and rigging. These changes will involve great expense, and may be seriously prejudicial to the trim of the vessel. Three other iron-clads on the same plan will have to be reconstructed."

"But worse still remains to be told. What is to be done with Mr. Reed's fleet of wooden bottoms and unprotected ends, carrying square iron fighting-boxes on the Warrior plan, but with such instability of structure that the iron top sides vibrate alarmingly from the fire of the ship's guns, with armor that will hardly resist 68-pounders at short ranges, and with the hammer of movable bulkheads on deck? If the formidable Warrior cannot encounter an enemy without being reconstructed, what is to become of the ships of the Research and Enterprise class, of which eight were built or laid on the stocks before one was tried? They have neither strength nor speed, are neither liners nor cruisers, and cannot by any process of reconstruction be converted into serviceable craft. With these prospects before us, the condition of the navy is by no means satisfactory."

Mr. PIKE. Such, Mr. Chairman, is the naval administration of Great Britain in theory, and such when tried in practice. Is there anything in it, in theory or in accomplishment, that should induce us to copy from it? Shall this young and thrifty nation take a graft from that old and worn-out tree for the purpose of improving the fruit that we should produce?

But the system now proposed to be introduced partakes not only of the characteristics of the English Board of Admiralty, but it partakes also of those of the French board, and the authority of the French board is cited here to influence this House in its action. Sir, the French board is about thirty years old. It was adopted on the recommendation of a committee of the French parliament. It has been changed, and it has brought about a result which has alarmed Great Britain. But has it done anything as yet in time of actual war? La Normandie rolled and tumbled across the ocean to Vera Cruz, and after straining and leaking, to the great joy of everybody on board got back to France. Besides this feat, what else has France done? And of what use is it to talk about the organization of the French board? I hold in my hand an English book devoted to the subject of naval administration, in which the adoption, in part, of the French board is advocated. But after discussing the subject, the writer says frankly:

"But it is to be borne in mind that, though a change in the constitution of the French admiralty did much, there is also much due to the peculiar talents and character of Napoleon III. We might possibly import the whole French system (as we always want to export our talkamentary Gov-

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ement) and belike the wise man who bought all Punch's show but forgot to buy the man inside."

As to the French board and the whole French navy, as Louis the Grand said of the State so may Louis Napoleon say of the navy: "*La marine—c'est moi.*" And unless we propose to introduce him too, I see no reason why we should copy from the French system. France has never yet been a first-class maritime country. She has but a million tons of shipping against some five or six millions of English tonnage and about an equal amount of American tonnage; but she has accomplished a formidable navy, considered in the light of an attack on Great Britain. The great question between those two Powers is the possession of the English Channel. That raises the fears and quickens the exertions of one side or the other. No blow is struck at Cherbourg without thinking of Portsmouth, and no bolt is driven at Portsmouth without thinking of Cherbourg.

Such, Mr. Chairman, are the systems abroad. Is there anything in them, or in either of them, or in their performances, that should induce this House to copy them?

And now we come to our own system. Let us see what it has done, and whether it is worthy of the general condemnation pronounced upon it. We have tried heretofore copies of foreign systems, and they have failed. We have had our "Maritime Committee," our "Continental Navy Board," our "Board of Admiralty," our "Board of Naval Commissioners;" we tried the last thoroughly for twenty-seven years; and by universal assent they were all given up for the present system, which has been in operation since the year 1842 or 1843.

Now, sir, it is well to test the system in the two ways I have indicated: first, by its theory, of which I have spoken; and, secondly, by the results it has produced. The gentleman from Maryland [Mr. Davis] has tried it by its results. That is a fair way of trying it. And now let us see what our naval administration has done in the present war. What was the first necessity in 1861 when the war broke out? It was necessary to have a blockade, and as a first step it was necessary to have ships-of-war to carry out that blockade. It was the blockade of a coast of three thousand five hundred miles in extent; and Lord Lyons inquired of Mr. Seward with incredulity whether he really was in earnest in proposing to blockade a coast of that extent. Sir, it was a great undertaking. And I submit that the Navy Department, when tried by this test, fulfilled its purposes. That blockade has been strictly enforced according to the latest decisions upon the subject; it has been effectual. It has been tried by the opinion of foreign Powers, and has been pronounced by them to be an effectual blockade; and the result upon the confederacy, the result upon prices abroad, and the result upon prices here at home, show that it has been effectual; and I have no doubt the suffering English owner of many a captured blockade runner has unwillingly confessed to himself that the blockade was really strictly enforced. In order to accomplish this, it was necessary that the commercial marine of the country should be called upon, and vessels were purchased for that purpose. Hence come the large list of purchased vessels upon which the gentleman from Maryland commented yesterday.

What was the next necessity? That the Navy should assist the Army in reducing the southern forts. Has not that been accomplished? What is the list of naval efforts but an almost constant succession of victories? With the almost single exception of the unfortunate attack upon Charleston, the flag has been triumphant everywhere. What more could have been done under any naval administration? Why, sir, in the last affair at Fort Fisher the concentrated fire from that whole fleet produced a result which is described in the rebel newspapers as a shower of shot and shell such as has never been equaled since the invention of gunpowder. And I may add an important fact, which has not been generally considered, that all of the guns upon the sea-face of that fort were dismantled by the fire from the navy; that not one of them at the time of the attack of the land forces remained in position; there was but a single howitzer that could act offensively upon the land forces when they made the attack.

And, sir, in addition to this, we have furnished cruisers which have perambulated the sea, and have rescued our commerce from the grasp of the British pirates. Sir, in these important respects your naval administration has been a decided success. Does anybody suppose that the slow-moving discussions of an aristocratic and conceited board of admiralty would have resulted as well?

But, sir, it is complained that, notwithstanding the naval administration has been a success in these particulars, it has failed in want of preparation for a foreign war. If this were so it would not be wonderful. Suppose it to be true that the gunboats that have been used to patrol the western waters for a length of three thousand five hundred miles are unfit to go to sea, is that anything remarkable? Suppose it to be true that the double-enders, which have been used for the shallow rivers and narrow inlets of the South, are exposed in their machinery on account of their light draught of water, is that anything to be surprised at? Was not the expenditure upon them made for a temporary purpose, and should the money have been reserved and taken away from a present and pressing necessity, to be applied to a future and possible contingency? Would that have been wise? Why, sir, I hardly think that even the British Board of Admiralty would have committed so stupid a blunder. Sir, the first great duty was to aid in the suppression of the rebellion; the next duty was to prepare for the possible contingency of foreign war. Well, sir, suppose that we are to have the foreign war, which many suppose will follow the suppression of the rebellion; suppose that, upon the suppression of the rebellion, Great Britain refuses to accede to our just demands, and a foreign war is brought on, and is hard pressing upon us, what is our first necessity? I submit to gentlemen of this House, what is the first necessity in case of such foreign war? Why, sir, it is the same necessity that has been felt in England for the last century: it is to defend your own ports.

Now, I ask whether or not the system of naval administration in this country has not provided for that defense? Speak as you may of the monitor system; denounce it as you may as a sea-going system; speak of it as you may as a system of attack; speak of it as the gentleman from Maryland did yesterday when he said that between the discharges of the guns at Fort McAllister the rebel officers appeared upon the parapets and smoked their cigars; say that the system is slow for that purpose; that these long intervals between the discharges destroy the efficiency of the attack; that you need a rapid, a concentrated, and an overwhelming fire for the purpose of disabling a garrison; but do these objections apply to the monitor system as adapted to repelling an attack? Take these forty-seven monitors which are now completed, or in rapid progress toward completion, and tell me, would not Boston feel safer, and New York feel safer, and Baltimore feel safer, if they had each half a dozen of these vessels within their respective harbors at the time of the declaration of a foreign war? Why, sir, you need only look back to see the applications from various ports and from the authorities of various cities for these iron-clads for the purpose of defense when a war did threaten abroad, and when it was even supposed that some of the rebel cruisers might visit our northern harbors—from these earnest applications you learn the intelligent opinion of the country.

And let me say two things in reference to the monitor system, which answer all the charges made against it. There are two things which have already passed into the history of the country, and which, if the whole system should now be thrown away as useless, would justify the whole expense and ten times more.

The first of these was the check given to the furious raid of the rebel iron-clad steamer Merrimac. You will recall the consternation which prevailed throughout the land. You will remember the alarm created by the telegram from General Wool from Fortress Monroe. You will think of the overwhelming anxiety which prevailed in the northern cities when it was learned that the Merrimac had easily destroyed the Congress and the Cumberland, and that there was nothing to prevent her entering any northern harbor and attack-

ing any of our cities where there was sufficient depth of water to admit her. Think of all this, and then estimate values. I was here at that time, and remember what I saw at the other end of the avenue and at this end, and I have no doubt that millions of dollars would have been contributed and tens of millions voted at that time to have that vessel destroyed.

The history of the monitor is not unfamiliar to the House. It illustrates our mode of building vessels. In July, 1861, the Secretary of the Navy recommended an appropriation to make experiments in iron-clads. Congress made an appropriation of \$1,500,000, and provided by law that it should be placed under the direction of a board. That board considered the subject of iron-clads. It was headed by one of our most intelligent and respectable admirals. So little did they think of these monitor iron-clads, even as a means of defense, that they reported they would only accept Ericsson's as he offered it for \$275,000, provided he would run his own risk. It is part of the history of the country that the iron-clad Merrimac was driven back by a vessel acting on the responsibility of a private individual. Yes, sir, quite a large portion of that moderate compensation of \$275,000 was held back to await the decision of that important naval conflict. And, sir, I may state, what I understand to be a fact, and to illustrate the position that all the naval wisdom is not confined to a board of distinguished officers, that that board—as able, perhaps, as any that could be gathered in the Navy—stated to the Secretary as their opinion that the probable wants of the service in this rebellion would be twenty-five new vessels!

The gentleman from Maryland, if I understand him, talks of the wasteful expense of the Navy. I hold in my hand an extract from a leading London paper, the Star, showing the expense here as compared with that of England. I will read it:

"Not the least interesting portion of the lengthened annual report of the President is his summary of the condition, the work, and the expense of the Navy during three years of the war. It seems that the Federal Navy now consists of 671 vessels, carrying 4,610 guns, and manned by 51,000 officers and seamen. This necessarily includes those gunboats which have been designed for the service of the Mississippi and similar great rivers; nor can we separate the iron-clads of the monitor class from sea-going ships. That the latter are not only numerous but effective is shown by their capture during the past year of 324 vessels, which must necessarily have been almost all blockade runners. The naval captures since the war commenced number 1,379, of which 287 were steamers, and the prize money already declared amounts to upward of £3,500,000, which does not include many claims in course of adjudication. The preparation and expense of this vast fleet since the war began have amounted to £47,700,000, which is scarcely credible in view of the fact that our navy, without any vast outlay for the production of new vessels and during a season of peace, has cost during the same period £48,000,000. We commend the fact to the notice of Mr. Gladstone in the preparation of his new budget."

That shows that our Navy, during a season of war, has not cost as much money by millions as the British navy during a season of profound peace. And you learn from the report of one of the chiefs of bureaus, one of the admirals I have spoken of, the difference the Department finds between paper and gold, as he says that he was compelled to pay a contractor \$1,250,000 in currency for materials for his department which the same contractor would furnish for \$500,000 in gold. If you put the Department upon the English gold basis, instead of the total sum named by the President, we should have at least thirty-three per cent. less expenditure here than in England. Would that British Board of Admiralty have done better?

I have specified one of the things accomplished by the monitors, in the repulse of the Merrimac. Another result, of equal and probably of much greater importance, was that the monitors saved us from foreign intervention. When the news of that combat down in Hampton Roads was flashed across the country, it was thought there was no limit to the possibilities of the monitor system.

If a monitor could stand as that little vessel stood and receive the battering and hammering it received, and repel the attempt to run it down, it was capable of almost anything, it was thought, and greatly exaggerated importance was attached to it in the public mind. That same exaggerated opinion crossed the Atlantic, and the London Times, in view of that combat, said they had but



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four ships in the British navy. The matter appeared in Parliament, and a distinguished gentleman on the floor said, referring to that combat, that they had no navy. The chairman of one of their committees to examine into the matter of iron-clads, Sir John C. Hay, said:

"The man who goes into action in a wooden ship is a fool, and the man who sends him there is a villain."

Of course, sir, if England had no navy she could not for a moment think of interfering in our war.

Mr. DAVIS, of Maryland. Admiral Farragut took Mobile with wooden ships.

Mr. PIKE. He declined to make the attack until he obtained the iron-clads.

Mr. DAVIS, of Maryland. But he made the attack with wooden vessels.

Mr. PIKE. But it was the heavy guns of the iron-clads that disabled the Tennessee, and that determined the result of the naval fight in the bay of Mobile.

Well, sir, that fight in Hampton Roads saved us from intervention at that time. But subsequently the pendulum of public opinion swung the other way. The numerous criticisms upon iron-clads and upon the monitor system depressed the public mind as much as it had been previously elevated, and it came to the conclusion, particularly after the attack on Charleston, that the monitors were of comparatively little consequence. A similar revolution of public opinion took place in England, and that princely conceit which had been temporarily dethroned after the fight at Hampton Roads resumed its usual sway in the British mind. They came to the conclusion that there need be no fear of the American iron-clads, and that the exaggerated importance attached to them was mainly in consequence of Yankee bragging.

So the British Government allowed Mr. Laird to go on and build iron-clad vessels for the rebel service. Mr. Adams, our minister, applied to Lord John Russell to put a stop to it, but he failed to satisfy Lord John by his testimony. Mr. Adams furnished further testimony, but still he failed to convince the British minister. In the mean time the fight occurred in the Savannah river, where the Atlanta, built upon British principles, came out to attack one of these monitors, the Weehawken, when the gallant John Rodgers, by five shots from the monitor's fifteen-inch gun, destroyed her efficiency as a vessel-of-war, and obliged her to show the white flag. The success of the Weehawken rang across the Atlantic, and Lord John said they had proof enough, and the building of British iron-clads was stopped, and Mr. Laird was never afterward able to furnish them to the rebels. That was a critical period in our history, and we should never forget one of the adjuncts by which we were able to escape its dangers.

Sir, I have great respect for the correspondence of the Secretary of State. I was not of those who, the other day, thought it was fit and wise for the interests of this country to remove the control of our foreign affairs from that Department at the other end of the avenue and transfer it to this House. But high as my respect is for the distinguished gentleman at the head of that Department, and highly as I appreciate his efforts to keep peace with England, I place a higher value upon our humble monitor, and in my judgment the country would make a poor exchange to swap off a monitor for a dispatch.

Well, sir, as I said, in case of a foreign war the first necessity is defense. I have spoken of our means of defense and of the power of our forty-seven monitors. Our next necessity would be a fleet for the purpose of destroying foreign shipping. And we have a fleet for that purpose.

Why, sir, after eliminating, as the gentleman from Maryland [Mr. Davis] did yesterday, from our six hundred and seventy-one vessels, and taking out those which he considered worthless, we still have enough left to destroy all foreign commerce. We have forty-seven double-enders of about a thousand tons burden, and carrying heavy armaments. These vessels have already proved their efficiency in this war. They were referred to yesterday in connection with their speed, and the gentleman from Massachusetts [Mr. Rice] told you how fast they were. I have here a memorandum of the speed of other vessels

of that class besides the Eutaw, to which he referred, and it shows that they readily reach thirteen and thirteen and a half knots an hour—very fast for war vessels. They have proved their value in the fight in Mobile bay and in the attack on Fort Fisher; and we all recollect how gallantly and efficiently the Sassacus ran into the rebel ram Albemarle, and would have destroyed her had she been properly supported by others of the fleet.

Here is what Admiral Porter says of them in a recent dispatch:

"I have found the double-enders a much better class of vessels than they have been represented to me. Indeed, for the purpose for which they were intended (as river boats) they are capital vessels, and have only one defect. That is, they do not fire their guns straight ahead. This defect can be easily remedied by cutting a port in the bow, which any commander would be justified in doing when the necessity arises.

"There is a wide difference between the contract double-enders and those built by the Government. The latter are strong and substantial. Some of them are of great speed, and if not quite equal in this respect to the blockade runners they have proved themselves faster than the best rebel privateers.

"Two of the double-enders had their boilers pierced by shot, but that did not put a stop to their operations. They were in every fight afterward, and made quite as much speed as was necessary under one boiler, and good speed at that.

"In action I found the batteries of these vessels very effective, from the fact that I could place them as close as it was possible to go, near the shoals. Each one could bring six heavy guns to bear from one side, which made four of these vessels equal in broadside guns to one of the heavy frigates, the Wabash firing twenty-three nine-inch guns and a one hundred and fifty-pounder pivot from her broadside, while four double-enders fired sixteen nine-inch guns and eight one hundred-pounder rifles, or eleven-inch guns, from a broadside, the favor in guns being on the side of the four double-enders, and the strength and power of endurance being on the side of the frigates.

"For operating in rivers, for which purpose they were intended, these vessels are good, substantial ones, and could be perfectly well adapted to the work required of them, with very little alteration, and those built by Government can go anywhere and at any time."

Besides these double-enders we have forty-four sea-going vessels of from three hundred and fifty to nine hundred tons. Of some of the smaller of these, such as the Yantic, Nyack, and vessels of that class, Admiral Porter says:

"These vessels, though, have proved themselves a perfect success as steam gunboats. They are fast, steady at sea, and come up in every respect to the requirements of a good vessel-of-war. They will all average eleven knots, are of light draught, and will enter most of these southern harbors at high water. I do not think that they have canvas enough to cruise under sail alone, and the sail is only serviceable to them in very fresh breezes, or in lying to in a gale. As sea-boats these vessels are unsurpassed."

And in addition to these we have forty-four vessels building or already built, ranging from twelve hundred and fifty to three thousand seven hundred and thirteen tons. Will not that be an effective fleet? These vessels are built with reference to speed, and are capable of accomplishing two results, to destroy all foreign commerce unarmed, and to fight and overcome armed vessels equal or inferior, and escape from superiors. They are in part upon the stocks and in part already launched. They embody the true idea of a cruiser, to fight or run as they deem best. If they do not make fifteen knots an hour they will disappoint everybody concerned in them, and if they make anything near that they will be smarter than any vessel in the British navy, while they are of sufficient size to carry a most formidable armament.

Sir, compare the destruction caused by the Alabama alone, a vessel of very ordinary capacity, with the immense destruction that would be effected by any one of these powerful cruisers, and it is not extravagant to assert that this fleet of ours could sweep from the ocean in sixty days after a declaration of war all the commerce of an enemy.

[Here the hammer fell.]

Mr. ASHLEY. I ask unanimous consent that the gentleman be allowed to proceed for ten or fifteen minutes.

No objection was made.

Mr. PIKE. Well, these are the two most important objects to accomplish: in the first place, to provide for our own defense; and in the second place, to attack our adversaries.

I have spoken of these cruisers for the purpose of attacking foreign commerce and inferior vessels-of-war. I presume that we are not to repeat the experiment that Napoleon failed to try of an

invasion of England with Boulogne as a base. I presume that we shall not attempt the invasion of any foreign country; but in case of a war with any Power holding possessions on this side of the Atlantic, it may be necessary to have vessels powerful in the fight as well as cruisers. Well, sir, we have such vessels in our Navy. Why, sir, besides these forty-seven monitors of the smaller type, we have thirteen of a larger type, from fifteen hundred and sixty-four to thirty-two hundred tons, and how effectual these vessels are we know from actual experiment; their power does not rest on theory only.

Sir, I hold in my hand the published letter of Admiral Porter, a man who has not only a hereditary claim to the consideration of this nation, but a man whose achievements have been twice during this war of so important a character as to receive the unanimous thanks of Congress. His opinion is of value, and what does he say upon the monitor system? I know some landsmen critics object to his style of writing, but so long as the country is as well content as now with his style of fighting they will be lenient to any peculiarities of the gallant sailor's composition. Why, of the Monadnock, one of the smallest of this class of monitors, he says:

"As to the Monadnock, she could ride out a gale at anchor in the Atlantic ocean. She is certainly a most perfect success so far as the hull and machinery are concerned, and is only defective in some minor details, which in the building of these vessels require the superintendence of a thorough seaman and a practical and ingenious man.

"The Monadnock is capable of crossing the ocean alone, (when her compasses are once adjusted properly,) and could destroy any vessel in the French or British navy, lay their towns under contribution, and return again (provided she could pick up coal) without fear of being followed. She could certainly clear any harbor on our coast of blockaders, in case we were at war with a foreign Power. As strong and thick as the sides of this vessel are, one heavy shot from Fort Fisher indented the iron on her side armor, without, however, doing any material damage. These vessels have laid five days under a fire from Fort Fisher, anchored less than eight hundred yards off, and though fired at a great deal, they were seldom hit, and received no injury, except to boats and light matter about decks, which were pretty well cut to pieces."

Now, sir, if a little monitor of fifteen hundred tons, and the only one of the monitors at Fort Fisher, be it added, which was constructed in a navy-yard, could accomplish results like this, what may not be expected from monitors of the larger size built upon very nearly the same plan, but with those improvements which experience has suggested?

But suppose that a collision comes between war vessel and war vessel; suppose that in a great naval war, when it comes in the future, we are to have a conflict between vessels built on the American pattern and vessels of English construction, what then? No sensible man supposes these iron monsters are to roam the seas in droves like the cheap wooden ships of our last naval war; but suppose they do and the conflict comes, and fleet meets fleet? We shall have our broadside vessels, the Dunderberg and the New Ironsides. The gentleman from Maryland [Mr. Davis] says the New Ironsides is a success. I hope so. But the British Admiralty, as I have already said, have sent the Warrior, of a similar make, into dock to be built over again. Good or bad, we shall have these. Porter has recorded his opinion that "in a fight, the Ironsides would be no match for the Monadnock." Besides these we shall have our turreted fleet—turrets covered with fifteen inches of iron and holding guns capable of throwing masses of iron of four hundred and fifty pounds' weight. When the twenty-inch guns are got afloat they will send half a ton of metal at a discharge. Can the Warrior and her consorts resist that? With sides so high out of water that any gunner can hit them, how long will these monstrous globes of iron rap against the four and five-inch iron covering before gaining admittance? Sir, last year a single blow from a fifteen-inch gun shattered, at the Washington navy-yard, the best six-inch plate of French iron that could be procured. Why will it not repeat that result in the great naval conflict?

I confess, sir, as a man who loves the sea, and has been among vessels from boyhood, I appreciate a sailor's prejudice against these ungainly craft. I would willingly enter into convention with all naval Powers and agree never to fight in iron-clad ships. They reverse all one's ideas of seamanship and destroy the poetry of the seas.

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But it is not a question of sentiment—it is one of fact. And although untried, what reason have we to doubt the result? For one, sir, I should look to the result of that great day in which the hostile iron-clad navies of the world were engaged—a day which will never come—with confidence that the uncouth turret would come out triumphant over the broadside antagonist of Europe. The day, sir, I feel confident, would be one of "disastrous memory" only to the foes of the Republic.

I have not deemed it worth while to speak of the blunders of the Navy Department. These general results I have spoken of are sufficient to vindicate its management. That it has blundered who doubts? But in this particular is it far in advance of the other Departments of this Government? And if we are to follow the English example and put it in commission, because of blunders, why not pursue it further and put all blunders in commission? Where should we stop? Would Congress be untouched?

Sir, let us have done with this folly and be content with a good result, and one of which the nation should be proud, rather than pursue phantoms of perfection which are unattainable.

## NATIONAL CURRENCY.

**SPEECH OF HON. J. M. BROOMALL,**  
OF PENNSYLVANIA,  
IN THE HOUSE OF REPRESENTATIVES,  
February 7, 1865.

The House being in Committee of the Whole on the state of the Union—

Mr. BROOMALL said:

Mr. CHAIRMAN: At the last session of Congress several attempts were made to lessen the prices of the necessities of life by fixing that of gold; or rather by so regulating the dealings in gold as to bring down the price of that article, and by that means reducing the prices of other commodities. Satisfied that such legislation could only result in evil, but not wishing to occupy the time of the House in argument, I contented myself with simply opposing the enactments with little beyond my vote. But seeing the same measures brought forward at the present session, and by a gentleman whose long experience and known abilities would cause one to hesitate before hazarding an opinion in opposition to his, and believing his views to be those of many thinking and unthinking people, I cannot forbear the expression of mine. If my colleague [Mr. STEVENS] is right, I shall thereby afford myself the opportunity of being convinced by the arguments I hope to draw out upon that side of the question. On the other hand, if he and those who think with him are in error, they are in error upon a subject which, above all others, should at this time be fully and generally understood.

There is nothing which more seriously demands the attention of Congress than the condition of the currency of the country. That there is a fault somewhere all believe. That somehow the price of gold is connected with that fault is also universally admitted. But the nature of the connection and the remedy for the fault have brought out a strange diversity of opinion. The prices of most of the necessities of life have doubled within the last four years. Some have increased fourfold. The expense of living is beginning to bear hard upon men of moderate means; and those who are living upon fixed incomes and salaries find their slender resources diminished in effect to a half or a third. Supplies for the Army are obtained only at enormous rates; and no matter what margin is allowed for contingencies in the estimates, Congress is constantly called upon to pass deficiency bills to cover some unforeseen rise of prices. In the mean time enormous fortunes are made, or apparently made, out of the morbidly stimulated condition of trade; and the capital thus accumulated in unaccustomed hands finds employment in the most extravagant living or in the wildest speculations. The evils are manifest enough; and if the remedy is in the power of Congress it is quite time for us to seek it and apply it. With this view I intend to examine some of the measures proposed to that end, and some of the opinions expressed by gentlemen

upon this floor, and in so doing modestly to give my own.

My colleague to whom I have already alluded, and for whose opinions on all other subjects I entertain the highest respect, ascribes the high prices of everything else to the high price of gold, and that to the infamous practices of brokers and gamblers. In an apparent fit of despondency he says of these practices:

"Let this conspiracy go on, making sad havoc of the best interests of the nation, compelling the poor and the rich to pay three prices for the necessities of life, compelling the Government to pay three prices for all its supplies and munitions of war, and swelling the amount of the public debt; while we sit here bound, helpless, trembling before the descendants of the sweat-cloth tribe of money-changers who were driven from the temple."

All this is very pretty and eloquent; and the earnestness of my colleague, as well as his known probity and sincerity, would almost incline one to think he believes the hypothesis upon which it is based. But a little examination will show that hypothesis to be wholly without foundation.

The theory is twofold: first, that gold gambling keeps up the price of gold; and second, that that keeps up the price of everything else. Now, gold gambling is simply betting upon the price at which gold will sell on some fixed future day, though the form of it is that of purchase and sale. A contracts with B to deliver him \$1,000 in gold, at the expiration of thirty days, for \$2 40 per gold dollar. On the day of delivery if gold has fallen to \$2 30 A gains \$100; if it has risen to \$2 50 he loses \$100; and instead of delivering the gold he simply pays or receives, as the case may be, the difference between the contract price and the market price for the day. No gold passes between the parties; none is needed, for the transaction is understood from its inception to be one in which only the loss is to be paid, and that in currency.

This is a fair illustration of the gambling which is supposed to have so terrible an effect upon the price of corn and gunpowder, measured in Government notes. Like all other gambling, it is pernicious enough, and is a fit subject for prohibitory State legislation. But, wide-spread as its baneful moral influence is, its pecuniary evils extend to few beyond the actors themselves; their aim and end is to cheat one another and such unwary strangers as they can delude into their clutches. We shall only mislead ourselves if we endeavor to find the cause of high prices in the gambling dens of New York.

I repeat, there is no form of gold gambling that is not resolvable into betting upon the price of gold on a future day; and I have failed to see how this, in itself, can affect the price of gold, any more than betting upon the weather can make any future day wet or dry, warm or cold. The process requires no gold for its performance. It creates neither demand nor supply. It has no bearing whatever upon any of the elements of price.

It will be answered, however, that B, in my illustration, has an interest in causing an increased price of gold at the end of the thirty days, and that he will combine with others who have made similar contracts to enhance the price. This I grant, and this consideration leads me to say that gambling, of itself, has no effect upon the price of gold. The evils are usually ascribed to the practices of the parties during the running of their contract. B will of course combine with others to put up the price. But in the mean time what will A, and those who have made similar contracts to his, do? Simply combine to bring down the price.

Now, it must be borne in mind that for every one who has contracted to deliver gold at a given price on a future day, somebody has contracted to receive it. It may therefore be fairly estimated that one half the gamblers are constantly striving to put gold up and the other half to bring it down; and who shall say which will outmaster the other, the bulls or the bears, at any given point of time? Sometimes one class succeeds to a small extent, sometimes the other; but in a series of cases, as well as in many individual instances, their efforts are neutralized, and the resulting effect is simply nothing.

The allegation is, that the gamblers as a body

combine to enhance the price. Those who have the most limited knowledge of stock operations will find it difficult to conceive such a combination, embracing both the bulls and the bears. A in my illustration would hardly conspire with B to enhance the price, any more than B with A to lower it. It is not the interest of gamblers as a body that gold should either rise or fall. Their interest at all times is divided. Fluctuation in price, if price be the subject-matter of betting, is not necessary, though danger of fluctuation is. What the business needs is uncertainty. The same amount of betting will be done while the price is stationary for a long time together, whenever half the bettors believe it will change, and are willing "to back their opinion with a wager." Neither is an enhanced price peculiarly favorable to gambling. Just as much money will be lost and won with gold at 90, as at 290.

Having shown that it is not the interest of gamblers to put or keep up the price of gold, I will now show that, granting the interest, their power to do it is so small as to be almost inappreciable, and that regular speculators in gold are just as powerless as gamblers. Commodities are indeed enhanced in price by combinations of dealers to buy up the market, and so create a scarcity. This has sometimes been done with breadstuffs, to the loss of the community, though often to the ruin and deserved punishment of the conspirators. It has been done, too, with other merchandise. The operation is only successful with articles of which both the demand and supply are limited, and articles most difficult of transportation. Gold belongs to neither of these classes. Of all commodities it is of the most general use, and its purpose the most uniform. Of all articles much in use it is the easiest transported. The natural tendency of everything toward the highest market is more apparent and immediate in gold than in anything else. Its fluency is like that of water; and the attempt to buy up the gold market would be like that to drain the Potomac by dipping or pumping. Yet in both these cases some effect would be produced by persistent and combined efforts. All I maintain is that the effect would be inappreciable.

Suppose such an attempt should be made by the entire horde of New York brokers combined. The whole commercial world and the whole mining interests would conspire to thwart them. If gold should thereby become more valuable in New York than in Boston, Philadelphia, Liverpool, a constant stream of it would flow in from all quarters to restore the disturbed balance. There is such a constant stream without this. New York received, during the past year, from various places in our own country, exclusive of the mines, \$28,000,000; and transmitted it all to Europe for a better market.

It must also be borne in mind that we are a gold-producing people. That article forms a prominent constituent of our exports. From the port of New York alone in 1864, under the very nose of these supposed forestallers, \$51,000,000 of gold, embracing \$13,000,000 from the mines, actually went abroad in search of a higher market than that which is supposed to be kept up by artificial and fraudulent means.

The value of an article for export is its true exchangeable value at the place of export, where the article is one of continued traffic and general use; and all the efforts of all the brokers' boards and gamblers in Christendom cannot vary its price from that exchangeable value, except to a small extent and for a limited period.

This brings me to another branch of the subject. We are told, not by my colleague, but by those who think as he reasons, that gold in this country is too dear. If by this is meant that the difference in exchangeable value between gold and currency is too great, I most heartily assent. But it is worth while to inquire whether the fault may not be on the side of the currency. Is gold too dear? Is its exchangeable value higher here than in the rest of the commercial world? If so, why does it continue to be exported? Men do not ordinarily buy in a higher and sell in a lower market for the purpose of making money. An article of continued transport from New York to Liverpool must be cheaper in the former place than in the latter by at least the cost and risk of transportation and the loss of time.

It requires very little reflection to expose the fallacy of the position I am now combating.

Measured in breadstuffs and in labor, the price of gold has not risen. Measured in cotton and woolen fabrics, in groceries and most other articles of merchandise, it has actually fallen. But my colleague in the elegant extract I have cited, says, or implies, that it is this artificially raised price of gold that puts and keeps up the prices of all other things. Not only gold is too high, but wheat, beef, potatoes, clothing, "and all the supplies and munitions of war," and the price of gold is to blame for all the mischief.

It is very remarkable that the only stable thing in the country is the currency; that greenbacks alone keep their true value, while everything else runs wild. When the boat and wharf separate, I might believe the former stationary and the latter moving if it were not for the perplexing circumstance that in that event, the trees, the houses, and everything else but the boat, move also. The drunkard and the lunatic think the singularity exists in everybody but themselves. Indeed, where divergence is apparent it requires some intoxication or some insanity to keep one from suspecting that the change exists at the point where the least change is required to produce the observed effects.

Seeing, then, that the exchangeable value of gold, measured in everything else but currency, has continued substantially the same, except where causes susceptible of explanation and unconnected with the currency have effected a difference; and seeing, too, that everything else has risen in price when measured in currency, I naturally turn to the point where the smallest change would produce the phenomena, and inquire how far the whole fault may be traced to the condition of the currency.

If the proposition had been made to Congress to debase the coin of the country by a gradual process, so that at the end of two years it should possess only thirty-five per cent of its former weight and fineness, no one would have thought for a moment of entertaining it. The increase of prices and consequent feverish excitement given to trade; the derangement of all regular business; the absolute destruction of so large a proportion of all securities for money, would have been results so monstrous and apparent that such a proposition would have been indignantly spurned by the most superficial thinker. If, in addition to this, it had been proposed to restore the original weight and fineness by a like gradual process, extending through the next four or five years, so that all contracts to pay money entered into during the debasement should be carried out at or toward the restored standard, thus making every debtor pay once and a half or twice what he contracted to pay; and so that all property of all kinds would sink in the hands of the holder; if to this had been added the proposition that the Government should borrow its \$2,000,000,000 in the debased coin, and pay interest upon it in the old coinage, thus paying at a rate amounting, at its maximum, to seventeen and seven eighths per cent., and should further obligate itself to repay the principal at maturity in the same old coinage, thus paying at the maximum nearly two hundred and ninety-eight dollars for every one hundred borrowed, it is hardly likely that these features would have rendered the measure any less unpalatable. And yet this is precisely what has been and is being done.

There is no use in disguising from ourselves the real condition of the currency. We are called upon to legislate for an existing state of things; and the only way to do that with effect and for the good of the country is to begin by understanding what that state of things is. But gentlemen upon this floor and elsewhere, and the papers of the day, have adopted, as if by design, a language calculated to hide the truth even from themselves. They talk of the high price of gold, of breadstuffs, of fabrics, of stocks, of labor, instead of the low exchangeable value of their debased currency. They attribute these evils to combinations of bad men, made for the purpose of cheating the Government and the people. They ascribe the enormous rates of exchange to plots on the part of foreign merchants and capitalists to embarrass our Government and force its dissolution. They

accuse traitors and sympathisers with treason in our midst of depreciating the currency by predicting ultimate repudiation; and they fail to see that the whole mischief has its root in what was probably necessary, but certainly very unfortunate, legislation.

At the beginning of our national troubles the Government found the currency of the country quite sufficiently inflated, as is shown by the unconvertibility of the bank issues which followed, the banks suspending specie payments in December, 1861. Engaged in a gigantic struggle for its existence, the Government must have money. Time and deliberation were necessary to perfect and enforce a system of national taxation, and time and deliberation were just the elements the Government could not afford. Its necessities were imperative. Money must be had, and that at once. Two resources suggested themselves: borrowing upon its interest-bearing bonds, and issuing its currency notes. The former was difficult, except at very high rates of interest, but it was possible, for loans at some rate of interest can always be obtained. But blending the two would afford an immediate supply, and the latter means would facilitate the former; for with the currency sufficiently inflated loans could be negotiated without much regard to the interest offered. This blending of the two resources was the course adopted by the Government, whether wisely or unwisely history will determine.

By a series of enactments extending from July 15, 1861, to June 30, 1864, Congress authorized the emission of \$60,000,000 of notes payable on demand; \$600,000,000 of notes not so payable, but made a legal tender for all purposes except the payment of duties; \$600,000,000 of notes bearing interest, and made a legal tender to the extent of the principal except for the payment of duties, and \$50,000,000 of postal and fractional currency, making altogether \$1,310,000,000. From the report of the Secretary of the Treasury, and from other reliable information, I find the amount actually issued under these various acts, up to November 1, 1864, to have been \$736,000,000. The demand notes have been nearly all redeemed and wholly withdrawn from circulation. This leaves \$676,000,000 of the following kinds: \$433,000,000 of United States notes not bearing interest; \$59,000,000 of five per cent. notes due in one and two years; \$61,000,000 of five per cent. coupon notes, and \$102,000,000 of six per cent. compound-interest notes.

As far as the interest-bearing notes are held as investments, they are not to be considered as part of the currency; but as far as they are held by banks or individuals in the place of other notes, liable to be paid out, and only selected for holding on account of their higher value, they are. No doubt this entire issue will gradually disappear from circulation when and as its value relatively increases; but at present it would not be safe to estimate more than half the amount as having left the circulation and added itself to the investments of the country. Taking half the interest-bearing notes from the foregoing figures, and there remains of national paper money \$565,000,000 liable to circulation. To this must be added the national bank issues, amounting now to \$89,000,000, and the issues of the State banks, which one year ago were \$170,000,000, but are probably now reduced to \$100,000,000. This will make the probable paper circulation of the country \$754,000,000.

Now, the entire paper currency of the country before the war, including the States in rebellion, may be set down at \$200,000,000—more frequently falling below than exceeding that sum. From 1856 to 1860 there was comparatively little change, though the tendency was upward. At the latter date the amount was \$297,000,000. The average amount for ten years preceding 1860 was \$193,000,000. Of this amount, according to the Bankers' Magazine, about one fourth belonged to the States in rebellion. This leaves about \$150,000,000 as the normal volume of paper money at the gold standard of the scope of country now containing a Government and bank circulation of \$754,000,000.

It will readily be admitted that an increased demand for currency even at the gold standard has been caused by the events of the past four years; but this must not be over estimated. The

Government is but employing and paying men who were to a great extent employed and paid in the various departments of industry before the war. Even in furnishing supplies, at least to a part of the extent, the Government is but conducting a business heretofore performed by individuals. In both the branches, however, it is fair to say the business is transacted to a much greater extent by means of currency than the like amount in ordinary times.

It is also true that the increased prices of commodities render a larger volume of currency necessary for the same number, amount, and frequency of exchanges. And as far as the increased prices are owing to the withdrawal of so much labor from the fields of production, this circumstance is fairly to be taken into the account, because the increased volume to this extent would be needed if there were no inflation, and would cause none. But it will not do to take into the account of allowance the high prices that are caused by the inflation itself in an effort to ascertain the amount of the inflation.

It will be urged that the whole \$754,000,000 are not in actual circulation, part of it, constantly varying, being in the Treasury and the various depositories. But the same may be said of the bank issues before the rebellion and indeed of all currencies under all circumstances. Part of the volume, constantly varying, is on deposit in the vaults of banks and individuals dealing in or producing the article. Something may, however, be due to this circumstance, and the actual amount may be decreased to compensate for any supposed peculiarity of the present system in this respect.

It is impossible more than to guess how much allowance, or whether any, should be made on all these accounts. There are, however, some matters for which due allowance must be made. The area of the present circulation has been extended by our recent victories so as to embrace territory in which the estimated amount of \$150,000,000 in 1860 did not circulate. This extension, however, has been mainly effected since the period of culmination in the price of gold. Its effect is exactly that of contraction, and I apprehend the increasing tightness of the money market in the commercial cities, and the fall of gold, are in some degree owing to this cause, though probably quite as much to the gradual withdrawal from circulation of the compound-interest notes.

Part of the excess of issue also has taken the place of the coin which has disappeared. Coin, however, always formed but a small portion of the actual circulation, probably never exceeding a fifteenth of the present volume.

If we allow half the currency as a compensation for all these circumstances, there will remain \$378,000,000 to perform the functions heretofore performed by \$150,000,000 at the gold standard. This liberal estimate will show an inflation of twice and a half, quite sufficient to account for the price of gold and most other commodities.

If any one doubts the position that so enormous an increase of the paper money of the country would result in its depreciation, let him read the financial history of England during the bank restriction which extended from 1800 to 1821. The issues of the Bank of England during the ten years prior to 1800 averaged \$55,000,000, and during the ten years subsequent to 1821, \$100,000,000. Between those dates, during the suspension, the issues averaged about \$109,000,000. Taking the average of both extremes as the test of the wants of the people at the gold standard, the expansion was forty-one per cent.; and this was partly absorbed by the increase of business and the disappearance of coin. Yet with all the financial ability of the managers of the Bank of England, aided by the Government, and bent toward the single end of preventing a depreciation, the price of gold continued during all those twenty years above its nominal value in paper, and at one time it reached a premium of thirty-three and a half per cent.

If this is not sufficient, turn to the history of France during its experiment of national currency.

Up to August, 1793, the revolutionary Government of that country had issued \$1,000,000,000 of assignats, and at that date had in circulation \$750,000,000 of them. These were made a legal tender, and every effort was made to force their circulation at par. Yet in 1795 they had depreciated



to one fortieth of their nominal value; and in 1796, when the issue amounted to \$9,000,000,000, \$1,000 of them were required to purchase one dollar in gold. Utter repudiation became a necessary consequence and speedily followed. This is an extreme case, and I cite it to show, what probably all will admit, that an unconvertible paper circulation beyond the wants of the community must depreciate.

I should despise myself if I could for a moment harbor a suspicion that the Government of my country would follow the mad example of the French regicides. No, our currency will be redeemed as our debt will be paid at its full nominal value; and the country, prospering as it did for many years in spite of the policy of the late dominant party, will be very little the poorer of the operation. Young and vigorous, the Republic has shown itself capable of surviving a vast deal of ruining. But it is well to point out the rock upon which other financial policies split, that we may not only avoid it but avoid it by measures least hurtful in their remedial effects.

To restate the proposition: we have abolished the old currency of the country which, with occasional exceptions, had a fixed exchangeable value in the entire commercial world measured in other currencies, and have adopted a new one of a lower and uncertain standard here and of no exchangeable value elsewhere. Thus cut loose from the currencies of the rest of the world, ours has been left to find its own exchangeable value under the operation of laws arising out of supply and demand, and applicable as well to currencies as to all other exchangeable things. This process of finding its standard may be the work of time, during which there may be many oscillations, each probably of less extent than its predecessor; and the standard, when ultimately found, if not found already, will be a fluctuating one.

I do not believe that any considerable part of the depreciation of the currency is owing to doubt about its ultimate redemption. I think there is no such doubt. I find no evidence or trace of it anywhere; and if such doubt existed, the effect of it in depreciating the currency would be very slight *as long as there is none other*. The people must have a currency, and one known to be wholly worthless for all other purposes would retain its value for making exchanges if there were none other to take its place. If the distrust of a currency should exclude it, should force dealers to find some other medium or means of exchange, then I grant its exchangeable value will fall to what it may be worth for other purposes. But while it constitutes the currency it is subject to all the laws of trade that fix the value of currency.

It is well settled that an irredeemable paper medium of exchange can only be used as the currency of its community at a standard fixed by its volume compared with the number, amount, and frequency of exchanges to be made by it, affected always, one way or the other, by the degree of mutual public confidence, that is to say, by the disposition to require cash payments or otherwise. Hence, all other things being equal, if the volume be increased, prices will rise; if the volume be decreased, prices will fall.

An interesting illustration of the depreciation of currency consequent upon its inflation may be found in the period of the suspension of the Bank of England, from 1800 to 1821, exclusive. If we divide this period into three parts, such that the middle one will cover the period of greatest expansion, that is to say, from 1811 to 1817, exclusive, and estimate the proper amount of currency at the gold standard for each of these periods, by taking the average amount for the decades before and after the suspension, and apportioning the increase between the decades, among those periods, we will find that during the first period the expansion was twenty-eight per cent., and the premium on gold four and a half; during the second, the expansion was fifty-nine, and the premium nineteen and a fifth; and during the third, the expansion was thirty-two, and the premium two and a third.

Taking each year by itself will show the same result, but not with the same regularity. Many causes operate to produce temporary fluctuation, and it is only by taking a series of years that

these causes are got rid of by balancing one another.

If it be asked why the premium on gold and the amount per cent. of inflation are not found equal, or more nearly so, the answer is that part of the excess of issue was absorbed by the increase of business arising out of the war, and part went to make up the deficiency occasioned by the disappearance of gold. In every case of inflation these causes operate, or rather always the latter, and always the former or a similar one; and unless they are neutralized by other elements they prevent the actual expansion in paper from having its full effect on prices.

I have no complaint to make of the policy of the Government in regard to the currency, though I regret that an apparently overruling necessity induced the adoption of the system of inflation, and I would not have that system outlast for a moment the necessity. Possibly, if its full consequences had been foreseen, some modification of it might have been made in the beginning. Possibly it might have been cheaper to the Government in the end, and less disastrous to the people, to have contracted the loans at a much higher and certain rate from the beginning than to have inflated the currency with the hope of borrowing such enormous sums at six per cent.—a hope which has proved so delusive since the six per cent. contracted for has proved to be ten, twelve, and in many cases fifteen. A system by which forty dollars are borrowed upon an obligation to pay six dollars per annum interest, and one hundred dollars at maturity, will hardly be extolled for its economy.

Recognizing the magnitude of the evil, the Committee of Ways and Means during the last session of Congress devised a remedy. These gentlemen had been watching the gold market from day to day until they began to believe the whole mischief concentrated in the board of brokers. Their temper became like that of the farmer who blew the vane from his barn with a shot-gun because it would obstinately and persistently point northeast. Following their train of thought, the committee proposed to drive the money-changers from the temple, not in the manner of Him of old, but by putting the Secretary of the Treasury in to their exclusion. They proposed to allow the Government to enter the lists with the brokers and to buy and sell gold *ad libitum*, with the expectation that everybody else would then quit it, and that gold, left to itself, would fall to the price they thought it ought to stand at, about 130. Congress, yielding to the persuasive eloquence of the committee, adopted their views and passed the law. The morning papers were sought for with an avidity only incident to these marvelous times. But behold! instead of gold behaving itself as it should have done under the chastisement, it had actually risen! Days passed, and the rise continued. One, two, five, and twenty per cent. were added to the former figures; not as a consequence of the enactment, but in defiance of it and under the influence of other causes.

Baffled in this attempt the committee now proposed more vigorous treatment. A law must be passed punishing every one who presumed to buy or sell gold except for present cash, and accompanied by present delivery; and Congress again acquiesced. Unlike the former, this scheme was not exactly "whistling against the wind." It had at least the merit of not being wholly inoperative. The Government had by law compelled the payment of duties in gold; and as the merchants could not make the article they were forced to buy it. Unable any longer to engage it beforehand for the time of need it was common prudence in them to buy and hold until their duties became payable. This created an unusual demand and the price went up to its maximum at 297. Alarmed, and not reflecting that this artificial state of things could only continue until the extraordinary demand had been once supplied, Congress repealed the law, and the demand subsiding, gold fell to its proper exchangeable value in the commercial world.

This it was supposed would end legislation on the subject in that direction. It was thought that Congress would direct its attention to the actual disease, and if it found no remedy would at least cease to do no mischief by doctoring the mere symptoms. What, then, was the surprise both of

this body and the country when my colleague, [Mr. STEVENS,] so preëminently right upon all other questions, brought forward at the present session a similar measure, though much more severe and thorough in its details. He had somehow failed to learn by the experience of last winter. He had become befogged in the mazes of Wall street and had worked himself into the condition of mind of the physician who, by mechanical force, compelled his patient's pulse to beat exactly seventy to the minute, as it should do, and supposed he had thereby cured the fever.

As if believing that what has been once tried is worth trying again on a recurrence of the circumstances, though it be even the punishment of witchcraft and heresy, my colleague proposed to adopt the provisions of the British statute of July, 1811, by which buying or selling gold, except at par, was made a penal offense, punishable by fine and imprisonment. The House, however, rather uncourtously, laid the bill on the table without examination. Discouraged in what he still considers a good work, my colleague thereupon tells us, in effect, that he will abandon all attempt at our reformation, and leave us to our own destruction.

The effect of such a law may be ascertained by *a priori* reasoning, as well as by observing its operation in England. There is a legitimate and proper trade in gold, as well as the pernicious one of gambling. Certain of the arts and manufactures require it. Duties as well as the balance of exchange must be paid in gold. There is also a constant trade in it between our mines and foreign countries through the exporting cities. It may be said that this latter business could be left unfettered by restricting the law to coin. But so restricted the law would be useless, since a blacksmith's fire will reduce coin to bullion, and the laboratory of a chemist probably to gold dust.

Now, this legitimate demand will be supplied, and ought to be. Suppose the law should be obeyed. Then the holder of gold, whether received from the mines or from the Government as interest on its bonds, must export it to sell it; for no man would expect him to take one dollar here for what would bring him two in Liverpool; and the artisan or mechanic who needs it in his business must buy it in the foreign market. This would add twice the cost of transportation to the already high price. But suppose the law should not be obeyed, as is the more probable, then the high-minded and honorable dealers would cease to supply the market, and the business would fall exclusively into the hands of men less scrupulous. These men would not only charge enough to cover the risk of detection and punishment, but they would combine to enhance the price still further. This they could do with perfect success, because all open and legitimate trade being prevented by the law, no outside supply could flow in to prevent forestalling. In either case, therefore, gold would rise.

Now, let us see what the effect actually was in England. The law was passed in 1811 and continued until after 1821. My colleague [Mr. STEVENS] says:

"I do not say that the measure was an entire cure of the evil, for such is not history. But it was a great palliation of it, and instead of gold reaching 250 it stopped at the rate it had attained."

My colleague has slightly mistaken the facts. The average price of gold in 1811 was 108.50. Notwithstanding the law, it rose in 1812 to 123.64; in 1813 to 129.71; in 1814 to 133.55; in 1815 and 1816 it stood at 120.66. It was not until 1817, after a change had taken place in the whole face of Europe, that the price fell to 102.74. A glance at these figures is not calculated to impress one with a high degree of confidence in my colleague's remedy. Now, I do not say that the rise in price was owing to the enactment, for many and complicated causes were in operation during that period, but I do say that the enforcement of such a law, in the absence of other causes, would effect a rise in the price of the subject-matter.

My colleague says that gold in England did not, as here, go up to 250. This is true, and the inflation of the currency in England was not, as here, to twice its natural volume. It is worthy of remark that while the average circulation in England during the suspension was \$109,000,000, yet

during the eight years, from 1810 to 1817 inclusive, embracing the period of the highest price of gold, the circulation averaged \$130,000,000.

Turn now to the history of the same experiment in France. In 1793, when the paper circulation of that country was \$750,000,000, and was increasing at the rate of \$50,000,000 per month, the Convention enacted a law punishing by six years' imprisonment in irons any one who should exchange paper for gold, except at par, or should ask or receive a higher price for goods in paper than in gold. Yet this stringent law had no effect to stay the depreciation, and in less than two years, according to Alison, a dinner for a single man cost \$2,000 in paper.

But the high price of gold is not in itself an evil. On the contrary, it is part of the remedy which the laws of trade provide for a preëxistent evil. If, by some forcible means, some trick of legislation, gold should be brought below its true value here, the effect would be to stimulate importations, and to draw the gold abroad to pay for them. Our only means of retaining it in sufficient quantities for governmental and individual uses is to leave it entirely to the laws of trade. The actual evil is the high price of all necessities of life to individuals, of supplies and munitions of war to the Government, the high rates of interest on the gold-bearing bonds, and the fearful discount at which the Government is borrowing.

Such being the evil, and its magnitude being granted, what is the remedy? I answer, the one we are already applying, and if its remedial effects have not this far been sufficiently obvious it is because the administration of it has not been sufficiently vigorous. I allude to the twofold remedy of fighting and taxation, furnishing men to the Army and money to the Government; men and not substitutes, money in taxes and not loans only. Enable our armies to follow up their recent glorious victories and end the war. Enable the Government to redeem its currency in gold as soon and as fast as the public necessities will permit. This may be difficult, but it is the only remedy, and the sooner the Representatives of the people see it the better. We are in a better condition to pay taxes now than we will be for years after the termination of the war, and we are willing to pay them. That is the significant meaning of the November election. Some complaint has been heard of the inequality of taxation, but none of its amount. The people have not undertaken to support their Government without counting the cost, and they have overrated neither their strength to fight nor their ability to pay.

Probably there ought to be no great contraction of the currency during the war, but certainly there ought to be no further expansion. The only excuse for inflation in the beginning was the immediate necessity for money before it could be raised by taxation. The time of that excuse has gone by, and if further resort to the expedient should be forced upon the Government the responsibility must rest upon the Representatives of the people.

The circulation of the State banks might with very great propriety be dispensed with at once. The necessities of the Government will not afford the advantages of furnishing the currency to be reaped by any but itself. A stamp of one per cent. required to be put by the bank or the holder on every note before issuing or passing it, to be canceled with the date and renewed every six months, would effect this object; or if it should fail, would at least yield a large revenue. The facilities generally afforded the State institutions to avail themselves of the national law are such that they could not complain, and the community would be glad to get rid of this heterogeneous element.

Let us then take measures to prevent the further expansion of the currency and to commence the work of contraction. Supply the Government with the means to pay not only its interest but such part of the current war expenses as will remove the necessity for further issue of notes. Let us so shape things that on the restoration of peace our immense debt both of bonds and currency will be already in process of liquidation.

The inflation of the currency and the necessary subsequent contraction work an especial injury to those who labor for their livelihood. Dealers

of all kinds and most men of business derive advantages from the inflation to compensate for their losses during the contraction. Not so the laborer. He has no stock on hand to be increased in price. His commodity is at the increased cost when he is ready to dispose of it. It is true he receives an advance of wages, but every article he has to buy is enhanced in price in a greater proportion. This is partially but not wholly remedied by the withdrawal of so many men from productive industry to fill the armies, so that wages are now higher than they would be under the operation of inflation only.

Not benefited, then, by the expansion, the contraction will fall doubly hard upon the laborer. Who will employ him to furnish products for a falling market? The return of the soldiers, too, will make competition in his ranks for the little he can find to do, grinding him down to the point at which the most fortunate laborer can barely live. What to him will be the fall of the necessities of life if he can obtain nothing wherewith to buy them? What to him will be the cheapening of other men's commodities if he can find no market for his own?

It must not be expected that a return to the gold standard, no matter how gradual, will be effected without serious financial embarrassments. The entire line of artificial prosperity of the last four years will have to be run backward. Every debt will be increased to the debtor, while remaining nominally the same. Every commodity will fall in price in the hands of the holder. Dealers will fear to buy, and trade for the time will be almost suspended. Everything salable will be forced into a market in which there will be few buyers. Labor will seek employment for mere bread; and the day that sees the redemption of the Government issues in gold will be one of terrible financial calamity.

But the gold standard once fairly reached, and the state of the country once adapted to it, the energies of the people will unfold themselves anew. Business of all kinds will reopen; capital will re-ally itself to enterprise; thrifty employment will seek well-paid labor, and our country will commence a career of progress surpassing everything even in her own glorious history.

I cannot conclude without speaking of one of the benefits arising out of these scenes of trouble, to compensate as far as the future can for the expenditure of blood and treasure in the present. I allude to the system of national banking. We have at last discovered that there is meaning in that clause of the Constitution which gives to the national Government the power to regulate the currency by authorizing Congress to coin money and fix its value. Never again will that power be intrusted to States and State corporations, under whose imperfect management each neighborhood had its local currency, often unknown and uncredited at the distance of a few miles. The great Republic, created in 1789, had suffered politicians to play with its powers until it seemed the mere servant of sovereign States. But the duty of self-defense aroused its slumbering strength, and events are in progress demonstrating that in one country there can be but one supreme power. States have rights, counties have rights, towns have rights, individuals have rights; but the Government of the Union, charged with the preservation alike of the rights of the States and the people, alone is sovereign. The Republic of America is proving itself a nation.

#### AMENDMENT TO THE CONSTITUTION.

#### SPEECH OF HON. A. HARDING, OF KENTUCKY,

#### IN THE HOUSE OF REPRESENTATIVES,

January 31, 1865.

The House having resumed the consideration of the motion to reconsider the vote by which the House, on the 14th of last June, rejected Senate joint resolution No. 16, submitting to the Legislatures of the several States a proposition to amend the Constitution of the United States—

Mr. HARDING said:

Mr. SPEAKER: If the subject under consideration did not involve consequences so grave and serious, it would be amusing to witness the

changes lately made by certain gentlemen on this floor, and the reasons given for them.

One reason, assigned by the gentleman who has just taken his seat, is, that though it may be doubtful whether there is power to abolish slavery by an amendment to the Constitution; though it may be oppressive and unjust to a particular State, yet if not done now an extra session will be called and the measure consummated; whether right or wrong it will be done after a time, and why retard it? Sir, you have to reflect but for a moment to see where that argument will lead. It will justify lawlessness, bloodshed, violence, and every outrage known to the catalogue of crime. Sir, with every fair-minded and conscientious man the question is, whether the measure is right, just, and constitutional.

The ground taken by another Democratic gentleman from New York [Mr. ODELL] in justification of his course, was that the question of so amending the Constitution as to abolish slavery was considered in the Baltimore Convention and incorporated into its platform; and that in the election of Mr. Lincoln, the nominees of that Convention, the people of the United States had declared in favor of the abolition of slavery. But if the gentleman is sustained by that consideration, it must be on the ground that a majority of his district voted for Mr. Lincoln, and sustained him on the platform for the abolition of slavery by an amendment to the Constitution. But, sir, the very reason that would sustain that gentleman in voting for this resolution would crush others, and among them my colleague, [Mr. YEAMAN.]

Now, sir, in the second congressional district of Kentucky, represented by my colleague, [Mr. YEAMAN,] the majority against this measure, against President Lincoln and the abolition policy of his Administration, was four thousand six hundred and fifteen. How, then, does my colleague from the second district feel himself justified in coming out in favor of this amendment to the Constitution abolishing slavery upon the ground assumed by the gentleman from New York? The people of his district have by a majority vote of four thousand six hundred and fifteen decided against it; how, then, can he vote for it?

And another of my colleagues, [Mr. SMITH,] from the sixth district, has come out in favor of this amendment, although the people of his district in the late presidential election decided against it and against Mr. Lincoln by a majority of two thousand five hundred and thirty-seven votes. That gentleman, in a speech in this House a short time since, in substance remarked that "he was not to be held responsible for opinions which he held and advocated some time ago." Certainly not. Who ever thought of holding that gentleman responsible for his past opinions? Most unquestionably I never did. Has anybody been deceived or mistaken in him? I have not. If some gentlemen were not to turn around and change their front, I should be mistaken. Not at all, therefore, do I hold the gentleman responsible for his past opinions. It is just what I should expect of him; and I should have been deceived if he had not changed.

And then, the gentleman from Missouri, [Mr. ROLLINS,] after telling us that he was born in the good old land of Kentucky, and reared under the teachings of her Clays and Crittendens, comes out and volunteers his advice to Kentuckians; and very patronizingly asks us to imitate his changing example.

That I may do the gentleman no injustice, I beg leave to read a few extracts from his speech, setting forth his changes and his recantations. He says in that speech:

"It will never do, in the day of civil war and revolution, to be justifying one's self for inconsistency. Men change every day. Read the inaugural address of President Lincoln; read the diplomatic correspondence of the distinguished Secretary of State; read your own speeches of two or three years back, and you will see how changes have taken place. Read my speeches, and you will find me preaching a short time ago one doctrine, and now preaching another. I am proud that a man has the right to change."

Yes, sir; a short time ago preaching one doctrine, and now preaching another; "driven to and fro by every wind of doctrine; ever learning, and never able to come to the truth; trying all things,

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proving all things," and holding fast to nothing. [Laughter.]

Truth is eternal, and principles do not change. Yet some gentlemen have the greatest facility for assuming different dresses. They throw off one set of opinions and assume another as readily as a man relieves himself of a worn garment and puts on another. When a man puts on a borrowed coat it never fits exactly; and he feels inclined to change just as often as he can borrow. And so it is when a man, having no matured and fixed principles of his own, assumes and acts upon the opinions of others; they bear his expenses but a short distance; he soon throws them off and puts on some other man's opinions. But I deny that human nature has changed in such cases as the gentleman asserts. There has been no real change in the man; not at all. On the contrary, some gentlemen must be changed to keep them from changing. [Laughter.] They must be regenerated and born again, or they will exhibit such changes.

The gentleman from Missouri [Mr. ROLLINS] also says in the speech from which I have read:

"I have been looking up for light from above, and I begin to see it streaking along the horizon, however it may be with other gentlemen in this Hall."

Yes, sir, the scales begin to fall from his eyes; he sees men as trees walking. Perhaps the gentleman could not exhibit stronger evidence of the insanity of fanaticism than this claim to supernatural illumination. But he sees streaks of light. When Lucifer fell from the regions of light, possibly he may have been followed a short distance by some rays of light, but they were pursuing him downward to the regions of outer darkness and eternal night. And so the streaks of light the gentleman perceives may be the emanations from his former position, following him in his downward fall.

Mr. Speaker, I wish to call the attention of the House to a short paragraph from a newspaper, the Baltimore Sun, which I send to the Clerk to be read.

The Clerk read, as follows:

"THE ABOLITION OF SLAVERY.—A movement is on foot among prominent Philadelphians of both political parties to give a handsome dinner to those Democratic Congressmen who shall vote in favor of the proposed constitutional amendment prohibiting slavery. So far the list of such members embraces the names of GEORGE H. YEAMAN of Kentucky, AUSTIN A. KING and JAMES S. ROLLINS of Missouri, MOSES F. ODELL and JOHN A. GRISWOLD of New York, MYER STROUSE, JOSIAH BAILY, and ARCHIBALD McALLISTER of Pennsylvania, and EZRA WHEELER of Wisconsin."

Mr. HARDING. I think it will be seen when the vote is taken that there is a mistake in that article, at least as to some of the gentlemen named.

But the gentleman from Missouri [Mr. ROLLINS] says "he is proud that a man has the right to change." Who ever denied his right to change? Who would expect anything else of him? After the exhibition he gives of himself, it is not at all strange that he should change. But is it not passing strange that the gentleman should invite Kentuckians to follow him in his wayward and erratic course? Sir, I should never overtake him; I could not hope to see him to-morrow where I find him to-day. If I were to start with him to that dinner at Philadelphia, by the time I could get in sight of the table he would be seated and dining with Wendell Phillips in Massachusetts.

Mr. Speaker, gentlemen on the other side of the House exult and rejoice a great deal over the new abolition converts, who are going over from this side of the House into their ranks. But I would admonish gentlemen to be a little careful how they receive them. It is a rule in one of our churches to receive new members only on six months' trial. It might be judicious to imitate that example and receive certain gentlemen into their ranks only on six or seven years' trial. Perhaps it would be safe to do so.

Then, sir, there is an old saying among farmers and teamsters, that a horse that has broken the harness and run away once will run again. And they never trust him afterward. If they work him at all, it is at the "off wheel" through mudholes and bad roads; but they never trust him for a single moment as a leader; for they know, that having run once, if he gets the least chance he will be certain to run again.

Again we are told that the "human heart is de-

ceitful above all things, and desperately wicked," and it is not going too far to say that these young converts may have human hearts.

Mr. Speaker, we were told by the gentleman from New York, [Mr. ODELL,] in his speech some days ago, that the reason why the question of amending the Constitution so as to abolish slavery was considered in the Baltimore Convention and incorporated into its platform, was because the President and the party sustaining him had grave doubts as to the constitutionality of the emancipation proclamation. And to relieve themselves of these doubts they determined to change the Constitution. Sir, what reason was there for any doubt on the subject? Did not the President and his Secretaries, and did not Congress proclaim to the country, again and again, and in every imaginable form of language, that there was no purpose, and no constitutional power in any department of the Federal Government, to interfere with slavery in any State of the Union? And did not Secretary Seward go so far as to say that any attempt on the part of the President to do so would be arrested by the courts on account of its manifest unconstitutionality, even though assented to by Congress and the people? Yet in the face of all these positive declarations, coming from every quarter and in every form of language, the emancipation proclamation was issued. Sir, was there any room for doubt? Did not its authors know it to be unconstitutional?

But suppose the subject to have been surrounded only by grave doubts of its constitutionality, what then? Sir, when I take an oath to support the Constitution I do it as a conscientious man; and when called on to do an act that I consider of doubtful constitutionality the doubt goes to my oath. And who would do an act that would leave it doubtful in his own mind whether he had taken upon his conscience the guilt of perjury?

Mr. Speaker, we were told by the President that the oath to support the Constitution embraced the whole Constitution, the clause providing for the return of fugitive slaves as well as the rest; and that "to the proposition that the fugitive slave shall be returned to his master the oaths of all members of Congress are unanimous." And yet, in a short time afterward, we find the fugitive slave law repealed, and the return of the fugitive prohibited under a heavy penalty. Sir, it is in this way that the Constitution has been trampled under foot, torn, and inflected, and today it is to be crucified in the house of its professed friends. And why, and for what? Because these gentlemen cannot bear the purity of its doctrines. It testifies against them. It rises up in judgment against this Administration and condemns it. It must therefore be struck down, and its voice forever silenced, that it may no longer testify against the acts of this Administration.

Mr. Speaker, the State of Kentucky is now the only State that has any interest in this question, and I deny that the proposed amendment, though passed by Congress and ratified by three fourths of the States, will have any constitutional or binding force on Kentucky unless she also ratifies it. I deny the power to make such an amendment and force it on any State of the Union. The right to the absolute control of slavery and all other domestic institutions is reserved to the States; it is but the right of local self-government, and never was surrendered or delegated in any way to the Federal Government. These reserved rights never can be wrested from any State but by the hand of violence and revolution. Gentlemen contend that there is no limitation on the power of amendment; that any change in the Constitution can be made which may be proposed by Congress and ratified by three fourths of the States, though all the others oppose it. I deny it. If under the claim of amending the Constitution you can change or destroy one domestic institution of a State, you can destroy any other or all of them. If, in defiance of the constitution and laws of Kentucky, you can take from the people of that State their entire property in slaves and emancipate them, you can by the same power take from them their property in lands also. They have no better nor more secure title to the one than the other. If you can do this in one State you can in another. If you can abolish slavery in Kentucky, it follows of

necessity that you can establish it in Massachusetts and force it upon the people of that State.

Although the gentleman from Massachusetts [Mr. BOURWELL] contended earnestly for the power, by amendment, to abolish slavery, yet when asked whether there was power by an amendment to establish slavery in Massachusetts, he denied that there was any such constitutional power, and said he would resist it to the last. In saying this he gave a conclusive answer to his own argument; he yielded and conceded the whole question in debate. I say there is neither power to abolish slavery in the one State, nor to establish it in the other.

But gentlemen contend that there is no limitation on the power to amend; therefore, by the action of Congress and three fourths of the States, any or all of the reserved rights of the other States may be changed or entirely swept away. They say that by an amendment proposed by Congress and ratified by three fourths of the States a monarchy can be established, a king crowned and forced upon the other States, and that all this is constitutional. Manifestly the power contended for is a power to subvert and destroy, not to amend.

The argument is, that it is constitutional to destroy the Constitution. But, sir, all legitimate and constitutional amendments must have reference to, and be consistent with, the great fundamental principles and framework of the Government. A power to utterly destroy the Government we have, and to establish another and entirely different one on its ruins, was never given; nor does it at all enter into the idea of a constitutional amendment.

Mr. Speaker, the doctrine of secession has justly been regarded as odious, and why? Because it was a claim that a part of the States had the right to secede whenever they might choose, and thus destroy a Government formed for the protection and benefit of all the States. They claimed this to be a constitutional right; claimed that the Constitution had provided for its own overthrow and destruction. That was an extreme and most erroneous doctrine, but not more so than the doctrine for which the friends of this measure are now contending. What is the difference? The secessionists claimed that part of the States had the constitutional power and right by secession to dissolve the Union and break up the Government; while you claim that part of the States (three fourths) have the constitutional power, by amendment, to overthrow the present Government and establish a monarchy. Both are extreme doctrines, and equally unsound and false.

Mr. Speaker, the argument of the gentleman from Ohio [Mr. PENDLETON] on this question was sound and unanswerable; it has not yet been refuted, nor can it be. Whoever attempts to meet it will find himself involved in the defense of a doctrine as extreme and baseless as secession. The gentleman from Ohio, [Mr. COX,] in his speech in reply to his colleague, [Mr. PENDLETON,] in contending for this unlimited power of amendment, ran into this extreme doctrine, which is just as groundless as secession. Now, I care not what may be the popular feeling on this question. I would rather be right—rather hold on to the Constitution as the only hope of union, the only ark of safety—and stand alone, than have all the people of the North and of the South with me and be wrong. True loyalty seldom needs much argument to restrain it from violating the Constitution. But there are influences urging on this change in the Constitution that no argument can meet—that can not be reasoned away. The very proposition to make this radical change manifests a deep dissatisfaction on the part of the North as well as the South with that "old bond of union."

Years since it was proclaimed by Wendell Phillips, the apostle of abolitionism, that the Constitution of our fathers was "a league with death and a covenant with hell." How many there are now who are ready to go with him and lay the hand of revolution upon that instrument to destroy it! You are not satisfied with "the Constitution as it is," and you do not want the Union restored as it was. While it is said that the rebels are determined to make "slavery the corner-stone" of a new government in the South, it is equally true that you are resolved to make abolition the corner-stone of a new government in the North. The



people of the North are to-day as much dissatisfied with the Constitution as are the people of the South. The doctrine of Wendell Phillips has become popular, and there is very little true loyalty in the North now.

Sir, it was a terrible day for the South when secession triumphed; and now it is a dark and fearful day in the North, when another revolution for the overthrow of the Constitution is about to be consummated.

Mr. Speaker, the emancipation proclamation was professedly issued as a military measure to suppress the rebellion. The hypocrisy of that profession is seen in the treatment Kentucky has received. There is not a State that has exhibited more true loyalty and devotion to the Union, or made greater sacrifices for its preservation. A State that has poured out her best blood on every battle-field; a State that has known more of the perils and suffered more from the ravages and desolation of war than all the northern States; a State to which the most solemn pledges were again and again made by the President, and by every department of the Government, that her local institutions were beyond the power of the Federal Government and should be held sacred, is, nevertheless, now to be treated as a rebel State. Gentlemen whose States have no interest in this measure sit calmly here, and, in defiance of the constitution and laws of Kentucky, propose to strike down and destroy a large portion of the property and wealth of that State. Not one of the pledges made to Kentucky has been regarded; they have all been violated; she has been treated in bad faith; she has been deceived and betrayed. And now you propose to convulse all our industrial pursuits by the sudden emancipation of the entire slave population of the State—a shock that no community can bear, and one that must prove ruinous to the best interests of the slaves themselves.

Sir, what has been the fruit of your emancipation policy in this city? Only a day or two since my attention was called to a publication, signed by the Chaplain of this House and others, giving a most melancholy account of the free negroes in this city; stating that of the families of blacks which had been visited,

"One half are without fuel or the means to obtain it. Women who go out to service put their little ones in bed, or cover them in rags on the floor, and go in search of five or ten cents' worth of work, to buy a stick of wood and a loaf of bread. Failing to find employment, if the ground is not frozen, they pull rags from the gutter, wash them at night, and then sell them to get a little fire and food. Children who are old enough assist in this means of obtaining a living; and even gather bones from the alleys to sell, after carrying them in storm and mud for a long distance."

Now, sir, before the emancipation act was passed, I do not believe there could have been found in this city a single slave suffering for food, fuel, or shelter; but now we find that of nine hundred families of free negroes one half of them are at this moment starving and perishing for food and shelter. There, sir, is the first fruits of your policy.

And now, after the laboring male slaves have nearly all been withdrawn from Kentucky and gathered into the Army, suddenly to emancipate the remainder of the slave population, consisting principally of women and children, and throw them penniless upon the world; what but starvation and death will await them? Sir, if your policy shall be carried out, it will result in the extermination of that unfortunate race. But this is a question that I feel but little disposed now to argue; because if Washington himself were here he could not be heard; or if Paul, who returned a fugitive slave to his master, were here, and should again proclaim and command, "Servants, obey in all things your masters according to the flesh, not with eye-service as men-pleasers, but in singleness of heart," he would not be heard. No, no, these latter-day saints are too holy for that. They would never fraternize with Washington nor listen to the voice of Paul.

But, sir, when this storm of fanaticism shall have exhausted itself and passed away it will then be seen that the slaveholders in the slave States were the only true friends of the slave, while the abolitionists were his worst and most cruel enemy. Most of these gentlemen from the North know but little about the slave, and really

care nothing for him. Their high-sounding professions of sympathy for the slave is the mere stock in trade which they carry into the political market. The truth is that most of them have no more real sympathy for the negro than Satan has for a sinner. They must see now, and know, that their policy has already brought suffering, disease, starvation, and death to thousands of that race; yet, in full view of all this, and in defiance of constitutions and laws, we must be hurried on to the immediate emancipation of all the slaves in Kentucky. Sir, I protest against it. I would rather be one of the few men who stand firm against such fanaticism; I would rather have the honor (for it will be an honor at some day) of having stood by, and defended to the last, the Constitution as made by Washington and the fathers, than to have all the ephemeral applause that may be bestowed upon new converts to the cause of abolition. As for such applause, I trample it beneath my feet; I scorn it; I spit upon it; infinitely preferring the proud consciousness of having been true to principle, true to the Constitution, and true to the Government bequeathed to us by our fathers, and purchased for us with their blood.

Mr. Speaker, men of true loyalty, who ardently desired and hoped to see the old Union restored, begin now to despair. There is a powerful party in the South opposing it with arms in their hands; there is also a strong party here in the North opposed to it. They are resolved to make radical and fundamental changes in the Constitution. It has been said that certain peace negotiators have been electioneering with members in this Hall in favor of the proposed amendment, on the ground that it will have a happy effect on Jefferson Davis in bringing him to terms. Why, sir, the whole policy of this Administration on the negro question has been exactly what Davis and his cabinet would have advised if they had been consulted; and this amendment, if passed, will be another firebrand thrown into the South. Davis would like to see it passed, because it will still more exasperate and band together the people of the South in a determined and desperate struggle for life or death.

Sir, the rebellion would long since have been subdued but for the continued attempt to conquer it by sectionalism. It was nothing but this that first made the breach between the North and South, and brought on all our troubles; and yet the party in power resort to sectionalism, and nothing but sectionalism, as the only remedy. They insist that the whole South must be abolitionized and forced to adopt the local policy of the North. Sir, a madman would succeed just as well in attempting to extinguish a flame by continually throwing on fuel. Yet such has been, and no doubt will still be, the policy of that party, and there is great reason to fear that the Union will never be restored.

Mr. Speaker, I will not repeat the argument. But I deny that there is any constitutional power to force any domestic institution or local policy upon any State. I deny that you have any more constitutional power, to abolish slavery in Kentucky and change her domestic institutions, than you have to establish a monarchy there. If you pass such an amendment as this, you do it by the arbitrary and wanton exercise of power, stripped of all constitutional justification, and palpably unjust and oppressive. Sir, we are surrounded by fearful and threatening perils on every hand; the times are alarming, and there is danger that the Constitution, after all that has been done and suffered to preserve it, may at last sink and perish by the hand of revolution in the North.

#### POLICY OF THE ADMINISTRATION.

#### SPEECH OF HON. ALEX. LONG, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,  
February 7, 1865.

The House being in Committee of the Whole on the state of the Union—

Mr. LONG said:

Mr. CHAIRMAN: I ask the indulgence of the committee for the purpose of submitting a few remarks upon the present deplorable and unhappy

condition of the country and the madness and fanaticism that rules the hour; but, as I said on a former occasion I repeat now, I speak for myself, and for what I may say and the opinions I entertain I alone am responsible, as well to the country as to the intelligent constituency who honored me with a seat in this assembly; and while entertaining views diametrically opposed to the adherents of the Administration, and at variance with the opinions of some of my political friends upon this floor, I trust that I shall be able to express myself without violating any of the rules of debate, or infringing upon either the courtesy of the House or the dignity of legislation.

Mr. Chairman, there are many who tell us that the policy of war and subjugation has been settled by the result of the presidential election. They insist that it is now a finality, and that it is the imperative duty of all good citizens to carry the point of acquiescence in the popular verdict into future support and approval of the Administration. I do not so regard it. Under a republican form of government there ought to be no finalities of this character. It is as much an obligation upon any citizen or member of a republican community to tender to those in authority his advice, if he regards it as valuable and essential, after an election as before. It is not to be supposed that the apparent majority of the people, by their votes in favor of Mr. Lincoln, intended absolutely to instruct him to pursue his policy without regard to change of circumstances. To suppose so would be to argue a want of discretion and a folly unworthy of intelligent men. The ears of Mr. Lincoln and his Cabinet should always be open to receive suggestions touching their political action from any of their constituents. Those of us who honestly and sincerely believe the war is wrong, wrong in principle and can by no possibility achieve any valuable result, but that on the contrary its continuance will impoverish and ruin the country, both North and South, are in duty bound to express such views when the subject is presented for consideration. Truth is powerful and mighty, and our opponents of the majority, and their representatives in the Administration, may change their views and adopt a different policy at any time; so may the majority of the people at home. Mr. Lincoln himself, as I have been informed, in July, 1861, in a conversation with gentlemen from Kentucky, some of whom are upon this floor, said "that if a majority of the people of the South were not really for the Union, and were not restrained from the expression of loyal sentiments by military violence, then this war was more than a blunder; it was a gigantic crime." It is fair to assume that if the President can become satisfied upon this point, of which I have not the slightest doubt, he will act upon such conviction; at any rate, neither he nor his friends have any cause of complaint against those who adopt his conclusions upon testimony satisfactory to them. It would be disrespectful to the Chief Magistrate to assume that he was not sincere or truthful in his statement as to the course of conduct that would govern him in a given contingency. Even in ordinary questions of party difference the result of no election is considered finally decisive of the issue, or to be of such a character as to cause the minority to give up the struggle. Especially, Mr. Chairman, is it the duty of the Representatives of the people upon this floor fearlessly to express their opinions, under all circumstances.

Sir, cast your eye over the examples of history, and you will find uniformly that wars for independence and separation of geographical parts are successful upon the side of the separationists. When the affections of large masses of the people in such geographical divisions become alienated from each other, and such alienation is succeeded by feelings of relentless hostility, it has always been found impossible to hold them in common bonds. Look at the separation of Portugal from Spain, of Holland from Spain, subsequently of Holland from Belgium, of the United States from England, of Mexico from Spain, South America from Spain, St. Domingo from France, of Texas from Mexico, Greece from Turkey, and numerous other instances; in every one of which the cry for separation upon one side was answered by armed coercion and subjugation on the other. In

all of them the odds as to wealth, power, and numbers were as great in favor of the coercion party as they are in the present instance. Yet in each case, I repeat, the coercing policy failed, ending only in ignominy and defeat, as it must ever do under the providence of God, because it is in derogation of His laws.

Some fastidious and excessively loyal gentlemen may be offended by these historical illustrations, and consider them unpatriotic, if not treasonable. But are they not true? And does patriotism and loyalty demand that historical truths be suppressed? If they do, then am I unpatriotic and disloyal also. My theory is that if any cause cannot survive the truth it ought to perish. I know it will perish.

A word or two in this connection upon this subject of patriotism. What can be more ungenerous than this claim to superior patriotism upon the part of those who favor the policy of war and subjugation over those of us who are opposed to it? How offensive to truth and justice. It is a compound of presumption, impertinence, and egotism, that cannot be too firmly rebuked and indignantly repelled. It is remarkable how it can come from the lips of any man who has the spirit of a gentleman, whose sensibilities are always alive to the rights and opinions of others, however widely they may differ with him. Mr. Chairman, I impugn the patriotism of no man simply because he believes in the wisdom and justice of the war, and I regard it as an unjust aspersion of my character, as an independent Representative upon this floor, bound at all times to speak the truth as I understand it, to have my fidelity and patriotism called in question because I regard the war in a different light from others. Such charges awaken in me no emotion save that of pity and contempt for the gentlemen who make them; they betray a want of that elevated statesmanship which rises above the mere partisan and from a patriotic stand-point calmly and impartially surveys the honest opinions of men, and gathers therefrom the duties of the crisis. We who have opposed this war have given the highest possible proof of our love of country. We have given marked proof of our honesty, sincerity, and disinterestedness. There have been no profitable contracts to give to gentlemen of our school; there have been no rich and lucrative offices in that direction; it has not been the road to wealth and patronage; without power, without patronage, no place to offer, no office to bestow, nothing with which to tempt or beguile, dazzle or allure, we have stood firmly upon our honest convictions of duty in striving to promote the welfare of our country, and preserve the republican form of government bequeathed us by our fathers. It is a fact that has not escaped my observation, that by a singular coincidence many of those who have vaunted so loudly their patriotism have been made immensely wealthy through its instrumentality. Of course I cast no imputations upon disinterestedness of motive, although the fact is one to those inclined to be censorious might suggest many reflections. Patriotism has been a paying virtue thus far under the war and subjugation policy; it is seldom that a virtue has been so easily coined into gold. For us, on the other hand, there has been proscription and persecution; for us have been the Bastille and the mob; upon us have rested the darkest frowns of power, and the heaviest maledictions and curses. Apostasy on the one hand tendered a golden reward, on the other frowned the dangers of a prison. Men who thus display their highest moral heroism are not very likely to be unpatriotic, or to be guilty of treason. The virtues, like the graces, generally go hand in hand. It is a proud subject for congratulation that, despite all terrifically adverse influences, the number of those who denounced this war has been steadily and rapidly increased. From a few hundred who dared to express themselves in opposition to it in 1861, they are become hundreds of thousands in 1865, and the progress of events is daily adding to their numbers.

But to return from this digression. No superstructure resting upon falsehood and error can endure. Wars for geographical unity end in disintegration. Wars for religious uniformity end in further religious divisions. Although the odds may apparently be in favor of the coercion party,

yet they really, on account of the physical and moral difficulties of the undertaking, are with the separationists. Our Army has done all that brave men could do. No soldiers have ever fought better. They have, in the main, been ably commanded; but brave as they are, and able as have been their commanders, they cannot overcome impossibilities. The extermination of the southern people is an impossibility. The failure of success proceeds from the fact that eight or ten million people, fighting upon their own soil, are fully a match for eighteen million whose armies have to be transported vast distances and at frightful expense to the scene of action. Time and space fight upon the side of the assailed, and well make up for the difference in numbers.

So much for the mere physical differences that attend the war upon our part. It has been waged for four years upon a scale the magnitude of which has astonished the world. Armies so immense were never before brought into the field by any civilized country of three times our population. The experiment of war has been fully tried, and has resulted in widening the breach it was intended to heal, and it has well been denominated in the Chicago platform "a failure." It is useless for gentlemen to deny this; they may point to the territory that has been apparently won and the victories that we have gained, but what results have followed? The victories have been barren and unproductive of good; and the territory won is really nothing but the ground our brave soldiers stand upon, and which is commanded by their guns. The wave of the hostile population divided by the invading army closes up immediately behind it, and the feelings of the people are more intensely bitter against us, and they are more thoroughly united for separation from us than they were when the war commenced. None of the consequences have followed the capture of Vicksburg, Atlanta, Savannah, and other points, that were anticipated by the advocates of the present policy, and it is equally certain that a similar disappointment would follow the capture of Richmond, Charleston, and other strongholds yet in their possession.

The war is ostensibly waged to preserve intact our political institutions; it is in fact destroying them. Instead of being calculated to prevent future changes and revolutions, it is really begetting them. Those who desire to preserve existing conditions of society and be spared future revolutions should use their influence to bring the war to a speedy termination. It is unsettling everything. It is engendering discord and bitterness where before there was concord and harmony. It is developing opposition of interests where before there was supposed to be uniformity. It is creating sectional interests, differences, and animosities, in addition to those heretofore existing. It is multiplying the genus of a terrible social change and revolution. The most radical, revolutionary, and disorganizing doctrines have been brought into vogue by the war; doctrines which sweep away the whole fabric of our institutions. We are in fact vibrating between anarchy and despotism. Some of the questions already growing out of the war will be impossible to settle, and may produce evils scarcely inferior to the war itself. The most hateful elements of discord and strife have now fairly entered the American body-politic, and he would be a wonderful magician indeed who could cause them to be exorcised. How absurd the idea that if we acquiesce in the separation of the South other sections will immediately and necessarily follow its example. To affirm that other States will secede, unless forcibly prevented, is to confess that there are fatal defects in the Union somewhere, and that it will naturally tumble to pieces unless prevented by forcible measures.

The argument of our opponents proves too much. Is it really true that all the component parts of our Confederacy are held together solely by force, and that all are anxious to escape from a galling chain? Are they willing to admit this? Is this the best Government upon earth which we have all been taught to admire and venerate? Ought a confederacy of States to exist, if all or a large majority of its members are desirous, as our opponents seem to think, of separation?

The truth is, there is no necessary connection

between the secession of the South and subsequent secession, should the war terminate now; but the time will come in its future prosecution, should it be persisted in, when such point may be reached. Men do not capriciously change and break up governmental relations. The Declaration of Independence well says:

"All experience hath shown that mankind are more disposed to suffer while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed."

Peace and separation will not produce future secession, but the war and its prosecution in all probability will. The welfare of the individual being the primary end of all republican government, and our Government being but an agent of the States, created by the States, and clothed by them with delegated powers, limited and well defined, it must be apparent that when a State desires to secede from the Union thus formed it does so under the belief that it will be better off out of than in the Union. The original incentive to union is in the idea or belief that union is preferable to isolation; that a State will be better in than out of the Union. It follows, therefore, that if union is preferable to isolation, there will always be union of some kind. If, on the other hand, isolation is preferable to union, then the natural status of the State is isolation, and union cannot be compelled by coercion.

The experiment now being tried at so fearful a sacrifice of blood and treasure will in the end demonstrate to the world that confederacies cannot be held together by the mad policy of coercion. Governments deriving their just powers from the consent of the governed, and existing only in the hearts and affections of the people, cannot be held together by force, but they may be preserved by a spirit of compromise and mutual concession, which gentlemen on the other side of the House never were willing to exhibit, even to save the Union that they profess now to regard as so precious. I repeat that many of the adherents of the Administration considered their prejudices and their abstract and pernicious theories far more important than the Union. I am somewhat doubtful of the sincerity of their devotion to the Union now, when I remember how easily they could have saved it by a slight modification of their views, and how stubbornly they refused it. Men who cannot conquer and make some surrender of abstract prejudices for the general good are not likely to give the last dollar in defense of the Union, and undoubtedly prefer to be the last man themselves.

Mr. Chairman, since I last had the honor of addressing this House, what we used to call a presidential election has taken place. I say what we used to call, for the late meetings of the people at the polls and the preceding canvass bear but little resemblance to the old idea of a popular election. The press opposed to the Administration, it may be said, were at liberty to denounce its policy, but before them was presented a frightful picture of over two hundred papers that had been suppressed or ruined by too free criticism. Our public speakers were at liberty to harangue their fellow-citizens upon the stump, but the fact was suggested to them that several hundred gentlemen who had engaged in that business found that it led straight to a military camp or prison. It was not prohibited to any of our brave officers distributing Democratic tickets to the voters in their command, except that those inclined to do it remembered the fate of the New Hampshire officer whose name was ignominiously stricken from the roll for that cause. The soldiers, if furnished with Democratic tickets, might vote against the Administration; but then if they did there was the extra duty and the guard-house. The brave soldiers in the field might have been instructed in Democratic truths had not most of Mr. Lincoln's lieutenants in military command taken upon themselves the duty of carefully interdicting, directly or indirectly, the circulation of such doctrines in any form in the Army. In many of the States—no, I beg pardon for using the term, they are military departments—our generals very kindly made the arrangements to take charge of the election, and, if not actually present at the polls, were just behind the scenes and within easy call. States that were regarded close and doubtful were carried by

the simple expedient of sending a few thousand soldiers home to vote, and retaining in the front those who were inclined to vote the other way. This, of course, rendered the election perfectly free. Indeed, from what I have learned from our Indiana friends on this side of the House, nothing could be more free than the voting in that State; there was not the least objection to soldiers from other States voting there, and voting fifteen or twenty times, provided always that they voted the Administration ticket. It was as free as some gentlemen would have the debates upon this floor; perfectly free, provided you speak on the side of the Administration and in favor of the war, but expulsion or censure if you presume to speak against either.

In Kentucky our friends were allowed to vote, under peculiar circumstances; they were told by the Administration organs that the poll-books would be carefully consulted by those who issued permits of trade, to find out who were loyal and entitled to permits, and who were disloyal and not entitled to any, and as in that State, by the mode of voting, the poll-books show the name of each elector voting, and opposite the name of the candidate for whom he voted, the vote itself was to determine the question of loyalty or disloyalty. The result was that many were disloyal, and but few entitled to permits of trade. But I do not care to dwell upon this terrible and calamitous farce upon all our ideas of a republican Government. The recollections of it are very humiliating, as well as saddening, and mark the decadence of the old spirit of our countrymen. Yet in the very face of all the outrages that have been committed upon the freedom of election, the Administration organ, the *Morning Chronicle* of this city, in its Sunday morning issue of December 11, exultingly and boastingly says:

"But this election demonstrates that our people can stand the fiery ordeal of war, even in its most dangerous shape—that of insurrection—without impeding the form of our government or the faith of our people. This political canvass gives a memorable pledge of the security of free speech, a free press, and a free ballot."

From previous developments, I for one expected what actually occurred. I had taken an accurate measurement of the means that those in power were willing to employ in its perpetuation. I foresaw the result from the beginning, and was not disappointed. The issue made up was not what the great mass of the people expected. It was not what they had a right to expect. The war for the coercion and subjugation of sovereign States is either right or it is wrong, constitutional or unconstitutional. Peace or war was the issue demanded and expected by the people. Many like myself could take no part in a contest between candidates both of whom were committed to the prosecution of the war, and differing only in "the resources of statesmanship" they proposed to exhaust before the final subjugation or extermination of the southern people. I hope the House will pardon me for calling attention to what I said upon such an issue on this floor last April. I then said:

"I take little or no interest in the discussion of the question which many of my political friends would make an issue, as to how this war shall be prosecuted, its manner, and object. I regard that as worse than trifling with the great question. I do not believe there can be any prosecution of the war against a sovereign State under the Constitution, and I do not believe that a war so carried on can be prosecuted so as to render it proper, justifiable or expedient." \* \* \* "I will say further, that if it is to be still further prosecuted, I for one prefer that it shall be done under the auspices of those who now conduct its management, as I do not wish the party with which I am connected to be in any degree responsible for its results, which cannot be otherwise than disastrous and suicidal."

And now, Mr. Chairman, with all due respect for the opinions of my political friends who differ with me, and the friends of the Administration on the other side of the House, I have yet to hear the argument that will change my judgment upon that subject; and I now add, that as I stood upon this floor last April, so I stand to-day, singly and alone, if it be so, strengthened only by the lapse of time and the occurrence of subsequent events in the correctness of my convictions and what I then said, on all questions in relation to the war. There never has been, and never can be, a Union founded on the coercion and subjugation of sovereign States. The very blood of our forefathers, shed in defense of the rights of individuals and

the independence and sovereignty of States, would rise up in judgment against it. By our action of to-day we tacitly confess that the signers of the Declaration of Independence uttered a falsehood, and that those who bled for this independence were mistaken zealots; for we now seek to define the independence thus achieved to be the unconditional submission of a portion of these sovereign and independent States to the coercive power of others, through their common agent, the Federal Government. War never has and never can give union. War is disunion. A union implies distinct and separate parts, for if there were no parts there could be no union. One State is not a union, for it is an integral whole in itself; yet it is a part of the Union, and it is equally so of each State; each one being an integral whole or part of the Union. These parts consented to unite, and this consent or agreement constitutes the bond of union or form under which we have lived. The Union was thus formed by consent, it existed by consent, and it could not, in the very nature of things, exist one moment longer than the consent existed. A thing cannot exist after the essence by which it lives is gone. A war, therefore, to compel union among the States, is to blot out and extinguish forever the very essence by which alone it could exist. If the right of self-government resides in the people, as gentlemen upon the opposite side of the House, with a few exceptions, have so earnestly contended for, in the discussion of the constitutional amendment, then it is an attribute of sovereignty, and entitles them at pleasure to change any form of government they may have instituted for the government of themselves. To affirm that the States, separately or united under a Confederation, had a right to throw off the external government imposed upon them by Great Britain, but have no right to interfere with one established by themselves, is to make their last condition worse than the first.

Mr. Chairman, what will the future historian, in calmer moments, say of the sacrifice of blood and treasure expended by the American people, to compel union among each other? May he not exonerate the people of the seceded States from the charge of rebellion and treason by saying that they have understood the Federal compact in the light in which the founders of the Republic understood it, and that they, in fact, withdrew from the union with us in order to preserve for themselves that form of government which their and our forefathers established? I have heard from day to day upon this floor, during the discussion upon the proposed constitutional amendment, the doctrine of State rights and State sovereignty denounced as a pestilential and most dangerous heresy, and indeed one of my colleagues, [Mr. GARFIELD,] if I understand the import of his language, went so far as to deny that any one of the colonies, as a colony, or any of the States, after they became States, ever was, in fact, free and independent. That it was the united people of the colonies—the people of the thirteen colonies in the aggregate—who declared their independence, and yet he affirms that sovereignty was never lodged in the people; that it passed from the Crown of Great Britain into the revolutionary Congress, next into the Articles of Confederation, and lastly into the Constitution of the United States, where it now resides. But that I may do no injustice to my colleague, I will quote his own language, which is as follows:

"I. That prior to the 4th day of July, 1776, these colonies were neither free nor independent. Their sovereignty was lodged in the Crown of Great Britain."  
"II. I affirm that no colony declared itself free and independent. Neither Virginia, New York, nor Massachusetts, declared itself free and independent of the Crown of Great Britain. The declaration was made, not even by the whole of the colonies, as colonies, but the declaration was made in the name of 'the good people of the colonies' as a people."

"III. The sovereignty of this people, then, was first lodged in the revolutionary Congress, and it continued there until the 1st day of March, 1781, when they lodged it in the Articles of Confederation."

"IV. On the 21st day of June, 1788, a new lodgment of this sovereignty of the American people was made. It was then lodged in this Constitution of the United States under which we now are—lodged there by the action of the people."

He then adds:

"If the gentleman looks, then, for a kind of political apostolic succession of American sovereignty, he will find it in

this order, and this would be the genealogy: first, in the Crown and Parliament of Great Britain; second, the revolutionary Congress; third, the Articles of Confederation; and fourth, and now, in the Constitution of the United States."

Such, then, is the idea of the sovereignty of the people of these States as held by my colleague, and, so far as appears, also by the adherents of the Administration upon this floor; for no one, I believe, has yet dissented from his position. In order to strike down the sovereignty of the States, the only security left to personal liberty, and the last hope of preserving free government, it has become necessary to deny that the people of this country are or ever were sovereign; that sovereignty never had a lodgment in either the people, the colonies, or the States; but that it always was lodged, from the British Crown to the Constitution, in a higher power than the people, notwithstanding the inalienable rights, enumerated in the Declaration of Independence.

Let us, then, meet this question fairly and honestly, and for ourselves decide if such was the intention and understanding of the founders of the Republic; let us decide for ourselves whether this war, waged against States which are either in or out of the Union, is a war of selfishness or of honor and justice; for, shrink from it as we may, the time will come when our own children will sit in judgment upon the acts of their fathers.

Before the Revolution, Great Britain had thirteen colonies in North America, existing under separate charters or royal grants, and having each its own governor, legislative assembly, and court of justice. These colonies were as wholly separate from each other as though they were different and distinct nations, and so little did they harmonize with each other that only four years before the revolutionary war commenced, Dr. Franklin declared "that only the hand of God could unite them."

On the 4th day of July, 1776, these colonies, through their delegates in the Colonial Congress, declared themselves independent of Great Britain: "These colonies are, and of right ought to be, free and independent States." Did this transfer their sovereignty from the Crown to the Congress? Did it consolidate them into one people? My colleague [Mr. GARFIELD] says it did. If so, why were Articles of Confederation drafted in 1777, assented to by eleven of the States in 1778, but not finally acted upon by all until 1781? If the people were one people, or the States were consolidated, why did they confederate together? A confederation means a league of sovereign States or nations, nothing more. They must be sovereign, otherwise they cannot consent. The right to do so is derived from their sovereignty. The fractional parts of a nation cannot enter into obligations with other nations. This compact was made, as any other treaty would have been made, by the State governments, not by the States themselves. When the Articles of Confederation were drafted, they were called Articles of Confederation, which, or an equivalent term, would not have been proper had the several States intended to merge their individual existence into one nationality; and they were, in fact, as in name, Articles of Confederation, entered into by the several States with each other to secure those objects alone for which confederacies are ordinarily formed, to wit: State or national security against the force or violence of foreign nations, and to prevent discord among themselves respectively.

In these Articles not a solitary provision can be found for the protection of individual rights, or those which belong to the citizen. The five great objects of government, the protection of life, liberty, person, property, and reputation, are wholly omitted—a strange omission, indeed, if the object had been to consolidate the people of the thirteen States into one nation, but perfectly explicable upon the hypothesis that they were designed merely to protect the State against external violence, while security to individual rights was left to be provided for as the wisdom of the sovereign people of each State should think best, acting through their own several and separate State governments. During the eleven years that the States acted under these Articles of Confederation they acted as separate States, the power being wielded by a congress of State delegates, who acted together, and voted one vote for each State. But



that the Articles of 1778 created a league or confederation of sovereign States or nations, and nothing more, is proved beyond the possibility of rational contradiction; first, in the fact that by the provisional articles, or treaty of peace between Great Britain and the States, signed at Paris on the 30th of November, 1782, (see Hansard's Parliamentary History, volume 25, page 354,) the former Government recognized them each, by name, as separate and independent States, as follows:

"ART. 1. His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such; and for himself, his heirs, and successors, relinquishes all claim to the government, property, and territorial rights of the same, and every part thereof."

It must be borne in mind that this act of Great Britain, by which she recognizes the freedom, sovereignty, and independence, separate and by name, of these States, took place five years after the Articles of Confederation were drafted, and while they were in full force and effect. Second, the Constitution of the United States, in article seven, and the last article of the original Constitution, provides that—

"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

This provision contains within itself perfectly unanswerable and conclusive evidence that the separate sovereignty of each State was fully recognized by the convention which framed the Constitution, as well as by all the States who were parties to it. The Constitution must be ratified by a convention of the States (not of the whole people of the thirteen States) in order to become operative within the limits of such States, and if nine of them shall thus ratify it, it shall go into operation as to the nine, while the remaining four, being unaffected by it, stand before the world as separate and independent nations.

I have no hesitation in declaring that if these States had not been separate sovereignties during the existence of the old Confederation, that the article above recited would, in itself, have been sufficient to render them such, for it contains as formal a recognition of the fact as could well be made. But by reference to the proceedings of the Convention that framed the Constitution we have still stronger and more conclusive testimony as to the fact of their separate sovereignty. In the original draft of the Constitution, as reported by John Rutledge, (see the Madison Papers, page 1226,) article twenty-one was as follows:

"The ratification of the conventions of — States shall be sufficient for organizing this Constitution."

On the 31st of August, the ratification of the Constitution being under consideration—

"Rufus King moved to add to the end of article twenty-one the words, 'between the said States,' so as to confine the operation of the Government to the States ratifying it."

"On the question, nine States voted in the affirmative; Maryland 'no'; Delaware absent."

The blank was subsequently filled (see page 1473) by inserting "nine."

Here, then, is a direct invitation to the States to secede from the old Articles of Confederation, which had been declared to be "Articles of Confederation and perpetual Union," entered into by all the States, and ratified by all the State Legislatures. It was admitted by the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] in answer to a question by my colleague [Mr. PENDLETON] in the discussion on the constitutional amendment, that if any four of the States had refused to ratify the Constitution they would have been independent States. What then becomes of the consolidated Government of my colleague, [Mr. GARFIELD?]. Where does he lodge sovereignty in such a contingency? Any four of the States could have remained out for all time, and no one has yet, I believe, gone so far in the effort to break down State sovereignty as to claim for the nine States ratifying the Constitution a superiority or control over the four that might have refused. So well did the framers of the Constitution understand this, that—

"Gouverneur Morris thought the blank ought to be filled in a twofold way, so as to provide for the event of the ratifying States being contiguous, which would render a

smaller number sufficient, and the event of their being dispersed, which would require a greater number for the introduction of the Government." (See page 1469.)

An intimation from some of the States to others, to take steps for secession from the Confederation, led to the assembling of the Convention of Delegates at Philadelphia, on the 25th of May, 1787, who were to draft amendments to the old Articles of Confederation; but on assembling they found that at least two plans for a new constitution had already been prepared, one of which was by Edmund Randolph, of Virginia, and the other by William Patterson, of New Jersey, and these plans were the basis of the present Constitution. Now, although it was called a constitutional convention, which was to propose amendments to the Articles of Confederation, but decided on a complete new Constitution, and did agree to one, it had no intrinsic power to impose its work on the States which were represented, nor on any of them. It was only a drafting convention, which could draw up and recommend such a compact as the separate States might accept or reject. It was to be a convention in its very organization showing its subordinate character. It was called, not by the people, but by the States as States, and by each State acting for herself, but acting with the others. They were called as States on the roll. They sat together as States when in session. They voted as States on all questions, each State casting one vote. They styled themselves deputies of States, and when they had framed the Constitution, they sent it to the Confederate Congress by their President, General Washington, who signed it, "George Washington, President of the Convention and deputy of Virginia."

Congress recommended that the Constitution should be submitted for ratification to the several States, acting by separate conventions. The respective Legislatures passed laws providing for the conventions. The States, each by her convention, ratified for herself, and it was separately adopted by nine States, the number necessary to give it force, make it binding "between the said States," not over the people, and not between the remaining States until they ratified it. Maryland and Rhode Island remained out of the Union of States for nearly two years, during which time they were treated as friendly foreign States. Where was the sovereignty of Maryland and Rhode Island then? Where does my colleague lodge it? Every part of the Constitution attests its Federal, and not national character.

Up to the 20th of June, 1787, during the session of the Convention, the word "nation" was used repeatedly in the original draft, without apparently any reflection; but Alexander Hamilton, who had remained silent until the 18th and 19th of June, then declared his hostility to "State sovereignty." "Mr. Martin said he considered that the separation from Great Britain placed the thirteen States in a state of nature toward each other," and thereupon, on motion of Mr. Gorham, of Massachusetts, the word "national" was stricken out of the Constitution. (See page 909.) The Declaration of Independence had settled the principle for each of the States which it brought into existence, that sovereignty resides in the people of a State or nation, and that Governments are mere agents, intrusted with powers which may be resumed at the will or pleasure of the sovereign. It follows, then, that the Federal Government did not and could not have acquired sovereignty through the Constitution.

The only question, then, which remains to be considered is, whether the people of each State surrendered their separate existence by the adoption of the Constitution, and thereby became a nation. I see no reason to doubt that two or more nations might thus, by agreement, consolidate themselves into one nation. But certainly when an act of such vast magnitude as the surrender of the sovereignty of a people is claimed to have been made, it should be established by the highest evidence which it is possible to present to the human mind. In the Constitution of the United States, and in the amendments thereto, not a line, not a sentence, not a word can be found indicating that such was the intention of the several States who are parties to that instrument. They did not intend to consolidate the States into one nation; but

what they did intend, and which was effected by the Federal Constitution, was the establishment of a confederacy, or league of sovereign States, with power in the confederacy to effect the object or purpose for which it was formed. That these were the objects, and the only objects, of those who framed the Constitution is evidenced from the fact that all of the powers of the Government of the United States have relation to nations and not to individuals. From the foundation of the Government until the commencement of the present war no law was ever passed by the United States Government having for its object the protection of the life, liberty, person, property, and reputation of a single individual, and yet these are the great and indeed the only objects of a Government proper. True, we have a law punishing offenses upon the high seas, murders, piracies, &c.; a law against conspiracies formed for the purpose of committing certain crimes upon the navigable rivers of the United States, and laws for the protection of post offices, &c., as well as laws for the extradition of fugitive criminals and slaves; but these are all designed to secure harmony among nations, both those confederated together and those abroad.

Mr. Lincoln once said that a State bears the same relation to the Federal Government which a county does to a State, and yet Mr. Lincoln had just left the State of Illinois, whose government had protected him during the greater part of his life, and secured to him the enjoyment of life, liberty, property, person, and reputation, which the United States does not and could not have done. If the framers had intended to consolidate, they would not have required the assent of three fourths of the States to make amendments to the Constitution. If the people of the States became consolidated by that instrument to any intent, or for any purpose, why did not the Convention authorize amendments by three fourths, or any given number, of the whole people? The assent can only be given by the States, separately and as distinct peoples. If they were one people, or if it had been designed that they should be one people in their relation to the Federal Government, surely they would have been required to amend the instrument which made them one by a united vote. Article eleven of the amendments to the Constitution provides that—

"The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

Here is language so luminous as to pierce the darkest understanding. The sovereignty of the State is as fully recognized in this article as it is possible to recognize it. Not only is the State fully recognized, but its dignity as a member of the family of nations is secured against assault.

1. It would have been the utmost violence to the whole design to have in the least attacked the ultimate right of sovereignty which the Declaration of Independence says is inalienable.

2. Because sovereignty, according to no scientific American writer, can exist only in the people, never in any Government.

3. The steps by which the Constitution was formed show that the States never meant suicide.

4. Two propositions were submitted to the Convention to clothe the Federal authority with power to coerce disobedient or refractory States, one of which was contained in the resolutions submitted by Edmund Randolph, and the other in the resolutions of Judge Patterson, and both of which were unanimously rejected by the Convention on the very ground of their hostility to State sovereignty.

5. In all the State conventions, as appears from Elliot's Debates, the friends of the Constitution insisted that State sovereignty was not affected by it, and this, too, in answer to the charges made against ratification.

6. It could not have been ratified by the requisite number of States if any such idea had obtained.

7. If the Government of the United States represents the consolidated people of the United States, not as united States, but as forming one imperial republic, then is allegiance due to the consolidated State; for it would then be sovereign,

and not the States; and the sovereign has the only right to allegiance, because alone affording protection to the citizen. We all know this position to be false, ruinous, and absurd.

I am a citizen of Ohio, not a citizen of Maryland, Missouri, or any other State, and conventionally only, "a citizen of the United States," to which I owe no allegiance, because it is not my sovereign; nor can I divide my allegiance, even if I would; for sovereignty is an indivisible unit and cannot be cloven into parts. It is true that treason is a breach of allegiance, and that treason against the United States is punishable as a Federal offense, but that is only a conventional treason, a so-called treason, a State crime, arising from the terms of the special agreement made for it by the consent of each one of the States.

The first Kentucky resolution drafted by Thomas Jefferson in 1798, and for whose opinions gentlemen on the opposite side of the House have expressed so high an admiration recently, declares the true theory of the Federal compact:

1. "Resolved, That the several States composing the United States are not united on the principle of unlimited submission to their General Government, but that by a compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes; delegated to the Government certain definite powers, reserving, each State to itself, the residuary mass of right to their self-government; and that whenever the General Government assumes undelegated power, its acts are unauthorized, void, and of no force; that to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party; that the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among Powers having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

My conclusion, therefore, is that the people of each State constitute a sovereign State or nation, that each of these States or nations, by the adoption of the Federal Constitution created for itself, in common with its co-States, each acting for itself, a common agent upon which it conferred certain specified, limited, and well-defined powers; that the powers thus conferred did not impair or take away the sovereignty of the independent State or nation creating the agent; and that the powers thus conferred may be revoked by the people of any State themselves, so far as such State is concerned or affected thereby, whenever in the exercise of their sovereign will such revocation may become desirable.

Mr. BROOMALL. May I ask the gentleman a question?

Mr. LONG. Certainly.

Mr. BROOMALL. Does the gentleman believe that under the doctrine he has just declared here a State has the right to secede?

Mr. LONG. He does, Mr. Chairman. He believes that a State—one of the principals that created the common agent, the Federal Government—has the right, so far as such individual State is concerned, to revoke the warrant of attorney by which the agent was authorized to act for such State, and that the people of such State is the only tribunal on earth having the right to determine when it shall be done.

Mr. BROOMALL. Will the gentleman allow me to ask him one other question: wherein his opinion on this subject differs from that of Mr. Jefferson Davis, and whether Mr. Jefferson Davis has been doing wrong in attempting to get States out of the Union?

Mr. LONG. Whether my opinion agrees with that of Jefferson Davis or not I know not and care not. Whether he in common with the people of his State had any cause for withdrawing from the Union or not is a question unnecessary to be discussed at this time. It is enough to know that they have withdrawn, and my purpose is to convince others of that which to my own mind is clear, that they cannot be forced back into the Union by coercion.

The doctrines laid down as self-evident truths in the Declaration of Independence are, that all rightful government springs from the consent of the governed—that any people have the right to alter, change, or amend their form of government at pleasure. In the exercise of this right the colonies seceded from Great Britain, and each became a "free, sovereign, and independent State"

or nation. In the exercise of this right the people of a large majority of the States have altered their constitutions, and some of them more than once, and the right has never been questioned.

Little did the States, the principals to the Federal compact, believe when they created their agent, with delegated and limited powers, that the time would ever come when that agent would contemptuously spurn all restraints upon its action, exercise powers entirely undelegated, and claim to rule despotically over those who had created it and bound it by solemn written and well-ascertained restrictions. A few wise men of that day did have some fears and apprehensions of this character, but it was generally believed that such amazing perfidy upon the part of the agent was impossible.

Mr. Chairman, I have already occupied a considerable portion of the time of the House, but I desire to submit a few additional remarks more immediately in connection with the war.

We have had recently a series of military successes. But brilliant achievements and the capture of cities and towns does not end the war and restore the confederate States to the Union. We may take Charleston, as we took Savannah; we may take Mobile, as we took New Orleans; we may take Richmond, as we took Vicksburg; we may even take all the southern strongholds, and yet it will not end the war. Their armies march into Pennsylvania, ours march through Georgia; we threaten Richmond, they threaten Washington; we burn the Military Institute at Lexington, they burn Chambersburg; we burn Governor Letcher's mansion, they burn Governor Bradford's; we sack Jackson, they sack Lawrence; they execute negro soldiers, we retaliate on white soldiers; and thus it goes on, and is but the beginning of a war of subjugation and extermination. The man does not live who will ever behold the end of it, if continued under the present policy. What have we gained thus far by it? What can we gain? We have loaded the nation down with sorrow and debt. Hundreds of thousands of our brave men have been slain, and yet it is true that we command less free-will support in the southern States to-day than we did when seventy-five thousand militia were to put down the rebellion in ninety days. Every month it has been continued for coercion and subjugation has only tended to cement, perpetuate, and traditionalize hatred of the North in every southern household.

Gentlemen may point to the achievement of our arms, the cities and towns we have captured, and the territory we have apparently conquered; but I ask, what have we gained by it all? It has not restored a State to the Union. We have simply, by the force of arms, neutralized temporarily, and thus given the appearance of subjugation to men who hate us and our policy. Even where our arms prevail perpetual war exists. The order which reigns in Norfolk, Nashville, Little Rock, Vicksburg, New Orleans, and Savannah is the order which reigned in Warsaw when the Russian chieftain proclaimed the subjugation of the Polish capital; and the peace we have gained in these localities is the peace of Poland and Hungary under Russian and Austrian power—a peace to be hated alike by subjugator and subjugated. The old year closed and the new year was ushered in by very considerable military disasters to the confederates, and victories to the Federal arms. The gore and blood-red light of success have transiently, and for the briefest interval, lit up the war horizon with a lurid glare, and tens if not hundreds of thousands have mistaken it as giving promise of the return of peace and repose through the subjugation and conquest of the seceded States. Though deceived and cheated for at least a score of times by similar vain delusions, they yet cling to them with that tenacity that is so often displayed by the prejudiced and ill-informed in favor of an idea which arouses their passions and appeals to their hopes. No past experience has thus far been of any avail upon this idea in the war mind, or capable of influencing it to a true sense of the condition in which we are placed. Demagogues are aware of it, and they play upon this weakness and infirmity with a recklessness that indicates their knowledge of the profound depths of ignorance in which it lies imbedded. In such times it is es-

pecially dangerous to go counter to the popular, cherished hope, to expose its fallacy and point out its mistakes, either in fact or in theory; and with many it is the very highest proof of "disloyalty," to use a cant phrase which the war party have borrowed from the meanest despotisms of the Old World.

Vain, then, are reason and argument; vain are all the lessons of the past, all the motives that ordinarily govern the men of the present, and all the probable contingencies of the future. Such can only be recommended to that stern school in which the fool learns, the school of hard and dear-bought experience. In that they will yet find that the rivers of blood which they are following lead to no ocean of union and harmony or repose and safety. Instead of running in that direction, the ensanguined current runs through mountains of debt, through low valleys of profligacy and crime, through public and individual calamity, and ends at last in the deepest slough of humiliation and regret.

The Anglo-Saxon race claims for itself the highest stand-point on the pinnacle of civilization and refinement, and the American type acknowledges no superior. How near do we come to the standard of perfection set up by ourselves? We are now in the midst of a sectional war, overshadowing in its enormities any civil or sectional war that has preceded it. The cry of our pulpits and churches, with a few highly creditable exceptions, instead of "peace on earth and good-will to man," has been for blood! Desolated homesteads and impoverished communities attest our capacity for self-destruction, and dispatches like the following from a general in the field to the President of the United States are received with joy and exultation by those who claim to be the followers of the Prince of Peace:

"I have destroyed over two thousand barns filled with wheat and hay and farming implements, over seventy mills filled with flour and wheat; all the houses within an area of five miles were burned."

Such is the boasting of a Federal officer in the field; but while the war party rejoice at this indiscriminate conflagration of the homes and property of aged infirmity and helpless innocence, the cry of the widow and the fatherless ascend to God for that vengeance which sooner or later is visited on all iniquity.

Well may the despots of Europe hold us up as a warning to their unquiet subjects.

In a previous address which I had the honor to make upon this floor I expressed my belief that the only issue before us was either recognition of the separate independence of the seceded States or the complete extermination of the people who inhabit them—extermination in its broadest and completest sense. The issue is independence or extermination, and I am sorry to say that a very large portion of what presumptuously arrogates to itself the morality and religion of the country not only professes itself willing to favor extermination, but loudly and emphatically demands it. Yes, Mr. Chairman, it is with unutterable shame and humiliation that I confess it; they do demand the extermination of eight million Christian men and women; men and women who for three quarters of a century were united with them in the bonds of church fellowship, who knelt at the same altar, gathered around the same communion table, and worshiped the same God; men and women of the same race and lineage, speaking the same language, reared under the same institutions, and united to them by the strongest ties; whose ancestors, hand in hand with our ancestors, purchased our and their liberties with their common blood.

It is this race and this people that they now propose to exterminate from the face of the earth as if they were beasts of the field or reptiles of the plain. And for what, Mr. Chairman? I emphatically repeat, for what is this sentence of unequalled atrocity decreed? Simply because they have chosen to run a race of political existence separate and apart from us, leaving us all our rights and privileges, and only claiming the same rights which their and our ancestors asserted in the Declaration of Independence. For that a doom has been pronounced upon them which humanity recoiled from even in the case of the Mormons, and the still stronger example against the bloody

and ferocious savages of the desert. Alas! how degenerate, is such Christianity—how unutterably cruel and venomous the spirit in which it is conceived! Standing here in my place, and with all the responsibility of my position, I should consider myself unworthy of self-respect, and false and recreant to all the injunctions of civilization, if I did not say that from the noisome pool of total depravity there never issued a spirit so awfully and irredeemably wicked. Extermination for such a cause—I was almost tempted to say for any cause—is an expression that is not only disgraceful to an American citizen, but it would have been a stigma and a shame in the days of Alaric, Attila, and Saladin. Not only would Christianity shrink from it in unutterable horror, but even Mohammedanism and Paganism would blush to own its paternity. If this is the net result of our Sabbath-school teachings and religious instructions for two hundred years in these United States, we might as well confess that the light of the gospel has not yet reached our shores, and we will have to wait until pagan but converted Christian India sends her missionaries from the banks of the Ganges and from Hindostan to convert us as proud and imperial but pagan Rome received the cross from the barbarians of northern Europe. It is no wonder that this cry for extermination is regarded with mingled horror and amazement in Europe and throughout Christendom, and that judging us by such an idea, they regard us either as a nation of lunatics or hardened criminals.

Happily, Mr. Chairman, it is impossible. The providence of God never has and never will allow such an act of ferocious vengeance.

But, Mr. Chairman, I turn from the contemplation of this most inhuman and barbarous demand for extermination to take a brief view of the financial condition of the country.

One of the most interesting subjects connected with the war is our national debt. There is nothing like it in all history; nothing superior to it in amount; nothing equal to it in the rapidity of its creation, and nothing to be compared to it in the lie which it gives to the loud boasting and vaunting which are constantly heard. We boast, or rather the war party boasts of its disposition to give the last dollar and the last man to the Juggernaut of blood that it worships. But what do they do? They hardly give the first dollar. Not one fifth of the expenses of the war have been paid as it progressed. The other four fifths have been coolly shoved off on posterity. Yes, sir, I repeat: the men who boastingly proclaim their willingness to give the last dollar, now in the heat of the war fever, have never proposed to pay more than one dollar in five. If they, with feelings and passions so strongly enlisted, only pay one fifth, how will posterity, cool and unimpassioned posterity, regard the four fifths? What will capitalists think of the sincerity of their promise, and of the probability of its future redemption? Will they invest, under the belief that the coming generation will pay four fifths to redeem such promise and save the honor of their ancestors? Recurring to the manner in which it was contracted, and remembering the facility with which their ancestors enacted a bankrupt law at the time of its contraction, they may say that those who contracted the debt refused to pay their proper share of it, and be tempted to repudiate the whole.

[Here the hammer fell.]

Mr. STILES. I ask that the gentleman have the unanimous consent of the House to conclude his speech.

No objection was made.

Mr. LONG. England, in her tremendous wars with Napoleon and the greater part of continental Europe, which for long years was arrayed on his side, and when her expenses went up to seven hundred million a year, paid one half of the war expenses as she went along. This was an evidence that they were not willing to seek the temporary profits which the war gave and then cast the great burden of the expenses upon posterity. It was an earnest of the last dollar from which our war patriots have recoiled. It took Great Britain eight hundred years to run up a debt less in amount and at a rate of interest not one half as great as that we have incurred in three and a half years.

These eight hundred years reach from William the Conqueror to Victoria. They embrace all her wars of conquest and defense. In them are included the glories of the Edwards and the Henries, of Elizabeth, of Cromwell, of William, of Anne, and the Georges. They call to mind the memories of Agincourt and Cressy, of Blenheim and Waterloo, of Marlborough and Wellington. They embrace the gigantic wars with France, when she was four times conquered, and when her towns were held for years by English garrisons. They include the repulse of the Spanish Armada, the terrible civil war of Cromwell, and the gigantic expenses of her combat with the French Revolution, which alone lasted more than a quarter of a century, and during which she had under her pay and subsidy the hordes of Russians, Austrians, Prussians, and Germans, that twice dethroned Napoleon and twice marched to Paris. They include her seven years' war of coercion upon America for the subjugation of the seceded colonies; and they include the acquisition of a territory in all parts of the globe so immense that upon it the sun never sets. Yes, all this cost less than our three and a half years' miserable, sectional war.

We have been taught to regard the British Government as corrupt and expensive. It has had at its head, and in its councils, many of the most corrupt and dishonest men the world has ever known, and yet, with all its corruption and profligacy, England to-day has a debt less in amount than the audited and unaudited debt, including the contingent war claims, that has already been incurred by this Administration in the prosecution of the war. A few more facts in illustration. The wealth of Great Britain is thirty-two thousand million dollars, that of the so-called loyal States, eleven thousand million dollars. Our debt is the largest, and its interest is twice as great, and yet, Great Britain has three times as much property to be assessed for taxation as the United States. The standing armies of Europe to-day are four and a half million men, which is about equal to the whole number of male adults in the United States, and yet the cost of maintaining these almost fabulous armaments is not half as great as that of the United States. Europe has the accumulated wealth of centuries, she has her two hundred and fifty million people, and she maintains five or six times as many soldiers in the field as we do, at half the expense—I mean at half the expense that we have promised to pay, for not a dollar of it has yet been paid. If Europe is oppressed and ground to the earth with her war expenses, what would be our condition under the actual money system? I do not suppose, Mr. Chairman, that one half, probably not one third, of this debt has been incurred in the legitimate prosecution of the war. The evidences of the debt are not in the pay of the soldiers, who get less than their exposures entitle them to receive, but are to be seen in the marble palaces, in the luxurious equipages that dazzle so resplendently around the persons of the Government contractors; there is where the money has gone which we have promised to pay, and upon which promises they have realized; you will find it accounted for in part in the reports and speeches of the honorable gentleman from Massachusetts, [Mr. Dawes.] Traces of it may be seen in the affair of the Cataline, the Opdyke trial, and in other disclosures of a similar character. The substantial reason why Great Britain paid one half of her war expenses as they were incurred, while we pay little or nothing, is because the class of persons to whom the debt in England was owing sat in Parliament and voted the taxes; in our country, on the contrary, it is those who have to assist in paying the debt that have the privilege of enacting the laws. Beyond this, and therefore connected with the payment of this huge incubus, lies the specter of a despotic government, with its aristocracy and its standing army, indispensable auxiliaries in the work.

At the last session, Mr. Chairman, I had the misfortune to fall under the censure of this House, and under the most terrible maledictions outside of it, for expressing my belief, sad and unpalatable as it was to me, that the Constitution and the Union would not, in all human probability, either of them, survive this mad and ruinous war.

What has since happened has not been of a character to cause me to take a more cheering view of the future. Who will say that we are now living under a Government with a written Constitution? What provision of it is there that has not been disregarded and set aside? Of what avail has been your Bill of Rights, and which was made a condition of accession to the Union by the States for the last three years? Where laws, organic or statute, are thus set at defiance and utterly disregarded, they are seldom or never afterward respected. Hear for a moment the utterances of the leading editors and orators of the Administration party in regard to our once venerated Constitution. See the contempt and bitterness with which the most influential organs of public opinion now speak of it.

As for the people, or rather a large portion of them, it is remarkable how complacently they have acquiesced in the overthrow of a Government that was believed to be universally popular. Engaged in the pursuit of wealth and material pleasures, they have apparently taken but little interest in the question, content even to accept a despotism that did not prohibit their sacrifices at the footstool of mammon. Their only idea has been to preserve the territory, the land of the Republic intact; and if that was effected, the form and nature of the Government over it was a secondary consideration. There is and has been a strange theory afloat that it was better to have an extended territory of vast dimensions, if it was a despotism, than a smaller country if it was a Republic. They did not think of spending a dollar or sacrificing a man to maintain free institutions, but they proposed to spend the last dollar, and sacrifice the last man, in order to prevent our map from being curtailed or diminished.

This passion for extended territory is one of the most vulgar, ignoble, and unworthy that ever afflicted a nation. Countries that are influenced by a true spirit and an elevated policy look more to the improvement of the territory they have, and which willingly submits to their jurisdiction, than to its expansion, more to the liberty and well-being of the people who inhabit it than to foreign conquest and dominion. This idea of expansion, acquisition, and dominion has been studiously inculcated by a peculiar and most bombastic literature—our Fourth of July orations. For a long series of years the sum and substance of these orations has been a eulogy upon our immense territory, and all sorts of extravagant figures of speech were used to indicate that it extended from the Lakes to the Gulf, and from ocean to ocean. Thus was the pride of national domination fostered that has since broken out in this fearful and horrible war. Had more been said in our speeches, our orations, and our newspapers about *habeas corpus*, the right of trial by jury, and other guarantees of personal liberty, of representative government, and the rights, sovereignty, and independence of the States, as the only security for personal liberty; had the people been educated in these great principles, purchased by the blood of our fathers, the present humiliating and deplorable disaster would not have overtaken us.

Another of the worst signs of the times is the national admiration for military glory and grandeur, to be won by any means and at all sacrifices, the very idea that has caused the destruction of republics. France would probably have preserved her free constitution for a considerable period, had she not, in repelling the attacks of Europe upon it, been led astray by the dazzling but gory and empty phantom of military success. It was followed over millions of corpses and over generations of Frenchmen, until from very exhaustion the country fell back into the lethargy of despotism. Republics in all ages have been subverted under the war power. The ermine of the judge and the person of the legislator are helpless against the bayonets of the successful soldier who is sustained by this miserable popular delusion of military glory—some Alexander, some Julius Cæsar, and some Napoleon, has always stamped out with his iron heel the breath of popular liberty. There is still another melancholy delusion worthy of a passing notice—it is that men were made for government and not government for men. Anacharsis Clootz, a fanatical



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Reform of the Indian System—Mr. Donnelly.

HO. OF REFS.

Prussian baron, during the French Revolution, appeared before the National Assembly at the head of an embassy, and declared that an establishment of the French Republic would be cheaply purchased by the sacrifice of the whole human race.

Rev. Dr. Breckinridge, the President of the Convention that renominated Mr. Lincoln, declared in a political speech in the city in which I reside, his willingness to see this magnificent country all depopulated back to the original settlements of Jamestown and Plymouth rather than have two confederated republics where there is now but one. This is supreme lunacy, and only worthy of a lunatic asylum. Governments are instituted to promote the happiness of men, and they should be subverted when they fail in that end. With a large class of our people the word government implies some huge idol, to which the lives and fortunes of the people are to be sacrificed, and for which, work as it is of human hands, rivers of blood are to flow. We who are unable to agree upon a proper form of government for ourselves, presumptuously affirm that we will manufacture one for our children, as, if we did, they would be likely, judging from the manner in which we have treated the legacy left us by our fathers, long to respect it.

What, then, of the future—the grim, gaunt specter of the future, as it is foreshadowed by the present? We have an immense standing Army; we have a vast national debt; we have an utterly irresponsible Executive, governed by the inclination of his own will; we have a judiciary subservient to arbitrary power, and unable to enforce obedience to its decrees if it were free to do so. We have corruption and profligacy of morals and manners, such as modern times have never before witnessed. We have a worldly and perverted church, and false teachers of religion. Look where we will, we see general demoralization of society, and while we are breaking link by link in the chain that bound the States together, and so changing the Constitution of our fathers as to preclude all possibility of reunion, alienating the people, decimating their numbers, crushing their hopes, and grinding them to the earth with debt, drafts, and taxation, European Powers are setting the Monroe doctrine at defiance, parceling out the continent, and preparing to recognize the confederacy. Is it out of such materials and in the midst of such surroundings that gentlemen expect to erect anew the arch of a reconstructed Union and a violated Constitution? No artificers, Mr. Chairman, are equal to the task. The Union of 1789 is gone, never to be restored. If we who yet claim to be under the forms of the Constitution would save anything from the political and social wreck; if we desire even to make an effort to again recover our lost condition, we must abandon the war, recognize the sovereignty and separate independence of the States and their right of self-government, and then begin the work of reorganization anew in a spirit of mutual compromise and concession, such as was displayed by our fathers when they met in the memorable Convention of 1787.

Mr. Chairman, this may be the last time I shall raise my voice in debate within these walls; perhaps the last time that I may deem it expedient to give my views upon the awful drama through which we are passing. In taking leave of this Capitol I may be pardoned if, in glancing back at the past, I say that there is no part of my political life that I look back to with more pride, no, not pride, but satisfaction, than the efforts which I have made, feeble though they be, to arrest the madness of the hour, and to avert the dark gloom with which we are threatened. Entertaining strong and earnest convictions, I have used language conformable and proper to their expression. Overwhelmed with the importance of the issue, and oppressed with a sense of the national peril, I have in the main discussed events and sentiments, and avoided all offensive allusions to those I deemed the guilty actors in these tragic scenes. In no instance am I aware of having infringed upon the courtesy of debate and the dignity of legislation, and I know that I have exercised no right that did not devolve upon me as a Representative. I have spoken sincerely, candidly, and honestly, and if I have taken a dark and despondent view of the future it would afford me

the greatest gratification to see all these dark clouds dispelled, and to see a light beam upon the picture that now gives us promise of being in the horizon. I have no pride of opinion that would interfere with a frank confession of erroneous views, if, against my convictions, and against all reason, and by what would be a special interposition of Providence, the policy of the Administration should preserve the Union intact, and the liberties of the people from being overthrown.

## REFORM OF THE INDIAN SYSTEM.

## SPEECH OF HON. I. DONNELLY,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

February 7, 1865.

The House being in Committee of the Whole on the state of the Union—

Mr. DONNELLY said:

Mr. CHAIRMAN: The condition of the Indian tribes within the limits of the United States is a matter of the first consequence to our Government and people.

During the first half century after the formation of the Government the flow of population on our continent was confined to a movement from the Atlantic coast westwardly, and the process of displacement of the aboriginal race was comparatively simple: the Indian receded as the white man advanced. Latterly, however, new tides of population have set in from the shores of the Pacific, and the two mighty currents are now commingling their waters amid the gold-bearing ranges of the interior. The emigrant from Minnesota meets in the field of Montana the miner from Oregon and California. With the termination of our great war, now near its close, a migration will spring up of which the world has as yet known no parallel; and in a few short years every tract capable of settlement and cultivation will pass into the occupancy of the white man.

What is to become of the Indian as the races of the world thus draw together from the opposite shores of the continent? Caught between the upper and the nether millstones—now so remorselessly approaching each other—what is to be his fate? The land that will not sustain the white man will not sustain the Indian. The soil whose grasses will not nourish the domestic cattle of the herdsman will not support the buffalo. The Indian must either be driven to starvation in the sterile wastes or we must permit him to share with us the lands capable of cultivation.

Let it not be said that the nation shall advance in its career of greatness regardless of the destruction of the red man. There is room enough in God's world for all the races He has created to inhabit it. Thirty million white people can certainly find space, somewhere on this broad continent, for a third of a million of those who originally possessed the whole of it. While we are inviting to our shores the oppressed races of mankind let us at least deal justly by those whose rights here antedate our own by countless centuries.

It is the destiny of the white man to overrun the world; but it is as plainly his destiny to carry in his train the great forces which constitute his superiority—civilization and Christianity. We are exhibiting to-day the unequalled spectacle of a superior race sharing its noblest privileges with the humblest of mankind, and lifting up to the condition of freedom and happiness those who from the dawn of time have been either barbarians or slaves.

"One touch of nature makes the whole world kin."

Let us then be merciful in our judgment of the races of men. We know not to whose hands the torch of civilization may yet be committed ere the work of God through man is completed on the face of the earth. It was little anticipated by the great nations of antiquity that the religious mind of the world would be dominated for centuries by the intellect of an obscure branch of the Arab race.

If, then, it would be unworthy of us to consider for one moment the alternative of the destruction of the Indians of the United States, let us turn to the other aspect which the problem presents us.

How shall the Indian—a nomad, a hunter, a barbarian—compete on the same soil and under the same circumstances in the great struggle for life with the civilized white man?

Civilization means energy, industry, acuteness, skill, and perseverance. Barbarism means indolence, torpidity, ignorance, and irresolution. How can the two be brought together and the inferior not fall at once a sacrifice to the rapacity of the superior? This is the problem before us.

The Government must interpose its merciful protection between weakness and power. It is doing so in the case of the black man; let it deal as fairly by the red man. Without action by this Government, a thousand years would have left the slave of the South still a slave. Under wise and just laws he will swell at once the power of the nation, increase its resources, and adorn it, in time, with great names and honored services. We cannot afford to be unjust to any portion of mankind.

The Government must shield the Indian in his time of helplessness, and must confer upon him the advantages of civilization.

The depravity, the degradation, the decrease in numbers of the Indians, are but nature's protest against the inequality of the contest carried on between them and the whites. In "the process of natural selection" we have been rapidly eliminating the weak and helpless savage.

What has been the treatment of the Indians by our Government?

No sadder or more gloomy page presents itself in all our annals. Error, neglect, and crime, are written all over it.

Instead of regarding the Indians as savages—helpless as brutes and improvident as children—to be cared for and protected as the courts of law protect idiots and minors; our great nation has descended from the eminence of its Christianity and civilization, and has entered into a struggle to drive the best possible bargain with the savage for his lands. The sight has been a sad one. On the one side one of the great Powers of the globe, of unequalled wisdom, sagacity, and power, represented by shrewd and able agents; and on the other a parcel of poor, untutored savages, scarce comprehending the transaction in which they are engaged, unable to read or sign the "treaty" they make, and living, while they negotiate, upon the bounty of the very Government which professes to meet them on terms of equality. It is needy barbarism, pinched by a thousand wants, competing with an affluent and all-powerful Government. What savage virtue can stand up against the allurements which are spread before it? Even should the tribe have judgment enough to resist the terms proposed to them, are not the chiefs purchasable? And that which blankets and beads, guns and horses cannot effect, shall not rum accomplish? Should the chiefs sign and the tribe resist, are they not savage outlaws, and who shall write their history?

Here are the numbers of some of the tribes with whom the Government has made such treaties: the Pottawatomies of Huron number forty-five members; the Museses of Kansas number forty-four members; the Stockbridges of Kansas number thirteen members.

Is it not a pitiable thought that our beloved Government, instead of measuring out mercy and kindness with a liberal hand to these poor, benighted little communities, should descend to make the best possible terms out of their miseries and necessities?

And what are those terms? The amounts per capita for these tribes are as follows: Pottawatomies of Huron, \$8 88 per annum; Museses of Kansas, \$9 00; Stockbridges of Kansas, \$4 60. With unlimited power in its hands to make its own terms, this Christian Government of the United States of America gives to each Stockbridge Indian of Kansas the sum of \$4 60 every year, with which to civilize him, and is then shocked to hear that he spends this miserable pittance in depravity, and remains as wretched a savage as ever! It takes away his lands; it deprives him of the means of support; it leaves him untrained and uneducated; and it gives him \$4 60 with which to support himself and become an agriculturist!

Nor is this the strangest part of the performance. Until the treaty is concluded the Indian,

in theory, is the equal of the Government. The moment it is made, his sovereignty passes from him as well as his lands. He lives subject to our authority and yet not protected by our laws. We can enforce treaty obligations against him by the strong arm of military power, but for our infractions he has no remedy save resistance, and that means destruction. Does the history of the world anywhere else present such an anomaly? A petty independent Power, in the midst of a mighty sovereignty, overawed by its military force and living upon its bounty.

Nor shall it be thought that the Government has gained pecuniarily by this policy. While it has been niggardly, inhuman, and unchristian, it has, at the same time, been unwise and ruinous.

Since the 4th of March, 1789, the Government has appropriated, directly for the benefit of the Indians, the enormous sum of \$89,155,098 32. If to this direct outlay we add the sums incurred by the Government in the Indian wars in Illinois, Florida, Oregon, Minnesota, and other quarters, they will swell this sum to the vast aggregate of at least \$150,000,000.

The total number of Indians receiving annuities is 46,365. If we estimate each family to consist of four persons, which is a moderate calculation, and divide this sum of \$150,000,000 among the chiefs or heads of families, we shall find that for each of such chiefs the Government has expended the sum of \$13,000!

Where now is all this wealth? Has it reached the Indians? Have its accumulations descended from father to son? Do we find it represented to-day among the tribes by comfortable homes and overflowing granaries? No. Upon our western prairies are scattered this miserable, degraded, impoverished people, an everlasting reproach to our Christian nation and a disgrace to humanity. Where, then, are these great sums? They have gone to fill the coffers of those who stood between the Government and the Indian, and deceived the one while they robbed the other.

Mr. Chairman, I feel that it is my duty to speak of these things. The evil results of this pernicious system have descended upon my own State in fire and blood. An innocent and an offending population of white settlers have paid the penalty for years of misgovernment with their lives; and although the scenes of devastation and ruin and horror have passed away from my State, I trust forever, the system still lives, and is already preparing new stores of suffering and calamity for other communities. When I have looked upon the humble homestead of the frontiersman in ashes, and beheld the corpse of its owner lying gashed and bloody beside it, I could not but trace home the terrible responsibility for all this evil to this Capitol, and to that system which, taking charge of a savage race, retained them in barbarism, made no proper efforts for their civilization, and at last turned them loose like wild beasts, to glut their brutal passions and infuriated rage upon an unsuspecting people.

I assert unhesitatingly, and upon mature reflection, that not even our white race could rise from barbarism to civilization against the pressure of such a system as that under and by means of which it is proposed to civilize the Indians.

Let us look at some of its details.

One of the Red Lake Chippewa chiefs of Minnesota said but two years since, when solicited to part with the lands of his tribe: "When we sell our lands we dig our graves."

The savage had summed up the question in a sentence. The Indian is a hunter, and requires large areas of land in which to find his support. Deprive him of these lands, fill them with a white population, which drives out the wild game, and at the same time give him no instruction to enable him to compete in the arts of agriculture with the white man, and he becomes, perforce, a vagabond, a thief, and, it may be, an assassin.

The civilization of the Indian becomes, therefore, a matter of the first necessity to the comfort and safety of his white neighbor. Injustice to him is injury to ourselves.

"This sword's hilt is the sharpest, and cuts through  
The hand that wields it."

But what is the course of the Government? It concentrates upon a small strip of land the population for whose sustenance the whole of the ceded

territory was before necessary. It surrounds this fragment, this island of barbarism, with a dense civilized white population. The savage must either remain upon his reservation and starve or invade the precincts of the white man and beg and steal. The strain is too great for human nature. Collisions follow, and both white and red are speedily involved in common suffering and ruin, equally victims of a pernicious system.

But it may be said that the Indian can become an agriculturist on his reservation.

Civilization is a tender plant. Centuries of contact with the Roman power left our ancestors still savages. When, at last, the spark of civilization was warmed into a little flame, how many slow and weary ages did it take to light up the horizon with its blaze? The lapse of thousands of years extends between the nomad of eastern Europe, who carried the scalp of his enemy at his saddle-bow, and the highly refined citizen of England or America. Shall we then hope that by the mere power of the human will and the force of a few legislative enactments we shall, in a fortnight, turn a band of savages, collected on their reservation like cattle in an inclosure, into civilized men?

The Government seems to have possessed some faint conception of what was required of it. It employs a farmer for the tribe, it hires a blacksmith, and it furnishes some agricultural implements. These are, it is true, glimpses of the truth; but there it stops. What is the result? The Indian who has industry and energy enough to cultivate a field and raise a crop lies at the mercy of every roaming vagabond of the tribe, who, returning bootless from his hunting excursions, descends upon his store of maize and potatoes, and reneaps.

"The good old rule, the simple plan,  
That they shall take who have the power,  
And they shall keep who can."

There is no military or police force to protect industry against robbery. What white man would overcome all the prejudices of education, all the habits of years, all the teachings of superstition, and endure the cold of winter and the heat of summer, to find, at last, the results of his labor swept away from him by some idle and savage neighbor?

Nor is this all. This insecurity extends to the very fields the Indian cultivates. It has been the policy of the Government to withhold from him that encouragement to labor which accompanies possession of the soil. If it is true, as believed by some, that a system of periodical redistribution of the land among all the members of the clan arrested the growth of civilization in the British islands for centuries, what shall we say of this system, which deprives the Indian of his field, not periodically, but at the bidding of a distant and unseen power, or which leaves him a mere occupant and squatter, open at any moment to invasion by his more powerful white neighbors? Again, I ask, what white man could be induced to labor to enhance the value of his fields if the very increase of their value tended only to hurry him more rapidly from them? Who is he that toils willingly for the advantage of another?

But even this is not all. It was said by some one of old, "If vice were on the whole profitable, then the wise man would be the villain." The essence of virtue is that it meets with its reward. Hence any system of Government that rewards equally vice and virtue, indolence and industry, is corrupt and rotten, and can breed only the most disastrous consequences. And yet this is the system adopted by us in our treatment of the Indians! The annuities are distributed among the members of the tribe without any regard whatever to the conduct of the recipients. The ruffian, who robs his industrious neighbor, draws an equal share with the poor wretch he has despoiled. Nay, more, he may go outside of the reservation and prey upon the adjacent white population, and the claims of the white man for the damages he inflicts are paid by the agent out of the total fund of the tribe; so that the many who are innocent suffer for the one who is guilty. In such a state of society the highest premiums are offered for crime and disorder; and it may well be believed that the most sagacious would find it to their interest to become the most vicious.

I need not here enlarge upon that other evil, and parent of many evils, the unjust treatment of the Indians by their agents. I do not assert that all those who occupy or have occupied such positions have proved themselves dishonest; but I do believe that, under the present system, the temptations are too strong for ordinary human virtue. The agent finds himself far away from white society, in the midst of a barbarous population, sunk in ignorance and debauchery and regardless of their own interests; while through his hands pass large sums of money intended for their benefit. He is asked to protect those who cannot protect themselves; to deal honestly by those who are unable to bring him to account; and to feel his responsibility to morality and justice in an almost irresponsible position. Until we can find among the followers of the great parties of the day a sufficient number of pure-minded and disinterested philanthropists to fill all these agencies, and to endure exile, discomfort, and small salaries for honesty and righteousness' sake, we must expect this evil to continue. The evil is in the system, not in the men who represent it. If the reproach can be addressed to our Government which was made to Tiberius: "It is you that are to blame for these things, that have committed your flocks, not to shepherds, but to wolves;" the deeper reproach can also be uttered against us, that we have for years permitted a system which by its own force has created those wolves even out of the most trusted of our shepherds.

The course of these remarks will indicate what, in my humble judgment, should be the course adopted by the Government toward the Indians.

In the first place, the whole system of treaties should be abrogated. We have filled a thousand octavo pages of our statutes with such useless compacts. We need no such plea to justify us in taking the lands of the Indians. If one hundred human beings can support themselves on a tract of land where one savage finds a precarious subsistence, the one hundred have a right to go there and take possession of and cultivate it. The right of man to life and to the earth as a means of life is paramount to all else. But in seizing the Indian's territory, the new-comers must not consign him to starvation; they must share the land with him, and teach him those arts by which a small portion of it will sustain him as fully as the whole did formerly.

In the next place, whatever land is given to the Indian should be given him by irrevocable patent; so that he can never be disturbed in his possession by the pressure of an advancing population. It should also be guarded in such manner that he cannot, for many years, sell or encumber it. The Government must treat him in this respect as its helpless and dependent ward.

In the next place, it would be well that each reservation should be located near to or surrounding a military post, so as to secure at all times a perfect administration of justice through the military authorities, and full protection to the industrious and deserving from the vicious and depraved.

In the next place, there should be erected for each family a comfortable log house; and a field should be broken sufficient for their support upon the land patented to them by the Government. They should be furnished with sufficient tools, seed, and working cattle for its cultivation. The aid of the Government should then be given liberally to the most deserving, leaving the worthless to work or starve. A few successful farmers would civilize a whole community, even as among ourselves a few cultivated persons will refine an entire neighborhood.

In the next place, while it is recollected that the knowledge of a civilized language does not constitute civilization, nevertheless the English language should be introduced among them; and the education of their children should at the same time be made compulsory.

It should be recollected that civilization consists of certain habits of life, productive of comfort and ease; upon these may repose a higher structure of generous thoughts and ennobling religious impulses. Christianity does not consist in the holding of certain points of doctrinal belief, nor in the employment of any particular routine of expres-

sion, but in that adaptation of the whole inner nature of the man to the purity and elevation of its great principles. Hence it can never be the religion of savages. To leave the Indian in his barbarian state and at the same time seek to force into his mind the sublime doctrines of the Sermon on the Mount, is to attempt nature in an inverted order. *The religious influence of the nation should therefore first lend itself to a reformation of the general system.* Having prepared the soil it can then proceed with some hope of success to the process of the cultivation of the individual.

But how, it may be asked, are we to avoid the corruption so generally admitted?

I answer, by some such system of checks as is used in all other departments to insure honesty. Why cannot the law provide that the various goods distributed among the Indians shall be dealt out by the military officer of the post, or by the quartermaster of the post, taking their receipts, witnessed by the agent? The report of the military officer could thus be compared with the report of the agent, and fraud could only follow by collusion between them. The military officer, holding his place for life, would have much less inducement to fraud than the agent who anticipates removal in a short period of time.

It might also be well to locate the reservations of the Indians outside of the organized States, and as far as possible from the white settlements. In this way their new customs and usages will have attained some solidity before they are brought into contact with the whites. When the wave of population rolls around the reservation, the white pioneer will find the red man a farmer like himself, occupying land held like his own by irrevocable patent, and possessing some share of intelligence and education with which to understand and defend his rights. No longer vicious and thieving, he will recognize in him a quiet and peaceable neighbor, and will feel no desire and be under no necessity to drive him from his home.

I would further suggest that while a tract of one or two hundred acres of land should be given to each family, that the tribe should be gathered together in villages, with a house for each family surrounded by five or ten acres of cultivated land. An Indian family will not ordinarily use more than that amount. When the energy of any individual oversteps this limit he can cultivate his separate farm. It requires the highest types of the highest races to encounter a life of isolation and solitude upon large farms on the frontier. The weaker races are gregarious. Moreover, thus assembled they are more susceptible of control and instruction.

In fact this system of concentration could, in course of time, be applied to all the Indians within the limits of the United States. Their total number is but 314,622. They could be concentrated, if civilized, upon an area no larger than two or three of our counties; they could be speedily made self-sustaining; and instead of inflicting injuries on our frontiers to a degree vastly disproportionate to their numbers, they could be converted into harmless agriculturists and peaceful citizens.

But the question may be asked, is the Indian capable of civilization? I answer unhesitatingly, yes.

The Indian of the American continent has proved himself not only capable of receiving but of originating civilization.

It may be safely said that the Spaniards encountered in Mexico and Peru an indigenous civilization in many respects higher than their own.

The conquerors of Peru found that country, covering a narrow tract of land along the sea-coast, four thousand miles in length and three hundred miles in width, and containing a population of thirty millions;—nearly equal to the entire population of the United States.

The civilization of the Peruvians was not of sudden growth. It had extended through many centuries. The people were agriculturists, and the pursuit had been carried to a degree of refinement unknown at that time in Europe. To this day the curious traveler finds upon the tops of the mountain ranges, in some cases thirteen thousand feet above the level of the sea and amid the haunts of the eagle, the crumbling walls and vast

monuments, which bespeak the civilization of the ancient people.

Nor was this civilization rude and immature. Of its kind it was perfect. Almost every foot of their vast territory was brought under subjugation to the labor of man. So dense was the population and so energetic the efforts of industry, that the soil of the valleys was carried up on the backs of the peasants to the elevated sides of the mountains and crops raised as high as the limits of vegetation.

Of this unfortunate people, nine tenths have wasted away before the white man. The valley of Santa, for instance, which once maintained seven hundred thousand inhabitants, does not now contain twelve thousand. The city of Cuzco, which at the time of the Conquest was larger than Chicago, does not now number twenty thousand souls.

When we turn to the Mexicans we find still more striking evidences of the indigenous development of the Indian mind.

That interesting people possessed at the time of their conquest a perfectly organized form of government. The monarch was elected from the royal family by the votes of the nobles. A regular administration of justice prevailed. For each great city there was a supreme court, with a single judge; and below these, in each province, an inferior court of three members; and below these again the local magistracy elected by the people. A right of appeal lay from one court to another, but the decision of the supreme court was final, and the judges were independent of the power of the Crown. The laws were registered and exhibited to the people in their hieroglyphical character. "The rites of marriage," says Prescott, "were celebrated with as much formality as in any Christian country, and the institution was held in such reverence that a tribunal was instituted for the sole purpose of determining questions relating to it." Tax gatherers were distributed throughout the empire. The tributes consisted of "cotton dresses; mantles of feather-work; ornamented armor; vases and plates of gold; gold dust; bands and bracelets; crystal, gilt, and varnished jars and goblets; bells, arms, and utensils of copper; reams of paper; grain, fruit, copal, amber, cochineal, cocoa, timber, and lime." Hospitals were established in the principal cities, for the cure of the sick and the permanent refuge of the disabled soldiers, and surgeons placed over them, "who were so far better than those in Europe," says an old chronicler, "that they did not protract the cure in order to increase the pay."

Prescott thus described the advance of Cortes and his followers over the great southern causeway through the lake to the island on which the city of Mexico stands:

"Everywhere the conquerors beheld the evidence of a crowded and thriving population exceeding all they had yet seen. The temples and principal buildings were covered with hard white stucco, which glistened like enamel in the level beams of the morning. The margin of the great basin was more thickly gemmed than that of Chalco with towns and hamlets. The water was darkened by swarms of canoes filled with Indians, who clambered up the sides of the causeway, and gazed with curious astonishment on the strangers. And here, also, they beheld those fairy islands of flowers, overshadowed occasionally by trees of considerable size, rising and falling with the gentle undulation of the billows. The Spaniards had occasion more than ever to admire the mechanical science of the Aztecs in the geometrical precision with which the causeway was executed, as well as the solidity of its construction. It was composed of huge stones well laid in cement, and wide enough throughout its whole extent for ten horsemen to ride abreast."

A few facts may serve to call up a picture of the great city of Mexico as it existed at the time of the conquest:—

It contained from three to five hundred thousand inhabitants. Its extent was such that one thousand persons were daily engaged in watering and cleaning the streets, so that, in the language of a Spaniard "a man could walk through them with as little danger of soiling his feet as his hands." An aqueduct nearly three miles in length, with double courses of pipes, brought supplies of fresh water from Chapultepec. The palace of the king excelled, in the judgment of Cortes, any building in Spain in cost and magnificence. Immense buildings and grounds were devoted to collections of the native birds and beasts of the country—the zoölogical gardens of the city; while

an equal space was appropriated to a botanical collection whose medicinal virtues were studied by the Aztecs. In the great market-place were met together traders from all parts of the empire, with the products and manufactures peculiar to their countries—goldsmiths, potters, jewelers, painters, stone-cutters, hunters, fishermen, fruiters, and florists. Piles of cotton bales or of manufactured goods, furs, or feather garments, met the sight. In the booths around the barber was plying his vocation, or the apothecary dispensing his drugs; while even the bookseller was to be found selling blank books for the hieroglyphical picture-writing. Perfect order reigned throughout the vast assembly, numbering often forty thousand persons. Officers patrolled the square, whose business it was to keep the peace, to collect the duties imposed on the articles sold, and to see that no false measures or frauds of any kind were used. A court of twelve judges sat in the square to administer justice to all offenders.

I refer to these interesting facts as an evidence that the mind of the red man has been capable, unaided and alone, of originating a comparatively high order of civilization.

It may be urged in reply that the Aztecs and the ordinary Indians of our western prairies are two distinct races. This is not so. They are but different tribes of the same race. The construction of their languages, as well as their physical conformation, evidence that all the varieties of the red man on both the continents are ethnologically members of the same race. The Aztecs were a wild tribe who descended upon the more civilized Toltecs, and in a few centuries passed from a condition analogous to that of our western Indians to the one in which Cortes found them. If, then, it was possible for the red man to create, of his own force, a civilization, can it be doubted that it is in the power of a superior race, under just and wise laws, to communicate civilization to him?

In these remarks I have sought to avoid considering this question in any of its philanthropical aspects; but have endeavored to prove that the civilization of the Indian is of the first consequence to the white man, whether the subject be regarded in its pecuniary relations or with a view to the safety of our frontier population. The Indian misgoverned, oppressed, and treated unjustly, must always be a brutal and a dangerous neighbor. The Indian trained under wise, just laws, honestly executed, may become in time a good citizen and a practical Christian, a credit to his race and a benefit to his country. We can neither destroy nor ignore three hundred thousand human beings with the same right to life which we ourselves possess; nor can we, if we regard simply our own safety, permit their slow destruction by misgovernment. We will find, as we have already found, amid suffering and desolation,

"That we but teach  
Bloody instructions; which being taught, return  
To plague the inventors."

But there is beyond all this other considerations which elevate this question to even a higher dignity.

We of the northern races of Europe expelled the Indian as we colonized the country; but in the regions of the continent settled by the Latin races this has not been the case. In Mexico, in Central America, and in South America, the aboriginal population continued in the occupancy of the land, and from the time of their conquest they have been steadily absorbing by intermarriage the European blood among them, so that at this day those countries possess less of white blood than they did a century since. As the native population awakens from the torpidity of subjugation and begins to feel the power of superior numbers, it is seeking to regain political ascendancy. The Creole population does not increase in numbers; the Indian, on the contrary, is advancing with rapid strides. To-day, in Peru proper, the whites are but 240,000; the mixed bloods and negroes 340,000, while the Indians are 1,620,000, or more than three times the entire population of every other kind. From a condition of slavery they have risen into freedom. Formerly excluded from the schools, even as our own slaves were excluded in the South, all the



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Bureau of Mines and Minerals—Mr. Cole.

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institutions of learning are now thrown open to them, and they are entering in large numbers the colleges of the country.

While we find Mexico electing, in the person of Juarez, an Indian to its presidency, we are at the same time informed that secret movements are on foot to reestablish the sovereignty of the ancient race in Peru, Bolivia, Ecuador, and Chili.

Let us not be blind to these great movements; they are God's solution of the vexed questions of race which now agitate the world. Who shall say that the Indian shall not, through the instrumentality of our institutions and under the protection of our great Government, establish once more upon this continent the civilization of the Montezumas and the Incas, kindled into new splendor by the genius of universal liberty, and softened into refined beauty by the touch of Christianity? The custodians of a civilization which we did not originate, we have no right to withhold it from those races, whatever may be their color, with whom we may come in contact; nor can the nation find a nobler task than that of so bending its energies that this entire New World, from one extremity to the other, shall exult, through all its diversities of climate and all its zones of color, in one continuous and unending display of human industry and happiness. In that not distant day, when vast communities of black men along the Gulf, and still larger communities of red men in Mexico and South America, shall be united to us by all the affiliations of commerce and all the sympathy of kindred institutions, let us not have to reproach ourselves with having destroyed or permitted the destruction of any portion of the people of this continent. Let it not be said of us that while we were reflecting civilization and liberty upon the world, we at the same time exterminated the aboriginal population of our own country.

## BUREAU OF MINES AND MINERALS.

SPEECH OF HON. CORNELIUS COLE,  
OF CALIFORNIA,  
IN THE HOUSE OF REPRESENTATIVES,  
February 7, 1865.

The House being in Committee of the Whole on the state of the Union—

Mr. COLE, of California, said:

Mr. CHAIRMAN: A bill to establish a mining department has been upon the files of the House for several weeks past, and I doubt not it has received a due share of the attention of every member. But to obtain for it, if possible, a more practical consideration, I solicit attention for a few moments.

The last seventeen years have disclosed the fact that more than one third of the entire territory of the United States is rich in the precious metals. This fact was utterly unknown prior to the Mexican war, the events of which are still fresh in the recollection of us all. This mineral region is already divided into three States and seven Territories, the latter of which, at no distant day, will be erected into as many or a larger number of States. It all lies west of what was once known as the great American desert—the plains—and is distinguished from the rest of the United States by its numerous and lofty ranges of mountains. In the dark fastnesses of these mountains, for thousands of ages, nature concealed her choicest treasures, and only permitted them to be brought forth at last to adorn her youngest and fairest daughter, the American Republic.

The business of developing these mineral resources is yet in its infancy. With such assistance as Government could easily and cheaply render, but which individuals and private companies cannot command, it would be vastly increased. The honorable Secretary of the Interior gives it as his opinion that the already discovered silver mines of Nevada alone, if supplied with proper machinery, would yield \$120,000,000 a year; and from the knowledge I have of the Humboldt, the Reese river, and other districts far in the interior and out of reach of the ordinary appliances, I regard his estimate as in nowise extravagant. The new discoveries of similar mines that are daily and almost hourly made in Nevada, and

in Idaho and Arizona, and all over our Pacific possessions, show that the production of the precious metals is capable of being increased far beyond any estimate yet attempted by the honorable Secretary. For the purpose of bringing up to a proper standard this yield of gold and silver he has recommended in his late report "the establishment of a bureau of mines and minerals;" and he tells us that before many years such legislation "will be found necessary if it has not already become so." But there can be no more convincing proof of the present necessity for such action than the fact that these mines now yield only a tithe of what they are capable of yielding. There is, therefore, no occasion for delay. This lame and struggling interest—for such it is—demands at the hands of Government immediate measures for its development.

The main object of this bill is to collect and diffuse useful information touching the location, extent, and character of the mines, and the best modes and means of working them; and why should it not receive a consideration equal to that which the Government has been accustomed to bestow upon other industrial and intellectual pursuits? Agriculture has long been a subject of its fostering care. Even before the establishment of a Bureau of Agriculture the products of the field and the fold were stimulated by many congressional enactments, and finally, as a crowning incentive to this branch of industry, a homestead on the public lands was donated to every farmer that would go out and occupy it. To excite greater exertions in the more risky business of fishing, liberal bounties were provided out of the general Treasury. The author and inventor is secured in the profits of his work, and almost every species of manufacturing and mechanical industry has been favored by duties, tariffs, and rewards, in one form or another. The production of gold and silver is no less worthy the national solicitude, and from the influence these metals exert on every pursuit in life, their production would seem to be the most fitting object of governmental charge. By common consent they are and will always remain the medium of exchange among nations. Their value in this respect has been in nowise impaired by the increased production of them which followed the acquisition of California. Any excess above the demands of commerce has been devoted to purposes of art and ornament. The scope of their usefulness is absolutely unlimited. They build your houses and ships, and their agency is indispensable in all public works. They marshal armies and put fleets afloat. Cities and empires grow with their abundance or decline without them. Religion, civilization, liberty—all that men live for or die for—lean upon them as upon a staff. Their withdrawal from any community operates as a dire calamity, producing distress and death. In their absence the farmer ceases his labors, the merchant closes his doors, the arms of the artisan and mechanic are unnerved, the hum of the factory is hushed, commerce folds her wings and her messengers chafe their chains in stagnant ports.

It is somewhat remarkable, in view of these considerations, that the production of the precious metals has not been encouraged with the same fostering care and patronage which has been extended toward other pursuits. But this is doubtless owing, in a measure, to the strange yet common fallacy that pictures some magic instead of misery in the mining process; some cunning alchemy, and no hard labor, as the means of bringing gold and silver to light. It would seem that the illusions of the nursery and the enchantments of the Arabian Nights were mingled with the ideas which men bring to bear upon the subject of the production of the precious metals. They contemplate the exhibitions of gold in the broker's window, but never realize the condition of the laborer whose eyes first it gladdened. They do not descend into the deep, dark, damp artificial caverns of the earth, where the patient miner wastes his life in gathering it little by little, toiling day and night. In the busy city and outside world gold has its offices to perform; it disseminates beneficent influences, and makes millions happy; but the happiness of him who digs it is only the happiness of hope. Of all the throng who visited the gold fields of California only a

few have been able to return to tell of their experiences. With the great majority mining has been a failure, a sad disappointment. Merchants and tradesmen have amassed wealth in the Golden State, and many such have become known abroad, and are often erroneously identified with the pursuit of mining; while the real gold digger, out of whose necessities they grew rich, is never heard of. He has no remittances to make, and no testimony to give. His story has few attractions for the public ear, and the real character of the business of gold seeking, which is the most uncertain and illy-requited business in the world, remains unknown beyond the immediate scene of its prosecution.

The separation of gold dust from the alluvium with which it is deposited by washing was for a long time the only method of mining in California, and is still the process employed in the placer diggings. But this process was early beset with many obstacles, and had not American energy brought the accustomed agencies to bear this description of mining would long since have ceased in that State. Extensive deposits of metal were frequently found in localities remote from water, and projects were set on foot and successfully carried out to supply the needed element. There are now in California hundreds of miles of great aqueducts, by turns perforating and winding around the mountains, surmounting dizzy abysses and creeping through tangled, rocky gorges, leading the floods from the upper Sierras down to the places of usefulness. But nevertheless placer mining is growing every day more precarious, difficult, and expensive. Many of the deposits have become exhausted, or have ceased to be remunerative. Of the swarms of men once eagerly engaged in this pursuit a large majority have turned their hands to farming, to mechanical occupations, or followed the tides of migration to fresher fields beyond the borders of the State. A few have traced up and found those leads from which the disseminated particles of gold are supposed to have come, and have bent their attention to quartz mining. This always involves great labor and expense, and is profitable in only one case out of many. California has but little to show for the sixteen years of labor in which nearly all her people have been engaged. Her mines, indeed, have attracted to her shores an active and enterprising population; otherwise they have been of but little real benefit to her. Many mining settlements and once flourishing villages are entirely abandoned, or given over to the Chinese, who are content to work for a mere pittance. The acres, roods, and miles of earth thrown up, rivers turned from their channels, mountains leveled, and rocks penetrated, while they attest the immensity of the treasure developed, at the same time indicate the magnitude of the labor performed, and show that gold mining is the least fanciful of all pursuits.

But a small proportion of the vast wealth extracted from the mines of California lingers upon her shores. It cannot be doubted that had the same amount of labor been devoted to some more steady but less enticing occupations, the State and people would have been richer and far more prosperous.

Such is a brief review of gold mining in California. Of the country over the mountains to the east we have but slender knowledge. We know, to be sure, that a little strip of land at Virginia City, only six hundred feet wide and two miles in length, yields more than \$1,000,000 a month in silver. This is worked out by a hundred costly crushing mills, which have been erected within the last half dozen years.

The extent of this silver-bearing country is a geographical fact. It reaches from the Sierra Nevada to the eastern base of the Rocky mountains, a thousand miles in width, and is not limited by the British possessions on the north, nor by Mexico on the south. It embraces part of California and Oregon, and Washington Territory; all of silver-girdled Nevada, of Idaho, Montana, Utah, Arizona, New Mexico, and Colorado. Much of it is yet unexplored, but so much of it as has been prospected proves to be wonderfully prolific in the precious metals. With the exception of a few mining towns and the Salt Lake communities it is an uninhabited desert, valuable only for its min-

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erals. The total white population of this vast region will scarcely double that of the District of Columbia. In its present condition it separates California from the Atlantic States as by a great gulf, rendering communication between them difficult, dangerous, and expensive. The most practical route of travel to our Pacific coast involves two long sea voyages, and a passage through a tropical foreign country and most inhospitable climate. Its commerce floats seventeen thousand miles around Cape Horn. This travel and trade could and should be conducted on a direct line over our own territory, and when the intermediate space between here and the Pacific becomes occupied, its natural channel will be found there.

The settlement of this great desert therefore assumes importance, whether viewed as a military, political, or commercial measure; and it is fortunate that the presence of the precious metals furnishes an inducement to overcome this barrier. Under judicious management settlements will soon spring up all over these territories, binding together with indissoluble bonds the Occident and the Orient forever. And this is no small consideration. It is one that should arrest the attention of every patriot. It is easier to reach Europe, Asia, Africa, or South America, than the Pacific States, and I regard it essential to the lasting integrity of the Republic that these widely-severed portions should be united more closely together. Most of the Californians were born on this side of the mountains, and their loyalty to the Government of their fathers is unyielding, but a generation is growing up on the Pacific coast, few of whom, as things now stand, can ever see the homes of their ancestors. These, no matter how well instructed in lessons of patriotism, are more likely to become alienated in their feelings if the separation continues. Though we may seem secure at this time, no one can promise for any subsequent generation on that far-distant shore. If a pretense for separation was found in States interlocked as were the North and the South, how much greater would seem to be the danger when the separation is by thousands of miles, by mountain ranges and broad deserts? We might therefore well feel much concern for the future unity of these States were we always, or even long, to remain thus disconnected. But all danger upon this point will subside when the country between here and the Pacific becomes filled up with an industrious, reading, thinking population; and the establishment of a mining bureau will tend greatly to secure this most desirable end. Promulgate authentic information upon the subject of mining, and people will occupy those lonely valleys, and the now silent hills will soon reverberate with the music of industry. Truly is our anxiety for the passage of this bill stimulated by our desire for a perpetual Union. The mixed population that is to inhabit these desert wilds will be instructed to look upon the Federal Government not only as the center of power, but also of light and beneficence. As the sun illuminates the pathway of the planets while it holds them in their orbits, so the General Government, enlightening these embryo States, will bind them more firmly to our system.

But these considerations are only incidental to this measure. Its main object is to augment the production of the precious metals. This is rendered the more necessary by the financial embarrassment which attends the rebellion. If this branch of industry is properly encouraged, and not fettered by unfriendly legislation, as has been proposed by inconsiderate persons, it will in the future afford the ways and means of relief in many a national emergency. Though among the most needful pursuits to the public, mining has been left to grope its way in the dark for want of a little light which Government could easily have dispensed. Lack of information and experience has met the miner on the threshold, and attended him through years of trial and failure. Owing to the character of the country intervening between different districts, and their distance from each other, there can be but little interchange of opinions among them, and hence the necessity for some central fountain-head of enlightenment. It cannot be doubted that the experience of each miner would be valuable to all others. From many experiences useful facts and scientific rules are deducible. Save a few private cabinets of minerals,

and a little instruction in the elements of geology and mineralogy dispensed at the schools, there exists in America no source of information upon this great subject. No steps have been taken to practicalize theories of mining, nor to collate and digest into laws and rules the multitudes of facts and experiences which our American mining operations have developed.

This great want the bill I have introduced proposes to supply, and much besides. When it shall have only in part accomplished its work, we will no longer be under the necessity of sending our most valuable ores over mountain and sea to the laboratories of Europe for reduction; nor will the superintendency of our best mines longer remain in the hands of foreigners to our disgrace. Our people will cease their wanderings in Mexico and the British possessions. American fields will present greater attractions than those of our neighbors. Plans and processes will be simplified and economized, new districts will be opened, tardy developments hastened, and minerals now considered refractory will be worked with profit. Such are only a few of the advantages that will flow from the passage of this bill, and the subject certainly merits so much consideration at the hands of Government.

#### Radicalism and Conservatism—Truth of History Vindicated.

#### SPEECH OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 7, 1865.

The House being in the Committee of the Whole on the state of the Union, and having under consideration the President's message—

Mr. JULIAN said:

Mr. CHAIRMAN: Perhaps no task could be more instructive or profitable, in these culminating days of the rebellion, than a review of the shifting phases of thought and policy which have guided the Administration in its endeavors to crush it. Such a retrospect will help us to vindicate the real truth of history, both as to measures and men. It will bring out, in the strongest colors, the contrast between Radicalism and Conservatism, as rival political forces, each maintaining a varying control over the conduct of the war. It will, at the same time, point out and emphasize those pregnant lessons of the struggle, which may best supply the Government with counsel in its further prosecution. The faithful performance of this task demands plainness of speech; and I shall not shrink from my accustomed use of it, in the interests of truth and freedom.

At the beginning of this war, Mr. Chairman, neither of the parties to it comprehended its character and magnitude. Its actual history has been an immeasurable surprise to both, and to the whole civilized world. The rebels evidently expected to make short work of it. Judging us by our habitual and long-continued submission to southern domination, and confiding in the multiplied assurances of sympathy and help which they had received from their faithful allies in the North, they regarded the work of dismemberment as neither difficult nor expensive. They did not dream of the grand results which have proceeded from their mad enterprise. Nor does their delusion seem to have been at all strange or unnatural. Certainly, it was not more remarkable than the infatuation of the Administration, and its conservative friends. The Government understood the conflict as little and misunderstood it as absolutely as its foes. This, sir, is one of the lessons of the war which I think it worth while to have remembered. This revolt, it was believed, was simply a new and enlarged edition of southern bluster. The Government did not realize the inexorable necessity of actual war, because it lacked the moral vision to perceive the real nature of the contest. To every suggestion of so dire an event it turned an averted face and a deaf ear. It hoped to restore order by making a show of war, without actually calling into play the terrible engine of war. It trusted in the form without the power of war, just as some people have trusted in the form without the power of godliness. It will be remembered that

just before the battle of Ball's Bluff, General McClellan ordered Colonel Stone to "make a slight demonstration against the rebels," which might "have the effect to drive them from Leesburg." The Government seems to have pursued a like policy in dealing with the rebellion itself. "A slight demonstration," it was believed, would "have the effect" to arrest the rebels in their madness, and reestablish order and peace in about "sixty days," without allowing them to be seriously hurt, and without unchaining the tiger of war at all. The philosophy of General Patterson, who kindly advised that the war on our part should be "conducted on peace principles," was by no means out of fashion with our rulers and the conservative leaders of opinion generally. Even the Commander-in-Chief of our Army and Navy scouted the idea of putting down the rebellion by military power. He thought the country was to be saved by giving up the principles it had fairly won by the ballot in the year 1860, and to the maintenance of which the new Administration was solemnly pledged. He believed in "conciliation," in "compromise"—the meanest word in the whole vocabulary of our politics, except perhaps, the word "conservative"—and had far less faith in the help of bullets and bayonets in managing the rebels than in the power of our brotherly love to meet their susceptible hearts and woo them back, gently and lovingly, to a sense of their madness and their crime. Our distinguished Secretary of State declared that "none but a despot or imperial Government would seek to subjugate thoroughly disaffected sovereignties." The policy of coercing the revolted States was disavowed by the President himself in his message to Congress of July, 1861.

Nor did the legislative department of the Government, at that time, disagree with the executive. On the 22d day of July of the same year—and I say it with sorrow and shame—on the very morning following the first battle of Bull Run, the House of Representatives, speaking in the form of solemn legislative resolves, as did the Senate two days later, declared that it was not the purpose of the Government to "subjugate" the villains who began this work of organized and inexcusable rapine and murder. Indeed, it was not then the fashion to call them villains. In the very polite and gingerly phrase of the times they were styled "our misguided fellow-citizens," and "our erring southern brethren," while the rebel States themselves were lovingly referred to as "our wayward sisters." The truth is, that for about a year and a half of this war the policy of tenderness to the rebels so swayed the Administration that it seemed far less intent upon crushing the rebellion by arms, than upon contriving "how not to do it." General McClellan, who so long palsied the energies and balked the purpose of the nation, would not allow an unkind word to be uttered in his presence against the rebel leaders. If an officer or soldier was heard to speak disrespectfully of the great confederate chief, he was summarily reprimanded, while the unrivaled reprobate and grandest of national cut-throats was pronounced a high-souled gentleman and man of honor! Not the spirit of war, but the spirit of peace, seemed to dictate our principles of action and measures of policy toward the men who had resolved, at whatever hazard or sacrifice, to break up the Government by force. This policy, sir, had it been continued, would have proved the certain triumph of the rebel cause. With grand armies in the field, and all the costly machinery of war in our hands, our opportunities were sinned away by inactivity and delay, while the rebels gathered strength from our indecision and weakness. A major general in our Army, and as brave and patriotic a man as lives, said to me in the early stages of the war that the grand obstacle to our success was the lack of resentment on our part toward traitors. He said we did not adequately hate them; and he urged me, if in any degree in my power, to breathe into the hearts of the people in the loyal States a spirit of righteous indignation and wrath toward the rebels, commensurate with the unmatched enormity of their deeds. This spirit, Mr. Chairman, was a military necessity. The absence of it furnishes the best explanation of our failures during the period referred to, while its acceptance by the Government inau-

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gured the new policy which has ever since been giving us victories.

That this sickly policy of an inoffensive war has naturally prolonged the struggle, and greatly augmented its cost in blood and treasure, no one can doubt. That it belongs, with its entire legacy of frightful results, exclusively to the conservative element in our politics, which at first ruled the Government, is equally certain. The radical men saw at first, as clearly as they see to-day, the character and spirit of this rebel revolt. The massacre at Fort Pillow, the starvation of our soldiers at Richmond, and the whole black catalogue of rebel atrocities have only been so many verified predictions of the men who had studied the institution of slavery, and who regarded the rebellion as the natural fruit and culmination of its Christless career. And hence it was that in the very beginning of the war, radical men were in favor of its vigorous prosecution. They knew the foe with whom we had to wrestle. In language employed on this floor more than three years ago, they knew that "sooner than fail in their purpose the rebels would light up heaven itself with the red glare of the pit, and convert the earth into a carnival of devils." They knew that "every weapon in the armory of war must be grasped, and every arrow in our quiver sped toward the heart of a rebel." They knew that "all tenderness to such a foe is treason to our cause, murder to our people, faithlessness to the grandest and holiest trust ever committed to a free people." They knew that "the war should be made just as terrific to the rebels as possible, consistently with the laws of war, not as a work of vengeance, but of mercy, and the surest means of our triumph." They knew that in struggling with such a foe we were shut up to one grand and inevitable necessity and duty, and that was entire and absolute subjugation. All this was avowed and insisted upon by the earnest men who understood the nature of the conflict, and as persistently disavowed and repudiated by the Government and its conservative advisers.

But a time came when its lessons had to be unlearned. In the school of trial it was forced to admit that war does not mean peace, but exactly the opposite of peace. Slowly, and step by step, it yielded up its theories, and brought itself face to face with the stern facts of the crisis. The Government no longer gets frightened at the word subjugate, because of its literal etymology, but is manfully and successfully endeavoring to place the yoke of the Constitution upon the unbaptized necks of the scoundrels who have thrown it off. The war is now recognized as a struggle of numbers, of desperate physical violence, to be fought out to the bitter end, without stopping to count its cost in money or in blood. Both the people and our armies, under this new dispensation, have been learning how to hate rebels as Christian patriots ought to have done from the beginning. They have been learning how to hate rebel sympathizers also, and to brand them as even meaner than rebels outright. They regard the open-throated traitor, who stakes his life, his property, his all, upon the success of his conspiracy against the Constitution and the rights of man, as a more tolerable character than the skulking miscreant who in his heart wishes the rebellion God-speed while masquerading in the hypocritical disguise of loyalty. Had the Government been animated by a like spirit at the beginning of the outbreak, practically accepting the truth that there can be no middle ground between treason and loyalty, rebel sympathizers would have given the country far less trouble than they have done. A little wholesome severity, summarily administered, would have been a most sovereign panacea. On this point the people were in advance of the Administration, and they are to-day. Their earnestness has not yet found a complete and authoritative expression in the action of the Government. A system of retaliation, which would have proved a measure of real mercy, has not yet been adopted. Our cause is not wholly rescued from the control of conservative politicians and generals. Much remains to be done; but far more, certainly, has already been accomplished. The times of brotherly love toward rebels in arms have gone by forever. Such men as McClellan, Buell, and Fitz John Porter, are generally out of the way,

and men who believe in fighting rebels are in active command. This revolution in the war policy of the Government, as already observed, was absolutely necessary to the salvation of our cause; and the country will not soon forget those earnest men who at first comprehended the crisis and the duty, and persistently urged a vigorous policy, suited to remorseless and revolutionary violence, till the Government felt constrained to embrace it.

But a vigorous prosecution of the war, Mr. Chairman, was not enough. While this struggle is one of numbers and of violence, it is likewise, and still more emphatically, a war of ideas; a conflict between two forms of civilization, each wrestling for the mastery of the country. No one now pretends to dispute this, nor is it easy to understand how any one could ever have failed to perceive it. But the Government, in the beginning, did not believe it. It tried, with all its might, not to believe it, and to persuade the world to disbelieve it. It insisted that the real cause of the war did not cause it at all. The rebellion was the work of chance; a stupendous accident, leaping into life full-grown, without father or mother, without any discoverable genesis. It was a huge, black, portentous, national riot, which must be suppressed, but nobody was to be allowed to say one word about the causes which produced it, or the issues involved in the struggle. Silence was to be our supreme wisdom. Hence it was that the Government, speaking through its high functionaries, declared that the slavery question was not involved in the quarrel, and that every slave in bondage would remain in exactly the same condition after the war as before. Hence it was that when a celebrated proclamation was issued, giving freedom to the slaves of rebels in Missouri, it was revoked by the Government in order to please the State of Kentucky, and placate the power that began the war. Hence, under General Halleck's "Order No. 3," which remained in force more than a year, the swarms of contrabands who came thronging to our lines, tendering us the use of their muscles and the secrets of the rebel prison-house, were driven away by our commanders. Hence it was that our soldiers were compelled to serve as slave-hounds in chasing down fugitives and sending them back to rebel masters, and that General McClellan, who always loved slavery more than he loved his country, and who declared he would put down slave insurrections "with an iron hand," was continued as commander-in-chief of our armies long months after the country desired to spew him out. Hence, likewise, so many thousands of our soldiers were compelled to dig and ditch in the swamps of the Chickahominy till the cold sweat of death gathered on the handle of the spade, while swarms of stalwart negroes, able to relieve them and eager to do so, were denied the privilege, lest it should offend the nostrils of Democratic gentility, and give aid and comfort to the Abolitionists. Hence it was that the President, instead of striking at slavery as a military necessity, and while rebuking that policy in his dealings with Hunter and Fremont, was at the same time so earnestly espousing chimerical projects for the colonization of negroes, coupled with the policy of gradual and compensated emancipation, which should take place some time before the year 1900, if the slaveholders should be willing. Hence it was that very soon after the Administration had been installed in power it began to lose sight of the principles on which it had triumphed in 1860, allowing four fifths of the offices of the Army and Navy to be held by men of known hostility to those principles, while the various Departments of the Government in this city were largely filled by rebel sympathizers. Hence it was that for nearly two years of this war the Government, while smiting the rebels with one hand was with the other guarding the slave property and protecting the constitutional rights of the men who had renounced the Constitution, and ceased to have any rights under it save the right to its penalty against traitors. Hence it was that during the greater part of this time the Administration stood upon the platform and urged the policy of "the Constitution as it is, and the Union as it was," which the nation so overwhelmingly repudiated in the late presidential contest. Hence it was, finally, that the songs of Whittier could not be sung in our armies, that slavery was every-

where dealt with by the Government as the dear child of its love, and that our rulers seemed, with matchless impiety, to hope for the favor of God without laying hold of the conscience of our quarrel, and by coolly kicking it out of doors! Sir, I believe it safe to say that this madness cost the nation the precious sacrifice of fifty thousand soldiers, who have gone up to the throne of God as witnesses against the horrid infatuation that so long shaped the policy of the Government in resisting this slaveholders' rebellion.

But here, again, Mr. Chairman, the Government had to unlearn its first lessons. Its purpose to crush the rebellion and spare slavery was found to be utterly suicidal to our cause. It was a purpose to accomplish a moral impossibility, and was therefore prosecuted, if not conceived, in the interest of the rebels. It was an attempt to marry treason and loyalty; for the rebellion is slavery, armed with the powers of war, organized for wholesale schemes of aggression, and animated by the overflowing fullness of its infernal genius. The strength of our cause lies in its righteousness, and therefore no bargain with the devil could possibly give it aid. Through great suffering and sacrifice, individual and national, our rulers learned that there is but "one strong thing here below, the just thing, the true thing," and that God would not allow these several States to be reunited without the abandonment, forever, of our great national sin. This was a difficult lesson, but as it was gradually mastered the Government "changed its base." It became disenchanted. Congress took the lead in ushering in the new dispensation. A new article of war was enacted, forbidding our armies from returning fugitive slaves. Slavery was abolished in the District of Columbia, and prohibited in our national Territories, where it had been planted by the dogma of popular sovereignty and the Dred Scott decision. Our Federal judiciary was so reorganized as to make sure this anti-slavery legislation of Congress. The confiscation of slaves was provided for, and freedom offered to all who would come over and help us, either as laborers or soldiers, thus annulling the famous and infamous order of General Halleck, already referred to. The fugitive slave law was at first made void as to the slaves of rebels, and finally repealed altogether, with the old law of 1793. The coastwise slave trade, a frightful system of home piracy, carried on by authority of Congress since the year 1807, was totally abolished. The right of testimony in our Federal courts, and to sue and be sued, was conferred upon negroes. Their employment as soldiers was at last systematically provided for, and their pay at length made the same as that of white soldiers. The independence of Hayti and Liberia was recognized, and new measures taken to put an end to the African slave trade. In thus wiping out our code of national slave laws, acknowledging the manhood of the negro, and recognizing slavery as the enemy of our peace, Congress emphatically rebuked the policy which had sought to ignore it, and to shield it from the destructive hand of the war instigated by itself; while it opened the way for further and inevitable measures of justice looking to his complete emancipation from the dominion of Anglo-Saxon prejudice, the repeal of all special legislation intended for his injury, and his absolute restoration to equal rights with the white man as a citizen as well as a soldier.

Meanwhile, the President had been giving the subject his sober second thought, and reconsidering his position at the beginning of the conflict. Instead of affirming, as at first, that the question of slavery was not involved in the struggle, he gradually perceived and finally admitted that it was at once the cause of the war and the obstacle to peace. Instead of resolving to save the Union with slavery, he finally resolved to save the Union without it, and by its destruction. Instead of entertaining the country with projects of gradual and distant emancipation, conditioned upon compensation to the master and the colonization of the freedmen, he himself finally launched the policy of immediate and unconditional liberation. Instead of recoiling from "radical and extreme measures," and "a remorseless revolutionary conflict," he at last marched up to the full height of the national emergency, and proclaimed "to



all whom it may concern" that slavery must perish. Instead of a constitutional amendment for the purpose of eternizing the institution in the Republic, indorsed by him in his inaugural message, he became the zealous advocate of a constitutional amendment abolishing it forever. Instead of committing the fortunes of the war to pro-slavery commanders, whose hearts were not in the work, he learned how to dispense with their services, and find the proper substitutes. These forward movements were not ventured upon hastily, but after much hesitation and apparent reluctance. Not suddenly, but following great deliberation and many misgivings, he issued his proclamation of freedom. Months afterward he doubted its wisdom; but it was a grand step forward, which at once severed his relations with his old conservative friends, and linked his fortunes thenceforward to those of the men of ideas and of progress. Going hand in hand with Congress in the great advance measures referred to, or acquiescing in their adoption, the whole policy of the Administration has been revolutionized. Abolitionism and loyalty are now accepted as convertible terms, and so are treason and slavery. Our covenant with death is annulled. Our national partnership with Satan has been dissolved; and just in proportion as this has been done, and an alliance sought with divine Providence, has the cause of our country prospered. In a word, Radicalism has saved our nation from the political damnation and ruin to which Conservatism would certainly have consigned it; while the mistakes and failures of the Administration stand confessed in its new policy, which alone can vindicate its wisdom, command the respect and gratitude of the people, and save it from humiliation and disgrace.

Mr. Chairman, these lessons of the past suggest the true moral of this great conflict, and make the way of the future plain. They demand a vigorous prosecution of the war by all the powers of war, and that the last vestige of slavery shall be scourged out of life. Let the Administration falter on either of these points and the people will disown its policy. They have not chosen the President for another term through any secondary or merely personal considerations. In the presence of so grand an issue, men were nothing. They had no faith in General McClellan and the party leaders at his heels. They had little faith in the early policy of Mr. Lincoln, when Democratic ideas ruled this Administration and the power of slavery held him in its grasp. Had his appeal to the people been made two years earlier, he would have been as overwhelmingly repudiated as he has been gloriously indorsed. The people sustain him now because of their assured faith that he will not hesitate to execute their will. In voting for him for a second term, they voted for liberating and arming the slaves of the South to crush out a slaveholders' rebellion. They voted that the Republic shall live, and that whatever is necessary to save its life shall be done. They voted that slavery shall be eternally doomed, and future rebellions thus made impossible. They voted, not that Abraham Lincoln can save the country, but that *they* can save it, with him as their servant. That is what was decided in the late elections. I have participated, somewhat actively, in seven presidential contests, and I remember none in which the element of personal enthusiasm had a smaller share than that of last November. One grand and overmastering resolve filled the hearts and swayed the purposes of the masses everywhere, and that was the rescue of the country through the defeat of the Chicago platform and conspirators. In the execution of that resolve they lost sight of everything else; but should the President now place himself in the people's way, by reviving the old policy of tenderness to the rebels and their beloved institution, the loyal men of the country will abandon his policy as decidedly as they have supported it generously. They have not approved the mistakes either of the legislative or executive department of the Government. They expect that Congress will pass a bill for the confiscation of the fee of rebel landholders, and they expect the President will approve it. They expect that Congress will provide for the reconstruction of the rebel States by systematic legis-

lation, which shall guaranty republican governments to each of those States, and the complete enfranchisement of the negro; and they will not approve, as they have not approved, of any executive interference with the people's will as deliberately expressed by Congress. They expect that Congress will provide for parceling out the forfeited and confiscated lands of rebels in small homesteads among the soldiers and seamen of the war, as a fit reward for their valor and a security against the ruinous monopoly of the soil in the South; and they will be disappointed should this great measure fail through the default either of Congress or the Executive. They demand a system of just retaliation against the rebels for outrages committed upon our prisoners; that a policy of increasing earnestness and vigor shall prevail till the war shall be ended; and that no hope of peace shall be whispered, save on condition of an absolute and unconditional surrender to our authority; and the Government will only prolong the war by standing in the way of these demands. This is emphatically the people's war; and it will not any longer suffice to say that the people are not ready for all necessary measures of success. The people would have been ready for such measures from the beginning, if the Government had led the way. At every stage of the contest they have hailed with joy every earnest man who came forward, and every vigorous war measure that has been proposed. So long as the war was conducted under the counsels of conservatives, and in the interests of slavery, the people clamored against the Administration; but just so soon as the Government entered upon a vigorous policy, and proclaimed war against slavery, the people began to shout for the Union and liberty. In the fall of 1862, before the Administration was divorced from its early policy, the Union party was overwhelmed at the polls. But we triumphed the next year, and gloriously triumphed last year, because the Government yielded to the popular demand. The plea often urged, that the people were not ready, is less a fact than a pretext. The men who loved slavery more than they loved the Union were never ready for radical measures. They are not ready today. On the other hand, the men who were all the while unconditionally for the Union would have sustained the Administration far more heartily in the most thorough and sweeping war measures, than they sustained its policy of delaying those measures to the last hour.

The truth is, the people have stood by the Government for the sake of the cause, whether its policy pleased them or not. Their faith and patience have been singularly unflinching throughout the entire struggle. They would not distrust the President without the strongest reasons. They were ever ready to credit him with good intentions, and to presume in favor of his superior means of knowledge. When General Frémont was recalled from Missouri, and General Butler from New Orleans, the people pocketed their deep disappointment and quietly acquiesced. When General Buell was kept in command so long after his inefficiency had been demonstrated and his loyalty questioned, both by the country and the men under his command, the people bore it with uncommon patience and long-suffering. They displayed the same virtues in the case of General McClellan, and other rebel sympathizers, who found favor with the Administration long after the country would have sent them adrift. Sir, this feeling of unconquerable respect for our chosen rulers, this Anglo-Saxon regard for constituted authority, has been evinced by the people through all the phases of the war. Most assuredly it would not have been found wanting had the Government inaugurated a radical policy, instead of a conservative one, during the first year and a half of the struggle. The people who endured McClellan, and Buell, and Halleck, would have endured Frémont, and Hunter, and Butler. If the conservative Unionists of Kentucky were not ready for the proclamation of freedom to the slaves of Missouri rebels, there were millions of people outside of Kentucky who were not ready to have it revoked. I agree that slavery had done much to drug the conscience of the country with its insidious poison. I know that we had so long made our bed with slave-

holders that kicking them out was rather an awkward business. As brethren, living under a common Government, we had long journeyed together, and our habits and traditions naturally took the form of obstacles to a just policy in dealing with them as rebels and public enemies. It was by no means easy at once to recognize them as such. All this is granted, and that in the beginning the country was not prepared for every radical measure of legislation and war now being employed by the Government. But it was the duty of the Administration to do its part in preparing the country. Clothed with solemn official authority, and intrusted by the nation with the sworn duty of serving it in such a crisis, it had no right to become the foot-ball of events. It had no right, at such a time, to make itself a negative expression, or an unknown quantity, in the algebra which was to work out the grand problem. It had no right to take shelter beneath a debauched and sickly public sentiment, and plead it in bar of the great duty imposed upon it by the crisis. It had no right, certainly, to lag behind that sentiment, to magnify its extent and potency, and to become its virtual ally, instead of endeavoring to control it, and to indoctrinate the country with ideas suited to the emergency. The power of the Government in molding the general opinion and feeling was immense, and its responsibility must be measured accordingly. The revocation of the first anti-slavery proclamation of this war chilled the heart of every earnest loyalist in the land, and came like a trumpet-call to the pro-slavery hosts to rally and stand together. They obeyed it, and from that event dates the birth of organized Copperhead Democracy. The rebels of the South and their sympathizers in the North felt that they had gained an ally in the President. Had he sustained that measure, would not its moral effect have been at least as potent on the other side? Had his official name and sanction been as often given to the cause of radicalism as they were lent to that of pro-slavery conservatism would not the country have been much sooner prepared for the saving and only policy? If he had said, early in the struggle, "to all whom it may concern," what he says now, that slavery is the nation's enemy, and therefore must be destroyed, instead of sheltering it under the Constitution and sparing it from the hand of war, how grandly could he have "organized victory" and multiplied himself among the people! Sir, our traditional respect for slavery and slaveholders was our grand peril. It stood up as an impassable barrier in the way of any successful war for the Union. So long as it was allowed to dominate, it unnerved the arm of the Government and deadened the spirit of the people. It made the Old World our enemy, and threatened us with foreign war. The mission of the Government was not to make this feeling stronger by deferring to it, or to doom the country to a prolonged war and deplorable sacrifices as the best means of teaching the people the truth. No. The country needed a speedy exodus from the bondage of false ideas, and the Government should have pointed the way. A frank statement by it of the real issue of the war, without any disposition to cover up the truth; an unmistakable hostility to slavery as the organized curse, without which the rebellion would have been impossible; and the timely utterance in its leading State papers of a few bold and spirit-stirring words which might have been "half battles," appealing to the courage and manhood of the nation, would have gone far to educate the judgment and conscience of the people, and command their enthusiastic espousal of whatever measures would promise most speedily to end the struggle and economize its cost in property and life.

Mr. Chairman, I take no pleasure, certainly, in thus freely discussing the policy of the Government in its endeavors to meet its great responsibilities during this war. I have only referred to its mistakes as a servant of the truth, and in the name of the great cause which has been made to suffer. I believe, religiously, in the freedom of speech. From the beginning of the war I have exercised the right of frank, friendly, and fearless criticism of the conduct of our rulers, wherever I believed them to have been in the wrong. I shall continue to exercise it to the end; and if I should not,

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through any personal or prudential considerations, I would be unworthy of the seat I have occupied on this floor. Criticism has dictated the present policy of the Government, and is still a duty. This great battle for the rights of man, and the actors in it, must be judged. None of them can "escape history." The fame of none of them is so precious as the truth, and as public justice, which cares for the dead as well as the living, for the common soldiers slain by thousands, as well as for the general and the statesman. The President, his advisers, his commanding generals, and the civilians whose shaping hands have had so much to do with the conduct of the war, must all of them be weighed in the balance by the people and the generations to come. "The great soul of the world is just," and sooner or later all disguises will be thrown off, and every historical character will stand forth as he is, in the light of his deeds and deserts. The men who have been intrusted with the concerns of the nation in this momentous crisis will not be judged harshly. Much will be forgiven or excused on the score of the surpassing magnitude and difficulty of their work. Justice will be done; but that justice may brand as a crime, the blunders proceeding from a feeble, timid, ambidextrous policy, resulting in great sacrifices of life and treasure, and periling the priceless interests at stake. I would award all due honor to this Administration, and to the statesmen and generals who have been faithful to their high trusts; but I would award an equal honor to the rank and file of the people, who have inspired its present policy, and to the rank and file of our soldiers, who have saved the country in spite of the mistakes of the Government, the strifes of our politicians, and the rivalries of our generals. These are the real heroes of the war. Untitled, practically unrewarded, facing every form of privation and danger, and animated by the purest patriotism, the common soldier is not only the true hero of the war, but the real saviour of his country.

But a higher honor, if not a more enduring fame, will be the heritage of the anti-slavery pioneers and prophets of our land; for

"Peace hath higher tests of manhood  
Than battle ever knew."

Without their heroic labors and sacrifices the Republic, "heir of all the ages," would have been the mightiest slave empire of the world. In an age of practical atheism and mammon-worship, when the Church and the State joined hands with Slavery as the new trinity of the nation's faith, they really believed in God, in justice, in the resistless might of the truth. They believed that liberty is the birthright of all men, and their grand mission was the practical vindication of this truth. They believed, with their whole hearts, in the Declaration of Independence. They accepted its teachings as coincident with the gospel of Christ, and supported by reason and justice. It was their ceaseless "battle-cry of freedom," and they chanted it as "the fresh, the matin song of the universe," to the enslaved of all races and lands. They were branded as fanatics and infidels, and encountered everywhere the hootings of the multitude and the scorn of politicians and priests; but I know of no class of men who were ever more far-sighted, whose convictions rested on so broad a basis of Christian morals and logic, and whose religious trust was so strong and so steadfast. For them there was no "eclipse of faith." Just as the nation began to lapse from the grand ideas of our revolutionary era, they began to "cry aloud and spare not," and they never ceased or slackened their labors. Placing their ears to the ground in the infancy and weakness of their movement, they caught the rumbling thunders of civil war in the distance, warned the country of its danger, and preached repentance as the chosen and only means of escape. They were compelled to face mobs, violence, persecution, and death, and were always misunderstood or misrepresented; but they never faltered. Reputation, honors, property, worldly ease, were all freely laid upon the altar of duty, in their resolve to vindicate the rights of man and the freedom of speech. To follow these apostles and martyrs was to forsake all the prizes of life which worldly prudence or ambition could value or covet. It was to take up the heaviest cross yet fashioned

by this century as the test of Christian character and heroism; and those who bore it were far braver spirits than the men who fight our battles on land and sea.

Mr. Chairman, the failure of men thus devoted to a great and holy cause was morally impossible. They could not fail. Through their courage, constancy, and faith, they gradually received the cooperation or sympathy of the better type of men of all parties and creeds. They seriously disturbed, or broke in pieces, the great political and ecclesiastical organizations of the land; and even before this war their ideas were rapidly taking captive the popular heart. When it came, they saw, as by intuition, the character of the struggle, as the final phase of slaveholding madness and crime, and insisted upon the early adoption of that radical policy which the Government at last was compelled to accept. I believe it safe to say that the moral appeals and persistent criticism of these men, and of the far greater numbers who borrowed or sympathized with their views, saved our cause from the complete control of conservatism, and thus saved the country itself from destruction. Going at once to the heart of our great conflict, they pointed out the only remedy, and felt compelled to reprobate the failure of the Government to adopt it. They judged its policy in war, as they had done in peace, in the light of its fidelity or infidelity to human rights. By this test they tried every man and party, and they need ask for no other rule of judgment for themselves. The Administration, and the chief actors in this drama of war, of whatever political school, must be weighed in the same great balance. Not even the founders of the Republic will be spared from the trial. In their compromise with slavery in the beginning, which is now seen to have been the germ of this horrid conflict, they "swerved from the right." Posterity must so pronounce; and the record which dims the luster of their great names will be read in the flames of this war as a warning against all future compacts with evil. Justice to public men is as certain as that truth is omnipotent. It may be delayed for a season; it may be hidden from the vision of men of little faith; but its final triumph is sure. To the world's true heroes and confessors history ever sends its word of cheer:

"The good can well afford to wait;  
Give ermined knaves their hour of crime;  
Ye have the future, grand and great,  
The safe appeal of truth to time."

#### RECONSTRUCTION—TRIUMPH OF LIBERTY.

#### SPEECH OF HON. I. N. ARNOLD, OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1865.

The House having under consideration the special order, being the reconstruction bill—

Mr. ARNOLD said:

Mr. SPEAKER: The end of the struggle between liberty and slavery, on battle-field and in Congress, draws near. The final, crowning triumph of freedom in eradicating slavery from the Republic, to be consummated by the adoption of the constitutional amendment submitted to the States by Congress, approaches. It seems a fit occasion to pause in the midst of the great drama and look back over the history of this struggle and recall the leading events which have marked its progress.

From this Thirty-Eighth Congress, henceforward, our country will be recognized throughout the world as a free country. The reproach of slavery has at length been removed from our national fame. We are on the threshold of a new era. A destiny now dawns before us of a vast continental republic based on the grand idea of human liberty, recognizing God as the common Father, and the universal brotherhood of man.

It is historically demonstrable that the framers of the Constitution in organizing the Government tolerated the existence of slavery as a temporary evil which they believed was in the course of ultimate extinction. They never intended it should be extended beyond the limits of the States in which it then existed. Hence its prohibition in the Northwest by the Ordinance of 1787, and the

provision for the abolition of the slave trade. They believed that the moral influences and economical considerations which had caused its extinction in most of the old thirteen States would ultimately produce the same result in all. Hence not only the prohibition in the ordinance of freedom for the territory north and west of the Ohio, but the constitutional provision prohibiting the slave trade. The founders of the Government having, by the Declaration of Independence, made the equality of all men before the law the cornerstone of their structure, relied upon moral, legal, and constitutional means to effect the removal of the anomaly, slavery. They believed that public opinion expressing itself through the press, on the stump, in every form of discussion, and rendering its final verdict through the ballot, would consummate universal liberty throughout the land "to all the inhabitants thereof."

These agencies would doubtless have produced the result anticipated but for the introduction of new and unexpected elements. The invention of the cotton-gin, the vast accession of rich and virgin territory by the acquisition of Louisiana and Florida, adapted to the growth of cotton and negro labor, and the immediate and marvelous profits of cotton-growing, gave a power to slavery never before realized. There immediately arose a gigantic pecuniary interest which found its gains through slavery. The slaveholders, relatively few in numbers, soon united and became a compact, active, determined power. They became skillful politicians; and the free States, absorbed in great material interests, in the absorbing task of subduing and reclaiming a continent, in constructing cities, canals, and railways, and unsuspecting of danger, were easily divided and ruled by the adroit politicians of the slave States. These seized and held the political power of the Union, and controlled the Federal Government in the interests of their peculiar institution. They possessed a great advantage in the clause of the Constitution giving them the right of representing three fifths of their slaves in Congress and in the Electoral College; so that one slaveholder owning five thousand slaves had a power equal to that of three thousand freemen; practically far greater, because his power was always a unit, while the freemen were always more or less divided. This created substantially a powerful caste or order of nobility in the slave States. The intellect of the South was absorbed in politics, while in the free States it was inventing the cotton-gin, the steam engine, the telegraph, opening the canals, constructing ships, and rivaling the world in commerce and manufactures, and contending successfully with Europe in art, in literature, and in science. Thus the slaveholders, watchful, sagacious, grasping power, strengthening their influence by every possible means, seized upon and held the reins of Government. They stealthily strengthened its influence in Federal courts until its power was absolute on the bench of the Supreme Court, and that once august tribunal, at their dictation, rendered the infamous Dred Scott decision. Slavery was absolute in the Halls of Congress. It controlled the Army and the Navy, with West Point and the Naval School as its nurseries. It dictated presidential candidates for both the great parties which divided the people.

But this supremacy of the aristocratic slavery party was not accomplished without resistance. To the thoughtful observer the conflict between a democracy like the people of the North, and a ruling class with power based on slavery, such as existed in the slave States, was early seen to be "irrepressible." The philosophic statesman hoped the conflict would be peaceful, and would be settled by peaceful agencies.

#### THE "IRREPRESSIBLE CONFLICT."

The earliest important exhibition of this "irrepressible conflict," after the adoption of the Constitution, was on the admission of Missouri as a slave State. Slavery triumphed then by a compromise, securing the admission of Missouri as a slave State, with the prohibition of slavery north of latitude 36° 30'.

One of the most instructive chapters in history is the struggle between liberty and slavery in the United States from 1820 to 1860. Slavery,

not content with the acquisition of Louisiana and Florida, annexed Texas and brought on the war with Mexico; but while ever ready to buy or annex slave territory, the votes of the slave States were nearly solid against the acquisition of territory with the Wilmot proviso, prohibiting slavery, attached.

From the Missouri question down to 1860, the antagonism was always felt, not always visible, and yet it controlled the secret movements of parties. The encroachments of the slaveholders and the subserviency to the slaveholding interest of the two great Whig and Democratic parties led gradually to the formation of what was called a Liberty party.

#### THE LIBERTY PARTY.

This organization, full of fiery zeal and talent, placed itself in direct antagonism to the gigantic power of slavery. When it was first organized the slave power had control of existing parties, and to a very great extent of the churches, of the press, and all the great organizations which mold public sentiment and action. The slaveholder held the purse and the sword. Its devotees held the offices from President down to tide-waiter. No man was permitted to represent the nation abroad whose fealty to slavery was doubted. Every new Territory was filled with the instruments of the slave power, so as to train it up and introduce it into the Union as an ally of the oligarchy. Meanwhile slavery had revolutionized the Government. The great principles of Magna Charta and the Declaration of Independence had ceased to have practical existence in the slave States. Liberty of speech and freedom of the press, so far as slavery was concerned, had been suppressed by violence. Indeed, serious attempts had been made by mobs to stifle it in the North. An anti-slavery man, or abolitionist, in the slave States could obtain no redress for any outrage. The bowie-knife, the bludgeon, and the halter, were the instruments of violence and outrage to stifle and crush all who questioned the rightfulness of slavery. The slave power had thus subverted in the slave States the Constitution, and established a despotism on its ruins. It had accomplished substantially a revolution. Failing, after a long struggle, to suppress the right of petition and freedom of speech in Congress, it introduced the bludgeon, the appropriate weapon of the vulgar, gross, licentious, boasting aristocracy, into the Senate of the United States, and struck down a Senator for words spoken in debate.

The Liberty party, the seeds of which had been scattered by the writings of the fathers of the revolutionary period, its growth nurtured by the blood of martyrs to free speech and a free press, its early ranks illustrated by Jay, Channing, Garrison, Phillips, Leggett, and many others, which embodied more of talent, genius, and eloquence than any party of the same numbers, rapidly grew in power and influence, so that in 1848 it began to influence presidential elections. The Whig party having nominated General Zachary Taylor for President, and the Democratic party General Lewis Cass, and both parties refusing to take position against the extension of slavery, the Liberty party, combining with the earnest anti-slavery men of both parties, met at Buffalo, in 1848, and nominated Martin Van Buren for President and Charles F. Adams for Vice President.

#### THE FREE-SOIL PARTY.

The distinctive principle of this organization was hostility to the extension of slavery. It declared that Congress had no power to interfere with slavery in the States, but that Congress had the constitutional power to prohibit slavery in the Territories, and ought to exercise it. The leaders of this organization embodied ardent, enthusiastic Democrats, and liberty-loving Whigs filled with zeal against slavery, and they conducted the canvass against the two old parties with a degree of eloquence, ability, and energy scarcely paralleled in our history. It was the poetry of politics and the religion of patriotism. John Van Buren brought into this canvass of 1848 a fiery eloquence, wit, sarcasm, which gave him a world-wide reputation. John P. Hale, Charles Sumner, Henry Wilson, Salmon P. Chase, Cassius M. Clay, and

many others scarcely less distinguished, were among the prominent and ardent leaders in this contest. Although the ticket carried no electoral votes, it received a very large popular support in New England, New York, Ohio, and northern Illinois.

The Whigs, in 1852, nominated General Scott for President. The convention resolved to uphold the so-called compromise measures of 1850. The Democratic convention nominated Franklin Pierce, of New Hampshire, and W. R. King, of Alabama. This convention also resolved to adhere to the compromise acts of 1850; and to discountenance any interference by Congress with slavery. The free Democratic convention met at Pittsburg and nominated John P. Hale for President and George W. Julian for Vice President. This convention emphasized its opposition to slavery by declaring:

"That to the persevering and importunate clamor of the slave power for more slave States, new slave Territories, and the nationalization of slavery, our distinct and final answer is, no more slave States, no slave Territory, no nationalized slavery, and no national legislation for the extradition of slaves.

"That slavery is a sin against God and a crime against man, which no human enactment nor usage can make right, and that Christianity, humanity, and patriotism alike demand its abolition.

"That we inscribe on our banner *free soil, free speech, free labor, and free men*, and under it will fight on and fight ever until victory shall reward our exertion."

This party so organized on the principle of hostility to slavery did not receive as large a vote as in 1848, but became consolidated, and through the press, and by lectures and speeches on the stump, was creating, organizing, and deepening the public sentiment against slavery. But the party was immensely strengthened by two events, to which the early success of the Republican or anti-slavery party is to be attributed. I refer to the repeal of the Missouri compromise, and the attempt to force slavery upon the Territory of Kansas by fraud and violence.

#### REPEAL OF MISSOURI COMPROMISE.

The struggle in Congress upon the bill to repeal the Missouri compromise and organize the Territories of Kansas and Nebraska north of the line in which slavery had been prohibited was vigorous and determined. Its repeal shocked the moral sense of the free States, and it was regarded not only as a humiliation of the North, but as violation of faith. It was openly announced on the floor of the Senate that the passage of the bill annihilated all compromise, past or future, and brought liberty and slavery face to face in a grapple for life. Senators announced the end of the despotism of slavery, and that freedom should be established everywhere beyond the limits of the States. The first struggle came on in Kansas. On the one side were fraud, violence, the border ruffians of Missouri, under the lead of Atchison, Stringfellow, and others, against the New England Puritan, reinforced by arms made strong by free labor, Sharp's rifles, John Brown, and Henry Ward Beecher.

The story of this struggle in Kansas between fraud, violence, and outrage on one side, and heroic firmness, energy, and determination on the other, has not faded from the memory of the people. The plains of Kansas, red with the blood of her martyrs to liberty, her valleys yet black with the cinders of her burned and devastated towns, villages, and cabins, attest alike the devotion of her people to liberty and the savage barbarity of the slaveholder. All honor to Kansas! She was the rock which stemmed the tide of the slave conspirators. She successfully withstood the slave power backed by the Federal Government.

But the struggle in Kansas resulted not only in the triumph of liberty then but in rousing everywhere the people of the North to resist the encroachments of slavery.

#### CONTEST OF 1856.

Animated with the consciousness of a great cause, ennobled by the advocacy of great principles and a generous love of liberty, feeling the sublimity of the contest, flushed with success in thus far thwarting the triumph of slavery in Kansas, the Republican convention met in June, 1856, and nominated John C. Frémont for President and William L. Dayton for Vice President. Its members were ardent, and hopeful of success.

Its distinctive principle was hostility to the extension of slavery.

The Democratic party nominated James Buchanan for President and John C. Breckinridge for Vice President.

The party calling itself American organized with Millard Fillmore as its presidential candidate and Andrew J. Donelson for Vice President. The national convention which nominated this ticket laid upon the table a resolution that no man should be nominated who was not in favor of interdicting slavery north of 36° 30' by act of Congress. The election was earnestly contested, and was very close, Pennsylvania, at the October State election, virtually deciding the contest by giving the small majority of four hundred for the Democratic State ticket. Buchanan received one hundred and seventy-two electoral votes, Frémont one hundred and fourteen, and Fillmore the vote of Maryland. There were during this canvass many threats uttered by prominent men of the South, that in case Frémont was elected the slave States would secede. Little regard was paid to this; it was generally considered idle gasconade. The struggle between freedom and slavery still continued. The slaveholders, flushed with triumph in the election of Buchanan, were confident of success. The Supreme Court, a few days after Buchanan's inauguration, announced their decision in the Dred Scott case, holding that the Missouri compromise was unconstitutional; that the Constitution itself carried slavery into all the Territories, and that the negro Dred Scott, although voluntarily carried into the Territory over which and while the prohibition of slavery was on the statute-book, was nevertheless a slave.

The friends of freedom, so far from being discouraged by this decision, only nerved themselves for still greater efforts. The contest of 1856 being over, they did not ground their arms, but immediately began the canvass for 1860.

In November, 1857, the Lecompton constitution was adopted in Kansas by a convention elected by the most outrageous frauds and shameless violence.

#### HONEST OLD ABE.

In June, 1858, there came prominently before the country an actor, who, hitherto comparatively obscure, was soon to become the most prominent figure in American history. Abraham Lincoln was a plain, rough, sturdy pioneer of the West. Self-made and self-educated, a giant in frame, ungraceful and awkward in person, but kind and genial in disposition; a profound thinker, taking nothing on the opinions of others; but reasoning out his own convictions and conclusions; of great sagacity, of unblemished private character, of a truthfulness, and honesty which had long established for him among the backwoodsmen, dressed in buckskin and Kentucky jeans, the familiar soubriquet of "Honest Old Abe."

This man, whose sympathies were with the people, who loved liberty and detested slavery, called sneeringly by the aristocrats one of the "poor white trash" of the South, now threw all his energies into the contest and soon became the leader of the friends of liberty. His language possessed a plainness, quaintness, and clearness of illustration, and a rugged, Anglo-Saxon style, wonderfully adapted to reach the sense and understanding of the common mind of the country. The training of this man for the great part he was to act in the drama of history was not in the schools. Perhaps it was better: from childhood he had been accustomed to struggle with and overcome difficulties. With the basis of perfect truth, candor, integrity, modesty, and sobriety, he acquired self-control, self-reliance, and the ability to use promptly a clear judgment and sound common sense.

His acquisitions in general knowledge and information were rarely surpassed. He studied and investigated every subject that required his action. He was a good lawyer, a good mechanic, a good farmer, and had a fund of practical information upon almost every subject. He studied Euclid and Shakespeare as well as Blackstone while traveling the circuit. He had served a single term in Congress, but his education, his preparation, was among the people in humble positions. He had seen life in various phases. He had been a flat-



boatman, a rail-splitter, a surveyor, a private soldier in a campaign against the Indians, a member of the Legislature of Illinois, and a very successful lawyer on the circuit among the log court-houses of the West. He had the advantage of competing at a bar where very able men were his competitors and rivals, and he always held a front rank. As I have said on a different occasion, there gathered, some twenty-five years ago, around the plain pine tables of the rude court-houses of central Illinois a very remarkable combination of men. Among them Abraham Lincoln, Stephen A. Douglas, Lyman Trumbull, O. H. Brown- ing, E. D. Baker, late the able and eloquent Senator from Oregon, the martyr of Ball's Bluff; General James Shields, long Senator, who won a high reputation on the battle-fields of Mexico; General John J. Hardin, who fell on the bloody field of Buena Vista; James A. McDougall, Senator from California; Governor Bissell, one of the ablest statesmen of Illinois, and the eloquent Representative whose defense of the gallant soldiers of that State drew a challenge from Jefferson Davis, then a member of Congress from Mississippi, which was accepted by Bissell, but the Mississippian did not fight, withdrawing his challenge under the influence of General Taylor.

These, and many others equally able, were the men with whom Lincoln in his career at the bar was called to compete.

#### LINCOLN AND DOUGLAS.

But the man to whom Lincoln was most indebted for his training and his fame was his great political rival, Stephen A. Douglas. These men, both self-made and self-educated, coming in early manhood to Illinois, soon became the leaders, each of his party. No two men were more unlike. Physically and mentally they were contrasts. Lincoln was the giant, Douglas was the "little giant." Small in person, a giant in intellect, Douglas was bold, denunciatory, impetuous, ardent, determined. He had the qualities which create personal popularity, and he was ever the idol of his party. His iron will, indomitable energy, full faith in himself and in his cause, united with frank and magnetic manners, and a generous heart, made him one of the strongest men in the nation. These two men were members of the Legislature of Illinois as early as 1836. Douglas had distinguished himself as an able debater and controversialist in Illinois, in the House of Representatives and Senate of the United States, on the great question of slavery, and especially of the treatment of this question in the Territories. After voting to apply the Missouri line to Texas, he finally adopted the position of popular sovereignty, or squatter sovereignty as it was called, leaving the people of each Territory to settle the question of slavery for themselves. In accordance with this principle he caused the repeal of the Missouri compromise, and assumed the position that the people of each Territory should themselves choose whether they would exclude or admit slavery. When Buchanan's Administration became a party to the conspiracy to make Kansas a slave State against the will of the people, Douglas adhered to his principle of popular sovereignty, and insisted that the people of Kansas should decide, by a fair vote, the question. This brought him in collision with the extreme men of the slaveholders' party, and they sought to degrade him by removing him from his position of chairman of the Committee on Territories. In July, 1858, the senatorial term of Douglas was about to expire, and he came home to enter upon the canvass for reelection.

In June, 1858, the Republican State convention met at Springfield, Illinois, and nominated Abraham Lincoln for the United States Senate in opposition to Douglas. The speech which Mr. Lincoln made at that convention, brief as it is, is one of the most remarkable in our history. He gave so clear an exposition of the struggle which had long been going on between liberty and slavery that his words immediately seized the attention of the people and became historical. They were recognized as expressing a great philosophic fact, and the man who uttered them, then an obscure lawyer, immediately secured the ear and soon the hearts of the friends of liberty throughout the Union. His speech commencing, "A house di-

vided against itself," &c., is too familiar to need quotation. Of the great conflict between liberty and slavery he said, "We shall not fail; wise counsels may accelerate or mistakes may delay, but sooner or later the victory is sure to come." Such was the grave, philosophic appreciation by Lincoln of the great contest then pending. With this feeling he entered upon the memorable senatorial canvass of 1858 with Senator Douglas. This, whether looking at the persons engaged or the principles involved, was the most remarkable political contest in American history. The two great parties throughout the Union paused to watch its progress, and each observed with eager solicitude every movement of its champion.

Soon after the arrival of Douglas from Washington, in the summer of 1858, Mr. Lincoln challenged him to a series of debates during the campaign. The challenge was accepted. It was arranged that there should be seven joint debates, each alternately opening and closing the discussion; the opening speech to occupy one hour, the reply one hour and a half, and the close half an hour; so that each tournament should be limited to three hours. These debates, held in different sections of the State and in the open air, called together vast throngs of people. They were conducted, with few exceptions, with the dignity and courtesy becoming the occasion. There was every motive to stimulate each champion to the exertion of his utmost power. Each was actuated by sincere convictions that the success of his party was necessary to the safety and prosperity of his country. The Senatorship was the immediate personal prize which would reward the victor, and in the future was the Presidency, probably not overlooked by either, certainly not forgotten by Douglas. The great political questions at issue between the parties were discussed; but each felt, instinctively, that the slavery question was the question of questions. This absorbed all the interest. The question of slavery in the Territories, the Dred Scott decision, the fugitive slave law, and the opinions of the fathers, were among the topics most frequently debated. Douglas went through this campaign with the manner and the bearing of a conquering hero. There was something grand in the boldness with which he threw himself into the contest, and dealt his blows right and left against the great Republican party on one side, and the Administration which sought to aid his defeat on the other. Douglas and his friends were most liberal in their expenditures in this canvass. He had his special trains of cars, a cannon, the firing of which announced his approach, bands of music, his circle of devoted friends traveling with him, and it is said there was expended in the canvass not less than \$50,000. Some idea of the plain, simple, frugal habits of Mr. Lincoln may be gathered from a remark made by him after its close, when he said, with the idea apparently that he had been somewhat extravagant, "I do not believe I have spent a cent less than five hundred dollars in this canvass."

Senator Douglas was at that time undoubtedly the leading debater in the United States Senate. For years he had been accustomed to meet the trained leaders of the nation in Congress, and never, either in single combat or receiving the fire of a whole party, had he been discomfited. He was bold, defiant, aggressive, vigorous, fertile in resources, terrible in denunciation, familiar with political history, with practiced readiness in all controversial discussion, of indomitable physical and moral courage, and unquestionably the most formidable man in the nation on the stump. The friends of Lincoln were not without anxiety when the challenge was given, and accepted, for a campaign on the stump. Lincoln was candid, cool, truthful, logical, philosophical; never betrayed into an unfair statement. The criticism upon him as a lawyer was verified and illustrated in these debates: "On the right side of a case Lincoln is an overwhelming giant; on the wrong side his sense of justice and right makes him weak." Douglas's ardor always made him, for the time, believe the side he adopted was right. Lincoln argued the side of freedom with the most profound conviction that its triumph was necessary to the greatness and existence of his country.

It was wonderful how strongly in these discussions, as in all the acts of his public life, he

impressed the people with his fairness, honesty, and truthfulness. Every hearer in the vast crowds who thronged to these discussions, whatever his political views, went away, with the conviction, "Lincoln believes what he says, he is candid, he would not misstate a fact, or take an unfair advantage to secure a triumph." He had one advantage over Douglas—he was always good-humored; he had always an apt and happy story for illustration; and while Douglas was sometimes irritable, Lincoln never lost his temper. Douglas carried away the most popular applause, but Lincoln made the deeper and more lasting impression. Douglas did not disdain an immediate, an *ad captandum* triumph, while Lincoln aimed at permanent conviction. Douglas addressed prejudice, and especially the prejudice against the negro, with an adroitness and power never surpassed. Lincoln stated his propositions, and sustained them with the fullest historical knowledge and irresistible logic. Douglas, owing to the favorable apportionment of the Senators and Representatives in the State Legislature, carried a majority and secured the Senatorship, although a majority of the popular vote was recorded against him.

These great debates made Douglas Senator and Lincoln President.

#### CHICAGO CONVENTION OF 1860.

On the 16th day of May, 1860, the Republican convention met in Chicago to nominate candidates for President and Vice President. An immense building called the Wigwag, capable of holding many thousands of people, had been erected by the Republicans of Chicago. The principal candidates for the nomination for the Presidency were William H. Seward, Simon Cameron, S. P. Chase, and Edward Bates; but it soon became apparent that the contest was between Seward and Lincoln. Mr. Seward had been for many years a leading statesman. He had long been a prominent Senator, and had brought to the discussion of the great issues between freedom and slavery a philosophic mind, broad views, great sagacity, and a devoted love of freedom and humanity. He had been Governor of New York, a leading Senator, and up to that time had occupied a far more conspicuous position before the country than Mr. Lincoln. Hence, he was more in the way of rivals, and was the object of more bitter personal and party hostility of those supporting Cameron, Chase, McLean, and Bates. Mr. Lincoln was the second choice of a greater number than Seward. Hence Mr. Lincoln's nomination was very manifestly probable after the first ballot. On that ballot Mr. Seward received one hundred and seventy-two and a half votes, to one hundred and two for Mr. Lincoln. On the second, Mr. Seward had one hundred and eighty-four to one hundred and eighty-one for Mr. Lincoln. On the third ballot Mr. Lincoln was nominated; his nomination—then made unanimous, and Hannibal Hamlin, nominated for Vice President—was received by thunders of shouts, and the greatest possible enthusiasm prevailed for the "young giant of the West, Abraham Lincoln."

Never did a party enter upon a canvass with more sincere and earnest devotion to principle than this. Love of country and love of liberty pervaded their hearts; a keen sense of the wrongs and outrages committed on the free-State men of Kansas, and the violent, and in many instances savage cruelty by which freedom of speech and liberty of the press had been suppressed in portions of the slave States fired all hearts with enthusiasm and zeal. Confident of success, and determined to leave nothing undone to secure it, the Republican party entered upon the canvass. The great metropolitan press, the New York Tribune, Times, and Post, circulated everywhere, exciting and urging the people to effort. The leading statesmen of all sections took the stump for Lincoln and liberty, and great crowds at "mass meetings" hung with rapt attention upon the stirring speeches of their orators. These speakers included nearly all the Republican Senators and Representatives in Congress, the Governors of States, and all others who could effectively address the people; and every part of the free States was filled with speeches, newspapers, and documents, urging the people to resist the

encroachments of the slave power. The Democratic national convention had met at Charleston, South Carolina, and after wrangling over platforms most of the delegates from the slave States withdrew, and finally the convention adjourned to meet at Baltimore, where it met and nominated Stephen A. Douglas for President. The seceding delegates nominated John C. Breckinridge. It is now clear that a considerable portion of the Democratic party did not desire the union of that party, did not wish for the defeat of Mr. Lincoln, but preferred, by dividing the Democratic party, to secure the success of the Republicans, intending to make that success the pretext for secession and disunion.

The great subject in dispute between the three parties was slavery.

First. The Republican party held that slavery was wrong, and that Congress rightfully could and ought to prohibit it in the Territories.

Second. The Breckinridge party held that slavery was right, and that neither Congress nor the people of a Territory could interfere with slavery outside of State lines; and that, while a Territory remained such, slavery legally existed there under the Constitution.

Third. The Douglas party, indifferent in regard to slavery, and while divided on the question whether Congress might prohibit, insisted that the whole subject should be left to the people of the Territories.

The most remarkable feature of this canvass was the novelty of a personal canvass made by Mr. Douglas. This was against precedent. He entered upon the canvass with all the vigor and spirit for which he was distinguished. He spoke in most of the free and many of the slave States. Mr. Seward made a tour through the Northwest, delivering speeches at Chicago, Madison, St. Paul, and in Kansas, of great power, originality, and dignity.

By the election of Mr. Lincoln was marked distinctly the period when political power passed from the slaveholding to the free States. Each census, each new apportionment of members of Congress, had seen the political power of the Union passing into the hands of the free States. Against these results the aristocracy of the slaveholders struggled in vain. The laws of nature and of God are not more inevitable in their operation than that in the race for power, freedom and free labor should outstrip slavery and slave labor. Conscious of this, unwilling to yield power, and determined not to give up slavery either to man or God, the slaveholders had deliberately resolved to extend slavery over all the Territories, to seize and appropriate Cuba, to conquer and annex Mexico, and thus secure the means of expanding the area of slavery, of controlling the Government, and ultimately making the States all slave, or in case of failure to dissolve the Union. There had long existed in the slave States a conspiracy to accomplish these purposes. The prohibition of the slave trade was an obstacle which they sought to remove, and practically evaded.

To an intelligent understanding of the events preceding the rebellion, and those which have occurred during its progress, the existence of this wide-spread, thoroughly organized conspiracy must be understood. A secret organization was well known previous to and at the time of the annexation of Texas. It was then known as the "Order of the Lone Star." Its ostensible and one of its real objects was the acquisition of Cuba. It finally became a conspiracy with the distinct and definite purpose of overthrowing the Federal Government in the slave States and establishing there a slaveholding confederacy. The election of Mr. Lincoln was a triumph, in a direct contest at the polls, between the slave aristocracy and free labor; a triumph of those who regarded slavery as a great moral wrong and a social and political evil; who meant to prohibit it in the Territories and to use all legal means to limit, restrain, and weaken its power. It was essentially a contest between democracy and aristocracy, between free and slave society. In the light of to-day it is clear that the slave power deliberately brought on the war to save itself from destruction by the rapid and irresistible growth of the free States. Nearly nineteen centuries ago, upon the plains of Judea,

the great principle upon which all democratic government is based, the common Father and the universal brotherhood of man, was taught by the Son of God. These great Christian principles, the germ of human liberty, after struggling against all forms of political and religious tyranny through so many centuries, were finally and distinctly announced by our fathers when, on the 4th day of July, 1776, they proclaimed them in the Declaration of American Independence. Thomas Jefferson, the Democrat of Virginia, in penning that Declaration, struck the key-note of Christian freedom. He enunciated principles antagonistic to human slavery and brought on that irrepressible conflict with slavery which led to the triumph of liberty at the ballot-box in 1860. The slavery power instinctively felt that the death of slavery was only a question of time. Rather than surrender, the slave aristocracy determined to appeal to the sword, and hence this terrible war. Slavery having plunged the nation into war, it is fit it should die by the laws of war. Slavery is the rebel and the traitor, and the Government could do no less than make it an outlaw under our Constitution.

The free States, however, contemplated no infringement of the rights of the slave States.

The Chicago convention of 1860, while it declared its intention to prohibit slavery in the Territories, distinctly disclaimed any intention to interfere with it in the States. The existence of a conspiracy to dissolve the Union, and the participation in that conspiracy of some of those who secured Breckinridge's nomination, is established by the conduct of the leaders of those who nominated Breckinridge. By the nomination of two candidates the success of Mr. Lincoln was rendered morally certain, yet the leaders of the Breckinridge Democracy not only split the Democratic party, knowing the result would be Lincoln's election, but to render that result certain run electoral tickets in the free States, where the great mass of the party supported Douglas, and the opposition to him was only scattering. Thus the Breckinridge leaders deliberately secured Lincoln's election. Who were these leaders? They were Jefferson Davis, John Slidell, James M. Mason, and others. Their primary object was disunion. A meeting was held 25th of October, 1860, at Charleston, South Carolina, at the residence of Senator Hammond, at which the congressional delegation of that State, and Governor Gist and ex-Speaker Orr were present, in which it was resolved that South Carolina should secede in the event of Mr. Lincoln's election. Similar meetings were held by concert in Georgia, Alabama, Mississippi, and other slave States. In November South Carolina authorized the immediate enrollment of ten thousand volunteers. In the same month Georgia appropriated \$1,000,000 to arm and equip that State. Conventions were called in South Carolina, Georgia, Virginia, Mississippi, and Alabama. Little Florida sent a message by her Governor to Governor Gist of South Carolina saying "Florida is with the gallant palmetto flag." The Douglas and Breckinridge vote combined would have elected Douglas. The Douglas and Bell vote combined would have elected him. John C. Calhoun, who sowed the seed and nurtured the plant of secession, said to Commodore Charles Stewart, in 1812:

"It is through our affiliation with the [Democratic] party in the middle and western States that we hold power. But when we cease thus to control this nation through a disjointed Democracy, or any material obstacle in that party which shall tend to throw us out of that rule and control, we shall then resort to the dissolution of the Union."

On the 7th of November, 1860, it was known throughout the Union that Lincoln was elected. He could not be inaugurated until the 4th of March following. For four months the conspirators had control of the Government. James Buchanan, a weak, imbecile, if not treacherous old man, was President, and he was under the control of traitors in his Cabinet. Mr. Memminger, of South Carolina, said that, Mr. Buchanan being President, the General Government would be taken at a great disadvantage. They had prepared things so that Lincoln would, for a while, be powerless. A majority of his Cabinet were a cabal of conspirators seeking to disarm and dismantle the ship of State that they might surrender it an easy conquest to the traitors preparing

to seize it. Howell Cobb, of Georgia, was Secretary of the Treasury. He so managed as to have \$6,000,000 stolen from the Treasury, which he left empty. Jacob Thompson, of Mississippi, Secretary of the Interior, as a member of the Cabinet, learning that supplies were to be sent to the garrison in Fort Sumter, traitorously sent a dispatch to Charleston that the ship bearing the flag of his country might be fired upon, and the garrison of the Government of which he was a chief officer might be starved. He says:

"I sent a dispatch to Judge Longstreet that the Star of the West was coming with reinforcements. The State troops were then put on their guard, and when the Star of the West arrived she received a warm welcome from booming cannon, and soon beat a retreat."

John B. Floyd, of Virginia, was Secretary of War. It was important for the purposes of the conspiracy that the slave States should be armed, and the free States should be disarmed, and that the little force of the regular Army should be sent to such a distance as not to be in reach of the Government. Hence Floyd, as Secretary of War, ordered four hundred and fifteen thousand muskets from Springfield manufactory and from Watervliet, New York, to be sent to arsenals in the slave States. A vast amount of cannon, mortars, &c., and nearly all the material of war were sent to the South. Having effectually served the rebels in this he fled to the South and received a commission of general in the rebel army. Isaac Toucey, of Connecticut, a more infamous traitor than even Floyd, as he was a traitor to both his section and his country, did the same thing for the Navy. (See report of the Secretary of the Navy, July 4, 1864.)

Thus the Army and Navy and Treasury were despoiled by traitors for the benefit of treason. But for the vigilant eye of one noble old hero, General Scott, their purposes would have been accomplished, and the inauguration of Lincoln have been prevented, and the capital and its archives have been surrendered.

#### PEACE CONVENTION.

To avert threatening war the peace convention was held, a convention of delegates from nearly all the free States, to see on what terms the disaffected and traitors could be induced to forego their purpose. There were many in the North who thought that the secession movement was a strike for additional guarantees for slavery. It had become the settled habit of the slaveholders to threaten to divide the Union whenever they wished to carry a point. They had demanded Louisiana, and it was purchased for them; Florida, and it was obtained; Texas, and it was annexed; the repeal of the Missouri compromise, and it was done; a new and stringent fugitive slave law, and it was passed. Many believed that by adding new guarantees and concessions the slaveholders could be placated. Liberal concessions and compromises proposed were defeated by the votes or refusal to vote of the traitors themselves who yet lingered in Congress, and who subsequently joined the rebels.

While movements of the conspirators were going on in the cotton States preparatory to revolution, the conspirators at Washington held their secret meetings, and leading Senators and members of Congress, acting in concert with the traitors in the Cabinet, so managed as to thwart all the movements of General Scott, and to paralyze the action of any officer of the Government looking to its preservation. There was a meeting held at the Capitol on the night of January 5, 1861, at which Senators Toombs and Iverson, Slidell and Benjamin, Wigfall, Jefferson Davis, and Mallory were present. They resolved in secret conclave to precipitate secession and disunion as soon as possible, at the same time that Senators and members of Congress should remain in their seats, as long as possible to watch the action of the Executive and to defeat any hostile measures which might be proposed. In accordance with the determination of this band of conspirators Mississippi adopted the ordinance of secession January 9, Alabama and Florida January 11, Louisiana January 26, and Texas February 5. The seceding States appointed delegates to meet in convention at Montgomery. This convention met on February 4, and organized a provisional government, under which Jefferson Davis was elected

president and Alexander H. Stephens vice president. Meantime, while traitors were plotting and the most active measures were going on by the conspirators at the Capitol, in the Senate Chamber, at the War and Navy Offices, and in the very cabinet of the Executive Mansion, no attempt was made by the President to interfere with, much less arrest, the known, open, and avowed traitors. The feeble old man in the presidential chair declared that while secession was wrong the Government had no constitutional power to prevent it. The conspirators were laboring to make the revolution an accomplished fact before Mr. Lincoln could be inaugurated, and thus secure themselves against an attempt on his part to maintain the Constitution and preserve the Government. They were active first in disarming and plundering the Government, taking possession of all forts, ordnance, and material of war, and arming themselves. On the 6th of March the rebel congress passed a bill for a military force of one hundred thousand men. There was much debate and discussion in Congress on measures of compromise, but the conspirators steadily refused to aid by vote in the adoption of any measures of pacification. It was clear that they had determined upon dissolution of the Union and revolution. Charles Francis Adams, one of the committee of thirty-three in the House of Representatives to report terms of conciliation, made a separate report, in which he said:

"No form of adjustment will be satisfactory to the recusant States which does not incorporate into the Constitution of the United States a recognition of the obligation to protect and extend slavery. On this condition, and on this alone, will they consent to withdraw their opposition to the recognition of the constitutional election of the Chief Magistrate. Viewing the matter in this light it seems unadvisable to attempt to proceed a step further in the way of offering unacceptable propositions."

The Democratic party in the free States were many of them slow to condemn the movements of the traitors. Their President and Cabinet were in office and their friends filled nearly all the Federal offices. There is little doubt the conspirators expected and counted upon the cooperation of the Democratic party in the free States. While these movements were going on Mr. Lincoln remained at Springfield, a deeply anxious spectator. No one will forget the dark and threatening aspect of affairs in this winter of 1860-61. A long-planned, deep-laid conspiracy, about to break upon the land, threatened all the horrors of civil war. Patriots saw the dark clouds gathering, saw the tornado coming, saw traitors plundering the ship of State, boring holes in her bottom, disabling her, disarming her, and preparing to scuttle her, and yet had no means to resist because the offices were filled with traitors. How impatiently they prayed for the 4th of March all will remember. All eyes were turned to the West, to Lincoln, as the man to rescue his country from the clutches of the conspirators. Hence, on his journey from Springfield to Washington, he was followed by crowds of anxious, devoted men, everywhere invoking for him the blessing, the guidance, the protection of Almighty God. How deeply he himself felt, and how oppressively he realized, the responsibilities resting upon him, appears from the beautiful, simple, and touching speech he made to his neighbors from the platform of the rail car, on starting, and bidding good-by to his old home. The feeling of the people was impressively exhibited by the mottoes on the banners which they extended across the streets along which he passed. "We will pray for you," "God help you," was often seen and repeated.

#### LINCOLN'S INAUGURATION.

No so solemn and impressive an inauguration as that of 1861 has occurred since the Presidency of Washington. Attempts had been made to throw the cars in which Mr. Lincoln traveled toward the capital from the track. Torpedoes had been placed upon the rails to blow up the car in which he rode. A conspiracy to assassinate him as he passed through Baltimore was discovered, which induced him, by advice of General Scott and others, to change his route and to pass through that city at an earlier hour than had been intended. Lieutenant General Scott, cognizant of the conspiracy and aware of the dangers, made careful preparation to secure the peaceful performance of the ceremonies of inauguration, and he earnestly advised

Mr. Lincoln to come directly and immediately to Washington. A great anxiety pervaded the public mind. It was known that the city of Washington was filled with traitors. But it was also known that there were, in addition to the few regular troops under General Scott, many thousand people from the North ready to defend with their lives the President of their choice.

The President, having been inaugurated, and passing to the White House, looked around him to possess himself of the situation.

Congress had adjourned without making any preparation to meet the impending difficulties. The rebel government, after its leaders had stolen the arms of the North, had seized the forts, arms, and material of war in the seceded States. They had robbed the Union of its arms. The public offices were filled with traitors. The White House itself, it is now known, had spies around the President's own hearth. Lee and Johnson, and Ewell and Hill, and Stuart and Magruder, and Pemberton and Winder, and very many others, still held commissions in the United States Army. So it was in the Navy. Traitors were everywhere in the public offices.

Such was the condition of things when this inexperienced citizen of Illinois assumed the presidential chair.

#### THE CIVIL WAR.

The conflict between freedom and slavery now assumed the proportions of a great civil war. It is not my purpose to follow the varying fortunes of that war, vast in the numbers engaged, stupendous in the material, and treasure, and precious human life expended. Through all its difficulties and dangers, through all its varying changes, from Bull Run and Ball's Bluff, to Vicksburg, Gettysburg, Mission Ridge, and Fort Fisher; the rise and fall of generals; through the varying campaigns of McClellan, and Fremont, and Burnside, and Pope, and Hooker, and Meade, and Banks, and Butler, down to the later and brighter triumphs of Grant, and Sherman, and Thomas, and Sheridan, and Farragut, and Porter, the President has been always found faithful, patient, persistent, and resolute; his sagacious eye ever fixed steadfastly on one consummation—*Union, liberty, and peace*. With a courage that has never flattered, with a zeal that has never flagged, with a patriotism that has absorbed his whole soul, and heart, and life; with a faith and trust in God, in liberty, and justice never shaken, and with a confiding trust in the people, to which they have ever most generously responded, he has labored for the restoration of the Union. As the slaveholders' conspiracy sought to destroy the Union, to reconstruct it, with *slavery the corner-stone*, God has so shaped events that the Union will be restored with *liberty the corner-stone*. The great work of Lincoln—the restoration of the integrity of the Union—draws near its consummation. The gray of the morning begins to break; and soon the sun of peace will emerge through the lurid clouds of war.

#### PEACE.

But peace comes not yet. The conference in Hampton Roads has not brought it. The sun of peace will rise from behind the war-clouds that envelop the veterans of Sherman. It will break forth from some great battle-field in the South—a battle-field on which Lee's army shall be scattered and overthrown. The path to peace lies over the breastworks of Lee and through the defenses of Richmond! This peace, this permanent peace, when it comes, brings with it national unity, national liberty, a free Republic from Plymouth rock and Jamestown to the golden sands of the Pacific. It makes one nation of a territory extending from sunrise to sundown; from the land where ice never thaws to the sunny climes where water never freezes; and all this land shall have one flag, a homogeneous people, and one nationality. To accomplish such an end is a grand cause to fight for, a glorious cause to die for.

#### SLAVERY DIES BY ITS OWN HAND.

Slavery, having plunged the nation into this terrible civil war, dies by the sword it drew to maintain its own life and supremacy. That once haughty power, lately so proud and defiant, now totters to its final overthrow. Defeated in the field, its leaders the outcasts of the world, with sympathy from no Christian people, the leaders

of the rebellion, who hold by military terror the people in subjugation, approach the end of their ignominious career. Their barbarous cruelties to Union prisoners and their management of the war has furnished the blackest page in the history of civilization. They have illustrated the brutalizing influences of their darling institution. For the sake of our race it could be wished that this page could be blotted from American history.

These last four years of war have done the work of a century. The rapid and radical change in public opinion may be traced in the action of Congress. The Thirty-Seventh Congress commenced by confiscating and freeing slaves used by rebels, freeing "contrabands." Then it enacted that no officer or soldier of the Union Army should restore a fugitive slave. Then it consecrated the national capital to freedom. It secured to the long-oppressed African the right to testify in the courts, the right to a fair jury trial, making all men equal before the law. Soon thereafter Congress prohibited slavery forever in all the territory which was then held or which might thereafter be acquired by the United States, thereby securing by that one act one third of the area of the nation to freedom. The Thirty-Seventh Congress went still further and declared that the slaves held by rebels should be free, and authorized the President to receive into the Army persons of African descent, thus conferring the privilege upon the negro of fighting for his liberty, and giving him the arms and the pay of a soldier, and inspiring the manliness of a freeman. That badge of northern servitude, the fugitive slave law, was repealed, and the coastwise slave trade prohibited. Meanwhile the Executive was not behind Congress in striking at the cause of the war. The great proclamation of freedom, which emancipated more than three million slaves, will live in history forever and carry the name of its author down to future ages as the *emancipator of a race*. The State governments also, as soon as relieved from the control of rebel influences, were equally zealous to relieve themselves of this curse alike to black and white. Maryland, West Virginia, and Missouri, adopted new constitutions abolishing and prohibiting slavery forever. The Union citizens of Louisiana, Arkansas, and Tennessee, are doing the same.

#### CONSTITUTIONAL AMENDMENT.

But one step more remained to consummate this great work of securing liberty throughout the Republic—an amendment of the organic law, the Constitution, abolishing and prohibiting slavery throughout the United States. This the President recommended and urged as a consummation of the proclamation and of the laws of Congress.

The Thirty-Eighth Congress has immortalized itself by the adoption of the joint resolution submitting such an amendment of the Constitution to the States for their adoption. The States are ratifying this proposed amendment with earnest activity, and but a few months will pass before it will have been adopted by the requisite number to make it a part of the Constitution. The adoption of this constitutional amendment may be regarded as the national sentence of death to slavery pronounced by Congress. It is the event of the century, and will ever stand out in the record of man's history to mark the advance of the race.

Possibly this result might have been accomplished by peaceful agencies, but it would have required many long years. Nothing but this earthquake of war, brought on by the slaveholders themselves, could have accomplished this great revolution. Now, when victories first, and wise counsels after victories, shall bring peace—peace with liberty and union—our country will take her place, the leading Power of civilization, the head of Christendom.

In passing thus rapidly over these eventful years none can fail to recognize the hand of Almighty God in these most wonderful changes. I desire in these my last words in Congress reverently to invoke the blessing of God upon our beloved country, and that He will bless us and guide us through all the clouds which still overshadow our country to peace, union, and liberty secured by law.



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Reconstruction—Mr. Blow.

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## RECONSTRUCTION.

## SPEECH OF HON. HENRY T. BLOW,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1865.

The House having under consideration the special order, being the reconstruction bill—

Mr. BLOW said:

Mr. SPEAKER: I enter into the discussion of the bill under consideration with the greatest hesitation. The scenes of the day on which the constitutional amendment abolishing slavery was adopted are fresh in all our minds; the long struggle, the fears and hopes, and the final triumph, stand out in bold relief, telling of a result more glorious, a spectacle more sublime, than ever before witnessed within these walls. Under these circumstances it will be difficult for me to fasten the attention of the House even on a kindred subject, and yet it would seem that a bill so intimately connected with the future of our people should command its highest respect.

I greatly fear, sir, that the condition of that portion of the country which I have endeavored in another way to present to the members of this House is hardly understood, certainly not appreciated. Conceal it as we may, the extreme West feel neglected and dispirited. It is so especially in my own State, and if you will pardon me, I will refer to a condition of affairs which is becoming worse and worse every day. I recollect very distinctly that last spring, when we made a similar statement, with a more complaining spirit than we now indulge in, we were assured, in many ways, of the sympathy which was felt for us, and the certainty that all we feared would never come to pass. We had to be content with this, and go home with the knowledge that we had utterly failed in impressing our real condition on our friends, and that perhaps they had concluded that our accounts were exaggerated by selfishness or timidity. Oh! sir, if the fears and losses of our five hundred thousand people, half of our population, loyal as any in this land, could be recited, what a history it would be!

While the prosperous States of the North have been absorbed in their contracts, their gold, and their merchandise, and their manufactures, what have we not suffered? And yet I will be told on the instant that everything that could be was done for us. I deny it. Never in the history of conflicts was there such a misunderstanding of the real condition. Our troubles commenced in Louisiana on Red river, followed us to Little Rock, and at the very time when every effort should have been made to save the loyal masses in Missouri, whose heroism has never been equaled except in the mountains of East Tennessee; I say at that very moment the ragged hosts of Sterling Price marched unimpeded through Arkansas, and entering southeast Missouri, came within seventy miles of St. Louis without meeting a Union force, and when finally the conflict came it was eight thousand veteran rebel troops against a single regiment of men who had not been thirty days under arms.

I will not dwell on the gallant defense of the fort at Pilot Knob; there is no brighter page in the history of this war; and to the daring and bravery of General Ewing and Colonel Fletcher (the latter now Governor of Missouri) we can attribute the safety of St. Louis. In fact, if after the evacuation of the fort the rebels had marched boldly on they could have sacked and destroyed the city of St. Louis. Heaven ordained that we should be spared, but only that the victorious raiders should continue their march, leaving death and destruction in their pathway. The best information we have is that, notwithstanding his disasters in west Missouri, Sterling Price left the State with thousands of recruits and two thousand wagons filled with plunder. We have never estimated our losses at less than thirteen million dollars, and there is scarcely a Union family in the counties through which this reckless band of robbers marched that did not suffer, either from death or from outrages of the most shocking character.

There were forty counties in our State seriously affected by this invasion, and in most of them their crowning losses of life and property have

almost deprived their long-suffering Union inhabitants of the little hope which still remained; yet our terrible condition and unheard-of losses were scarcely half told, and were known throughout the land only to be forgotten in a new excitement.

But I did not intend to discuss the errors of the past, nor am I complaining particularly of my Government. Our condition was misunderstood, and although the county of St. Louis, in which I live, had given \$400,000 in bounties for the defense of the State, we did not hesitate to advance our credit for \$700,000 more to the Pacific railroad, to repair the damage inflicted by General Price upon that great central means of protection and communication.

To-day, while we are praying for the admission of Arkansas, the ten regiments we raised for the defense of Missouri are in Tennessee; our militia are soon to be disbanded, and our gallant Governor is full of apprehension in regard to our safety. We are assured that General Price is on Red river with thirty thousand choice troops, preparing for a spring raid, and nearly half of the people of our State, unprotected and uncertain as to our future, are hesitating whether to remain at their homes or abandon them forever.

Mr. Speaker, I would like to inquire if any gentleman now on this floor would be content to remain quietly in his seat if he knew, as I know, that four years of civil war, during which time Missouri has suffered more than any three loyal States in this Union, (excepting only Kentucky,) were to be followed by another year of bloodshed and disaster—remain quietly, I say, while his constituents were unprotected and their property at the mercy of raiders and bushwhackers. The only remedy for us is the readmission of the State adjoining us, and a military organization from Louisiana to Iowa that will secure their peaceable possession and that of the Territories west not less disturbed by the enemy, so that the population remaining may sow and reap, and feel that our Government is equal to their protection.

But I am aware that it takes men and money to accomplish this, and thus save the lives and property of our people. I am also aware that the ingenuity of the Secretary of the Treasury is taxed to the utmost to pay the more pressing demands upon his Department. I am fearful, too, that our interest payable in gold, and our rapidly increasing debt, will soon bring us to a most trying condition; but still if we are ever to reestablish this Union we must not spare either men or money while either are at our command. This very moment is one of the most intense interest to the nation, and we to us if we lose a vast territory which can be saved by prompt and vigorous action. Bring them back, restore law and order, and infuse into all classes a confidence in their future safety, and the public debt will cease to increase so rapidly, and the national credit will advance at home and abroad. All kinds of proposals are being urged in order to obtain the nation's credit. While these States are kept out in the cold, where do gentlemen expect to get the \$13,000,000 for the canal bills just passed, where the millions for other propositions just as meritorious, and where the hundreds of millions for those portions of the country upon which the treasure of the nation has already been lavished in order that they may be protected from foreign foes? Washing these valley States are the finest and largest navigable rivers of America, upon which the commerce and agricultural productions of the nation can be transported to the Gulf, so as to reach the markets of the world. Obstructed as they now are, the productions of the great West are forced into narrow and unnatural channels. Admit these States, open these great high ways to our immense fleet of steam vessels, and the millions saved on paper by the talented advocate of the Niagara ship-canal [Mr. LITTLEJOHN] will become a reality in the West; for on the instant the exactions of the rich corporations which now control the entire carrying trade of the country will cease, for the Mississippi river has always been and ever will be the natural outlet for all the States watered by it.

But to return. I do not, Mr. Speaker, wish to be misunderstood. Our sufferings and misfortunes have not and will not weaken our faith in

the national honor, nor lessen our national pride. All that Missouri has of material wealth will be poured out as freely as the blood of her sons to preserve and perpetuate the union and freedom of the States.

I pray to be excused for dwelling so long upon our own affairs, and will pass on, remarking that, so far as I am concerned, any provision which will admit the States of Louisiana and Arkansas in time to save them in the future from the sufferings of the past, and strengthen the loyal masses now begging for admission into the Union, will receive my vote.

I know Louisiana well; her rivers, bayous, plantations, productions, and people are all familiar to me; and her great commercial city, which once rivaled the proudest in the land, has always had most intimate relations with those of the great valley, and especially with St. Louis. One fatal error wrenched this rich State from the Union which had been so faithful to all her interests. She has suffered for this, and I believe even those who were most to blame feel to-day that there is no future for them except in their old place.

But there is now another change. Suddenly, by her own act, she has been converted from a slave into a free State. This has been done by her loyal white population. But certain enlightened colored men, who, braving every danger, have stood up manfully for the Union, we think have fairly won the right to participate in the further reorganization of the State; these two classes by the bill really reconstruct the States, while every man, be he white or black, is equally free, and is equally protected in all his civil rights before the law. But here we stop, and I think wisely; the right of suffrage is a matter of the States, to be regulated by time and circumstances, and to be held as sacred in the future as it has been regarded with jealousy in the past; and I do not hesitate to declare, sir, that it would be unjust for Congress to concede the right, directly or indirectly, to a class just emerging from the ignorance of southern slavery; unjust to our native and naturalized citizens, and calculated to arrest the tide of emigration from all portions of the world ready to purchase our lands and push the car of progress ahead the moment that peace again blesses the broad acres that stretch from ocean to ocean, and from the Gulf to the frozen regions of the north.

But, sir, it is said, and sustained with a great deal of force by our theoretical abolitionists, that freedom to the slave and suffrage to the freed should go together, and be guaranteed by Congress, especially in the rebellious States. My views in regard to this assertion are based upon the history of our past and the hopes of our future unity. With all the proud recollections of our revolutionary fathers, and the prosperity and happiness of bygone days, we are still engaged in the most desolating and trying civil war the world has ever witnessed. I contend that if we are ever to recover properly from it we must be just when we triumph, and prove by our magnanimity and consideration that we are not endeavoring to punish and humiliate our white brothers by elevating to an equality with them, and in their midst, too, the unfortunate race that we have so constantly argued were debased and degraded by the cruel bondage of their now conquered and repentant masters. Perhaps in this connection it will be asked, Then what is to become of the colored race? I reply that our Heavenly Father, who has brought us to the condition we are in to-day, His last act of mercy paving the way for the triumph of constitutional freedom and sustaining us in all the efforts we have made for humanity, will not desert us or them.

My own opinion from the first has been strengthened by the lessons of history and by the course of events in the past three years. We see that these southern negroes cling to the warm climate where they drew their first breath, and are happiest in the midst of the cultivation to which they are accustomed. In Missouri, where they have been always well treated, they lose their natural buoyancy. The climate is too cold for them. They gradually decline, turn to a sickly hue, and become a prey to consumption, while every person of observation will testify to the elastic character of the negro, who basks

in the sunshine of his native region, perspiring to his heart's content and to the benefit of his health over the work that has been lightened by the rich and nutritious food he constitutionally craves. From my earliest years I have known the race well; no prejudice rests on my mind toward them; they are simple, trusting, and affectionate in their character and dispositions, contented with little, greatly disposed to innocent amusements, lively, careless, but with an earnest vein of piety that shows itself in their love of sacred music and the touching eloquence of their prayers. They love, as I have said, the warm sunshine. They are as receptive as a sponge, and like a sponge cling to the heated coasts that are washed by oceans and rivers.

But a word in regard to those unnaturally planted in the colder climate of Maryland, Virginia, Kentucky, Missouri, and northern Arkansas. It would seem, sir, that the hand of Providence is directing their course toward a more congenial region: They may linger for a long time in Maryland. More than half of them have long been free, but they have for years been flowing from old Virginia in a steady current south, and recently have been rushed out of the State; while in Kentucky, Missouri, and Arkansas, hundreds of thousands of able-bodied men have been run off by rebel masters, or taken south with our armies, never again, in my opinion, to occupy their former homes; leaving the institution in these splendid States so entirely valueless that every calculating and enlightened slave-owner felt that what remained of it was a burden no longer to be borne by him with profit or pleasure. I can testify to the genuine loyalty and liberality of many of the recent slave-owners of Missouri, who, like my eloquent colleague who came over so frankly for the constitutional amendment, not only part with their able-bodied slaves that they may defend the honor of the nation in our armies, but who will bow as he does to the will of our people, feeling that every consideration of justice, humanity, and policy, requires that the remainder should become free. For years in Missouri we have battled to confer upon them this inalienable right as no other State ever has or ever will. We have defended their manhood, advocated early their adoption as soldiers and sailors. We have sympathized with them in the trying ordeals through which they have passed in the rebellious States, hated the oppression that ground them to the earth, the barbarity that hunted them with blood-hounds, and the disgraceful inhumanity that has made Fort Pillow a monument of the demoralization of secession. And though the constitutional convention which is now in session in St. Louis may not and should not, in my humble judgment, grant them immediate suffrage, as has been proposed by some of our leading abolitionists, their future, in the hands of those who have so far advanced them, will never cause the friends of freedom to blush. When they are fitted for the highest privileges we enjoy they will not be denied them.

But, as I have said, secession has broken up the colored race in Missouri, and most of those left are old men and women and children, to pass away in a few years by death and emigration, and until that time to remain perhaps more isolated from the present population than in the days of slavery.

Well, Mr. Speaker, the people of the South and not those of the middle States, under all circumstances require the negro, even as he desires, to remain on the spot so dear to him; if slave, they make him a corner stone; if free, he is equally a necessity, not only to the South but to the entire country. Great liabilities incurred partially for his benefit have to be met, and all the labor we can command will be needed in our fields and workshops to repair the losses of the rebellion and to meet the demands of returning prosperity. Let us, then, encourage these people to remain just where they are, and, judiciously protected, let them and the men who have so nobly stood by our flag, work out their destiny. Millions of whites will be attracted to the favored region stretching along the Atlantic and the Gulf; its products will far surpass those of the palmiest days of organized slave labor, and wealth will be accumulated with startling rapidity; national pride will be restored; and if we adjust this great

rebellion with the statesmanship demanded by the age, the people of both sections will forget the past in bringing back the recollections of the happier and better days of the Republic.

But suppose the blacks are thus compacted in their favorite clime, are they to remain separate and apart from our population, or, like the mighty river whose darker current is lost in the clearer waters of the Gulf, are they to be absorbed? This, to me, should not cause any uneasiness or keep a single man from voting them freedom and happiness. They have been at the mercy of our whites for a long time, and the result has been an admixture varying from one fourth to one tenth of the black population of the Gulf States. Secure them freedom, schools, and churches, the way to wealth, with the hopes they will indulge of political advancement in their own States, and we simply discharge an enlightened Christian duty. It may be that at some remote period, as has been often argued by philosophers and statesmen, and evidenced by the history of nations, we may witness the gradual absorption of the inferior by the superior race. The traveler who then writes of the sunny South will have to record the fact that a large proportion of the population, though not the pure white of the northern States, have the clear olive complexions of the tropics, and a tinge mantling their cheeks that discloses the richer, purer blood that courses through their veins; but I am free to say, that in my opinion such a condition will not occur in this century except from a heavy emigration into these States. And here comes the most delicate question in regard to reconstruction: if we leave the loyal resident masses of the South the solution of the problem, admixture to any extent will be avoided for the present, at least, and the most offensive proposition that has ever been forced by the errors of our forefathers on this suffering generation will not remain to disturb the harmony of a restored Union.

For myself, sir, though deeply interested in all that pertains to the rebel States, and looking as I am with intense anxiety for the moment they are to yield to us, my lot is cast with the great, free West. My father long ago abandoned that southern home where an impoverished family had no future. I was born near the stubborn, haughty capital where two mighty armies now confront each other, upon a soil that pride has christened sacred, and truly now can it be called most sacred. In its bosom reposes the Father of his Country; the best and greatest sons of the Old Dominion all lie there. My own ancestors, for generations, are moldering in her soil; and yet with me all these recollections are as nothing compared with the reflection that hundreds of thousands who have gallantly bled and died for freedom and unity also lie there.

But I was going to say that I have fought the battle of life so far with free white men. My heart has ever been with them; in the field, the workshop, and the mine. I live to urge State and national developments, and to advance the cause of civilization and progress; but the empire in which we live is large enough and rich enough for the true-hearted and industrious men of all nations and climes, and our hands of welcome are ever extended to them. My heart bounds now as I look over the rich and wide-extended valley which lies in that belt, embracing the Christianity, the cultivation, and genius almost of the world. There I have labored from my youth, and my prayer is that when I come to die—and I hope it may be in the Indian summer of life—that I may be buried in the midst of the brave, true men and women who have rescued Missouri from the grasp of slavery and fixed her, the brightest jewel, in the diadem of freedom. Could I feel less, after all my glorious State has accomplished, followed by all that the Switzerland home of loyalty has done for Union and humanity? I dare say more. If I had the power I would on the instant wrench this mighty mass of marble from its base, with its magnificent halls, where a nation sits in council, and its classic front, its dome of surpassing beauty, and helmeted goddess should look forever toward that mighty domain of which Missouri is the center.

Mr. Speaker, these remarks, thrown together rapidly, must be lengthened somewhat by an allusion to the very interesting collation of facts

and the elaborate arguments submitted a few days ago by the honorable gentleman from Pennsylvania, [Mr. KELLEY.] I am painfully aware, sir, that we do not agree as to the method in which we are to restore the rebellious States, except in the general idea and belief that no reunion can be blessed of God that does not bear the impress of His all-wise teachings. I will not attempt to answer his brilliant essay—many hours of toil and study as well as the rich experience of the gentleman's political career, are evidenced in its pages—but I may be permitted to remark, that while we are aiming at the same result our feelings separate us in the manner of reaching it. His whole effort is a defense of and tribute to the black man, and I am bound to infer from its tone that he has not been familiar with this race in the slave States. He proposes an amendment which in Louisiana would throw the question of suffrage in the hands of the black man. In other States to be reconstructed this would be the result to a greater extent than in Louisiana, and the whole argument is directed to the prostration, ay, sir, the humiliation, of the white man. Even in Arkansas and Tennessee they would hold the balance of power, and the devoted patriots of those States would have to submit their life-long experience of republican institutions and progress to the approval, if not the direction, of this class, admitted, I believe, by the gentleman to be just emerging from the ignorance of slavery. True, sir, he has referred to the colored descendants of the French and other early settlers in Louisiana, whose appeal, on a recent occasion, bears the marks of cultivation and elevation, and I too can testify to the loyalty and education of some of these very men, and the bill offered by the committee allows such as have shown their love of union and liberty, and thus ennobled themselves, the privilege which the gentleman proposes in his amendment.

But we are separated in this matter again by our feelings. I have perfect confidence in the loyalty of the white men in Louisiana and Arkansas now in possession of these State governments, and their perfect sincerity in dealing humanely with the black man, and will advocate no measure which slurs them or claims for us a deeper loyalty or purer patriotism. And if my friend will excuse me for going a little further, I think in his intense desire to do justice to the colored race he greatly underrates not only our white loyal brothers of the rebellious States, but does great injustice to the character and honor of the rebels themselves. I may be wrong, sir, but if peace could come to-morrow on the basis of freedom, as proposed by the President and endorsed by our own action, I do not think the good faith of those in arms against us would be doubted by the masses of the people in the loyal North, certainly not in the gentleman's own State. In this view I am sorry to differ widely with my friend. If I am mistaken and he is right, I will despair of ever seeing anything like the good feeling of the past in any reunion hereafter.

But, sir, I have a fault to find with the distinguished orator on another point. In Missouri, much as we have had to do with this great question, we have never lost sight of the obligations imposed upon us to take particular care of those in our own midst. For years before this rebellion, and during this rebellion, we have made enormous sacrifices to give them freedom. Our impelling motive was humanity and progress, directed in all cases by a superior regard for our own race. Now, sir, that we have triumphed I am sure that in good time our freedmen will enjoy all the rights that they are fairly entitled to. This, I am equally sure, will occur in Arkansas and Louisiana, from the enlightened impulses of the white man there; but how fare the 22,185 colored people in the gentleman's own city, 6,166 of whom to-day, by his own argument, should be voters, and many of whom should have had this right twenty-five years ago?

Mr. KELLEY. Will the gentleman yield?

Mr. BLOW. With great pleasure.

Mr. KELLEY. It is from no want of effort on my humble part that the American citizen of African descent does not enjoy the right of suffrage in Pennsylvania. When in the bosom of

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the Democratic party I advocated it. I never ceased to denounce the men who inserted the word "white," and made an odious distinction by which the moral and patriotic man may be disfranchised and the immortal traitor may enjoy the right of suffrage. The stain on Pennsylvania in that regard does not attach to me.

Mr. BLOW. I will not make any charges against the member from Pennsylvania or the great party to which we both belong; but I will say this much, that when I commence the labor of love to which he has devoted his acknowledged talents, with the permission of the gentleman and his party in Pennsylvania, I will make the Quaker city missionary ground.

One point more, sir, and I am done. The honorable gentleman alluded to the South American republics to establish his theory in regard to the capacity of the black race and their happiness as freedmen and citizens with all the political rights under those Governments. It was my fortune, good or bad, sir, to reside in one of those republics, and under circumstances that gave me a full opportunity of investigating the cause of their revolutions and their deplorable condition both morally and politically. There are many noble people in South America, and the Mantuanos of Venezuela, as well as the Venezolanos, have virtues, not the least of which are their warm attachments and generous hospitalities. They are chivalric, too, and the pride of old Spain runs through their character; but when it comes to the colored and Indian races, the Mulattos, Mestizos, Zambos, and other mixtures, making up the large mass of the population, not only there, but generally in the republics of Spanish South America, the whole forming an element to be used by the wily demagogue, the observing American who sojourns long in their midst will be at no loss to account for the frequent revolutions that have degraded and beggared the people of that favored clime.

It is humiliating to acknowledge that the most enlightened nations of the world have had their diplomatic and commercial representatives in these countries for years without advancing the interests of religion and morality, and our own Government, I am ashamed to say, has not for many years before the present Administration done anything to elevate the character of these sister republics, though proclaiming all the time a doctrine which should have been strengthened by our sympathy shown in their advancement, and not in a policy which has hastened their decline, if not positively aided their revolutionists.

I beg my friend to examine the subject further and he will find that South American suffrage has not built up one stable government, and that the fate of Mexico may soon be that of those republics, demoralized if not ruined by mixed races; and when peace reigns throughout our land I will with all my heart join the honorable gentleman in any effort to reclaim and advance the people who were stimulated by us in their love of freedom, and among whom the prevailing sentiment is, "*Querimus mucho a los Americanos.*" And here, sir, is an American who loves that unfortunate people. Beautiful Venezuela! How often have I gazed from your Calvaire upon the capital city, nestling in the bosom of the lofty Andes! How often have I dwelt in wonder upon the rich products of your prolific soil, the great white sugar-cane, the coffee tree in full bearing, and the fruits and flowers that even now I dream of, and felt that with such a Government as we once had the Indies would fail to rival you in wealth. I can never forget such a land, and the fate of her people is very near to my heart. God grant that the day may soon come when her mountains and llanos may team with an intelligence and morality that will guaranty peace and prosperity to those who have suffered so long and so patiently.

Mr. Speaker, I am perfectly aware that my views are not presented with the care and thought that distinguish many of the members of this body, fitted by culture and long experience for the discussion of the loftiest themes demanded by the condition of the day. I do not expect, sir, to instruct or enlighten this body or the country; but I do intend to do my part in impressing upon both the necessity of our being considerate in the adjustment of the great questions bearing upon our future union and happiness.

I should never think myself of endeavoring to direct the internal policy of the great State of Pennsylvania, or of the party there to which I belong. I should not dare, sir, at this moment to advance any theory, even if I had the acknowledged ability of those men of our own party who are now in the highest places in our Government, for the simple reason that I believe it to be the solemn duty of every loyal man, whose heart beats with the love of God and his country, to do first all in his power to restore that country before he ventures on any theory, and least of all one that is fraught with mischief, if not discord.

I demand for my own State, in whose metropolis is now assembled a convention composed of the heroic men who have grappled hand to hand with slavery, that we be permitted to settle this question of suffrage in our own way. I think we have a right not only to do this, but to expect that gentlemen who have had no such experiences, and live far away from the evil which we have overcome so thoroughly, will trust our manhood and intelligence.

Demanding this, I am bound to concede it to those in Louisiana and Arkansas whose experience surpasses ours, whose sacrifices are even greater than ours, and to doubt whose patriotism would, to my mind, be a crime almost equal to denying a colored population, long enlightened and refined, and living in the midst of philanthropists, the right of suffrage. I believe that if we are to come out of this struggle for free institutions in such a manner as will challenge the admiration and respect of the greatest nations of the earth we must raise, not lower, the standard of an American citizen. We must guard with a sacredness never felt before those privileges calculated to resist the ravages of time. No fears then can disturb our future; no kingly power or traitorous host arrest the march of progress and civilization. Our vast and varied resources will then be rapidly developed, our beautiful and fertile lands occupied by millions of Christian freemen. The daily light which softly rises from the bosom of the Atlantic will course its way over such an empire as the nations never saw; ay, an empire enjoying a degree of prosperity and happiness such as was never before vouchsafed to the children of men; and as its golden hues sink into the far-off Pacific the prayer of every lover of liberty throughout the wide, wide world, will be, **GOD SAVE THE GREAT REPUBLIC!**

## RECONSTRUCTION.

## SPEECH OF HON. J. K. EDGERTON,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1865.

The House having under consideration the special order, being the reconstruction bill—

Mr. EDGERTON said:

Mr. SPEAKER: The bill before the House is one of preëminent importance, whether we regard its principles or its practical consequences. If it becomes a law it will establish a dangerous theory in our Federal system, and its consequences will be to change a Union hitherto really federative into a consolidated Union, republican for a time in form, but monarchical in substance. Legislative and executive action and judicial interpretation, and if need be constitutional amendment, will hereafter, as in the last four years, all be brought to bear to consummate and establish this result. What the remote consequences in the future may be upon the liberty and welfare of the people, on whom ever fall the evils of misrule, history will reveal, we can only conjecture. It is easier to pull down than to build up; it is easier to make changes than to make improvements. State sovereignty, once honored of the people, and which is the true conservator of the principles of democratic liberty and of our Federal system, has fallen into the sere and yellow leaf and goes tottering to an unhonored grave. Destroyers, quite as much as creators and builders have had fame in history. The men of this Administration, the John Browns of this day and

generation, have more honor even here in this legislative Hall, sir, than the master spirits who made our system of government and gave it to us as a priceless inheritance. We are but verifying the satire of the poet:

"The aspiring youth that fired the Ephesian dome,  
Outlives in fame the pious fool that reared it."

Mr. Speaker, there are two questions which should test every measure of legislation proposed in this House. These are: First, is it constitutional? Second, is it politic or expedient? Tried by these tests the bill before the House, in any of the forms in which it has been presented, wholly fails to commend itself to my approval.

I do not oppose this bill, sir, because it is *per se* an anti-slavery measure, as it clearly is, for I am and ever have been an anti-slavery man; and if I were to follow merely my anti-slavery sympathies, and not my judgment and convictions of duty as a citizen and a Representative, I might not oppose the bill. If its object was by Federal power to impose slavery constitutions, instead of anti-slavery constitutions, upon the southern States, I would oppose it for the same reasons that now command my opposition. It would be sufficient reason for my opposition that in either case the bill would be a direct and revolutionary invasion of the reserved rights of the States. And here, sir, once for all, in my own behalf and in behalf of the great political organization with which I have the honor to act, if I do but utter one of its humblest voices, I deny that it is or ever has been a party in the interests of slavery, or that its opposition to anti-slavery legislation by the Federal Government has been based upon a desire to extend or perpetuate slavery. It has, sir, been eminently a party for democratic progress in all things, and as the best and surest means to achieve that progress it has been a party for and in the interest of the Federal Union and Constitution. To their preservation it has subordinated the question of negro slavery and all kindred questions. Its purpose has been to stand by and maintain, in letter and in spirit, the bond of Federal Union, which granted to the Federal Government control over national affairs, and left to the States, as their reserved, inherent, sovereign right, control over their own domestic affairs; and of these negro slavery is one. Such has been from the beginning, and is now, the position of the Democratic party, and it ill becomes those of its opponents who, whether under the name of Whig or Democrat in other years, and, I may say, in recent months, held opinions identical with those of the Democratic party upon the constitutional power and policy of Federal intervention with negro slavery, to impugn, as they do, the motives of Democrats who remain faithful to their principles, or to charge them with infidelity to their country because they have a higher standard of duty, a surer anchorage for their political opinions than in the hope of office and popular applause, or in the changeful results of popular elections. I rejoice to know, sir, that there are still on this floor faithful Representatives of the one million eight hundred thousand Democratic voters of the United States; such Representatives, sir, as can neither be purchased, nor seduced, nor intimidated by the power of a corrupt Administration, nor swayed by popular clamor. I am thankful that, when the Constitution of my country, under the form of a constitutional amendment, was stricken down by the strong hand of a revolutionary majority in this Hall on the 31st of January last, the deed was not done by representative men of the Democratic party of the United States. The Democratic party stands by the Constitution, it stands by the bond of Union, it stands by the rights of the States, and it will not be found consenting to their death; and when that great party shall pass away as a living political organization, it will be because the Constitution also has passed away.

Before considering the leading provisions and character of this bill I propose to look briefly at its history.

The forerunner of this measure of legislation, so far as this House is concerned, may be found in the territorial bill reported by the gentleman from Ohio [Mr. ASHLEY] from the Committee on Territories in the Thirty-Seventh Congress, in March, 1863. It was aptly termed at the time



by the gentleman's colleague from the Cincinnati district of Ohio, [Mr. PENDLETON,] "A bill to dissolve the Union and abolish the Constitution of the United States." The bill was summarily, if not indignantly, rejected by the House without a second reading. But, sir, men and events have since changed, if the Constitution of the United States has not changed, and the stone of revolutionary reconstruction then rejected by the master-builders in this House bids fair to become the head of the corner. Then the Constitution was not altogether repudiated as the foundation of our legislation; now revolutionary opinions and plans override it as a thing of the past. Not many are there in this Congress, and fewer there will be in the next, I fear, to do reverence to the Constitution and obey its commands.

Early in the last session of Congress this House, on a resolution of the gentleman from Maryland, [Mr. HENRY WINTER DAVIS,] authorized the appointment of a special committee of nine, called the committee on the rebellious States, to consider and report by bill upon the subject of the reconstruction of States. The ostensible or declared purpose of the committee was to carry out the constitutional guarantee of republican government to States in which such governments had been usurped or overthrown.

The President, by his amnesty proclamation of December 8, 1863, accompanying his annual message to Congress of that date, with characteristic oblivion of the true character and limitations of his executive powers, had assumed to take the subject of reconstruction pretty much into his own hands. He had assumed to amplify the power to pardon offenders against the laws into a power to reconstruct States, to dictate State constitutions, and to determine the conditions upon which a sovereign State of the Union should or should not be recognized and protected as a State in the Union. This portion of the President's message was referred to the special committee I have alluded to. The amnesty proclamation, like its forerunners, the proclamations of September 22, 1862, and January 1, 1863, was an unprecedented and startling assertion of executive power, and I feel well assured, sir, for I have too high an opinion of their intelligence and patriotism to believe otherwise, that it did not meet the approval of the leading minds of the friends of the Administration in this House. The gentleman from Pennsylvania, [Mr. STEVENS,] whose ability and experience entitle him to speak as an oracle of his party on this floor, declared in his speech of 22d January, 1864, that the President's plan of reconstruction, as stated in the amnesty proclamation, "is wholly outside of and unknown to the Constitution," and found its justification only in the war power and in the theory of military conquest. "It proposed to treat the rebel territory as a conqueror alone would treat it." To the principle of the plan, that is, the right to treat the southern people as a foreign and conquered people, the gentleman from Pennsylvania assented, (for that was a favorite theory of his own,) but to the details he did not agree, and I doubt not that one object of the gentleman from Pennsylvania, as well as the gentleman from Maryland, [Mr. DAVIS,] in conjointly moving the resolution for a special committee, was to take from the usurping hand of the Executive and to exercise through Congress the legislation that might be deemed necessary to restore the relations of the southern States to the Federal Government.

Mr. Speaker, the love of power, like the love of fame,

"Howe'er concealed by art,  
Reigns more or less in every human heart."

It is not an idle passion in the breast of the constitutional President of the United States. It is there, restless, active, aggressive, and grows by what it feeds on.

The President as the author of the emancipation proclamation, on which (though not original with him and forced on him by pressure) he had planted his hope of historic fame, was determined by the work of his own hand to carry it out to its logical results. He had formed his plan of reconstruction, he had proclaimed it to the world, and in the same spirit in which he adhered to his plans of military campaigns, though baffled and butchered Union armies, "driven like bullocks

into the slaughter-pen," attested his unwisdom, he would admit no rival near his throne to share his honors as the great emancipator. Therefore without waiting for the legislative action of Congress, which was clearly contemplated by the terms of the resolution appointing the special committee of nine, the President moved straight forward to his purpose of reorganizing Louisiana, Arkansas, and I may say Florida, in his own way. Whether the sagacious mind of the President was even at that early period of the Presidential campaign looking forward to the possible contingency of the need of electoral votes from those three States and others he might reconstruct, I will not undertake to say. I leave that question to gentlemen who know the President better than I do; but, sir, my charities are not large for a public magistrate whose public career has been marked by the grossest inconsistencies of principle, and by usurpations of power that have time and again remorselessly and without apology or atonement stricken down the liberties of innocent men and almost blotted out Constitutional limitations so plain that he who runs might read and understand. I need not go into specifications of the truth of what I say, for the history of the country is full of the testimony, and the living witnesses are all around us.

On the 11th of January, 1864, General Banks, commanding at New Orleans, issued a proclamation to the people of Louisiana, "in pursuance of authority vested in him by the President of the United States," proposing by the action of not less than one tenth of the voting population of the State to hold an election for State officers on the 22d of February following, and further proposing an election on the first Monday of April following for delegates to a constitutional convention to revise the constitution of Louisiana, and declaring that "the basis of representation, the number of delegates, and the details of election will be announced in subsequent orders."

On the 13th of February, 1864, General Banks issued his general order No. 24, defining the qualifications of voters at the election for State officers on the 22d of February, and prescribing other rules for the election. As in the proclamation of the 11th of January preceding, the taking of "the oath prescribed by the President in his proclamation of the 8th of December, 1863," was made essential to "the right to vote in the election of State officers on the 22d day of February, 1864," but it did not reiterate as part of such qualification "the condition affixed to the elective franchise by the constitution of Louisiana."

On the 11th of March, 1864, General Banks, by his general order No. 35, fixed the 28th day of March instead of the first Monday in April as the day of election of delegates to the convention, and prescribed the time of their meeting, the basis of representation, numbers of delegates, and other details of election.

The proclamation of January 11, among other things, declared inoperative and void so much of the constitution and laws of Louisiana as related to slavery. It made the oath of allegiance or amnesty oath prescribed by President Lincoln, with the condition affixed to the elective franchise by the constitution of Louisiana, a qualification of suffrage. It confirmed and approved a registration of voters not inconsistent with the orders and proclamations of the President, which had been effected through the military governor, and "the several Union associations." It declared the fundamental law of the State of Louisiana to be martial law.

It is needless, sir, to state further the terms and character of this proclamation. To the members of this House at least it is a familiar paper, and it ought to be in the hands of every man in the United States as a memento of the times, to remind him how easy and swift may be the transition from a free constitutional government to a military despotism; and how simple a thing it is for a public magistrate who does not comprehend or regard constitutional obligations to overturn and hold for naught the plainest mandates of a free Constitution. Under this proclamation of General Banks a State government and constitution were ordered to be made for Louisiana, resting upon martial law as the fundamental law of the

State. Under this process and influence of martial law elections have been held in Louisiana, State officers chosen, an ostensible State government established, a new constitution adopted and put in operation, and Senators and Representatives elected to Congress.

"Can such things be,  
And overcome us like a summer's cloud  
Without our special wonder?"

It matters not to me, sir, that such things are done in the name of the United States, or that they are done by the authority of the President calling himself "the Executive Government of the United States;" "the government of Louisiana" thus created is none the less a government of usurpation. One object of the bill before us is to recognize this usurped government based upon a void military decree, and we cannot recognize the government without recognizing the proclamation as a valid act of executive power. I therefore, in this connection, though somewhat to the interruption of the course of my narrative, make a further brief comment on the proclamation of General Banks. The proclamation declared inoperative and void the constitution and laws of Louisiana in regard to slavery. By what right or pretense of right was this done? Was it because "slavery and martial law in a free country are altogether incompatible" as declared by General Hunter in his proclamation of emancipation of May 9, 1862? Not so; for on the 19th day of May, 1862, that proclamation was declared void by President Lincoln, who permitted both martial law and slavery, however incompatible, to continue together in Georgia, Florida, and South Carolina, the States covered by Hunter's proclamation, until the 1st day of January, 1863, when the President assumed to destroy slavery by his own edict of that date, but it is to be noted specially excepted from this proclamation certain parts of Louisiana, including the city of New Orleans, where both slavery and martial law were then existing together.

Now the whole argument for the emancipation edict has been military necessity. It was, as is said, a measure deemed proper by the President to subdue the enemy. The fact of the exception of New Orleans and other parts of Louisiana from the operation of the edict is an admission by the highest military authority, the President himself, that the military necessity for emancipation did not exist there, and of course the right under the war power did not exist. General Banks's proclamation confirms this admission by calling for a civil government to supersede the military one, so far as related to the civil affairs of the State. If Louisiana was, on the 11th of January, 1864, ripe for civil government, in harmony with the Federal authority, where was the military necessity to make void the constitution and laws of the State, regarding slavery, a purely civil relation? If the military necessity did not exist on January 1, 1863, why did it exist on 11th January, 1864, so far as related to New Orleans and other parts of the State excepted by the President? Under what power and right, then, did General Banks declare void the constitution and laws of Louisiana as to slavery? Can any man tell? Was it on the ground that Louisiana, a State of the United States, had been conquered by Abraham Lincoln, and was subject to a government by him, upon "a plan outside of and wholly unknown to the Constitution" of the United States? Is that, or is it not, the basis of emancipation and reconstruction in Louisiana? Has the President of the United States, using the Army and Navy thereof, power under any pretense, or for any cause, to conquer a State of the Union, so as to give him or the Congress power to govern it outside of the Constitution? Is the Government of the United States, at some times and for some purposes, in its relations to the States, a constitutional Government, confined within the Constitution, and at other times, and for other purposes, a despotism, outside of and unknown to the Constitution, and in both cases a rightful Government?

The Government of the United States, sir, as I understand it, is no such incongruous system, no such Janus-faced anomaly as the theory of this bill and of this Administration would make it; it is not at once law and no law, liberty and des-

potism; it is no form of horrible monstrosity like Milton's Sin—

"Woman to the waist, and fair,  
But ended foul in many a scaly fold,  
Voluminous and vast, a serpent arm'd  
With mortal sting."

For one I desire more light from the gentlemen of the majority as to the character of the duplex government they have developed into such vigorous life during the last four years. I desire to know for my constituents and myself under which government, the constitutional Government of the United States or the despotism of the President or Congress, it is our privilege to live. Under the Constitution I know their rights and mine; under the despotism I am tossed upon a sea of conjecture; I forever wander in the mazes of uncertain argument, knowing neither the character nor limit of rights, Federal, State, or personal.

The practical evil of these dangerous heresies which are daily obscuring in the minds of the people all correct ideas of free constitutional Government, and breaking up the foundations and framework of the Constitution, and establishing a despotism that governs by its own discretion and judgment of expediency and not by law, is apparent not alone in Louisiana and other States declared to be in rebellion, but in States not in rebellion, and where there can be no honest pretense for the exercise of powers extra constitutional.

A military court, composed of elements affording no guarantee of justice to any man whose political opinions were not in accord with those of the men in authority, has lately for months, in defiance of the Constitution, and laws of the land, been engaged in trying citizens of my own State for alleged conspiracies against the Government. Three of those citizens, up to the time of their arrest men of good repute, and apparently peaceful, law-abiding men, have by this military court been convicted and sentenced to death, and now await their doom in prison at Indianapolis, with no apparent hope of life but in the clemency of the President. Sir, citizens of a State preëminently faithful to the Union, where courts of law are open and the course of public justice unobstructed, except as this Administration has obstructed it by lawless invasion of constitutional rights, it was the right of these men, wholly unconnected as they were with the military service of the United States, if they were guilty or accused of any crime known to the laws, to be indicted and tried according to the laws before a jury of their peers, and that they have not been so indicted and tried is in my judgment a flagrant outrage not alone upon the men accused, but upon every citizen of Indiana who, by the precedent in this case, becomes exposed without protection of law to the same danger.

I speak of this case, sir, in illustration and by way of condemnation, not because of any sympathy with the condemned men in any purpose or conspiracy they may have formed or attempted to execute hostile to the State or Federal Government—for those who know me best in Indiana know where I stand in regard to these men and all secret political societies and their alleged conspiracies—but because I desire that, in their case as in every other, the law should be vindicated by the law; and because I believe that this should be a free, and not a despotic military Government; and that the vilest criminal that ever crouched before the bar of public justice has rights before the law that should be sacred in the eyes of magistrates and people.

Pending the progress of the military manipulation of a portion of Louisiana, comprising mainly, in votes if not in territorial area, the city of New Orleans, into a reconstructed State according to the President's plan, the bill of the last session, commonly known as the reconstruction bill, and identical in title and similar in its general purposes to the bill now before the House, was reported from the committee on the rebellious States, debated, passed on the 4th day of May last, sent to the Senate, debated and amended there, and finally adopted as it passed the House on the 2d July last, and sent to the President for approval. It was not approved by him, for the reasons stated in his proclamation of the 8th July last.

The President's objections to the bill may be

summed up in three points: First. His unwillingness "to be inflexibly committed to any single plan of reconstruction." Second. That the effect of the bill would be to set aside and hold for naught the free State constitutions of Louisiana and Arkansas, adopted under his proclamation of 8th December. Third. That he was unprepared to declare by an approval of the bill "a constitutional competency in Congress to abolish slavery in States."

Is it not wonderful, sir, that the President, who had swallowed the camel of executive emancipation should thus have strained at the gnat of congressional abolition? If General Banks could make void the constitution and laws of Louisiana by a military order, why could not Congress do the same by a legislative act? Was it, sir, an honest constitutional scruple or love of power that pointed this objection of the President to the congressional bill?

The sufficiency of the President's reasons for virtually vetoing the reconstruction bill were, soon after the publication of his proclamation, considered in an able paper made public by a distinguished Senator of Ohio [Mr. WADE] and an equally distinguished member of this House, [Mr. HENRY WINTER DAVIS.] The tenor of their masterly and conclusive argument against the President is best stated in their own words, when they say of the President's anomalous proclamation:

"A more studied outrage on the legislative authorities of the people has never been perpetrated."

And further:

"It is a blow at the friends of his Administration, at the rights of humanity, and the principles of republican government."

These assertions, sir, answer, so far as their authors are concerned, my question as to the honesty of the President's constitutional doubt. A studied outrage, sir, is not the fruit of an honest doubt.

However conclusive the arguments by which these grave charges against the President were justified, they failed to satisfy me that the reconstruction bill itself was a proper act of legislation. The question between the President and his two congressional friends was to my mind one between two usurping powers, the executive and the legislative; but I am free to say my sympathies were with the legislators and not with the President. Executive edicts have done more than acts of Congress during the last four years to sap the foundations and remove the landmarks of the Constitution. I deprecate all encroachments by one department of the Government upon another, but as a choice of evils I will trust usurping legislators rather than usurping Presidents; the former may usurp power from mistaken opinions as to the public good, the latter can rarely do so except from motives of personal aggrandizement. Power diffused tends to liberty, power concentrated tends to despotism; and the liberty depending upon any one will, admitting no constitutional restraints, holds its life by a very uncertain tenure.

The President's will undid the work of his friends in the last Congress in their efforts to reconstruct States. The Executive triumphed over the legislative power, and notwithstanding his "studied outrage on the legislative authorities of the people," the majority in Congress kissed the hand that smote them, and in spite of the reconstruction bill, in defiance of its well-matured provisions, Louisiana and Arkansas, States reared and reconstructed under the President's hand and plan, upon the basis of martial law, now knock confidently at our doors for recognition.

The crisis of the election being past, a renewed effort is made by the committee on rebellious States to carry out their plan of reconstruction.

The various forms in which the subject-matter before the House has been presented, the conflicting arguments which have been urged in its support, all indicate that division of counsel exists among those controlling legislation here, and who, having a common purpose, should have a common plan for its success.

The reconstruction bill of this session as originally reported, contained a section (the seventh) directly and without conditions recognizing the government and constitution of Louisiana as or-

ganized under General Banks's proclamation. Why Arkansas was not included I do not know; but the provision as to Louisiana was evidently intended to propitiate the President to approve the bill. It seemed to be a compromise between the House and the President, saying to him, "You may take Louisiana by executive reconstruction, and we will remake Arkansas by congressional reconstruction." For some reason this proposition has been withdrawn from the committee's bill reported by the gentleman from Ohio, [Mr. ASHLEY,] but it stands in the substitute of the gentleman from Massachusetts, [Mr. ELIOT,] accompanied by the further offering to the President by the gentleman from Illinois [Mr. ARNOLD] of a proposition virtually to confirm the emancipation proclamation of January 1, 1863. The committee's bill, as modified, now proposes to recognize Louisiana and Arkansas under their new constitutions provided conventions of those States shall incorporate into their constitutions the conditions prescribed in the twelfth section of the bill; and provided further that it shall appear by the United States marshal's enrollment that the persons who had taken the oath to support the Constitution of the United States, together with the citizens of the United States from such States in the military or naval service, amounted to a majority of the persons enrolled in the State.

As there is therefore a direct proposition before the House to recognize unconditionally the new government of Louisiana, I shall here say what further I have to say on that subject. The case of Arkansas I shall not specially discuss, for the principle of both cases is the same; both rest on the amnesty oath as a condition of suffrage, and if Louisiana is not entitled to recognition, neither is Arkansas.

I do not believe, for I have no reason to believe, that the constitution and government of Louisiana seeking recognition here are the free act of the people of Louisiana in any constitutional or even moral sense of that term. I do not profess to speak from thorough knowledge nor dogmatically on this question; but there are a few facts and figures bearing upon it which are conclusive to my mind, aside from what I have said of the amnesty proclamation and General Banks's order. I gather them, in part, from a pamphlet by Mr. Thomas J. Durant, of New Orleans, addressed to a member of this House, [Mr. HENRY WINTER DAVIS,] which has doubtless received the attention of many members.

The government and constitution we are asked to recognize are assumed to be the government and constitution of the State of Louisiana. The territory of that State is 41,346 square miles in area, and its population, according to the census of 1860, was 700,802 persons, and its total white vote in the presidential election of that year was 50,510.

Now, it appears that at the election of the first Monday of September last, upon the adopting or rejecting of the proposed constitution of the April convention, but twenty out of forty-eight parishes of Louisiana voted on the question; that these twenty parishes, comprising an area of but 13,804 square miles, or about one third of the State, cast 6,836 votes for the constitution and 1,566 votes against it, making a total of 8,402 votes, when 26,634 votes were cast in the same parishes in 1860; that of these 8,402 votes, 5,451 were cast in the city of New Orleans alone, and that that city therefore cast a majority of the votes given for the constitution. The consequence is that the new constitution and government of Louisiana were made by the city of New Orleans alone, and would have been so made had every vote outside of the city been unanimously cast against the constitution. Is it not an absurdity, sir, to call such a vote a vote of the State of Louisiana—6,836 votes to make a State government and organic law for 700,000 people of a State! A government thus made deserves to be called an oligarchy rather than a democracy or a republic.

We all know that since New Orleans was opened up to northern men by General Butler, the cotton speculator, the sugar speculator, and the cormorants of all vocations, from New England and other sections, have rushed to New Orleans as to an El Dorado for fortune-hunting men. To them "loyalty" has been great gain; and I believe

it will be found that these are the men who have been molding the State of Louisiana into its present shape before this House. Their money and influence have been potent in the work of reconstruction. The plan of repeopleing the conquered rebel States is already showing its fruits. For one, sir, when I cast my vote, if ever, to welcome Louisiana again among the States freely and fairly represented upon this floor, I do not intend to welcome some other State or its instruments under the borrowed or stolen garb of Louisiana. Massachusetts and New England have power enough in this Congress and in this Union already, in their own proper Representatives, without taking the name and constitutional functions of Louisiana. I will not, sir, for any cause, disfranchise the free-born white men of Louisiana, "native there and to the manner born," in order to enfranchise and place in power the adventurers who, following in the wake of Federal military power, have pounced upon New Orleans and the desolated plantations of Louisiana as the vulture plunges upon the slain of the battle-field. I am not in favor of the plan of devastation, extermination, and repeopleing advocated by some men. I will rather wait the coming of the auspicious, and, I hope not distant day, when the people of Louisiana, the real sons of the State, weary and sick at heart of their wild pursuit of the *ignis fatuus* of secession, shall of their own accord return to the Union as our fathers made it and their fathers accepted it—when Louisiana, once an alien to the Union, became bone of our bone and flesh of our flesh.

On these grounds, then, sir: first, because it was initiated and built up by Federal military power, exacting an unconstitutional and oppressive test oath as a basis or condition of suffrage, and creating a quasi duress over the people of Louisiana; and, secondly, because I have no evidence that it is the act of the people of Louisiana in any proper legal sense of the word, I am opposed to recognizing the new government and constitution of Louisiana as proposed in this bill; and I apply the same points of objection to the case of Arkansas.

Passing from the case of Louisiana I shall consider with as little of detail as possible, for I do not wish to weary the House, the prominent features of the bill and amendments before us.

Ostensibly and by its title the bill is one "to guaranty to certain States whose governments have been usurped or overthrown a republican form of government;" but the title is a misnomer. The mask of the Constitution is on the face of the bill; but usurpation and despotism are in its heart. The bill in fact is, as it is commonly called and known, a reconstruction bill. What, in brief, does it contemplate and propose?

1. A temporary, provisional, civil government by Federal officers, appointees of the President, over the States in rebellion, as Territories or military provinces—for that is the effect of the bill—which shall disregard all laws and usages of the State in favor of slavery, and shall extend to negroes as to white men the criminal laws of the State, and the qualifications of jurors.

2. Confirmation of emancipation to all persons and their posterity in all the States and parts of States covered by the President's emancipation proclamations, and the extension of the writ of *habeas corpus* by United States courts to discharge such persons when claimed and held as slaves, and making it a crime to attempt to enslave any person thus declared free, punishable by a fine not less than \$1,500 and imprisonment for not less than five years.

For a slaveholder, therefore, to doubt the infallibility of the President and Congress, and to attempt to hold his slaves against their acts, is a high crime by this proposed law.

3. Disfranchisement as citizens of the United States of all persons who, after this act, shall hold military office under the confederacy from the rank of colonel upward, or any civil office not merely ministerial.

4. The formation of a new State constitution and government "so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States." The

proceedings initiative of such government are to be taken by the Federal governor, aided by a State convention over which he shall preside; in the election of delegates to which convention the right of suffrage is to be extended to negro citizens who can read the Constitution of the United States, as proposed by the amendment of the gentleman from Pennsylvania, [Mr. KELLEY,] and to white citizens, and to all citizens of the United States, irrespective of color, who are in the military or naval service of the United States, all first having taken the oath of allegiance under the act of July 2, 1862. All persons who have held any office, State or federal, under the rebel usurpation, or borne arms voluntarily against the United States, are to be excluded from voting for or being elected as delegates, even if they offer to take the oath of allegiance.

In regard to the right of suffrage, and the right to be delegates to the constitutional convention, the last amendment proposed by the gentleman from Ohio [Mr. ASHLEY] in the nature of a substitute for the whole bill and amendments, (but which I have not had time fully to examine,) goes beyond any previous proposition, and virtually would give to the freed negroes the right both to vote for and be delegates to the constitutional convention. I refer to sections three and five of the last amendment or substitute. In the phrases "all male citizens of the United States," in section three, and "all citizens of the United States," in section five, are wrapped up the two cardinal ideas of the party in power—negro suffrage and negro equality.

5. The bill makes it the duty of the constitutional convention not only to declare submission to the Constitution and laws of the United States, but to incorporate into the State constitution these conditions:

Sec. 12. And be it further enacted, That the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guaranty a republican form of government to every State, and incorporate them in the constitution of the State, that is to say:

First. No person who has held or exercised any office, civil or military, except civil offices merely ministerial and military offices below the grade of colonel, State or confederate, under the usurping power, shall vote for or be a member of the Legislature, or Governor.

Second. Involuntary servitude is forever prohibited, and freedom and equality of civil rights before the law are guarantied to all persons in said State.

Third. No debt, State or confederate, created by or under the sanction of the usurping power, or in any manner in aid thereof, shall be recognized or paid by the State; and all acts, judicial or legislative, for the confiscation or forfeiture of any debt, property, or franchise, of any loyal citizen of the United States, are hereby declared null and void.

The constitution thus formed, to be submitted to a vote of the people of the State entitled to vote for delegates to the convention, and, if approved, certified to the President, who, after obtaining the consent of Congress, is by proclamation to recognize the State government thus established; and thereafter, and not before, Senators, Representatives, and presidential electors, may be chosen in such State.

6. If the convention refuse to reestablish the State government on the conditions prescribed, the provisional governor is to dissolve the convention, and the State remains in its territorial or provincial condition, under military duress, until the President shall see fit to direct the provisional governor to order a new election, when the same process shall be gone through with until a government to suit the prescribed terms shall be accepted by the people.

The effect of all this is—

1. To take from the people of the State all power to initiate proceedings to reorganize their own State government in harmony with the Constitution of the United States, or even to prescribe the qualifications of suffrage. The bill ignores the idea that there is any vital power in the people to restore their State government—not only taken from them by rebellion but kept from them by Federal power—until the Federal authority awakens the latent power of the people, puts it in motion, gives it direction, prescribes its mode and instruments of action, and defines and limits its results.

2. The effect is to exclude from the reorganization the entire white population of the State

who shall have held office or voluntarily borne arms against the United States, or who shall not take the oath of July 2, 1862.

3. To confine the right of suffrage and power of reorganization to enrolled men and Federal soldiers taking the oath; and the law affords no guarantee that even the enrollment shall embrace a majority of males over twenty-one years of age. The majority required as a basis of action is so many of enrolled persons taking the oath as, with the soldiers, shall constitute a majority of the persons enrolled; that majority, through defect or fraud in enrollment, may be not even one tenth of the males of the State over twenty-one years of age.

4. The effect is the absolute disfranchisement of eleven States and their continuance in a state of war until they accept "the abandonment of slavery," as dictated to them by the United States, and until by organic law they declare that all persons shall have "equality of civil rights before the law" of the State; a well-seeming phrase of broad import, the precise meaning of which I do not understand. A woman is a person, a negro is a person, an alien is a person, and the right of suffrage is a civil right. Does this high-sounding phrase of the bill mean that women, negroes, and aliens shall all have equal right to vote in a regenerated State with white male citizens? What does "equality of civil rights before the law for all persons" mean?

Now, it is to be borne in mind that these will be the effects of the proposed bill upon States in which the bill itself assumes as a condition precedent of this Federal dictation that "military resistance to the United States has been suppressed, and the people have sufficiently returned to their allegiance to the Constitution and laws of the United States." If so, why treat them as aliens and enemies, conquered subjects of an imperial Power?

In fact and in purpose, then, the bill before the House is one to abolish slavery in the United States, and to enfranchise and elevate negroes, and to disfranchise and degrade white men; a bill to change the social and industrial systems and internal policy of eleven States; a bill to take from those States their inherent reserved constitutional right to regulate in their own way their internal policy, not inconsistent with the Constitution of the United States. It is a bill to punish treason without trial or conviction; a bill to confiscate private property without adequate compensation; in short, a bill to reconstruct States and make State constitutions, when in truth no States or their constitutions have been destroyed, or need reconstruction, unless by the voluntary action of their own people.

Where, sir, is the power in the Federal Government to do all these things? Where the power to make a State, known as such to the Constitution and laws of the United States, a province or Territory of the United States, and to govern it as such, in defiance of the laws of such State not inconsistent with the Constitution of the United States? Where the power to put a State, not in rebellion nor disobedient to the Constitution, under military duress for indefinite years, until you force its people to remodel their constitution, not in itself anti-republican nor in any sense unconstitutional, and make it conform to the changeable will of a Federal Congress? Sir, there is no such power but in usurpation and physical force. This bill is in every element revolutionary, and had the issue now made by it with the slaveholding States been made with them on the 4th of March, 1861, and an attempt made then, as now, to enforce it by war, no man who is capable of distinguishing between the rhapsodies of fanatical abolitionists and the plain provisions of the Federal Constitution would hesitate to say that the people of the southern States whose rights were thus assailed would have been justified in resisting such conditions to the extremity of revolution.

Mr. Speaker, Congress cannot make a State, nor a State constitution, nor destroy either. Once a State in the Union, always so, until consent or successful force permanently takes it out. The people of a State, in the largest sense of the term, are the State, and they make its constitution; and to be their constitution in any just sense of the term it must be their free act, not the result of



coercion or duress in any form. When this free action has been had, then the only essential conditions of a State constitution in its relations to the United States are that it should be republican in form and in harmony with the Constitution of the United States. What, for example, made the State of South Carolina a State of the Federal Union? The Constitution of the United States and the consent of the people of South Carolina; and nothing but the same power, except successful revolution, can unmake her. That revolution is not accomplished, and therefore South Carolina is in the Union, and the power over her constitution in the hands of her people, who can do with it what they please, except make it contrary to the Constitution of the United States; that they cannot do, and when they attempt to make it thus contrary it is void in all those things wherein it is contrary; in all else it is good. Four elements at least are involved in the idea of a State government: 1. A defined territory. 2. The people occupying it. 3. Functions, or a form or system of government. 4. An administration, or officers or functionaries to carry on the government. In a constitutional sense it is absurd to say a Federal State may be partly out of the Union and partly in; its territory out, its people in; its territory and people in, its government out. Officers, functionaries, are not, in its full sense, the government. The life of the government is not in them, but is manifested through them. Suspension of action, or void action by the functionaries of a State government, is not the death of the State. State officers may commit suicide, a majority of the people may commit suicide; the State has not therefore committed suicide. Usurpation or overthrow of a Federal State government by the confederate State government, even with the consent of a majority of the people, is not the death of the Federal State. The usurped or overriding power being removed, the lawful Federal State government revives of its own inherent life and becomes the law of the people until they constitutionally and lawfully change it. Every officer of a State may die, resign, refuse to act, desert his State, or turn traitor; is the State therefore dead? It is not. The substance, the body of the State, its territory, its people, its organic law, remain. The functionaries may be gone, but the functions of government are not gone. Suspension of rights, non-exercise of rights, either voluntary or by coercion, or misfeasance, or malfeasance in a State having elements of sovereignty, do not involve destruction of sovereign rights, much less extinction of the Federal State. The State exists and the rights revive when the suspending or disturbing cause is removed. It would relieve the minority in this House from much embarrassment, and save them perhaps from false charges of factious opposition to Administration measures, if the President and his friends here would agree among themselves and clearly define to us the principles on which they propose to deal with the States in rebellion. Are those States out of the Union, or in it? Is their territory foreign territory or not? Are the powers you and the President are assuming to exercise over them powers of conquest or powers under the Constitution? Is the plan, either in principle or in detail, embraced in this bill, a plan "wholly outside of and unknown to the Constitution," or inside of and known to it?

For my part I cannot understand the doctrine of the gentleman from Massachusetts, [Mr. ELIOT,] by which a State is at the same time in the Union and out of it; a State and not a State; at once a State and a Territory; a State in the Union to be governed and out of the Union to be disfranchised and punished. A State in my idea is an entirety; a body-politic, not several bodies-politic; one sovereignty, qualified and limited, it is true, but yet one sovereignty, not many. Members of the State may be disjointed and perish, but the State remains one body, either in the Union or out of it.

The doctrine of the gentleman from Pennsylvania, [Mr. STEVENS,] that the States in rebellion are in fact and in law out of the Union, is at least consistent if not sound. It is a doctrine entirely consistent with the independence of the southern confederacy, an idea which we have repudiated at the cost of seas of blood. If the rebellious States are in the Union, under the Constitution,

and in a legal sense there is no other Union, they are there as States, with all their constitutional rights as such unimpaired; the war power can touch only their claims of right not constitutional. If they are out of the Union, but subject to our power over them as their conquerors in war, being conquered, their territory merges into the mass of national territory, and may be treated and governed as such; not, however, by an unlimited military discretion, but to the extent of the constitutional power of the Federal Government over its Territories; not otherwise.

But, sir, on this question of the relations of the revolutionary States to the Federal Government I accept the doctrines of President Lincoln in his inaugural of March 4, 1861, and have only to regret that after so clear and sound a statement of constitutional law and good intentions, the President has since, in direct conflict with his own teaching and oath, "come to the same conclusion" with the gentleman from Pennsylvania, [Mr. STEVENS.]

The President, on the 4th day of March, 1861, among many other things which it cannot now be pleasant for him or his admirers to refer to, said:

"I take my official oath to-day with no mental reservations, and with no purpose to construe the Constitution or laws by any hypercritical rules."

He further said:

"I hold that in contemplation of universal law, and of the Constitution, the union of these States is perpetual."

He further said:

"It follows from these views that no State, upon its own mere motion, can lawfully get out of the Union; that resolves and ordinances to that effect are legally void, and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances."

He further said:

"I therefore consider that in view of the Constitution and the laws, the union of these States is unbroken, and to the extent of my ability I shall take care, as the Constitution itself enjoins upon me, that the laws of the Union be faithfully executed in all the States."

This is the only theory consistent with the true constitutional idea that the Federal Union is a perpetual union of States, and that each State, as an individual member of the Union, has in itself the same element of perpetuity that belongs to the aggregate Republic formed by that Federal union of States. The Union can be held to be perpetual only on the principle that the States composing it are perpetual corporations or bodies-politic, and indestructible by any act of the aggregate body or by their own act; otherwise consolidation, not union, is the fundamental principle of the Federal Constitution; and this idea, the language, the spirit, the history of the Constitution, all repudiate. The States united cannot destroy a single State; power to do that is power to consolidate the States into one. A single State cannot destroy the Union; power to do that is power to secede; and neither consolidation nor secession are principles of the Union.

What, then, is to be done in the case of a State whose functions have been suspended or disturbed by rebellion or other force after the illegal force hostile to the United States and lawful State government has been overcome and removed, there being no State officers having right to exercise the functions of State government? Is the Federal Government to intervene and set up a new government, make a new constitution, as proposed in this bill? Not so. In the absence of lawful State functionaries, from whatever cause, the functions of State government revert to the people in their primary right, as the source of the government. The life, the vital powers of the State are in them, and all they have to do is, by concert of action, conformable so far as may be to the necessity of the case and the organic law of the State, to choose new functionaries, new officers, new Senators and Representatives in Congress, and thus set the dormant or suspended government again in motion in harmony with the Government of the United States. All this can be done without the initiative action, or cooperation, or even presence, of a single Federal officer within the State. The sovereignty of a State as to its internal affairs is in its people. The question of the recognition of that sovereignty, in any form in which it may be presented to the Federal Government for recognition, is a political, not a judi-

cial question, and is not to be decided by abstract theories, but by the tests of the Constitution. No Federal act is indispensable to make a State government, reorganized by the people in the mode I have supposed, complete, except recognition by the proper political authority of the Federal Government, namely, the Congress; and the only proper inquiry is, "Is this government republican in form? Was it established by the people conformably to their own laws? Is it faithful to and in harmony with the Constitution of the United States?"

I will not say that facts may never exist to justify action by the Federal Government in harmony with and subordinate to the will of the people of the State, but they cannot justify it in dictating organic changes, when no conflict exists between the organic law of the State and the Constitution of the United States. The action of the Federal Government, in any extreme case justifying its intervention, must be subsidiary to State laws, not paramount to them. It cannot, as did General Banks, declare a State constitution and laws void unless the Constitution of the United States or laws passed pursuant to it make them void. The principle, the essential character, of this question is not changed, whether the temporary overthrow of the lawful State government arises from the acts of a foreign enemy or from internal or domestic violence. Can either destroy the constitutional government of the State, or destroy or wipe out its organic law or any part of it so as to leave the State a *tabula rasa*, whereon the Federal Government can write, or command the people of the State to write, what it pleases? If a foreign enemy or an internal revolutionary State government cannot thus destroy or change the lawful State government and constitution, by what right can the United States Government, having authority in the State only to protect lawful State and Federal authority, work such destruction or organic changes? To assume that it can is to assume that the United States, a Government of delegated and strictly limited powers, can either upon the occasion of a foreign war, or of rebellion in a State, by its own act, subvert its own Constitution, conquer its own territory, and overthrow its own constituent States.

"The United States shall guarantee to every State in this Union a republican form of government."—*Constitution of the United States*, art. 4, sec. 4.

Herein is claimed to be the constitutional warrant for this bill. What does it mean? What is the extent of the power? Who is to judge of the occasion and manner and measure of its exercise? The United States, the guarantor, agrees with each State, the guaranteee, that neither the United States, nor any one or more States, nor any other Power, shall ever overthrow republican government in any State. The guarantee is fundamental, and the very essence of the contract between the States in the Constitution, and irrevocable except by the assent of every State. The power to amend by three fourths of the States cannot reach it, for that is a power to amend, not to destroy; and if republican government be of the essence of our Federal system, to destroy republican government is to destroy the system itself.

The constitutional guarantee cannot be extended beyond its plain import. It was intended as a shield to the States, not as a sword against them—a power of protection, not of encroachment or aggression—the protection of republican forms of Government in the States, not the creation of such governments by the Federal authority, is the purpose of the guarantee. No one reserved State right can be divested by its exercise. Is the right to regulate its own domestic policy, not inconsistent with the Constitution of the United States, a reserved right of each State? Who denies it? Is it consistent with the Constitution of the United States for a State government to declare that a negro or a woman shall not hold office, or vote, or be a juror in such State? It clearly is. The power so to declare is a reserved right of each State. Can Congress take it away? I might extend the inquiry to the entire class of subjects which, hitherto, and until the monomania of abolition and negro equality had seized the public mind, were regarded as within the reserved rights of the States, and ask, can Congress take them

away? This bill says that it can. The Constitution of the United States, if it means anything, means that it cannot. If Congress can do what is proposed to be done by the twelfth section of this bill, it is hard to conceive what it cannot do in the way of dictating State constitutions and subverting State governments. Its power would admit of no limitation except in its own judgment of what might be for "the general welfare," and to concede to it that discretion would be to concede to it the omnipotence of the British Parliament, and to such a practical result have the dogmas of abolition led us.

But admit that Congress may judge as to what is a republican form of government in a State, that judgment is not one of unlimited discretion, but is to be guided by the Constitution; what that recognizes as republican government is so, and no different rule of republicanism can be imposed by Congress until the Constitution itself is changed. This would seem to be too plain a proposition to admit of question.

What, then, is a State government republican in form? Is a slaveholding State such a government? Is a State not guarantying "freedom and equality of civil rights to all persons before the law" such a government? Beyond question it is, or may be; for a large majority of just such States, slaveholding States, made the Federal Union and Constitution, and protected slavery by express guarantees as a local relation or institution of States; and every functionary of the Federal Government is estopped by the Constitution itself, by judicial precedent, and by the uniform practice of the Government from avowing that a Federal State recognizing negro slavery is not or cannot be a republican State. To assert, then, that slavery and a republican form of government are incompatible, and that, therefore, the executive or legislative power of the United States—the Constitution being unchanged by amendment—have a right to declare that a State constitution and laws recognizing negro slavery are unconstitutional and void, is to assert a falsehood and an absurdity; and for the Federal Government, executive or legislative, to demand as a condition of recognition and protection to a State in its government that it shall abolish slavery, and to enforce such demand by military occupation and force, is usurpation and revolution on the part of the Federal Government, nothing less. This, sir, in my judgment, is the logic of the Constitution, and no specious arguments or florid rhetoric upon slavery, its wrongs or its dangers, can refute that logic. Before the law and logic of the Federal Constitution, the bill now before the House is revolutionary and void. If this is a revolutionary Congress, you have a revolutionary power to pass this bill; but if it be, as I am bound by my oath of office to believe and assert, a Congress sitting under the Constitution of the United States, and having no powers outside of or unknown to it, then you cannot constitutionally pass this bill.

But the question involved is not one of power alone. It is also one of policy, of expediency, of magnanimity—a great question, appealing not only to the calmest judgment of the people but to the best and noblest feelings of their hearts, and among these, sir, I include the sympathies which spring from identity of race and kindred blood. We, sir, are white men, exercising the powers of a Government made by white men, and our first duty is to use those powers for the benefit of white men and their posterity forever. Our duty to our own race is kindred to our duty to our own families. True charity begins at home.

Mr. Speaker, the question most important to the people of the United States and to this Congress is, how soonest to restore peace and union with the constitutional rights of every State unimpaired; for, sir, there can be small hope of permanent peace without union, and that will be no union in the sense of the Constitution into which any State, shorn of its equality and sovereignty, shall be dragged at the chariot wheels of military conquest. Consent, free consent, not force, made the Union of these States, and free consent is the only honorable and just agency that can secure its permanent restoration. With whatever abhorrence I may look upon the southern revolution and its consequent evils to the whole country,

I could not without pain behold the Representatives of conquered and degraded States coming to our doors to—

"Bend low, and in a bondman's key,  
With bated breath and whispering humbleness"

sue for admission here. Let that spectacle of the degradation of American States, our constitutional coequals in rights and sovereignty, be spared to the American people and to the nations of the earth. Magnanimity is an element in the highest statesmanship. Like mercy, to which it is kindred—

"It becomes

The throned monarch better than his crown."

We can afford to be magnanimous; we can afford to spare the people of the southern States, even if they were absolutely conquered and had laid down their arms and we had full power over them, the humiliation of reconstruction upon the principles and in the ways indicated by the bill now before the House.

Mr. Speaker, we have tried four years of disunion and civil war. Destruction, desolation, political and social demoralization have marked the whole progress of the war. It has shaken our political fabric to the loosening of its very cornerstones. In the wild delirium of their passion the American people have made war on each other as the fabled Titans warred. We have rushed into fields of blood as if we felt upon us "the thews of Anakim," and within us "the pulses of a Titan's heart." The whole action of the body-politic for the last four years has been abnormal and spasmodic. The cry has been blood, blood, when all through this fearful ordeal of passion the great want of the nation has been statesmanship, not blood; wise men, rather than destroying armies. The war has brought no beneficent results that statesmanship could not better have achieved. We may endeavor to trace in the bloody track of war the ways and footsteps of the benign Deity whom we have dethroned as the Prince of Peace, in order to enthrone him as the God of Battles; but, sir, we will search in vain in the past or future for compensation for the appalling evils of the war. The judgment of history will be that the last four years have been years of dishonor, not of true glory to the American people. Priding ourselves upon our intelligence, our Christianity, our freedom, our power, and boasting of a system of constitutional government adapted by its self-adjusting power of amendment to cure its own defects and perpetuate itself without revolution, but turning infidels to our own self-imposed law, we have waded in slaughter, because we could not agree as to the character and limitations of our own constitution of government. No question of dynastic succession, no question of religious faith, no fact of intolerable oppression, such as in other countries and ages made revolutions and civil wars, carried us into war. We have fought like demons when we should have taken counsel together and argued and voted like intelligent and patriotic freemen.

Mr. Speaker, the people want peace. The public welfare demands peace. The time for peace is near at hand—if wisdom fail us not now, as it failed us in the beginning of the war. The bad passions, and I may say the bad men, that provoked and began the war, have well-nigh run their course and spent their fury. Reason, and the patriotism that embraces the whole country, not sections alone, nor States alone in the fold of its love, are again assuming mastery. Notwithstanding the clouds that have temporarily obscured them, signs elsewhere, if not in this House, are not unhopeful of the near inauguration of the power of conciliation which looks to reason rather than to force—to kind charities rather than malign passions as an agency for peace and union.

Conciliation, which involves the postponement or at least the subordination of the question of slavery and all its collateral issues between the contending States to the higher question of the Constitution and the Union, has from the beginning of the war been a prominent feature in the policy of the Democratic party toward the people of the southern States. It has subjected us to gross misrepresentation and to unmeasured vituperation, and in many individual cases to oppression and outrage; but, sir, it was a policy dictated by the best impulses of the heart, demanded

by the Constitution, and justified by the experience of history. It was clearly indicated in the Crittenden resolution of July, 1861, and all parties in Congress then approved it and the people accepted it. It was clearly stated in the Chicago resolutions of August last, and in the public letters of the Democratic candidate for the Presidency. This policy of conciliation was not adhered to and carried out by the President and Congress, and under the influence of the passions of war it failed to receive an approving vote of a majority of the people in the election of November last; but it is nevertheless entitled to the respect due to the convictions of a minority of one million eight hundred thousand free electors in the United States, whose fidelity to their country, however aspersed, history will indicate. This policy, sir, of conciliation is the only policy upon which peace can be made without degradation and dishonor to men whom it is neither our right nor our interest to degrade, or expatriate, or destroy; it is the only policy that will permanently heal the gaping wounds of war, and leave no rankling hate to fester into gangrene in the body-politic.

Mr. Speaker, the abstract question of right or wrong between the northern and southern States, or the question of negro slavery, is not the whole question in our case when we come to treat of peace, or to discuss measures in the interest of peace. Slavery is not the subject on which we took up arms, and it is not the chief question to be settled. We cannot make peace on that naked issue. We cannot without crime carry on the war until the theory of absolute justice to the negro is realized. Absolute justice, absolute right, are things unattainable in any human society, for the reason that the Divine ruler of the world has not so constituted man nor ordered human affairs as to make them attainable. Revolutions, political contests, civil wars, have never fully realized any abstract theories of right or of perfect Commonwealths. This war will not realize them. Philosophers may speculate over such theories and picture imaginary Utopias, but the stern logic of history, the incorrigible perversities of man's nature blow the air-painted pictures to the winds.

"The earth hath bubbles as the water hath,  
And these are of them."

Holding these views of the character of the war and of the policy and means that will soonest end it, the bill before us, in my judgment, is not a measure for peace, it is not a measure for union, it will not aid to restore and reenthroned in the hearts of the people the broken and dishonored Constitution. It embodies a spirit and purpose toward the southern people which, if impolitic and vindictive one year ago, when the bill first came before the House, and when our enemy was far stronger and more defiant than now, is still more impolitic and vindictive at this time, when the minds of all good men are searching diligently for ways of reconciliation and peace.

Mr. Speaker, the opinions and fears of the southern people that the Republican party when it obtained control of the Federal Government by the election of 1860 would not stop short of the total obliteration of slavery in the United States, and a remodeling of the whole domestic policy of the slaveholding States, were not groundless. The logic of the abolition party, the logic of Mr. Lincoln and Mr. Seward, and of all others who for the sake of political power accepted the dogmas and acquired the animus of the radical abolitionists, inexorably demanded the immolation of negro slavery. It has come, sir, and by and by it will be for us and our posterity to count the cost and sum up our and their gains. The war, provoked by an intemperate zeal to dry up or blot out what Mr. Seward once termed "the mean and miserable rivulet of black African slavery," has only hastened and made us to realize, with fearful cost of blood and wealth and human happiness, a result that was as certain otherwise to come in God's own time peacefully, through the inevitable workings of a free constitution of government, as the stars are certain to move in their courses according to the laws of their being.

No greater absurdity was ever imposed upon a deluded people than the idea continually dwelt upon by the radical abolitionists that slavery was encroaching upon freedom, and that there was

danger that the Union would become all slave. It was not, sir, the idea of a statesman or of a large-minded patriot. The spirit of the Constitution, the instinct of the American people, the physical characteristics of the country, the laws of political economy, the statistics of our national development, the very laws of human progress, were all against such an idea; and if anything in our past political history gave encouragement to it it was removed by the much-traduced Kansas and Nebraska act of 1854. There was, sir, in that act a principle which laid the ax at the root of the tree of African slavery on this continent; it was the principle of American Democracy, the democratic principle of the right of the people to form and regulate their domestic institutions in their own way, as well in Territories as in States. It removed the Missouri Compromise line from the national territory, and opened to the superior activity and vigor of free institutions the territory south of the Missouri line, which had, by the Missouri act of 1820, been tacitly set apart for slave States. It left freedom and slavery to fight out their battle on neutral ground, and who shall doubt on which side the victory would rest? If any proof were wanting that the Kansas and Nebraska act of 1854 was one in the interest of free institutions it may be found in the fact that the author and ablest advocate of that act, Stephen A. Douglas, was politically crucified by southern men because he would not cooperate in nor approve their schemes to defeat the intent and spirit of the law by carrying slavery by force and fraud into the constitution of the new State of Kansas. When the Federal Government itself by the act of 1854 had cut loose from political intervention with slavery all that true and intelligent friends of free States had to do was to cease agitation of slavery as a question of national politics, trust to the peaceful, healthy action of the Constitution, and the progressive vitality of free institutions, and abide their time. "The mean and miserable rivulet of black African slavery" would have disappeared, leaving perhaps stains, but no fearful rents nor scars upon the body-politic.

But it was otherwise ordered. The suicidal effort at secession afforded to the zealots of anti-slavery a pretext for making direct and open war upon slavery with all the power, material and political, they had acquired by the election of 1860, and they at once adapted their theories and plans to the changed relations which secession had produced. The sagacious mind of Mr. A. H. Stephens clearly foresaw and foreshadowed this result in his speech against secession to the Georgia convention, when he warned the convention that the consequence of their unwise and impolitic act of secession would be to destroy their hope of more slave States, and perhaps by it lose all, and have their last slave wrested from them by stern military rule, "or," as he said, "by the vindictive decree of a universal emancipation, which may reasonably be expected to follow."

On the 4th March, 1861, it is plain the mind of Mr. Lincoln, however imbued with anti-slavery ideas and the conviction of the necessity of abolition, had not thrown off the restraints of the Constitution. He was then even willing so far to ignore the doctrine of his speech of June 17, 1858, as to declare his assent to the amendment which had been proposed by Congress to the effect that no amendment to the Constitution should ever be made "to give to Congress the power to abolish or interfere within any State with the domestic institutions thereof, including that of persons held to service or labor under the laws of said State." Then the President believed he had not the power, and he declared he had not the inclination, to disturb slavery in the States. Then the war power had not developed itself to his mind nor been made precious to him by the habit and pleasure of its use.

So soon as it was apparent, after the beginning of civil war at Charleston, that the people of the North were prepared, for the sake of the Union under the Constitution, to meet the terrible ordeal of war, and to make force an element of its defense, the wily antagonists of slavery saw their opportunity and advanced the proposition which a majority of the people seem to have gradually accepted as a postulate: "Slavery is the cause

and strength of the rebellion." This taken for granted, its consequents were plain: to destroy the rebellion, slavery must be destroyed; to restore the Union, slavery must be destroyed; to preserve the Constitution, slavery must be destroyed. This postulate and its consequences once accepted by the President and his party, it was not difficult to find in assumed war powers of the Executive and of Congress the instruments to do the perfect work of abolition in the rebellious States.

Mr. Speaker, the truth of the assertion that slavery is the cause and strength of the rebellion has never been apparent to my mind. It may be true that the rebellion would not have occurred when it did except for slavery; neither would it have occurred except for the success of the Republican party upon an anti-slavery policy. The real cause of the rebellion lies deeper than the fact of slavery. Not slavery alone, but the undue development and antagonism of two principles in the Federal system engendered practical infidelity to the Constitution; and from being infidels to the Constitution it was an easy transition for men to become its destroyers. From the foundation of the Government the principle of consolidation or centralization of power, tending in its extreme assertion to monarchy, and the democratic principle of State rights, or diffusion of power, tending in its extreme assertion to disintegration and anarchy, have fought peaceful political battles over the Federal Constitution with alternating success. I do not know that these two principles can better be characterized than by comparing them to the centripetal and centrifugal forces in the solar system, forces so evenly balanced in that system by the divine hand that they ever work together in harmony; but in our Federal political system they are subject to the disturbing influences of man's imperfect capacity to regulate his own moral and intellectual nature; subject, in brief, to man's imperfections.

So long as intelligence, patriotism, love of the Constitution, and mutual good-will between all the States ruled the Government, there was no occasion for the dangerous assertion of either Federal or State rights; the two differing theories or forces were practically harmless; they worked in harmony like the forces binding the sun and the planets in their appointed spheres. But when sectional interests and opinions became strongly antagonistic, and sectional jealousies grew to heart-burnings and hatred, the subject of slavery became the prominent one on which the antagonism of sections became most marked, and Massachusetts and South Carolina became representatives of ultra opinions on each side. Boston denounced the Constitution of the United States as "a league with hell," because of its protection of slavery, and resisted the fugitive slave law; while Charleston imprisoned Samuel Hoar, an honorable citizen of Massachusetts, for seeking to obtain justice for a kidnapped man of color, claimed to be a citizen of Massachusetts. With the strong antagonism and hatred between sections as represented in their extremes by the two States I have named, came the efforts of the stronger States, having a common interest and institutions, to work out their plans through the central Federal power, and the effort of the weaker section, having other common interests and institutions, to protect themselves by flying off or withdrawing from the Federal influence. Abolition in the North sought its ends through the principle of consolidation; the slaveholding, or rather cotton States, sought protection for their sectional interests, slavery included, in the disintegrating principle of secession. When sectional hostility is strong for whatever cause, the stronger party resorts to Federal power, the weaker falls back for defense on State rights. Massachusetts in 1814, hostile to the war of 1812 because of its effects on her commerce, took steps in the Hartford Convention toward rebellion and secession. South Carolina in 1832, aggrieved by the tariff of 1828, attempted nullification, and would have seceded except for the strong will and Federal power of Jackson, sustained by the public opinion of the nation. South Carolina in 1860, taking Massachusetts at her word, that the Constitution was "a covenant with death," and ought to be broken, tried to break it; but circumstances

had then changed, and Massachusetts having the power to enforce the covenant of death, having Federal power on her side, stood by the Union and its bond, even to the extremity of wiping the people and name of South Carolina from the face of the earth. Sir, in the light of history the mutual criminations and recriminations of Massachusetts and South Carolina are painful to truthful and candid men. Mutual charity rather than mutual vituperation would become both.

In the sense in which I have stated it, sir, as a pretext for or an element of infidelity to the Constitution, is slavery a cause of the war, and not otherwise. If Massachusetts and the northern States had loved the Union and Constitution more than they hated slavery, there would have been no war; had South Carolina and the cotton States loved the Union and Constitution more than they hated New England and loved slavery, there would have been no war. State rights and Federal rights, the centrifugal and centripetal forces of the Federal system, would have worked harmoniously for centuries, and slavery have disappeared as the twilight melts into the perfect day. Men of both sections, sir, extreme abolitionists and extreme advocates of slavery, are responsible for and must bear the guilt, the moral guilt, of the rebellion.

As slavery is not in any just sense the cause of the war, neither is it the strength of the rebellion; on the contrary, sir, it has been its weakness and the cause of its failure. Slavery in this war has been to the southern States, when they leaned on it for support, a broken reed. Think you, sir, that if the seceded States, instead of three and a half million negro slaves, had had within their borders the same number of white persons with their proper proportion of such fighting men as have filled the southern armies for the last four years, the chances of the South for independence would not have been far greater and their military successes far greater than they have been? When the southern men, in their madness, laid their sacrilegious hands upon the ark of the Federal covenant, they doomed to death their institution of slavery, and lost their power of preserving their cherished dogma of State rights; and had the Federal Government during the war never done one act or written one line by way of edict or law touching slavery as an institution, slavery would have perished. The necessities of war, the contact and abrasion of war, would have worn it away; and it was an evil, nay a woeful, day when anti-slavery fanaticism, in order to destroy an institution already doomed to death in the house of its friends, broke down the safeguards and limitations of the Constitution, and made a federal republic substantially a consolidated empire whose very organic law has become the mere creature of executive will. Sir, the wisest men of the Administration party have not hesitated to say, and to say truly, that the issue with rebellion has been changed and its power invigorated by the radical anti-slavery policy, under whose pressure your President has conducted his administration. If southern armies have been conquered, sir, it has not been done by emancipation proclamations, or confiscation acts, or acts partitioning southern lands among negroes, nor by negro soldiers; but by such free-born young white men as their own brave, proud spirits and the military genius of McClellan trained into the heroes that smote the power of the rebellion at South Mountain and Antietam; such free-born young white men of our own Northwest, sir, as, under the leadership of Sherman, moved "still as the breeze, but dreadful as the storm," through the quaking heart of the southern confederacy from Atlanta to Savannah.

In my judgment, sir, not one victory has been gained, not one Union man made in the South, not one Federal dollar nor the life of one Union soldier saved, by making the war a war upon slavery rather than upon armed enemies of the Union; on the contrary, battles, lives, dollars, and priceless liberties have been lost by the efforts to abolish slavery by Federal power rather than to subdue rebellion. And in addition to all this, sir, the policy of negro elevation to an equality of social and political rights in this Republic with white men, its natural, and in the order of God its inevitable rulers, is the death-warrant of the Afri-



can race among us, dooming it to gradual but certain extermination. As superior and inferior races, the Anglo-Norman and the negro may exist together in the same political State; but as equals they never can.

Under the blind infatuation of partisan passion, ignoring the most solemn pledges, and even truths, of human nature, the purpose and issue of the war have been changed on our part from defense of the Union and Constitution to the enforcement of the abandonment of slavery and the political elevation of negroes. That has been made the condition of peace, and the President and Congress have marked out the line by which they will travel to its realization. They have been fighting it out on that line for three years or more, until it runs in a river of blood. Have we reached the haven of peace? Ask the armies and navies still doing the work of death; ask the late order for the conscription of three hundred thousand more men, additional to the two million and more already offered to the Moloch of war. Have we saved the Union? Its fate still hangs trembling upon the ordeal of battle. Strength and victory seem now on our side, but the race is not always to the swift, nor the battle to the strong. Have we saved the Constitution? Like a dishonored scroll it has been trampled under the feet of the President and Congress, and two million and more of voters who, but a few years ago, sang *lo poems* in its honor, now say "Amen" to its dishonor.

Few, sir, who witnessed it, will ever forget the scene of a few days ago, when the gentleman from Ohio, [Mr. ASHLEY,] seemingly proud of his functions, officiated as high priest in this Hall while the Constitution of our country, the matchless work, and bearing the honored names of Washington, Franklin, Madison, Hamilton, and their illustrious compeers, was offered as a sacrifice upon the altar of the blood-stained demon of political abolition, and the wild shouts of a law-defying multitude rang from the crowded galleries to applaud the deed; and, sir, the majesty and dignity of the Constitution and the laws, represented in your place of honor and power, seemed to quail before the exultant shout of victorious partisans. But, sir, I ask again, have we by the war and its policy saved and protected the rights of the States—rights the maintenance of which inviolate were not long ago declared to be essential to the perfection and endurance of our political fabric of Federal Union? You who so declared on the 10th day of May, 1860, and your President, who so declared, under the solemnity of his inaugural oath, on the 4th day of March, 1861, now laugh your own declarations as well as the rights of the States to scorn. Has the war of abolition saved the lives and happiness of our own white race? Inquire of the countless dead, ask the desolated homes, commune with the widows and orphans, measure the sorrow of broken hearts, ask the maimed victims of the war, ask the millions to whom the war and its policy have brought poverty, sickness, wounds, sorrow, sin, and death. Have we lightened the burdens of the people? Have we, in the gilded phrase of your President, "lifted artificial weights from all shoulders?" Look at the appalling figures of our public debt, measuring well nigh four thousand million dollars, money more than enough to have bought and paid for every slave within the United States before the war began, and yet the arithmetic mountain of public debt grows without ceasing.

"Hills peep o'er hills, and Alps on Alps arise."

Ask the impoverished and desponding taxpayers, "Are your burdens light?" And ask, too, the contractors and manufacturers, the national bankers and fund mongers who are clothed in purple and fine linen, and whose eyes stand out with fatness from the wealth wrung from the hard hands of the people to feed the voracious appetite of war. Have we saved and protected the rights and liberties of our free-born white men? Ask martial law. Let the response come from the white slave of the conscription law driven into our Army, branded and chained like the galley-slave scourged to his dungeon, or sold into it as slaves are sold in open market. Question the writ of *habeas corpus*, suspended and denied its rights before the law; suspended and denied to white men, but by this bill extended and made

active for the relief of freed negro slaves. Ask also your political prisons, teeming with the victims of despotic power, whose cry for right has but lately found listeners in this Hall. Ask innocent men and women time and again imprisoned and banished, without cause, without warrant, and without atonement or redress. Ask Magna Charta, which has for centuries guarded the humblest storm-shaken, wind-pierced cot on England's soil as sacredly as the palace of her proudest baron; ask Magna Charta if in the midst of the war of abolition free America protects the liberties of white men. Ask also public orators silenced, free presses suspended, peaceable assemblages of the people overawed or dispersed, courts of justice and trial by jury suspended by courts of military commission. Ask truckling, time-serving judges, who in the very sanctuaries of the law, in the very temples of public justice, are the ministers of her dishonor. Ask all these if the managers of the crusade for negro emancipation have saved and protected our rights as citizens and freemen before the law.

Have public and private virtue been promoted by the war of abolition? Ask this city, the metropolis of the nation, and a type of its morals, its manners, its civilization; ask the city of Washington, where licentiousness riots in high places and crowds the public ways; ask the thousands of hapless, ill-fated women, brought here by the exigencies of war to swell the tide of public demoralization; ask the plunderers of the public Treasury, of every grade, the cormorants and thieves that feed on the spoils of war.

Has the negro been made free? Let the hundreds of thousands yet dwelling in their house of bondage answer. Has the freed negro been made happier and better? Ask the one fourth of the slaves of the South who, like the moth that courts the flame that kills it, or the Hindoo devotees crushed by the idol they adore, have rushed to the Federal flag and fallen into the wake of the victorious armies of emancipation, and there, starving, diseased, helpless, have found liberty to die! Ask the dead negroes of the war, and the tens of thousands of their race doomed also in like ways to perish. Finally, sir, in summing up the gains and blessings of this war of abolition and secession, ask the invaded, impoverished, blood-drenched, war-scarred, desolated South, and its maddened, desperate people, to tell us what they are!

Sir, in answer to all these questions there come to us, borne on the four winds of heaven, myriads of mournful voices pleading in the name of the Union, the Constitution, and our common country—yea, in the name of humanity itself—for an end of war, and for the spirit, the arguments, and the blessings of peace.

In the policy of this bill, in the policy of your constitutional amendment, in the policy of your party, in the policy hitherto adopted by the President, there is no basis nor hope for peace to the southern people without dishonor; and who, sir, would not say "Death before dishonor?"

If I may presume to counsel this Administration and Congress, I would say, make no condition of peace but Union, on the basis of the Federal Constitution, as the fathers of the Republic made it, and as it was interpreted for seventy-one years of matchless national honor and prosperity. Cease to press emancipation, either by executive edicts, congressional legislation, or the coercive power of constitutional amendment. Emancipation will come; but, mindful of the wise words of your own President that "gradual not sudden emancipation is better for all," trust the people of all the States concerned with the question of emancipation, and with the experience of the past, they, after peace is restored, will deal with it and its consequences upon the social and political condition of the negro better than we can now. Repeal your confiscation laws and your acts and efforts to seize and parcel out southern lands. Restore rights and franchises vindictively seized. Stop all your arbitrary and vindictive proceedings, and grant an amnesty to all political offenders, making no test of loyalty but fidelity to the Constitution. Show your readiness to restore constitutional State rights and the disturbed balance of the Federal system. Do all these things, and you will shake

the southern confederacy from its center to its corner-stone; you will bring a power to bear against it more potent than armies and navies; you will save lives, wealth, and constitutional liberty; you will make a permanent peace, resting upon its surest base, a Union restored and a Constitution honored in the hearts of all the people.

It is to my mind no answer to such counsel as this to refer to the late abortive effort at negotiation for peace. When all the facts are known we can better judge of the true design and character of that effort. So far as they are known by the official reports from either side, I cannot commend the action of the President of the United States, however much I condemn the course of Jefferson Davis. It is evident that the desire for peace and union was in the hearts of the confederate envoys, and a grand opportunity was offered and lost to Mr. Lincoln to have opened the door for reunion, by simply indicating that his radical policy of negro emancipation and elevation by Federal action should not stand in the way of peace.

For one, sir, I never expect the present rulers of the two warring sections to make peace, except at the end of a war of exhaustion. Both Lincoln and Davis are the unyielding advocates of the extreme sectional dogmas that have divided the Union. If the people want peace they will have it through their own spontaneous demand for it, and not because the men in whom they have placed the powers of Government will lead the way to peace. Their efforts have been to pull the sections asunder, not to unite them. When both these men shall indicate a willingness to treat for peace on the basis of the constitutional Union, I will believe they want peace, and not before. When Mr. Lincoln talks of peace on the basis of union, he means not the Union as the Constitution made it, but the Union as he would have it; that is, a Union wherein his usurping and arbitrary edict of emancipation shall be made a part of its organic law; and so long as his union and not the constitutional Union is made the ultimatum to the southern people, they will contend for independence and separation, and there will be no peace short of their subjugation or extermination. If the rebellion has the advantage of "a changed issue," let him be held responsible who, in the face of violated pledges, has made that issue with it.

Sir, if Mr. Lincoln were truly wise and patriotic, he would give no heed to the extreme demands of southern leaders for peace on the basis of separation and the recognition of the southern confederacy. They are usurpers, not rightful rulers; they are not the southern people. But, abandoning all the collateral issues he has himself unwisely raised, and which have made the southern people a desperate unit against the Union, he would return to the only true issue upon which we had a right to appeal to arms, as indicated in the resolution of Congress in July, 1861, and on that issue, and that only, appeal from the leaders of the South to the southern people themselves. That there was, and still may be, a basis for such an appeal, is proved by the testimony of Mr. Lincoln himself.

In his message of July 4, 1861, he said:

"It may well be questioned whether there is to-day a majority of the legally qualified voters of any State, except, perhaps, South Carolina, in favor of disunion. There is much reason to believe that the Union men are the majority in many, if not in every other one of the so-called seceded States. The contrary has not been demonstrated in any one of them. It is ventured to affirm this even of Virginia and Tennessee."

What, sir, has changed this Union majority into the desperate disunion men who for nearly four years past have time and again defied our power and defeated our armies? I answer, in the language of the leading public press of the South, the Richmond Enquirer, which speaking for the southern people, and contrasting the democratic Union policy of McClellan with the abolition policy of Lincoln, says:

"His (McClellan's) policy was the olive-branch in one hand and the sword in the other, to conquer by power and conciliate by kindness. It was a dangerous policy for us; for if the ameliorating hand of Federal kindness had softened the rigors of war, our people would not have been subjected to those terrible fires of suffering by which Mr. Lincoln has hardened every heart and steeled every sentiment against our merciless foes." \* \* \* \* \*

"We hailed the proclamations of emancipation and con-

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secession and the policy of plunder and devastation assure pledges of our ultimate triumph; they were terrible ordeals, but they most effectually eradicated every sentiment of union, and arousing the pride as well as the interest of our people, infused the patriotism of the whole, until they would have accepted death as preferable to ultimate defeat."

Mr. Speaker, in my judgment the deluge of blood that has covered the land has lasted long enough. The sword, the symbol of vengeance and of power, has well-nigh done its work. If Christian statesmanship cannot restore the Union, war cannot. If the Union cannot be restored without the extermination or expatriation of the white people of eleven Federal States, it is time to estimate the value of the Union and the character of the Union after a war of extermination has done its work; it is time to estimate the value of peace when we have made a desert and a solitude of the fairest portion of our country and called them peace. It is time for all thoughtful and patriotic men to consider whether such a Union and peace will be worth the cost in lost life, lost wealth, lost liberty, lost human happiness. The tendency, nay the swift movement of the present disorder of affairs, is to military despotism, to monarchical power. For one, sir, when the issue shall be squarely made, as it will ere long be made, under the policy and the war of this Administration, a separation of the sections, with preserved constitutional liberty and the sovereignty of the States preserved to each section, or a war of absolute subjugation or extermination of States, to end in military and monarchical despotism over the whole Union, I will accept all the evils of separation rather than welcome the degradation and the burdens of despotic power. It is better for a nation to lose a portion of its territory than to lose its constitutional liberties.

Mr. Speaker, I yield to no man in my love for the Union, or in my reverence for the Constitution. Disunion of our Federal States is a dire evil to contemplate under any circumstances, but I can see evils in possible, nay, probable, results of the war conducted in a spirit of revenge, and without regard for constitutional rights, that are more to be feared than disunion itself. When the Union shall have ceased to protect that for which it was formed, the rights of the people and of the republican States, through which the people have formed and are represented in the Union, it is time for the Union itself to pass away and for its epitaph to be written.

Mr. Speaker, the anti-slavery party is in power. We know it; we feel it. It has not scrupled, while assuming a high mission from Heaven to regenerate this Republic, "to wade through slaughter to a throne." It is enthroned. Its foot seems to be upon the neck of its foe. With the eagerness of the exultant Shylock, polluting even the tribunal of justice with the spirit of revenge, it whets its knife "to cut the forfeiture" from the heart of its enemy. The Congress of the United States, the legislative power of the Union, and the Constitution, is asked by this bill to be the minister and executioner of the great revenge of section upon section, States North upon States South. For one, sir, I wash my hands of the deed.

#### COMMERCE AMONG THE STATES.

#### SPEECH OF HON. JAMES W. NYE, OF NEVADA,

IN THE SENATE OF THE UNITED STATES,

February 22 and 23, 1865,

On the bill (H. R. No. 307) to regulate commerce among the several States.

Mr. NYE. Mr. President, the best return that I can make for the courtesy exhibited toward me on this occasion will be to discuss with as much brevity as possible the question before the Senate. I congratulate you, sir, and the country that we are able at last to turn our eyes a little from the present, and looking toward the commercial future, secure the legislation likely to be necessary for it. It is also matter of congratulation that we have now made such advances in our national struggle as to be able to cast around us and see what measures are necessary to promote the future honor and future glory of our country. We have

manfully grappled with the present; we have won in the conflict, and it now becomes the duty of all, and especially of legislators, to see what the future of our country requires for its further and full development. We have, happily for the people of this land, arrived at a period when it is entirely safe to turn our attention to subjects and concerns that relate to a time of peace; a time, thanks to our brave soldiers and sailors, not distant or difficult to be foreseen.

I was a little surprised to hear the honorable Senator from New Hampshire [Mr. HALE] state that this was a question of little importance, that it was simply a question arising between two corporations of one of the States of this Union. If I understand the measure under consideration this is by no means a fair presentation of it. I understand this question to involve the regulation of the internal commerce of our entire country.

The question involved is one of power in Congress, and arises out of that provision in the Constitution which provides that Congress shall "regulate commerce with foreign nations, and among the several States, and with the Indian tribes." What construction this subdivision of the eighth section of the first article of the Constitution shall receive at the hands of Congress is the only question involved in the proposed measure. From this standpoint alone I will discuss it. I have closed my ears and shall keep them closed to everything less or other than this. I shall refer to States and State interests only as such reference becomes necessary to demonstrate the correctness of my propositions or vindicate the truth of what I assert. In this reference I shall carefully abstain from saying anything that should occasion offense to a State. I have no quarrel with the State of New Jersey, through whose territory this chartered monopoly runs its railroad and canal, and I have no quarrel with Maryland, which State, I believe, has granted a charter similar in its general character and effect to the charter granted by New Jersey to the Camden and Amboy railroad. For these States, as for all the States, I entertain the strongest fraternal affection, but when they or any of the States attempt by legislation to block up the pathway of national progress, or pass limitations upon trade and commerce, I shall ever be found, as I am found to-day, advocating the power and the duty of Congress to save the external and internal commerce of the country from any fetters attempted to be imposed upon it by State regulation, whether the attempt proceed from State pride or State cupidity.

The question before the Senate is not one of favor to or that concerns a particular State. It is one of universal concern. It is whether Congress has the right to regulate the internal commerce of the nation. It is most singular that this question should be the subject of discussion. The language of the Constitution upon the point, and which I have just cited, is so plain that he who runs may read, and he only misunderstand who is perversely resolved to misconstrue it. The power of Congress to regulate commerce with foreign nations is admitted upon all hands; no one pretends that any State, whether sea-board or inland, shares in this prerogative. It is conceded to be the sole right of Congress. Now, the power of Congress over the subject of commerce between the several States of the Union is derived from the self-same source, and the language that confers the power is as unambiguous as that which vests the regulation of foreign commerce in Congress, and it may with equal propriety be claimed in one case as in the other that the States have sole or concurrent jurisdiction.

The honorable Senator from Maryland [Mr. JOHNSON] to whose opinions I have for long years deferred, and whose opposing opinion I now purpose with great diffidence to examine, will pardon me when I say that the propositions he argued do not come up to the magnitude of the real question which is involved. Upon several of the propositions argued by him I have no doubt. I grant at once the right of a State to regulate its internal commerce, and to place restrictions and limitations upon the trade its own citizens carry on between themselves. Over all matters of a purely local character the State has exclusive authority. With these Congress cannot, and I am sure has

no disposition to interfere, but of matters partly local and partly national or wholly national Congress has unquestionable jurisdiction. The difficulty with the position of the honorable Senator from Maryland is he has argued upon a state of facts which has no relation to the subject under debate. The question before us is not what Congress may not do, but what it can do, and as a corollary of this, what it ought to do. The question is not whether the General Government can compel a State to construct as an original work a railroad or canal, or an ordinary highway, either for the convenience of its own citizens or the convenience of the citizens of other States, nor is it a question of the appropriation of public moneys or credit for the construction of a public improvement. The question here, simply stated, is whether a State having constructed within her borders any artificial channel of trade and communication, and having dedicated it to the public use, and the public having used it as a means of transit for men and merchandise, the State can impose restrictions upon such transit in favor of her own citizens, and thereby embarrass commerce between the citizens of her sister States, Sir, it is due to the great men who framed the national Constitution to say that they grasped in their contemplation the grand future of the country, and provided for what they saw the nation must one day become. They perceived then that inter-State commerce must be preserved from inter-State jealousies and conflicts, in order that the national growth might not be prevented by sectional interest or strife. It was to prevent this grand question of inter-State commerce from degenerating into what the honorable Senator from New Hampshire [Mr. HALE] calls a quarrel between two rival corporations, that the fathers considered it not only discreet but indispensable that the sole power to regulate commerce should be confided to Congress; and what is asked of us to-day is that Congress shall exert her constitutional supremacy upon a subject within its exclusive legislation, and that the channels of public trade shall be as free as the air we breathe.

If, sir, it be conceded that Congress has alone the power to regulate commerce with foreign nations, does not the concession involve a surrender of all that is claimed adversely to the bill under consideration? Does commerce change or become something else because it is inter-State? Is it any less commerce when it is carried on between the Indian tribes and us than when carried on between other nations and ourselves? Does its transfer from natural to artificial channels of transit alter its real character? If it does not, then it appears to me that the argument of the honorable Senator from Maryland and of the honorable Senator from New Hampshire falls short of meeting the question. Now, sir, it is undeniable that much the largest part of our commerce is inter-State, and is carried over and upon the artificial means of transit provided by the ingenuity and industry of the people; and to regulate this trade was one of the objects of the constitutional provision. It was enacted to prevent an endless repetition of the jarring and jangling that continually occurred during the Confederation of the States, and was intended to nationalize commerce, and place it within the care and power of the General Government.

Sir, this question is not a new one. It engaged the attention of the learned of our country at a very early day. I call the attention of the Senate to a time when the rule for which I am contending was laid down and enforced under circumstances which give it peculiar significance and interest; the time when the immortal Fulton had completed his great steam experiment; the time when theory was reduced to practice, and Fulton had invoked to the use of man a power stronger than tides or currents; the time when favoring winds were no longer necessary to prosperous voyages, and when distance was robbed of nearly all its terrors. The great discoverer lived in the State of New York, that noble, magnanimous empire, whose people love to honor and reward eminent services; and to mark her appreciation of the great benefaction of Fulton she gave to him and to Mr. Livingston, who furnished him with the pecuniary means he needed to carry out his designs, the exclusive right to

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navigate the waters of the bay of New York and the Hudson river.

This munificent grant was subsequently impeached on the ground that the privilege was not in the power of the State to bestow, and that the legislation of New York trenching upon a right which was within the exclusive control of the General Government. Application was made to the Federal judiciary, and the question of the right of New York to reward Fulton, as I have stated, was presented for final adjudication to the Supreme Court. Chief Justice Marshall, renowned as much for his justice as his learning, declared that large as was the debt due to Fulton not only from New York but from the nation and the world, the form in which the State of New York expressed her gratitude was a violation of a provision of the national Constitution, and on this ground alone the great jurist declared the grant to Fulton was void. Strangely enough, and most striking as a coincidence, the application to set the grant aside was made by a citizen of New Jersey, who, owning a little vessel named the *Bellona*, thought himself as good as Fulton, and greater than all the Cæsars. New York was balked of her magnanimity, and Fulton deprived of his reward upon the prayer of a Jerseyman, who, standing upon the exclusive right of Congress to regulate commerce between the States, demanded what was nominated in the constitutional bond! Sir, New Jersey to-day has no right to complain when New Yorkers, standing upon the same identical ground, make, as against New Jersey, the same identical demand.

But we are gravely told that this is a question simply between two rival corporations. This cannot be so; but if it were it is not the first time that great principles have been raised and settled upon motives not half so great as the principles themselves. At all events, the question is before the Senate for its decision, and action must be had upon it without respect to corporations or corporators, if they stand in the way of the constitutional rights of others.

The opponents of this bill inquire what necessity there is for Congress now to legislate on this subject. Sir, the necessity is pressing and apparent. For the last four years we have been reaping in tears what we sowed in folly and wickedness. Our willful refusal truly to learn and boldly to state the dividing line between the rights of the nation and the rights of the States has had much to do with the rebellion that has filled our land with grief and cost us so much of blood and treasure. I had hoped the old doctrine of State sovereignty, of which so much has been said here and elsewhere, would not be revived, at least while the din of conflict and smoke of war reached our ears and eyes. I had supposed this monstrous fallacy died with the great political party which sailed under its malignant star almost into the vortex of treason. It certainly must have no resurrection at the hands of Union Senators.

The honorable gentleman from New Jersey, [Mr. TEN Eyck,] by way of confession and avoidance, says that if the granting of the charter to the Camden and Amboy railroad, which it is alleged will be interfered with should this bill pass, was an imposition upon the people of the State of New Jersey, it was a self-imposed burden. This is very well as far as it goes, but it does not reach the difficulty. I complain not upon behalf of New Jersey. I am her challenger not her defender in this. I protest against her legislating upon a subject over which she has no jurisdiction. This is the *gravamen* of her offense. The citizens of that little and plucky State are represented here by honorable Senators whose duty it is to see to what particularly concerns her; but let me tell my excellent friend I am not blind to a fact which he has himself admitted, that a large portion of the citizens of that State are bitterly opposed to the Camden and Amboy monopoly, and that their opposition reflects credit upon their sagacity and patriotism.

I said, sir, that the necessity that called for the action of Congress upon the bill now under discussion was pressing and apparent. In proof of this, let me take a glance at the amount of our inter-State commerce. The tonnage that comes into New York from the West and the East is more than quadruple all of our external com-

merce; that is to say, our home commerce exceeds our trade with foreigners in the proportion of four to one. Now, the State of New Jersey sustains a peculiar geographical relation to the rest of the country. On her east is the metropolis of the nation, the great city that numbers its population by millions; the type of our common prosperity, and the receiving and distributing reservoir of the nation's wealth. On her west is Pennsylvania with her splendid capital. Her own entire length is about a hundred miles. The great West is obliged to traverse her territory in order to get to the sea. Her soil is a part of the national highway. Shall she be allowed to obstruct, in any manner or to any extent, this highway of the people? Shall she exact a penalty from travelers who cross her borders; and put the advantage derived from the extortion in the pockets of her own citizens? And yet this is what New Jersey is doing to-day, and has been doing since 1832; and to break this up, and restore the guarantees of the Constitution, is one of the objects of the bill before the Senate. The Camden and Amboy charter was granted in 1830. In 1831 the monopolists procured a legislative amendment of it. This amendment provided, among other things, that when any other railroad for the transportation of passengers and property between New York and Philadelphia, across New Jersey, should be constructed and used for that purpose, under any law of the State itself, or of the United States, authorizing or recognizing said road, that then the dividends which the Camden and Amboy railroad had stipulated to pay New Jersey for their charter, should be no longer payable to the State, and that the stock also paid to the State for the same purpose should be retransferred to the company. It will be thus seen that no hardship is to be experienced by these monopolists if the bill before the Senate becomes a law. Very early in their corporate existence the monopolists guarded themselves against the ill consequences of what they foresaw must inevitably occur, and both the State of New Jersey and the monopolists have joined in a *cognovit* of the power of Congress to do what the advocates of this bill are striving to have done.

I repeat here, sir, that the necessity which calls for our action is pressing and apparent. Let me cite facts and figures for our information and guidance. And in the first place, is not that a strange rule by which a railroad company charges its through passengers more than it charges its way passengers? This is the rule that prevails with the Camden and Amboy monopolists. Inquiring for the reason of the rule, we find that it is designed to tax passengers of other States whose business or pleasure takes them across her borders more in proportion for transit than is paid or required from citizens of New Jersey, passing from place to place within her lines. So, too, with the price she exacts compared with the rates of charges of other railroads. The monopolists charge three dollars for carrying you from New York to Philadelphia, a distance of ninety miles. From New York to Albany, a distance of one hundred and fifty-two miles, at least two lines of railroads carry passengers at the rate of three dollars per head. Senators who will take the trouble to pursue the comparison will find that this Camden and Amboy Company charge for the transit of passengers nearly twice as much as any other railroad corporation outside of New Jersey. The citizens of New Jersey pay one and forty-seven hundredths cent per mile transit to the Camden and Amboy road; the citizens of all the other States are obliged to pay to the same road for precisely the same accommodations over three cents per mile. For carrying freight across New Jersey the monopolists charge \$7 40 per ton; more than is charged for carrying it from New York to Buffalo, a distance of some five hundred and forty miles. Last year, so the report of the company itself states, they carried six hundred and forty thousand *through passengers*. Sir, this makes \$640,000 extracted from the pockets of the citizens of other States, illegally and unfairly extracted, and put into the pockets of citizens of New Jersey. Now, my objection is not that this corporation has made immense sums of money. I find no fault with this as such. My objection is not so much that New Jersey granted the exclusive privilege, and that this corporation have

enjoyed its benefits until now, as that the time has come when the necessities of the nation imperatively demand that the monopoly should cease. How are we situated here in Washington to-day? I think it will be found on examination that this is the only capital that has not more than one avenue of approach to or retreat from it. Is it not most extraordinary that the exception should be the capital of the nation, the political center of the Republic, to which Senators and Representatives have to come from the Pacific coast and far-off Nebraska? Sir, I stood here in April, 1861, when by the burning of a single bridge over Gunpowder creek the capital was actually beleaguered, and the most painful and nervous apprehensions were felt throughout all the land lest the arch-rebel should put into execution his threat of wintering in Washington. This state of things is not only not wise, but discreditable and intolerable. It ought not to be endured an hour. The avenues of approach to this capital should be numbered by tens, instead of one, so that if an enemy seizes any of them, others and enough shall be left over and along which soldiers and supplies can be transported as occasion requires. These propositions are self-evident, and yet here lies New Jersey right across the pathway of the nation's necessities, giving herself no concern on the subject, and clamoring about what she calls the sacredness of her franchises. Washington may be invaded and destroyed, but not a citizen or a soldier can cross New Jersey to the relief of the capital, unless he consents to come in the way and at the time dictated by the Camden and Amboy railroad.

But my friend from New Jersey [Mr. TEN Eyck] says this monopoly will soon expire. Sir, I am half a century old and I have never seen a monopoly die. I want to attend the funeral of the first one. Why, sir, this one died years ago by limitation, but the Legislature of New Jersey called it from its grave, and Dives, not Lazarus, came forth with a new lease of more than original life. The Raritan and Delaware Bay Railroad Company, in anticipation of the demise of Camden and Amboy, sought and received a charter from New Jersey, but in eight days after the charter was granted the old monopoly was more alive than ever. And yet my friend tells me it is going to die! Sir, everything else in New Jersey will die first. I give the Senator notice that this corporation will not die. It has too much vitality; and if the honorable Senator flatters himself that it will expire in 1869 he had better at once disabuse his mind. It will outlive his or my senatorial career. It looks as if it might outlive the Pyramids. It has as many hands as the head that was seen in the vision had horns. In all the past it has manipulated the State of New Jersey at will, and in all the future the little State will be managed by the big monopoly.

We are likewise told that the rival railroad corporation in that State is a bankrupt concern. Necessarily so. What but bankruptcy could you expect of a corporation that measured weapons with this privileged monster? Yes, sir, and the nation complains and has the right to complain that this New Jersey monopoly bankrupts everything that attempts to make commerce free. If the evil effects of her special legislation were confined to the citizens of her own State I would not complain, although New Jersey created burdens which fell crushingly upon a majority of her people. But I do and will complain and protest against her attempt to regulate the commerce of her sister States. Let this Senate acknowledge that a State may lawfully do what New Jersey has done in respect of the monopoly, and it follows that "New Jersey" and not "Congress" has the "power to regulate commerce among the several States." Let the word "Congress" be stricken out of the third subdivision of the eighth section in article first of the Constitution, and the words "New Jersey" be inserted in lieu thereof. Upon behalf of Nevada, and for my colleague and myself, however, I protest against the substitution. I invoke from Congress the exercise of the power conferred upon it by the Constitution, and the exercise of which is a stern duty and a plain necessity. It is time, sir, that we intervened upon behalf of the people.

Sir, I do not exaggerate when I say that millions of dollars would have been saved to the peo-



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ple of her sister States if this unnatural New Jersey corporation had never existed. And who is it that asks that the life of the plethoric monster be spared? The monopolists themselves, who boast to their foreign bondholders that they own the best-paying stocking in the world. So they do. Why should not their dividends be greater than that paid by any other corporation? They lay the entire Union under tribute to themselves! Does the State of New Jersey complain of our intervention? If I am answered in the affirmative I convict her out of her own mouth as *particeps criminis* in the monopolists' wrong. If I am answered in the negative, then I am supplied with an overwhelming reason why Congress should interfere. I do not think the State of New Jersey makes a handsome figure in this affair. She bargains with a privileged class of her own citizens, against herself and her sister States, and for so much pecuniary advantage agrees with the monopolists that they may do all in their power to enrich themselves by obstructing and hindering and delaying free communication and the transit of commerce across her borders. "For a thousand shares of your capital stock New Jersey will agree not to interfere with your plans." The thousand shares are paid, and New Jersey does not interfere. The original consideration has grown, I am informed, to twenty-five hundred shares—if I am wrong, the Senator from New Jersey will correct me—and upon these shares the State of New Jersey receives an annual dividend. Last year the monopoly declared a cash dividend of ten per cent. and a stock dividend of twenty-five per cent.

Mr. TEN EYCK. Mr. President, I understand the Senator from Nevada, according to the course of his argument, to be in his own estimation entirely qualified by information to make the statements he does upon this floor. I believe, however, the original amount of shares held by New Jersey was a thousand, and that it has been increased to an additional amount.

Mr. NYE. I understand to twenty-five hundred.

Mr. TEN EYCK. I am not prepared to say that it is exactly that amount. But it is not my practice while a Senator is discussing a question in which I have any interest to interrupt him, either by way of correction or suggestion or question.

Mr. NYE. I understand from the best information I can obtain that the number of shares now owned by the State of New Jersey is twenty-five hundred; but for the purposes of this argument I do not care whether the original number has been increased or not.

Mr. President, in the discussion of this question it is not necessary to debate the power of a State to create a monopoly of this character in favor of a privileged class among her own citizens. The ground I take is that if the monopoly relates to matters partly local and partly national, or wholly national, the State cannot confer a privilege exclusive in its character. Article four, section two of the Constitution declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Now, if New Jersey may lawfully tax a citizen of any other State for the privilege or immunity of crossing through her territory, over her borders, more than she taxes her own citizens for the like privilege or immunity, what value is there left in the provision of the Constitution which I have just cited? I suggest, therefore, to Senators that in the consideration of this question it is proper to keep in mind the distinction I take between matters of a purely local character and those which concern the people of all the States alike. These monopolists and the State of New Jersey evidently understand this distinction. Neither makes any secret of the fact that this privilege is designed to benefit Jerseymen at the expense of all other Americans. In an address "to the people of New Jersey," issued in 1846 by the monopolists, I find this language:

"She [meaning New Jersey] has a most enviable geographical position in the Union, which it is her duty to improve for the benefit of her citizens. She has done so in the manner deemed most advisable and profitable, and has reason to be proud of the wisdom which dictated her policy."

Sir, the State of New Jersey, as well as these

corporators, knew that internal traffic would not sustain either of the two works which together form this monopoly, and both State and corporation relied upon taxing improperly the citizens of other States as the surest and the only sure means of getting revenue from these internal improvements. I do not claim this as an original suggestion. I find it in a letter addressed, in 1860, by the board of directors of these joint companies to their loan-holders; from which letter I read, as follows:

"Efforts have indeed, within the past thirty years, been sometimes made to induce the Legislature of New Jersey to grant charters for rival railroads, but invariably without success. What could not be done in the infancy of the companies, when the revenue of the State derived from them was small, need excite no apprehension now, when the whole expense of the State government is provided for from the income furnished by the business of our railroads and canals."

Sir, who furnishes this princely income to New Jersey? Do the people of that State? Does the revenue of which these monopolists boast come from the citizens of that State, or is it derived from the tax laid upon every State in the Union by these monopolists under sanction of the laws of New Jersey? The honorable Senator tries to break the damaging force of these facts by asserting that if a citizen of his State residing, for example, in Jersey City, and designing to go to Camden, should cross over to New York and there buy his ticket, he would, notwithstanding his citizenship, have to pay as much for his transportation as a New Yorker would to be carried from New York to Philadelphia. This idea of going due east in order to arrive at a point due west is original with the honorable Senator. None of his constituents, I undertake to say, will soon act upon it. No, sir; the truth of this whole matter is precisely as stated in this letter of 1860. Even in the infancy of the monopoly the State of New Jersey was weaker than it, and so fond of it that it would not yield an inch to the entreaties of her citizens for greater facilities of communication and transit. Now, that the "whole expenses of the State government" are furnished by this huge monopoly, it snaps its fingers in the face of the nation, and says, "The Legislature of our State can neither be coaxed nor frightened into granting a charter to any rival corporation." In this connection let me remind the Senator from New Jersey of his statement that the Camden and Amboy monopoly have but four years to live! Sir, except by the intervention of Congress it will never die. It is but in the infancy of existence.

Mr. President, I have no war to wage against New Jersey or against her corporations. I rejoice in the prosperity of that State and in the prosperity of her people, but I have a war to wage against New Jersey or any State when it attempts to trammel the commerce of the nation. As the case stands, New Jersey is to-day levying a direct tax upon every bushel of grain, upon every ton of merchandise carried across her territory from her sister States, and upon every traveler that crosses her borders. She is doing more and worse. She is taxing the affections and natural instincts of our people, and even laying these under contribution to her; and I will not sit silently by without publicly dissenting. Sir, it is time the evil was stopped and the appropriate remedy adjusted. This will surely be effected by the passage of the bill now under discussion.

What does the bill propose? Are its provisions to have application in New Jersey alone? Do they not apply to all the States indiscriminately and without the invidious mention of any? The object of the bill is to authorize railroads and canals throughout the country to carry freight and passengers, without let or hindrance. Is not this a desirable result? Is it not a necessary measure? Why, sir, it is within the knowledge of us all that since this rebellion broke out, the means of transporting troops and munitions of war to this capital have been notoriously insufficient for the exigence. The Camden and Amboy could not begin to do the work, and when the Secretary of War uses the Raritan and Delaware Bay railroad for the purposes of national life and government, up starts this arrogant monopoly and tells the Government that no soldiers or implements of war can be brought across New Jersey to Washington, unless carried by the Camden and Amboy

railroad! Was ever such assumption? And yet the Senator from New Jersey and the Senator from New Hampshire [Mr. Hale] are pleading in favor of such a corporation; a corporation that has sued the Raritan and Delaware Bay road because it obeyed the orders of the General Government, and whose greatest crime, according to the Senator from New Hampshire, [Mr. Hale,] is, that it is bankrupt. Have the poor no claims upon his sympathies? Shall the indigent mother of a soldier-boy who lies bleeding and dying in our hospitals at Washington, having offered up his young life as a sacrifice upon the altar of his country's safety, be obliged to pay the Camden and Amboy railroad three dollars for taking her across New Jersey, on her way to wipe the dew of death from the face of her child, when the Raritan and Delaware Bay road will carry her for two dollars? I might add illustration to illustration, going through the wide field of human sympathy and human suffering, but it cannot be necessary, and would only tend to disturb our better natures. I insist upon it that the time has arrived when it is proper for Congress to correct the evil and apply the remedy. Our commerce must not be restricted by State legislation. It is the vital fluid of national existence, and its circulating avenues must be as unimpeded as the flow of river to the ocean. The natural and the artificial channels of trade must be blended into one harmonious system and be under the control of one directing power. The manner of their use in their relation to commerce cannot safely be left to the determination of the various States.

A sagacious and far-sighted American statesman of the early times fully apprehended the evils which would flow from power in a State to impose burdens upon the commerce of other States passing over her territory to its destination, and it was to avoid the ill consequences he foreshadowed that the sole power to regulate commerce was invested by the Constitution in the national Congress.

Mr. Hamilton, in the *Federalist*, No. 22, says:

"The interfering and unneighborly regulations of some States, contrary to the true spirit of the Union, have in different instances given just cause of umbrage and complaint to others; and it is to be feared that examples of this nature, if not restrained by a national control, would be multiplied and extended till they became not less serious causes of animosity and discord than injurious impediments to the intercourse between the different parts of the confederacy. The commerce of the German empire is in continual trammels from the multiplicity of duties which the several princes and States exact upon the merchandise passing through their territories, by means of which the fine streams and navigable rivers with which Germany is so happily watered are rendered almost useless. Though the genius of the people of this country might never permit this description to be strictly applicable to us, yet we may reasonably expect, from the gradual conflicts of State regulations, that the citizens of each would at length come to be considered and treated by the others in no better light than that of foreigners and aliens."

Let me say in addition that I know of no way in which this question can be finally disposed of if you refuse to pass the bill under consideration. Pass it, and the constitutional question involved in it will go for decision where it belongs, and, as in the case of *Gibbons vs. Ogden*, it will challenge the exercise of the first legal talent. The names and efforts of Webster and Wirt and Oakley and Emmet have made that case illustrious, and I shall expect to see a name not less illustrious than theirs reported in connection with the argument of this question in the Supreme Court. I confidently cherish the expectation of hearing the honorable Senator from Maryland [Mr. Johnson] arguing his side of the question before that august tribunal, and bringing to its exposition all his varied research and all the resources of his fruitful erudition. Pass the bill, and the question can be gotten to the courts. Refuse to pass it, and the rivals of this corporation and the people at large are remediless in the premises. Pass it, and the Supreme Court, which has the confidence and respect of the entire Republic, will be able to settle the rights of all concerned.

Mr. President, there is more in this question than would seem upon first blush. There is involved in it what is called State sovereignty, and very much of our future happiness and peace depends upon a proper understanding of the import of these words "State sovereignty." The decision of the Supreme Court in this case will clearly draw the dividing line between the rights

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of the States and the rights of the nation. For myself, I desire here to say, I reject the whole theory of State sovereignty which the honorable Senator from New Hampshire [Mr. HALE] hopes will be preserved intact amid the confusion and wreck of the present. He seems more solicitous that States should live than that the nation should not die. No, hardly that; but he did say it would be difficult for him to choose between the two. I am under no such embarrassment. I deny to the State any sovereignty, *de facto* or *de jure*, as against the nation. Each State in its own orbit circles around the central Government as the planets around the sun, but as the sun is the chief of all these circling globes, so the national Government is the chief of all the States, and, allowing of no rival sovereignty, secures to each its exact measure of rights.

I hope, sir, and believe that the ship of State is safely over the dangerous shoals of separate sovereignty, and that she will never again be exposed to its treacherous quicksands.

The Senator from New Hampshire [Mr. HALE] inquired, who asks for the adoption of this bill? Sir, the answer is at hand. The farmers of the West ask it; every waving field of golden grain upon the far-off prairie asks it. The manufacturers of the East ask it; every one of the million spindles of New England, as it twirls to the hum of its own music asks it. The traveling community asks it. Commerce asks it. Several States, including the great State of New York, ask it. Are all these to be denied? Are they to be sacrificed to the happy geographical position of one State, or is the effect which the passage of the bill may have upon one monopoly to be interposed to defeat so national a measure? The bill is as broad as the Republic. It embraces thirty-six stars. It applies as well to the great railroad now being opened up to the western coast as to the Camden and Amboy road. We are anticipating the hour when the whistle of the engine shall be heard upon the mountain tops and through the valleys of that distant portion of our country. The State which I have the honor in part to represent lies at the very base of the occidental slope of the Sierra Nevada. What would be said of an attempt by her to impose a tax on passengers and freight carried upon the Pacific railroad from the Atlantic across her territory? How long would such a tax be submitted to? Would not the Senators from New Hampshire and New Jersey, if they visited that country, as I hope they may, be the first to exclaim against the imposition? If it were wrong in Nevada, is it right in New Jersey?

Mr. President, I beg pardon of the distinguished Senators from New York [Mr. MORGAN and Mr. HARRIS] for having so often spoken of that State in the course of my remarks, but it will require long years to make me forget that that State was my home. I love her people, and I think they love me. I have not meant to trespass upon the prerogatives of her Senators, or to speak for the State they ably represent; but, sir, if the attention of her people was fully directed to the wrong that is being committed against them, the Empire State would find means to protect her sons from the immoderate and anti-American exactions of this overgrown monopoly. Already her Legislature has spoken on this subject, and she waits, as we all wait, patient but confident, that Congress will, without delay, by such legislation as may be necessary, secure to "the citizens of each State all privileges and immunities of citizens in the several States." In this hope and belief, sir, I rest the case.

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SPEECH OF HON. FERNANDO WOOD,  
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,  
February 4, 1865.

The naval appropriation bill being under discussion in the Committee of the Whole on the state of the Union, and the immediate question being on an amendment offered by Hon. HENRY WINTER DAVIS, of Maryland, to create a Board of Admiralty—

Mr. FERNANDO WOOD said:

Mr. CHAIRMAN: In the remarks I intend to make upon this question, I do not propose to

follow in the line of or participate in the discussion of yesterday, so far as that discussion referred to the administration of the Naval Department. It is not my duty to defend the Secretary of the Navy; it is not my purpose or disposition to assail him. Doubtless, sir, much of the criticism of the gentleman from Maryland with reference to the administration of its affairs was well founded. I have no doubt that there are men in the country who could have conducted that Department with more efficiency, with more success, and in a mode that would have been less liable to justify the assaults which have been made upon it in both wings of the Capitol. But I am not disposed to hold the Secretary of the Navy responsible for the results of all the naval engagements since the commencement of this war. I am not disposed to hold responsible the head of any Department for its failure to accomplish all that was expected of him; because, in my judgment, the man does not live who is capable of meeting the responsibility successfully that this stupendous war has imposed upon the Executive Departments of our Government.

Therefore, so far as the administration of those Departments is concerned I am willing for one to be liberal and to exercise a spirit of indulgence with reference to the discharge of their duties. I will not, therefore, participate in that discussion, but have risen for the purpose of saying a word with reference to the amendment, in the way of a proviso, offered by the gentleman from Maryland. It is a proposition to establish a board of naval administration, or a Board of Admiralty. It proposes to create a board consisting of five officers of the Navy, one of whom shall be of the rank of rear admiral, and the remainder commodores and captains, and that this board shall advise with the Secretary of the Navy and share his responsibility. It provides that this board shall deliberate in common and advise with that officer, and that no vessel-of-war shall be built or materially altered, nor any engine ordered, nor indeed any repairs of any consequence performed, except by and with the advice and consent of this Board of Admiralty.

I understood the gentleman from Maryland [Mr. DAVIS] to say yesterday that he is in earnest in offering this amendment, and that he intends to press its adoption by this committee, and he justified it in his usual astute manner by reference not only to the policy of England, but also by allusions to the inefficiency of the head of the Department.

Now, so far as this board is to be constructed on the English plan, I apprehend that there is no analogy between the English system and our own. What constitutes the executive power of England? Not the queen. The executive power of England is vested in the ministry. The executive power of the United States is, under the Constitution, vested in the President of the United States. The President of the United States, by our fundamental law, is made the sole and only executor of our national affairs, and he is responsible to the people and not to Congress. The Secretary of the Navy is simply his subordinate; he is responsible to the President of the United States, the chief executive officer of the country, and not to the Congress of the United States. The President is not only by the Constitution the Chief Executive, but he is more than that, which refers directly and explicitly to this proposed bureau itself; he is Commander-in-Chief of the Army and Navy of the United States. The President of the United States is the head of the Navy Department, clothed by the organic law with the sole and exclusive management of that Department, subject of course to such laws as the Congress of the United States may make in pursuance and not in contravention of the Constitution. The Secretary of the Navy is, therefore, his subordinate.

Now, sir, what does this amendment propose? We propose to create, not a subordinate but a co-ordinate department of the Navy. We propose to make a Board of Admiralty clothed with equal powers with the Secretary of the Navy, and, in some regards, with superior power to that which the Secretary of the Navy holds by law. Can we do that? Have we the power to designate the officers and men, as it is proposed to do by this amendment, who shall constitute a coördi-

nate executive department over and above and against the powers and wishes of the President? I think not, sir; but had we the power, would it make the Department more efficient to do that which will of necessity create dissident councils? Can we remedy the defects that exist in the Navy Department, and I do not deny their existence, by creating in its midst an antagonistic element, thus inviting division, which is the mother of all inefficiency in council as well as in execution?

Sir, responsibility accompanies power, and power must accompany responsibility, and I prefer a concentration of responsibility and a concentration of power. I believe that that is the purest element of republican government which strengthens the Executive, and that is the best and most simple form of executive power which disembarasses the agent of the people in the discharge of the official duties confided to him.

Sir, what is our system? We have the legislative department separate and independent; we have the judiciary department separate and independent; we have the executive department separate and independent; and whereas in this country laws are simply the embodiment of the opinions and wishes of the people, made by the agents of the people in legislative capacity assembled, where you give the Executive unrestricted power to execute those laws you preserve the design which the people had in the creation of those laws through the instrumentality of their agents.

I hold, therefore, that in conformation to the restriction of the fundamental law holding the Executive to the strictest accountability to the power that created him, he should be disembarassed, unrestricted, and untrammelled. But, sir, this amendment is based upon the theory that naval officers are the most competent to discharge these special duties. It provides for the appointment of five of the oldest, and, if you please, the ablest, officers of the Navy, to constitute this Board of Admiralty, and the presumption is that they are to be selected from the very best-qualified and most competent officers in the service.

Now, sir, such men's services are required on the ocean. It would be an injury to the service to take men of this ability and capacity from the proper sphere of their duties, and bring them to this capital to do that which landmen should do, and that which, in my judgment, only landmen are qualified to do.

Again, sir, in the commercial marine it is the experience of the merchants of the city of New York that the men who are best qualified to sail ships are not the best qualified to build them; that one profession is separate and distinct from the other; and it does not necessarily follow that a man who has had long experience in sailing a vessel and managing its affairs is qualified to construct a vessel, to shape a model for a vessel; that he knows more about the mechanical organization of the vessel he commands than the humble mechanic who has performed the work of constructing that vessel.

Steers, the celebrated constructor of the yacht America, who founded a new school of naval architecture, never was at sea before he conceived the model. He improved upon the existing class of models of his day, and constructed a yacht which, after beating everything in America, was taken to Europe, and beat everything there. Sir, he was a boy from the ship-yards of New York; and not only have the best and most fleet merchantmen been since modeled upon his idea in the construction of yachts, but the best Government vessels are modeled upon the same idea.

Hence it is that I contend that, were it right to form this board; were it right to plant in any Department of this Government an antagonistic element leading to dissension and division there; that were there no other objection to the passage of this amendment, these men proposed to constitute this board are, in my judgment, not necessarily qualified, because they are naval officers, to perform the duties which would be imposed upon them. Upon this ground, if upon no other, I should oppose the amendment.

Now, Mr. Chairman, a word as to the naval appropriation bill itself. This bill proposes appropriations in the aggregate of some \$105,000,000, as against \$85,000,000 last year, and as against \$13,300,000 the year immediately preceding the

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commencement of this war. The whole amount collected from the internal revenue taxation for the year ending the 30th of June last was about \$109,000,000. Assuming that the present collections are not much in excess of what they then were, it is proposed to take the whole amount of these collections, the results of this enormous burden upon the people of the country, and expend it upon one Department of the Government. Well, sir, I shall be answered that the cause of this expenditure or proposed expenditure arises from the war. Now, sir, is this war to go on to justify this expenditure of the public money, and the imposition of these burdens upon the labor and industry of the country? I regret, sir, that the chairman of the Committee of Ways and Means is not in his seat, that I might be enabled to ask him some questions with reference to the details of this bill, and with regard to the necessity for the imposition of this heavy tax required to meet the appropriations proposed in this bill. I can only say, Mr. Chairman, that I had hoped, and I yet hope, that this war will cease, that the negotiations of which we have recently heard so much will be productive of fruit, and that the antagonistic sections and States shall once more be brought together in communion and fraternal concord. If it be true, sir, that the President of the United States and the Secretary of State have gone personally to meet ambassadors or representatives or commissioners, as you may please to call them, from Richmond, I think that, instead of this proceeding being obnoxious to the censure which I have heard bestowed upon it, they but follow the precedent of Washington and Hamilton, who, in a similar emergency, went (the one President and the other Secretary of the Treasury) to treat with rebels who were engaged in the whisky insurrection, in Pennsylvania, in 1796. If, therefore, it be true that the President of the United States has made an honest effort to stop this shedding of blood, this exhaustion of the energies of our great country; if it be true that, realizing his responsibility to his country and his God, he has thus risen superior to partisanship and the unfortunate influences which have surrounded him, I say, all thanks to him, and God speed him in the work of mercy and justice and right!

I know that rumor says that these negotiations, if negotiations there were, have failed. I think that the gentleman from Pennsylvania [Mr. Stevens] indicated in his remarks this morning that there had been such failure. Sir, if this is the fact, it is to be regretted; but if they have failed in consequence of an indisposition upon the part of the rebel authorities to return to the Union; if they have failed because those States and those so-called authorities refuse to reunite upon the basis of a common Union under a common Constitution, demanding recognition and separation, then I say that, so far as I represent the peace sentiment of the North, we will not and cannot sustain them in that position.

Sir, I have been opposed to this war because I am opposed to its effects and fear its results. I was opposed to it and to its continuance till every conciliatory mode had been exhausted and proved a failure. It has been one of the sources of my complaint against this Administration; it has been one of the gravest charges which, in my judgment, can be properly made against it, that instead of having proposed negotiations it has prevented any propositions of peace being made to it by denying admittance to this capital of any agent or emissary of the rebel government. Therefore, until I am satisfied that this Administration earnestly desires peace, that it has exhausted everything which in honor it could do to procure peace consistent with the Union and the maintenance of the laws and the Constitution of our country—until that time comes, sir, I must retain my position in favor of peace and in favor of negotiation as against continued hostility.

But, if these peaceful efforts have been made and exhausted, if the door to conciliation and union has been thrown open by the President of the United States, and if the answer to that has been recognition or separation, why, sir, so far as my feeble influence is concerned, it will be given in aid of our country to maintain in every constitutional way the national integrity. Since the expiration

of the first year of this war I have thought that the southern States repented of the hasty and violent course they had adopted in the attempt at secession. I knew that the leading men of that section had not anticipated any very serious opposition to their withdrawal from the Union—certainly could not have supposed that the North would or could make the combined and Herculean efforts in opposition, which it soon became apparent it would and could do.

Equally resolute and determined on their side, having thrown down their gauntlet of defiance, they have continued the struggle with a valor and self-sacrifice which find no parallel in history. And in passing, permit me to say that whatever may become of this war, however it may end, the history of these times, yet to be written, will devote its brightest and most eloquent pages to a recital of the heroic deeds and the self-sacrificing endurance of the people who now contend against the continuance of the American Union. But, sir, however high and ennobling their convictions of duty, and however great their enthusiasm, I have not and cannot sympathize with the object, if it be eternal dissolution. Well, sir, the struggle has gone on. Instead of closing, as some supposed it would, in a few weeks, months and years have passed and it yet continues. The din of arms, the groans of the wounded and dying, the murmurs of the oppressed tax-payers, the threats of foreign intervention, the diversion of labor from its wonted channel, the imminent danger of ruin to our ancient institutions, and all the evils incident to internal war among a people whose Government was made exclusively for internal peace, has indeed caused the truly patriotic in both sections to pause and weep. I know what I say to be true. The disinterested lovers of their country at both extremes have deeply lamented this fratricidal conflict. Among such men a settlement by negotiation has appeared to be the only hope. It was thought that the opposing extremists could be thus brought together; that however violent, if the leading men in arms had an opportunity to commune freely with their old political and personal associates, and all the States an opportunity to resume their position within the Union with their rights secured, that they would do so.

Believing this, and to this end, I have opposed hostilities and advocated negotiations. Under this conviction I have strove for a conference. I have in season and out of season urged an armistice, at least long enough to bring the authorized agents of the contending parties in consultation. I did not doubt a favorable result. I felt sure of the end, supposing that the people of the South would see that their noblest glory and their highest interest lie in obliterating the dreadful hostilities which had been engendered and in uniting with us, in a common effort to maintain the integrity of the American soil, the honor of the American flag, and the nationality of the American Union against foreign aggression, and in opposition to the existence of imperialism on the American continent. This, sir, has been my hope by day and my dream by night. I wanted my countrymen once more united—united in concord to sustain union among themselves, and united as against despotism elsewhere. I thought if this could be accomplished the dreadful ordeal through which we have passed would be accepted as but the painful process by which the Almighty prepared us for the great mission of universal freedom and liberalism. Four years of war have not only developed our martial prowess and tested our martial strength, but have produced and made efficient a million fighting men, now in arms, the like of which the world has never seen. Thus the conquering armies of the North and South, under the lead of a Sherman, or a Grant, or a Lee, would present a military combination which could strike terror to the invaders of republican soil, whether in Northern or Southern America. As monarchies have attempted to dictate the form of government here, so could we thus together, following their example, direct that absolutism should cease everywhere. If republicanism can be subverted in Mexico, so can kingcraft in Ireland, in Italy, and in Hungary. Then indeed would come the struggle between universal freedom and universal

bondage; whether Christendom "shall be all slave or all free." Upon that issue the American arms would enter; upon that glorious enterprise the united American States would combine under the guidance of our holy Master, who recognized but one Lord and but one King.

Well, Mr. Speaker, at last circumstances produced or brought about a condition of things which appeared to warrant the President in entering upon a conference. I am not advised, nor is it important what these circumstances were. It is sufficient to say that a meeting was held, and that this meeting was composed of the very highest executive authority on our side, and almost equally high in authority on the other. Certainly so far as the personnel of this conference was concerned it was composed of the best material. Dispensing with intermediaries it may be said with truth that the high controlling parties were happily brought in direct personal relations. A consultation thus held could not but be productive of results, if results were possible. Each side was qualified to speak understandingly and by authority, and did so, doubtless. The result is said to be before us. My position is predicated on this assumption. It is soon told; the mournful fact is divulged in the few short words which tell of total failure—recognition demanded! and declined! I care not, Mr. Speaker, to know details. Nations do not approach the consideration of details until after the settlement of the general or more vital questions at issue. In this case I assume that the simple question on our side was, Will you resume your position within the Federal Union? The answer could be but yes or no. No power could deny the equal right of the southern States and people to all their rights within the Union if they declared the willingness to come in. When their opposition ceases ours as a necessity ceases also. If it be said that their assent to come in is dependent on certain conditions as to indemnity, &c., &c., the obvious answer is that all the questions which will necessarily arise of this kind, not only with reference to the southern but as well to the northern people and States, must be deferred until peace shall be restored and the Government is relieved from the immediate burden of the war. If in the Union the southern States will themselves be parties to the arrangement of the details, and have the right to participate in any legislation or other action taken; and no power will exist to prevent it.

But, sir, it is declared, and doubtless true, that the demand was for a recognition of their existence as a separate nation or confederacy of States, and the propositions submitted on their side did not in any event comprehend reunion. Now, sir, if this is the true state of the case, and I apprehend it will so be ascertained, the result which I have so ardently contended and hoped for and expected has not been obtained. I have been deceived in the disposition of the enemy. While a large portion of that people yearn for peace and a restoration of amicable relations with the North, as evinced even by the army as the commissioners passed through their ranks to the front, the men in authority at Richmond persist in impossible conditions of settlement. They have not responded in the true spirit of patriotism, and have not yet seen the folly of their undertaking. When I contended for peace and opposed the war, it was not to accomplish the downfall of the American Union. It was not to meet the demands of southern extremists who ask for separation. It was not because I favored the success of the southern arms in overthrowing the unity of the Federal power. I asked for negotiations as in my judgment the better way to accomplish the objects in view of restoration. I was opposed to the continuance of hostilities until conciliation had been tried and had failed. I did not see how destructive warfare could conciliate those in arms against us. I do not see it yet; but I do see that the northern people and Government will not and cannot yield up the Union and the soil which properly belong to it.

The South persists in a demand for separation. The properly constituted Government of the whole Union, about whose authority there is no dispute, refuse to and cannot submit to this pretension. Whether right or wrong this is a pregnant fact; and we who pray for peace, who



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deeply lament the sore afflictions which the South endures, have no recourse except to take one side or the other. Those who believe that the South is in the right and should become an independent antagonistic power, have no business here. If the alternative is presented of national dismemberment, and that dreadful result is right within itself, no one should remain a citizen of one of the divisions while honestly sympathizing with and wishing success to the other.

Negotiations for an amicable adjustment having failed, and no recourse left but war, the people of both sections are bound to sustain one side or the other. We cannot live in a community whose interests and united action we repel. In this case it is too late to contend for abstractions and obsolete theories; "old things have passed away;" civil war with its stern and unyielding realities thrusts rudely aside the dreamy tenets of the past. Political philosophy, however right within itself, belongs to another order of national affairs and to another condition of the body-politic. This is a period of action, not sentiment; of physical trials, not of ideas. It is folly to persist in the application of impracticable doctrines instead of accepting those which inevitable fate has forced upon us. For myself, after a fruitless effort to obtain what ought to be, I have resigned myself to what is; I shall stand by my country, my whole country, "right or wrong, my country." While I deplore the continuance of this dreadful conflict it is too late to moralize. The Union we cannot give up. This the South should know once and forever. Disunion is impossible. We cannot recognize the existence of another confederacy made from the States which created and are a part of this Government. This is our reply and this is the determination. The responsibility of what follows will rest with those who first provoked hostilities and then refused reconciliation. If they persist in presenting an ultimatum war or separation, I fear yet further sacrifices will be required of them. If, after near four years of aggression, in which their homes and firesides have been desecrated, their fruitful fields made desolate and waste, their material resources nearly exhausted, and their cause almost reduced to the hazard of a battle, they still persist in refusing an honorable adjustment, I cannot regard their position as right, however much I may admire the spirit with which it is sustained.

"God save the Republic!" and let us once more renew our efforts to procure peace; but if failing, let us preserve our nationality that we may preserve our liberties and transmit to posterity the blessings which were transmitted to us.

## RECONSTRUCTION.

SPEECH OF HON. C. M. HARRIS,  
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1865,

On the bill to guaranty to the States whose governments have been usurped or overthrown a republican form of government.

Mr. HARRIS, of Illinois. The bill before the House is entitled one to guaranty to the States whose governments have been usurped or overthrown a republican form of government, and therefore applies to the governments of such States, whether usurped or overthrown. If usurped, it is the duty of the United States, under the provision of the Constitution claimed as a sanction for this bill, to restore to such States the administration of the governments so usurped if it can. Yet I expect to show, when speaking with reference to the provisions of the bill, that if they were enforced the United States would become the usurper of the governments, though republican, of each of such States, under the specious pretense of guarantying to such States such forms of government. If overthrown, the title assumes that to exist which cannot—a State of the United States without a government. If the definition of the word overthrown, especially when applied to governments, given by the best lexicographers is correct, which is "destroyed," there never was such a thing as a State of this Union without a government. It was only by the formation of a

government by the people of each of the original States for themselves, acting through majorities, and the framing and adopting of the Constitution by nine, and subsequent ratification by the other four, that they became such of this Union; and all the others became so by such formation of governments and admission by Congress. So, to the existence of any such State a government is as essential as territory; and if so, it can no more exist after the destruction of one than the other. Clay in human shape, through breath, only receives the impress of our Creator, and becomes human so to remain so long as animated therewith, after which it becomes a corpse. So such a State, by the overthrow of its government, becomes a relapse, undesignated and unbounded territory, a political corpse.

Such is not the condition of any State of this Union, nor is it one ever desired by the people of those in rebellion, but is wholly irreconcilable with their devotion to and tenacity for their reserved rights, which are preserved and protected by State governments only, from their greatest antagonism, intervention, the bane of free government. I need not say unwarranted intervention, for such is the import of the word in a political sense, and especially when applied to the relations of the States with the United States; the fearful apprehension of which, by this Administration, not only precipitated the people of those States into rebellion, but horrified conservative men of all sections with desponding alarm for the safety of the Union. The inhabitants of those States did not rebel against the governments of their respective States, but on account of such apprehensions, against that of the United States, to which, otherwise, they, as a people, would, through danger and sacrifices, however imminent and impoverishing have adhered with a purpose so determined, enthusiastic, patriotic, and enduring, as would have been commendable even to the memories of our common and most noble ancestry, as being, of all that could be devised by man, the most conducive to the protection of those of each of the States in the full exercise of their reserved rights, and enjoyment of free government, if administered in the spirit that induced and conceived its formation. They became rebels, not from hostility to it, but fearful apprehensions that this Administration would, in violation of the Constitution and laws of the United States, and of their respective States, want only invade their absolute and most important and cherished political rights. Unfortunately for our blood and treasure, the restoration of the Union, the founding of free governments throughout the world, and the opportunity presented by their rebellion of most successfully vindicating the strength, efficiency, and durability of our republican form of government, to the terror, chagrin, and discomfiture of the despots of the world, by demonstrating, through the restoration of the Union, its perfect compatibility, enduring strength, and centripetal self-preserving and defending virtue; though possessed of no power or sovereignty whatever, save that specifically delegated to it by the States in the Constitution of its formation, and thus exploding their cherished theory, that such Governments must become centralized or disrupted by inherent weakness or incompatibility. But fortunately for the strength, progress, and prolongation of the rebellion, and for the supremacy of anarchy, savage despotism, corruption, and crime, in all the States, such apprehensions have been more than realized, through the most cruel and degrading usurpations of despotic power, in violation of every important provision of the Constitution, and therefore necessarily of the reserved rights of the people of every State of the Union; although supposed by some, and asserted by most of the leaders of the Administration, to have been unfounded.

Can the alleged overthrow of such governments, or of any of them, be possibly attributed to any cause whatever, save the action of the administration of either our Government, that of those States or some of them, or that of the so-called confederacy? It cannot, for the most conclusive reason: that none other has had since the rebellion any political connection or controversy whatever with them or any of them. If so, and I think it incontrovertible, these governments exist, unless they have been so overthrown. Have

they? And if so, by the action of the administration of which? Not by that of this Government, it being but the political creature and trustee of the States, and so made by the voluntary act of nine of them, each then having the government it now has and possessing and reserving like sovereignty thereof, of which Virginia, Georgia, North and South Carolina, included in the provisions of this bill, were four. So if the United States possesses the rightful power to overthrow the government of any of the nine States that created it, each of such States voluntarily coöperated in conferring upon a political fabric of their own creation—ordained expressly for the preservation and perpetuation of each of such governments, under such local administrations as the people and their posterity of each might institute—the power to destroy them.

Though the legitimate administrations of such governments are suspended, they are not overthrown, and may be administered by a sufficient number of any of their respective inhabitants who are voters and eligible to office, without national legislation or adjudication or executive action peculiar to their condition, or other than ordinary. Or although every statute law of such States should be repealed, and their archives, statutes, and everything in them should be consumed; or every citizen in them become traitors and rebels in arms against the authority of such States and that of the United States; or every inhabitant of them so abscond as to leave them without one, and never return—such governments would remain with their normal and inherent vigor, and by such number of any who might become under the organic and statute laws of such States voters and eligible to office in them respectively, could be, without such legislation, adjudication, or executive action, as constitutionally and successfully administered as if their legitimate administrations had never been suspended, and yet never can be constitutionally, successfully, nor in accordance with the principles upon which ours and free Governments are based, only by the consent of the people of such States, respectively, through such number so qualified. As upon such restoration of the administration of the governments of such States depends the perpetuity of the Union, the object of our every political effort should be to effect it, and thereby restore the Union through the only power that it can be, and that by which it was formed, the will of the people of the States, as such, acting through majorities and State organizations, when, if ever, the advocates of this bill and such or any, shall have succeeded in destroying the governments of such States they will not have in depriving the people of any thereof of the right to, for themselves, respectively, organize others; nor can they, as to would thwart the decrees of God by which it was ordained. Such attributes being in peace or war, and under any circumstances, as paramount to the political power of the United States as to that of any crown, and as inviolable as good faith should ever be, the people of such States, in their eagerness and determination to die in defense of, rather than surrender it, would interpose against an attempt to usurp it rivers of blood and mountains of slain.

The exclusive exercise by the people of each of the States of such and like prerogatives constitutes the political state of man ordained by his Creator, and the only one in which he can attain that high destiny for which he was created, and for which our fathers would have severed their allegiance to Great Britain, though a monarchical government, regarding no government not securing to the people of each of the colonies such attributes as preferable to or any than a monarchy, as ever evinced in their several political action and connection in the formation, administration, and dissolution of two unions previous to this, and by our fathers of New England, of one composed of the colonies of that section, in all of which such attributes were reserved by each colony for the people thereof, each of which were by their respective articles of confederation to have been perpetual, or would have fought a battle of the Revolution, through the success of which such principles became so triumphant that Great Britain acknowledged each of the original States to be free and independent. Each of the nine of which that formed this Government reserved for

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the people of each, and those of such as might become States of it, and their posterity, such attributes, the principles of which were by Jefferson and Madison embodied in a party creed, and so ably defended by them, Jackson, and Douglas, and to-day, as ever, maintained by the Democratic party, and upon which only can this Government be successfully administered, which I shall show that the now Administration party held but for the purpose of obtaining the power that it is now wielding for its destruction, in which its masses are necessarily, by force of its organization, though unconsciously, participating. Our Government, by reason of the unprecedented freedom, integrity, devotion, happiness, and prosperity of her citizens, consequent upon its having been administered so long, as the Administration party promised that they would, that is, "on the principles of our fathers," had become the most powerful and renowned of earth's empires, and so loved and venerated by her own, and feared and envied by most, and admired by all others, as to have been invincible by foreign foes. Having become too dear to her own to have fallen in a conflict with all others that could have been combined against her, but never so mighty that it may not from its maladministration, the fabric of which, though as equitable, strong, and durable as human wisdom and integrity could have devised, is equally delicate and wholly dependent upon its being administered in good faith and strict conformity to the law of its organization, which will secure for it an allegiance of our people so tenacious, and a respect of all others so profound as to perpetuate it with man's probationary time without any compromise whatever, as its founders in its formation so conceded to, and provided for sections and conflicting interests and its institutions, as to have rendered any unnecessary to such perpetuation, unless in consequence of usurpations or violations of constitutional rights.

The formation of governments involves the most vital questions of a temporal nature. They are based on the volition of the people or that of tyrants. The former is sustained by the appreciation of the people. The latter, in disregard for and contempt thereof, and by withholding from them the right of self-government with the purse and sword, through which monopolies and exclusive privileges are established and maintained.

Of what avail to the people are the reserved rights of the States if that of retaining or altering their governments are not of them, and held inviolable? As only through such governments can they exercise any of such rights, of which the original States have no more or different than the new, which by the provisions of the Constitution were admitted on an equality with them. The leaders of the people of the States in rebellion having become rebels, and established the so-called confederacy for the purpose of obtaining, as they supposed they might, better security for their State governments, certainly would not, if they could, have destroyed governments for which they have exercised a criminal attachment. Nor would the masses of them, then, so generally, as ever before attached to the Union, have, if they could. The so-called confederate government, not being one *de jure*, never had the political power to abolish those State governments which are; and were it such an one, it could not, for the right to preserve, administer and alter such governments, are of the rights reserved by each of such States of the so-called confederacy. No one would, I think, be so presumptuous as to assert that those governments, or any of them, have been overthrown, unless by the action—I use the word action, as it and overthrown are correlative terms—of some of the powers or so-called powers of which I have spoken in that connection, nor foolish or devoid of self-respect as to insist that they, or any of them, have thus been. Nor do any who are attached to free institutions, and are uncontaminated with the anti-republican heresies which alone constitute the creed of most of the leaders of this Administration, desire that they should be, much less would any such assume that they were, believing as do all patriots, that upon their existence and exercise in and with all the dignity, individuality, equality, independence, majesty, and supremacy, emanat-

ing from their inherent and reserved rights, as inviolable by Federal intervention as foreign invasion, depends the personal liberty and rights of the people of every State, the permanency of our Government, and the progress of free institutions on earth. Yet the advocates of this bill, who fully understand it, do so desire, because of their purpose thereby manifested, of inflicting on humanity that devastation and despair which I have stated would result from such overthrow, as I think I have shown and expect further to when I refer to the provisions of the bill, or so many thereof as time will admit, every section of which so fully bears the impress of such purpose as to induce the resistless, and yet mortifying, humiliating, and fearful conviction that should it receive the formal sanction required to make laws, though unconstitutional, it will then be for the want of that cognizance of the subject-matter of its provisions by any of the departments of this Government necessary to give it the force of law. It would nevertheless by the sword and treasure of the people, degraded and defied by its passage, be unscrupulously and cruelly enforced against their common will, sentiment, and vested rights, as a means of producing such consequences, and thereby rendering restoration impossible, and revolution, in accordance with their despotic desires, successful, permanent, and supreme.

Admitting—which I do only to show the absurdity of the title of the bill—that those States exist with their governments overthrown, yet governments which have been overthrown have no existence; so this bill proposes to guaranty that which it asserts has no existence, though the word imports, and any act, agreement, or contract that constitutes a guarantee implies the existence of something to which the guarantee relates as secondary thereto, and intended to secure to the guarantee. The provisions of the Constitution claimed in the title to the bill as a sanction for its provisions, require the United States to guaranty to every State in the Union a republican form of government, and therefore can operate under such provision only upon governments and in the relation of a guarantor of republican forms of government for the States, and not in that of a founder of governments of any kind, however republican in form, nor in that of intermeddling with any such governments by legislating upon matters legislation on which is reserved to the States respectively or to the people, or changing or suspending the operation of such governments or the laws thereof, or limiting their powers, and consequently is wholly inapplicable to States whose governments have been overthrown, (admitting that there are such,) and was inserted and intended to secure to them the enjoyment of such governments, republican in form, as they may have made for themselves. Why this absurdity in the title of a bill, framed by men of such legislative and legal experience and acquirements and distinguished ability? Because, as I think, of their inordinate desire, under the guise of some constitutional provision, to pass a bill subversive of the reserved rights of the people of such States, that this Administration may, (in the name of the Constitution and under pretense of devotion to the Union,) usurp powers, of which that instrument recognizes each of the States sovereign, and of which they would be without such recognition, which is merely declaratory, and was dictated by unnecessary caution, arising from unabating attachment to such rights and restless fears of their interdiction, and of their inability to select any other provision of that instrument which they could, as they suppose, more successfully prostitute to their monstrous designs against these States, and the Union of all the States, and, as an inevitable consequence, against the people of all the States.

That gentlemen, who never could have become members of this body without having taken the oath prescribed to and required of them by that instrument to support it, and can exercise no power not therein authorized, should attempt by a willful perversion of that instrument to usurp powers coveted by tyrants only would be incredible to one ignorant of the provisions of this bill and the history of this Administration, and especially as they, as members of this House, are chosen more directly and frequently by the peo-

ple than any other incumbents of any of the departments of the Government; and are supposed to, and should, more than any others, reflect their political sentiments and appreciate their wants. This House is, under the theory of our Government, one of the important divisions of a department, without which it would not be republican; is more democratic and closely allied to the people of the States than any other division of the departments of the Government or department thereof, and was organized as the most powerful and reliable barrier of the people of the States, as such, against any attempted usurpations of the United States; I need not add centralization of power, as all such usurpations inevitably tend to it. The political relations between the members of this body and the United States and States being so sacred, important, delicate, and confidential, and being so fixed by the Constitution, does not the claim of constitutionality for this bill render its authors guilty of the moral and political crime of not only ingratitude to the memories of the framers of the Constitution but of slander thereof, and infidelity and treachery to the people? To the extent that powers were delegated to the United States by the States, through the Constitution of the United States, and were by it prohibited to the States. The United States are sovereign, and will so remain as to those so delegated and prohibited, as far as not modified or withdrawn, in conformity with that instrument, until they shall become extinct, if ever, by reason of the destruction of that instrument when they will revert to the people of each State, who retain the reversion thereof, as are and will be those, which each of those States possessed when independent sovereignties, and not thus delegated by, nor prohibited to, them in such instrument so long as their governments exist. And yet there was no division of power, for the reason that the whole so delegated to the United States and prohibited to the States, was an emanation of the separate and voluntary act of nine of the thirteen States that composed the Confederation, in a Convention called for the amendment of the Articles thereof, which act was a violation of such Articles, which declared that the Union under it should be perpetual. Yet by such act alone the Union was created, and the nine States thereof became foreign to the other four; two of which, Rhode Island and North Carolina, were so treated by acts of Congress, under the Administration of the immortal Washington; and was, therefore, not a partition of powers, but delegation thereof wholly, though ordinarily designated as delegated and prohibited powers, as a partition of powers can be made only between two or more governments or parties jointly possessing them, which relationship is requisite to the division of political or other powers, and did not exist between the United States and the nine States, nor any of them; for that the United States, and the Government thereof, having been created only by the delegation and prohibition of powers by the States, could not have existed until the consummation of such act of delegation and prohibition; which was the adoption of the Constitution, which is a compact between all the States of the Union only, entered into originally by such nine of them acting through their respective majorities and State organizations, for the establishment for themselves and posterity of this their General Government for specifically named and clearly limited common purposes.

Though this Administration obtained power, and most if not all of the supporters of this bill their places in this House, by such professions of devotion to the rights of each State of the Union as were incorporated in its party platform of 1860, which are "that the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power upon which the perfection and endurance of our political fabric depend," thus asserting not only as fully and positively as language can the rights of the States, and especially of each State, so to govern exclusively itself, but holding that upon the maintenance inviolate of the exclusive exercise of such rights by the people of each State depends the existence of our Government. Yet that party, which includes the friends of this bill,

notwithstanding such professions then and before, and ever since, have been; so far as its leaders supposed they could stealthily and successfully, under pretence of devotion to God, humanity, human rights, and freedom, the Constitution, the Union, the Union of our fathers as made and administered by them, and its preservation as so made and administered, the Union of the Constitution, the old flag, and the principles upon which the Government was administered by our fathers, naming and eulogizing as such Washington, Jefferson, and Madison, slaveholders, to exclude the elder Adams, who was not one, but the second President, and therefore one of our fathers, so called, to escape the odium of the name and tenets of the Federal party, their political paternity, organized by him, Hamilton, and others, who preferred a centralized Government to ours, and of which tenets abolitionism is the worst, most deceitful, cruel, intolerant, despotic, and revolutionary manifestation; and that they might have changed the name of their party so often that the most sagacious of them cannot determine whether it is Republican, Union, or no-party; and that it can be identified only by that of the Administration party, and to those on which Jackson, who was a slaveholder, administered it, and to him personally—seldom, if ever, mentioning the name of John Q. Adams, a son of the elder Adams, and an immediate predecessor of Jackson, only to such as admired the name or are aware of the falsity and designs of such professions, all whom, save the former, they and their political ancestors have denounced for being pro-slavery, and therefore tyrannical and infamous, and whose memories they detest. And to Douglas, whom they had stigmatized as a scoundrel, demagogue, and traitor, and had charged was more pro-slavery than any slaveholder, and therefore more infamous, instilling into the minds of the people contempt for the Constitution of the United States, and disregard thereof and resistance thereto; because of its most salutary and self-preserving provisions, sanctioning the reservation of such rights and protecting the States and the people in the exercise of them, and inculcating into them the dogma that slavery is incompatible with a republican form of Government, and is creative of such antagonisms as render ours abominable and impotent; and revolution, duty to God and humanity, and essential to success of free institutions, in order to enlist them as their supporters in the accomplishment of their design of revolutionizing our Government and usurping the constitutional rights of the States and the people with the power that they obtained by false professions of patriotic devotion to the inviolability of such rights, that instrument, and to the peace, happiness, and prosperity of the people, and perpetuity and renown of the Union, to consummate which many of its leaders are pressing upon this House the passage of this and kindred bills.

As hypocritical sinners, claiming to be Christians, profess remarkable enthusiastic concern for the cause of our Redeemer, so do demagogues and tyrants, and for that of our Union, and the memory of those who have immortalized themselves by a patriotic devotion to it and tenacious regard for the principles which they advocated. Because of the high appreciation of the people for the purity of such causes, the correctness of such principles, and honor of the memories of such, and of their conviction that through such professions and appreciations they can accomplish their sinister and monstrous purposes, as is clearly demonstrated by such leaders in their professed and infamously hypocritical devotions of which I have spoken. If not, why have they shamefully disregarded each of them, the violation of any one of which would have subjected them to the infamy of such a charge, and why do they persist in asserting that they desire that the Government should be administered as it was by Washington, Madison, Jefferson, and Jackson, and that Douglas, if living, would be prominent among them, knowing that Washington, as President, approved a bill accepting the cession by North Carolina of territory in which it was provided that no regulations made or to be made by Congress should tend to emancipate slaves; as he did bills for the admission into the Union of two slave States, Kentucky and Tennessee; and that in his Farewell Address advised

us to indignantly frown upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which bind together its various parts. That Jefferson said that John Adams was supported for the Presidency by the monarchical Federalists, and that he (Jefferson) was the author of the Kentucky resolutions of 1799, and as President sanctioned a treaty through which we acquired an area of territory many times larger than that of the original States, and in which by it the abolishment of the institution of slavery was prohibited, unless by the consent of the people thereof; and that he, in writing concerning the Missouri Compromise, which excluded slavery from only a part of slave territory, and was therefore urged as an equitable partition of common territory between free and slave States, said that it was treason against human hope, and would create a geographical line that would be recurring on every occasion and renewing irritations until it would kindle such a mortal hatred as to render separation preferable to eternal discord; that he had been among the most sanguine in believing that our Union would be of long duration, but that he then doubted it much, and that he saw the event at no great distance, and that his only comfort and consolation was that he would not live to see it; that the question was hushed for the moment, but it was a reprieve only, not a final sentence; and that the leaders of Federalism, on its eclipse, not extinction, after being defeated in their party schemes to obtain power by rallying partisans to the principles of monarchism, advocated such compromise as a party trick to secure such power. That Madison was the author of the Virginia resolutions of 1798, and the report relative thereto of the House of Delegates of Virginia, of 1800; and that he, as President, signed a bill for the admission of Louisiana as a slave State. That Jackson, as President, signed a bill for the admission of Arkansas, and had warned the people that the abolition party was an offspring of the Federal party, and a disunion, hypocritical, and treacherous one, and in his farewell address to his countrymen said:

"Every State must be the sole judge of the measures proper to secure the safety of its citizens and promote their happiness; and all efforts on the part of the people of other States to cast odium upon their institutions, and all measures calculated to disturb their rights of property or to put in jeopardy their peace and internal tranquillity are in direct opposition to the spirit in which the Union was formed, and must endanger its safety. Motives of philanthropy may be assigned for this unwarrantable interference, and weak men may persuade themselves for a moment that they are laboring in the cause of humanity and asserting the rights of the human race, but every one, upon sober reflection, will see that nothing but mischief can come from these improper assaults upon the feelings and rights of others. Rest assured that the men found busy in this work of discord are not worthy of your confidence, and deserve your strongest reprobation."

That Douglas had denounced their party as being Federal, having reference to the Federal party, and corrupt, deceitful, revolutionary, and destructive, and as late as the 25th December, A. D. 1860, wrote to a friend that it could no longer be disguised that many of the Republican Senators desired war and disunion under pretext of saving the Union, and that for partisan purposes they were anxious to dissolve the Union, if it could be done without holding them responsible before the people; and in the last speech which he ever made in the Senate of the United States, in 1861, said:

"I am a Union man, and hence against war; but if the Government must be broken, and a *de facto* government set up by some of the States, let no act be done that will prevent a restoration. Peace is the only policy that can lead to that result.

"Have we a Government? is the question; and we are told that we must test that question by using the military power to put down all discontented spirits. Sir, this question, 'Have we a Government?' has been propounded by every tyrant who has tried to keep his feet on the necks of the people since the world began. When the barons demanded Magna Charta from King John, at Runnymede, he exclaimed, 'Have we a Government?' and called for his army to put down the discontented barons. When George III called upon his army to put down the rebellion in America, Lord North cried lustily, 'No compromise with traitors! Let us demonstrate that we have a Government!'

"Sir, when ten million people proclaim to you that they approach their firesides and their families are in danger, it becomes a wise Government to listen to the appeal and remove the apprehension. History does not record one example where any human government has been strong enough to crush ten million people into subjection when

they believed their right, and liberties were imperiled, without first converting the government itself into a despotism and destroying the last vestige of freedom.

"What man in all America, with a heart in his bosom, who knows the facts connected with Fort Sumter, can hesitate in saying that duty, honor, patriotism, and humanity require that Anderson and his little band should be instantly withdrawn? Sir, I am not afraid to say so. Peace is the only policy that will save the country."

And that in the spring or summer of that year, and some time after the commencement of the war, in a speech made at Springfield, Illinois, and; I think, next to the last he ever made, and which was at the time applauded by the vast number of Administrationists who heard it, and has ever been, I think, universally eulogized by them, he said:

"I will never sanction nor acquiesce in any warfare whatever upon the constitutional rights or domestic institutions of the people of the southern States. On the contrary, if there was an attempt to invade those rights, to stir up servile insurrection among their people, I would rush to their rescue, and interfere with whatever of strength I might possess to avert such a calamity."

The President, in his inaugural, declared that he had no purpose, directly or indirectly, to interfere with the institution of slavery in the States in which it existed; that he believed he had no lawful right to, and had no inclination to, and that those who nominated and elected him did so with the full knowledge that he had made that and many similar declarations, and had never recanted them; and more than that, they placed in the platform for his acceptance, and as a law to themselves and him, the clear and emphatic resolution which he then read, which is the one of which I have spoken; after reading which he continued, saying:

"I now reiterate these sentiments; and in doing so I only press upon the public attention the most conclusive evidence of which the case is susceptible: that the property, peace, and security of no section are to be in any wise endangered by the now incoming Administration. I add, too, that all the protection which, consistently with the Constitution and laws, can be given, will be cheerfully given to all the States when lawfully demanded, for whatever cause, as cheerfully to one section as to another."

So after seven of the States to which this bill relates had so far defied the authority of the Government and repudiated the obligations of the Constitution as to have passed for itself an ordinance of secession, and had, on the 18th or 19th of February previous, formed a provisional insurrectionary government under the name of the confederate States of America. And although as he asserted in his message to the extra session in July thereafter, that at the beginning of his presidential term and four months before then, that

"Within these States (referring to South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Florida, which were of such seven) all the forts, arsenals, dockyards, custom-houses, and the like, including the movable and stationary property in and about them, had been seized, and were held in open hostility to this Government, excepting only Forts Pickens, Taylor, and Jefferson, on and near the Florida coast, and Fort Sumter, in Charleston harbor, South Carolina. The forts thus seized had been put in improved condition; new ones had been built, and armed forces had been organized, and were organizing, all avowedly with the same hostile purpose.

"The forts remaining in the possession of the Federal Government in and near these States were either besieged or menaced by warlike preparations, and especially Fort Sumter was nearly surrounded by well-protected hostile batteries, with guns equal in quality to the best of its own, and outnumbering the latter as perhaps ten to one. A disproportionate share of the Federal muskets and rifles had somehow found their way into these States, and had been seized to be used against the Government. Accumulations of the public revenue, lying within them, had been seized for the same object. The Navy was scattered in distant seas, leaving but a very small part of it within the immediate reach of the Government. Officers of the Federal Army and Navy had resigned in great numbers; and of those resigning a large proportion had taken up arms against the Government.

"Simultaneously, and in connection with all this, the purpose to sever the Federal Union was openly avowed. In accordance with this purpose an ordinance had been adopted in each of these States, declaring the States, respectively, to be separated from the national Union. A formula for instituting a combined government of these States had been promulgated; and this illegal organization, in the character of confederate States, was already invoking recognition, aid, and intervention, from foreign Powers."

He said in that inaugural that the people who nominated and elected him did so with the full knowledge that he had declared that he had no right, inclination, or purpose so to interfere with slavery, and had never recanted such declarations, and held that they by making such part of such



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platform a law for him and them committed themselves and him against directly or indirectly interfering with slavery in the States where it existed, or the property, peace, and security of the people of any of them, which he, as he said, so repeated only to impress upon the public attention the most conclusive evidence of which the case was susceptible, that the property, peace, and security of no section were to be in any wise endangered by his Administration; thus, admitting, not only that slavery is included in the domestic institutions referred to in that portion of such platform, and that he could not have been elected, but for his often-expressed devotion to the principles therein enunciated before his nomination, and for its being known to those who nominated and elected him that he "had never recanted them." He, in that inaugural, moreover, stated that all the protection which could consistently with the Constitution and laws be given, would be cheerfully when demanded for any cause whatever; and moreover declared that—

"When hostility to the United States in any interior territory shall be so great and so universal as to prevent competent resident citizens from holding the Federal offices, there will be no attempt to force obnoxious strangers among people that object. While the strict legal right may exist for the Government to enforce the exercise of these offices, the attempt to do so would be so irritating and so nearly impracticable in that that I deem it better to forego for the time the uses of such offices."

Doubtless to assure the people of every section that he was so apprehensive of the results of the critical condition of the country that he would not, where in any interior country the hostility of the people was so great and universal against the Government of the United States as to prevent resident citizens from holding the offices, force obnoxious strangers on any people that object, and that he deemed it better for the time to forego the uses of such offices, and as if fearing that although his pledge was to every State in the Union most unequivocally, that on account of previously expressed adverse sentiments, and like political affinities, it might not be satisfactory to the people of the slaveholding ones, especially those of the seven States that were then as fully and completely as now in rebellion; as the crime of the act became as complete, though not so aggravated, by their renunciation of the authority of the Government, and their making preparations forcibly to resist it, as by their doing so with armies for any length of time, he adds "as cheerfully to one section as another," and continued, saying, "I take the official oath to-day with no mental reservation, and with no purpose to construe the Constitution and laws by any hypercritical rules." As an assurance to those of all the States of every section of the Union, and each of them, of such and equal protection, and, too, doubtless thinking that on such account either that the inhabitants of the slaveholding States, or many of them, or many of the most sagacious, prominent, and influential of his supporters or both would not be satisfied that he regarded either such portion of the platform or his emphatic exposition thereof and of the Constitution as embracing or having reference to the rendition of fugitive slaves, he continued thus:

"There is much controversy about delivering up of fugitives from service or labor. The clause I now read is as plainly written in the Constitution as any other of its provisions: 'No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any such law or regulation therein be discharged from such service or labor, but shall be delivered up upon claim of such party to whom such labor or service is due.'"

And then said it is scarcely questioned that this provision was intended by those who made it for the reclaiming of what we call fugitive slaves; and the intention of the lawgiver is the law that all members of Congress swear their support to the whole Constitution, to this provision as well as any other; and that to the proposition, then, that slaves whose cases come within that clause should be delivered up, their oaths were unanimous, and continued thus: now, if they would make the effort in good temper, could they not with nearly equal unanimity frame and pass a law by which to keep good that unanimous oath, holding not only that the provision was as plainly written as any in the Constitution, that it applied to the rendition of fugitive slaves, that they should be delivered up, was the unanimous oath of all members of Con-

gress? But added, could they not, if they would, make the effort in good temper, with nearly equal unanimity, pass a law by means of which to keep good that unanimous oath; and notwithstanding his declaration in that inaugural that all professed to be content in the Union if their constitutional rights could be maintained, and his not impugning their motives for such professions, though stating that their apprehensions were without reasonable cause, and that though he did not consider it necessary then to discuss those matters of administration about which there was no special anxiety or excitement, thereby holding no other matters of administration in such crisis worthy of comment in his inaugural than those relating to the provisions of the Constitution and portion of the Republican platform reiterated by him in it, and that such crisis had arisen from an attachment to the principles in such provision and portion of the platform enunciated, and apprehensions that they would be by his administration violated. And that he asked whether it was true that any right, plainly written in the Constitution, had been denied, and said he thought not; and that happily the human mind was so constituted that no party could reach the audacity of refusing such right. And then further said:

"Think you, if you can, of any instance in which a plainly written right of the Constitution has been denied, and that if by the force of numbers a majority should deprive a minority of any clearly written constitutional right, it might, in a moral point of view, justify revolution, that it certainly would if such right were a vital one."

And added that such is not the case, and that—

"All the vital rights of minorities and of individuals are so plainly assured to them by affirmatives and negatives, guarantees and prohibitions in the Constitution that controversies never arise concerning them."

Yet his party in Congress passed, and he signed, a bill repealing two fugitive slave laws, the one signed by Washington, in 1793, of which Daniel Webster, who never lived in a slave State nor owned a slave, in a speech, in Buffalo, New York, May 22, 1851, said:

"It was hardly opposed by any at the time, (referring to that of its passage.) The great men of New York and New England all concurred in it, and it answered all the purposes expected till about the year 1841 or 1842, when some of the States interfered to make enactments in opposition to it and imposing a penalty on any State officer who exercised authority under the law, or assisted in its execution. It had become absolutely indispensable that Congress should pass some law for the execution of this provision of the Constitution, or else give up that provision entirely. This is the question."

"I have already stated, gentlemen, what your observation of these things must have taught you. I will only recur to the subject for a moment, for the purpose of persuading you, as public men and private men, as good men and patriotic men, that you ought, to the extent of your ability and influence, to see to it that such laws are established and maintained as shall keep you, and the South, and the West, and all the country together, on the terms of the Constitution. I say what is demanded of us is to fulfill our constitutional duties, and do for the South what the South has a right to demand."

The bill for the other was most strenuously advocated by the most illustrious statesmen and self-sacrificing and venerated patriots then in Congress; Clay asserting, I think, that the necessity for it was one of the five bleeding wounds of the country, and Webster that it was more favorable to the fugitive slave than that of 1793; and in one in the Senate of the United States, that no slave had ever been reclaimed from Massachusetts under such a law, and that no false claim had ever been made for one in that State; and in another at Colby Springs, in June, 1851, he said:

"I do not hesitate to say and repeat, that if the northern States refuse willfully and deliberately to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, the South would be no longer bound to observe the compact. A bargain broken on one side is a bargain broken on all sides."

And although he had held, when both these were in force, and seven of these States were in open and defiant rebellion, and some preparing and others threatening to unite with them, four of which did so very soon, that every member of Congress was oath bound to pass such a law, and that they might keep good that unanimous oath, advised them to, and assured the country that he nor Congress would withhold the right so conferred for the reclamation of fugitive slaves, by stating that happily the human mind was so constituted that no party could reach the audacity of denying a right plainly written in the Constitu-

tion; saying, at the time, after repeating the constitutional provision for the rendition of fugitives from labor, and stating that it applied to fugitive slaves, that it was as plainly written as any clause in the Constitution.

So the President and his party, which includes the supporters of this bill, according to such his authoritative declarations, have become guilty of that audacity which he thought, happily on account of the constitution of the human mind, no party could reach, and consequently more depraved than he then supposed human nature was, and, moreover, done what Webster said would release the slave States from our compact, and consequently Government, and given to such States what he then declared was certainly a moral cause for revolution, if the right of the reclamation of fugitive slaves is a vital one. Who doubts it, when it was by the framers of the Constitution regarded so much so, for the protection of twelve States, which were then slave, against but one, Massachusetts, which had become otherwise since or about the time of the signing of the Declaration of Independence; that the number of States required to ratify the Constitution would not have without such a provision in it. No sane man acquainted with the history of the country believes that the Union ever could have been formed with any Constitution not containing protection for a species of property held in twelve of the States, and which would not be subject to any law that could be made, either by any or all of them, if within the thirteenth. If vital then, and it certainly was if the Union could not have been formed without its having become a part of the Constitution, how much more so had it become at the time the President thus spoke of it, when there were twenty States and a number of Territories, the aggregate area of which was much greater than that of the slave States, and in all which, but for such a law, there would be no legal protection for such property; and when the hostility of many of the people of all such States and Territories to a right in that species of property was so great that in twelve of such States unconstitutional, revolutionary, and nullifying enactments had been passed, and, in some of them, enforced through sacrifice of life, to prevent the recovery of such property in the respective States into which, as probably all the twenty slaves had not only been enticed but forced against their will, the right is peculiarly vital, because, not only of the want of power in any State in which slavery exists to protect the owners thereof extra-territorially, but of the opportunities that slaves have and that are afforded them of evading the laws of any of the slave States, or that could be enacted by any of them.

As the right to the protection and recovery of property is highly important, no one can successfully controvert that this is a vital one until he has the right of such property, which the President admits. Do two laws of the importance that Daniel Webster, Clay, and Douglas attached to those of the kind confer no vital right? That the President thought they did must be evident to any one who has read his inaugural, as it will be that it was in consequence of his so regarding it that he spoke of a law of that kind and the imperative duty of Congress to pass one, and the audacity and fearful consequences of denying such a right, knowing that a large majority of the voters of the free States so held and believed that the withholding of it, or other rights of which he had spoken, permanently from any State, and much more section of the Union, would destroy it. If I have not shown that he so regarded it, and I insist that I have, his statement made in his message to the extra session of 1861, and more than two months after the commencement of the war, does. That he then did so believe, and promise such protection, and that he regarded it and all other constitutional rights as paramount in a rebellious war as peace, which is:

"Least there be some uneasiness in the minds of candid men as to what is to be the course of the Government toward the southern States, after the rebellion shall have been suppressed, the Executive deems it proper to say it will be his purpose then, as ever, to be guided by the Constitution and the laws; and that he probably will have no different understanding of the powers and duties of the Federal Government relative to the rights of the States and the people under the Constitution than that expressed in the inaugural address. He desired to preserve the Gov-

onment, that it might be administered for all, as it was administered by the men who made it."

As will that made in his emancipation proclamation nearly eighteen months after the commencement of the war, which is that thereafter, as theretofore, it would be prosecuted for the object of practically restoring the constitutional relations between the United States and the people thereof, in which States that relation was or might be suspended or disturbed, admitting in such message that with candid men (and not confining such admission to such of the slave States) there might be uneasiness as to what would be the course of his administration toward the southern States after the rebellion should have been suppressed, and reassuring the people of every section of the Union of full and equal protection then as ever; and, in such proclamation made some fourteen months thereafter, declared that the war that had then been raging for near eighteen months should be prosecuted, as it had been, for the purpose of practically restoring the constitutional relations between the United States and the people of these States, with which such relations had been suspended or disturbed. Not only by saying that such relations had been suspended or disturbed, holding that they had not been dissolved, and so far from intimating that any of their rights had been or could be forfeited, declared that the war should be continued for the purpose of practically restoring such relations, not only to the people of the States then in the rebellion, by which they had been suspended or disturbed, but to those of any other States, the relations of which with the Government might be so suspended or disturbed, through a rebellion against the United States. To any having any conception of such, and a knowledge of this bill, an effort to show that its every provision is subversive of the rights included in such relations would seem superfluous. Had I not demonstrated, as I believe I have, from the President's inaugural, his message and assurances in his emancipation proclamation, that he regarded the rebellion as consequent upon the apprehensions of those who became rebels, that the principles of self and free government contained in the resolution of the Republican platform on which he was elected, and reiterated in his inaugural, would be violated, and the provision of the Constitution requiring the rendition of fugitives from labor would be disregarded by him and those of his party who, with him, would control the administration of the Government during his term; and that, notwithstanding their rebellion and the war thereof, he would protect them in the enjoyment of such rights. The following, which he directed the Secretary of State to say to our minister to Great Britain, in a dispatch of April 10, 1861, shows that he regarded the rebellion as so consequent:

"It may be stated, perhaps, without giving just offense, that the most popular motive in these discontents [referring to the rebellion] was an apprehension of designs on the part of the incoming Federal Administration hostile to the institution of domestic slavery in the States where it is tolerated by local constitutions and laws. That institution and the class which especially cherishes it are not confined to the States which have revolted, but they exist in the eight other so-called slave States, and these for that reason sympathize profoundly with the revolutionary movement. Sympathies and apprehensions of this kind have, for an indefinite period, entered into the basis of political parties throughout the whole country, and thus considerable masses of persons, whose ultimate loyalty could not be doubted were found, even in the free States, either justifying, excusing, or palliating the movement toward disunion in the seceding States." "It would be very unjust to the American people to suppose that this singular and unhappy condition of things [alluding to the rebellion] indicated any extreme favor or toleration of the purpose of a permanent dissolution of the Union. On the contrary, disunion at the very first took on a specious form and it afterward made its way by ingenious and seductive devices."

Will the Administration majority in this House persist in recklessly multiplying and intensifying the realities of such apprehensions by passing this bill in violation of resolutions passed almost unanimously by both Houses of Congress when under the control of their political friends, in view of and since the commencement of the war, and of pledges so solemn and important, made by their President in such inaugural, his messages, in executive documents, through his Secretary of State, and otherwise, from time to time for near eighteen I know, and think more than twenty,

months after the commencement of the war, especially as by the repeal of the fugitive slave law this Administration has deprived a section of this Union of a right the mere withholding of which I have, from authoritative declarations of the President, shown he considered violative of the oath of each member of Congress, and I think I have, that he did, a moral cause for revolution? I thus speak desiring a restoration of the Union, while preferring dissolution to permanent despotism under any Union; I need not add as it was that of our fathers, and that of the Constitution, as the Union is none other. While a Union may be a despotism, yet such an one can be established on the disruption of this, only by deceiving the people into the toleration of such an organization through deceptive professions for the restoration of the Union, and apparently sincere and enthusiastic devotion to its institutions, and seeming desire to restore them and reinvigorate its past glories, rendered apparently sincere and dazzlingly and successfully imposing by the display of our flag, the singing of national airs and other patriotic songs, and threatening and denouncing as traitors all who may question the sincerity of such professions, devotion, and desire.

I believe that without a change of Administration, or of its course, or unless the masses of the Administration party shall so generally appreciate the real political condition of the country and the cause thereof as to constrain those to whom they have given power to exercise it in the spirit that actuated those who framed the Constitution and administered the Government so long and successfully, in strict accordance with its provisions and as they promised to, that they might attain such power, the Union will be dissolved or such despotism established. Until such are convinced that this Administration has, by repeated violations of all the most important of the constitutional rights of the people of each of the States, justified the charges made by the most criminal, sagacious, and malicious of the people of each of the eleven States now in rebellion, and charges, too, so serious as to have involved so many of them of each of such States in the heinous crime of rebellion against a Government that they, as a people loved, and if administered on the basis of its organization, would desire to perpetuate with earth's time, and to have produced a calamity to the people of such States, on account of which, as Judge Douglas said in the speech to which I have referred, he would rush to their rescue, and interfere with whatever of strength he might possess to defend them from, they will not attain such appreciation, and may not in time to effect such restoration and avert such disruption or despotism, as a knowledge thereof would be incompatible with the existence of their party, and consequently can be obtained only against the unceasing, unrelaxing, and unscrupulous efforts of most of their leaders. To one unacquainted with the professions and purposes of most of the leaders of the party of the Administration, the apprehensions and excitement of the people of every State, consequent upon the inauguration of the President, must have seemed strange, when all, as he said, professed to be content with the Union if all their constitutional rights could be maintained, the sincerity of which he did not impugn, but stated that they were without reasonable cause.

And when the President instructed his Secretary of State to say in a dispatch of 22d April, 1861, and after the attack on Fort Sumter on the 12th of that month, to our minister to France, that there was not then, even in the midst of the gathering excitement of civil war, an American who declared his dissent from the Constitution, and assured them that the property, peace, and security of no section should be in anywise endangered by his Administration; and that all the protection that consistently with the Constitution and laws could be given, would be, as cheerfully to one section as the other, and especially, as the assurance comprehended all, that any who professed to be content in the Union with their constitutional rights maintained, or had never expressed dissent to the Constitution, should desire; but would not so seem to those cognizant that such popular purposes were professed to disguise real and abhorrent ones. And why? Because they were aware of the President's decla-

ration, made at Springfield, Illinois, June 17, 1858, to a Republican convention that had just nominated him as the opponent of Judge Douglas for the Senate of the United States, which are:

"We are now far into the fifth year since a policy was initiated with the avowed object and confident promise of putting an end to slavery agitation. Under the operation of that policy that agitation has not only not ceased, but has constantly augmented. In my opinion it will not cease until a crisis shall have been reached and passed. 'A house divided against itself cannot stand.' I believe this Government cannot endure permanently half slave and half free. I do not expect the Union to be dissolved; I do not expect the house to fall; but I do expect it will cease to be divided. It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction, or its advocates will push it forward till it shall become alike lawful in all the States, old as well as new, North as well as South."

And after having been convinced of the hostility of the majority of the people of that State to such sentiments, and hearing the exposures of Judge Douglas and others of them, said, (in a speech made in such canvass, 10th July thereafter, at Chicago:)

"Now, it is singular enough if you will carefully read that passage [referring to what I have just quoted] that I did not say that I was in favor of anything in it."

And that he, in that speech, said:

"We were often, (more than once, at least,) in the course of Judge Douglas's speech last night, reminded that this Government was made for white men; that he believed it was made for white men. Well, that is putting it into a shape in which no one wants to deny it."

Yet he, near the conclusion of the same speech, says:

"My friends, I have detained you about as long as I desired to do, and I have only to say, let us discard all this quibbling about this man and the other man, this race and that race and the other race being inferior, and therefore they must be placed in an inferior position; discarding our standard that we have let us. Let us discard all these things, and unite as one people throughout this land, until we shall once more stand up declaring that all men are created equal."

Thus, in the same speech, virtually admitting that the Government was made for white men, yet holding that it was quibbling to say that one man or race was inferior to another, and must therefore be placed in an inferior position, advised the discarding of the "standard" and "all these things" referring to the Government having been made for white men, and the inferiority in which the negro was held, and admonished the people to unite as one people throughout the land until they should once more stand up declaring that all men are created equal; and at Charleston, in the south part of that State, where the sentiments of the quotation that I have last made from him regarding the equality of the white and black races were as unpopular as they were popular at Chicago where he uttered them, he said in a speech in such canvass, and immediately after the commencing thereof, by stating in a very few prefatory words, the importance of the assemblage giving attention to his speech:

"While I was at the hotel to-day, an elderly gentleman called upon me to know whether I was really in favor of producing a perfect equality between the negroes and white people. While I had not proposed to myself on this occasion to say much on that subject, yet as the question was asked me I thought I would occupy perhaps five minutes in saying something in regard to it. I will say, then, that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races; that I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race."

In view of the occasion of the utterance of such sentiments as were by the President at Springfield, which was to a State convention of the Republican party which had adopted a platform and just nominated him as the candidate of that party for the Senate of the United States, in response to and in acceptance of which the speech containing them was made, and of their importance by reason of their monstrosity consequent upon the declaration therein, that the Government could not exist as formed; and of the relation of the speaker to the convention and the country, and the high position assigned him by those to whom he thus

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spoke; and of everything connected therewith save the character of the President, it would, as he said afterward, "seem strange" that "he did not say that he was in favor of anything in it," especially as he and his radical friends claim that it was original with him, and as but for such expressions and known devotion thereto he would probably never have received that or a presidential nomination. And yet, to those well acquainted with the assumed author, or who have read the speeches to which I have adverted, would not so seem. While the President, in his speech at Chicago, advised that quibbling about one man or race being inferior to another, and should therefore be put in an inferior position, should be discarded, and that we should unite as one people throughout the land to discard the standard we have left us, and all these things, until we once more stand up declaring that all are equal. In that at Charleston he disclaimed being, or ever having been, in favor of affecting in any way the social and political equality of the white and black races, or of making voters or jurors of the latter, or qualifying them to hold office, or intermarry with white people; and declared that there was a physical difference between such races that he believed would forever forbid the two races living together on terms of social and political equality; and that as they could not so live, and as long as they did together, he was as much as any other man in favor of having the superior position assigned to the white race.

He in such canyass did, in the northern section of the State, say that he hated slavery and insisted on its abolition, while in other sections of it he would proclaim that "each State had the right to do exactly as it pleased about all their domestic relations, including that of slavery," and after admitting himself bound by constitutional obligations to allow the people of each of the States, without interference direct or indirect, to do exactly as they pleased, and denying that he had any impatience with such rights or inclination to interfere with them if there was no such constitutional provision; thus in one portion of the State not only denying any impatience with the institution of slavery, but any desire in any way to interfere with it even were it without constitutional sanction, thereby expressing more indifference to its existence; than to have said he did not care whether slavery was voted up or voted down, for the saying of which Judge Douglas was by the political adherents of the Administration traduced as a tyrant, monster, and being unworthy the name of an American citizen; and in another section of the State advising the abolition of the institution. And because of many such contradictory and astounding statements, before and previous to his first nomination as a candidate for President, made, and probably as often through design, attempted to be reconciled with conservatism, or qualified and explained for an emergency without in the least affecting his social or political relations with the most radical of the Abolitionists, to whom he became known, and a favorite candidate for the Presidency, in consequence of devotion to their heresies, and supposed availability on account of his remarkable faculty for successfully disguising them when expedient, and of his having received unprecedented majorities in each of the twelve States that had so nullified laws passed under such constitutional provision, and some of them the provision directly, and in every other northern State, New Jersey excepted, while he had no electoral vote in any slave State. Did time admit, I would state fully the bill and comment upon every provision thereof; but as it will not, nor of any satisfactory elaboration of any of those to which I shall, I will speak of the great and vital political principles involved in and violated by it, and not in detail of its enormities, as any one of its provisions characterizes all.

It provides, among other things, for the appointment by the President, with the advice and consent of the Senate, of a provisional Governor for each of the States in rebellion; who is, until the United States shall have recognized a republican form of State government, to see that this act, the laws of the United States, and those of the State in force when, as it says, the State government was overthrown by the rebellion, are faithfully executed in the State, except that no law or usage

whereby any one was held in involuntary servitude should be recognized or enforced by any court or officer in such State, and that the President shall appoint such officers provided for by the laws of the State, when, as it is said, its government was overthrown, as he may find necessary to the civil administration of the State.

That all persons declared free by any proclamation of the President, and their posterity, shall be forever free, and if restrained of liberty under pretense of claim to their service or labor, the courts of the United States shall, on *habeas corpus*, discharge them. That so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States, the Governor shall cause, as speedily as may be, an enrollment to be taken preparatory to the election of delegates to a constitutional convention. That the convention shall declare on behalf of the people of the State their submission to the Constitution and laws of the United States, and adopt and incorporate into the constitution of the State three provisions in the act stated and thereby prescribed by the United States, in the execution of the constitutional duty to guaranty a republican form of government to every State, and that when it shall have adopted such provisions it shall proceed to reestablish a republican form of government and ordain a constitution containing them, one of which is that involuntary servitude is forever prohibited, and that freedom and equality of civil rights before the law is guarantied to all persons in the State; and that if it shall refuse to establish the State government on such conditions the Governor shall declare it dissolved. But that it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under the act prescribed, and not less than a majority of those enrolled, as required by the bill, are willing to reestablish a State government on such conditions, to direct the Governor to order another election of delegates to a convention, for the purpose and in the manner prescribed in the act, and proceed in all respects as therein provided to dissolve the convention or certify the State government reestablished by it to the President.

The powers of this body, though of more extensive operation than those of Representative Houses of the States, are in their nature and quality much inferior, being conferred by delegation over special and expressly specified though general matters, enumerated in the Constitution, which so clearly defines and limits them as to exclude any whatever not so specified, and are, therefore, permissive; while those of such bodies of the States are inherent and consequently not prescribed, and though limited by constitutional prohibitions, are supreme over all matters not so prohibited. The question that the introduction of a bill here should first present for our consideration is, are its provisions within the powers so enumerated? and not whether they are prohibited by the Constitution; and if not, we should, without regard to what they are, oppose the passage of such a bill, and especially if it professes to guaranty to States republican forms of government, when they have such, and while its provisions, if enforced, would cement such governments into monarchical ones, and would, though such provisions were in themselves, and unconnected with the relations of the States to the United States, as republican and perfect as those of this bill are infamous and intolerably usurping, for the reason that any alteration made in such governments, or restriction imposed upon their reserved rights by any other administration than their own, is not only despotic but a usurpation, against which the United States, under the provision of the Constitution on which it is claimed this bill is framed, is bound to protect each State, though perpetrated by Congress and the Executive, or either, or any power, because each of such States is a commonwealth, and the people of each thereof have the normal and exclusive prerogative expressly admitted, I will not say conferred, by the Constitution of the United States, as they were never delegated by the States to the United States, of retaining or altering their respective governments, however immoral, sinful, degrad-

ing, or obnoxious such governments may be, or might be made by such alteration, in the estimation of the people, or the administration of each other State of the Union, or of that of the latter, if they remain republican, never having surrendered the power to politically do with regard thereto and to all other of their reserved rights, which God gave them personally to, to do wrong, to sin, and cannot enjoy the franchises of Commonwealths, republican institutions, nor States of this Union, longer than they retain such prerogative, the exercise of which, by any other power than that of their respective administrations is subversive of such governments, and consequently a usurpation of such prerogative. Each State having republican forms of government, if they ever had, nine of them having each a government established by the people thereof, formed that of which we are the Representatives, Virginia, Georgia, and South Carolina, included in this bill, being three thereof, and four more having become members of the Union, by signing and ratifying the Constitution, and in accordance with its provisions, of which North Carolina, so included in this bill, is one. And the remainder of them, by admission under a clause of it authorizing Congress to admit others, the governments of which are republican in form, is evidence so conclusive that they had, that to controvert it, is to, that, that of the United States, ever was, and the supporters of this bill do not openly, within my knowledge.

It is unnecessary for the proper consideration of this bill further to investigate its provisions than to ascertain whether it proposes to alter any such governments, which is an attempt to overthrow them, or which, if possible, with any administration of this Government, the Government could no more survive than could man the act of suicide. That it does not will not be denied by any, having regard for their reputation, who have examined it; and although it does, can any who favor its passage consistently disclaim the power of Congress so to legislate for any other State of the Union without first establishing superior and exclusive rights of such other States under the Constitution of the United States or forfeiture of rights thereunder of those included in this bill? Yet its advocates, knowing that this Union was organized on the principle of the equality of each of the States, and that such equality is not only the most sublime of their rights, but of the attributes of our Government; and that in such sublimity of rights and attributes there is no inherent conflict; and that the masses of the people whose minds are unperturbed by the fanaticism inculcated by most of the leaders of this Administration, who alone hold and teach otherwise, and that clandestinely so believe they neither assume such superiority nor claim such forfeiture of rights of any of the States; nor without self-stultification could they, as in the bill they are regarded as States. Such equality is proclaimed by the authority of each House of Congress when in session through its respective flags unfurled to signalize our deliberations, on which the equality of each of the States is represented by a similar star, as it is by national devices of peace and war, and over all which in patriotic contemplation the American eagle, with intense anxiety, has ever hovered, and now lingers with awful and desponding suspense; and as an admonitor of our duty as prescribed by the Constitution, and a witness of our fidelity or recreancy thereto, wings you, Mr. Speaker, to and from that stand to in front of the images of Washington and La Fayette sanction the opening, continuing, and closing of all our proceedings over which you preside.

The bill proposes to establish for each of such States a provisional government, for the administration of which there is to be but one officer, a Governor, to be appointed by the President, with the advice and consent of the Senate, unless the President, in the exercise of a discretion conferred on him, should appoint others; during which the people to be so governed are disfranchised so far as regards not only the administration of such governments, but as to the time and manner of, under the dictation of this bill, establishing a permanent, so-called State government; and as to the qualifications of those who are to compose the convention therefore and of the voters by whom



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they are to be elected; and as to the rules and regulations under which such persons are to be elected, so the people of these States may be in accordance with this bill, and in the discretion of the President reduced to and held under the power of a Governor alone, so long as the President and Governor may desire, and more, to that of such Governor, with or without such other officers as the President may determine, so long as such Governor may wish, without regard to the desire or action of the President or any other person or power, which, in the one event would be the most perfect of despotisms, the government of one man; and in the other, the next, that of the government of one man and such others as another man may appoint; and in either case to endure with the will of the Governor; in the choice of none of whom could the people, so degraded and tortured, exercise any preference, not being permitted to vote, nor represented in any legislative body.

Why do I assert that such people may be so governed? Because the President would not be bound by the bill to appoint for any of such States any other officer than a Governor, and such other officers provided for by the laws of the State, when its government, as is therein stated, was overthrown, as he might find necessary for the civil administration of the State, of which he would be the only judge, and therefore would not be compelled to appoint any other than a Governor. And as the bill provides that so soon as the military resistance to the United States shall have been suppressed in any State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and laws of the United States, the Governor shall cause an enrollment to be taken preparatory to the election of delegates to a constitutional convention, of which suppression and obedience he is the sole judge, and consequently not bound ever to have such enrollment taken, without which there can be no election or convention, although such resistance may have ceased and such obedience be ever so perfect, and every man in the world might desire that he should. If to this it should be replied that the President can discharge the man acting as Governor and appoint his successor, I would reply that he, no more than his predecessor, would under any circumstances be bound to cause such enrollment to be taken. But suppose the Governor does, and a constitution is framed in conformity with the bill, and Congress refuses to recognize their government as republican in form, a Governor, under the provisions of the bill, would have to govern it as if no such constitution had been framed, as the bill requires that the government of each of such States is to be administered by a Governor, with such other officers as I have named, as the President might find necessary for the purpose, until it has, as therein provided, established a government which the United States shall have recognized as republican in form. And should a bill be passed by Congress so recognizing such government, and the President veto it, such State would, under the provisions of this bill, be so governed, unless the bill should be passed by a majority of two thirds of each House of Congress, which would not be probable unless there were such or near such a majority in each House opposed to the Administration, as such question would ordinarily be a party one under such an Administration as this.

If to this it is said that no State can be admitted into the Union without the passage of a bill by Congress and its approval by the President, or passage by a vote of two thirds of each House thereof, in case he vetoes it, I should say that the admission of a State into the Union presented no such question, in which I would be sustained by this bill, which recognizes them as States in the Union. And if further said that no bill can become a law of Congress without such approval, or being so passed, I would reply that Congress has no power so to legislate with regard to any State of the Union, and that therefore the probability of such contingencies may be properly urged against its so doing, while it should not be against legitimate legislation; and I believe, from my knowledge of the machinations of those who control the administration of this Government, that most of them would embrace the opportunity which the passage and executive approval of this bill would

give them of so tyrannizing over the people of such States, for the gratification of the hatred of themselves and adherents to the people of such States, not only on account of some of their institutions, but of their detestation of the reserved rights of the States, both which, until the incoming of this Administration, have ever been sanctioned not only by all the departments of this Government and all its statesmen, but professedly by this Administration, through the legislative and executive departments of the Government, as from the action of the Executive further appears from an extract from a dispatch of the Secretary of State of April 10, 1861, to our minister to Great Britain, written by the direction of the President, and which is as follows:

"You will not be allowed, however, even if you were disposed, as the President is sure you will not be, to rest your opposition to the application of the Confederate States on the ground of any favor this Administration or the party which chiefly called it into existence [referring, doubtless, to the abolition party] proposes to show to Great Britain or claims that Great Britain ought to show to them; you will not consent to draw into debate before the British Government any opposing moral principles which may be supposed to lie at the foundation of the controversy between those States and the Federal Union; you will indulge in no expressions of harshness, or disrespect, or even impatience, concerning the seceding States, their agents, or their people; but you will, on the contrary, all the while remember that these States are now, as they always heretofore have been, and notwithstanding their temporary self-delusion, they must always continue to be, equal and honored members of this Federal Union, and that their citizens, throughout all political misunderstanding and alienations, still are and always must be our kindred and countrymen. In short, all your arguments must belong to one of three classes, namely: first, arguments drawn from the principles of public law and natural justice which regulate the intercourse of equal States; secondly, arguments which concern equally the honor, welfare, and happiness of the disaffected States and the honor, welfare, and happiness of the whole Union; thirdly, arguments which are equally conservative of the rights and interests and even sentiments of the United States, and just in their bearing upon the rights, interests, and sentiments of Great Britain and all other nations."

The bill declares that all persons declared free by any proclamation of the President shall be forever free; and if restrained of liberty under pretense of claim to their service or labor, the courts of the United States shall on *habeas corpus* discharge them. Such courts compose one of the three departments of this Government—the judicial; and while they are termed coordinate, the decisions of the Supreme Court of the United States are the highest national authority on all questions of which it has cognizance, and no act or enactment of Congress, or act of the Executive—the other two departments of the Government—either is, if in contravention of such a decision, valid. Yet this bill, by providing that such courts shall on *habeas corpus* discharge such person, commands them to, although it is one of the prerogatives of such courts to determine whether any enactment of Congress is a law, and their oath-bound duty to, if they believe it unconstitutional, to declare it a nullity. And the judgment of the Supreme Court of the United States is final and conclusive thereof. Were it not, our Constitution would be inoperative upon the other two departments of the Government, and the people would be subjected to their unrestrained will, and consequently not free, nor the Government republican. Would not such a command be most audacious, even did such slave become free by the provisions of this bill, should it receive the sanctions necessary to make laws, or had they by any proclamation of the President? Because it is an attempt to deprive those courts of a right inherent with every court, which is the exercise of judgment, without which there can be really no decision, as the decision of a court is but the determination of the judgment of the judge, or of the necessary concurring number of them where the court is composed of more than one, expressed in proper form; and if so audacious in such case, how inexpressibly so, if they did not nor would so become free. The Representatives in this House of the then called Republican, now Administration party, on 11th February, A. D. 1861, when they were in the majority, voted nearly unanimously for the following resolutions, which were passed with few dissenting votes:

"Resolved, That neither the Federal Government nor the people or governments of the non-slaveholding States have a purpose or a constitutional right to legislate upon or interfere with slavery in any of the States of the Union."

"Resolved, That those persons in the North who do not

subscribe to the foregoing proposition are too insignificant in number and influence to excite the serious attention or alarm of any portion of the Republic, and that the increase of their numbers and influence does not keep pace with the increase of the aggregate population of the Union."

And on the 3d of March, 1863, passed a bill authorizing the President, whenever in his judgment the public safety might require it, to suspend the privilege of the writ of *habeas corpus* in any case throughout the United States, or any part thereof, during the present rebellion, in violation of the Constitution, which authorizes Congress to only when in cases of rebellion or invasion the public safety may require it, but not to confer such right on the President or any one. That Congress may, on believing such necessity to exist, suspend such privileges, I suppose, scarcely if at all questioned. If so, how can it be maintained that in the power so to determine with regard to and so suspend a writ of such vast importance, is included that of delegating such power to any, and yet it is not even assumed that the power so to determine or suspend, or to empower another to, is conferred in any other part of the Constitution?

So, though by that resolution the representatives of that party nearly unanimously held that they in the North who thought that the Federal Government had the constitutional right to interfere with slavery in any of the States of the Union were insignificant in number and influence; and if the Federal Government cannot constitutionally so interfere how can Congress by legislation or the President by proclamation? And such representatives so provided for the suspension of the writ of *habeas corpus* by their President for which he issued such proclamation, and most of the leaders of that party are through it and this bill and like means endeavoring to abolish slavery and establish for the negro superiority of civil rights by requiring such judges to discharge any of them on writ of *habeas corpus* for their freedom, while imprisoning white men opposed to such designs without informing them, though beseeched to, of the cause thereof, and denying to them such writ and therefore the privilege through a trial and the judgment of a court of securing their freedom from the confines of felons' cells, though extending to the negro an immunity thereupon never asked nor enjoyed by white men, who consider the privilege of such writ, which only entitles any one to a trial on which he may or may not be discharged, one of the greatest of political rights and only guarantee of the freedom of persons; and of which all are in certain cases deprived by those endeavoring to secure for the negro such discharge and freedom in violation of the Constitution and laws as previously construed by themselves, the courts, and all jurists and statesmen, in disregard of the judgment of the court required to order such discharge, and consequently through perjury of any judge who should order such a discharge believing this act and the proclamation of emancipation to be unconstitutional. And in all cases without trial, as a trial by a court implies the right of the judge to decide, which in such a case would result in a remand or discharge.

And although the President, after the commencement of the war, instructed his Secretary of State to say in a dispatch to our minister to France, 22d April, 1861, that any effort on his part to so interfere with slavery, as existing under the Constitution and laws, would be unconstitutional, and all his acts in that direction would be prevented by the judicial authority, even though they were assented to by Congress and the people, and in one thereafter, I think to our minister to Great Britain, the date of which I do not remember, that

"It seems as if the extreme advocates of slavery and its most vehement opponents were acting in concert together to precipitate a servile war, the former by making the most desperate attempts to overthrow the Federal Union, the latter by demanding an edict of universal emancipation as a lawful and necessary, if not, as they say, the only legitimate way of saving the Union."

And in resisting a pressure made upon him for the issuing of such an one, but a short time before he proclaimed it, said that it would be inoperative, and has repeatedly, and I suppose always when expressing a determination to adhere to it, or requiring oaths to support or obey it, so qualified such determination, support, and obedience,

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as to conform to whatever might be the decision of the Supreme Court, and particularly in his proclamation of amnesty; and John Q. Adams, who more than any other is claimed as authority for the validity of such a proclamation, when minister to England, in 1815, and Secretary of State, in 1820, and as such held that slaves taken by the British in the late war with Great Britain, or who had fled to them for refuge, were not by the law or usages of war confiscable; and in a dispatch of July 7, 1820, to Mr. Rush, then our minister to England, that "the principle is that the emancipation of enemies' slaves is not among the acts of legitimate war; as it relates to the owners, it is a destruction of private property, nowhere warranted by the usages of war." And in one to Mr. Middleton, then our minister to Russia, to the emperor of which had been referred the arbitrament of the removal of such slaves, that "no such right is acknowledged," referring to that claimed of confiscation as a law of war by writers who admit any limitation. The right of putting to death all prisoners in cold blood and without special cause might as well be pretended to be a law of war, or the right to use poisoned weapons, or to assassinate.

And that although such bill further provides that all slaves declared free by any proclamations of the President shall be emancipated and forever free, thereby tacitly admitting a doubt as to whether they became so by virtue of any such proclamation, as did its authors and advocates here by their support of the resolution recommending the amendment of the Constitution for the abolition of slavery, at least indicate an opinion that Congress cannot emancipate slaves, and that too although all such proclamations are most clearly unconstitutional, and would be so held by the Supreme Court upon a proper case, in commendable disregard of and supreme and becoming contempt of this bill should it be passed by Congress and approved by the Executive. That the Supreme Court would, as the President instructed his Secretary of State officially to say on 22d April, 1861, prevent any such interference with slavery as he attempts by such proclamation must appear to any who will read the extracts from an opinion of the Supreme Court of the United States in *Brown vs. United States*, made at the February term, 1814, and delivered by Chief Justice Marshall, who was one of the most distinguished of all jurists, and probably knew more law intuitively than any other, and whose opinions are high precedents wherever the common law is known, and which opinion is reported commencing on 110th page of 8th Cranch, reports of that court, and in which the court held:

"That the modern rule would, then, seem to be that tangible property belonging to an enemy and found in the country at the commencement of war, ought not to be immediately confiscated; and in almost every commercial treaty an article is inserted stipulating for the right to withdraw such property. That this rule appears to be totally incompatible with the idea that war does of itself vest the property in the belligerent Government. It may be considered as the opinion of all who have written on the *jus belli*, that war gives the right to confiscate, but does not itself confiscate the property of the enemy, and their rules go to the exercise of this right.

"That the Constitution of the United States was framed at a time when this rule, introduced by commerce in favor of moderation and humanity, was received throughout the civilized world. In expounding that Constitution, a construction ought not lightly to be admitted which would give to a declaration of war an effect in this country it does not possess elsewhere, and which would fetter that exercise of entire discretion respecting enemy's property which may enable the Government to apply to the enemy the rule that he applies to us.

"That if we look to the Constitution itself we find this general reasoning much strengthened by the words of that instrument, and that the declaration of war has only the effect of placing the two nations in a state of hostility, of producing a state of war, of giving those rights which war confers, but not of operating, by its own force, any of those results, such as a transfer of property, which are usually produced by ulterior measures of Government, is fairly deducible from the enumeration of powers which accompanies that of declaring war. 'Congress shall have power' to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

"That the proposition that a declaration of war does not, in itself, enact a confiscation of the property of the enemy within the territory of the belligerent is believed to be entirely free from doubt. Is there in the act of Congress by which war is declared against Great Britain any expression which would indicate such an intention?

"That it appears to the court that the power of confiscating enemy property is in the legislature, and that the legislature has not yet declared its will to confiscate property which was within our territory at the declaration of war. The court is therefore of the opinion that there is error in

the sentence of condemnation pronounced in the circuit court in this case, and doth direct that the same be reversed and annulled, and that the sentence of the district court be affirmed."

By which the court held that neither war nor a declaration thereof of itself enacts the confiscation of the property of the enemy within the territory of the belligerent, and that such property so found, even after the declaration of war and during its continuance, cannot be condemned as enemy's property without a legislative act authorizing its confiscation. So, to authorize the confiscation of property, there must not only be such war, but a legislative enactment authorizing such confiscation, and a judicial decision thereupon and therefor, to which the action of all the departments of the Government, the legislative, judicial, and executive, is essential, that of the Executive as such strictly, and in the approval of bills and resolutions of Congress, and not as Commander-in-Chief of the Army and Navy, for as such his acts for confiscation of such property would be as void as the edict of any monarch of any other country. And Justice Story, though dissenting from the judgment of the court in delivering his dissenting opinion, held that until the title should be divested by some overt act of the Government and some judicial sentence, the property would unquestionably remain in the hostile owners, and if peace should intervene it would be completely beyond the reach of subsequent condemnation. According to which no slave has ever become free by virtue of such proclamation, and cannot only through some judicial sentence pronounced during the continuance of the war. Yet such proclamation has none of those sanctions, without all of which there can be no confiscation of such property. Nor does it claim to have, as the commencement of it is, "I, Abraham Lincoln, President of the United States of America, and Commander-in-Chief of the Army and Navy thereof," and is such an one as characterizes presidential proclamations of an exclusively warlike as contradistinguished from those of a civil nature. Nor did he or his supporters who were its advocates pretend that it had, and they having justified it only as a military necessity and an indispensable means, and therefore only justifiable for successfully conducting the war for the restoration of the Union only, and repudiated as most slanderously false, and as did most of them as traitorous, the charge that it was in the least an object for which the war was to be conducted. Yet it is the paramount one with them, notwithstanding the official assurances of which I have spoken of, the President and his political adherents, who include every supporter of this bill, that the constitutional rights of the people of such States should be alike cheerfully protected, and that he in a conversation with the honorable gentleman from Kentucky, then, as now, a member, and other members of Congress from slave States, said to him:

"Mr. Mallory, this war, so far as I have anything to do with it, is carried on on the idea that there is a Union sentiment in these States, which, when set free from the control now held over it by the presence of the confederate or rebel power, will be sufficient to replace those States in the Union. If I am mistaken in this, if there is no such sentiment there, if the people of those States are determined with unanimity, or with a feeling approaching to unanimity, that their States shall not be members of this confederacy, it is beyond the power of the people of the other States to force them to remain in the Union; in that contingency—in the contingency that there is not that sentiment there—this war is not only an error, but it is a crime."

Not only committing himself as an anti-coercionist and denying the power of the people of the other States to coerce such States to remain in the Union, thereby admitting that they were, if the people thereof were determined with unanimity, or feeling approaching it, not to, and that under such circumstances the war which he said he was conducting upon the idea that their feelings were otherwise for the purpose of relieving them from the control of the confederate or rebel power, was not only an error but a crime. So the President was then not only an anti-coercionist, but held that under such circumstances it was an error and a crime to be a coercionist.

Would not the degradation of our Government and people become sufficient for the gratification of the cruel and morbid cravings and vengeance of the most malignant and depraved under the

operation of this bill, did it contain no provision requiring judges to discharge negroes on *habeas corpus* for their freedom, as it provides for a despotism in each of the States in rebellion; and for the abolishment of slavery and equality of civil rights therein in the contingencies which I have mentioned?

One of the designs of some of the advocates of this bill is to so oppress and reduce the white inhabitants of these States that they will, for relief from physical suffering, consent to the degradation of the establishment of equal civil rights between themselves and the negro race, between which races there is such an intellectual inequality and physical difference as to render political or social equality most offensive to all the former, save but the few of them so desiring. And such political equality would be degrading to the white race, and to the extent that it might result in amalgamation, an inevitable consequence, would in time extinguish both races, as would such social one increase such degradation and amalgamation and enervate the white race; while a denial of the latter to a race though so inferior and physically repulsive and so generally held in bondage, when possessing such a political one, would result in a war of races. And if so, and who doubts it, such political equality would produce, through a social one, such enervation, increase such degradation and amalgamation, or on account of such denial, such a war, and would as effectually degrade the national as the State governments, and render this a mongrel, enfeebled, and decaying republic, as the rights so conferred on the negro by such State governments would inure to him as to and all in all the departments of the General Government, in which he would be a political peer with his white associates and colleagues, and as such participate in making, expounding, and executing laws for the people of every State in the Union.

Under the operation of the bill, should it receive the sanctions which ordinarily make bills laws, would slavery remain the same? Would the rights of the rebellious States and every human being in them remain subject to the same laws and powers of administration, or would such States be governed as tyrannically as any conquered people ever were? They would. Although the President, after the commencement of the war, directed the Secretary of State, in the dispatch to our minister to France to which I have referred, to say:

"The condition of slavery in the several States will remain the same whether the revolution succeed or fail."

"There is not a pretext for the complaint that the disaffected States are to be conquered by the United States if the revolution fail, for the rights of the States and every human being in them will remain subject to exactly the same laws and forms of administration whether the revolution shall succeed or whether it fail."

"They [referring to the framers of the Constitution] did not expect that the practices of African slavery should be abruptly terminated to the prejudice of the peace and economy of the country. They therefore placed the entire control of slavery as it was then existing beyond the control of the Federal authorities by leaving it to remain subject to the exclusive management and disposition of the several States themselves, and fortified it there with a provision for the return of fugitives from labor and service, and another securing an allowance of three fifths of such persons in fixing the basis of direct taxation and representation."

And in one to our minister to England of the 10th April, 1861, that—

"For these reasons the President would not be disposed to reject a cardinal doctrine of theirs [the rebels] namely, that the Federal Government could not reduce the seceding States to obedience by conquest, even though he were disposed to question that proposition. But, in fact, the President willingly accepts it as true. Only an imperial or despotic Government could subjugate thoroughly disaffected and insurrectionary members of the State. This Federal republican system of ours is of all forms of government the very one which is most unfitted for such labor."

That every promise so made has been wantonly violated comment to show would be superfluous, as it would to demonstrate that the tyranny exercised by the Administration over the people of the adhering States was necessary to effect the designs of those who control it against those of the rebellious States, and that the degradation to which the former have been reduced is the result of such use of such means and the operation of the law of the organization of our Government; any violation of which as against any

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member of the Union inevitably affects every other, as has that of the rights of the States in rebellion by enthroning despotism without even the aid of its usual concomitants, hereditary legislation, primogeniture, and vast accumulations of property with the few, where patriots who as our public servants gave renown to our country sat, and such despotism as has so far divested the people of each State of their vested rights, that none of them so fully enjoy the immunity of popular suffrages, local legislation, benefit of laws, liberty of conscience, privilege of *habeas corpus*, free speech, free press, or trial by jury, without which there is none for life, reputation, home, liberty, or property, as do the subjects of many thrones and all which are guaranteed by acts of British freedom. And yet such despotism, notwithstanding the professions, pledges, and assurances made to the people of this and other countries, and violated, of which I have spoken, and many more has become so powerful and at times so defiant and audacious that its chief, in a letter of the 4th of April last, to A. G. Hodges, of Frankfort, Kentucky, and before his renomination for the Presidency, stated that he "felt that measures otherwise unconstitutional might become lawful by becoming indispensable to the preservation of the Constitution through the preservation of the nation. Right or wrong, I assumed this ground, and now I avow it;" and although he in his inaugural said that he had taken his official oath without mental reservation, and had proclaimed the supremacy of the Constitution, and his devotion thereto and determination to maintain it, and officially admitted its efficiency in this or any other crisis by instructing his Secretary of State to say in a dispatch of the 10th of April, 1861, to our minister at Great Britain, that—

"You will make no admissions of weakness in our Constitution, or of apprehension on the part of the Government. You will rather prove, as you easily can by comparing the history of our country with that of other States, that its Constitution and Government are really the strongest and surest which have ever been enacted for the safety of any people."

He nevertheless through the power, terror, promises, blandishments, and smiles of such despotism procured his reelection. Is it not remarkable that any one should feel that measures otherwise unconstitutional could under any circumstances become lawful unless he regards the Constitution as the subject of circumstances, or that the preservation of the creature (the nation) should become indispensable to that through which it was created (the Constitution)?

As it would in at least one case if it should ever become necessary to preserve the Constitution through the preservation of the nation, as the Government was created through the Constitution and can never survive it. And is it not alarming that a President having such erroneous conceptions of the Constitution our form of Government and of the relations of the one to the other, has, as he says, assumed "that ground" and to arrogate and exercise powers regardless of the Constitution whenever he may think them indispensable to preserve the Constitution through the preservation of the nation, and consequently without limitation? His acts no more than his desires, under such determination, will be controlled by the Constitution, and he will rule as he desires without any constitutional restraints whatever, and is consequently a President at will of a constitutional Government. And having done what he has under acknowledged constitutional restraints, what will he not do after having, as he says, "right or wrong," assumed such "ground," and having thereafter secured his renomination and reelection?

## RECONSTRUCTION.

SPEECH OF HON. G. CLAY SMITH,  
OF KENTUCKY,IN THE HOUSE OF REPRESENTATIVES,  
February 21, 1865.

On the special order, being the reconstruction bill.

Mr. SMITH. Mr. Speaker, while all true Union men differ in no respect whatever in the great and absorbing idea of prosecuting the war for the suppression of the rebellion and the restoration of the Union to peace, order, and liberty,

it does not follow that there must be mixed with that idea, and inseparable from it, another dangerous, impolitic, and unnecessary proposition, that there can be no Union, no peace, no establishment of law and order, without not only the utter disregard of former rights of the citizen in the rebellious States, universal confiscation of real and personal estates, not only the total abolition of slavery, but the perfect equality in all respects of the African race with the white. Amid the melancholy and terrific scenes of the day, with the bloody and devastating war all over the land, inaugurated and persevered in by an ambitious people for a separate independence, the perpetuation and propagation of a peculiar institution, violating all the rules of well-regulated government, the Constitution and laws of the best and most beneficent country in the world, it is not strange that those loyal to the Government should be united in their feelings and unyielding purpose to put down that rebellion with whatever force, expense, and sacrifice necessary or required. Hence the first proposition I make needs no debate, and I will not occupy the time of the House in discussing it.

But the question of what shall be done with these people, their lands and other property, as they are brought back again within our jurisdiction, is a serious, important, and commanding one. It is in fact the question before Congress; it is the question before the country; it is the question in restoring peace, and bringing our once happy land back to its original greatness, strength, and glory. Not only is it the question to bring us back to that position, but upon its proper solution and settlement depend the rapid advancement, the full development, and high stand of our great country in the catalogue of nations, and reaching that point so much desired and prayed for by every American citizen.

In voting, therefore, for or against the bill before the House, I beseech gentlemen to consider well, observe the present surroundings; look, as the mariner, tempest-tossed and driven from his latitude into dangerous and unknown seas, at the chart; mark the courses well; be sure you are in the right direction; hold firm to the rudder; look also ahead, see where we are going; and into what port we are to enter; then throw the sails to the wind.

The insurrectionist, the bad man, the persistent and headlong violator of law, the bandit and guerrilla, must be punished, must be gotten rid of, and made feel the terror of the law, the power of the Government; with others, not in the spirit of revenge, unkindness, maliciousness, nor inhumanity, but as a kind parent would punish a child, nay, punish severely, for the benefit of the child, the happiness and prosperity of the family, obeying a great and commanding duty, a law of humanity and of God—so would I propose and adopt a rule toward them. As a child is indebted for its existence, its nurture, its life, its all to the parent, and therefore owes a reciprocal duty of obedience, kindness, and defense; and for a failure to perform these high natural and legal duties, punishment, by human and divine law, by every consideration of right and justice is ordained and should be executed against him; so should legitimate condemnation and punishment be visited upon those who have violated the obligations they were under to the Government, their disregard of the Constitution, the nullification of the laws, and above all for the magnitudinous and almost unpardonable offense of raising their hands and striking at the very life and future of their mother country, the Government of the United States.

I do not doubt the right nor the power of the Government, under the Constitution, to punish treason by trial, judgment, and execution. The Constitution declares he who commits treason shall die; and the people owe it to themselves for present and future protection to execute this wise, fundamental, and statutory law; and so far as I am apprised all the legislation of Congress has been alone to do that which the Constitution and interest of our country demanded.

The confiscation of property possessed by insurgents, rebels, traitors, is a right belonging to every Government, and one which has never been denied. It is a legitimate punishment inflicted upon those who commit the highest crime known

to the law. Examples on this point are numerous; the history of the Revolution of 1776 is replete with evidence on this subject; and there is no less reason to-day, in times like these, for the faithful and rigid execution of such a rule or law than there was in the beginning and infancy of this Republic.

The fathers of the Republic believed it an essential prerogative, an imperative duty, a legitimate right, not only to bring the offender to punishment but to confiscate his property. January 6, 1776, General Washington said, in a letter to Governor Cooke:

"I am informed that the Connecticut Assembly are very unanimous in the common cause; and, among other acts, have passed one for raising and equipping a fourth of their militia." \* \* \* "Another act for restraining and punishing persons inimical to us, and directing proceedings therein, &c." \* \* \* "Another act for seizing and confiscating for the use of the colony the estates of those putting or continuing to shelter themselves under the protection of the ministerial fleet or army, or assisting them in carrying on their measures against us." \* \* \* "The situation of our affairs seems to call for regulations like these, and I should think the other colonies ought to adopt similar ones, or such of them as they had not already made."

Thus, sir, did the Father of his Country, he who was "first in war, first in peace, and first in the hearts of his countrymen," advise the people fighting for their independence, their happiness, and their liberties. Not only were the absolute rebels, the men with arms in their hands, subjected to this rigid rule, but also those who assisted the Tories "in carrying on their measures against the colonies."

So also Benjamin Franklin, on the 7th day of June, 1782, said:

"There can be little doubt that every society may rightfully banish from among them those who aim at its subversion, and forfeit the property which they can only be entitled to by the laws and under the protection of the society which they attempt to destroy."

Again, said Franklin, June 26, 1785:

"But we differ a little in our sentiments respecting the loyalists (as they call themselves,) and the conduct of America toward them." \* \* \* "Even the example you propose of the English Commonwealth's restoring the estates of the royalists after their being subdued, seems rather to countenance and encourage our acting differently, as probably if the power which always accompanies property had not been restored to the royalists, if their estates had remained confiscated and their persons had been banished, they could not have so much contributed to the restoration of kingly power, and the new government of the republic might have been more durable."

So also was the colony of Maryland prompt and decisive in her action on this subject. In a convention of deputies, on the 4th day of July, 1776, an ever-memorable day, was emphatically declared and published the following resolution:

"Resolved, That if any inhabitant of this colony shall, after the 5th of August next, within or without this colony," \* \* \* "levy war against the United Colonies, or any of them, &c., such person, on conviction thereof," \* \* \* "shall suffer death, without benefit of clergy, and forfeit all the real estate which he had at the time of the commission of the crime, to be applied to the use of the colony."

Subsequent to the passage of this resolution, the history of that colony shows that property was confiscated, and that persons were severely punished. The Loyalist of the American Revolution, volume one, page 80, says:

"Maryland seized, confiscated, and appropriated all property of persons in allegiance to the British Crown, and appointed commissioners to carry out the terms of their statutes which were passed to effect these purposes."

I might stop here, Mr. Speaker, and content myself with the belief that these were examples enough from the original history of the Republic to sustain my point; but in these days of caving and disregard of the advice and warning of our fathers I will ask indulgence a little further. Pennsylvania, that proud old Keystone State, the State I love and honor, and that has done so much for the Union, far back in the beginning of our Government, through her patriots and statesmen, gave lessons of justice, protection, and wisdom which will be of great service to gentlemen now present, if they would but heed them. Pennsylvania, on the 5th of March, 1776, passed an act, the preamble of which reads: "Whereas Government ought at all times to take the most effective measures for the safety and security of the States." It ordained and declared:

"That all and every" \* \* \* "person and persons," \* \* \* "owing allegiance to the State of Pennsylvania, who, from and after the public



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ization hereof, shall levy war against the State or be adherent to the King of Great Britain or others, the enemies of this State, or to the enemies of the United States of America, by giving him or them aid or assistance within the limits of this State or elsewhere, and shall be thereof duly convicted in any court of oyer and terminer hereafter to be erected according to law, shall be adjudged guilty of high treason, and forfeit his lands, tenements, goods, and chattels to the State, and be imprisoned any term not exceeding the duration of the present war with Great Britain, at the discretion of the judge or judges."

So, also, the same rule applied in the State of New York. On the 3d day of December, 1776, it was ordered that a committee be appointed to "devise an ordinance for securing all estates and effects which are deserted by the owners, or which, though under the care of others, belong to the enemy, or who have absconded."

After much investigation upon the part of the "committee of safety," and full reports of property, its condition, and the status of owners, it was finally agreed on the 22d of October, 1779, by an act entitled "An act for the forfeiture and sale of the estates of persons who have adhered to the enemies of this State, and for declaring the sovereignty of the people of this State in respect to all property within the same."

It may be interesting to refer to a paragraph or two of this statute. The preamble recites:

"And whereas the public justice and safety of this State absolutely require that the most notorious offenders shall be immediately hereby convicted and attainted of the offense aforesaid, [to wit, treason, adhering to the enemy,] in order to work a forfeiture of their respective estates and vest the same in the people of this State."

The first section of the law provided that certain men, naming them—

"Be, and each of them are hereby, severally declared to be, *ipso facto*, convicted and attainted of the offense aforesaid; and that all and singular the estate, both real and personal, held or claimed by them the said persons severally and respectively, whether in possession, reversion, or remainder within this State on the day of the passing of this act, shall be, and hereby is, declared to be forfeited and vested in the people of this State."

Again:

"That all forfeitures and confiscations of the lands, tenements, hereditaments, and real estate which heretofore have been by virtue of any former law or laws of this State against any person or persons whomsoever, or conviction for adhering to the late enemies of this State, or of this and the other United States of America, is, and are hereby, to all intents, constructions, and purposes in the law whatsoever, fully and absolutely ratified and confirmed, notwithstanding any error or errors in the proceedings thereon, or in anywise relating thereto, and all writs of error and errors on any judgment hereto rendered relating thereto are hereby forever barred."

I have made these quotations, and dwelt thus long, Mr. Speaker, on the subject of confiscation, to show the example of our fathers, and prove the right invested in us to confiscate the property, real and personal, of the enemies of our Government, and appropriate it to the people of the United States. But, sir, in the exercise of this great power the greatest discretion, the greatest caution, is to be observed. We must be sure of the person or persons upon whom we lay the strong arm of the Government. We must do no wrong, but deal out justice and right to every man.

Eleven of the States of the Union undertook to sever their connection with the United States and form a separate and independent government. They waged war to accomplish that end; they became enemies to those who remained true to the Constitution. There was no foundation in fact, none in law or justice, for this diabolical act of theirs; nevertheless they did it and having done it, those who conceived the idea, laid the plans, inaugurated the measures, and waged the war, are and must be held responsible; they must be made, as I have already said, to feel the terror of the law; they must be punished for treason, in body, confiscation of property, and exile from the land that gave them birth. But, Mr. Speaker, think you there are no loyal people in those eleven States? Think you there are not those there who love that flag now waving over your chair; who do not love that old Constitution written by our fathers; who do not believe this is their country, their beloved country, the country of Washington, of Jefferson, and of Jackson, of Scott and of Taylor, of Clay and of Webster, of themselves and their children? No, Mr. Speaker, they are there, noble, grand, enduring patriots.

It was my good fortune to have witnessed a scene which can never be effaced from memory.

When in the Army, in 1862, and in the northern part of Alabama, I happened one day to be passing through an humble yet respectable portion of the neighborhood, where I was camped, and observed moving along the muddy road a procession of silent, mourning people, preceded by an uncovered wagon, drawn by two horses, in which was borne the body of a noble Union soldier, killed in battle. I followed on to witness the scenes that might follow in that far-down country of rebellion. We drew up at a church house built of logs and covered with long, rough boards. The corpse was taken in and placed beneath the pulpit, the audience became seated, and an old, trembling, gray-haired father of the church ascended the pulpit, and in clear but feeble voice began the worship of that hour—

"God moves in a mysterious way  
His wonders to perform."

Then opening that Book of books he read that injunction of Scripture to all men to be subject unto the higher power and those in authority. His sermon was original, eloquent, and patriotic, full of love, truth, Christianity, and consolation. He closed with prayer for the President of the United States, the Army, the Navy, and the union of the country. Then, sir, there arose from near my side an old lady, tottering on her cane, being over threescore years and ten; approaching the uncovered coffin she bowed over the dead body and kissed its lifeless lips, pressing them warmly and long, as though she would impart life to them again that they might say "God bless you, mother;" but they spoke not, nor did they move; they were sealed in death. She took from beneath her cloak the flag of her country, the banner under which her noble son had fallen, and laying it over and around him she said, "Often, my child, have I covered you to shield you from cold, from suffering, and pain; but now for the last time I wrap you in the flag of your country, stained with your blood, and commend your soul and body to the God who gave it, and who now has taken it away. 'Blessed be the name of the Lord.'"

Mr. Speaker, think you there was no Unionism, no patriotism there, no philanthropy there? Nay, tell me not so. It is there, it is all over this broad land, in every State, in every county, in every neighborhood. Patriotism is not bound by county, or State, or party lines; but among all men, however much many have been misguided, there wells up in the bosoms of thousands and tens of thousands the deepest love of country, and their hearts' desire and prayer to God is for deliverance from oppression, wrong, and rebellion.

Mr. Speaker, can we turn a deaf ear to the claims, rights, privileges, and prayers of the long-suffering, much-enduring Union people of Louisiana, Arkansas, and Tennessee? Do not the deprivations, sufferings, and wrongs imposed upon these gallant, liberty-loving people, come up before us in eloquent and convincing terms, demanding attention, protection, and their proper place in the Union, now that they have with nobleness and tried patriotism reasserted their rights under the Constitution, thrown off the rebellion, and of their own accord enacted new laws, conforming to the rule prescribed by the Constitution of the United States requiring republican forms of government for each and every State? These people, whatever may have been their former prejudices, feelings, or interest, have by their own act thrown off slavery, made themselves free, and now ask to assume their relations with the Government as free States.

In regard to slavery, Mr. Speaker, I have probably said enough heretofore. I have declared here, as well as at home, and other parts of the country, that I was for its utter abolition. I believed conscientiously it was best for the country; I believed its abolition would produce among the white people, the owners and controllers of the Government, that homogeneity which had been forbidden by the very existence of slavery. When, therefore, the constitutional amendment was before the House I spoke and voted for it, and will continue to work with all the power and ability I may possess for its adoption by the people.

Sir, getting rid of slavery as it has heretofore existed in the United States, looking to the interest, prosperity, and advancement of our country,

is one of those stupendous and rapid strides in the line of civilization, humanity, and Christianity, which, in its execution on this continent, is astounding in its character, and produces the greatest wonderment in the minds of all mankind.

When, on the 4th day of July, 1776, a few brave-hearted men, noble and wise patriots, in the city of Philadelphia, announced the Declaration of American Independence, it was a glorious day, a great work, a grand work, and all civilization wondered at the magnitude of the scheme, and trembled for fear of failure in so sublime an undertaking.

Mr. Speaker, the 4th of July, 1776, became the birthday of American independence, and will always be held dear in the memory of every American; but, sir, there is another day, which stands now, and will forever stand, alongside of the 4th of July. The 31st day of January, 1865, was the birthday of American liberty. The world was no less astonished at the action of those men on the 4th of July, 1776, than it will be at the action of this body on the 31st of January, 1865. Congress, by a two-thirds vote, after full and free discussion on this floor, after full discussion throughout the country, in all the States, in every county, of this question, and the endorsement by the people of a resolution adopted at Baltimore on the 7th of June, 1864, for the prohibition of slavery throughout the entire domain of the United States, adopted this resolution. It seems to me, then, that this question is almost at rest, that there is but little more in it to talk about. The war, or rather the rebellion, opened the door to this rapid and radical action on this subject, and the continuance of the war, the utter disregard by the South to the propositions of the President, published from time to time, has at last rendered the rights of property in man a foregone conclusion, a thing of the past, a thing never again to be allowed in this land. What man can regret this? Where is the patriot in all the land who to-day would revoke the vote of Congress, but lately given, which, by the concurrence of the people, will break the shackles, cut off the chains, and make four million human beings in this proud Republic free—free forever, and all their posterity; that vote which gave the greatest right any man can enjoy in any form of government, the right of man to himself, to call his wife his own, his children his own, his little property his own, and be amenable alone to the laws of the country of which he is a subject?

Mr. Speaker, while I am for the abolition of slavery, while I am for the utter extinction of that institution, and believe that all men should be free, whether white, black, red, or mixed, I cannot agree, nor will I consent by any speech or vote of mine, that there is no distinction in races.

The gentleman from Pennsylvania [Mr. KELLEY] goes far beyond what I would say or admit. He may possess more of human kindness, more of Christianity, more of humanity, than I do, if you may believe so much of him from his speech on the subject of equality; but, sir, I submit, he does not entertain more justice, more patriotism, or philanthropy than I or thousands who live further South than he. His whole soul, heart, and mind run out toward the black race, and in his great sympathy and interest for them he seems to forget all other men. There is the poor white man, the poor red man, the various classes of men who compose society and government, entirely forgotten by him, ignored, left out of the count of wrongs and injuries imposed by the Constitution, laws, and Government of the United States, if such wrongs and injuries exist at all. A great deal has been done for the black man; more than he had a right to hope for in so short a time. Over two million have already been freed, and it will not be long, we trust, ere the military power of the rebellion is utterly broken, and all of the blacks set at liberty. We have made soldiers of them, and they have fought well. The Government had a right to do that, and it was but just and fair the black man should fight for his freedom. He could not procure it without sacrifice and bloodshed. In fact, Mr. Speaker, his freedom was all he asked; he desired nothing else. He felt and knew that he was not of the same kind, the same class of the white man; they

were not nor could they ever become equals, associates, companions; there could never exist the same relations between them as did or might and would continue to exist between the different classes of white men.

One of the surest elements of social relations, that which brings men in closest contact, and superinduces freedom of thought, of speech, and confidence, is the elective franchise. The possession of property, the interchange of property, will not, does not, nor can it ever, produce this result. The latter is merely a business transaction, where dollars and cents are counted and passed between them; there the matter ends. In the former, under our system of government, the relation never changes. All offices, with but few exceptions, are filled by popular vote; the people mingle, and commingle, before and after the election. The candidates must see the people, must mix with them, must talk with them, eat, drink, and laugh with them. This intercourse brings necessarily the younger ones, the children, male and female, in contact; the representative and the constituent must be familiar and confidential with one another. The judge and juror must feel the dignity of their places, and appreciate the majesty of the law, and feel that they are equals in every respect, and can sit at the same table, and that their children can play together, and after a while with propriety marry and intermarry.

This is true of all men who are white; the Irishman, the German, the Frenchman, the Pole, and all others. There is no law, human or divine, which forbids it; no repugnance to the feelings in such intermixture; but with the black man it was not intended. God has made him different; his nose, his mouth, his eyes, his hair, his skin, indeed his whole conformation, is so utterly opposed to the white that not only the white man, but the black man himself feels and knows that he was never intended for any of these social or political rights. If he has a right to vote for the law-maker, the judge, the President, he has a right to become President, judge, law-maker. In voting for these various offices, and filling them, brings about, of course, that very state of social equality and intermixing which I have before referred to, and which I must believe is wrong, and cannot be consented to by the American people.

But, says one, you make soldiers of them, and should not a man who fights vote? Why do you put the livery of the Union on his back, musket in his hand, and send him to the field of battle, expose him to death, wounds, and torture, and yet deny him the great privilege of voting? I answer, sir, we send him to assist in making his race free, to help them out of slavery and bondage, that they may be masters of their time, their labor, and themselves. When this shall have been done men should be satisfied; the black man will.

It has always been the law, and will always be the case in a Christian and civilized country like ours, that all men are protected in their property and goods. If it is thought laws at present are not stringent enough, that there is not sufficient security to the black man in his person, his life, his liberty, and his property, let us enact such as will afford it. I assume Congress has no right to determine who shall be voters in any one of the States; that is a right exclusively belonging to each individual State. Pennsylvania may let every sort of color vote; she has determined that question, and her constitution declares that ~~here~~ but white men shall be entitled to suffrage. Kentucky may amend her constitution, and allow all colors to vote if she chooses, and Pennsylvania nor any other State has a right to say a word. Congress has no power, no right, and it would be wrong to assume any such authority. This question must be left alone to the States.

When Arkansas and these other rebellious States have, by the assistance of the Government, thrown off the rebellion, repealed all their treasonable and obnoxious laws, they may amend their fundamental law to suit themselves, they may or may not allow the black man to vote. If they do not desire it, we should not require them to do it. Above all, sir, would it be evidently unwise and wrong for us to legislate on this subject when the Union people of those States are not represented here, when the men they have sent here to watch their interest and speak for them

are not allowed to take their seats, nor to open their mouths upon any subject.

Party, party interest, party aggrandizement, not patriotism, is the ruling passion of some, I fear of too many. Our country is not bounded by the border slave States; the Atlantic, the Pacific, the Gulf of Mexico, are alone our boundary lines. Our flag has and it must again wave over all this territory in triumph and peace.

I beseech gentlemen to rise higher than party; possess, encourage, and practice enlarged and patriotic views. And here let me borrow a short paragraph and read it to the House, which expresses in more beautiful and eloquent language my own feelings than I am able to employ:

"The love of that which we call country is among the highest and noblest passions of the soul. The love that kindles into joyful enthusiasm at the sight of the national symbol, that feels, personally, every insult offered to its object, that burns brightest in absence, that is full of chivalry and bravery and self-devotion, that sacrifices itself on battle-fields, and counts such sacrifice a joy, a glory, that lives even after country is lost, and passes down through many generations as a precious inheritance; this, if not religion, in one of its forms of manifestation, is certainly its next of kin. Indeed, there is something of every love, and of all love, in patriotism. Country is the patriot's mistress, his father and his mother, his brother and his sister, his home, his teacher, his friend, his treasure; the storehouse into which he gathers all his affections, heavenly and human—all his interest, aspirations, hopes; and when necessity demands it, he turns his face and feet from mistress, father, mother, brother, sister, home, friend, and treasure, and gives himself to his country in obedience to motives that are hardly to be distinguished from the highest religious feelings and convictions which his bosom holds. I think it would be hard to tell where, in the sublimer walks of the soul, patriotism leaves off and religion begins. In many of its humbler manifestations patriotism doubtless halts this side of heaven; but when it becomes sacrificial, its incense curls around the pillars of the eternal throne."

It is to such patriotic feelings as this, it is to those who possess such high and noble sentiments that this country is to look for safety, salvation, and perpetuity. The politician, the mere partisan, he who works for self-advancement, who looks at his country from such a stand-point, is not a safe man, cannot be trusted in times like these. In all these States South are thousands of such patriots as just referred to by me; they are our friends, the friends of this glorious Government. The patriotic mother of the North has given her noble son to the Union, and with his musket he has met and marched in the same ranks, fought in the same battle, and died on the same field with the sons of southern mothers who were as devotedly attached to the Union as the mother of the North. We cannot, we will not surrender that land, that glorious, that gallant people. All that soil has been made sacred, all those true people have endeared themselves to every patriot.

"Is there a spot on earth more dear  
To him who loves o'er worth to weep,  
A grave more worthy of a tear,  
Than where the soldier's ashes sleep?"

"What though no marble decks his tomb,  
And lone and lowly be his bed,  
Yet there the sweetest flowers shall bloom,  
There spring her greenest mantle spread."

"Forever hallowed be the spot  
Where he doth rest in calm repose,  
By friends and country ne'er forgot,  
Revered and honored e'en by foes."

"Oft from the sod that decks his grave  
Shall lingering beauty dash the dew,  
Oft chant a requiem to the brave,  
And garlands o'er the green turf strew."

Mr. Speaker, we loved our country before this war began; at least I hope there are but few exceptions; but, sir, all patriots feel that it is dearer to them now than it ever was before. The country, the American Government, the United States, its freedom, its independence, the perfect security of its citizens in "life, liberty, and the pursuit of happiness," is their thought by night, by day, and their constant prayer. Shall not we who have the power, and can bring about this glorious result, do our utmost, renew our energies, increase our means, and pluck from the grasp of tyranny, despotism, and treason, the people who have held out their hands to us, given us their aid, their comfort, and sympathy? What is called patriotism in many places, by many persons, is a cheap commodity. There has been no war among them, no oppression, no robbery, no crime, no arson, no murder. Men, women, and

children, because they have loved the Constitution and Government have not been deprived of home, of liberty, of property, and life, in many of the localities of gentlemen on this floor. But, sir, go with me to these States further South—no tongue can express it; no mind can conceive of it; no heart scarcely could bear it; naked, hungry, thirsty, have they been driven from home; the men conscripted, the husband, father, and brother forced at the point of the bayonet and hunted down by bloodhounds, tied and compelled to bear arms against their flag, their homes and families. Many have made refuge within our lines. They, too, come weary, worn, naked, and heart-broken. They desire once more, and that soon, to return to their old homes, the place of their birth. Whatever of desolation there is there, however much the beauty of the country has been effaced, they love that old home still; their feelings and affections linger around it. They want to be there, with that home in the Union, that flag, the emblem of their liberty over them, the Constitution their first and guiding law. Let us help them; let us be lenient toward them, kind, affectionate; remember it might have been otherwise, and then how happy the rule would apply, "Do unto others as you would others should do unto you."

This war might have been conducted on northern ground. Many hard battles have been fought in northern States; many more may yet be fought on similar soil—some further North. The war is not yet over; there is a large army in the field against the Union. They are a brave and desperate people, and will not surrender, in my judgment, until the armies are whipped, scattered, and utterly demoralized. Let us then make friends in all these States. Give protection, comfort, and encouragement to all Union people by our legislation, speeches, votes, and action. Make them feel they are again in the Union, or rather that they are redeemed from rebellion. Make friends of our *quasi* enemies; weaken the enemy, the rebellion, the confederacy, every way we can, and strengthen ourselves.

Will the adoption of the measures in this bill incite kind and warm feelings toward the Government, or will they not rather dishearten, discourage, and weaken them? Your armies have been for three years in occupancy of Louisiana, Arkansas, and Tennessee. The two former States have reorganized their governments; they have elected Governors, judges, members of the Legislature, and sent Representatives to Congress. What is wrong in the matter? Wherein do their laws, constitutional or statutory, differ from that principle of justice and right making each one conform to a "republican form of government?" In no respect whatever. Pass this bill, and the elections will be conducted hereafter just as they have been heretofore. The same people will vote, probably the same men be returned to Congress. Now, then, what have we gained? What more security for the loyalty and good conduct of these people than we have now? I admit I can see none. Now is the time to act; now is the time to meet these people; now is the time to exhibit to them what we have so often promised and must eventually do.

They have been told the northern men were their friends, would stand by them in the reorganization of their State governments. In good faith have they gone on to do this thing. They come here with constitution, statutes, in the hands of Union men, true men, those who have never bowed the knee to Baal; they knock at your door after your invitation; they stand, cold, shivering, hungry, naked, bleeding, and you keep the door closed, turn a deaf ear to their appeals, and they must turn away sorrowful. Where are they to go, to whom are they to look for succor and aid in this hour of need? Sir, this Congress is doing a great wrong, a wrong to itself, to the country, and especially this down-trodden, persecuted, and suffering people. God will not bless a people unless they are just and practice those high and noble principles of eternal justice and Christianity which were given us by the Saviour of the world. If the hungry come to you, feed them; the thirsty, give them drink; the naked, clothe them; the suffering and oppressed, relieve them.

Give up this narrow, contracted patriotism and

philanthropy; let your souls go out to a noble people who amid all the conflicts of war, bloody war, devastating war, have proven themselves your friends, the unchangeable friends of the country. Let these States come back now, let their Representatives take seats, and discuss with us the great principles involved in this controversy, the reconstruction of the Union; they are our brothers, brothers in kind, brothers in blood, brothers in feeling and sympathy, in patriotism and philanthropy, in Union and in war. Let them come in. Sir, I care not what others may do; as for me, I will reach out my hand to them, grasp it warmly, heartily, fervently, and say, "Welcome brother; you have come up through fire and blood and war, but your escutcheon is clear and bright, your record un tarnished; you are of us and with us; I welcome you here." Do this, sir, and you gladden the hearts of thousands of people all through the South; they will turn their eyes toward you, their hearts toward you, and by their virtues, their will, their love of country and that flag, will form a society, a community, a government, a power in the South which no other on earth can overturn.

What a glorious day would that be! How happy would be the American heart, how astonished would be the world! England's neutrality would be converted into friendship and sympathy; France would hesitate at her movements on this continent; our friends in Europe would rejoice and take strength, and the rebellion dwindle away like dew before the morning sun, and peace, glorious peace, be restored to this distracted country.

Gentlemen say all the territory of these States is not within our jurisdiction, that it requires an army there to hold it. Admit it. There is a large army in and around this city; it is here to hold it. There is a large army in Maryland; it is there to hold it. There is one in Kentucky, one in Missouri, one in West Virginia; they are there to hold them. Hold them against whom? Against the threatening armies of the rebellion, the men who would march all over the land and destroy it as they went. Are you to prevent the organization of society, of government, because armies are there? Why, sir, they were sent there to do this thing, to restore that which had been destroyed, to give the people the right to resume their position in society and government, and open up that commercial and manufacturing interest which alone gives a nation power and strength and places her among the first.

War is sustained alone by commerce and manufactures; it is a question of capital. We know now that its prolongation depends upon capital; without capital it must cease; and capital is produced only by commerce and manufactures. Hence the North is being successful; it is a large manufacturing and commercial country; its capital therefore is limitless. We can prosecute the war for fifty years; the South is not so; it has been alone a producing country; it depended upon the North for seamen, for ships, for machinery, for manufactures; and when they were cut off, their cotton laid in piles or rotted in the field or pen. They had to depend upon foreign Powers for all we before had furnished them; they had to go abroad and borrow capital; they have no manufactures now, they have no machinery, they have no commerce; hence they must suffer, linger, and lingering die.

Now, then, what ought we to do? Take in all these States as they ask to come with republican forms of government; let our people intermix, establish manufactures among them, open their rivers and ports to commercial trade, take out their cotton, rice, sugar, corn, hay, fabrics of every description, and you produce capital, you gain strength at home and demand respect and attention abroad.

The President of the United States tells us that the population of the United States, save those in rebellion, is greater than it was when the war began, notwithstanding we have sent two million men to the field. Those people are in the North; the South has become more or less depopulated. The North is crowded, the South sparse. Lands in the North are dear, in the South cheap; in the North comparatively scarce, in the South abundant. Then open the door wide, invite all to go, put your boats on rivers, your ships on the sea,

cars to running, and England and France, all Europe, instead of feeling jealous of us and working for our destruction, will open the doors for their superabundance of laboring men, and millions of people will, in a very short time, fill the land. Our own northern brethren will emigrate South, new relations will be cultivated between the northern man and the southerner.

New Orleans had scarcely been possessed by the Union Army than hundreds and thousands from the North rushed there for business. So with Vicksburg, Memphis, Nashville, Savannah, and now from every section men who dared not heretofore go South are asking to establish business in Charleston, South Carolina. Wilmington is open for trade; let it be so. Cultivate those who would be good and loyal; let them and us become friends; open trade, and let them see that the United States is the Government to do this thing, protect and foster them. Do this; invite Union people to all points, and Charleston, Savannah, New Orleans, and Wilmington are forever ours. They cannot get them back. England and France must come to these points South for trade, and they will come, and when these loyal people and others, too, see these ports filled with foreign vessels, they will rush with whatever they have, and open a commerce heretofore unknown to America.

But, Mr. Speaker, I cannot indulge further. I have but a word to say and I have done. Do we not all consider that these States are ours, these people belong to us? Yes, we certainly feel so. Then let us legislate in a proper spirit, not be too harsh, and great good, in my humble judgment, will come of it. I know these people better than most of you. I have been among them ever since the war; I have seen them and talked with them. Last summer I was in Tennessee, Arkansas, and Louisiana. I know I reflect to-day their opinions, their feelings; and I am proud to stand here and speak for them; I am proud to be able to say that they desire that the North and the South shall be one country and one people, and that they are laboring for that end. The time is coming when it will be so; when all of us can be free and equal in every State; when the gentleman from Pennsylvania can go South, and the native of Charleston can go North; when that time comes—

"The northern pioneer shall go joyful on his way  
To wed Penobscot's waters with San Francisco's bay;  
To make the rugged places smooth and sow the vales  
With grain,  
And bear, with liberty and law, the Bible in his train.  
The mighty West shall bless the East, and sea shall answer sea,  
And mountain unto mountain call, 'PRAISE GOD, FOR  
WE ARE FREE!'"

#### CONSTITUTIONAL AMENDMENT.

#### SPEECH OF HON. HENRY GRIDER, OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 21, 1865,

On the proposed amendment to the Constitution of the United States.

MR. GRIDER. I shall trouble the House but a short time. When this rebellion broke out, the declaration of the American people not in rebellion was in favor of "the Constitution as it is," no change or amendment. And in favor of "the Union as it was." We declared, we stand by our flag and our rights and in the Union, and defend them there. The whole object of the Government at the beginning of this rebellion pointed to this end, not to revolution nor amendments, and the people concurred in this view. None contemplated changing the condition and relations of the people to each other, or their government in the States, whether free or slave, either by legislation, by proclamations, or military power, nor by an amendment to the Constitution. This the record fully illustrates. In January, 1861, the House passed a resolution stating that "neither the Federal Government nor the people, nor government of slaveholding States, have a purpose or constitutional right to legislate upon or interfere with slavery in any of the States of the Union." This same sentiment is

differently and strongly expressed in the Chicago platform that nominated Mr. Lincoln:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to the balance of power on which the perfection and endurance of our fabric depend."

If these resolutions were right then, are they not right now? Each State to order and control its own domestic institutions, in its own way, by its laws, under its own constitution, granting to every other State the same privilege; this is essential to the balance of power on which hangs the perfection and endurance of our fabric. This is the hinge on which our Federal Government turns. By law we cannot interfere with these domestic institutions. If the perfection and endurance of our Federal Government depend upon the freedom of the States in the exercise of this acknowledged right, I ask, have you the power so to amend the Constitution of the Federal Government as to interfere with the States. The States had these rights before the Federal Government was formed or adopted; they never surrendered these rights, but, on the contrary, retained them in the formation of the General Government; and without such retention the General Government never would have been formed. The right to hold slaves never was derived from the Federal Government; but when the Federal Government was formed its Constitution warranted the right to hold slaves to the States.

But if the power exists to pass this constitutional amendment, is it expedient? We have glanced upon this subject at the spirit and purport of the Federal Constitution as to slavery. The resolutions we have quoted are but brief statements of the spirit and principles of the Constitution, looked to by the people pending this fearful crisis, when every loyal State and every individual interest should not be put in danger, but, on the contrary, guarded with the more vigilance as the danger may have increased.

Sir, while it is the duty of the Government to "enforce the laws, suppress insurrection, and repel invasion," it is equally the duty of the Government not to assume authority belonging to others, nor disregard the rights of individual claims, privileges, and property long since vested in them and warranted to them by all the sanctions of law and the Constitution, both State and Federal. In this age, constitutions and fundamental laws have been looked to as of high consideration, and the wisest and most discreet are summoned to the task of calm and mature deliberation in their formation and adoption when any change is supposed to be necessary; but it never could be regarded wise and prudent to abandon or alter constitutions in the midst of a passionate, afflicting, and furious rebellion, a rebellion that calls for all the power, coolness, and determination of our Government to avert the fearful efforts that so persistently threaten the dismemberment and ruin of our Government.

I ask, sir, in all soberness, in the name of common sense, if this hour of suffering excitement, malicious feeling, and partisan bitterness is the time for deliberation and kindly, hopeful, safe conference upon constitutional amendments. I voted against the amendment last session and heard no complaint from my constituents, and see no reason to change my action, in view of the duty I owe to myself, my State, and my whole country. The amendment to the Constitution, if adopted, will certainly be subversive of every power and principle supposed by the people to belong exclusively to the people of each State for themselves. I apprehend it was so regarded by the framers of the Constitution; and all but one of the States, when it was framed, were slave States. The States of the Federal Government have all alike acquiesced in this view, this principle, and no action has ever been taken, except by the States, at their own suggestion, to become divested of slavery. And although there has been much useless and foolish anxiety and agitation for years upon the subject, such a scheme, such action as is now proposed, never was conceived until the fury of party zeal devised this action, while many loyal men, women, and children involved in the question are unrepresented. Is it not best to act with caution and not hurry rashly



and boldly to do what may be done without authority and what may not be best, what can be done hereafter by those peculiarly involved in the interest, if so decided, and that becomes necessary. Washington said we ought to resist with care the spirit of innovation upon the principles of the Constitution, however specious the pretext; known and acknowledged rights, legal and constitutional, long acquiesced in, ought not to be disregarded, cannot be disregarded.

If every other influence was in favor of this amendment, there is one overwhelming reason against it. Slave property is held by the State constitution, by municipal law, usage, acquiescence, and the warrants of the Federal Government. It is therefore as much a vested right as your title to lands, to capital, stocks, and shipping; you hold all alike under the usage, the law, and Constitution.

I deny, therefore, that the Government can by legislation or constitutional amendments deprive the owners of the services, emancipate slaves of Kentucky, without first making compensation therefor, any more than the Government can take your land, capital, stocks, and shipping. The Government must pay the citizen for whatever property is taken from the citizen, not at a depreciated price and deterioration of the property, especially if produced by the action, not of the rebellion mainly, but by our Government, the impolicy and unconstitutionality of our laws, the useless and hurtful collision brought upon slavery. There must be "adequate compensation" first made before emancipation, no matter how or by whom it is done. This is not proposed. This has not been done. This is not intended. How much pay have you got for the slaves wrongfully enlisted in Kentucky? Where is your commissioner to value them, promised by law in July last? None yet appointed. This constitutional amendment is but the consummation of a series of partisan acts which have been passed, brought to bear designedly, not from necessity, against the constitutional rights of a loyal State, and means exactly what Mr. Webster meant when he said:

"I have often expressed that over slavery, as it exists, this Government has no control whatever; it is entirely and exclusively a State concern."

And while it is thus clear that Congress has no direct power over the subject, it is our duty to take care that the authority of this Government is not brought to bear upon it by any indirect interference whatever. Now if this indirect interference with which I charge the Federal Government has depreciated the property so that it is worth now some forty million; in 1863 some fifty or sixty million; in 1860 some hundred and eight million, then the General Government is bound to pay for the slaves, giving an adequate price, if she forces the emancipation, without the consent of Kentucky, or even with her consent, for the State cannot compromise the vested constitutional rights of the citizen. Can it be done without compensation? Certainly not; neither law nor constitutional amendments can take from the citizen vested rights without compensation. It is as legal, moral, and in as good faith to do it one way as the other. Take private property without compensation? No civilized or Christian nation ever did it. The history of England, I believe, shows when she by law emancipated she paid the owners for their slaves; but she had no State or Federal Constitutions to direct her, merely a sense of honor and moral justice. And to be constitutional, moral, just, and honest, so must our Government pay if they emancipate.

If our Government must pay for the slaves emancipated—and this I think none can deny—where is the authority to raise the money, the authority to tax the free States and those not holding slaves to pay for this emancipation? How can you raise this money from the whole people, or take it from the Treasury? There is no such authority found in the Federal Constitution. I know you have done it in this District, and supported contrabands and paupers, but this proves nothing but partisan boldness and recklessness. Where is the grant, the power given? The powers not granted to the United States are reserved to the States respectively and the people. Upon the subject of slavery, to the Federal Government there is no power given it to manage,

continue it, or discontinue it. All it has to do, by the Constitution, is to warrant it to the States, where the exclusive power exists to hold or free the slaves if compensation be made. There is no power, nor any power that can be incidentally inferred, warranting this constitutional legislation in the name of amendment, overriding the acknowledged rights of the citizen and the State.

Then, if you cannot carry out the amendment without compensation, and have no power to raise the money, it follows the constitutional amendment ought not to be adopted, and in this view you are at once remitted back to the long-cherished and admitted principles of the Government that entered into the very elements of its formation. That the Federal Government has nothing to do with slavery but to warrant it to the States, and the States in their own time, and in their own wisdom, and in their own mode, if they choose to divest themselves of slavery, may do it as it always has been done by States, certainly, however, always providing for their well-being in kindness and humanity.

I see in a published speech of a distinguished friend and gentleman of the Kentucky Legislature a mistaken view of the record in regard to compensated emancipation for Kentucky. He says:

"But in the summer of 1862, fearing that the policy of the nation in regard to the slaves of the insurgents might have to be changed by reason of the persistency of treason upon this issue, and knowing that in the ruin of the system in the seceded States would be involved its destruction in the loyal States, the President proposed to us a scheme of compensated emancipation. This would have secured to us, to Kentucky, \$65,000,000 for our slaves."

The gentleman is wholly mistaken. Emancipation was proposed to most of the border-State men. They disavowed any authority over it in Congress, stated the State and State authorities were the competent and only authority by which emancipation could be initiated, but further said they could not propose it to the people, even if it was proper, without some certainty as to indemnity and compensation. Mr. Lincoln admitted the force of the suggestion, and said he could not insist otherwise, and remarked that if Congress would not make the appropriation "that knocked the bottom out of the tub," and he had "not another word to say;" and in view of this very question of compensation for emancipated slaves the border-State men said, referring it to the people of their States:

"Before they ought to consider the proposition it should be presented in such a tangible, practical, efficient shape as to command their confidence, that its fruits are contingent only upon their acceptance. We cannot trust anything to the contingency of future legislation. If Congress, by proper and necessary legislation, shall provide sufficient funds and place them at your disposal, to be applied by you to the payment of any of our States or the citizens thereof who shall adopt the abolition of slavery, either gradual or immediate as they may determine, and the expense of deportation and colonization of the liberated slaves, then will our States and people take this proposition into careful consideration for such decision as in their judgment is demanded by their interests, their honor, and their duty to the whole country."

This paper was signed by some twenty border-State men, all from Kentucky but one or two. So far, this is the true history; and it is a great mistake that at any time Kentucky was ever in a position to get \$65,000,000, or any other sum, for compensated emancipation. But it is true the President did send a message asking a fund for this purpose. Mr. White, of Indiana, I believe, under said message, reported a bill for the purpose, which was not acted upon, and finally reported back to the House and indefinitely postponed, and thereby, for reporting said bill, lost his nomination to next Congress. This is the end, so far as I know, of Kentucky compensated emancipation. I ask pardon for this digression.

You observe, however, among other things in this border-State extract, deportation and colonization are prominently set forth. This would avoid that terrible impoverishment and demoralization spoken of in Governor Dennison's message, of Ohio, now Postmaster General. Immediate emancipation of some three million negroes, (for some one million have already perished by the improper interference with slavery,) without colonization, is ruin for the time to both races, and final extermination to blacks.

"An act of immediate general emancipation, throwing four million colored caste loose on society, North and South,

would leave them more enslaved than they are now. Without the intelligence, power, and means of a master of the superior race to support them in the competition of that race in the business of life they would perish. The North rejecting them, as it has done in many States, and might do in others, the four million let loose in the South would encounter a war of castes—a war of extermination."

I am not willing to risk these great additional evils by going for the constitutional amendment, never necessary, and the very pretext for it brought on by every possible mode of indirect interference on the part of the General Government and its unrestrained agencies. If slavery had been let alone, and the Government and its agencies had, according to the Crittenden resolution, announced in substance there was to be no interference with slavery, we would have avoided this whole controversy and its evils, directed our whole attention to the rebellion, and accomplished the great end of a full, peaceful, complete integrity of the Union upon the unamended basis of the Constitution! The slaves would mostly have staid at home, if the master had been permitted to exercise a humane, reasonable, ordinary influence with his servants; if they had not been seduced and protected, by agencies too well known, from the control of the master, under the power of the unconstitutional additional Article of War, which was passed on purpose and to this very end, to disturb and demoralize the institution! So soon and ever since the Government quit the pure, true principles of the Crittenden resolutions, which every man sanctioned solemnly by his vote upon oath, making a clear, full exposition of the spirit and philosophy, limitations, and power of the Constitution, and ordered in all wisdom how this rebellion ought to be managed, to end and purpose. It countenanced no emancipation; that certainly ought to be left for consideration when the rebellion is over—ought to be suggested by the people in their proper capacity, and not by partisan politicians. Nor did it suggest any equality and blending of races in all the walks, rights, and privileges of the American citizen.

But now, to give plausibility to this constitutional amendment, and keep up with party and leaders of the party, you must insist upon equal rights and privileges to the freedmen at the ballot-box, full eligibility to office—no half-way freedom, but the investment of full, complete immunities and rights under the Constitution, as all other citizens, without any abatements or distinction. Yes, sir, more; they are to have the full protection of the General Government, shielded and governed by all the power of the Army and Navy. You are to have standing armies to enforce and accomplish these ends; for the House, by law, has created a new agency in the War Department—"the Freedmen's Bureau"—which, by its officers and agencies, fed and paid by the General Government out of taxes wrung from the people, must protect, govern, and direct the freedmen, install them upon confiscated land, and work them on plantations, (deeper in servitude,) act as their next friend in all things, creating in fact what Wendell Phillips says will have to be done—a military despotism in the South for twenty years!

I repudiate this substitute for colonization, this tissue of folly, this series of measures that is making faint the patriotic heart, that is undermining our social system, the elementary principles of the Government, to be consummated by this constitutional amendment; a constitutional amendment which may be adopted by the present Legislatures who were never elected to that end, for the question never was submitted to the people, and if submitted in the last test of public sentiment lacked thousands upon thousands of the constitutional majority of the people necessary to adopt it.

This constitutional amendment rests upon doubtful authority, but this need not be so closely examined, as the impolicy of the measure is so palpably seen. The voice of all history is against it; experiments even in calm, peaceful times, have failed in all cases of immediate emancipation; no matter about the question of slavery, its philanthropy, &c.; "historical facts stare us in the face, that it is a misplaced philanthropy to endeavor to elevate the African to an equality with the Caucasian race. Either the inferior becomes more abject and miserable, or both, like mixing tar with water, deteriorate, and will finally go into irre-

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trievable decline. A superior and inferior race cannot live together on terms of equality."

In relation to this constitutional amendment we hear cant phrases, the force and logic of which I confess do not strike me—"might as well give it up, slavery is dead," "slavery must be wiped out,"—which of these two propositions or statements do gentlemen intend to rely upon? Certainly not the first. If your indirect interference, your proclamation, has killed slavery, and you are not willing to acknowledge all you have done heretofore was strategy, and wickedly and not patriotically intended to deteriorate slavery and make it odious and burdensome, what do you want with an amendment to the Constitution? In that view there is no use for it.

But, sir, having but one idea as a party, and that was to charge upon slavery and never mind the rebellion, follow your party and their orders. "Slavery must be wiped out," and nothing can do it but an amendment to the Constitution. You hear it—slavery is of no use, better get rid of it, it is a great burden. Who superinduced this conviction? Who uses this logic? The men that love law, the Constitution, and delight to see the vested rights of men regarded? No. I am not weeping over slavery; my constituents are not. It is to the suppression of the rebellion and the return of peace to which they turn all their prayers and anxieties. So ought the Government, exclusively. Suppose slavery is deteriorated in Kentucky, and has become burdensome, upon whom does the burden fall? Certainly not upon the free States, or those who make the complaint. The owner of the property makes none, not at all. He asks to be let alone in the enjoyment of his rights; but the vivid intelligence and bleeding sympathies of intermeddlers are very much agitated that a man who owns a few servants is so burdened and oppressed. What, then, shall be done? Free them, and cast them as contrabands on the public or the kindness of the former master? Why, sir, often these contrabands use more rations at particular times and places than the Army itself. Why will it be any better for the slave when emancipated? Will he eat and wear less of choice, and work more than now? Is he not best at home with his master, with all his bounties? At all events there is where the law and Constitution have placed him, and if gentlemen will take any advice personally they will not exhaust all their good feeling for the negroes, but remember the thousands of our own race that are suffering from ten thousand causes every where, and looking to the Government for comfort and relief. Give them at least a just share of your sympathies.

The negroes if emancipated are not to be sent to Liberia or anywhere else, but to stay where they are or wander off and return; by no means improving their condition or habits of industry and thrift; producing a constant unsettled, uneasy, cramped state of mind and feeling, with both white and black; leading to suspicion, unsafety, crimination, conflict, with a practical agitation that must result in evil and some manner of separation, not equality. This will be heightened by circumstances of returning emancipated soldiers of every class and assuming at least as much as they are entitled to. In my judgment, the condition of Kentucky in regard to slavery or negroes, now, as it is, is far better than it will be when all the now servants are perfectly unrestrained and free, and lead to consequences in this relation much more to be regretted than any we have yet seen. At all events so fearful am I of making things worse, I have been unwilling to favor this constitutional amendment for the sudden emancipation all at once of three or four million slaves. It will produce consequences ever to be regretted, and leave for our country, amid all the embarrassments already upon us, with our heavy unmanageable debt, for the next generation a conflict and entanglement with these freed people upon our hands; and after doing all that could be done in their behalf, and trying gentle and kind means, be constrained by force to protect ourselves, to separate them from us and our soil, and, as in all other countries, regret upon every account the sudden action upon such a large scale upon so delicate a subject.

"To suddenly transport four million bondsmen from a

long, immemorial servitude, under the besetting improvidence, want of care for themselves, ignorance, low vices and indolence, to a condition of freedom, with all the untutored responsibilities of providing against want, surrounded by the snares of temptation and vice, to which the negro character too freely yields; without those checks of family police regulations that have for centuries restrained an inferior race, would inevitably propagate miseries untold for both classes that ages could not efface; and the great question is, as it ever has been, which is the greater evil, to suddenly force emancipation, or permit God, in his administration of human affairs, to solve a problem that many nations have for centuries been vainly endeavoring to determine by edicts, codes, and proclamations; and if it be asked "why not try it as a retributive punishment on the cause of the war?" the answer has already been furnished by the tears and blood of nations that have been poisoned by quaffing from the same chalice.

"We shall be truly bold, if we venture this general emancipation field, under our peculiar condition, surrounded already with war and heavy taxation, inviting other troubles that must come thick, heavy, and fast if this general sudden emancipation is adopted and proclaimed."—*McKenzie*.

And the fanaticism of the thing is, if it must be done, there are so many more and appropriate times to do it, not now. I hope it may not be adopted, if ever, until we are through the rebellion, in peace, and it is submitted fully to the people, and then for State and not Federal action. I cling to it, that it is our local State interest, and the General Government ought not to interfere; and I think I have the full concurrence of the President in his message of March 6, 1862, in which he proposed compensated emancipation, having been first suggested by the border-State men, "such a proposition on the part of the General Government, sets up no claim or right by the Federal authority to interfere with slavery within State limits; referring, as it does, the absolute control of the subject in each case to the State and its people immediately interested."

Now, why must the State Legislature so ardently and speedily ratify this amendment? Would it not at least be respectful in so grave and momentous a matter to meet, and if convenient refer it to the people of the States? This is, as I said, the consummation and indorsement of a series of injurious acts already passed touching the question of slavery, and I felt it my duty to my constituents and my country to oppose them all, and to be consistent, and as I believe, reflect the wishes of my constituents. Where the power is doubtful and the policy clearly injurious I could not feel inclined or authorized to vary from my former action, and contravene what I regarded the will and interest of my district. The complication of this question, the persistency in regard to it, in making offers or terms of peace, is powerfully injurious. We proposed, when the rebellion was suppressed, the war ought to cease, and remit back each State to its position and rights, whether free or slave. Now this new element is inserted, the freedom of all slaves in rebel and loyal States. The rebels, claiming their independence, propositions known to be unacceptable were made, so that, with the exception of our success in arms, upon the mere question of negotiation for peace we are further apart than when we began. I regret this. Oh, how bitter is the anguish and suffering of our country! How ardently do our people, in sorrow and tears, pray for peace! There is but one condition on our part that should be offered, and I use the words of Mr. FINCK, of Ohio, to express the terms:

"Sir, if the Administration had borne high, in the face of Heaven and the American people, the broad banner of the Constitution, inscribed upon it, 'the Constitution and the Union, these must be preserved at all hazards, these are our terms of peace, we ask no other; this war, in my humble judgment, would long since have terminated.'"

You have my hasty and desultory remarks, and I am done.

LOAN BILL.

SPEECH OF HON. ELIJAH WARD,  
OF NEW YORK;

IN THE HOUSE OF REPRESENTATIVES,

February 27, 1865,

On the bill to provide ways and means for the support of the Government.

MR. WARD. The securities thus far issued by the Government in the progress of the gigantic war now desolating portions of the country are

held chiefly by corporations and our citizens, and those hereafter to be issued will in the main go into the same channels. The bankruptcy of the Government would produce the most serious disaster to the nation, bring ruin upon almost every business interest, and desolation and misery to a large portion of our citizens. Hence the people are vitally interested in maintaining the public credit and in a course of policy best adapted to secure that end. Difference of opinion should only exist as to the mode to obtain such a result.

The financial condition of the country, which it is the part of wisdom to examine, invites our most serious consideration.

The Comptroller of the Currency, in a circular addressed to the banks which are organized under the new national plan, tells us that "the apparent prosperity of the country will be proved to be unreal when the war is closed." He evidently intends that there shall be no deception of the people nor concealment of the real truths of our condition. This revelation emanates from an official high in the confidence of the Government, who tells the banks distinctly not to be deceived by the present seeming prosperous condition of the commercial interests of the country, not to fall into the error of regarding inflation as prosperity. Truly, words of wisdom. It is a bold confession of the Treasury Department that our prosperity is seeming, not actual, but I wish there was always as much boldness and frankness displayed in the management of public affairs as the Comptroller exhibits. Doubtless, if he were asked why he utters such a warning, he would reply that the laws which regulate currency are laws of God as much as the laws of gravitation, of magnetism, of light, heat, and electricity. They may be for a time interrupted. An iron ball may be temporarily suspended in the air by a post under it, or a string holding it, but the law operates, and time will show that the suspension is artificial, and whenever the artificial support fails, is removed, or decays, the ball will go down; and that time is sure to come sooner or later. So the laws of currency may be interrupted, and the appearance of things such as to promise permanence, but the end of the temporary interruption will come, and then we shall see that the promises were false. Let men be prepared for such events.

According to the most favorable statement, it is conceded that if the war were to end now the expenses incident to its close would swell the national debt to over two thousand millions. Add the State, county, city, and township debts, which are constantly accumulating, and it will be found that our indebtedness approximates the debt of Great Britain, if the difference in the wealth and rate of interest be considered. The annual interest of our debt is more than the expenses of the Government before the war. We do not yet fully realize our condition, because we are in the whirl of excitement and have only begun to feel the weight of taxation. I do not take this view of the subject to discourage. I think it right to state a fact about which there is no secret. Let each one inquire for himself how much debt in proportion to its wealth a nation can carry in safety.

Congress has no more important question to answer than how much revenue shall be raised, and from what source. The policy of the Secretary of the Treasury has hitherto been based upon a maximum of borrowing and a minimum of taxation. I suppose that during all the past, borrowing has gone on as rapidly as the credit of the Government would allow, that the Secretary of the Treasury has always been in the market, leaving no mass of accessible capital to go unsold. The bond market gives evidence of being as redundant as the currency market, and the Government, which goes into the former with its securities depreciated, promising to pay interest upon them at par, may make an excellent show of advantage to the confiding lender; but the result of every effort to raise the amount borrowed to an equivalency to the amount desired would show a process of burning the financial candle at both ends—rather instructive than profitable.

The existing system is a failure. Those who are charged with originating the financial meas-

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ures of Congress, however, seem to be still more wedded to the folly of an almost exclusive reliance on loans. The crude notion that banking capital is national wealth; that the multiplication of paper money is the increase of riches; that a well-ordered system of credit is dependent upon and necessarily must be blended with an inordinate, uncontrollable power to issue a fictitious circulating medium more subject to ebbs and floods than the ever-changing tides, all, all, have had their day. The fruits they have borne have disrobed them of the sophistries which deluded and the mysteries which passed for wisdom. Mankind has read the nature of their propensities in the public and private misfortunes which they have entailed upon the country and the people. Their true character has been seen in the spirit of recklessness and dishonesty which they have nurtured, and the mental vision of the political economist, the farmer, and the mechanic, is no longer obscured by these cunningly-devised schemes for deceiving the people. I have the satisfaction, sir, of having lived through the time of their recent origin, progress, and power, and I trust will live until their downfall; of having, in all their phases, met them as a determined foe, held them to be intrinsically incapable of good and dangerously mischievous. Talents that, well directed, might have been envied, have served with devotion in efforts to uphold them. But I hope these, and all false appeals to prejudice, to avarice, and to the baser passions, will prove unavailing to prevent the triumph of truth over error.

The unusual degree of liveliness which that sedate article of commodity, gold, has exhibited during the war is generally conceded not to be the effect of any additional degree of wholesome vigor which the metal in question has acquired, but is rather to be attributed to the distended and feverish condition, not of itself, but of the arteries of trade in which it circulates; in fact that it is not the gold which has proved changing in its relations to other things, but other things which have become locomotive, changing their relation to the gold.

The final cause of this phenomenon is doubtless chargeable to the extraordinary increase which has taken place in our paper currency. The first effect of such an increase is to create an advance in the price of every article of traffic or desire. The next is, through the failure of public confidence in the ultimate value of the circulating medium, that all values become unsettled. The market grows subject to panics. Prices rush upward and downward without any apparent reason. Speculation takes the place of trade, and men, conscious that a collapse is coming, rush in to take advantage of the disturbed state of things, and thereby increase the excitement and precipitate the catastrophe.

The paper money now in circulation is about \$900,000,000 in the aggregate; of this \$600,000,000 is in legal tenders and postal currency, and over \$250,000,000 in notes of local and national banks. As if not contented with the enormous power to issue paper which the liberality of Congress and his own mechanical facilities supplied, Mr. Chase, the late Secretary of the Treasury, as the crowning act of his policy, gave origin to a scheme for filling the cities of the country with subordinate establishments whose function was to be to emit their paper as fast as possible, and which, so far as they have been organized, are industriously at work to answer the end of their creation. It is not difficult to see now that we are reaching the only result which such a policy was capable to produce, in a universal inflation of prices, a general dissipation of confidence, rapid and intense fluctuation in market value, and in those panics by which a universal collapse is always preceded. Some of my friends on the other side of the House, who looked on tranquilly at the time the mischief was being done, have now become alarmed, and call for a suspension of the issues of the national banks and for measures against State banks which shall in their operations be equivalent to the extinguishment of those institutions. As is the case with all panic-stricken people, they want now to run from the point of extreme inflation to that of extreme compression, and administer a course of heroic remedies which

may cure the disease at the expense of what little life remains in the patient.

That Mr. Chase did in the details of his financial system commit mistakes which are destined in their effects to add severity to the impending catastrophe and hinder the process of recovery is undeniable; but the principle of his system was prescribed to him by the circumstances, and he could not alter it. He was counseled to emit paper money, knowing that the issue would induce inflation, and inflation collapse, or submit to an immediate bankruptcy which would have stopped the war. The Government had no credit, and therefore could not borrow; and talk as you may now about taxation, and it is the only remedy in the present emergency of the country—taxation would, had it been pursued to the extent to meet accruing expenses, have brought on a popular reaction which would either have put an end to hostilities or brought on a revolution.

Mr. Nathan Appleton, one of the ablest financiers of the present century, maintained that an expansion of the currency tends to an advance of prices, excites commercial enterprise, and finally speculation and overtrade. High prices encourage importation and discourage exportation; a rise in the foreign exchange follows, which causes an export of specie, which acts as a corrective by compelling the banks to call in a portion of their issues. This is done by lessening or suspending their usual discounts. Here is action and reaction, very beautiful, and all very agreeable to the public, except the last part of the process. A contraction of the currency causes a contraction of the money market, reduces prices, paralyzes trade, brings on failures. This is all very disagreeable—it makes what is called hard times. But in fact it is always a return from a false position to a true one; it is never necessary to diminish a currency which has not been redundant. The violence of the pressure is always in proportion to the extent of the overtrade; and generally the more violent the pressure the shorter the period.

The incalculable evils of that frequent fluctuation to which the elasticity of paper money necessarily subjects any currency of which it forms a large proportion, must be fully admitted; its constant tendency to expansion, the effect of this in the rise of prices, and the excitement of the spirit of speculation; the next consequence in overthrowing the just, natural balance between importation and exportation, discouraging the latter and stimulating the former; the necessary result of this is the creation of a balance of foreign debt, with a rise of exchange and efflux of specie; the consequent drain upon the banks, in whose vaults alone it is to be found, and where it serves as the basis of five times its own amount of bank paper in circulation; with finally, the consequent reaction, in a violent contraction of the currency, pressure upon the money market, suffering of the community, commercial bankruptcies, derangement of the measure of all outstanding contracts, distress, dishonesty, demoralization, and a wide and far ramification of evil effects, extending throughout the whole political and social system, which no effort of calculation could even attempt to follow. The greatest folly which the madness of the hour has engendered is the supposition that national banks can equalize exchange. The expense of exchange must be borne by the debtors in the debtor part of the country, and every attempt to give a different direction to it will be baffled. Gallatin observes:

"The great inequality and fluctuations of the domestic exchanges, so far as they are the fault of depreciated currencies, cannot be remedied by a national bank, as long as they continue to be the local circulating medium. After that evil shall have been removed by a resumption of specie payment, the bank cannot and ought not to interfere any further than as purchasers and sellers of exchange and drafts in the same manner as other dealers. But it is a great mistake to suppose that it can afford a generally uniform currency, or one which shall at the same time be of the same value in all places. This is to confound exchange and currency. The fluctuations in the rate of exchange, like those in the market price of commodities, depend on the relative amount of supply and demand, and these again on the relative indebtedness and actual means of making remittances. A national bank may find it possible and convenient to give occasional facilities in that respect, but it can no more issue a currency, necessarily payable, at the option of the holder, in several places, than a merchant can bind himself to be ready to pay a debt at five or six

different places, at the option of his creditor, without notice."

With equal effect does Mr. Appleton show the fallacy of the idea so commonly entertained by the friends of a national bank, of its utility as a regulator of the currency. He shows how far from truth is the assumption, usually made in its behalf, that it was by the establishment of the United States Bank that the currency was restored after the war; and presenting a rapid outline or sketch of its history, he proves what he asserts, namely, that "as a regulator of the currency its success was not remarkable."

I have thus endeavored to prove, sir, that there are serious objections to the establishment of banks of the magnitude and power necessary to the regulation of the currency. In the first place such a power is wholly at variance with the spirit of our institutions, which are founded upon the principle of free competition, of action and reaction among equals. A great central power, independent of the General or State Governments is an anomaly in our system. Such a power over the currency is the most tremendous which can be established. Without the assurance that it will be managed by men free from the common imperfections of human nature, we are safer without it. Under a system of free competition, if one bank or one city go wrong, the evil is soon rectified. The laws of trade, left to themselves, will soon cure the evils of individual misconduct or speculation. But if the regulator itself goes wrong, there is no remedy, or none without a convulsion.

In estimating the probable public debt, interest, expenses of the Government, &c., at the close of the war, I stated in the last session of the House, as follows:

"We may be sure that we cannot compel a population numbering eight millions, and equating ourselves in courage, determination, and all the essential elements of military character and power, to submit to the absolute control of our Government unless we have a standing army of at least three hundred thousand men. At sea we shall need a force quite as powerful as at present. Our civil list will be increased by the large number of officials necessary to collect the additional revenue required for the support of the Army and Navy. I endeavor to estimate, on the most moderate basis, the amount of our expenditure when such a peace as is sought by the majority of this House shall be attained. We shall need annually, at least, for—

The War Department.....	\$300,000,000
The Navy Department.....	100,000,000
Interest on public debt, of say \$3,000,000,000.....	180,000,000
Civil list, collection of revenue, foreign intercourse, and miscellaneous.....	40,000,000
Interior, pensions, Indians, &c.....	25,000,000
Total.....	\$645,000,000

"If the South should willingly return to the Union we shall, at least, need an army of a hundred thousand men. Taking this estimate and reducing the cost of the War Department by two thirds, there will yet remain the necessity for a revenue of \$450,000,000, to be paid by taxation and duties."

I have seen no reason since to change the views then expressed. The problem to be solved is this—how to raise the required amount to sustain the credit of the Government with the least possible injury to the operative, or non-capitalized classes, and with the slightest pressure on the industrial and commercial interests of the country. If capital or wealth be taken as the standard of taxation, the solution of the question will be easily worked out, so far as respects material interests. The chief intention of the war is the protection of capital. But for the wealth of the country being endangered in the event of the success of the rebellion, there would have been no necessity for a resort to hostilities; if therefore the war is waged in the interest of capital, it is only natural justice that capital should chiefly pay its cost. Moreover, the foundation of our national prosperity rests on the remunerative character of the labor of the lower classes, while the safety of our political institutions lies in the contentment of that class of population. Let the savings of the sinewy masses be swallowed up in taxation, and the growth of our wealth is arrested by a disease at its root. Let the working people, that constitute a large majority of the population, be taxed beyond their share in the material interests of the country, and in paying the expenses of one revolution we sow the seeds of another. The only



method of avoiding the creation of class distinctions, and escaping an aristocracy of capital, is to see to it that the citizen is taxed as nearly as possible in proportion to his means. Any system of taxation that does not draw revenue chiefly from the classes best able to pay is inconsistent with republican institutions, and must ultimately be overthrown by the vote of the masses, or itself overthrow the democratic constitution of society.

It seems to me evident that our only reliance is upon a judicious system of taxation. Our legislation of late in relation to the imposition of duties upon the importation of foreign goods has greatly diminished our revenue from that source, and for a time, at least, we cannot expect much in that direction.

The Journal of Commerce of New York, a most valuable, reliable, and influential commercial paper, very justly says:

"The tariff adopted on the 30th of June last will have the effect of checking the process of supplying our wants in foreign markets. The duties are so enormously heavy that it is next to impossible to import any important amount of goods. It necessitates the importer to have literally two capitals, one for paying for his goods, and a second for paying his duties. A merchant buying in England £20,000 worth of dry goods requires \$100,000 in gold to remit in payment, and at the same time has to deposit about \$50,000 in gold at the custom-house. The absorption of so much capital in duties, of course, reduces the importer's means for purchasing; and the consequence is that the amount of the imports declines. The importer has to add the additional duty to the price of his goods, and must charge his ordinary rate of profit upon the extra duty, resulting in such an increase of the prices of goods as limits their consumption. The effect of these tendencies is clearly apparent in the large reduction of the volume of the imports since the enhanced duties went into operation. For the six months ending June 30, 1864, the period when the new tariff went into operation, the imports were \$138,500,000; for the succeeding six months the imports were only \$80,000,000, showing a decline of \$58,500,000 during the first six months under the enhanced tariff. And during the first seven weeks of the current calendar year, the imports have been only \$13,500,000, or at the rate of \$100,000,000 per annum, which is equivalent to a reduction of \$118,000,000, as compared with the imports of last year."

It is worthy of note, sir, how England, the heavily and yet the best taxed of all countries, derives her revenue. It appears from the account of public income and expenditure, published by order of the House of Commons of Great Britain on the 6th February, 1863, that with an exception trifling in comparison with the amount under consideration, the interest on nearly \$4,000,000,000, the national debt of that country, is entirely paid by the duties on two articles, spirituous liquors and tobacco. The interest for the year ending 31st March, 1862, was \$25,541,706, or about \$128,700,000, while the revenue derived from the above sources during the same year was \$123,750,000. An income of about \$50,000,000 more is derived from tea, sugar, and molasses. Coffee, currants, raisins, and pepper furnish \$4,000,000. About \$5,000,000 are raised from duties on imported grain and timber, \$1,500,000 from paper, \$7,500,000 from excise licenses and post-horse duties. From charges on bills of lading, game certificates, railways, stage, and hackney carriages, accrue about \$4,500,000. From these few sources alone, excepting a few miscellaneous articles yielding about \$1,000,000, the British Government derives \$41,985,495, about \$20,500,000, almost entirely from articles of luxury and superfluity. From stamps is derived a revenue of \$8,590,654, or \$42,500,000; assessed land taxes, \$16,000,000; property income tax, \$10,471,208, or \$52,000,000; post office, \$16,000,000; miscellaneous revenues, about \$10,000,000; in all an income of \$69,900,859 during the year in question. The total charges of collecting the revenue during the same year were \$2,511,120, or about \$12,500,000. The salaries and expenses of both Houses of Parliament (including printing) were £1,583,812, about \$7,500,000. The expenses of courts of justice, police, &c., were £3,433,138, or \$17,000,000, much more than twice those of the civil government. The diplomatic service cost \$2,100,000. The cost of naval and military forces, including operations in China, cost of fortifications, &c., was \$151,500,000. The various miscellaneous expenses, including £2,131,338 for the post office, (being about \$7,000,000 less than the income from it,) were £7,622,277. The whole expenditures during 1862 having been £72,151,786, (about \$360,000,000,) exceeding (£69,900,857) the income during the same year by £2,250,929, or about \$11,000,000.

The last British report (1864) shows the following amount of revenue, and the sources from whence derived:

Customs.....	£23,232,000
Excise.....	18,207,000
Stamps.....	9,317,000
Taxes.....	3,218,000
Property and income tax.....	9,084,000
Post office.....	3,810,000
Crown lands.....	305,000
Old stores and extra receipts, naval and military departments.....	631,993
Surplus fees, extra receipts, civil departments, unclaimed dividends.....	2,403,971
	£70,208,964

As we must mainly rely in the future upon a proper system of taxation, I hope the proposition of the Committee of Ways and Means authorizing the Secretary of the Treasury to appoint a commission consisting of three persons to inquire and report at the earliest practicable moment upon the subject of raising by taxation such revenue as may be necessary in order to supply the wants of the Government, will be adopted by this Congress, as such a plan is eminently proper with a view to make taxation bear justly and impartially upon the people.

The bill under consideration is objectionable in permitting a further issue of Treasury notes. The tendency will be, I fear, further inflation of the currency, with all the attending consequences. I had hoped that some plan for funding the public debt would have been presented at the present session. We must at the earliest moment return to a sound system of finance; the great excess of paper issue must be withdrawn, the expenses of the Government diminished, and the debt funded and placed in process of liquidation, or the country will culminate in general bankruptcy, and perhaps repudiation. While the resources of the country are not adequate to meet the present and accruing liabilities, still upon the return of peace we may hope for such a rapid development of the vast wealth of the country as will enable the people to bear lightly the gigantic debt that will be created during the war between contending States whose greatness and power depend upon unity instead of separation.

#### CABINET OFFICERS IN CONGRESS.

#### SPEECH OF HON. GEO. H. PENDLETON, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1865,

On the bill (H. R. No. 214) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives.

Mr. PENDLETON. Mr. Speaker, I desire to express to the House my thanks for the courtesy by which, at this late hour of the session, I am permitted to address it. My acknowledgments will be made most fittingly by an earnest endeavor so to avail myself of that permission that no honorable gentleman upon the floor will regret that it was unanimously given. The bill before the House is in these words:

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney General, and the Postmaster General, shall be entitled to occupy seats on the floor of the House of Representatives, with the right to participate in debate upon matters relating to the business of their respective Departments, under such rules as may be prescribed by the House.*

SEC. 2. *And be it further enacted, That the said Secretaries, the Attorney General, and the Postmaster General, shall attend the sessions of the House of Representatives immediately on the opening of the sittings on Mondays and Thursdays of each week, to give information in reply to questions which may be propounded to them under the rules of the House.*

If no other good result shall come from this discussion, we have at least gained this: that every gentleman who has participated in the debate—of whatever shade of political opinion, whatever views he may have taken of this particular measure—has declared that the powers of the executive department of the Government ought not to be increased. I sympathize entirely with that opinion, and it is because I believe that this measure,

if adopted, will exercise a restraining influence upon an overgrown and now abnormal power that I am so strenuous in its advocacy. The gentleman who sits behind me [Mr. Cox] and the gentleman from Vermont, not now in his seat, [Mr. Morrill,] oppose this measure because, in their opinion, it will increase the powers of the executive department of the Government. The gentleman from Pennsylvania who sits over the way opposes it because he thinks it will diminish the powers of the Executive. I will not stop here to place their arguments side by side to antagonize each other. These gentlemen all agree that this measure is unconstitutional; that it encroaches upon the rights of the States, and that it will destroy the legitimate influence of Congress under the Constitution.

If I believed the adoption of this measure would require an amendment of the Constitution I would abandon it instantly, for I have too long resisted any amendment of that instrument to commend it now. If I believed that it trench upon the rights of the States I would abandon it at once, for I am firmly persuaded that consolidation is despotism, and that confederation is liberty. If I believed that it would increase the powers of the Executive I would abandon it at once, for I believe, in the language of a celebrated resolution of another day and country, that the influence of the Executive has increased, is increasing, and ought to be diminished. I accept the doctrine put forward by my colleague with such emphasis, that they who advocate a change must support it by argument, and I propose to show that the measure which this committee reports is constitutional; that it will not infract the rights of the States; that it will elevate the character of this House; that it will elevate the character of the Departments; that it will benefit both legislation and administration.

I address myself at once, sir, to the constitutionality of this measure. Its constitutionality depends upon the answer to two questions: first, has this House the power to open its doors and invite to the floor any person whom it chooses, with such rights of speech as it may see fit to confer? and next, has Congress—not the House alone, but Congress—the power to impose upon the heads of Departments such duties as it believes appropriately belong to the positions they hold? The power of this House to open its doors to whomsoever it sees fit I will not argue, in face of the constitutional guarantee that it "shall determine the rules of its proceedings," and in the face of the uniform practice—never departed from—from the time the First Congress was organized until the day, within two weeks, when, by your permission, General Grant in the Speaker's chair received the obeisance of its members. The power of Congress to impose duties upon the heads of the Departments I will not argue, in face of the law organizing the Treasury Department, enacted in 1789, under which that Department has been administered up to this date, by the terms of which, by a simple resolution, the Secretary may be required to come upon the floor and explain the measures which he recommends; and in the face of every law which has been passed for the organization of the Executive Departments, from that day to this, commanding every one of these Secretaries to report, in one case or another, directly to Congress.

It seems to me that the answers to these two questions settle the constitutional power. If this House has the right to open its doors and invite these Secretaries to be present, and if Congress has the right to say to these Secretaries that it is their duty to accept the invitation of the House, there would seem to be no question of power left.

But gentlemen say that this argument is too technical, that it sticks in the bark; that such may be the construction of the letter but not the spirit of the Constitution. And we are told that these heads of Departments are the clerks, the deputies, the agents, of the President; that they think with his thoughts; speak with his voice, and act with his hands; that their acts are his acts; that they are amenable to him, and not to Congress, and that to admit them to participate in legislation would be violative of the fundamental

maxim of all successful free governments—that the great departments must be kept distinct and separate; and violative of the constitutional rights of the Executive. And both the gentleman from Pennsylvania [Mr. THAYER] and my colleague [Mr. COX] quoted the celebrated saying of Montesquieu, that “There can be no liberty when the legislative and executive powers are united in the same body or person, because apprehensions may arise lest the same monarch or senate may enact tyrannical laws and execute them in a tyrannical manner; or, were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be legislator; were it joined to the executive the judge might have all the violence of the oppressor.” It was in this connection that my colleague, [Mr. COX,] referring to the forty-seventh number of the *Federalist*, cited the authority of Mr. Madison as sustaining his position. The gentleman is a skillful debater. He reads extracts and cites authorities with great judgment. Mr. Madison is made to appear to be supporting the theory advanced by the gentleman, while every student of the *Federalist* knows that the paper cited is devoted to showing that Montesquieu made that remark in admiration of the theory of the parliamentary Government of England, whose chief feature and characteristic is that her statesmen adopted early and adhered tenaciously to the idea of responsibility of ministers to Parliament, and required the presence of the ministers on the floor of the House of Commons.

Mr. Madison says:

“The oracle who is always consulted and cited on this subject is the celebrated Montesquieu. If he be not the author of the invaluable precept in the science of politics, he has at least the merit of displaying and recommending it most effectually to the attention of mankind.”

“The British Constitution was to Montesquieu what Homer has been to didactic writers on epic poetry. As the latter have considered the work of the immortal bard as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged, so this great political critic appeared to have viewed the Constitution of England as the standard, or, to use his own expression, as the mirror of political liberty; and to have delivered in the form of elementary truths the several characteristic principles of that particular system.”

“His meaning, as his own words import, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of free government are subverted.”

When I shall propose a measure liable to such description the gentleman may quote this condemnation. At the end of this paper Mr. Madison tells us for what purpose it was written. He says:

“What I have wished to evince is that the charge brought against the proposed Constitution of violating a sacred maxim of free government, is warranted neither by the real meaning annexed to that maxim by its author, nor by the sense in which it has hitherto been understood in America.”

And it was in this same connection, if I am not mistaken, that my colleague [Mr. COX] said that the argument which had been made in relation to the veto power of the President proved too much. He says:

“The veto power of the President is the limit of presidential interference, and its exercise is allowed only after the law is passed.”

Has my colleague forgotten that by the terms of the Constitution the President is bound to give to Congress information of the state of the Union, and that he does it always at the opening of every session, and frequently during the session, and that now, as it has been from the beginning, in those communications he recommends such legislation as he desires?

But, Mr. Speaker, this argument in relation to the unity of the Executive—the identity in office of the several heads of the Departments with the President himself—has been pushed to the extreme, and in the course of this discussion it has been asked by some gentleman, perhaps my colleague: “If it be proper to call the Cabinet to the House, why not call in the President?” The answer to that question involves the whole argument as to the constitutionality of the proposed bill, and the answer is very plain. The question assumes that the heads of Departments are part of the constitutional Executive of the country.

That is not true. They aid him, as the law prescribes they shall aid him, in the performance of certain duties. But the President is the constitutional Executive; he is the whole executive department. He, and he alone, is the coördinate branch of the Government. Our law recognizes no council of state; our law recognizes no Cabinet, in the sense in which that term is generally used. The President has no authority of law to call the Secretaries together for consultation. It does not belong to the theory of the Constitution. The President, and he alone, is the responsible Executive. His duties are prescribed, his powers are defined by the Constitution itself; and it is right that he should exercise those duties, and in doing so should exert those powers without the consent, ay, if need be, even in defiance, of the obstructions of Congress.

That is not the case with these heads of Departments. The President has no more authority over them than he has over any other officer. He has the power of appointment; and even that might be taken away from him by Congress. He has the power of dismissal; that follows upon the power of appointment. There his power ends. They are the creatures of our law. Their offices are established, their duties prescribed, their term of office and their emoluments defined by our law; and they perform the duties we assign to them only by the powers we give them. We may repeal the law, and the offices fall.

This is the reason why we may bring these Secretaries, and why we may not bring the President upon the floor of the House. The President is, by the Constitution, a coördinate branch of the Government. Congress can no more interfere with the constitutional duties and powers of the President than he can interfere with the constitutional duties and powers with which Congress has been invested. These men occupy no such position. They are the creatures of our will, amenable to our authority, bound to obey our voice and to perform such duties as we may prescribe to them.

A strange delusion, it seems to me, has grown up upon this subject. There is in this whole Government, so far as my examination has extended, but one single officer who can fairly and properly be called a minister of the President, and he is the Secretary of State. If gentlemen will take the trouble to examine the organization of his Department, they will find that he is to perform such duties in connection with foreign relations as the President may prescribe. The language of the law declares that he “shall perform and execute such duties as shall from time to time be enjoined upon or intrusted to him by the President of the United States, agreeably to the Constitution, relative to correspondence, commissions or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign States or princes; or to memorials from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to such Department.” He, and he alone, by reason of that law, stands toward the President in the relation of a minister. Why was that exception made? Because under the Constitution the President of the United States is invested with the authority to make treaties and appoint foreign ministers, with the consent of the Senate; and it has been held, whether right or wrongfully I will not now undertake to say, that the President, at his own option, by his mere volition, without the authority of Congress, may appoint such foreign ministers as he sees fit. In the law organizing the Treasury Department there is no corresponding provision. The duties of the Secretary are defined, and he is made responsible to Congress itself. He is not responsible to the President; he has no responsibility to him except in so far as that is derived from the power of appointment and dismissal.

The organization of the War Department also shows that while by the first law the Secretary was “to perform and execute such duties as shall from time to time be enjoined upon or intrusted to him by the President of the United States, agreeably to the Constitution, relative to military commissions, or to the military or naval forces, ships, or warlike stores of the United States, or

to such other matters respecting military or naval affairs as the President shall assign to that Department,” yet at the same session, and from that time forward, and during the first ten years of the existence of the Government, laws were passed defining and limiting his duties, and investing the Secretary with a discretion independent of the President.

The same will be found to be the fact in relation to the Navy Department. I will not cite the provisions of that law, with which gentlemen are doubtless familiar; but if the House will bear with me for one moment I will call attention to the organization of the Interior Department and of the Attorney General’s Department. In the law organizing the Department of the Interior there will be found not a section, not a clause, not a word, from the beginning to the end, which indicates any special accountability by the Secretary to the President. On the contrary, in relation to the public lands, in relation to the Indian tribes, in relation to certain public accounts, discretion is expressly vested in the head of that Department. When gentlemen speak of a Cabinet council, and the unity of the Secretaries with the President, forming with him a coördinate branch of the Government, I ask them to look at a single section of the law organizing the office of the Attorney General:

“There shall be appointed a meet person learned in the law to act as Attorney General for the United States, who shall be sworn or affirmed to a faithful execution of the office, whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the Departments touching any matters that may concern their Departments, and shall receive such compensation for his services as shall by law be provided.”

And yet the claim is made here, with that single section prescribing all the duties of the Attorney General and defining his Department—the pretense is made here that he is part of the constitutional Executive of the Government. I might go further. In the law in relation to pensions which I find on page 755 of *Brightly’s Digest* it is expressly provided—

“That the heads of Departments who may severally be charged with the administration of the pension laws of the United States, be, and they hereby are, respectfully directed and required, as soon as may be after the opening of each session of Congress, to present to the Senate and House of Representatives a several list of such persons, whether revolutionary, invalid, or otherwise, as shall have made application for a pension, or an increase of pension, and as, in their opinion, respectively, ought to be placed upon the pension roll, or otherwise provided for, and for doing which they have no authority.”

Every Department of this Government, every head of every Department, charged in any way with the payment of pensions is compelled under that law to report directly to Congress his action on it, and his views not only upon the proper administration of the law, but the changes that ought to be made in the law. And yet we are told that these gentlemen are part of the constitutional Executive, and so identified with the President, so entirely his ministers, his agents, his executing hands, we have no power to bring them before the House itself!

Such has been the uniform course of legislation, and the uniform course of judicial decision has established and maintained it. If gentlemen will look at the first volume of *Cranch’s Reports* in the Supreme Court of the United States they will find the case of *Marbury vs. Madison*, in which it was decided that so far as these Cabinet officers were compelled to perform ministerial duties, writs of *mandamus* would lie to compel their performance; but that so far as they were called upon to exercise discretion their accountability was to the political and not to the judicial tribunals. When Mr. Madison refused to issue from the office of the Secretary of State a commission for a justice of peace in this District it was held that he could, by the interference of the courts, be compelled to perform that duty, but that when he refused to exercise a discretion vested in him the court had no power to supervise his action, but must remit him to the political tribunals of the country and the people. An unbroken line of decisions following the authority of that early case settles that question conclusively.

I need not call the attention of legal gentlemen

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to the famous case of Stockton & Stokes against Kendall, in which this whole subject was argued with signal ability. The case is reported in 12th Peters's Reports. During the discussion the same argument made here was pressed upon the attention of the court, but in the decision—the opinion of the court as well as in the dissenting opinions—not a doubt was expressed that there was the same accountability on the part of those who presided in the various Executive Departments which exists on the part of every other officer in the Government. Judge Marshall delivered the opinion in the first case; Judge Taney dissented from the judgment of the court in the second case, but he expressly affirmed the rule of decision which I have endeavored to establish. The case of Decatur and Paulding, reported in 14th Peters, and the case of Brashear & Mason, 6th Howard, establish the same rule, it seems to me, beyond all doubt.

Mr. Speaker, I am not left to the legislation of the country and to judicial decisions alone; I have the authority of Mr. Clay also. In his famous speech on the removal of the deposits he says:

"But by what authority does the Secretary assert that the Treasury Department is one of the Executive Departments of the Government? He has none in the act which creates the Department; he has none in the Constitution."

"\* \* \* \* \* Except the appointment of the officers with the cooperation of the Senate, and the power which is exercised of removing them, the President has neither by the Constitution nor by the law making the Department anything to do with it. The Secretary's reports and responsibility are directly to Congress. The whole scheme of the Department is one of checks, each officer acting as a control upon his associates. The Secretary is required to report, not to the President, but to Congress. Either House may require any report from him, or command his personal attendance before it. It is not therefore true that the Treasury is one of the Executive Departments, subject to the supervision of the President."

In another speech which he made during the presidential campaign in 1840, speaking of this same subject, he says:

"As to the gratuitous assumption made by President Jackson of responsibility for all the subordinate executive officers, it is the merest mockery that was ever put forth."

Professor Lieber, in his Treatise on Civil Liberty, says:

"The Constitution of the United States prohibits any officer of the United States from being a member of either House; and the law does not allow the members of the Administration seats and the right to speak in the Houses, as some think a law to that effect ought to be passed."

And in a later authority from Professor Lieber's own hand, I know his opinion is that the time has come when the law as it exists should be changed.

But if there were any doubt left upon the question of power, as I think there cannot be, I need only call the attention of gentlemen to that clause of the Constitution which is so familiar to us, that Congress shall have power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof."

And I would like to know if gentlemen are prepared now, when they are making such exhausting drafts upon the great reservoir of implied powers, to deny to Congress the right of calling upon these men for their aid, if Congress shall believe it can in that way better perform the functions with which it has been charged by the Constitution.

I pass from this argument of constitutional power. The proposition which is made to the House by the committee of which I had the honor to be a member is twofold: that it shall be the duty of heads of Departments to be present on this floor, in order to give information to the House touching any subject as to which they shall be questioned; and that they shall have the right—not that it shall be a duty—to debate such measures as may pertain to their respective Departments.

The uniform practice of Congress, as every gentleman knows who has been here for one week, is to call upon the heads of Departments for information upon subjects with which their duties make them acquainted. That uniform practice establishes two or three things: first, that the heads of Departments ought to be possessed of the in-

formation; next, that it is advisable that Congress should obtain it; and lastly, that Congress has the power to demand it. And the only question on this branch of the proposition remaining is the single one whether or not the means now used by resolutions of inquiry is preferable to that which the committee recommend. It has been said during the course of this discussion that we would trench upon the right of the President to withhold information for which we may apply. If the information is of such a character that it ought not to be communicated, that answer can be made to the House, as it is now made. If the information is such as ought to be made public, and the officer is willing to give it, how much more satisfactorily can it be given when the parties meet face to face and understand each other. If the information ought to be communicated, and the officer is unwilling to give it, how long will he be able in the face of the country to stand a cross-examination here upon the subject? If the question is one of public right, or private right, affected by a good administration of a bad law, or a bad administration of a good law, how speedily can all the evils be corrected when the facts, the law, the officer, and the member complaining are brought immediately together.

My colleague, [Mr. Cox,] when he addressed the House upon this subject, with a wit which adorns his eloquence, and an elocution which gives point and pungency to his wit, described the Cabinet officers as they came upon the floor of the House. I will not compete with him in that field, but I desire to present to the House one or two other considerations. In 1861, when the States were seceding from this Union, it was charged that the officer intrusted with the administration of the War Department was sending the arms of the United States into the southern States. I see gentlemen around me who remember that fact. I was upon the Committee on the Judiciary, and a resolution of the House instructed that committee to inquire into the facts. They did so, and they did it by all the machinery which is given to an investigating committee—witnesses, subpoenas, marshals, stenographers—and after two weeks' investigation we had obtained little information upon the subject, and the evil was not corrected. Had that officer stood upon the floor of the House, subject to the interrogatories of my colleagues for five minutes, we would have known the exact truth with reference to those arms.

It is said he might have declined to answer. It is true, a man cannot be made to speak, but how long could a Secretary of War stand before this House declining to answer what he was doing with the arms of the Republic?

I believe it is equally well understood that the Secretary of the Treasury had agreed to a scheme to prevent the payment of the interest on the public debt in January of that year. It was only by the intervention of parties in New York agreeing themselves to advance the money, so that there should be no excuse whatever, that the dishonor of the Government was prevented. This fact was suspected by gentlemen here; rumors to that effect at least existed. If the Secretary had been on the floor the truth would have been readily ascertained.

A member of this House, [Mr. Kasson,] whose constituent had been aggrieved by an illegal arrest and imprisonment, applied to the Secretary of War for his release, and received the answer, "I shall not do it." And when he pressed the point he was told, "I do not propose to argue the question with you; I am responsible to the President, and to him alone." A gentleman from New York approached this Secretary within the last week, with a desire to ascertain the quota of his district under this call for three hundred thousand men, and was informed that information on that subject could not be given to members of Congress. How long would such official insolence be tolerated on the floor of this House, in the presence of these reporters who would carry it on the wings of the lightning, the next morning, to every portion of the Republic?

But, sir, a more striking instance of the benefit of this proposed change is to be found in a transaction in which my honorable colleague [Mr. Cox] bore a part. Early this session he introduced a resolution in relation to the exchange of

prisoners. He pressed it with that ability and constancy which are characteristic of him, and finally, on the 21st day of December a resolution was passed by the House calling on the Secretary of War for information on that subject. The answer came on the 21st day of January, one month afterward. It informed us that prior to the time when Congress met the whole subject of exchanges had been committed to Lieutenant General Grant, and that there was every prospect of a speedy exchange.

And at that time—the knowledge of many such instances no doubt prompted the generous heart of my colleague to his action in this matter—there lay in one of the southern prisons a young man who a little while before had been vigorous and strong, with courage high and hope buoyant and energy unflagging. Excited by a generous enthusiasm he had entered the Army of the Republic and was taken prisoner. Disease, suffering, confinement, the want of food, the want of clothing, the horrors of a prison life, had bowed his manly frame until his emaciated body could scarcely support his hardly less broken spirit. If this answer of the Secretary of War had been returned upon the day the question was asked, as it would have been if the Secretary had been on the floor; if on that day the House and the country had been told that General Grant had charge of the exchanges with every prospect of success, thousands of mourning hearts would have been comforted; and by that mysterious influence which seems to pervade all nature, the very air of the prison where this man languished, tainted with miasma as it was, would have brought to him at least one element of life in hope. But the Secretary did not answer for a month. The frail, and feeble, and worn-out body could not sustain the agonies of a hopeless heart, and before the answer came his body lay in the shallow trenches of a prison cemetery and his soul had appealed to the mercies of the God who gave it.

Sir, there are advantages connected with having a prompt response to our questions which cannot be compensated for by any supposed objections to bringing these gentlemen upon the floor of the House.

\* I pass now to that portion of the proposition which involves the right of debate. All gentlemen, I believe, admit that there are certain advantages connected with the participation of these Secretaries in the discussions of the House. The objection made is that they would unduly influence members here, and that there would be a too intimate consolidation of the legislative and executive, and that legislation would not be free.

I will not pause here to inquire how it is that there can be any violation of the rights of the Executive by this measure if—

Mr. ROGERS. Mr. Speaker, will the gentleman yield to me for a question?

Mr. PENDLETON. I will yield for that purpose.

Mr. ROGERS. Does the gentleman now claim that the law of 1818 and the provisions of each special law for the organization of a Territory, that Delegates from Territories shall be elected "for the same term of two years for which members of the House of Representatives are elected, and in that House each of the said Delegates shall have a seat with the right of debating but not voting," which is reported by the committee as a precedent for this bill, is a precedent in this case?

Mr. PENDLETON. I do not claim that it is a precedent directly in point, but it is an admission of a power in Congress exactly analogous to that which I propose now to exercise.

Mr. ROGERS. The right of electing Delegates to Congress is derived from the provision of the Constitution which gives to Congress the power to dispose of and to make all needful rules and regulations respecting the territory of the United States, and is so expressly laid down in Kent's Commentaries, pages 280 and 281.

Mr. PENDLETON. Mr. Speaker, I was making the remark when the gentleman interrupted me, that I did not see how it was that this measure would trench upon the just power of the Executive Departments if the result is to be, as now claimed, the subordination of Congress to the influence of those Departments. Nor do I quite understand the position assumed by gentlemen, that they will



not vote for this measure which we propose, because it gives the Secretaries too much power, but that they would vote for it if it were so framed that resignation should follow an adverse vote. If the Secretaries were to be stimulated by fear of loss of office, would their exertions be less strenuous, or their power less actively used?

The result of this law would be to diminish the illegitimate power of the Secretaries, not their legitimate power. I take things as I find them. I will not be misled by a theory to deny a fact. For the seventy-five years that this Government has been in operation the heads of Departments have exercised influence on legislation. Every gentleman knows it. Every member of this House recollects the scene two or three days ago on the floor when the loan bill was discussed. Every member who has been in the Senate Chamber since that time has seen Cabinet officers there exercising this influence. I will not shut my eyes to the fact that this power exists because I would not have it exist. Every gentleman knowing that it exists knows that every means consistent with its exercise is taken to conceal its existence. It is secret, and therefore it is insidious. It denies itself, therefore it is hypocritical. Being secret and hypocritical, and nevertheless always existing, and always stimulated to great activity, it is driven by the law of its life to the use of illegitimate and improper means. I propose a change. I propose to strip from it the mask, to bring it out into open day, to take away from it the pretense that it does not exist. I propose that it shall acknowledge its existence. And then I propose to establish for it a channel of influence which shall be open to the observation of the House and country, so that an intelligent, wise, and discriminating public opinion, knowing that this power does exist by acknowledgment of law, shall be able to understand the means by which it is exercised, and to restrain its influence to the proper results of those means. I propose to substitute open argument, fair debate, intellectual power, knowledge of facts, for private conversations, partisan appeals, promise of secret reward. Then the influence of the executive officers will be diminished, exactly as much as reason is less potent than persuasion, and as argument is less effective than patronage. Why are advocates allowed to address juries in open court, but not to go into the jury room? Why are they never restrained in the use of any argument, any sophistry, any appeal to prejudice, or even to passion? Because public opinion restrains the influence of such considerations to its proper point. Because it weighs well the force which ought to be given to them and by its judgment compels jurors to do the same and thus robs them of all their capacity for evil.

My colleague [Mr. Cox] told us in the course of his argument that the encroachments which had been made on prerogative in England were made by reaction only, and not through the instrumentality and influence of the British House of Commons. Is that true? Has the gentleman forgotten the brilliant history of the House of Commons? Has he forgotten Magna Charta, the Petition of Right, the Bill of Rights, the Grand Remonstrance, Habeas Corpus, the Statutes of Treason? Has he forgotten that Strafford was beheaded, and Clarendon was banished, and Danby was imprisoned, and Oxford was committed to the Tower, and Bolingbroke and Ormond were attainted? Has he forgotten that Bute, sustained by all the power of a young and brilliant king, was disgraced in thirteen months? Has he forgotten that North, beloved by his sovereign, was at last driven from power? Has he forgotten that, to-day, sustained by the British House of Commons, the man who, in public life, is most obnoxious to the Queen of England, is the Premier of that kingdom? The struggles of the British Parliament in behalf of liberty form the brightest page in the history of England. Its achievements may well thrill the heart of every Englishman as he recounts those heroic deeds, before the luster of whose brilliant glories Agincourt and Cressy and Blenheim and the Peninsula and Waterloo "pale their ineffectual fires." Has he forgotten that it was the constancy and heroism and fortitude of that struggle of seven centuries which inspired the genius of the greatest of modern British poets, when, surrounded by all the inspiring scenes of

Grecian patriotism and Grecian valor, standing upon the graves of Thermopylae, he wrote:

"For freedom's battle, once begun,  
Bequeathed by bleeding sire to son,  
Though baffled oft, is ever won."

Sir, the gentleman has read history aright, and so deep an impression had these facts made upon him that in the midst of his speech, in direct contradiction to the philosophy of his argument and his illustration, he says:

"When the Tudors ascended the throne the contest began which has ended, in this reign of Queen Victoria, in the subordination of nearly all executive power to the ministry, or to the Parliament which can overturn the ministry."

Mr. COX. With the permission of my colleague, [Mr. PENDLETON,] I desire to say this: I have not forgotten, nor did I forget in my remarks, the brilliant history of the British House of Commons. What that House has done, not only for British liberty but for American liberty, I need not show. My argument was that this progress in liberty was made by the English House of Commons and the English people in spite of this very ministerial influence which I would seek to keep out of these Halls.

Mr. PENDLETON. And yet the result of the existence of that House with this ministerial influence which my colleague [Mr. Cox] has so much deprecated, has been that, marching along with stately step for seven hundred years, the people of England have arrived at a degree of liberty which no other people upon the earth, except our own, enjoy. I would follow the history and experience of that Parliament; I would open the dark doors of these Departments; I would expose their doings to the light of day; I would have them accountable to the people; I would have them in correspondence with the Representatives of the people upon this floor; I would prevent that hidden corruption which, at work in secret places, is threatening the very foundations of liberty in this land. No corner should be so dark, no transaction should be so secret, no question should be so important, no condition of affairs should be so delicate, that I would not open it to the gaze of that people upon whose will depend Presidents and Cabinets and Congresses. If this can be accomplished; if that corrupt influence can be cut off; if the power which secretly saps the foundations of our national edifice can be destroyed; if these officers can be brought to exert on our legislation the influence to which their character, their intellectual powers, their information entitle them, this House will more wisely legislate, and they themselves, receiving aid from us, will more effectually discharge the duties which have been devolved upon them.

Time fails me to present all the considerations which crowd upon me in favor of this bill. I had intended to follow its history in other countries and under other systems of government. In no other Government than our own does the rule of exclusion exist. In no other Government is the power of the executive so great as in ours. I had intended to show the progression of statesmen under this system—that from the mere panders to executive dictation and the purchasers of votes by corruption, they became statesmen and publicists worthy to control the destinies of Europe, and to subsidize the military power of the continent. I had intended to demonstrate that this measure was just to the officer, just to the legislator, just to the people—that it would relieve the officer from responsibilities to which he ought not to be liable, and give him power where he ought to possess it; that it would inform and educate the legislator in those things which otherwise he could not know; and that it would excite the popular feeling and keep alive the popular sensibilities. We ought not to be surprised at these things. It is the natural, inevitable law. Hidden motives, secret actions, selfish ends, corrupt appliances—they congregate naturally. Honest purpose, open action, public advantage; reason, judgment, experience, palpable and recognized influence—these also all together demand the passage of this bill. If it shall pass, if my hopes shall be realized, if virtue shall supersede vice, if honest conviction shall be more potent or shall even be substituted for secret persuasion, I shall have renewed hope that purity, energy, wisdom will direct this House.

# CABINET OFFICERS IN CONGRESS.

## SPEECH OF HON. J. F. WILSON,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1865,

On the bill (H. R. No. 214) to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives.

Mr. WILSON. Mr. Speaker, the pending bill proposes a radical departure from the theory of our Government. Its passage must tend to a centralization of power in the executive department, and will end in a partial surrender of the independence of this House into the keeping of the several Secretaries composing the Cabinet. Against such a departure and so baneful a result we cannot too firmly set our faces.

The influence exercised by the members of the executive branch of the Government over the action of the two Houses of Congress has long been a subject of complaint, and the dearest interests of the country have often sorely suffered from this cause. Few Administrations have existed since the adoption of the Constitution against which this complaint has not been lodged. That the committee which reported this bill fully appreciates this fact we have abundant evidence of in the report submitted to the House in support of the bill. After referring to the almost constant presence of this executive influence, the report goes on to say:

"However that may have been, the fact is too obvious to members of Congress to need proof, that the chief officers of the several Departments do exercise an important influence over the legislation of that body. The pages of the Globe within the last few years will satisfy those who have not had seats on the floor and been admitted to the sessions of the committees. It has been notorious for years that, by personal interviews with members, by private conversation at the office, in social intercourse at casual meetings on the floor of the two Houses, by verbal statements to the chairmen of committees—liable always to be misunderstood or even misrepresented—by unofficial communications to the committees themselves, these officers originate, press forward, modify, or entirely defeat, measures of legislation; and it has often happened that the rules of the House have been violated by stating what has occurred in committee in order to convey to members the opinions or wishes of a Secretary."

The chairman of the committee [Mr. PENDLETON] has well stated the case in the words which I have quoted, and clearly shows how much greater is the necessity for some action to destroy the evil practices of which he complains than cause for their enlargement and legalization. Legislative action suggested, directed, controlled by such means as he describes, is entirely void of that independence of character contemplated of the framers of our Constitution. Believe the statement of the case which I have quoted from the report (and I certainly shall not question its truthfulness) and we have before us a positive evil for which a remedy cannot be too speedily found and applied. Have we such a remedy as the case demands in the bill now before the House? We are introduced to the bill by the following title:

A bill to provide that the heads of Executive Departments may occupy seats on the floor of the House of Representatives.

This is a remarkable title for a measure advocated as a destroyer of executive influence over the House of Representatives. The presence has been felt too much already. This is the complaint of the committee. As an antidote to this it is proposed to use the presence which is seen; and this great result is to be reached in the manner set forth in the committee's bill, which reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Attorney General, and the Postmaster General, shall be entitled to occupy seats on the floor of the House of Representatives, with the right to participate in debate upon matters relating to the business of their respective Departments, under such rules as may be prescribed by the House.

SEC. 2. And be it further enacted, That the said Secretaries, the Attorney General, and the Postmaster General, shall attend the sessions of the House of Representatives, immediately on the opening of the sittings, on Mondays and Thursdays of each week, to give information in reply to questions which may be propounded to them under the rules of the House.

Does the committee believe that the passage of this bill will prevent the use of the means resorted to by the heads of the Executive Departments embraced in the report as a basis of complaint? Does the bill propose to interfere with the "personal interviews," "private conversations," "social intercourse at casual meetings," "verbal statements," "unofficial communications," "by means of which these officers originate, press forward, modify, or entirely defeat measures of legislation," or stop the violation of the rules of the House by forbidding the statement of "what has occurred in committee in order to convey to members the opinions or wishes of a Secretary?" The committee assert the existence of an evil. The House admits it. Does the committee propose its abatement? Not at all; but rather its legalization. The bill leaves every evil thing as it finds it, and decides to make bad worse. It substantially says to the heads of the Executive Departments, "five days in each week 'shalt thou labor, and do thy work,' and on two other days of each week we will ask you some questions about it, or inquire of you whether we had not better pass a resolution touching some subject concerning which we desire information."

To show that I am not doing injustice to the committee, I quote the following from the proposed amendments to the rules:

On Monday and Thursday of each week, before any other business shall be taken up, except by unanimous consent, the resolutions and questions shall be taken up in the order in which they have been entered upon the notice-book for that day.

The member offering a resolution may state succinctly the object and scope of his resolution and the reasons for desiring the information; and the Secretary of the proper Department may reply, giving the information or the reasons why the same should be withheld; and then, without further debate, the House shall vote on the resolution, unless it shall be withdrawn or postponed.

In putting any question to the Secretaries, or the Attorney General, or Postmaster General, no argument or opinion is to be offered, nor any fact stated, except so far as may be necessary to explain such question. And in answering such question, the Secretary, the Attorney General, or Postmaster General, shall not debate the matter to which the same refers, nor state facts or opinions other than those necessary to explain the answer.

Under the operation of these rules you would have the immediate presence of the Secretaries, backed by their influence, patronage, power to reward or punish, to resist the passage of the simplest and most proper resolution of inquiry touching the affairs of the nation. We all know how difficult it is now to secure the adoption of resolutions of inquiry, especially when offered by the Opposition, of which the Secretaries have no knowledge. How much more difficult would it be if the head of an Executive Department were present standing in declared opposition to the adoption of any given resolution.

The effect of the presence of a Secretary on the floor of this House is forcibly illustrated by the committee in the appendix to the report. I quote this example from the many citations from the Globe made by the committee for the purpose of enforcing the conclusion of the report:

"MR. STEVENS offered an amendment providing, among other things, that the interest on the bonds should be paid in currency. This amendment was carried by a vote of 72 for to 51 against it. The bill thus amended was reported to the House, and on a vote of yeas and nays, on Mr. STEVENS's amendment it was defeated—yeas 59, nays 81. In the mean time the Secretary of the Treasury and the Assistant Secretary had come to the House, and were then on the floor."—Page 2133.

Here, sir, almost in the twinkling of an eye, a vote of this House is changed from yeas 72, nays 51, to yeas 59, nays 81. This extraordinary result is explained by the italicized comment of the committee "in the mean time," that is, the time which elapsed between the taking of these two votes, and which we all remember was a very short time, "the Secretary of the Treasury and the Assistant Secretary had come to the House, and were then on the floor."

The committee seem not to approve of this potential kind of presence. Then why not forbid it? This would seem to be the most appropriate remedy; but the committee think otherwise. The remedy of the committee is to declare by law that this thing complained of, this self-evident evil, shall be adopted as a part of the legislative and executive practice of the country, and held to be entirely right and proper.

But it is asked, concerning the Secretaries:

"Would it not be better that their opinions should be expressed, their facts stated, their policy enforced, their acts defended, in open day, on the floor of the House, in the face of the nation, in public speech, in official, recorded statement, where there can be no hidden purpose, no misconception, no misrepresentation?"

The answer to this is that it is not proposed to interfere with the means heretofore resorted to by the heads of Executive Departments to influence the action of this House. Whatever of evil now exists is to be preserved; and every gentleman in this body who has given any attention to the course pursued by the members of the British cabinet when questioned in the House of Commons concerning matters which they choose to keep to themselves or send abroad in a mist, can well anticipate the grand success which will attend the adoption of the English system by this House. When the Secretary has a good case, we will receive it from him in its brightest colors and gayest apparel. When the case stands otherwise, we shall receive just information enough to indicate the opposition of the Secretary to the passage of an unpleasant resolution of inquiry, and that will be the end of it; for it must be remembered that, under the proposed amendments to the rules, we are merely to "state the object and scope of the resolution and reasons for desiring the information, and the Secretary of the proper Department may reply, giving the information or the reasons why the same should be withheld, and then, without further debate, the House shall vote on the resolution, unless it shall be withdrawn or postponed." Who can doubt the fate of a resolution upon which a Secretary may frown, if we are to judge by the force of the mere presence of a Secretary on the amendment of the gentleman from Pennsylvania [Mr. STEVENS] already referred to? The direct legalized contact of the heads of the Executive Departments with the action of this House can have none other than a baneful influence upon the at least theoretical independence of the legislative department of the Government.

The committee refer to the act of 1789, whereby it was made the duty of the Secretary of the Treasury "to make report and give information to either branch of the Legislature in person or in writing (as he may be required) respecting all matters referred to him by the Senate or House of Representatives, or which shall appertain to his office" in support of the bill we are now considering. Sir, there is a radical difference between the provisions of the act of 1789 and the present bill. That act conferred no right upon the Secretary of the Treasury to attend the sittings of the House and engage in debate on his own motion. He was to be present when either House required his presence. The House was to judge when the presence of the Secretary might be advantageous to the affairs of the country. The proposition we are considering makes the Secretary the judge, except on two days of the week, and then he may, under the provisions of the amendments to the rules, evade the object his presence is intended to secure. The reference to the act of 1789 thus appears to be most unhappy for the purposes of the committee. Nor is the committee more successful in the presentation of precedent when they refer to the instances which occurred during the year 1789, of the presence of Secretaries in the Senate. The first case cited is the appearance of the Secretary of Foreign Affairs on July 22, 1789. This, sir, was in obedience to the following order of the Senate:

"Ordered, That the Secretary of Foreign Affairs attend the Senate to-morrow, and bring with him such papers as are requisite to give full information relative to the consular convention between France and the United States."—*Annals of Congress*, vol. 1, page 52.

By this order it not only appears that the Senate ordered the Secretary to appear, but determined in the same order what he should do, and what information he should communicate. The proposition of the committee is that the Secretary shall be present by right conferred by law, and combat, if he so chooses, the efforts of the House to procure information.

The second case cited by the committee is thus stated in the *Annals of Congress*:

Gentlemen of the Senate:

The President of the United States will meet the Senate, in the Senate Chamber, at half past eleven o'clock to-mor-

row, to advise with them on the terms of the treaty to be negotiated with the southern Indians.

GEORGE WASHINGTON.  
New York, August 21, 1789.

In pursuance of this notice the President appeared in the Senate, and the following entry was made in the proceedings:

"The President of the United States came into the Senate Chamber, attended by General Knox, and laid before the Senate the following statement of facts, with the questions thereto annexed, for their consent."—*Annals of Congress*, vol. 1, page 67.

That is all General Knox had to do with that transaction. He attended the President, as any other gentleman entitled to the privilege of being on the floor of the Senate, might have done. And here it is well to remind members that the early practice in relation to the delivery of messages to Congress by the President was for him to present them in person.

The next case presented by the committee is thus stated in the same volume, page 71:

"The President of the United States being present in the Senate Chamber, attended by General Knox, the Senate resumed," &c.

That is the important part performed by General Knox during his second appearance in the Senate.

The fourth precedent mentioned by the committee is thus stated in the proceedings of the Senate:

"The following message was received from the President of the United States, by General Knox, who delivered therewith sundry statements and papers relating to the same." [After this entry follows the message delivered.]—*Annals of Congress*, vol. 1, page 709.

The gentleman from Ohio, [Mr. GARFIELD,] in his argument in favor of the passage of this bill, dwelt on the word "statements," which occurs in this so-called precedent, with a kind of emphatic delight, as though it settled beyond dispute the fact that the Secretary of War did address the Senate orally. Never was a gentleman more mistaken. He wished it so, and believed it was so; and this is all the foundation he had for his argument.

If the gentleman will turn to the report of the Commissioner of the General Land Office he will find a multitude of tables under such captions as these: "Statement of the surveying returns, showing the number of acres of public lands surveyed," &c.; "Statement exhibiting the quantity of land selected for the several States," &c.; "Statement of public lands sold, of cash received therefor," &c.; "Statement showing the number of townships surveyed," &c. Are these oral communications to the House, because they are called "statements?"

The Commissioner of the General Land Office makes his report to the Secretary of the Interior. As one of the documents accompanying his report the Secretary submits it to the President, and the President forwards it to this House as one of the documents accompanying his message which is delivered to us by his Private Secretary. Now, sir, it may be truthfully said of the Private Secretary, and be entered on the Journal, that he appeared in the House and delivered a message from the President, together with "sundry statements and papers relating to the same."

The last case presented by the committee is a mere repetition of the one just noticed, and is entered in the proceedings of the Senate in these words:

"The following message was received from the President of the United States, by General Knox, who delivered the same, together with a statement of the troops in the service of the United States."—*Annals of Congress*, vol. 1, page 715.

The term "statement" found in this so-called precedent is susceptible of the same explanation already given. Other cases may be found, but none stronger in support of the conclusions of the committee than those which I have noticed, and they embrace all the instances quoted by the committee. And in all of these the person through whom the President communicated his messages to Congress, and who attended the President in his visit to the Senate, is mentioned as "General Knox," and not as "Secretary of War."

If the committee attach any force to the so-called precedents, it may be well for me to remind the members of it, and this House, that they all

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Report of the Secretary of War.

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occurred during the time when the Federal party held control of Congress. The mention of this fact will doubtless recall to the recollection of the chairman of the committee [Mr. PENDLETON] many instances in which he has asserted that the Federal party was one which favored a centralization of power in the executive branch of the Government. But, sir, that party, though charged with favoring centralization, never went so far in that direction as does the bill which received the support of a majority of the committee, including the chairman, by which it was brought before the House. This bill out-Federal the Federalists. It is open-browed, undisguised centralization.

But it is said that the system now proposed for adoption by us has been adopted by Great Britain, France, Spain, Holland, the Netherlands, Portugal, Greece, Prussia, Brazil, Chili, and many other States. This is true; but it is not urged that the system works well in those countries, nor that it benefits the interests of the people. And I will venture the assertion that the committee cannot name an instance of ministerial admission to the halls of legislation which does not tend to strengthen the executive at the expense of the other departments of Government. Every one conversant with the history of the British Parliament knows how immense is the power which the ministry exerts over the deliberations and actions of the House of Commons, and how rarely defeat overtakes the cabinet.

The example of Great Britain is the most striking of all the cases cited by the committee, and yet how totally different it is from the plan we are called on to adopt. If the English system could be stripped of its power to corrupt and overawe the Commons, it would be as nearly perfect as could be desired, for under it a defeat of the ministers compels them to retire from power, unless, upon a dissolution of Parliament and an appeal to the electors, they are sustained. We can have no such thing here. We must, if we pass this bill, submit to all the evils of the British plan without enjoying any of its good features; and here it must be remembered that the members of the British cabinet have no rights on the floor of the House of Commons other than those which pertain to them as members of Parliament. They occupy their seats, speak, vote, and otherwise participate in the transaction of public business because they are members of Parliament and not because they hold ministerial positions. The ministerial office may be resigned without affecting the parliamentary office. The retiring minister remains a member of Parliament, takes his place on the opposition instead of the ministerial benches, and continues to exercise and enjoy all the rights and privileges belonging to other members of the body.

The plan presented to us is quite different, and must be so under our Constitution; for

"No person holding any office under the United States shall be a member of either House during his continuance in office."—*Constitution of the United States*, art. 1, sec. 4.

A member of the Cabinet cannot be a member of this House, so that the only right he could have on this floor would be by the virtue of his position in the executive department of the Government; a resignation of the Cabinet office would exclude him from this body also. Thus it will be seen that the British plan is no precedent for us. We could not follow it if we should desire so to do.

But, sir, to what extent are we to carry this proposition to admit persons to the privileges of this floor with the right to participate in debate? Cabinet officers have been increasing in number at intervals from the commencement of the Government down to almost our own time, and propositions are pending in some of the committees of this House to still further enlarge the number.

The Department of State was created by the act of July 27, 1789; the War Department by the act of August 7, 1789; the Treasury Department by the act of September 2, 1789; the Navy Department by the act of April 30, 1798; the Interior Department by the act of March 3, 1849. The heads of these Departments were members of the Cabinet from the first establishment of their respective offices.

The office of Attorney General was created by the act of September 24, 1789; but he did not

become a Cabinet officer until, I believe, the year 1845. The act providing for the appointment of a Postmaster General was approved March 3, 1825, but, if my recollection serves me correctly, he did not become a Cabinet officer until some time afterward—I cannot now name the year.

We now have seven members of the Cabinet whose offices were created at different periods as the exigencies of the Government demanded. This bill proposes to admit them all to this floor; from which it is fair to presume that all heads of Departments which future legislation may create will be clothed with the same privilege. To what number we shall arrive the future alone can determine. During the Thirty-Seventh Congress and the present one measures have been suggested for the establishment of these additional Executive Departments: Department of Agriculture, Department of Industry, Department of Mines and Mineral Lands, and a Department of Internal Revenue. Should these propositions receive the approval of Congress four more Cabinet officers would be added to the number it is now proposed to admit to the privileges of this floor, making eleven in all. How many more may be added in response to the demands of the marvelous development of our material resources no man can tell. But it is not difficult to determine the power a numerous body of men holding the immense patronage of the Executive Departments in their hands would exercise upon the deliberations of this House. There is no safety in following the line of action which this bill marks out.

Mr. Speaker, thus far my remarks have been guided by the state of facts now existing. The executive and legislative departments of the Government are possessed by the same political party. But another state of facts may hereafter be produced, and then we should witness results quite different from those which I have presented. What would be the effect upon the country of a majority in this House hostile to the occupants of the executive offices? With this House opposed to the President and his Cabinet, and guided by the relentless bitterness which often marks partisan warfare in this country, who can calculate the disastrous consequences which might flow from such a fountain of gall? Unfortunately for us, partisan feeling and prejudice often make the embarrassment and overthrow of an Administration the objective point of all party action. In such a case no more powerful belligerent party engineery could be devised than that which this bill proposes to establish. With this power a hostile majority in this House could drive any faithful Cabinet into retirement and practically defeat the end designed to be reached by the provision of the Constitution which authorizes the President to appoint, by and with the advice and consent of the Senate, those officers who act as his confidential advisers. No man of sufficient pride of character to entitle him to occupy a position in the Cabinet would accept an office which should subject him to the reckless partisan badgering of a hostile majority in this House. A practical absorption by this House of the independent character with which the Constitution designed to clothe the executive department, or a rupture between the two, must be the result of the system we are considering. Let such a struggle commence here and who can measure the extent of the mischief which the Republic would realize? A determined Executive and an obstinate House could soon make up an issue which would drench this land in blood. English history tells too plainly of the bitter fruits which such a rupture between two departments of the Government may produce. The experiences of England during the contest between Charles and the Parliament should admonish us to beware of measures which may cause a repetition in this Republic of the fearful tragedy which was enacted in the mother country.

Mr. Speaker, there is no safety in the experiment which we are asked to make. It is an "infernal machine" which were better left unopened and untouched. It is a dangerous departure from the theory of the Government and the established usage of the nation. I trust the House will meet it with a most emphatic and determined disapproval.

## Report of the Secretary of War.

EXECUTIVE MANSION,

WASHINGTON, D. C., March 2, 1865.

SIR: I transmit herewith the report of the Secretary of War, which, with my permission, has been delayed until the present time to enable the Lieutenant General to furnish his report.

ABRAHAM LINCOLN.

Hon. SCHUYLER COLFAX,

Speaker House of Representatives.

WAR DEPARTMENT,

WASHINGTON CITY, March 1, 1865.

MR. PRESIDENT: I have the honor herewith to submit the annual reports of the several bureaus of this Department. They were designed to accompany my annual report, which, by your permission, has been delayed until the Lieutenant General should furnish his summary of the military operations of the past year. His report has not yet been received, as the activity of the campaign in progress demands his unceasing attention. But the accompanying documents are now submitted, in order that, so far as can be done without injury to the service, they may be printed with the public documents of the present session of Congress.

The military events of the past year have been officially published by this Department from time to time as they transpired, and are fully known in every branch of this Government, and throughout the civilized world. They constitute a series of successful marches, sieges, and battles, attesting the endurance and courage of the soldiers of the United States, and the gallantry and military skill of their commanders, unrivaled in the history of nations.

The campaign of the army of the Potomac, and the operations on the James river, the Appomattox, and around Richmond and Petersburg; the masterly operations of our army in Georgia, resulting in the capture of Atlanta, Savannah, and other important military posts in that State; the reduction of the forts in the harbor of Mobile; the hard-fought battles at Franklin and around Nashville, resulting in the rout of the rebel army in Tennessee; the succession of brilliant victories won by the army of the Shenandoah; the successful storming of Fort Fisher; the capture of Wilmington, Columbia, and Charleston, and other achievements of less note, all contributing to the triumph of the Union cause and the suppression of the rebellion, will be more appropriately detailed upon the coming in of the report of the Lieutenant General.

That the administrative operations of the several bureaus of this Department have not failed to contribute to the success of our armies is shown by the official reports of their respective chiefs.

The Adjutant General reports the difficulties springing from a sudden and vast increase of business, measurably overcome in his bureau, clerks instructed, and work systematized. Credit is justly due to both the officers and clerks for their fidelity.

Despite superior advantages for recruiting volunteers, greater success has been reached in the regular service than was anticipated. There are two depots for collection of recruits for the Army at large, one for infantry at Fort Columbus, New York, and one for mounted service at Carlisle, Pennsylvania. There are also fourteen depots for particular regiments established in different sections of the country. Sick and wounded officers have generally been employed on recruiting service, and when recovered they have been sent to replace others in the field who require relief.

Twenty-one depots are established in the principal States for collecting and forwarding to regiments volunteers and substitutes, and also drafted men. The Veteran Reserve corps has been of much service in guarding these depots and escorting detachments to their regiments. There are also six special depots for recruits enlisted in rebel States by agents from loyal States.

Boards of examination have been kept up to inquire into causes of absence from duty and alleged offenses by officers. The effect has been to diminish the number of cases published and referred to the boards to three hundred and sixty-



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four for eleven months; whereas, before their organization, from one hundred to two hundred were reported monthly for absence without leave alone.

The status of chaplains seems to be misunderstood. From the wording of the act of April 9, 1864, section one, it is thought by some chaplains that a new rank between the grades of major and captain is intended for them. This is supposed to be an error growing out of the use of the term "surgeon," in the act, instead of "medical officer." The former assimilated rank of chaplains, in reference to allowance of quarters and pay proper, was "captain," and such should now be their rank.

Over two hundred flags captured from the rebels have been received, properly labeled, and deposited for safe-keeping.

Medals of honor have been awarded in numerous instances to privates and non-commissioned officers for gallant services. The plan of awarding gold and silver medals to officers instead of brevets, to a certain extent, is commended to notice. It should not supersede the conferring of brevet, especially in cases where such rank might be exercised in high commands.

The work of preparing official reports of battles, &c., for printing, in compliance with the resolution of Congress of May 19, 1864, is progressing as rapidly as possible, and all officers from whom such reports are due have been called upon for them.

The Paymaster General reports that the entire Army is paid to August 31, 1864, or in process of pay as rapidly as the Treasury can supply funds.

He calls attention to the defective organization of his bureau, and strongly urges that the Paymaster General have the rank of a brigadier general; that there be two assistant paymaster generals, with the rank of colonel, and ten deputy paymaster generals, in addition to the two now provided by law, with the rank of lieutenant colonel. He also recommends the adoption of a provision of law to the effect that any paymaster or additional paymaster selected by the Secretary of War to take charge of a geographical pay district, shall have the temporary rank of lieutenant colonel during such charge.

He also reports that the clerical force of his bureau is efficient, and that no increase is believed to be at present required.

The Chief of Ordnance reports that the fiscal affairs of that bureau show a

Balance 1st July, 1864, of.....	\$3,122,979 11
Appropriations.....	42,015,000 00
Miscellaneous receipts.....	141,023 01
Total means.....	\$45,279,002 12

Expenditures during the year.....	\$38,502,822 99
In Treasury and public depositories June 30, 1864.....	1,797,387 16
Amount of appropriations remaining in Treasury same date.....	4,978,791 97
	\$45,279,002 12

The estimates for the next fiscal year are based on expenditures for a similar period last year, taking into consideration remaining balances and supplies on hand.

The supplies produced during the past fiscal year include 1,750 pieces of ordnance, 2,361 artillery carriages and caissons, 802,525 small-arms, 794,055 sets of accouterments and harness, 1,674,244 projectiles for cannon, 12,740,146 pounds of bullets and lead, 8,409,400 pounds of gunpowder, 169,490,029 cartridges for small-arms. These are complete articles, in addition to large quantities of the same kind of supplies partially made up at the arsenals.

The ordnance supplies furnished to the military service during the fiscal year include 1,141 pieces of ordnance, 1,896 artillery carriages and caissons, 455,910 small-arms, 502,044 sets of accouterments and harness, 1,913,753 projectiles for cannon, 7,624,685 pounds of bullets and lead, 464,549 rounds of artillery ammunition, 152,067 sets of horse equipments, 112,087,553 cartridges for small-arms, 7,544,044 pounds of gunpowder. These supplies were in addition to large quantities of parts provided for repairs in the field.

The capacity of the arsenals for the manufacture of munitions of war has been increased dur-

ing the year, and that increase is still going on, so far as the means appropriated will admit. Supplies manufactured at the arsenals are of better quality and less cost than similar articles obtained by contract or purchase.

The national armory at Springfield, Massachusetts, can turn out three hundred thousand of the best quality of rifle muskets annually.

Possession has been taken of Rock Island, Illinois, in pursuance of an act of Congress, and the requisite buildings for an arsenal there are in progress.

There is on hand a stock of three quarters of a million of first-class rifle small-arms, exclusive of the arms in the hands of the troops, since increased to a million and a quarter.

The introduction of breech-loading arms for the military service generally is recommended.

The selection of a site for a general depository of gunpowder, and the erection of suitable magazines thereon, is recommended. In that connection, the construction of a Government powder-mill, of sufficient capacity to make standard and proof powder and gun-cotton, is also recommended.

The procurement of a suitable ground for the proof and experimental firing of ordnance and small-arms is urgently advised as a most essential want of the military service.

A heavy twenty-inch gun has been successfully cast and finished, and is ready for trial. The object of the trial is to demonstrate whether the destructive effects of such a gun, warranted by theory, will be practically realized, and to settle the question of the largest effective caliber for sea-coast cannon.

The armies in the field have been amply supplied with good and effective arms, equipment, and ammunition, and the armament of our fortifications has been kept in good order, and strengthened, during the year.

The Chief Engineer reports that the operations of his bureau for the last year embrace special efforts to prepare the coast defenses to receive the heavier and most suitable artillery for combating iron-clad vessels; the construction of field-works and lines with the armies in the field; the preparation and service of pontoon-bridge equipage, and the reduction of the enemy's works on Morris Island, at Fort Morgan, and Fort Gaines, by siege operations.

Much information, in campaign maps and other forms, has been prepared and disseminated, the survey of the lakes has been satisfactorily continued, and progress made in the repairs and preservation of harbor-works for which appropriations were made at the last session of Congress.

The expenditures of the year, including the maintenance of the Military Academy, amount to \$6,345,191 74.

A board of engineers, ordered by the War Department in January, 1864, to examine the system of our sea-coast defenses, has performed its duties, recommending the modifications made necessary in them by the introduction of increased calibers and rifle guns, and to enable them to combat effectively iron-clad hostile fleets. Earth as a material for parapets and ramparts is now (as it has been from the earliest employment of battering artillery) found to be the best, as well as the most economical resisting mass to oppose to an enemy's fire, both on the land and sea fronts. This material is uniformly adhered to wherever the locality permits.

Nine officers of engineers, out of a total number of eighty-six, have been lost during the year by death; all of them have given their lives to the service of the country.

During the year twenty-seven cadets completed the course of studies and practice in the Military Academy, and were commissioned in the Army. The smallness of this number grows out of the resignations which occurred in this class in the beginning of the rebellion. The classes at this time have the usual strength corresponding to congressional representation.

The Commissary General of Subsistence reports that the supplies of subsistence stores have been mostly purchased in Boston, New York, Philadelphia, Baltimore, Washington, Cincinnati, Louisville, Chicago, and St. Louis. Beef cattle were furnished by contracts of short dura-

tion at most convenient places, and driven from the place of purchase to the field. Most of the stores were purchased by advertising, accepting the lowest bids offered for suitable articles at cash prices. Attempts have in some cases been made by individuals and associations to monopolize and control the prices of articles required by the Subsistence Bureau, thereby creating much difficulty.

The armies have been supplied with good and wholesome food, and large numbers of prisoners and suffering Union families have been furnished with subsistence. Generally the contractors and others have faithfully complied with their obligations. Officers employed in this branch of the service, with but few exceptions, have performed their duties with promptness in the field and at depots. During the year ending June 30, 1864, 52,492 quarterly or monthly accounts have been examined and referred to the Treasury Department.

The report of the Quartermaster General contains a statement of the operations and expenditures of the bureau under his control during the fiscal year.

The clerical force authorized by law is, in his opinion, still insufficient to make that prompt examination of accounts and reports of disbursing officers desirable, and indeed necessary, to secure rigid accountability for the expenditure of the public money and property.

An extension of the increase of compensation granted by the last Congress to clerks of the lower grades, so as to include those of higher grades, is recommended by the Quartermaster General in view of the increased cost of living in Washington.

The Quartermaster General gives an account of the measures adopted under the orders of the Secretary of War for equipping, supplying, and moving the large army which, concentrating last November on the banks of the Tennessee, fought under General Grant the battle of Chattanooga, and opened the way for the victorious campaign of the army under General Sherman, resulting in the capture of Atlanta and the operations which are now in progress in the State of Georgia. The vast efforts made, the wonderful resources in men and material developed, the manner in which the steamboat and railroad interests, the agricultural and mechanical products of the valley of the Mississippi, were laid under contribution in feeding, supplying, and moving a vast army in an advance of over three hundred miles from its secondary and four hundred and fifty miles from its primitive base, are described. The record is one creditable to the people who have developed such vast resources and placed them so patriotically at the disposal of the Government, and also to the officers, their agents in this great work.

The report gives tables of the quantities of the principal military supplies, fuel, forage, clothing, and materials purchased, transported, and used during the year. It also contains statements of the steamboats employed upon the western rivers, and of the steamers and other vessels upon the ocean, engaged in the transportation of troops and supplies.

In this service it is believed many abuses have been reformed and great economies have been effected during the past year. The indications derived from congressional examination and reports have been followed up with advantage to the service.

The Army has been well supplied with all the essentials of military equipment, and with fuel, forage, and all necessities.

The losses by capture and destruction of trains, by the burning of transports by incendiaries employed by the rebels, have been great; but the movements of the armies have seldom been delayed by them.

The most severe losses of material during the year have been the destruction of a portion of the train of the army at Chattanooga in the fall of 1863, and the consequent destruction of animals there and in East Tennessee, the destruction of steamers on the Mississippi and Ohio by incendiaries; the loss of the trains during the Red river expedition; and to these may be added the destruction of a train of two hundred wagons near Fort Smith, in Arkansas, since the close of the fiscal year.

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As the rebel armies are beaten back, they burn all important railroad bridges, tear up the railroad tracks, destroy the water stations, carry off the machinery and rolling stock, and do all that is in their power to render the railroads useless to our armies.

The armies are obliged to follow generally the natural lines of transport and communication, and the lines by which the enemy retires. All the railroads north of the Potomac, and of the Tennessee and Cumberland, and within the territory which our armies have penetrated, have been alternately in the hands of the rebels and of our own troops. When abandoned by the enemy, their immediate reconstruction and operation becomes a military necessity.

Colonel (now Brevet Brigadier General) D. C. McCollum has been placed as military director in charge of this work. He has organized an efficient construction corps, provided rolling stock for which it was necessary to make onerous demands upon the manufacturers of the loyal States. The report of Colonel McCollum is a record of the expenditure of over eleven millions of the appropriations of the quartermaster's department. It gives information upon the means and the cost of supplying an army by railroad, and the manner of repairing and reconstructing railroads in a hostile country, which is of great interest to soldiers and engineers. The results are remarkable triumphs of military and engineering skill, creditable to the system under which they have been accomplished, to the officers and men engaged in the work, and to the country which has displayed such energy and such resources in defending and asserting its integrity. Already a thousand miles of railroad have been operated by this department, in connection with the movements of the armies.

The mobility of the armies has increased. The opinion held by some officers of rank in the early history of the rebellion, that an army could not be maintained except within reach of a navigable river or railroad, has been dispersed by such marches as those of General Sherman, from Vicksburg, east of Meridian, and back to Vicksburg, from Memphis to Knoxville and back to Decatur, at a time when the railroads were not in operation; that of General Burnside, from Cincinnati and Louisville, through southeast Kentucky, to Knoxville; and that of Lieutenant General Grant from Washington to Petersburg, and the march of General Sherman from Atlanta toward the coast.

The organization of this bureau has been much improved by the law of the 4th of July last. The grades of rank and authority being now in proportion to the duties and responsibilities, the officers work with greater success. The present organization is fully detailed in the report of the Quartermaster General, and no further changes are thought necessary.

The agreement made by the War Department with a convention of railroad companies held in this city early in the war has remained in force. The railroads have continued to do the work of the Government at the prices then established, except as modified by the internal revenue laws, though below those then charged to private citizens, which have since been considerably increased.

To a few railroads, subject to depredations by the enemy from their being in districts where the Department has not been able to give them entire protection and safety, some advance in rate has been granted.

The telegraph has continued to be a most efficient and valuable aid to military operations. Six thousand five hundred miles of military telegraph has been in operation, of which three thousand miles have been constructed during the year. About one thousand persons have been employed in this work. The efficiency and fidelity of the officers and operatives of the military telegraph deserve special recognition.

Full reports are given of the quantities of clothing, camp and garrison equipage furnished to the armies during the year. No difficulty has been found in procuring ample supplies of good quality from domestic manufacturers, with the exception of tents and blankets. In a portion of these imported materials have been used, as the domestic

manufactories have not yet been able to supply all that were needed. Some frauds have been committed, the authors of which it is believed will be brought to justice by measures now in progress. Some have already been convicted and sentenced to the penitentiary.

The vast supplies of forage needed for our armies have been furnished generally with regularity. The difficulty of transporting so bulky an article as hay has caused some irregularity in its supply to armies in hostile districts, and it is remarked in this connection that the armies in actual movement draw less heavily upon the means of the Department than those which rest long inactive in districts exhausted of supplies, and therefore drawing every necessary from the distant loyal territory.

The trains of the Army are reported to be in good condition, thoroughly organized, movable, perfect in material and equipment, and well supplied with animals, and the means of repair.

The purchase of horses for the cavalry was, during the fiscal year, under the direction of a branch of the Quartermaster General's office organized especially for that purpose, in connection with the Cavalry Bureau. Since the reorganization of this office under the law of July 4, 1864, the purchase of all horses and mules for cavalry, artillery, and the trains, has been placed under the charge of a single division of the Quartermaster General's office. It is believed that this has resulted in advantage to the service by securing more direct and speedy responsibility, and a better and more uniform inspection.

The supply of animals has been at the rate of about five hundred per day, which is also the average rate of their destruction. The cavalry of the army of the Potomac was twice remounted during the first eight months of the present year.

The production of the country seems to be able to bear the immense drain upon its horses and mules, and the stock, judging from the current prices, gives no signs of exhaustion or diminution.

The quartermasters' trains of our armies average one wagon to every twenty-four men in the field; and an army in the field, well equipped with artillery, cavalry, and trains, requires one horse or mule, on the average, to every two men. The number of horses and mules is nearly equal.

The ground appropriated for a cemetery near the "Soldiers' Home," in the District, having been filled, a national military cemetery has been established at Arlington, on the south bank of the Potomac, in which several thousand interments have already been made. The names of the soldiers here buried are registered. Those who fell repelling the rebel attack on the capital last July have been buried on the battle-field north of Fort Stevens. It is recommended that Congress provide for the erection of a monument to them.

For the better protection of the depots of the Quartermaster's Bureau from rebel raids, the Quartermaster General was directed to cause the persons employed in his department, at the principal and exposed depots, to be organized into military companies and regiments for internal guard duty and for local defense.

This organization at Washington, Nashville, and Louisville has brought into service, as an aid to the regular troops, a force of several thousand men. They have, both in this District and in Tennessee, been called upon several times during the last year to take the place of regular troops on guard and in the trenches, and have done good service at Washington, Nashville, and Johnsonville, all of which depots have been threatened or attacked by the rebel armies.

The Quartermaster General states that the views expressed in his report of 1862, in regard to the aid to be expected and derived from the colored population, have been confirmed by two years' experience. These persons have been extensively employed in the labors of the Quartermaster General's bureau, where each one so employed released a white soldier from labor, and restores him to his place in line of battle. Their extensive enlistment has created a demand, however, beyond the supply; application being made to the Quartermaster General for such labor with the armies before Richmond, which he was unable to provide, he endeavored to procure colored men from the departments of the Atlantic and

Gulf coast, where it was publicly reported that they were suffering for want of employment. None could be obtained from those departments, however. The commander of one of them reported that they were all wanted for labor necessary to the success of military operations, or for other public service, and that not a man, woman, or child could be spared.

The Quartermaster General makes honorable mention of the labors and services of some of the officers of his bureau, who have been engaged in the most important operations, and have most contributed to the general success of our armies.

Reference is made to the danger of interruption of our military communications with the States on the Pacific coast by war, and the difficulty of supplying armies and defending these portions of the Republic, when the only military communication not exposed to a hostile fleet is a wagon road across the continent, is mentioned. The early completion of the Pacific railroad is called for as a military precaution, deserving attention and the fostering care of the Government.

It appears from the report of the Surgeon General that the funds derived from all sources, and available for the expenses of the medical department for the fiscal year ending June 30, 1864, were \$12,263,988 08.

Disbursements.....	\$11,025,791 33
Balance remaining in the Treasury June 30, 1864.....	914,135 10
Balance in the hands of disbursing officers.....	324,061 65
	<hr/> \$12,263,988 08

One hundred and eighty-two hospitals, with a capacity of 84,472 beds, were in operation at the date of the last annual report. During the summer campaign it was found necessary to establish additional ones, and increase the capacity of those nearest the scenes of active operations, giving 190 hospitals, with a capacity of 120,521 beds on June 30, 1864. During the year the health of the entire Army was better than is usual with troops engaged so constantly on active duty and in arduous campaigns. No destructive epidemics prevailed in any section, and the number of sick and wounded, although large, has been comparatively small in the proportion it bore to the whole Army. At the close of the year the number of sick and wounded, both with their commands and in general hospitals, was less than sixteen per cent. of the strength of the Army. The number sick with their respective commands was four per cent., and in general hospitals five and three tenths per cent., of the strength. Of the six and forty-six hundredths per cent. wounded, nearly one per cent. were with their respective commands, the rest in general hospitals.

The establishment of medical depots within reach of armies in the field, and their prompt supply upon the field of battle; the transportation of sick and wounded by ambulance, railroad, and hospital transports; the sufficiency and successful administration of the best system of general hospitals, the sanitary precautions, as well as all minor details of this department, tending to the greater comfort of the sick and wounded, as well as to the health and efficiency of the troops, have, during the year, undergone the severest possible test, and in no instance have the movements of successful generals been impeded or delayed from any cause within the control of the medical department.

House bill No. 543, Thirty-Eighth Congress, having passed the House of Representatives, was not reached in the Senate, and awaits final action. The proposed and well-deserved promotion of meritorious medical officers cannot fail to increase their efficiency, by placing them upon an equal footing with those of other staff corps in regard to local rank, and it is respectfully submitted that the faithful performance of arduous duties by officers of the medical staff should be recognized and rewarded by brevets equally with the other branches of the service.

The Army Medical Museum continues to increase in value, and is already one of the most instructive pathological collections in the world. A descriptive catalogue is in course of preparation, an examination of which will, it is thought, fully establish the importance of this institution in con-

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nection with the surgical and medical history of the war.

From the report of the Provost Marshal General will be seen—

1. The efforts made during the year to perfect the enrollment of the national forces, the lists on the 1st of November last containing the names of 2,784,226 men.

2. The results of the drafts made in 1863 and 1864, given in tabular form, from which it appears that on the 31st day of July last there was no material deficiency in the United States on the quotas of troops required, such localities as were behind having been drafted for the amounts due from them. The draft made under the call of July 18, 1864, was in progress at the date of the Provost Marshal General's report. This draft came on during the heat of the late presidential campaign, and resistance to it was threatened in many places, and in some actually organized. The Provost Marshal General justly claims special credit for the officers acting under him for the firmness and fairness with which they executed the law of Congress and the orders of the Government in making this draft, and for the success which attended their efforts.

3. The results of the volunteer recruiting service, under the different calls for troops, dated February 1, March 14, and July 18, 1864, are given. In reference to the reenlistment of veteran volunteers during the fall of 1863 the Provost Marshal General says:

"Over a hundred and thirty-six thousand tried soldiers, who would otherwise ere this have been discharged, were secured for three years longer. Organizations which would have been lost to the service were preserved and recruited, and capable and experienced officers were retained in command. The force thus organized and retained has performed an essential part in the great campaign of 1864, and its importance to the country cannot be overestimated."

I concur in the forgoing remarks, and know of no operation connected with the recruitment of the Army which has resulted in more advantage to the service than the one referred to.

The results of the recruitment under the act of July 4, 1864, for recruiting in rebel States are reported as unfavorable.

4. Commutation money received up to November 1, 1864, from drafted men, while permitted by law to secure exemption by payment of \$300 each is appropriated by act of Congress, "for the expenses of draft, and for the procurement of substitutes." A large part of it has been used, and the remainder is required for other purposes.

5. The Provost Marshal General reports activity on the part of his officers in the arrest of deserters and stragglers, 39,392 having been arrested between October 1, 1863, and October 1, 1864—the total number arrested, from the establishment of the bureau to October 1, 1864, being 60,760.

6. The Provost Marshal General reports the Veteran Reserve corps as consisting, October 1, 1864, of 764 officers and 28,738 men; its discipline and instruction good; and that the entire corps is doing duty which would otherwise have to be performed by an equal number of able-bodied troops detached from the armies in the field; and that it is yet inadequate in numbers to fill the demands made on it.

7. The medical statistics of the drafts, presented in a series of tables, are referred to by the Provost Marshal General as worthy of special attention.

8. The total disbursements on account of enrollment and draft, including all the expenses of the bureau for the year ending October 31, 1864, are given at \$4,016,728 55. The amount expend-

ed during the year ending September 30, 1864, from the appropriation for collecting, organizing, and drilling volunteers, is given at \$4,199,071 17. Amount expended from same fund during preceding year, \$7,789,237 40. Amount expended during the year ending September 30, 1864, for pay of advance bounty to volunteers, \$14,658,203.

No appropriation of money is asked for any branch of this bureau during the ensuing year.

As will appear from the accompanying report of the Judge Advocate General, the business of this bureau has continued steadily to increase. Its important duties are believed to be faithfully performed, while, as was anticipated, the new organization given to the office by the act of last session is found to have added much to the efficiency of its operations. A digest of the opinions of the Judge Advocate General upon current questions of military law, which has been published and distributed throughout the Army, will, while affording valuable instruction to inexperienced officers, contribute to produce that uniformity of decision and action so much to be desired in the administration of military justice.

The general exchange of prisoners effected under the instructions of this Department by Lieutenant General Grant is in course of diligent execution, and it is hoped that all of our prisoners who are in the hands of the rebels will soon be returned. A furlough of thirty days is extended to them as they are returned to the camp at Annapolis.

To the chiefs of bureaus and their subordinates the thanks of this Department are due for their unwearied industry, vigilance, and general fidelity in the discharge of their respective duties.

EDWIN M. STANTON,  
*Secretary of War.*

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# LAWS OF THE UNITED STATES.

## PUBLIC ACTS OF THE THIRTY-EIGHTH CONGRESS

OF THE

## UNITED STATES,

*Passed at the Second Session, which was begun and holden at the City of Washington, in the District of Columbia, on Monday, the 5th day of December, A. D. 1864, and ended Friday, the 3d day of March, A. D. 1865.*

ABRAHAM LINCOLN, President. HANNIBAL HAMLIN, Vice President, and President of the Senate. DANIEL CLARK was elected President of the Senate, *pro tempore*, on the 9th day of February, and so acted until and including the 19th day of that month. SCHUYLER COLFAX, Speaker of the House of Representatives.

[The Index to the Laws follows the Index to the Appendix.]

CHAPTER I.—An Act in addition to the "Act respecting Quarantines and Health Laws," approved February twenty-fifth, one thousand seven hundred and ninety-nine, and for the better execution of the third section thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to purchase or erect suitable warehouses and other conveniences for the storage of goods and merchandise imported in any vessel subject to quarantine or other restraint, pursuant to the health laws of the State of New York, at such convenient place or places within or near the port of New York as the safety of the public revenue and the observance of such health laws may require; and the sum of twenty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense thereof.

APPROVED, December 15, 1864.

CHAP. II.—An Act authorizing the holding of a Special Session of the United States District Court for the District of Indiana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a special session of the United States district court for the district of Indiana shall be holden at the usual place of holding said court, on the first Tuesday in January, eighteen hundred and sixty-five.

SEC. 2. *And be it further enacted,* That all suits and proceedings of a civil or criminal nature, now pending in or returnable to said court, shall be proceeded in, heard, tried, and determined by said court, at said special session, in the same manner as at a regular term of said court, and the judge thereof is hereby empowered to order the impaneling of a petit and grand jury for said session.

APPROVED, December 20, 1864.

CHAP. III.—An Act to authorize the Purchase or Construction of Revenue Cutters on the Lakes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized to construct, or purchase and alter, not exceeding six steam revenue cutters, for service on the lakes; and for that purpose the sum of one million of dollars, or so much thereof as is necessary, is hereby appropriated, out of any

money in the Treasury not otherwise appropriated.

APPROVED, December 20, 1864.

CHAP. VI.—An Act to establish the Grade of Vice Admiral in the United States Navy.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized and empowered, by and with the advice and consent of the Senate, to appoint one vice admiral, who shall be selected from the list of active rear admirals, and who shall be the ranking officer in the Navy of the United States, and whose relative rank with officers of the Army shall be that of lieutenant general in the Army.

SEC. 2. *And be it further enacted,* That the pay of the vice admiral of the Navy shall be seven thousand dollars when at sea, six thousand dollars when on shore duty, and five thousand dollars when waiting orders.

SEC. 3. *And be it further enacted,* That the first section of an act, approved December twenty-first, eighteen hundred and sixty-one, entitled "An act further to promote the efficiency of the Navy," shall not be so construed as to apply to any one holding a commission as vice admiral in the Navy.

APPROVED, December 21, 1864.

CHAP. VIII.—An Act to amend the act entitled "An Act to provide Internal Revenue to support the Government, to pay Interest on the Public Debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section fifty-five of an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, be amended by striking out the word "February" wherever it occurs in said section, and inserting, in lieu thereof, the word January.

APPROVED, December 22, 1864.

CHAP. IX.—An Act to extend the Time allowed for the Withdrawal of certain Goods therein named from public Stores.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in computing the three years al-

lowed by the twenty-first section of the act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July fourteenth, eighteen hundred and sixty-two, for the withdrawal of goods from any public store or bonded warehouse for exportation to foreign countries, or transshipment to any port of the Pacific or western coast of the United States, if such exportation or transshipment of any such goods shall, either for the whole or any part of the said term of three years have been prevented by reason of any order of the President of the United States, the time during which such exportation or transshipment of such goods shall have been so prevented, as aforesaid, shall be excluded from the said computation.

APPROVED, December 22, 1864.

CHAP. XI.—An Act to repeal the Provision of Law requiring certain Regents of the Smithsonian Institution to be members of the National Institute.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That so much of the act "To establish the Smithsonian Institution, for the increase and diffusion of knowledge among men" as requires that two of the regents of said Institution shall be members of the National Institute in the city of Washington, be, and the same is hereby, repealed.

APPROVED, January 10, 1865.

CHAP. XII.—An Act making Appropriations for the Payment of Invalid and other Pensions of the United States for the year ending the thirtieth of June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, eighteen hundred and sixty-six:

For invalid pensions under various acts, four million dollars.

For revolutionary pensions, per acts of March eighteenth, eighteen hundred and eighteen; May fifteenth, eighteen hundred and twenty-eight; June seventh, eighteen hundred and thirty-two; third section of act of July seventh, eighteen hundred and thirty-eight; March third, eighteen hundred and forty-three; June seventeenth, eighteen hundred and forty-four; February second and

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July twenty-ninth, eighteen hundred and forty-eight; and second section [of] act of February third, eighteen hundred and fifty-three, two hundred and thirty thousand dollars.

For pensions to widows, mothers, children, and sisters, under the first section of the act of fourth July, eighteen hundred and thirty-six; act of July twenty-first, eighteen hundred and forty-eight; first section of the act of February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, seven million dollars.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the present fiscal year: for the payment of pensions under the acts of March eighteenth, eighteen hundred and eighteen; May fifteenth, eighteen hundred and twenty-eight; June seventh, eighteen hundred and thirty-two; third section of act of July fourth, eighteen hundred and thirty-six; July seventh, eighteen hundred and thirty-eight; January [June] seventeenth, eighteen hundred and forty-four; March third, eighteen hundred and forty-three; February second and July twenty-ninth, eighteen hundred and forty-eight; and second section of act of February third, eighteen hundred and fifty-three, sixty-five thousand dollars.

For the payment of pensions under the first section of the act of July fourth, eighteen hundred and thirty-six; act of July twenty-first, eighteen hundred and forty-eight; first section of the act of February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, three million five hundred thousand dollars.

APPROVED, January 11, 1865.

CHAP. XIII.—An Act to amend an Act entitled "An Act for the Punishment of Crimes in the District of Columbia," approved March second, eighteen hundred and thirty-one.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of an act entitled "An Act for the punishment of crimes in the District of Columbia," approved March second, eighteen hundred and thirty-one, be, and the same is hereby, amended so as to read as follows: "That every person duly convicted of manslaughter, or of any assault with intent to kill, shall be sentenced to suffer imprisonment and labor, for the first offense, for a period not less than two nor more than eight years, for the second offense, for a period not less than six nor more than fifteen years.

APPROVED, January 13, 1865.

CHAP. XVI.—An Act to amend an Act entitled "An Act to provide for carrying the Mails from the United States to Foreign Ports, and for other purposes," approved March twenty-fifth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the fourth section of an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March twenty-fifth, eighteen hundred and sixty-four, be so amended as to insert in the proviso in said section, after the word "newspapers," the words "periodicals, magazines, and exchanges," so that it will read: *Provided*, That this section shall not be held to extend to the transmission by mail of newspapers, periodicals, magazines, and exchanges, from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber from any one office.

APPROVED, January 20, 1865.

CHAP. XVIII.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money

in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Republic of Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, three hundred and eight thousand five hundred dollars.

For salaries of secretaries of legation, thirty thousand dollars.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For contingent expenses of all the missions abroad, sixty thousand dollars.

For contingent expenses of foreign intercourse, eighty thousand dollars.

For expenses of intercourse with the Barbary Powers, three thousand dollars.

For expenses of the consulates in the Turkish dominions, namely: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, two hundred thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of the United States from shipwreck, seven thousand dollars.

For the purchase of blank-books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages and miscellaneous expenses of the consuls of the United States, including loss by exchange, fifty-five thousand dollars.

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, fifty thousand dollars.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, namely:

## I. CONSULATES GENERAL.

## Schedule B.

Alexandria, Calcutta, Constantinople, Frankfurt-on-the-Main, Havana, Montreal, Shanghai.

## III. CONSULATES.

## Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Aux Cayes, Bahia, Barcelona, Bankok, Basle, Belfast, Beirut, Bergen, Bermuda, Bilbao, [Bilbao], Buenos Ayres, Bordeaux, Bremen, Bristol, Brindisi, Boulogne, Cadiz, Callao, Candia, Canton, Cardiff, Chin Kiang, Clifton, Coaticook, Cork, Curaçao, Demarara, Dundee, Elsinore, Erie, Foo Choo, Funchal, Galatz, Gaspé Basin, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Gottenberg, Guaymas, Halifax, Hamburg, Havre, Honolulu, Hong Kong, Jerusalem, Kanagawa, Kingston, Kingston in Canada, La Rochelle, Laguayra, Lahaina, La Paz, La Union, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, London, Lyons, Macao, Malaga, Malta, Manchester, Manzanillo, Maracaibo, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Nantes, Naples, Nassau, (West Indies,) Newcastle, Nice, Odessa, Oporto, Palermo, Panama, Paramaribo, Paris, Pernambuco, Pictou, Ponce, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Santander, Santiago de Cuba, Santos, Port Sarnia, Scio, Singapore, Smyrna, Southampton, Stockholm, Saint John, (Newfoundland,) Saint John, (New Brunswick,) Saint

Petersburg, Saint Pierre, (Martinique,) Saint Thomas, Stuttgart, Swatow, Saint Helena, Tabasco, Tampico, Tangier, Tehuantepec, Toronto, Trieste, Trinidad de Cuba, Trinidad, Tripoli, Tunis, Turk's Island, Valparaiso, Valencia, Venice, Vera Cruz, Vienna, Windsor, Zurich.

## IV. COMMERCIAL AGENCIES.

## Schedule B.

Amoor River, Antigua, Balize, (Honduras,) Gaboon, Madagascar, San Juan del Norte, Saint Domingo, Saint Marc.

## V. CONSULATES.

## Schedule C.

Barbadoes, Batavia, Bay of Islands, Cape Haytien, Cape Town, Caribegena, Ceylon, Cobia, Cyprus, Falkland Islands, Fayal, Guayaquil, Lanthala, Maranhão, Matamoras, Mexico, Montevideo, Omos, Payta, Paso del Norte, Piacus, Rio Grande, Sabanilla, Saint Catherine, Santa Cruz, (West Indies,) Santiago, (Cape Verde,) Sprzzia, Stettin, Tabita, Talcahuano, Tumbes, Zanzibar.

## VI. COMMERCIAL AGENCIES.

## Schedule C.

Apia, Saint Paul de Loando, [Loanda], including loss by exchange thereon, four hundred and fifty thousand dollars.

For interpreters to the consulates in China, including loss by exchange thereon, five thousand eight hundred dollars.

For expenses incurred, under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, twenty thousand dollars.

For salaries of the marshals for the consular courts in Japan, China, Siam, and Turkey, including loss by exchange thereon, nine thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

For salaries of commissioners and consuls general to Hayti and Liberia, eleven thousand five hundred dollars.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, seventeen thousand dollars.

For expenses under the act to encourage immigration, twenty-five thousand dollars.

For expenses under the neutrality act, twenty thousand dollars.

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, thirteen thousand two hundred and fifty dollars.

APPROVED, January 24, 1865.

CHAP. XIX.—An Act to provide for an Advance of Rank to Officers of the Navy and Marine Corps for distinguished merit.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any officer of the Navy or Marine corps, by and with the advice and consent of the Senate, may be advanced, not exceeding thirty numbers in rank, for having exhibited eminent and conspicuous conduct in battle, or extraordinary heroism.

SEC. 2. *And be it further enacted*, That any officer of the Navy or Marine corps, either of volunteers or otherwise, who shall be nominated to a higher grade by the provisions of the first section of this act, or of that of section nine of an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July sixteenth, eighteen hundred and sixty-two, shall be promoted, notwithstanding the number of said grade may be full, but no further promotions shall take place in that grade, except for like cause, until the number is reduced to that provided by law.

SEC. 3. *And be it further enacted*, That all acts, or parts of acts, which are inconsistent with the provisions of this act, are hereby repealed.

APPROVED, January 24, 1865.



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CHAP. XX.—An Act supplementary to an Act entitled "An Act to prescribe an Oath of Office, and for other purposes," approved July two, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person, after the date of this act, shall be admitted to the bar of the Supreme Court of the United States, or at any time after the fourth of March next, shall be admitted to the bar of any circuit or district court of the United States, or of the Court of Claims, as an attorney or counselor of such court, or shall be allowed to appear and be heard in any such court, by virtue of any previous admission, or any special power of attorney, unless he shall have first taken and subscribed the oath prescribed in "An act to prescribe an oath of office, and for other purposes," approved July two, eighteen hundred and sixty-two, according to the forms and in the manner in the said act provided; which said oath so taken and subscribed shall be preserved among the files of such court, and any person who shall falsely take the said oath shall be guilty of perjury, and, on conviction, shall be liable to the pains and penalties of perjury, and the additional pains and penalties in the said act provided.

APPROVED, January 24, 1865.

CHAP. XXII.—An Act to amend an Act entitled "An Act to provide Ways and Means for the Support of the Government, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of any bonds authorized to be issued by the first section of the act entitled "An act to provide ways and means for the support of the Government," approved June thirtieth, eighteen hundred and sixty-four, that may remain unsold at the date of this act, the Secretary of the Treasury may issue, under the authority of said act, Treasury notes of the description and character authorized by the second section of said act: *Provided*, That the whole amount of bonds authorized as aforesaid, and Treasury notes issued and to be issued in lieu thereof, shall not exceed the sum of four hundred millions of dollars; and such Treasury notes may be disposed of for lawful money, or for any other Treasury notes or certificates of indebtedness or certificates of deposit issued under any previous act of Congress; and such notes shall be exempt from taxation by or under State or municipal authority.

SEC. 2. *And be it further enacted*, That any bonds known as five-twenties, issued under the act of twenty-fifth February, eighteen hundred and sixty-two, remaining unsold to an amount not exceeding four millions of dollars, may be disposed of by the Secretary of the Treasury in the United States, or, if he shall find it expedient, in Europe, at any time, on such terms as he may deem most advisable: *Provided*, That this act shall not be so construed as to give any authority for the issue of any legal-tender notes, in any form, beyond the balance unissued of the amount authorized by the second section of the act to which this is an amendment.

APPROVED, January 28, 1865.

CHAP. XXIII.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the service of the Post Office Department for the year ending June thirtieth, eighteen hundred and sixty-six, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For transportation of the mails, (inland,) seven million eight hundred thousand dollars.

For ship, steamboat, and way letters, eight thousand dollars.

For compensation to postmasters, three million one hundred and seventy-five thousand dollars.

For clerks for post offices, one million three hundred thousand dollars.

For payment to letter-carriers, four hundred thousand dollars.

For wrapping-paper, seventy-five thousand dollars.

For twine, seventeen thousand dollars.

For office stamps, six thousand dollars.

For letter balances, two thousand five hundred dollars.

For compensation to blank agents and assistants, seven thousand dollars.

For office furniture, two thousand dollars.

For advertising, sixty-eight thousand dollars.

For postage stamps and stamped envelopes, two hundred and fifty thousand dollars.

For mail depredations and special agents, seventy thousand dollars.

For mail-bags, sixty thousand dollars.

For mail locks and keys, eight thousand dollars.

For payment of balances due to foreign countries, three hundred and fifty thousand dollars.

For miscellaneous payments, two hundred and fifty thousand dollars.

For foreign mail transportation, two hundred and fifty thousand dollars.

APPROVED, January 28, 1865.

CHAP. XXIV.—An Act to amend the Charter of the "Washington Gas-Light Company."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the acts of June twenty-five, eighteen hundred and sixty, and July eleven, eighteen hundred and sixty-two, as relate to the price of gas furnished by the "Washington Gas-Light Company," be, and the same are hereby, repealed; and the act incorporating the "Washington Gas-Light Company" is hereby so amended as to prohibit the said company from receiving, on and after the first day of December, eighteen hundred and sixty-four, for the benefit of its stockholders, a greater price for gas than forty cents per hundred cubic feet, subject to a discount of ten per centum on all bills for gas furnished to the General Government, and five per centum on all bills for gas furnished to other consumers, if paid at the office of the company within seven days from the rendition thereof.

APPROVED, January 30, 1865.

CHAP. XXV.—An Act to amend an Act entitled "An Act to incorporate the Metropolitan Railroad Company, in the District of Columbia," approved July first, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section seventeen of the act to incorporate the Metropolitan Railroad Company, of the District of Columbia, approved July first, eighteen hundred and sixty-four, be, and the same is hereby, amended so as to extend the time for the completion of their railroad line, except that part thereof between Seventeenth street and the Capitol, for one year from the passage of this act: *Provided, however*, That the line from Seventeenth street and the Capitol be completed, equipped, and running, within thirty days from the passage of this act.

APPROVED, January 30, 1865.

CHAP. XXVI.—An Act to amend the Act entitled "An Act to amend and extend the Charter of the Franklin Insurance Company," approved second March, eighteen hundred and thirty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to amend and extend the charter of the Franklin Insurance Company, passed on the second day of March, eighteen hundred and thirty-eight, be, and the same is hereby, extended and continued in force for the period of twenty years, from the ninth day of April, eighteen hundred and fifty-eight, the time at which such amendatory act expired; and that all proceedings had by the said Franklin Insurance Company, and all legal rights accrued or

acquired, and all legal obligations entered into by said company between the ninth day of April, eighteen hundred and fifty-eight, and the date of this act be, and the same are hereby, made valid for all legal purposes.

SEC. 2. *And be it further enacted*, That the Franklin Insurance Company are hereby authorized to increase their capital stock to an amount not exceeding two hundred and fifty thousand dollars.

APPROVED, January 30, 1865.

CHAP. XXIX.—An Act for the Relief of certain Friendly Indians of the Sioux Nation, in Minnesota.

Whereas certain Indians of the Sioux nation did, during the outbreak in Minnesota in eighteen hundred and sixty-two, at the risk of their lives, aid in saving many white men, women, and children from being massacred, and, in consequence of such action, were compelled to abandon their homes and property, and are now entirely destitute of the means of support: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized and requested to cause an examination to be made in relation to all the facts pertaining to the action of the said Indians, and to make such provision for their welfare as their necessities and future protection may require.

SEC. 2. *And be it further enacted*, That, for the purpose of carrying out the provisions of this act, the sum of seven thousand five hundred dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated; one third of said sum to be paid and expended for the benefit of Am-pe-tu-to-ke-cha, or John Other-day, and the remainder for the benefit of such other Indians as shall appear specially entitled thereto, for their friendly, extraordinary, and gallant services in rescuing white settlers from massacre in Minnesota: *Provided*, That not more than the sum of five hundred dollars shall be expended for any one Indian, except the chief above mentioned; and that the Secretary of the Interior shall report to the next Congress the names of the Indians for whose benefit the same shall be expended, and the amount expended for each.

APPROVED, February 9, 1865.

CHAP. XXX.—An Act to extend to certain Persons in the Employ of the Government, the Benefits of the Asylum for the Insane in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the continuance of the rebellion, civilians employed in the service of the United States in the quartermaster's department and subsistence department of the Army, who may be, or may hereafter become insane while in such employment, shall be admitted, on the order of the Secretary of War, the same as persons belonging to the Army and Navy, to the benefits of the asylum for the insane in the District of Columbia, as provided in such other cases by the fourth section of the "Act to organize an institution for the insane of the Army and Navy, and of the District of Columbia in the said District," approved March third, eighteen hundred and fifty-five.

APPROVED, February 9, 1865.

CHAP. XXXII.—An Act to provide for Acting Assistant Treasurers or Depositories of the United States in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of the sickness or unavoidable absence of any Assistant Treasurer or depository of the United States from his office, he may, with the approval of the Secretary of the Treasury, authorize the chief clerk, or some other clerk employed therein, to act in his place, and to discharge all the duties required by law of such Assistant Treasurer or depository: *Provided*, That the official bond given by the principal of the office shall be held to cover and apply to the acts

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of the person appointed to act in his place in such cases: *And provided further*, That such acting officer shall, for the time being, be subject to all the liabilities and penalties prescribed by law for the official misconduct, in like cases, of the Assistant Treasurer or depository respectively for whom he shall act.

APPROVED, February 13, 1865.

CHAP. XXXIV.—An Act to incorporate the National Union Insurance Company of Washington.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That James Harper, Thomas Patton, C. H. Moody, John W. Magill, John M. Reilly, B. F. Guy, Valentine Blanchard, Thomas J. Fisher, Hudson Taylor, Augustus F. Perry, D. Walker, James Montgomery, Joseph J. May, or any five of them, be, and they are hereby, authorized and empowered to receive subscriptions to the capital stock of a company to be denominated "The National Union Insurance Company of Washington," who shall open a book for that purpose in the city of Washington, at the time and place to be by them designated, of which they shall give ten days' notice in two or more of the daily papers of said city, and shall keep the same open until twenty thousand shares of fifty dollars a share each shall have been subscribed; and any person of lawful age, and a citizen of the United States, shall be permitted to subscribe upon paying five dollars on each share at the time of subscribing. And it shall be lawful for the said corporation to have a common seal, sue and be sued, plead and be impleaded, and have and exercise all the rights, privileges, and immunities for the purposes of the corporation hereby created.

SEC. 2. *And be it further enacted*, That the affairs of the company shall be managed by nine directors, to be elected annually by ballot on the second Monday of July by the stockholders or by their legally empowered agents, and each share of stock shall entitle the holder thereof to one vote; the election to be held at the office of the company at a general meeting of the stockholders convened for that purpose, by ten days' public notice in two or more of the daily papers of the city of Washington: *Provided*, That the first election for directors shall be held pursuant to ten days' notice given in one or more of the daily papers of the city of Washington by the persons named in the first section of this act, or any five of them, who shall designate the time when and the place where said election shall be held; and the stockholders shall then and there elect nine directors to serve until the next ensuing election as provided for in this act. And at the first ensuing meeting of the directors after every election, they shall appoint one of their number as president, who, together with themselves, shall hold office until the next ensuing election as herein provided for; and five members of said board shall compose a quorum. And in case that an election for directors should not be made when pursuant to this act it should have been made, the company for that cause shall not be dissolved; and it shall be lawful, within forty days thereafter, to hold and make an election for directors in such manner as the by-laws of the company may prescribe, and the president and directors for the time being shall be continued in office, until such election take place. And in the event of death, resignation, or removal of any director from office, his place for the remainder of his term may be filled by the president and directors for the time being, in such manner as the by-laws may prescribe.

SEC. 3. *And be it further enacted*, That the president and directors shall have power to appoint a secretary and such other officers, agents, and clerks as may to them appear proper, to fix their compensation and pay the same.

SEC. 4. *And be it further enacted*, That the capital stock shall be called in, and paid in such installments and proportions, and at such times and place, as the president and directors for the time being may require and designate, who shall give fifteen days' notice thereof in two or more daily papers of the city of Washington. And if any stockholder, subscriber, or assignee or trans-

ferree, shall refuse or neglect to pay such proportion or installment, at the time and place appointed, such stockholder, subscriber, transferee, or assignee shall, at the option of the president and directors, forfeit to the use of the company all his, her, or their right, title, and interest in and to every share on which such installment has not been duly made; and fresh subscriptions may be opened for the same, in such manner as the by-laws may prescribe, or the president and directors may, at their option, commence suit for the same and recover against the holder of said stock for the amount of the installment or proportion so unpaid: *Provided*, That no stockholder or subscriber shall be permitted to vote at any election for directors, or at any general or special meeting of the company, on whose shares any installments or arrearages may be due more than fifteen days previous thereto.

SEC. 5. *And be it further enacted*, That the president and directors for the time being shall have power to ordain, establish, and put in execution such rules, regulations, ordinances, and by-laws as they may deem essential for the well government of the institution, not contrary to the laws and Constitution of the United States, or of this act, and generally to do and perform all acts, matters, and things which a corporation may or can lawfully do.

SEC. 6. *And be it further enacted*, That the president and directors are hereby empowered and fully authorized, on behalf of the company, to make insurance against losses by fire on any house, building, tenement, manufactories, mills, or other buildings; on goods, wares, chattels, and effects of all kinds therein, or otherwise; upon grain, produce, and implements, and upon vessels building on the stocks, in port or at moorings; and, generally, upon all and every sort and description of property, of whatever kind soever, on land or water; and to make, execute, perfect, and conclude so many contracts, bargains, agreements, policies, and other instruments as the nature of the case shall or may require; and all such instruments, bargains, contracts, policies, or agreements shall be in print or in writing, and shall be signed by the president and secretary, or such other persons as the managers may appoint for such purpose, and shall be under the seal of the company: *Provided*, That said president and directors may, at their option and discretion, make insurance on such terms and conditions as to them may appear equitable, reserving the premiums, or appropriating and returning such portions thereof to the insured as may to them appear conducive to the interest of the company and the insured, in such manner and on such conditions as may appear to them just and proper.

SEC. 7. *And be it further enacted*, That the president and directors shall, on the third Monday in June of each and every year, divide so much of the profits of said company as to them may appear advisable, first deducting all expenses, and pay the same to the respective stockholders or their agents, duly empowered, in ten days thereafter; but the money received as premiums upon risks which remain outstanding and undetermined at the time of declaring such dividend, shall not then be considered as part of the profits; and if the capital stock paid in shall be lessened by losses, no subsequent dividend shall be made or declared until a sum equal to said diminution shall have been added to the capital stock.

SEC. 8. *And be it further enacted*, That the stock of said company shall be transferred on the books of the company in such manner only as the by-laws of the company shall direct.

SEC. 9. *And be it further enacted*, That nothing in this act shall be construed as making it perpetual, but Congress may at any time alter, amend, or repeal the same.

APPROVED, February 14, 1865.

CHAP. XXXV.—An Act for the Relief of Collectors and Surveyors of the Customs in certain cases.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases in which any collector or surveyor of the customs has paid or accounted for, or is charged with duties accruing under the

"Joint resolution to increase temporarily the duties on imports," approved April twenty-ninth, eighteen hundred and sixty-four, and in which the Secretary of the Treasury shall be satisfied that the collection of the said duties was omitted by such collector or surveyor, for the reason that he was not informed of the passage of said resolution when said duties accrued, the said Secretary be, and he is hereby, authorized, under such rules as he may prescribe, to remit or refund, as the case may require, such duties to such collector or surveyor.

APPROVED, February 14, 1865.

CHAP. XXXVII.—An Act to authorize the establishment of Ocean Mail Steamship Service between the United States and China.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Postmaster General be, and he is hereby, authorized to invite proposals by public advertisement, for the period of sixty days, in one or more newspapers published in the cities of Washington, New York, Philadelphia, Boston, and San Francisco, respectively, for mail steamship service between the port of San Francisco, in the United States, and some port or ports in the Chinese empire, touching at Honolulu, in the Sandwich Islands, and one or more ports in Japan, by means of a monthly line of first-class American sea-going steamships, to be of not less than three thousand tons burden each, and of sufficient number to perform twelve round trips per annum between said ports, and to contract with the lowest responsible bidder for said service for a term of not more than ten years, to commence from the day the first steamship of the proposed line shall depart from the port of San Francisco with the mails for China: *Provided*, That no bid shall be considered which shall amount to more than five hundred thousand dollars for the twelve round trips per annum, nor unless the same is from a citizen or citizens of the United States, and accompanied by an offer of good and sufficient sureties (also citizens of the United States) for the faithful performance of such contract.

SEC. 2. *And be it further enacted*, That any contract which the Postmaster General may execute, under the authority of this act, shall go into effect on or before the first day of January, one thousand eight hundred and sixty-seven, and shall, in addition to the usual stipulations of ocean mail steamship contracts, provide that the steamships accepted for the service shall be constructed of the best material and after approved models, with all the modern improvements adapted to sea-going steamships of the first class, and shall be subject to inspection and survey by an experienced naval constructor, to be detailed for that purpose by the Secretary of the Navy, whose report shall be made to the Postmaster General. That the Government of the United States shall be entitled to have transported, free of expense, on each and every steamer, a mail agent, to take charge of and arrange the mail matter, to whom suitable accommodation for that purpose shall be assigned. That in case of failure from any cause to perform any of the regular monthly voyages stipulated for in the contract, a pro rata deduction shall be made from the compensation on account of such omitted voyage or voyages. That suitable fines and penalties may be imposed for delays and irregularities in the performance of the service, and that the Postmaster General shall have the power to determine the contract at any time in case of its being underlet or assigned to any other party.

APPROVED, February 17, 1865.

CHAP. XXXVIII.—An Act supplementary to an Act approved July fourteen, eighteen hundred and sixty-two, entitled "An Act to establish certain Post Roads."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act of Congress approved July fourteen, eighteen hundred and sixty-two, entitled "An act to establish certain post roads," shall be, and the same is hereby, so amended as to authorize the Louisville and Nashville Railroad Company, and the Jeffersonville Railroad Company (stockholders in the Louisville Bridge Com-

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pany) to construct a railroad bridge over the Ohio river at the head of the falls of the Ohio, subject to all the provisions of said act: *Provided*, That the said bridge may be constructed at a height not less than fifty-six feet above low water-mark, and with three draws, sufficient to pass the largest boats navigating the Ohio river; one over the Indiana chute, one over the middle chute, and one over the canal: *Provided*, That the spans of said bridge shall not be less than two hundred and forty feet, except over the Indiana and middle chute and the canal; said bridge shall be constructed with draws of one hundred and fifty feet wide on each side of the pivot pier over the Indiana and middle chutes, and ninety feet wide over the canal: *And provided further*, That said bridge and draws shall be so constructed as not to interrupt the navigation of the Ohio river.

Sec. 2. *And be it further enacted*, That the bridge erected under the provisions of this act shall be a lawful structure, and shall be recognized and known as a post route.

APPROVED, February 17, 1865.

CHAP. XXXIX.—An Act to establish a Bridge across the Ohio River at Cincinnati, Ohio, a Post Road.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the bridge across the Ohio river, at Cincinnati, in the State of Ohio, and at Covington, in the State of Kentucky, is hereby declared to be, when completed, in accordance with the laws of the States of Ohio and Kentucky, a lawful structure and post road for the conveyance of the mails of the United States.

APPROVED, February 17, 1865.

CHAP. XLI.—An Act authorizing the President to appoint a Second Assistant Secretary of War.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, for the term of one year from the passage of this act, an officer in the War Department, to be called the Second Assistant Secretary of War, whose salary shall be three thousand dollars per annum, payable in the same manner as that of the Secretary of War, who shall perform all such duties in the office of the Secretary of War, belonging to that Department, as shall be prescribed by the Secretary of War, or as may be required by law.

APPROVED, February 20, 1865.

CHAP. XLII.—An Act to enlarge the Port of Entry and Delivery for the District of Philadelphia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the port of entry and delivery for the district of Philadelphia shall be bounded on the river Delaware by Frankford creek, on the north, and Broad street, on the south.

Sec. 2. *And be it further enacted*, That all acts or parts of acts conflicting with the provisions of this act be, and the same are hereby, repealed.

APPROVED, February 20, 1865.

CHAP. XLIII.—An Act to repeal an Act entitled "An Act to remove the United States Arsenal from the City of Saint Louis, and to provide for the Sale of the Lands on which the same is located."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An Act to remove the United States arsenal from the city of Saint Louis, and to provide for the sale of the lands on which the same is located," approved March second, eighteen hundred and sixty-one, be, and the same is hereby, repealed.

APPROVED, February 20, 1865.

CHAP. XLV.—An Act to extinguish the Indian Title to Lands in the Territory of Utah suitable for Agricultural and Mineral Purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States

be, and he is hereby, authorized, by and with the advice and consent of the Senate, to enter into treaties with the various tribes of Indians of Utah Territory, upon such terms as may be deemed just to said Indians and beneficial to the Government of the United States: *Provided*, That such treaties shall provide for the absolute surrender to the United States, by said Indians, of their possessory right to all the agricultural and mineral lands in said Territory except such agricultural lands as by said treaties may be set apart for reservations for said Indians: *And provided, further*, That all such reservations shall be selected at points as remote as may be practicable from the present settlements in Utah Territory.

Sec. 2. *And be it further enacted*, That in agreeing with said Indians upon the amounts to be paid to them under the provisions of the treaties to be negotiated in pursuance of this act, care shall be taken to obtain from the Indians, to the greatest possible extent, their consent to receive for such payments agricultural implements, stock, and other useful articles, rather than money.

Sec. 3. *And be it further enacted*, That for the purpose of negotiating said treaties and carrying out the provisions of this act, making presents to said Indians, and defraying the necessary expenses incident to such negotiation, there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of twenty-five thousand dollars.

APPROVED, February 23, 1865.

CHAP. XLVI.—An Act to provide for the Payment of the Value of certain Lands and Improvements of private Citizens, appropriated by the United States for Indian Reservations, in the Territory of Washington.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of eighteen thousand six hundred and eleven dollars and sixty-two cents, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying for the lands and improvements of private citizens, taken and appropriated, by order of the Department of the Interior, for Indian reservations and uses in the Territory of Washington; and the claims herein provided to be paid shall be allowed and paid in such manner and upon such proofs of the value of the property as shall be prescribed by the Secretary of the Interior.

APPROVED, February 23, 1865.

CHAP. XLVII.—An Act to facilitate the Collection of certain Debts due the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where debts are due from postmasters, mail contractors, or other officers, agents, or employes of the Post Office Department, who are in default or delinquency, a warrant of attachment may issue against all property, real and personal, possessions, and rights legal, equitable, and contingent, belonging to such officer and his sureties, or either of them, in the following cases:

First. When any such officer, agent, or employe, and his sureties, or either of them, has, within the meaning of the act of July seventeen, eighteen hundred and sixty-two, chapter one hundred and ninety-five, and the proclamation of the President in pursuance thereof, dated the twenty-fifth day of July, eighteen hundred and sixty-two, participated in, aided, abetted, or countenanced any rebellion against the United States.

Second. When such officer, agent, or employe, and his sureties, or either of them, is a non-resident of the district where such officer was appointed, or has departed from such district for the purpose of residing permanently out of such district, or of defrauding the United States, or of avoiding the service of civil process.

Third. When such officer or his sureties, or either of them, has conveyed away or is about to convey away his property, or any part thereof, or has removed or is about to remove his property, or any part thereof, from the district wherein the same is situated, with intent to defraud the United States. And where such removal has taken

place, certified copies of the warrant may be sent to the marshal of any other district into which such property may have been removed, under which certified copies it shall be lawful for such marshal to seize such property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. Alias warrants may issue upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

Sec. 2. *And be it further enacted*, That application for such warrant may be made by any district attorney or assistant district attorney, or any other person authorized by the Postmaster General, before any judge, or, in his absence, before any clerk of any court of the United States having original jurisdiction of the cause of action. Such application shall be made upon an affidavit of the applicant, or some other credible person, stating the existence of either of the grounds of attachment enumerated in the first section of this act, and upon production of legal evidence of the debt. Upon such application, and upon due order of any judge of the court, or in the absence of any judge without such order, the clerk shall issue a warrant for the attachment of all the property of any kind belonging to the party or parties specified in the affidavit, which warrant shall be executed with all possible dispatch by the marshal, who shall take the property attached, if personal, into his custody, and hold the same subject to all interlocutory or final orders of the court.

Sec. 3. *And be it further enacted*, That the party or parties whose property is attached may, at any time within twenty days before the return day of the warrant, on giving to the district attorney notice of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached in the defendants, or either of them, in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea. But the parties may, by consent, waive a trial by jury, in which case the court shall decide the issues raised by the affidavit and plea. Any party claiming ownership of the property attached and a specific return of the same shall be confined to the remedy afforded by this act, but his right to an action of trespass or other action for damages shall not be impaired hereby.

Sec. 4. *And be it further enacted*, That when the property attached shall be sold on any interlocutory order of the court, or when it shall be producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the order of the court.

Sec. 5. *And be it further enacted*, That immediately upon the execution of the warrant of attachment the marshal shall cause due publication of such attachment to be made, in the case of absconding debtors or adherents of the rebellion, for two months, and in case of non-residents for four months. Such publication shall be made in some newspaper or newspapers within the district where the property attached is situated, and the details of such publication shall be regulated in each case by the order under which the warrant is issued.

Sec. 6. *And be it further enacted*, That after the first publication of such notice of attachment in all the newspapers required by this or any subsequent act, every person indebted to the defendants, or either of them, and having knowledge of such notice, whose property is liable to attachment, and every person having possession of any property belonging to such defendants, or either of them, and having knowledge as aforesaid, shall account and answer for the amount of such debt and for the value of such property, and any disposal or attempt to dispose of any such property to the injury of the United States shall be illegal and void. When the person or persons so indebted to or having possession of the property of such defendants, or either of them, shall be known to the district attorney or the marshal, it shall be the duty of such officer to see that personal notice of such attachment is served upon such persons, as in cases of garnishees; but the want of such notice shall not invalidate the attachment.



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SEC. 7. *And be it further enacted*, That upon application of the party whose property has been attached, the court or any judge thereof may discharge the warrant of attachment as to the property of the applicant: *Provided*, That such applicant shall enter into and execute to the United States a good and sufficient penal bond in double the amount of the value of the property attached, conditioned for the return of said property, or to answer any judgment which may be rendered by the court in the premises, which bond shall be approved by the court or any judge thereof.

SEC. 8. *And be it further enacted*, That the fees, costs, and expenses of issuing and serving the warrants of attachment authorized by this act shall be regulated as far as possible by the existing laws of the United States and the rules of court made in pursuance thereof. In the case of preliminary trials as to the validity of the attachment or the right of property, clerks' and marshals' fees shall be the same as in ordinary cases, and the docket fee of the district attorney shall be ten dollars.

SEC. 9. *And be it further enacted*, That this act shall not be construed so as to limit or abridge in any manner such rights of the United States as have accrued or been allowed in any district under the former practice of the United States courts or the adoption of State laws by said courts.

APPROVED, February 23, 1865.

CHAP. XLVIII.—An Act to amend an Act entitled "An Act to amend an Act to incorporate the Inhabitants of the City of Washington, passed May fifteen, eighteen hundred and twenty," approved May fifth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act, approved May fifth, eighteen hundred and sixty-four, entitled "An act to amend 'An act to incorporate the inhabitants of the city of Washington,' passed May fifteen, eighteen hundred and twenty," be construed amended so as to read as follows: "That the said corporation shall have full power and authority to lay taxes on particular wards, parts, or sections of the city, for their particular local improvements, and to cause the curb-stones to be set, the foot and carriage ways, or so much thereof as they may deem best, to be graded and paved; to introduce the necessary sewerage and drainage facilities under and upon the whole or any portion of any avenue, street, or alley; to cause the same to be suitably paved and repaired, and at all times properly cleaned and watered; to cause lamps to be erected therein, and to light the same and to pay the cost thereof, the corporation of Washington is hereby authorized to lay and collect a tax upon all property bordering upon each street or alley that may be paved, sewered, lighted, cleaned, or watered by said corporation in accordance with the provisions of this act. And also to lay, or cause to be laid, simultaneously with the grading or paving of any avenue, street, or alley in which a main water-pipe or main gas-pipe, or main sewer may have been laid, water or gas service pipes or lateral house drains, from such water or gas main or main sewer to one foot within the curb line in front of every lot or subdivisional part of a lot which may bound on such avenue, street, or alley, and to which a gas or water service pipe or house drain may not have been already laid, and to pay the cost thereof, shall have full power and authority to lay and collect a special tax on every such lot or subdivisional part of a lot.

APPROVED, February 23, 1865.

CHAP. XLIX.—An Act to incorporate the Sisters of Mercy in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Isabel Atkinson, Elizabeth Medcalf, Teresa Byrne, Ellen Matthews, Mary Duffy, Teresa Moran, and Ellen Wynne, and their successors, hereafter to become Sisters of Mercy, and to be appointed according to the rules and regulations that have been or may hereafter be established by their association, be, and they are hereby, made, declared, and constituted a corporation

or body-politic, in law and in fact, to have continuance forever, by the name, style, and title of the "Sisters of Mercy in the District of Columbia."

SEC. 2. *And be it further enacted*, That all and singular the lands, houses, tenements, rents, legacies, annuities, rights, property, privileges, goods, and chattels, heretofore given, granted, devised or bequeathed to the said Sisters of Mercy, in the District of Columbia, or to any individual of the said corporation, or to any person or persons for the use of said corporation, or that have been purchased for or on account of the same be, and they are hereby, vested in, and confirmed to, the said corporation; and that the said corporation may purchase, take, receive, hold, and apply to the uses and purposes of the same, according to the rules, regulations, and by-laws that they may establish from time to time, for the management of the concerns of the said society or corporation, any lands, tenements, rents, legacies, annuities, rights, property, and privileges, or any goods, chattels, or other effects of what kind or nature soever, which shall or may have been or may hereafter be given, granted, sold, bequeathed or devised unto the said association or corporation by any person or persons, bodies politic or corporate, capable of making such grants, sale, or bequest, and that the said association or corporation of the Sisters of Mercy, in the District of Columbia, may dispose of and convey the same as they may deem proper: *Provided*, That the said association or corporation shall not, at any one time, hold, use, possess, and enjoy, within the District of Columbia, either by legal seizure, or trust, for its use and benefit, more than three hundred and twenty acres of land, nor shall the said association or corporation hold, in its own right, or by any other person in trust, or for its benefit, real estate the annual net income of which, after discharging all its expenses, debts, and liabilities, shall exceed the sum of fifty thousand dollars.

SEC. 3. *And be it further enacted*, That the said corporation, by the name of the Sisters of Mercy, in the District of Columbia, be, and shall be hereafter, capable in law and in equity to sue and be sued, within the District of Columbia and elsewhere, in as effectual a manner as other persons or corporations can sue or be sued, and that the said corporation, or a majority of the persons composing the same, shall adopt and use a common seal, and the same to use, alter, or change at pleasure, and from time to time make such by-laws, not inconsistent with the Constitution of the United States or any law of Congress, as they may deem expedient and proper for carrying into effect the objects of the said association or corporation, including the care, control, and education of children; the care, protection, instruction, and employment of destitute females; the care, nursing, and alleviation of the sufferings of sick or wounded persons, and such other objects of literature and charity as may be determined upon by their by-laws, as aforesaid, and which their means and net income may enable them to effect and support.

SEC. 4. *And be it further enacted*, That if, at any time hereafter, any of the persons hereinbefore named, or any of their successors, as Sisters of Mercy, in the District of Columbia, shall cease to belong to the said association or corporation, according to the said by-laws, such persons shall thereafter have no part or control in the proceedings of the said association or corporation under or in pursuance of the provisions of this act.

SEC. 5. *And be it further enacted*, That the said association or corporation shall have power to appoint such officers, agents, and persons as may be necessary, and to construct or purchase such buildings or to create such establishments as may be required to effect and carry out the humane and charitable objects of its institution, in accordance with its by-laws and regulations, as aforesaid, under this act.

SEC. 6. *And be it further enacted*, That the schools and all other institutions of instruction, education, or employment, established by the Sisters of Mercy in the District of Columbia, shall at all times be subject to the visitation and inspection of the justices of the supreme court of the District of Columbia, or any one of them,

or the Committees on the District of Columbia in either House of Congress, or any other committee of Congress that either House may appoint, and the books, records, and proceedings of said Sisters of Mercy shall at all times be subject to the examination and inspection of said justices or any such committee.

SEC. 7. *And be it further enacted*, That this act may, at any time hereafter, be amended, altered, or repealed, in whole or in part, according to the pleasure of Congress.

APPROVED, February 23, 1865.

CHAP. L.—An Act to amend an Act entitled "An Act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February sixteen, eighteen hundred and fifty-seven.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so much of said act as requires the teaching of the blind in said institution be and the same is hereby, repealed, and the corporate name and style thereof shall hereafter be "The Columbia Institution for the instruction of the Deaf and Dumb."

SEC. 2. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized to cause all indigent blind children who are now, or may hereafter become entitled, under the law as it now exists, to instruction in said institution, to be instructed in some institution for the education of the blind, in Maryland, or some other State, at a cost not greater for each pupil than is, or may be for the time being, paid by such State, and to cause the same to be paid out of the Treasury of the United States.

SEC. 3. *And be it further enacted*, That this act shall take effect from and after the thirtieth day of June, eighteen hundred and sixty-five.

APPROVED, February 23, 1865.

CHAP. LII.—An Act to prevent Officers of the Army and Navy, and other Persons engaged in the Military and Naval Service of the United States, from interfering in Elections in the States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall not be lawful for any military or naval officer of the United States, or other person engaged in the civil, military, or naval service of the United States, to order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State of the United States of America, unless it shall be necessary to repel the armed enemies of the United States, or to keep the peace at the polls. And that it shall not be lawful for any officer of the Army or Navy of the United States to prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State of the United States of America, or in any manner to interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State of the United States. Any officer of the Army or Navy of the United States, or other person engaged in the civil, military, or naval service of the United States, who violates this section of this act, shall, for every such offense, be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine not exceeding five thousand dollars, and suffer imprisonment in the penitentiary not less than three months, nor more than five years, at the discretion of the court trying the same; and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the Government of the United States: *Provided*, That nothing herein contained shall be so construed as to prevent any officers, soldiers, sailors, or marines, from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he shall offer to vote.

SEC. 2. *And be it further enacted*, That any officer or person in the military or naval service of the Uni-

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ted States, who shall order or advise, or who shall directly or indirectly, by force, threat, menace, intimidation, or otherwise, prevent or attempt to prevent any qualified voter of any State of the United States of America from freely exercising the right of suffrage at any general or special election in any State of the United States, or who shall in like manner compel, or attempt to compel, any officer of an election in any such State to receive a vote from a person not legally qualified to vote, or who shall impose or attempt to impose any rules or regulations for conducting such election different from those prescribed by law, or interfere in any manner with any officer of said election in the discharge of his duties, shall for any such offense be liable to indictment as for a misdemeanor, in any court of the United States having jurisdiction to hear, try, and determine cases of misdemeanor, and on conviction thereof shall pay a fine of not exceeding five thousand dollars, and suffer imprisonment in the penitentiary not exceeding five years, at the discretion of the court trying the same, and any person convicted as aforesaid shall, moreover, be disqualified from holding any office of honor, profit, or trust, under the Government of the United States.

APPROVED, February 25, 1865.

CHAP. LIII.—An Act to increase the Efficiency of the Medical Corps of the Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the medical director of an army in the field consisting of two or more Army corps, and the medical director of a military department in which there are United States general hospitals containing four thousand beds or upward, shall have the rank, pay, and emoluments of a colonel of cavalry; and the medical director of an Army corps in the field, or of a department in which there are United States general hospitals containing less than four thousand beds, shall have the rank, pay, and emoluments of a lieutenant colonel of cavalry. But this increased rank and pay shall only continue to medical officers while discharging such special duties; and the assignments from time to time to such duty shall be at least two thirds of them made from among the surgeons and assistant surgeons of volunteers.

APPROVED, February 25, 1865.

CHAP. LIV.—An Act to create the Eastern Judicial District of the State of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Kings, Queens, Suffolk, and Richmond, in the State of New York, with the waters thereof, are hereby constituted a separate judicial district of the United States, to be styled the eastern district of New York. The President of the United States, by and with the advice and consent of the Senate, shall appoint a district judge for said district who shall reside therein, and who shall possess the same powers and perform the same duties within said district which are now possessed and performed by the district judge of the southern district of New York. The said judge shall also receive the same compensation as is by law provided for the judge of said southern district. District and circuit courts for the trial of causes shall be held in the city of Brooklyn on the first Wednesday of every month. The courts so to be held shall have the same jurisdiction as is now or may hereafter be vested in other district and circuit courts of the United States. Such officers shall be appointed for said district and court, and in the same manner and with the same fees and emoluments as prescribed by law for other districts and courts of the United States.

SEC. 2. And be it further enacted, That the district court for the said eastern district shall have concurrent jurisdiction with the district court for the southern district of New York over the waters within the counties of New York, Kings, Queens, and Suffolk, in the State of New York, and over all seizures and matters made or done in such waters; and all writs or other process or orders issued out of either of said courts, or by any judge thereof, shall run and be executed in any part of said waters.

SEC. 3. And be it further enacted, That, in case of the inability on account of sickness of the judge of the district court of the United States for the southern district of New York, to hold any court therein, it shall be the duty of the judge of the said eastern district of New York to hold such court and do and perform all the acts and duties of the judge of said southern district without any additional compensation; and whenever, from pressure of public business or other cause, it shall be deemed desirable by the judge of said southern district of New York, that the judge of said eastern district perform the duties of a judge in said southern district, an order may be entered to that effect in the records of said district court, and thereupon the judge of said eastern district shall be empowered to do and perform, without additional compensation, within said southern district of New York, and in the district court thereof, all the acts and duties of the district judge thereof.

APPROVED, February 25, 1865.

CHAP. LV.—An Act supplemental to an Act entitled "An Act to annex a Part of the State of New Jersey to the Collection District of New York, and to appoint an Assistant Collector to reside at Jersey City," approved February twenty-one, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the assistant collector appointed under the act entitled "An act to annex a part of the State of New Jersey to the collection district of New York, and to appoint an assistant collector to reside at Jersey City," approved February twenty-one, eighteen hundred and sixty-three, be, and he hereby is, authorized to enroll and license, according to the laws of the United States, all vessels engaged in the coasting trade and fisheries, owned in whole or in part by residents of the counties of Hudson and Bergen, in the State of New Jersey; and all such enrollments and licenses shall be as valid and effectual as if the same had been effected in any other port of the United States; and the said assistant collector, in the enrollment and licensing of vessels, shall be subject to the laws of the United States, and liable to all the penalties and responsibilities imposed upon collectors in like cases.

APPROVED, February 25, 1865.

CHAP. LVI.—An Act to authorize the Corporation of Georgetown to levy certain Taxes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the corporation of Georgetown be, and they are hereby, authorized and empowered to levy and collect, in the same manner in which other taxes are levied and collected in said town, an annual tax, not to exceed in any year fifteen hundredths of one per centum of the assessed value of the taxable property in said town, to be applied to the payment of the interest and the extinction of the principal of the debt recently contracted by said corporation in filling its quota under the several drafts for troops made during the present war.

SEC. 2. And be it further enacted, That the said corporation are hereby further authorized and empowered to levy and collect, in manner aforesaid, a sum sufficient to pay the said town's proportion of the direct tax imposed on the District of Columbia by the act of Congress approved August fifth, eighteen hundred and sixty-one, and the cost and expenses of collecting the same.

APPROVED, February 25, 1865.

CHAP. LVII.—An Act authorizing and requiring the opening of Sixth Street West.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the corporate authorities of the city of Washington be, and they are hereby, authorized and required to open Sixth street west, from the canal to Maine avenue, under the direction of the Commissioner of Public Buildings, in accordance with the plan approved in May, eighteen hundred and twenty-two, by James Monroe, then President of the United States: *Provided, however, That Sixth street through the public grounds*

known as Armory square shall not be opened until after the removal of the Army hospital from such public ground, or until the consent of the Surgeon General of the United States Army shall be first had and obtained.

APPROVED, February 25, 1865.

CHAP. LVIII.—An Act in reference to Prosecutions for Libel in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all prosecutions or indictments for libel instituted, or which may hereafter be instituted, in the District of Columbia, the truth thereof may be given in evidence under the general issue as a justification of the alleged libel; and if it appear that the matter charged as libelous was true, and was written or published with good motives and for justifiable ends, the defendant shall be acquitted.

APPROVED, February 25, 1865.

CHAP. LIX.—An Act for changing the time for holding the Circuit Courts in the District of Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit courts in the district of Virginia, heretofore holden at Richmond, shall be held at Norfolk, on the first Monday in May and on the fourth Monday of November in each year; and all proceedings and process in or issuing out of the said court which are or may be made returnable to any other times or places appointed for holding the same than those above specified, shall be deemed legally returnable on the days and at the place above specified, and not otherwise; and all suits and other proceedings in said court which stand continued to any other time or place than those above specified, shall be deemed continued to the place and time prescribed by this act, and no other.

APPROVED, February 25, 1865.

CHAP. LXIV.—An Act providing for a District and a Circuit Court of the United States for the District of Nevada, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Nevada shall hereafter constitute one judicial district, and be called the district of Nevada; and for said district a district judge, a marshal, and a district attorney of the United States shall be appointed.

SEC. 2. And be it further enacted, That the said district of Nevada shall be attached to and constitute a part of the tenth circuit; and a term of the circuit court of the United States for the said district shall be held in the city of Carson, in the State of Nevada, on the first Monday of March, and on the first Monday of August, and on the first Monday of December of each year; and a term of the district court of the United States for the said district shall be held at the said city of Carson on the first Monday of February, and on the first Monday of May, and on the first Monday of October of each year.

SEC. 3. And be it further enacted, That the district court of the United States for the district of Nevada, and the judge thereof, shall possess the same powers and jurisdiction possessed by the other district courts and district judges of the United States, and shall be governed by the same laws and regulations.

SEC. 4. And be it further enacted, That the circuit court of the United States for the said district of Nevada, and the judge thereof, shall possess the same powers and jurisdiction in said district which are vested in said court and said judge in the other districts of the tenth circuit.

SEC. 5. And be it further enacted, That the district judge appointed for the district of Nevada shall receive as his compensation the sum of thirty-five hundred dollars a year, payable in four equal installments, on the first days of January, April, July, and October, of each year.

SEC. 6. And be it further enacted, That the marshal and district attorney of the United States for said district of Nevada, and also for the district of Oregon, shall severally be entitled to charge and receive for the services they may perform

double the fees and compensation allowed by the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February twenty-six, eighteen hundred and fifty-three: *Provided*, That the aggregate compensation allowed said officers shall not exceed the amount provided for such officers by said act.

SEC. 7. *And be it further enacted*, That the third, fourth, and fifth sections of the act of February nineteenth, eighteen hundred and sixty-four, entitled "An act amendatory of, and supplementary to, an act to provide circuit courts for the districts of California and Oregon, and for other purposes," approved March third, eighteen hundred and sixty-three, shall be applicable to the appointment of special sessions of the circuit courts in the district of Nevada, and to the appointment of clerks and deputy clerks of the circuit courts of the districts of Nevada and Oregon; and that the clerk of the circuit court in the districts of Nevada, Oregon, and California shall be also clerk of the district court in said districts, and shall receive for like services the same fees and compensation which are allowed by law to the clerks of the circuit and district courts of the United States for California: *Provided*, That the clerk in each of said districts shall be allowed by the Secretary of the Interior to retain of the fees and emoluments received by him as clerk of both courts, over and above the necessary expenses of his offices and necessary clerk hire included, to be audited and allowed by the proper accounting officers of the Treasury, only such sum per annum as is now allowed by law to the clerk of one of said courts, and shall pay the remainder into the public Treasury, under oath, in the manner and under the regulations now prescribed by law.

SEC. 8. *And be it further enacted*, That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States, upon any record from the supreme court of the Territory of Nevada, may be heard and determined by the Supreme Court of the United States, and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Nevada, or to the supreme court of the State of Nevada, as the nature of said appeal or writ of error may require, and each of these courts shall be the successor of the supreme court of Nevada Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process thereon. And from all judgments and decrees of the supreme court of the Territory of Nevada, prior to its admission into the Union as a State, the parties to said judgments and decrees shall have the same right to prosecute appeals and writs of error to the Federal courts as they would have had under the laws of the United States if this act had been passed simultaneously with the act admitting said State into the Union: *Provided*, That said appeals shall be prosecuted and said writs of error sued out at any time before the first day of July, eighteen hundred and sixty-six.

SEC. 9. *And be it further enacted*, That no possessory action between individuals in any of the courts of the United States for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land on which such mines are, is in the United States, but each case shall be adjudged by the law of possession.

APPROVED, February 27, 1865.

CHAP. LXVII.—An Act to revive certain Provisions of the Act entitled "An Act further to provide for the collection of Duties on Imports and Tonnage," approved March three, eighteen hundred and fifteen, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the first sentence of the second section of the act entitled "An act further to provide for the collection of duties on imports and tonnage," approved March three, eighteen hundred and fifteen, to wit: "That it shall be lawful for any collector, naval officer, surveyor or inspector

of the customs, as well in any adjoining district as that to which he belongs, to stop, search, and examine any carriage or vehicle of any kind whatsoever, and to stop any person traveling on foot or beast of burden on which he shall suspect there are goods, wares, or merchandise which are subject to duty, or which shall have been introduced into the United States in any manner contrary to law; and if such officer shall stop any goods, wares, or merchandise on any such carriage, vehicle, person traveling on foot or beast of burden, which he shall have probable cause to believe are subject to duty or have been unlawfully introduced into the United States, he shall seize and secure the same for trial," be, and the same is hereby, revived and reenacted; and every such beast of burden, carriage, or vehicle, together with the teams or other motive power, and all the appurtenances used in conveying such goods, wares, or merchandise, shall be subject to seizure and forfeiture in like manner as is by law now provided in regard to such goods, wares, and merchandise; and all fines, penalties, and forfeitures recovered under this act, or in consequence of such seizures, shall be disposed of as is provided in other cases by the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March second, seventeen hundred and ninety-nine; and the last proviso of said ninety-first section is hereby repealed.

SEC. 2. *And be it further enacted*, That the power and authority given to collectors, naval officers, and surveyors by the sixty-eighth section of the said last-mentioned act be, and the same are hereby, extended to inspectors of the customs; and any officer or other person entitled to or interested in a part or share of any fine, penalty, or forfeiture incurred under this or any other law of the United States, may be examined as a witness in any of the proceedings for the recovery of such fine, penalty, or forfeiture by either of the parties thereto, and such examination shall not deprive such witness of his or her share or interest in such fine, penalty, or forfeiture.

SEC. 3. *And be it further enacted*, That in case any store, warehouse, or other building shall be upon or near the boundary line between the United States and any foreign country, and there is reason to believe that dutiable goods are deposited or have been placed therein or carried through or into the same without payment of duties, and in violation of law, and the collector, deputy collector, naval officer, or surveyor of customs, shall make oath before any magistrate competent to administer the same, that he has reason to believe, and does believe, that such offense has been therein committed, such officer shall have the right to search such building and the premises belonging thereto; and if any such goods shall be found therein, the same, together with such building, shall be seized, forfeited, and disposed of according to law, and the said building shall be forthwith taken down or removed. And any person or persons who shall have received or deposited in such building, or carried through the same, any goods, as aforesaid, or shall have aided therein, in violation of law, shall, upon due conviction before any court of competent jurisdiction, be punished by fine not exceeding ten thousand dollars, or by imprisonment not exceeding two years, or by both such fine and imprisonment.

SEC. 4. *And be it further enacted*, That the first section of the act of April second, eighteen hundred and forty-four, entitled "An act directing the disposition of certain unclaimed goods, wares, or merchandise, seized for being illegally imported into the United States," be so amended that in place of the word "one," wherever the same may be found in said section, the word "five" shall be inserted.

APPROVED, February 28, 1865.

CHAP. LXVIII.—An Act making Appropriations for the Construction, Preservation, and Repairs of certain Fortifications and other Works of Defense, for the year ending the thirtieth of June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they

are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending the thirtieth of June, eighteen hundred and sixty-six:

For Fort Wayne, near Detroit, Michigan, seventy-five thousand dollars.

For repairs of Fort Niagara, near Youngstown, New York, twenty-five thousand dollars.

For Fort Ontario, Oswego, New York, fifty thousand dollars.

For Fort Montgomery, at outlet of Lake Champlain, New York, fifty thousand dollars.

For Fort Knox, at narrows of Penobscot river, Maine, seventy-five thousand dollars.

For Fort Popham, Kennebec river, Maine, seventy-five thousand dollars.

For Fort Preble, Portland, Maine, seventy-five thousand dollars.

For Fort Scammel, Portland, Maine, fifty thousand dollars.

For Fort Georges, on Hog Island Ledge, Portland, Maine, seventy-five thousand dollars.

For Fort Constitution, Portsmouth, New Hampshire, twenty-five thousand dollars.

For Fort McClary, Portsmouth, New Hampshire, fifty thousand dollars.

For Fort Winthrop, Boston, Massachusetts, ten thousand dollars.

For Fort Independence, Boston, Massachusetts, five thousand dollars.

For Fort Warren, Boston, Massachusetts, ten thousand dollars.

For sea-wall of Great Brewster's Island, Boston harbor, Massachusetts, twenty thousand dollars.

For repair of sea-walls on Deer and on Lovell's Islands, Boston harbor, Massachusetts, three thousand dollars.

For permanent forts at New Bedford harbor, Massachusetts, fifty thousand dollars.

For Fort Adams, Newport, Rhode Island, fifty thousand dollars.

For Fort Hale, New Haven, Connecticut, fifty thousand dollars.

For Fort Schuyler, East river, New York, twenty-five thousand dollars.

For fort at Willet's Point, opposite Fort Schuyler, New York, fifty thousand dollars.

For repairs of Fort Hamilton, New York, twenty-five thousand dollars.

For fort on site of Fort Tompkins, Staten Island, New York, fifty thousand dollars.

For fort at Sandy Hook, New Jersey, fifty thousand dollars.

For repairs of Fort Mifflin, near Philadelphia, twenty thousand dollars.

For repairs of Fort Washington, on Potomac river, twenty-five thousand dollars.

For Fort Monroe, Hampton Roads, Virginia, twenty-five thousand dollars.

For Fort Clinch, Florida, fifty thousand dollars.

For Fort Taylor, Key West, Florida, two hundred thousand dollars.

For Fort Jefferson, Garden Key, Florida, one hundred thousand dollars.

For fort on Ship Island, coast of Mississippi, fifty thousand dollars.

For fort at Fort Point, San Francisco bay, California, one hundred and fifty thousand dollars.

For fort at Alcatraz Island, San Francisco bay, California, one hundred and fifty thousand dollars.

For additional defenses at San Francisco, California, fifty thousand dollars.

For defenses of Washington, three hundred thousand dollars.

For field works and field operations, one million dollars.

For bridge trains and equipage for armies in the field, three hundred thousand dollars.

For tool and siege trains for armies in the field, five hundred thousand dollars.

For surveys for military defenses, for purchase of campaign maps, three hundred thousand dollars.

For survey of northern and northwestern lakes, including Lake Superior, one hundred and twenty-five thousand dollars.

For engraving and printing charts of lake surveys, fifteen thousand dollars.



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For purchase and repair of instruments, twenty thousand dollars.

For repairing, equipping, and enlarging Fort Porter, at Buffalo, fifty thousand dollars.

APPROVED, February 28, 1865.

CHAP. LXIX.—An Act relating to the Enrollment and License of certain Vessels.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall become necessary for the owner or owners of any vessel of the United States navigating the western rivers and the waters on the northern, northeastern, and northwestern frontiers of the United States otherwise than by sea, and being in a district other than that to which such vessel shall belong, to procure her enrollment and license, or license, or renewal thereof, the same proceedings may be had in the district in which said vessel then shall be, as are now, or shall then be required by law, on application for such enrollment and license, or license, or renewal thereof, as the case may be, in the district to which such vessel may belong, excepting the giving of bond and the enrollment and issuance of license; and the officer before whom such proceedings shall be had shall certify the same to the collector of the district to which such vessel shall belong, who shall thereupon, on the said owner or owners giving bond as required in other cases, duly enroll the said vessel and issue license in the same form as if the application had originally been made in his office; and either deliver the said license to said owner or owners, or forward it by mail to the officer who certified to him the preliminary proceedings, and who shall, in such case, deliver the said license to the owner or owners or master of the vessel: *Provided,* That this act shall not be construed so as in any respect to change existing laws, excepting in so far as it enable such owners to procure enrollment or license, or renewal thereof, without returning their vessels to their home ports or districts.

APPROVED, February 28, 1865.

CHAP. LXX.—An Act to amend an Act entitled "An Act to regulate the Admeasurement of Tonnage of Ships and Vessels of the United States," approved May sixth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May sixth, eighteen hundred and sixty-four, shall be so construed that no part of any ship or vessel shall be admeasured or registered for tonnage that is used for cabins or state-rooms, and constructed entirely above the first deck, which is not a deck to the hull.

APPROVED, February 28, 1865.

CHAP. LXXI.—An Act concerning the Collection District of Salem and Beverly, in Massachusetts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the office of naval officer for the district of Salem and Beverly, in the State of Massachusetts, be, and the same is hereby, abolished.

Sec. 2. *And be it further enacted,* That the office of surveyor for said district, to reside at Beverly, be, and the same is hereby, abolished.

Sec. 3. *And be it further enacted,* That the salary of surveyor of said district shall hereafter be four hundred dollars per annum.

APPROVED, February 28, 1865.

CHAP. LXXII.—An Act granting to the Michigan City Harbor Company the use of Government Piers in said Harbor for the purpose of protecting said Harbor.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there is hereby granted to the Michigan City Harbor Company, at Michigan City, in the State of Indiana, the privilege of using the foundations of the old Government piers now in

said harbor, for the purpose of improving and protecting the said harbor, and no expenses made by the said harbor company for this purpose shall be considered a charge against the Government.

Sec. 2. *And be it further enacted,* That Michigan City, in the State of Indiana, is hereby constituted a port of delivery, subject to the same regulations and restrictions as other ports of delivery of the United States, and the said port of delivery is hereby annexed to, and made part of, the collection district of Chicago, in the State of Illinois. And there shall be appointed a surveyor of the customs, to reside at said port, who shall receive an annual compensation of three hundred and fifty dollars per annum.

APPROVED, February 28, 1865.

CHAP. LXXIII.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-six, and additional Appropriations for the current fiscal year.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-six, namely:

## LEGISLATIVE.

For compensation and mileage of Senators, two hundred and forty-seven thousand four hundred and thirty dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, three thousand six hundred dollars; officer charged with disbursements of the Senate, four hundred and eighty dollars; chief clerk, two thousand five hundred dollars; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand one hundred and sixty dollars each; eight clerks in office of the Secretary of the Senate, at one thousand eight hundred and fifty dollars each; keeper of the stationery, one thousand seven hundred and fifty-two dollars; two messengers, at one thousand and eighty dollars each; one page, at five hundred dollars; Sergeant-at-Arms and Doorkeeper, two thousand dollars; assistant doorkeeper, one thousand seven hundred dollars; Postmaster to the Senate, one thousand seven hundred and fifty dollars; assistant postmaster and mail-carrier, one thousand four hundred and forty dollars; two mail-boys, at one thousand dollars each; superintendent of the document room, one thousand five hundred dollars; two assistants in document room, at one thousand two hundred dollars each; superintendent of the folding-room, one thousand five hundred dollars; two messengers, acting as assistant doorkeepers, at one thousand five hundred dollars each; seventeen messengers, at one thousand two hundred dollars each; clerk or secretary to the President of the Senate, one thousand seven hundred and fifty-two dollars; clerk to the Committee on Finance, one thousand eight hundred and fifty dollars; clerk to the Committee on Claims, one thousand eight hundred and fifty dollars; clerk of printing records, one thousand eight hundred and fifty dollars; superintendent in charge of the furnaces, one thousand two hundred dollars; assistant in charge of furnaces, seven hundred and twenty dollars; laborer in charge of private passages, seven hundred and twenty dollars; two laborers, at five hundred and seventy-six dollars each; Chaplain to the Senate, seven hundred and fifty dollars; making seventy-nine thousand six hundred and forty-six dollars.

For contingent expenses of the Senate, viz:

For stationery, seventeen thousand dollars.

For newspapers, three thousand dollars.

For Congressional Globe, thirty-five thousand dollars.

For reporting proceedings in the Daily Globe for the first session of the Thirty-Ninth Congress, twenty thousand dollars.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages ex-

ceeding three thousand, including the indexes and the laws of the United States, twelve thousand nine hundred dollars.

For one complete set of the Congressional Globe and Appendix for each Senator in the Thirty-Ninth Congress who has not already received them, six thousand eight hundred dollars: *Provided, however,* That any Senator who has already as a member of the House of Representatives received a portion of a set of the Congressional Globe, shall only be entitled to receive as such Senator the additional volumes required to complete one full set.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the first regular session of the Thirty-Ninth Congress, eight hundred dollars each, four thousand dollars.

For clerks to committees, pages, horses, and carriages, eighteen thousand dollars.

For Capitol police, nineteen thousand one hundred and seventy dollars.

For expenses of heating and ventilating apparatus, sixteen thousand dollars.

For miscellaneous items, thirty thousand dollars.

For compensation and mileage of Members of the House of Representatives and Delegates from Territories, three hundred thousand dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, three thousand six hundred dollars; chief clerk and one assistant clerk, at two thousand one hundred and sixty dollars each; eleven clerks, at one thousand eight hundred dollars each; principal messenger in the office, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; three messengers, at one thousand two hundred dollars each; messenger to the Speaker, at four dollars and eighty cents per day, one thousand seven hundred and fifty-two dollars; clerk to the Committee of Ways and Means, two thousand one hundred and sixty dollars; clerk to the Committee of Claims, one thousand eight hundred dollars; clerk to Committee on Public Lands, one thousand eight hundred dollars; Sergeant-at-Arms, two thousand one hundred and sixty dollars; clerk to the Sergeant-at-Arms, one thousand eight hundred dollars; messenger to the Sergeant-at-Arms, one thousand two hundred dollars; Postmaster, two thousand one hundred and sixty dollars; assistant postmaster, one thousand seven hundred and forty dollars; four messengers, at one thousand four hundred and forty dollars each; two mail-boys, at nine hundred dollars each; Capitol police, nineteen thousand one hundred and seventy dollars; Doorkeeper, two thousand one hundred and sixty dollars; superintendent of the folding-room, one thousand eight hundred dollars; two messengers, at one thousand seven hundred and fifty-two dollars each; one messenger, at one thousand seven hundred and forty dollars; five messengers, at one thousand five hundred dollars each; six messengers, at one thousand two hundred dollars each; twelve messengers, to be employed during the session of Congress, at the rate of one thousand two hundred dollars each per annum; Chaplain to the House of Representatives, seven hundred and fifty dollars; making one hundred and nine thousand four hundred and twenty-eight dollars.

For contingent expenses of the House of Representatives, viz:

For cartage, two thousand dollars.

For twenty-four copies of the Congressional Globe and Appendix for each Member and Delegate of the first regular session of the Thirty-Ninth Congress, and one hundred copies of the same for the House Library, twenty-nine thousand four hundred dollars.

For the compensation of clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, eighteen thousand five hundred and seventy-six dollars.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding three thousand, including the indexes and the laws of the United States, ten thousand nine hundred dollars.

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For one complete set of the Congressional Globe and Appendix for each Representative and Delegate in the first session of the Thirty-Ninth Congress, who has not already received the same, twenty-three thousand dollars.

For folding documents, including materials, thirty thousand dollars.

For fuel and lights, pay of engineers, firemen, and laborers, repairs, and materials, fifteen thousand dollars.

For furniture, repairs, and packing-boxes for members, ten thousand dollars.

For horses, carriages, and saddle-horses, nine thousand dollars.

For laborers, eight thousand four hundred dollars.

For miscellaneous items, thirty thousand dollars.

For newspapers, one thousand dollars.

For pages and temporary mail-boys, ten thousand and eighty dollars.

For reporting and publishing proceedings in the Daily Globe, at seven dollars and fifty cents per column, twenty thousand dollars.

For stationery, twelve thousand dollars.

For the usual additional compensation to the reporters of the House for the Congressional Globe, for reporting the proceedings of the House for the first regular session of the Thirty-Ninth Congress, eight hundred dollars each, four thousand eight hundred dollars.

For completing the tiling of the floor of the old Hall of Representatives, under the same authority that the work has already been done, three thousand eight hundred and seventy-five dollars.

**PUBLIC PRINTING.**

For compensation of the Superintendent of the Public Printing, and the clerks and messenger in his office, nine thousand seven hundred and fourteen dollars.

For contingent expenses of his office, viz: For stationery, postage, advertising, furniture, traveling expenses, horses and wagons, and miscellaneous items, two thousand dollars.

For addition to the Public Printing Office and the necessary presses, machinery, and fixtures, sixty-one thousand dollars; so much thereof to be expended under the direction of the Secretary of the Interior as may be necessary for the erection of said addition.

For the public printing, three hundred and thirty-nine thousand four hundred and sixty-five dollars and fifty cents.

For paper for the public printing, six hundred and twenty-nine thousand and forty dollars.

For the public binding, three hundred and seventy-three thousand seven hundred and ten dollars and twenty-four cents.

For mapping in cases pending in the Supreme Court of the United States, five thousand dollars.

For lithographing and engraving for the Senate and House of Representatives, seventy-five thousand dollars.

**LIBRARY OF CONGRESS.**

For compensation of Librarian, three assistant librarians, messenger, and laborers, ten thousand eight hundred dollars.

For contingent expenses of said Library, two thousand dollars.

For purchase of books for said Library, eight thousand dollars.

For purchase of law books for said Library, two thousand dollars.

For an enlargement of the Library of Congress, so as to include in two wings, built fire-proof, the space at either end of the present Library, measuring about eighty feet in length by thirty feet in width, in accordance with a plan to be approved by the Committee on the Library, one hundred and sixty thousand dollars, to be expended under the direction of the Secretary of the Interior.

**COURT OF CLAIMS.**

For salaries of five judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, clerk and assistant clerk, bailiff, and messenger thereof, thirty-six thousand three hundred dollars.

For stationery, books, fuel, lights, laborers' hire, and other contingent and miscellaneous expenses, three thousand dollars.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners, one thousand dollars.

**EXECUTIVE.**

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of the Vice-President of the United States, eight thousand dollars.

For compensation of secretary to sign patents for public lands, one thousand five hundred dollars.

For compensation to the private secretary, steward, and messenger of the President of the United States, four thousand six hundred dollars.

For contingent expenses of the executive office, including stationery therefor, two thousand dollars.

**DEPARTMENT OF STATE.**

For compensation of the Secretary of State and Assistant Secretary of State, chief clerk, superintendent of statistics, clerks, messenger, assistant messenger, and laborers in his office, fifty-eight thousand eight hundred and eighty dollars.

*For the Incidental and Contingent Expenses of the Department of State.*

For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, seventeen thousand one hundred and twenty-five dollars.

For proof-reading and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, three thousand five hundred dollars.

For stationery, blank books, binding, furniture, fixtures, and repairs, five thousand dollars.

For miscellaneous items, two thousand five hundred dollars.

For copper-plate printing, books, and maps, five thousand dollars.

For extra clerk hire and copying, ten thousand dollars.

For compensation of four watchmen and two laborers of the Northeast Executive Building, four thousand three hundred and twenty dollars.

For contingent expenses of said building, viz: for fuel, light, repairs, and miscellaneous expenses, five thousand five hundred dollars.

For the payment of the first annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt dues,—to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium, of the twentieth of May, eighteen hundred and sixty-three, the sum of fifty-five thousand five hundred and eighty-four dollars, in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for the payment of interest on the said sum and on the portion of the principal remaining unpaid.

**TREASURY DEPARTMENT.**

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, supervising architect and assistant architect, clerks, messengers, assistant messenger, and laborers, one hundred and eighteen thousand nine hundred and twenty dollars.

For compensation of the First Comptroller, chief clerk, and the clerks, messenger, and laborers in his office, forty-three thousand seven hundred and forty dollars.

For compensation of the Second Comptroller, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, including three clerks of class four, three clerks of class three, three clerks of class two, three clerks of class one, twelve clerks at an annual salary of seven hundred and twenty dollars each, and one laborer at an annual salary of seven hundred and twenty dollars, who are hereby authorized to be appointed, one hundred and thirty-four thousand nine hundred and twenty dollars.

For compensation of the First Auditor, chief clerk, and the clerks, messenger, assistant messenger, and laborer in his office, forty-eight thousand three hundred and sixty dollars.

For compensation of the Second Auditor, chief clerk, and the clerks, messenger, assistant messengers, and laborers in his office, including three clerks of class four, twenty clerks of class three,

forty clerks of class two, seventy of class one, one assistant messenger at eight hundred and forty dollars per annum, and three laborers at seven hundred and twenty dollars per annum, each, who are hereby authorized to be appointed, five hundred and eighteen thousand seven hundred and twenty dollars.

For compensation of the Third Auditor, chief clerk, and the clerks, messengers, assistant messengers, and laborers in his office, including five clerks of class four, fifteen clerks of class three, thirty clerks of class two, and fifty clerks of class one, who are hereby authorized to be appointed, three hundred and eighty-four thousand two hundred and eighty dollars.

For compensation of the Fourth Auditor, chief clerk, and the clerks, messenger, and assistant messenger, and laborer in his office, one hundred and ten thousand nine hundred and sixty dollars.

For compensation of the Fifth Auditor, chief clerk, and the clerks, messenger, and laborer in his office, forty-eight thousand eight hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department, and the clerks, messenger, assistant messenger, and laborers in his office, one hundred and ninety-three thousand one hundred and sixty dollars.

For compensation of the Treasurer of the United States, Assistant Treasurer, cashier, assistant cashier, chiefs of division, book-keepers, tellers, assistant tellers, chief clerk, and the clerks, messenger, assistant messengers, and laborers in his office, one hundred and sixty-nine thousand three hundred and eighty dollars.

For compensation of the Register of the Treasury, Assistant Register, chief clerk, and the clerks, messengers, assistant messenger, and laborers in his office, ninety-one thousand five hundred and twenty dollars.

For compensation of the Solicitor of the Treasury, chief clerk, and the clerks and messenger in his office, eighteen thousand five hundred dollars.

For compensation of the Commissioner of Customs, chief clerk, and the clerks, messenger, and laborer in his office, forty thousand nine hundred and twenty dollars.

For compensation of the chief clerk, clerks, messenger, and laborer of the Light-House Board, nine thousand five hundred and twenty dollars.

For compensation of the Comptroller of the Currency, Deputy Comptroller, clerks, messenger, and laborer, sixty-four thousand nine hundred and forty dollars.

**Contingent Expenses of the Treasury Department.**

In the office of the Secretary of the Treasury:

For copying, labor, binding, sealing slips' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, fifty thousand dollars.

For compensation to temporary clerks in the Treasury Department, and for additional compensation to clerks in same Department: *Provided*, That the temporary clerks herein provided for may be classified according to the character of their services: *And provided further*, That the Secretary of the Treasury may award such additional compensation to clerks as in his judgment may be deemed just and may be required by the public service, two hundred and fifty thousand dollars; but the said Secretary shall not have the authority to award any such additional compensation to such clerks after the first day of July, eighteen hundred and sixty-six.

In the office of the First Comptroller:

For furniture, public documents, State and territorial statutes, postage, and miscellaneous items, one thousand dollars.

In the office of the Second Comptroller:

For furniture and miscellaneous items, including subscription to one city newspaper, to be bound and preserved for the use of the office, four thousand dollars.

In the office of the First Auditor:

For office furniture and miscellaneous items, one thousand five hundred dollars.

In the office of the Second Auditor:

For office furniture and miscellaneous items, including two of the city newspapers, to be filed

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and preserved for the use of the office, twenty-five thousand dollars.

In the office of the Third Auditor:

For office furniture, carpeting, two newspapers, preserving files and papers, bounty-land service, and miscellaneous items, fifteen thousand dollars.

In the office of the Fourth Auditor:

For contingent expenses of the office, three thousand dollars.

In the office of the Fifth Auditor:

For postage, furniture, and miscellaneous expenses, in which are included two daily newspapers, two thousand dollars.

In the office of the Treasurer:

For contingent expenses of the office, ten thousand dollars.

In the office of the Register:

For arranging and binding canceled marine papers, cases for official papers and records, and miscellaneous items, including office furniture, eight thousand dollars.

Office of the Solicitor of the Treasury:

For labor and miscellaneous items, and for statutes and reports, two thousand two hundred dollars.

Office of the Commissioner of Customs:

For miscellaneous items and office furniture, three thousand dollars.

Office of the Comptroller of the Currency:

For furniture and miscellaneous items, five thousand dollars.

For stationery for the Treasury Department and its several bureaus, one hundred thousand dollars.

*For the general purposes of the Southeast Executive Building, including the Extension.*

For compensation of twelve watchmen and eleven laborers of the Southeast Executive Building, sixteen thousand five hundred and sixty dollars.

For contingent expenses of said building, viz: for fuel, light, labor, and miscellaneous items, seventy-five thousand dollars.

## DEPARTMENT OF THE INTERIOR.

For the compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers in his office, forty-eight thousand one hundred and sixty dollars.

For compensation of the Commissioner of the General Land Office, chief clerk, recorder, draughtsman, assistant draughtsman, clerks, messengers, assistant messengers, packers, watchmen, and laborers in his office, one hundred and seventy-eight thousand two hundred dollars.

For compensation of additional clerks in the General Land Office, under the act of third March, one thousand eight hundred and fifty-five, granting bounty land, and for laborers employed therein, fifty-eight thousand six hundred and forty dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and he is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For compensation of the Commissioner of Indian Affairs, chief clerk, and the clerks, messenger, assistant messenger, watchmen, and laborer in his office, thirty-two thousand six hundred dollars.

For compensation of the Commissioner of Pensions, chief clerk, and the clerks, messengers, assistant messengers, watchman, and laborers in his office, two hundred and sixteen thousand nine hundred and twenty dollars.

For additional clerks in the Pension Office, twenty-one thousand dollars: *Provided*, That the Secretary of the Interior, at his discretion, shall be, and is hereby, authorized to use any portion of said appropriation for piece-work, or by the day, week, month, or year, at such rate or rates as he may deem just and fair, not exceeding a salary of twelve hundred dollars per annum.

For compensation of the Commissioner of Public Buildings, and the clerk and messenger in his office, four thousand two hundred dollars.

## Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For stationery, furniture, and other contingencies, and for books and maps for the library, seven thousand dollars.

For repairs of the Patent Office building, twelve thousand five hundred dollars.

For expenses of packing and distributing congressional Journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved twenty-eighth January, eighteen hundred and fifty-seven, and act fifth February, eighteen hundred and fifty-nine, six thousand dollars.

For fuel and lights for the Patent Office building, including the salaries of engineer and assistant engineer of the furnaces, eighteen thousand dollars.

Office of Indian Affairs:

For blank books, binding, stationery, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, four thousand dollars.

Office of the Commissioner of Pensions:

For stationery, engraving, and retouching plates for bounty-land warrants, and binding the same, office furniture, and repairing the same, and miscellaneous items, including two city daily newspapers, to be filed, bound, and preserved for the use of the office, fifteen thousand dollars.

Office of the Commissioner of Public Buildings:

For stationery, blank books, plans, drawings, and other contingent expenses of his office, five hundred dollars.

## Surveyors General and their Clerks.

For compensation of the surveyor general of Wisconsin and Iowa, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Minnesota, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territories of Dakota and Montana, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of Kansas and Nebraska, and the clerks in his office, eight thousand three hundred dollars.

For compensation of the surveyor general of the Territories of Colorado, Utah, and Idaho, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of New Mexico and Arizona, and the clerks in his office, seven thousand dollars.

For compensation of the surveyor general of California and Nevada, and the clerks in his office, fourteen thousand dollars.

For compensation of the surveyor general of Oregon, and the clerks in his office, six thousand five hundred dollars.

For compensation of the surveyor general of Washington Territory, and the clerks in his office, six thousand five hundred dollars.

For compensation of the clerks in the offices of the surveyors general, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field-notes of surveys, for the purpose of preserving them at the seat of Government, ten thousand dollars.

For compensation of recorder of land titles in Missouri, five hundred dollars.

For compensation of translator in the office of surveyor general of New Mexico and Arizona, two thousand dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, seven hundred dollars.

For rent of the surveyor general's office in California, fuel, books, stationery, and other incidental expenses, including pay of messenger, six thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For office rent of the surveyor general of Kansas and Nebraska, fuel, and incidental expenses, one thousand five hundred dollars.

For rent of surveyor general's office in the Territory of Dakota, fuel, books, stationery, and other incidental expenses, six hundred dollars.

For rent of office for the surveyor general of Colorado, Utah, Nevada, and Idaho Territories, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For the pay of the wages of one clerk in the consolidated land office at Des Moines, Iowa, one thousand dollars.

## [Expenses of Courts of the United States.]

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of funds arising from fines, penalties, and forfeitures, in the fiscal year ending June thirtieth, eighteen hundred and sixty-five, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, seven hundred thousand dollars, and the unexpended balances of appropriations for the judiciary fund shall return into the Treasury.

## WAR DEPARTMENT.

For compensation of the Secretary of War, Assistant Secretaries of War, Solicitor, chief clerk, and the clerks, messenger, assistant messengers, and laborer in his office, sixty-four thousand and sixty dollars.

For compensation of the clerks and messengers in the office of the Adjutant General, two hundred and twenty-four thousand four hundred dollars.

For compensation of the clerks, messengers, assistant messengers, and laborers in the office of the Quartermaster General, three hundred and ninety-five thousand eight hundred and forty dollars.

For compensation of the clerks and messengers in the office of the Paymaster General, two hundred and nine thousand six hundred and eighty dollars.

For compensation of the clerks, messenger, and laborers in the office of the Commissary General, eighty-six thousand one hundred and sixty dollars.

For compensation of the clerks, messenger, and laborer in the office of the Surgeon General, forty-four thousand one hundred and twenty dollars.

For compensation of the clerks, messengers, and laborer in the office of the Chief Engineer, twenty-nine thousand three hundred and twenty dollars.

For compensation of the clerks and messenger in the office of the Colonel of Ordnance, one hundred and seventy-three thousand two hundred and eighty dollars.

For compensation of the clerks in the office of Military Justice, seven thousand two hundred dollars.

## Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, twenty thousand dollars.

Office of the Adjutant General:

For blank books, stationery, binding, and miscellaneous items, twenty-five thousand dollars.

Office of the Quartermaster General:

For blank books, stationery, binding, and miscellaneous items, twenty thousand dollars.

Office of the Paymaster General:

For blank books, stationery, binding, and miscellaneous items, ten thousand dollars.

Office of the Commissary General:

For blank books, stationery, and binding, including rent of office and hire of watchmen, twenty thousand dollars.

Office of the Chief Engineer:

For blank books, stationery, binding, and miscellaneous items, three thousand five hundred dollars.

Office of the Surgeon General:

For blank books, stationery, binding, and miscellaneous items, including rent of office, twelve thousand five hundred dollars.

Office of the Chief of Ordnance:

For blank books, stationery, binding, and miscellaneous items, ten thousand dollars.



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*Laws of the United States.***Office of Military Justice:**

For blank books, stationery, binding, and miscellaneous items, one thousand five hundred dollars.

**For the general purposes of the Northwest Executive Building.**

For compensation of superintendent, four watchmen, and two laborers of the Northwest Executive Building, four thousand five hundred and seventy dollars.

For labor, fuel, light, and miscellaneous items, twenty thousand dollars.

**For the general purposes of the Building corner of F and Seventeenth streets.**

For compensation of superintendent, four watchmen, and two laborers for said building, four thousand five hundred and seventy dollars.

For fuel, compensation of firemen, and miscellaneous items, six thousand dollars.

**For the general purposes of the Building corner of F and Fifteenth streets.**

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, fifteen thousand dollars.

**NAVY DEPARTMENT.**

For compensation of the Secretary of the Navy, Assistant Secretary of the Navy, chief clerk, and the clerks, messenger, assistant messenger, and laborers in his office, including four clerks of class four, and one laborer, at an annual salary of seven hundred and twenty dollars per annum, which are hereby authorized to be appointed, fifty-five thousand eight hundred dollars.

For compensation of the chief of the Bureau of Navy-Yards and Docks, and the civil engineer, chief clerk, clerks, messenger, and laborers in his office, nineteen thousand six hundred and forty dollars.

For compensation of the chief of the Bureau of Equipment and Recruiting, chief clerk, and the clerks, messenger, and laborer in his office, including one clerk of class three, and one clerk of class one, which are hereby authorized to be appointed, sixteen thousand four hundred and twenty dollars.

For compensation of the chief of the Bureau of Navigation, chief clerk, and the clerks, messenger, and laborer in his office, ten thousand one hundred and twenty dollars.

For compensation of the chief of the Bureau of Ordnance, and the assistant, chief clerk, clerks, draughtsman, messenger, and laborers in his office, nineteen thousand one hundred and ninety-six dollars.

For compensation of the chief of the Bureau of Construction and Repair, chief clerk, and the clerks, draughtsman, messenger, and laborer in his office, including one additional temporary clerk of class two, which is hereby authorized to be appointed, eighteen thousand and twenty dollars.

For compensation of the chief of the Bureau of Steam Engineering, chief clerk, and the clerks, draughtsmen, messenger, and laborer in his office, eleven thousand and twenty dollars.

For compensation of the chief of the Bureau of Provisions and Clothing, chief clerk, and the clerks, messenger, and laborers, twenty-four thousand six hundred and twenty dollars.

For compensation of the chief of the Bureau of Medicine and Surgery, assistant, and the clerks, messenger and laborer in his office, ten thousand eight hundred and twenty dollars.

**Incidental and Contingent Expenses of the Navy Department.****Office of the Secretary of the Navy:**

For stationery, labor, newspapers, periodicals, and miscellaneous items, five thousand dollars.

**Bureau of Yards and Docks:**

For stationery, books, plans, drawings, and incidental labor, one thousand eight hundred dollars.

**Bureau of Equipment and Recruiting:**

For stationery, books, and miscellaneous items, eight hundred dollars.

**Bureau of Navigation:**

For stationery, blank books, and miscellaneous items, eight hundred dollars.

**Bureau of Ordnance:**

For stationery and miscellaneous items, two thousand dollars.

**Bureau of Construction and Repair:**

For stationery and miscellaneous items, one thousand dollars.

**Bureau of Steam Engineering:**

For stationery and miscellaneous items, two thousand five hundred dollars.

**Bureau of Provisions and Clothing:**

For stationery and miscellaneous items, one thousand five hundred dollars.

**Bureau of Medicine and Surgery:**

For blank books, stationery, and miscellaneous items, eight hundred dollars.

**For the general purposes of the Southwest Executive Building.**

For compensation of five watchmen and two laborers of the Southwest Executive Building, four thousand seven hundred and fifty-two dollars.

For contingent expenses of said building, viz: For labor, fuel, lights, and miscellaneous items, six thousand five hundred dollars.

**POST OFFICE DEPARTMENT.**

For compensation of the Postmaster General, three Assistant Postmasters General, chief clerk, and the clerks, messenger, assistant messengers, watchmen, and laborers of said Department, one hundred and sixty thousand three hundred and sixty dollars.

For compensation of twenty-five additional clerks, twenty thousand dollars.

**Contingent Expenses of the Post Office Department.**

For blank books, binding, and stationery, fuel for the General Post Office building, including the Auditor's office, oil, gas, and candles, printing, repair of the General Post Office building, office furniture, glazing, painting, whitewashing, and for keeping the fireplaces and furnaces in order; for engineer for steam engine, laborers, watchmen, repairs of furniture, and for miscellaneous items, forty thousand dollars.

**Money-Order Bureau.**

For compensation of Superintendent and the clerks in his office, seven thousand five hundred dollars.

**DEPARTMENT OF AGRICULTURE.**

For compensation of Commissioner of Agriculture, chief clerk, and the clerks and employes in his office, thirty-nine thousand six hundred dollars.

For contingencies, viz: For stationery, purchase of library, laboratory, rent, and miscellaneous items, seven thousand five hundred dollars.

For collecting agricultural statistics, twenty thousand dollars.

For purchase and distribution of new and valuable seeds, viz: For purchase of cereal, vegetable, and flower seeds, and for labor in putting up seeds, seed-bags, and miscellaneous items, sixty-one thousand dollars.

For employes in seed room, five thousand two hundred dollars.

For propagation and distribution of plants, cuttings, and shrubs, fourteen thousand dollars: *Provided*, That the propagation of plants, cuttings, and shrubs shall be confined to such as are adapted to general cultivation and to promote the general interests of horticulture and agriculture throughout the United States.

For experimental garden in reservation number two, eight thousand dollars.

**MINT AT PHILADELPHIA.**

For salaries of the director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, twenty-six thousand four hundred dollars.

For wages of workmen and adjusters, one hundred and twenty-five thousand dollars.

For incidental and contingent expenses, ten thousand dollars.

For specimens of ores and coins to be preserved in the cabinet of the Mint, three hundred dollars.

**BRANCH MINT AT SAN FRANCISCO, CALIFORNIA.**

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and seventy-five thousand dollars.

For incidental and contingent expenses, repairs, and wastage, fifty thousand dollars.

**ASSAY OFFICE, NEW YORK.**

For salaries of superintendent, assayer, and melter and refiner, assistant assayer, officers, and clerks, twenty-three thousand nine hundred dollars.

For wages of workmen, forty-eight thousand dollars.

For incidental and contingent expenses, twenty thousand dollars.

**BRANCH MINT AT DENVER.**

For superintendent, assayer, melter, refiner, coiner, and clerks, thirteen thousand dollars.

For wages of workmen, twenty-one thousand seven hundred and fifty-five dollars.

For incidental and contingent expenses, five thousand dollars.

**GOVERNMENTS IN THE TERRITORIES.****Territory of New Mexico.**

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

**Territory of Utah.**

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, two thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

**Territory of Washington.**

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerk, and contingent expenses of the Assembly, fifteen thousand dollars.

**Territory of Nebraska.**

For salaries of Governor, chief justice and two associate judges, and secretary, ten thousand five hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, eighteen thousand dollars.

**Territory of Colorado.**

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, eighteen thousand dollars.

**State of Nevada.**

For salary of superintendent of Indian affairs, two thousand dollars, or so much thereof as may be necessary.

**Territory of Dakota.**

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and

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contingent expenses of the Assembly, fifteen thousand dollars.

*Territory of Arizona.*

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Idaho.*

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

*Territory of Montana.*

For compensation of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses, twenty thousand dollars.

## JUDICIARY.

*Office of the Attorney General.*

For salaries of the Attorney General, Assistant Attorney General, and the clerks and messenger in his office, twenty thousand four hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, three thousand five hundred dollars.

For purchase of law and necessary books for the office of the Attorney General, five hundred dollars.

For legal assistance and other necessary special and extraordinary expenses in the disposal of private land claims in California, ten thousand dollars.

*Justices of the Supreme Court of the United States.*

For salaries of the Chief Justice and nine associate justices, sixty thousand five hundred dollars.

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, two thousand dollars.

For salaries of the district judges of the United States, one hundred and eighteen thousand seven hundred and fifty dollars.

For salaries of the chief justice of the supreme court of the District of Columbia, the associate judges, and judge of the orphans' court, fourteen thousand five hundred dollars.

For salary of the reporter of the decisions of the Supreme Court of the United States, one thousand three hundred dollars.

For compensation of the district attorneys, nineteen thousand one hundred dollars.

For compensation of the district marshals, twelve thousand dollars.

## INDEPENDENT TREASURY.

For salaries of the Assistant Treasurers of the United States at New York, Boston, Charleston, and St. Louis, sixteen thousand five hundred dollars.

For additional salary of the treasurer of the Mint at Philadelphia, one thousand dollars.

For additional salary of the treasurer of the branch mint at New Orleans, five hundred dollars.

For additional salary of the treasurer of the branch mint at Denver, five hundred dollars.

For salaries of the clerks and messengers in

office of Assistant Treasurer at Boston, eight thousand one hundred dollars.

For salaries of additional clerks in the office of the Assistant Treasurer at Boston, which are hereby authorized, eleven thousand five hundred dollars.

For salaries of clerks, messengers, and watchmen, in office of the Assistant Treasurer at Philadelphia, eighteen thousand three hundred dollars.

For salaries of clerks, messengers, and watchmen, in office of Assistant Treasurer at New York, one hundred and five thousand three hundred and twenty dollars.

For salaries of clerks, messengers, and watchmen, in the office of the Assistant Treasurer at St. Louis, nine thousand seven hundred and sixty dollars.

For additional salaries to the messenger at four hundred dollars per annum, and to the four watchmen at one hundred dollars per annum each, which increase is hereby authorized, in the office of the Assistant Treasurer at St. Louis, eight hundred dollars.

For salaries of clerks, porter, and watchmen, in the office of the Assistant Treasurer at New Orleans, nine thousand six hundred dollars.

For compensation of the depository at Santa Fe, and the clerk, watchman, and porter in his office, four thousand eight hundred dollars.

For salary of the clerk to the acting Assistant Treasurer at Denver, one thousand eight hundred dollars.

For salaries of additional clerks, and additional compensation of officers and clerks, under act of August sixth, eighteen hundred and forty-six, for the better organization of the Treasury, and tenth section of act of March third, eighteen hundred and fifty-three, making appropriations for the civil and diplomatic expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-four, at such further rates as the Secretary may deem just and reasonable, fifty thousand dollars.

For compensation to designated depositories, under fourth section of act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, eight thousand dollars.

For compensation to special agents under act of sixth of August, eighteen hundred and forty-six, eight thousand dollars.

For salaries of nine supervising and fifty local inspectors, appointed under act thirtieth August, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, with traveling and other expenses incurred by them, eighty thousand dollars.

For contingent expenses under the act of sixth August, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, in addition to premium which may be received on transfer drafts: *Provided*, That no part of said sum shall be expended for clerical services, two hundred and fifty thousand dollars.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, two million dollars: *Provided*, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to examine and adjust the accounts of Stuart Gwynn for printing presses, machinery, material, and labor furnished and supplied to the Treasury Department, and for expenditures under the authority of the Secretary, and to report to him such sum as may be equitably due to said Gwynn: *Provided further*, That for items furnished or supplied under contract no greater sum than the contract price shall be allowed: *And provided further*, That before any payment shall be made, the said Stuart Gwynn shall, in such form as may be prescribed by the Secretary of the Treasury, fully convey and secure to the United States the right to use the said presses, and any additional number thereof, with their machinery and future improvements in the Treasury building, or any other buildings directed by the Secretary for any and all printing the Government may desire for its own use and purposes.

For procuring dies, stamps, adhesive stamps, paper, printing forms and regulations, advertising, and other expenses of carrying into effect the in-

ternal revenue act of June thirtieth, eighteen hundred and sixty-four, one million one hundred thousand dollars.

For paper, special dies, and the printing of circulating notes, and expenses necessarily incurred (including express charges) in procuring the same, in the office of the Comptroller of the Currency, six hundred and seventy-seven thousand five hundred dollars.

## COMMISSIONERS OF DIRECT TAXES IN INSURRECTIONARY DISTRICTS.

For compensation of thirty-three commissioners, at three thousand dollars each, and eleven clerks at twelve hundred dollars each, one hundred and twelve thousand two hundred dollars.

For contingent expenses, advertising, and surveying, forty thousand dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, five hundred and twenty-five dollars and sixty cents.

For compensation of four laborers in Capitol, two thousand eight hundred and eighty dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of a foreman and twenty-one laborers employed in the public grounds, sixteen thousand and eighty dollars.

For compensation of the keeper of the western gate, Capitol square, one thousand dollars.

For compensation of two day watchmen employed in the Capitol square, one thousand four hundred and forty dollars.

For compensation of the doorkeeper at the President's House, seven hundred and twenty dollars.

For compensation of assistant doorkeeper at the President's house, seven hundred and twenty dollars.

For compensation of one night watchman at the public stables and carpenters' shops south of the Capitol, one thousand dollars.

For compensation of watchman in reservation number two, seven hundred and twenty dollars.

For compensation of eight draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, seven thousand five hundred and fifty-three dollars and sixty cents.

For compensation of two draw-keepers at the two bridges across the eastern branch of the Potomac, and for fuel, oil, and lamps, one thousand three hundred and ninety-six dollars.

For compensation of furnace-keeper under the old Hall of the House of Representatives, seven hundred and twenty dollars.

For compensation of furnace-keeper at the President's House, seven hundred and twenty dollars.

## METROPOLITAN POLICE.

For salaries and other necessary expenses of the Metropolitan Police for the District of Columbia, one hundred and ten thousand dollars. And the compensation of said metropolitan police force, officers, and clerks, is hereby increased fifty per centum, upon the amount hereby appropriated, commencing on the first day of July, eighteen hundred and sixty-five, said increase to be borne by the cities of Washington and Georgetown, and the county of Washington in the District of Columbia, in proportion to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington, and the levy court of said county are hereby authorized and empowered to levy a special tax not exceeding one quarter of one per centum for the purpose aforesaid.

Sec. 2. *And be it further enacted*, That, to enable the Secretary of the Treasury to provide temporary accommodations for the State Department, and for the accommodation of such of the clerks of the Treasury Department as cannot be accommodated in the present building, the sum of twenty-five thousand dollars is hereby appropriated, and for the purpose of furnishing and fitting up suitable rooms for the office of the Attorney General, if it shall be necessary for him to remove from the Treasury Department, the sum of ten thousand dollars is hereby appropriated, or so much thereof as may be necessary.

Sec. 3. *And be it further enacted*, That from and after the passage of this act, the public lands in the State of Nevada shall, for surveying purposes,

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be attached to and included in the surveying district of California.

SEC. 4. *And be it further enacted*, That from and after the commencement of the next fiscal year, the salary of each of the Assistant Secretaries of the Executive Departments, the Assistant Attorney General, and the three Assistant Postmasters General, shall be three thousand five hundred dollars per annum.

SEC. 5. *And be it further enacted*, That the provisions of the act approved April twenty-nine, eighteen hundred and sixty-four, "increasing the compensation of inspectors of customs in certain ports," be extended to July first, eighteen hundred and sixty-six.

SEC. 6. *And be it further enacted*, That no part of the money appropriated either by this act or former acts, shall be applied to the payment of any claim for constructive mileage on account of any extra session of either House of Congress.

SEC. 7. *And be it further enacted*, That the appropriations hereinbefore made for the Congressional Globe shall be upon the condition that hereafter the proceedings of Congress shall be published in the Daily Globe of the day subsequent to the day such proceedings were had, and delivered to both Houses at their time of meeting—this to take effect at the next session of Congress; but the publishers of the Congressional Globe shall not, however, be required to publish daily more than forty columns of the proceedings of the two Houses of Congress, and any speeches not actually delivered in either House shall be postponed until the same can be published without increasing the extent of the proceedings beyond forty columns.

SEC. 8. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five, out of any money in the Treasury not otherwise appropriated:

For office furniture, carpeting, preserving files, and miscellaneous items in the office of the Third Auditor, five thousand dollars.

For stationery for the Treasury Department and its several bureaus, twenty-five thousand dollars.

For fuel, labor, light, and miscellaneous items for the Treasury building, including the extension, twenty thousand dollars.

For contingent expenses under the act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, provided that no part of said sum shall be expended for clerical services, fifty thousand dollars.

For compensation to clerks in office of the surveyor general in California for the year ending the thirtieth of June, eighteen hundred and sixty-three, one thousand three hundred and fifty dollars.

For hire of carts on the public grounds, two hundred and thirty-two dollars.

For the support, clothing, and medical treatment of the insane of the Army and Navy and the revenue-cutter service, and of the District of Columbia, at the hospital for the insane in said District, thirty thousand dollars.

For repairs of the navy-yard bridge, to enable the Commissioner of Public Buildings to erect a new draw, one thousand dollars.

For compensation of clerks in the Bureau of Military Justice, viz: one of class four, one of class three, one of class two, and two of class one, seven thousand two hundred dollars.

For stationery, rent of office, hire of watchmen, and miscellaneous items in the office of the Commissary General, five thousand dollars.

For stationery and miscellaneous items in the office of the Paymaster General, six thousand dollars.

For stationery, blank books, and miscellaneous items in the office of the Bureau of Military Justice, one thousand five hundred dollars.

For labor, fuel, lights, and miscellaneous items in the War Department, fifteen thousand dollars.

For fuel, compensation of firemen, and miscellaneous items for the building corner of F and Seventeenth streets, six thousand dollars.

For reimbursing the appropriation for expenses

of collecting the revenue from customs, the amount heretofore transferred from that fund to the appropriation for expenses of a national loan, under act of March third, eighteen hundred and nine, two million dollars.

For supplying a deficiency in the fund for the relief of sick and disabled seamen, one hundred and fifty thousand dollars.

For refunding to the Treasury extension the amount of payments made for furniture, sixteen thousand nine hundred and eleven dollars and fifty-three cents.

For furniture, carpets, and miscellaneous items for the Treasury building, fifteen thousand dollars.

For deficiency for pay of physician, blacksmith and assistant, farmer, and carpenter for each of the four reservations in California, nine thousand six hundred dollars.

For armament of fortifications, nine hundred thousand dollars.

For current expenses of the ordnance department, and for ordnance service, six hundred thousand dollars.

For national armory, six hundred thousand dollars.

For gunpowder and lead, four hundred thousand dollars.

For contingencies of fortifications, eight hundred thousand dollars.

For tool and siege trains, one hundred thousand dollars.

For Fort Taylor, Key West, Florida, one hundred and twenty-five thousand dollars.

For Fort Jefferson, Garden Key, Florida, seventy-five thousand dollars.

For the medical and hospital department, three million two hundred and fifty-one thousand dollars.

For the quartermaster's department, viz:

For purchase of cavalry and artillery horses, seven million six hundred thousand dollars.

For transportation of the Army, nineteen million eight hundred and fifty-six thousand one hundred and thirty-seven dollars.

For regular supplies, twenty million dollars.

For barracks and quarters, two million dollars.

For incidental and contingent expenses, one million dollars.

For military telegraph, seven hundred and twenty-five thousand dollars.

For supplies and the expenses of providing for prisoners of war, two million dollars.

For clothing, camp and garrison equipage, thirty million dollars.

For pay of the Capitol police, three thousand eight hundred and eighty-five dollars and seventy-two cents.

To supply deficiencies in the contingent expenses of the House of Representatives, viz:

For folding documents, twenty-five thousand dollars.

For fuel and lights, including pay of engineer, ten thousand dollars.

For miscellaneous items, twenty-four thousand four hundred and five dollars and fifty-two cents.

For stationery, six thousand dollars.

To supply a deficiency in the appropriation for the payment of salaries in the Bureau of the Comptroller of the Currency, twelve thousand dollars.

To supply deficiency in the appropriation for Capitol police, to be added to the contingent fund of the Senate, two thousand nine hundred and fourteen dollars and twenty-eight cents.

To supply a deficiency in the appropriation for the public printing, one hundred and eighty thousand dollars.

To supply a deficiency in the appropriation for paper for the public printing, four hundred and fifty thousand dollars.

To supply a deficiency in the appropriation for the public binding, ninety thousand dollars.

To supply a deficiency in the appropriation for compensation to the reporters of the Congressional Globe, eight hundred dollars.

To supply a deficiency for compensation of clerks in the Denver branch mint, four hundred and fifty dollars.

To supply a deficiency in the appropriation for the branch mint at San Francisco, one hun-

dred and thirty-four thousand eight hundred and eighty-nine dollars and sixty-eight cents.

## NAVY DEPARTMENT.

## Bureau of Navigation:

For binnacles, binnacle lamps, and alidades; for bunting, muslin, and sewing materials; for ensigns, jacks, distinctive flags and marks, signal flags and foreign flags, and for making flags of all kinds; for logs, log-lines, log-reels, log-slides, log-paper, log-books, and sand glasses; for leads, lead-reels, lead-lines, armings for leads, and sounding cups, and for signal apparatus other than signal flags, one hundred and twenty-five thousand dollars.

For freight and transportation of navigation materials, instruments, books, and stores; for postage on public letters; for telegraphing for proposals; for packing-boxes and materials; for blank books, forms, and stationery at navigation offices; for maps, drawing, and models; and for incidental expenses not applicable to any other appropriation, three thousand dollars.

For the purchase of nautical and astronomical instruments, nautical books, maps, and charts, and for repairs of instruments, and for binding and backing books and charts, one hundred thousand dollars.

## Bureau of Equipment and Recruiting:

For fuel for the Navy, and for the transportation and expenses thereof, five million three hundred and sixty-seven thousand four hundred dollars.

For equipment of vessels, five hundred thousand dollars.

## Bureau of Provisions and Clothing:

For provisions, one million five hundred thousand dollars.

For clothing, seven hundred thousand dollars.

For a gold medal to Cornelius Vanderbilt, pursuant to a joint resolution approved January twenty-eight, eighteen hundred and sixty-four, three thousand dollars.

And the sum of forty-three thousand dollars is hereby appropriated to be added to the contingent fund of the House of Representatives for the purpose of paying such contingent expenses as may be directed by resolution of the House.

APPROVED, March 2, 1865.

CHAP. LXXIV.—An Act making Appropriations for the Naval Service for the year ending June thirtieth, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and sixty-six:

For pay of commission, warrant, and petty officers and seamen, including the engineer corps of the Navy, twenty-three million three hundred and twenty-seven thousand seven hundred and twenty-two dollars and fifty cents.

For the completion and repair of vessels of the Navy, twenty-four million five hundred and thirty thousand dollars.

For the purchase of hemp and other materials for the Navy, five hundred and seventy thousand dollars.

For fuel for the Navy, and for the transportation and expenses thereof, seven million six hundred and eighty thousand dollars.

For bounties to seamen, one million dollars.

For the equipment of vessels in the Navy, viz:

For the purchase of various articles of equipment, viz: canvas, leather, iron, cables and anchors, oil, furniture, galleys, and stores, and for the payment of labor on articles manufactured in the navy-yard, and for outfit stores in the masters', boatswains', and sailmakers' department of vessels, five million eight hundred thousand dollars.

For provisions for commission, warrant, and petty officers and seamen, including engineers and marines attached to vessels for sea service, twelve million nine hundred and twenty-three thousand two hundred and eighty dollars and seventy-five cents.



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For the construction, repair, wear and tear of machinery of vessels in commission, seventeen million one hundred and forty-five thousand dollars.

For surgeons' necessities and appliances for the sick and hurt of the Navy, including the Coast Survey, and Engineer and Marine corps, two hundred and twenty-seven thousand five hundred dollars.

For ordnance and ordnance stores, including labor and incidental expenses, eight million three hundred thousand dollars.

For navigation apparatus and supplies, and for purposes incidental to navigation, four hundred thousand dollars.

For clothing for the Navy, one million dollars.

For contingent expenses of the Navy, two hundred and fifty thousand dollars.

## Bureau of Yards and Docks:

For contingent expenses that may accrue for the following purposes, viz: For freight and transportation; for printing, advertising, and stationery; for books, maps, models, and drawings; for the purchase and repair of fire engines; for machinery of every description, and patent right to use the same; for repairs of steam engines and attendance; for purchase and maintenance of oxen and horses, and driving teams; for carts, timber-wheels, and workmen's tools of every description for navy-yard purposes; for telegrams and postage of letters on public service; for furniture for Government offices and houses; for coals and other fuel; for candles, oil, and gas; for cleaning and clearing up yards; for flags, awnings, and packing-boxes; for pay of watchmen; for incidental labor at navy-yards not applicable to any other appropriation; for rent of landing at Portsmouth, New Hampshire; for tolls and ferriages; for water tax; and for rent of stores and rendezvous, one million seven hundred and sixty thousand dollars.

## Bureau of Navigation:

For contingent expenses of the Bureau of Navigation, viz:

For freight and transportation of navigation materials, instruments, books, and stores; for postage on public letters; for telegraphing on public business; for advertising for proposals; for packing-boxes and materials; for blank books, forms, and stationery at navigation offices; for maps, charts, drawings, and models; and for incidental expenses not applicable to any other appropriation, five thousand dollars.

## Bureau of Construction and Repair:

For contingent and incidental expenses, viz: For postage, drawings, and transportation of materials, seventy-five thousand dollars.

## Bureau of Steam Engineering:

For contingent expenses, viz: For transportation of materials, printing, stationery, experiments, advertising, books, drawings, models, postage, and incidental expenses, eighty-five thousand dollars.

## Bureau of Provisions and Clothing:

For contingent expenses, viz: For candles, freight to foreign stations, transportation from station to station within the United States, cooerage, pay of assistants to inspectors, advertising for proposals, printing paymasters' blanks, and stationery for cruising vessels, six hundred thousand dollars.

## Bureau of Medicine and Surgery:

For contingent expenses of the Bureau of Medicine and Surgery, seventy-five thousand dollars.

## MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward and nurse, and servants; for rations and clothing for officers' servants; additional rations to officers for five years' service; for undrawn clothing and rations, and bounties for reenlistments, one million and forty thousand eight hundred and sixty-five dollars and forty-five cents.

For provisions, one hundred and sixty-nine thousand nine hundred and seven dollars and fifty cents.

For clothing, three hundred and twenty-eight thousand five hundred and twelve dollars.

For fuel, thirty-two thousand six hundred and twenty-six dollars and seventy-five cents.

For military stores, viz: pay of mechanics,

repair of arms, purchase of accouterments, ordnance stores, flags, drums, fifes, and other instruments, sixteen thousand dollars.

For transportation of officers, their servants, troops, and expenses of recruiting, twenty-five thousand dollars.

For repairs of barracks, and rent of offices where there are no public buildings, fifteen thousand dollars.

For contingencies, viz: freight, ferriage, toll, cartage, wharfage; purchase and repair of boats; compensation to judge advocates; per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures; water rent, forage, straw, barrack furniture; furniture for officers' quarters; bed sacks, wrapping-paper, oil-cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; pay of matron, washer-woman, and porter at the hospital headquarters; repairs to fire engine; purchase and repair of engine hose; purchase of lumber for benches, mess tables, and bunks; repairs to public carryall; purchase and repair of harness; purchase and repair of hand-carts and wheelbarrows; scavenging; purchase and repair of galleys; cooking stoves, ranges; stoves where there are no grates; gravel for parade grounds; repair of pumps; furniture for staff and commanding officers' offices; brushes, brooms, buckets, paving, and for other purposes, sixty thousand dollars.

## NAVY-YARDS.

## Portsmouth, New Hampshire.

For reservoir, gutters, oakum, store, siding-mill, extension of ship-house R; railway for floating dock; machinery and tools; grading gutters and drains; completing plumbers', coppersmiths', and tin shops; quay walls; completing mooring piers; completing extension of ship-house S; two launching ships [slips]; and for repairs of all kinds, three hundred and sixteen thousand two hundred and fifty dollars.

## Boston.

For addition to second story of ropewalk, two building slips, one set spinning preparation and repairs of ropewalk machinery, tar pit, and for repairs of all kinds, two hundred and fifty-four thousand five hundred dollars.

For completion of joiners' building, twenty-five thousand dollars.

## New York.

For continuing quay wall; receiving store; grading and filling; drains, paving, and flagging; muster office addition; completing new foundry; continuation of machine shop and iron-plating shop; launching ways, ship-house D; launching ways for steamers; joiners' shop addition; water-pipes and hydrants; general increase of machinery in the yard; and repairs of all kinds, eight hundred and ninety-five thousand seven hundred and sixty-three dollars.

## Philadelphia.

For boat shop; machine shop; saw-mill; store-house; plumbers' shop; crib foundation for launching ways; brick wall around new purchase; bulkhead at new purchase; repairs of dry dock; repairs of dredger; filling on new purchase; and repairs of all kinds, two hundred and eighty-five thousand six hundred and eighty dollars.

## Washington.

For completing copper-rolling mill extension; completing storehouse for provisions; new cradle for railway; coal depot and machinery; machinery and tools; flagging and draining; dredging channels; rail tracks; and repairs of all kinds, two hundred and eighteen thousand three hundred dollars.

## Norfolk.

For repairs of boat shed number twenty-nine; repairs of timber sheds number thirty and thirty-one; repairs of naval store number fifteen; repairs of stables; repairs of carpenters' shop; repairs of buildings number nineteen and thirty-seven; machinery and tools; dredging channels; and repairs of all kinds, four hundred and sixty-eight thousand five hundred dollars.

## Pensacola.

For repairs of machine shop, storehouse, commandant's quarters, commander's quarters, officers' quarters, and repairs of all kinds, one hundred and seventy-one thousand dollars.

## Mare Island.

For continuing grading and paving; foundry establishment; completing iron-wharf cranes; smithery, tools, and machinery; cistern and holder for gas-works; saw-mill machinery; coal house and wharf; sea-wall continuation; guard-house; completing one half of storehouse; and repairs of all kinds, two hundred and eight thousand eight hundred dollars.

## Sackett's Harbor.

For repairs of all kinds, two thousand dollars.

## HOSPITALS.

## Boston.

For repairs of buildings, roads, fences, painting hospital, enlargement of cemetery, glazing, painting, furniture, and miscellaneous items, eight thousand five hundred dollars.

## New York.

For repairs of hospital buildings, appendages, roads, fences, walls, stables, painting, glazing in hospital and laboratory, and labor on cemetery and grounds, fourteen thousand dollars.

## Washington, District of Columbia.

For completing building authorized by act of March fourteenth, eighteen hundred and sixty-four, thirty thousand dollars.

## Norfolk.

For plastering, glazing, painting, repair of wharves and bridges, repair of cemetery inclosure, gas fixtures, and flagging, twelve thousand five hundred dollars.

## Pensacola.

For extension of building, inclosures, rooms for distributing stores, and for general repairs and improvements, ten thousand five hundred dollars.

## Memphis.

For repairs and improvements, seven thousand dollars.

## New Orleans.

For repairs and improvements, five thousand dollars.

## MAGAZINES.

## Portsmouth.

For shot beds; quay walls; boiler, boiler room, and machinery; grading grounds; and repairs of all kinds, forty-seven thousand four hundred and twenty-five dollars.

## Boston.

For repairs of magazine, shell houses, wharf at Chelsea, and powder-boat; repairs of ordnance store, shell houses, gun and shot park at the yard; repairs of niter depot at Malden; and tools for gun-carriage shop, six thousand three hundred and seventy-eight dollars.

## New York.

For ordnance machinery, and repairs of all kinds, fifty-five thousand dollars.

## Philadelphia.

For two stone magazine buildings, fifteen thousand six hundred and ninety-six dollars.

## Washington, District of Columbia.

For repairs to buildings in ordnance yard, repairs to branch magazine, cleaning, and improving ordnance yard, erecting temporary buildings, additional ordnance machinery, and continuing work on new ordnance foundry, eighty-seven thousand dollars.

## Norfolk.

For improvements and repairs of buildings at magazine Fort Norfolk, ten thousand dollars.

## Mare Island.

For continuing shell house and powder magazine at north end of yard, building a second shell house at magazine, continuing preparations for gun park, tools and machines for ordnance shop, repairs to building number seventy, occupied by

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ordnance; repairs to magazine; and for strengthening old wharf at magazine and building new addition, forty-four thousand four hundred and eighty-six dollars.

## MISCELLANEOUS.

For pay of superintendents, naval constructors, and all the civil establishments of the several navy-yards and stations, one hundred and thirty-two thousand eight hundred and seventy dollars.

For expenses of professors, watchmen, and others, and contingencies of the United States Naval Academy, one hundred and fifteen thousand six hundred and twenty-six dollars.

## NAVAL OBSERVATORY.

For pay of assistant astronomer, three aids, and clerk, eight thousand dollars.

For wages of instrument maker, two watchmen, porter, messenger, and laborers; keeping grounds in order, and repairs to buildings and inclosures; fuel, lights, office furniture, and stationery; and for freight, transportation, postage, and incidental expenses, fourteen thousand dollars.

For preparing for publication the American Nautical Almanac, twenty-five thousand eight hundred and fifty dollars.

## NAVAL ASYLUM, PHILADELPHIA.

For furniture and repairs of same; house-cleaning and whitewashing; furnaces, grates, and ranges; gas and water rent; improvement of grounds; wharves and lots; and for hospital, and repairs of all kinds; five thousand six hundred dollars.

For support of beneficiaries, forty-two thousand dollars.

To meet emergencies at the Atlantic, East and West Gulf, and Mississippi stations, five hundred thousand dollars.

For pay of photographer in the Bureau of Ordnance, three hundred dollars.

SEC. 2. *And be it further enacted*, That no midshipman shall be appointed for any district not represented in Congress.

SEC. 3. *And be it further enacted*, That so much of the second section of an act entitled "An act to increase and regulate the pay of the Navy of the United States," approved June one, eighteen hundred and sixty, as provided that the officer charged with experiments in gunnery at the navy-yard, Washington, shall receive the sea-service pay of the grade next above him, be, and the same is hereby, repealed.

SEC. 4. *And be it further enacted*, That to defray the necessary expenses of the commission "to select the most approved site for a navy-yard or naval station on the Mississippi river, or upon one of its tributaries," the sum of two thousand five hundred and ninety dollars is hereby appropriated.

SEC. 5. *And be it further enacted*, That the sum of one hundred thousand dollars is hereby appropriated to enlarge the accommodations for sick, wounded, and otherwise disabled at the Naval Asylum, Philadelphia, authorized by act of Congress of March fourteen, eighteen hundred and sixty-four.

SEC. 6. *And be it further enacted*, That the Secretary of the Navy be, and is hereby, authorized to purchase the balance of square nine hundred and forty-eight, in the city of Washington, District of Columbia, some fourteen thousand feet, upon which a naval hospital is now in course of erection: *Provided* the same can be obtained, in the judgment of the Secretary, upon terms deemed just and reasonable.

SEC. 7. *And be it further enacted*, That so much of the proviso of the act of third March, eighteen hundred and forty-three, entitled "An act making appropriations for the naval service for the half calendar year, beginning the first of January and ending the thirtieth day of June, eighteen hundred and forty-four," as requires that provisions, and all other materials of every name and nature, for the use of the Navy, be furnished by contract with the lowest bidder, after advertisement, shall be, and the same is hereby, so far modified, that it shall not apply to bunting delivered for the use of the Army and Navy; that it shall be lawful for the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury to enter into a contract for bunting, of American manufacture, as their respective services require, for a period not exceeding one year,

and at a price not exceeding that at which an article of equal quality can be imported.

APPROVED, March 2, 1865.

CHAP. LXXV.—An Act making Appropriations for the Support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and sixty-six.

For pay of officers, instructors, cadets, and musicians, one hundred and fifty-four thousand seven hundred and fifty-six dollars.

For commutation of subsistence, four thousand one hundred and sixty-one dollars.

For pay in lieu of clothing to officers' servants, sixty dollars.

For current and ordinary expenses, as follows: repairs and improvements, fuel and apparatus, forage, postage, telegrams, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction, fifty-seven thousand nine hundred and twenty-seven dollars.

For increase and expenses of library, one thousand dollars.

For forage for artillery and cavalry horses, seventeen thousand dollars.

For supplying horses for artillery and cavalry exercise, one thousand dollars.

For repairs of officers' quarters, one thousand five hundred dollars.

For targets and batteries for artillery exercise, one hundred dollars.

For furniture for hospital for cadets, two hundred dollars.

For annual repairs of gas-pipes and retorts, three hundred dollars.

For warming apparatus for academic and other buildings, ten thousand dollars.

For building public wharf, five thousand dollars.

For quarters for subaltern officers, one thousand five hundred dollars.

For fire apparatus, three thousand dollars.

SEC. 2. *And be it further enacted*, That section four of chapter forty-five of the public acts of the first session of the Thirty-Eighth Congress, relating to cadets "found deficient," is hereby repealed.

APPROVED, March 2, 1865.

CHAP. LXXVI.—An Act to establish the Office of Solicitor and Naval Judge Advocate.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, for service during the rebellion and one year thereafter, an officer in the Navy Department, to be called the "Solicitor and Naval Judge Advocate General," at an annual salary of three thousand five hundred dollars, and that until the close of the fiscal year ending June thirtieth, eighteen hundred and sixty-six, the salary herein provided for shall be paid from any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the fees for record in naval courts-martial shall not in any one case exceed the sum of two hundred dollars.

APPROVED, March 2, 1865.

CHAP. LXXVII.—An Act to provide Ways and Means for the Support of the Government.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to borrow, from time to time, on the credit of the United States, in addition to the amounts heretofore authorized, any sums not exceeding in the aggregate six hundred millions of dollars, and to issue therefor bonds or Treasury notes of the United States, in such form as he may prescribe; and so much thereof as may be issued in bonds shall be of denomina-

tions not less than fifty dollars, and may be made payable at any period not more than forty years from date of issue, or may be made redeemable, at the pleasure of the Government, at or after any period not less than five years nor more than forty years from date, or may be made redeemable and payable as aforesaid, as may be expressed upon their face; and so much thereof as may be issued in Treasury notes may be made convertible into any bonds authorized by this act, and may be of such denominations—not less than fifty dollars—and bear such dates and be made redeemable or payable at such periods as in the opinion of the Secretary of the Treasury may be deemed expedient. And the interest on such bonds shall be payable semi-annually; and on Treasury notes authorized by this act the interest may be made payable semi-annually, or annually, or at maturity thereof; and the principal, or interest, or both, may be made payable in coin or in other lawful money: *Provided*, That the rate of interest on any such bonds or Treasury notes, when payable in coin, shall not exceed six per centum per annum; and when not payable in coin shall not exceed seven and three tenths per centum per annum; and the rate and character of interest shall be expressed on all such bonds or Treasury notes: *And provided further*, That the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, shall be so construed as to authorize the issue of bonds of any description authorized by this act. And any Treasury notes or other obligations bearing interest, issued under any act of Congress, may, at the discretion of the Secretary of the Treasury, and with the consent of the holder, be converted into any description of bonds authorized by this act; and no bonds so authorized shall be considered a part of the amount of six hundred millions hereinbefore authorized.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury may dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner, and at such rates, and under such conditions, as he may think advisable, for coin, or for other lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or may be issued under any act of Congress; and may, at his discretion, issue bonds or Treasury notes authorized by this act, in payment for any requisitions for materials or supplies which shall have been made by the appropriate Department or officers upon the Treasury of the United States, on receiving notice in writing through the Department or office making the requisition, that the owner of the claim for which the requisition is issued desires to subscribe for an amount of loan that will cover said requisition, or any part thereof; and all bonds or other obligations issued under this act shall be exempt from taxation by or under State or municipal authority.

SEC. 3. *And be it further enacted*, That all the provisions of the act entitled "An act to provide ways and means for the support of the Government, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, in relation to forms, inscriptions, devices, and the printing, attestation, sealing, signing, and counterfeiting thereof, with such others as are applicable, shall apply to the bonds and other obligations issued under this act: *Provided*, That nothing herein contained shall be construed as authorizing the issue of legal-tender notes in any form; and a sum, not exceeding one per centum of the amount of bonds and other obligations issued under this act, is hereby appropriated to pay the expense of preparing and issuing the same, and disposing thereof.

APPROVED, March 3, 1865.

CHAP. LXXVIII.—An Act to amend an Act entitled "An Act to provide Internal Revenue to support the Government, to pay Interest on the Public Debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An act to pro-

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vide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, be, and the same is hereby, amended as hereinafter set forth, namely:

That section four be amended by striking out the word "five," and inserting in lieu thereof the word "ten."

That section eight be amended by striking out, after the words "within each of which the," the words "Secretary of the Treasury, whenever there shall be a vacancy, or the public interest shall require, shall appoint, with the approval of the said Commissioner, one assistant assessor, who shall be a resident of the district of said assessor," and inserting in lieu thereof the words "assessor, whenever there shall be a vacancy, shall appoint, with the approval of said Commissioner, one or more assistant assessor[s], who shall be a resident of such assessment district."

That section fourteen be amended by striking out the word "fifty," and inserting in lieu thereof the words "twenty-five."

That section twenty-five be amended by inserting after the words "four hundred thousand dollars," the words "and not exceeding one million of dollars, and one eighth of one per centum on all sums above one million of dollars;" by inserting after the words "reasonable charges for," the word "advertising;" and by striking out all of the first proviso; and by striking out the word "further" in the second proviso.

That section twenty-six be amended by striking out the word "apportionment," and inserting in lieu thereof the word "appointment."

That section twenty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the words "That each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after such notification. And if any person shall neglect to pay, as aforesaid, for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice, to be left at his dwelling or usual place of business, or be sent by mail, demanding the payment of said duties or taxes, stating the amount thereof, with a fee of twenty cents for the issuing and service of such notice, and with four cents for each mile actually and necessarily traveled in serving the same. And if such person shall not pay the duties or taxes, and the fee of twenty cents and mileage as aforesaid, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said duties or taxes, and fee of twenty cents and mileage, with a penalty of ten per centum additional upon the amount of duties. And with respect to all such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand payment thereof, in the manner last mentioned, within ten days from and after receiving the list thereof from the assessor, or within twenty days from and after the expiration of the time within which such duty or tax should have been paid; and if the annual or other duties shall not be paid within ten days from and after such demand therefor, it shall be lawful for such collector, or his deputies, to proceed to collect the said duties or taxes, with ten per centum additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects of the persons delinquent as aforesaid. And in case of distraint it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling, or usual place of busi-

ness, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification, [and] the place proposed for sale not more than five miles distant from the place of making such distraint. And in any case in which any person, bank, association, company, or corporation required by law to make return to the Commissioner of Internal Revenue shall refuse or neglect to make such return within the time specified, the amount of circulation, deposit, and capital, or either, shall be estimated by the proper assessor or assistant assessor, and shall be certified by him to the Commissioner. And in all cases in which the person, bank, association, company, or corporation required by law to make payment of taxes to the Commissioner, shall neglect or refuse to make such payment within the time required, the Commissioner shall certify the amount of tax due by such person, bank, association, or corporation, with all the penalties, additions, and expenses accruing, to the collector of the proper district, who shall collect the same by distraint and sale, as in other cases. And the same proceedings may be had to enforce the collection of taxes which have already accrued and which still remain unpaid. And if any person, bank, association, company, or corporation, liable to pay any duty, shall neglect or refuse to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interests, penalties, and costs that may accrue in addition thereto, upon all property and rights to property; and the collector, after demand, may levy or by warrant may authorize a deputy collector to levy upon all property and rights to property belonging to such person, bank, association, company, or corporation, or on which the said lien exists, for the payment of the sum due as aforesaid, with interest and penalty for non-payment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy. And in all cases of sale, the certificate of such sale by the collector shall have the same effect as is prescribed by the one hundred and nineteenth section of the act to which this is an amendment. And all persons and officers of companies or corporations are required, on demand of a collector or deputy collector about to distraint or having distrained on any property and rights of property, to exhibit all books containing or supposed to contain evidence or statements relating to the subject or subjects of distraint, or the property or rights of property liable to distraint for the tax so due as aforesaid: *Provided*, That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor, if prior to the sale payment of the amount due or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping [the] goods, chattels, or effects so distrained, as may be prescribed by the Commissioner of Internal Revenue; but in case of non-payment or tender as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels, or effects shall have been distrained: *Provided further*, That there shall be exempt from distraint the tools or implements of a trade or

profession, one cow, arms, and provisions, and household furniture kept for use, school-books, and apparel necessary for a family."

That section thirty-eight be amended by striking therefrom the words "thirty-five," and inserting in lieu thereof the words "thirty-six."

That section forty be amended by inserting after the words "appointment of a successor," the words: "*Provided*, That in case it shall appear to the Secretary of the Treasury that the interest of the Government shall so require, he may, by his order, direct said duties to be performed by such other one of the said deputies as he may in such order designate."

That section fifty-two be amended by inserting before the words "That all assessors," the words "And be it further enacted;" by inserting after the word "deputies," the words "revenue agents;" and by striking out after the word "charged" the word "and," and inserting in lieu thereof the word "or."

That section fifty-three be amended by inserting after the word "distiller," where it first occurs, the words "before distilling any spirits;" by striking out after the word "any," and preceding the words "still or stills," the word "additional;" by striking out after the word "used," and preceding the words "shall be erected," the words "as aforesaid," and inserting in lieu thereof the words "for distilling;" and by inserting after the words "shall be erected," the words "or used."

That section fifty-four be amended by striking out the words "the same," and inserting in lieu thereof the words "and owning the same, and owning the building used as a distillery, and the and on which the same is located, and if the building or land is leased, the terms and conditions of the lease;" and by striking out the word "one," land inserting in lieu thereof the word "three."

That section fifty-five be amended by inserting after the words "said duties shall be a lien," the words "on the spirit distilled and;" and by adding at the end of the first proviso the words "except when made and used in the manufacture of vinegar or acetic acid, in which case the duties shall be collected on the basis of the actual proof."

That section fifty-six be amended by adding at the end of the section the following words, to wit: "and in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of first proof, according to the standard set forth and declared for the inspection and gauging of spirits throughout the United States."

That section fifty-seven be amended by striking out the words "twenty-five," in the last proviso, and inserting "fifty" in its place; and by adding to the said proviso the following words: "and distilled from apples or peaches, shall pay one dollar and fifty cents per gallon."

That section fifty-nine be amended by striking out the words "so inspected and," and also "forthwith," in the last clause of the first sentence; and by adding to the said sentence, after the word "warehouse," the words "before the day prescribed by law for making return of the same;" and by striking out the words "one hundred," and inserting in lieu thereof the words "three hundred."

That section sixty-one be amended by striking out after the words "and all," the words "refined coal-oil," and inserting in lieu thereof the words "distilled or refined coal-oil, distillate benzoin or benzole," also by inserting after the word "warehouse," and before the words "and no drawback," the following words: "and the same fees shall be paid for exports as are charged to exporters for like services in the custom-house;" and by inserting after the words "redistilled," and before the words "for export," the words "or canned."

That section sixty-eight be amended by inserting after the word "suits" the words "and shall be deemed guilty of a misdemeanor, and be subject to imprisonment for a term not exceeding one year;" and that the proviso to said section be amended by adding after the words "forfeiture shall have" the word "been;" and by striking out the word "the" where it occurs the second time before the word "nature."

That section seventy-four be amended by strik-



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ing out the word "or" after the word "with," and inserting, in lieu thereof, the word "one;" and by striking out the words "and hold the same until the license is produced," and inserting in lieu thereof the words "and the assessor of the district in which the seizure has occurred may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling-house, require such peddler to show cause, if any he has, why the horses, wagon, and contents, pack, bundle, or basket so seized shall not be forfeited; and, in case no sufficient cause is shown, the assessor may direct a forfeiture, and issue an order to the collector or to any deputy collector of the district for the sale of the property so forfeited; and one half of the same, after payment of the expenses of the proceedings, shall be paid to the officer making the seizure, and the other half thereof to the collector for the use of the United States."

That section seventy-nine be amended by inserting in the first paragraph, after the words "claim agents," the words "patent agents;" by striking out, in the same paragraph, the words "carrying on such," and inserting in lieu thereof the words "may carry on;" by striking out, in the same paragraph, the words "may transact such business;" *Provided*, That no license shall hereafter issue until the managers of a lottery now existing shall give bond, in the sum of one thousand dollars, that the person receiving such license shall not sell any ticket, or supplementary ticket of such lottery which has not been duly stamped according to law; by inserting, in paragraph nine, after the words "other securities," the words "for themselves or others;" by striking out from said paragraph the words "and shall make oath or affirmation, according to the form to be prescribed by the Commissioner of Internal Revenue, that all their transactions are made for a commission;" by striking out the proviso at the end of paragraph "twenty-eight;" by adding to paragraph thirty-two the following proviso: "*Provided further*, That no man between the ages of twenty and forty-five who is not enrolled for military duty, or regularly exempted from enrollment or draft for physical debility, shall be entitled to a license as a peddler."

By striking out all of paragraph "forty-nine," and inserting in lieu thereof the following, to wit:

"Forty-nine. Miners shall pay for each and every license the sum of ten dollars. Every person, firm, or company who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having taken out a license as a manufacturer, and no other, shall be regarded as a miner under this act: *Provided*, That this shall not apply to any miner whose receipts from his mine shall not exceed annually one thousand dollars."

"Fifty. A license of ten dollars shall be required of every person, firm, or company engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of six hundred dollars per annum. But one license fee of ten dollars shall be required from any one person, firm, or company in respect to all the business to be done by such person, firm, or company on a continuous route, and the payment of such license fee shall cover all business done upon such route by such person, firm, or company, anywhere in the United States; and such license fee shall be required only from the principal in such business, and not from any subordinate."

"Fifty-one. Substitute brokers shall pay one hundred dollars for each and every license, and in addition thereto ten dollars for each substitute procured by him and actually mustered into the military service of the United States. Every person who shall furnish or offer to furnish for pay, fee, or reward, volunteers, representative recruits, or substitutes for men drafted or liable to be drafted, for the military or naval service of the United States, shall be deemed a substitute broker under this act: *Provided, however*, That persons appointed by any State, county, city, township, or district, or the officers thereof, to procure the

enlistment of volunteers or substitutes to fill the quota of such State, county, city, township, or district, for the military service of the United States, under the call of the President of the United States, shall not be considered substitute brokers: *And provided further*, That such person or agent shall receive no compensation except that which is given by such State, county, town, city, or district."

"Fifty-two. Insurance brokers shall pay twenty-five dollars for each license. Any person who shall negotiate or procure insurance in behalf of another person or party for which he shall receive any pay, commission, or compensation, shall be regarded as an insurance broker under this act," and the licenses herein provided for shall take effect on the first day of May next.

That section eighty-one be amended by striking therefrom the words "seventy-three," and inserting in lieu thereof the words "seventy-four," and by striking out the words "to vinters," and inserting in lieu thereof the words "nor to vintners."

That section eighty-three be amended by inserting after the words "within his district, monthly," the words "within ten days from the twentieth day of each month," and by inserting after the words "such duties within" the word "said," and by striking out after the words "ten days," following the words "after demand in writing delivered to him in person, or left at his house or place of business, or manufactory, or sent by mail."

That section eighty-four be amended by striking out the words "eighty-first" and inserting in lieu thereof the words "eighty-second," and by striking out the words "eighty-fourth" and inserting in lieu thereof the words "eighty-fifth."

That section eighty-six be amended by striking out the words "deposit at the time of sale," after the words "freight from the place of," and inserting in lieu thereof the word "manufactory," and in the next following paragraph by striking out the word "that" where it first occurs, and inserting in lieu thereof the word "the."

That section eighty-seven be amended by striking out after the words "accurately setting" the word "for," and inserting in lieu thereof the word "forth," and after the words "description of the manufactured article," by striking out the words "the proposed market for the same, whether foreign or domestic," and by inserting after the word "assessor," and preceding the word "assistant," the word "or."

That section ninety be amended by striking out all after the enacting clause and inserting in lieu thereof the following: "That any person, firm, company, or corporation, now or hereafter engaged in the manufacture of tobacco, snuff, or cigars of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff, flour, snuff, cigars, tin-foil, licorice, and stems held or owned by him or them on the first day of January of each year, or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by him or them, and what was purchased not be paid within five days after demand thereof, from others, whether chewing, smoking, fine-cut, shorts, pressed, plug, snuff-flour, or prepared snuff, or cigars, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and every such person, company, or corporation shall keep in a book, in such manner and form as said Commissioner may prescribe, an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on or before the tenth day of each month, furnish to the assistant assessor of the district a true and accurate copy of the entries in said book during the preceding month, which copy shall be verified by oath or affirmation; and in case the duties shall the said collector may, on one day's notice, dis-

train for the same, with ten per centum additional on the amount thereof, subject to all the provisions of law relating to licenses, returns, assessments, payment of taxes, liens, fines, penalties, and forfeitures, not inconsistent herewith in the case of other manufacturers; and such duty shall be paid by the manufacturer or the person for whom the goods are manufactured, as the assessor may deem best for the collection of the revenue: *Provided*, That it shall be the duty of any manufacturer or vender of tin-foil or other material used in covering manufactured tobacco, on demand of any officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tin-foil or other materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act: *Provided further*, That manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, may be transferred, without payment of the duty, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such a warehouse to a bonded warehouse used for the storage of merchandise at any port of entry, and may be withdrawn from bonded warehouse for consumption on payment of the duty, or removed for export to a foreign country without payment of duty, in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, snuff, or cigars in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, snuff, or cigars, upon which any excise duty has been paid, either before or after it has been placed in bonded warehouse."

That section ninety-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: "That all manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, shall, before the same is used or removed for consumption, be inspected and weighed by an inspector appointed under the fifty-eighth section of the act to which this is an amendment, who shall mark or affix a stamp upon the box or other package containing such tobacco, snuff, or cigars, in a manner to be prescribed by the Commissioner of Internal Revenue, denoting the kind or form of tobacco and the weight of such package, with the date of inspection and the name of the inspector. The fees of such inspector shall in all cases be paid by the owner of the manufactured tobacco, snuff, or cigars, so inspected and weighed. And the penalties for the fraudulent marking of any box or other package of tobacco, snuff, or cigars, and for any fraudulent attempt to evade the duties on tobacco, snuff, or cigars, so inspected, by changing in any manner the package or the marks thereon, shall be the same as are provided in relation to distilled spirits by existing laws. And all cigars manufactured after the passage of this act shall be packed in boxes. And any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed by the inspector, unless otherwise provided, shall be forfeited, and may be seized wherever found, and shall be sold, one half of the proceeds of such sale to be paid to the informer, and the other moiety to the United States. The Commissioner of Internal Revenue shall keep an account of all stamps delivered to the several inspectors; and said inspectors shall also keep an account of all stamps by them used or placed upon boxes containing cigars, and of all tobacco, snuff, and cigars

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inspected, and the name of the person, firm, or company for whom the same were so inspected, and return to the assessor of the district a separate and distinct account of the same; and also return to the said Commissioner on demand all stamps not otherwise accounted for, and shall give a bond for a faithful performance of all the duties to which he may be assigned, and to return or account for all stamps which may be placed in his hands."

That section ninety-two be amended by striking out the words "by this act," and inserting in lieu thereof the words "by law."

That section ninety-four be amended by inserting after the words "pea coal" the words "or coal that will pass through a five-eighth inch, and over a three-eighth inch mesh;" in the paragraph relating to gas, by adding after the words "understood to be," in the first proviso, the words "in addition to the gas consumed by said company or other party;" by inserting in the last proviso in the paragraph on gas, after the words "coal-tar," where they first occur, the words "and ammoniacal liquor;" and by inserting after the words "coal-tar," where they occur the second time in said proviso, the words "and the products of the manufacture of ammoniacal liquor;" by inserting after the word "naphtha," in the paragraph relating to coal illuminating oil, the word "disillate;" by inserting after the words "returns, assessments," the words "removing to and withdrawing from warehouses;" by striking from the proviso relating to naphtha, after the word "exceeding," the word "eighty," and inserting in lieu thereof the word "seventy;" by striking out of the first paragraph relating to "sugar" the words "brown or Muscovado;" and by striking out of the second paragraph relating to "sugar" the words "all clarified or refined;" and by striking out of the third paragraph relating to "sugar" the words "all clarified or refined;" by striking from the paragraph relating to gunpowder the words "at twenty-eight cents per pound or less, a duty of one cent per pound; when valued above twenty-eight and not exceeding thirty-eight cents per pound, a duty of one and a half cent per pound," and inserting in lieu thereof "at thirty-eight cents per pound or less, five per centum ad valorem;" and by striking out, in the last line of said paragraph, the word "eight," and inserting in lieu thereof the word "ten;" by inserting in the paragraph relating to "bill-heads, printed," after the word "circulars," the words "law-blanks, conveyancers' blanks, and other printed forms;" by adding at the end of the paragraph relating to printed books the words "which shall be paid by the publishers thereof;" by inserting in the paragraph relating to photographs, after the words "being copies of engravings or works of art," the words "when the same are sold by the producer at wholesale at a price not exceeding ten cents each, or are;" by striking from the paragraph relating to "hulls, as launched," the word "launched," and inserting in lieu thereof the words "finished, including cabins, inner and upper works;" by inserting after the word "sewing," in the proviso to the paragraph relating to "sails, tents, awnings, and bags," the words "or pasting;" by inserting at the end of the paragraph relating to stoves and hollow-ware the following:

"On railroad chairs, and railroad, boat, and ship spikes and tubes, made of wrought iron, five dollars per ton;" by striking out, in the second proviso of the paragraph relating to "rivets," the words "upon which no duty has been assessed or paid," and inserting in lieu thereof the words "the duty to which it was liable;" and after the word "loops," in the line following, inserting "not having been paid;" by striking out the paragraph relating to steam engines, and inserting in lieu thereof the following words: "On steam, locomotive, and marine engines, including the boilers and all their parts, a duty of five per centum ad valorem: *Provided*, That when such boilers shall have been once assessed and a duty previously paid thereon, the amount so paid shall be deducted from the duties on the finished engine."

"On boilers of all kinds, water-tanks, sugar-tanks, oil-stills, sewing machines, lathes, tools, planes, planing machines, shafting and gearing, a duty of five per centum ad valorem."

"On iron railings, gates, fences, furniture, and statuary, a duty of five per centum ad valorem;" by adding at the end of the paragraph relating to quicksilver the following: "*Provided*, That quicksilver may be transferred, without payment of the duty, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe; said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such warehouse to a bonded warehouse used for the storage of merchandise at any port of entry; and quicksilver so bonded may be withdrawn from the bonded warehouse for consumption on payment of the duty, or removed for export to a foreign country without payment of duty, in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to quicksilver in bonded warehouse; and no drawback shall in any case be allowed upon any quicksilver upon which any excise duty has been paid, either before or after it has been placed in bonded warehouse;" by adding at the end of the paragraph relating to copper and lead ingots the following proviso: "*Provided, however*, That brass made of copper and spelter, on which a duty of three per centum ad valorem shall have been assessed and paid, shall be assessed and pay a duty of three per centum on the increased value only thereof;" by inserting in the paragraph relating to rolled brass, after the word "sheets," the words "copper, zinc, and brass nails or rivets;" by adding to the paragraph relating to patent, enameled, and japanned leather, the words "*Provided*, That when a duty has been paid on the leather in the rough, the duty shall be assessed and paid only on the increased value;" by striking out all of the first sentence of the proviso in the paragraph relating to wines or liquors, and inserting in lieu thereof the words "*Provided*, That the return, assessment, collection, and the time of collection of the duties on such wines, and wine made of grapes, shall be subject to the regulations of the Commissioner of Internal Revenue;" by inserting in the paragraph relating to cloth, after the word "felted," the words "articles or;" after the word "warps," in the proviso of said paragraph, by striking out the word "for," and inserting in lieu thereof the words "sold before;" by inserting in the paragraph relating to ready-made clothing, after the word "dress," the words "not otherwise assessed and taxed as such;" and by striking out of the same paragraph all after the words "does not exceed the sum of," and inserting the words "one thousand dollars per annum shall be exempt from duty;" by inserting in the paragraph relating to manufactures of cotton, after the word "cloths," in the first proviso, the words "or articles," and after the word "fabrics," in the second proviso, the words "or articles;" by striking out the words "as aforesaid," where they occur the second time in said proviso, and by inserting at the end of said proviso the words "and when made wholly by the same manufacturer shall be subject to a duty only of five per centum ad valorem;" by striking out in [the] paragraph relating to diamonds, precious stones, and imitations thereof, and all other jewelry, the word "ten," and inserting in lieu thereof the word "five;" by striking out of said section the several paragraphs from the words "on cavendish, plug, twist," down to and including the words "and the other to the United States," and inserting in lieu thereof the following:

"On snuff, manufactured of tobacco or any substitute for tobacco, ground dry or damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, forty cents per pound."

"On cavendish, plug, twist, and all other kinds of manufactured tobacco, not herein otherwise provided for, forty cents per pound."

"On tobacco twisted by hand, or reduced from leaf into a condition to be consumed, without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, thirty cents per pound."

"On fine-cut chewing tobacco, whether manufactured with the stems in or not, or however sold,

whether loose, in bulk, or in rolls, packages, papers, wrappers, or boxes, forty cents per pound."

"On smoking tobacco of all kinds, and imitations thereof, not otherwise herein provided for, thirty-five cents per pound."

"On smoking tobacco made exclusively of stems, and so sold, fifteen cents per pound."

"On cigarettes made of tobacco, inclosed in a paper wrapper, and put up in packages containing not more than twenty-five cigarettes, and valued at not more than five dollars per hundred packages, five cents per package."

"On all cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitutes therefor, ten dollars, per thousand cigars;" by inserting in the last paragraph relating to cigars, after the words "imprisonment not exceeding thirty days," the words, "And any person furnished with such permit may apply to the assistant assessor or inspector of the district to have any cigars of their own manufacture counted; and on receiving a certificate of the number for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the duty. A copy of the certificate shall be retained by the assistant assessor, or by the inspector, who shall return the same to the assistant assessor of the district. The purchaser shall pack such cigars in boxes, and have the same inspected and marked or stamped according to the provisions of this act, and shall make a return of the same as inspected to the assistant assessor of the district, and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them to the collector of the district wherein they were manufactured, and before the same have been removed from the store or building of such purchaser, or from his possession; and any such purchaser who shall neglect for more than five days to pack and have such cigars duly inspected, and pay the duties thereon according to this act, or who shall purchase any cigars from any person not holding such permit, the duties thereon not having been paid, shall be deemed guilty of a misdemeanor, and be fined not exceeding five hundred dollars, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars shall be forfeited and sold, one fourth for the benefit of the informer, one fourth for the officer who seized or had them condemned, and one half shall be paid to the Government."

That section ninety-six be amended by inserting after the words "concentrated milk," the words "cider and cider-vinegar, and sugar or molasses made from other articles than the sugar-cane;" by striking out after the words "use exclusively," the words "materials prepared for the manufacture of hoop-skirts exclusively, and unfit for other use, such as," and inserting in lieu thereof the word "and," and by striking out the words "for joining hoops together," and inserting in lieu thereof the words "used in the manufacture of hoop-skirts."

That section ninety-nine be amended by striking out the words "gold and silver bullion and coin," and by striking out the words "of all contracts for such sales," and inserting in lieu thereof the words "upon any sales or contracts for the sale of gold and silver bullion and coin, one tenth of one per centum on the amount of such sales or contracts."

That section one hundred and three be amended by adding the following after the word "vehicle," where it occurs the second time in the section: "*Provided*, That this section shall not apply to those teams, wagons, and vehicles used in the transportation of silver ores from the mines where the same is [are] excavated to the place where they are reduced or worked."

That section one hundred and three be further amended by inserting after the words "and any foreign port," the words "but such duty shall be assessed upon the transportation of persons and property shipped from a port within the United States, through a foreign territory, to a port within the United States, and shall be assessed upon, and collected from, persons, firms, companies, or corporations within the United States

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receiving such freight or transportation." And that section one hundred and three be amended by adding at the end of said section the following: "And provided further, That no tax under this section shall be assessed upon any person whose gross receipts do not exceed one thousand dollars per annum."

That section one hundred and five be amended by striking out, at the end thereof, the words "for the quarter then next preceding."

That section one hundred and nine be amended by striking out, after the words "one hundred and," the word "two," and inserting in lieu thereof the word "three."

That section one hundred and ten be amended by striking out, after the words "and redemption thereof," the words "nor to any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning the same on interest for the benefit of the depositors only, and which do no other business of banking."

That section one hundred and sixteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: "That there shall be levied, collected, and paid annually upon the annual gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interests, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a duty of five per centum on the excess over six hundred dollars and not exceeding five thousand dollars, and a duty of ten per centum on the excess over five thousand dollars; and in ascertaining the income of any person liable to an income tax, the amount of income received from institutions whose officers, as required by law, withhold a per centum of the dividends made by such institutions and pay the same to the Commissioner of Internal Revenue, or other officer authorized to receive the same, shall be included; and the amount so withheld shall be deducted from the tax which otherwise would be assessed upon such person. And the duty herein provided for shall be assessed, collected, and paid upon the gains, profits, and income for the year ending the thirty-first day of December next preceding the time for levying, collecting, and paying said duty: *Provided*, That incomes derived from interest upon notes, bonds, and other securities of the United States, and also all premiums on gold and coupons shall be included in estimating incomes under this section. *Provided further*, That only one deduction of six hundred dollars shall be made from the aggregate incomes of all the members of any family composed of parents and minor children, or husband and wife: *And provided further*, That net profits realized by sales of real estate purchased within the year for which income is estimated, shall be chargeable as income; and losses on sales of real estate purchased within the year for which income is estimated, shall be deducted from the income of such year."

That section one hundred and seventeen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: "That in estimating the annual gains, profits, and income of any person, all national, State, county, and municipal taxes paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether owner, tenant, or mortgagor; also the salary or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, above the rate of six hundred dollars per annum; also the amount paid by any person for the rent of the homestead used or occupied by himself or his family, and the rental value of any homestead used or occupied by any person or by his family, in his own right or in the right of his wife, shall not be included and assessed as part of the income of such person. In estimating the annual gains, profits, or income of any person, the interest received or accrued upon all notes, bonds, and mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectable, less the interest paid by or due from such person, shall be included and as-

essed as part of the income of such person for each year; and also all income or gains derived from the purchase and sale of stocks or other property, real or personal, and of live stock, and the amount of live stock, sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetable or other productions, being the growth or produce of the estate of such person sold, not including any part thereof unsold or on hand during the year next preceding the thirty-first of December, until the same shall be sold, shall be included and assessed as part of the income of such person for each year, and his share of the gains and profits of all companies, whether incorporated or partnership, shall be included in estimating the annual gains, profits, or income of any person entitled to the same, whether divided or otherwise. In estimating deductions from income, as aforesaid, when any person rents buildings, lands, or other property, or hires labor to cultivate land, or to conduct any other business from which such income is actually derived, or pays interest upon any actual incumbrance thereon, the amount actually paid for such rent, labor, or interest, shall be deducted; and also the amount paid out for usual or ordinary repairs, not exceeding the average paid out for such purposes for the preceding five years, shall be deducted, but no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate: *Provided*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of six hundred dollars per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, in such manner as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe."

That section one hundred and eighteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the words, "That it shall be the duty of all persons of lawful age to make and render a list or return, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, to the assistant assessor of the district in which they reside, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, whether as executors, administrators, or in any other fiduciary capacity, shall make and render a list or return, as aforesaid, to the assistant assessor of the district in which such guardian or trustee resides, of the amount of income, gains, and profits of any minor or person for whom they act as guardian or trustee; and the assistant assessor shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated; and in case any person, guardian, or trustee shall neglect or refuse to make and render such list or return, or shall render a false or fraudulent list or return, it shall be the duty of the assessor or the assistant assessor to make such list, according to the best information he can obtain, by the examination of such person, and his books and accounts, or any other evidence, and to add twenty-five per centum as a penalty to the amount of the duty due on such list in all cases of willful neglect or refusal to make and render a list or return, and, in all cases of a false or fraudulent list or return having been rendered, to add one hundred per centum, as a penalty, to the amount of duty ascertained to be due, the duty and the additions thereto as penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or of rendering a false and fraudulent return: *Provided*, That any party, in his or her own behalf, or as guardian or trustee, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she, or his or her ward or beneficiary, was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this

act; or may declare that he or she has been assessed and paid an income duty elsewhere in the same year, under authority of the United States, upon his or her gains and profits, as prescribed by law, and if the assistant assessor shall be satisfied of the truth of the declaration, shall thereupon be exempt from income duty in said district; or if the list or return of any party shall have been increased by the assistant assessor, such party may exhibit his books and accounts, and be permitted to prove and declare, under oath or affirmation, the amount of annual income liable to be assessed; but such oaths and evidence shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the assistant assessor. Any person feeling aggrieved by the decision of the assistant assessor in such cases may appeal to the assessor of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final, and the form, time, and manner of proceedings shall be subject to rules and regulations to be prescribed by the Commissioner of Internal Revenue."

That section one hundred and nineteen be amended by striking out the words "for thirty days," and, after the words "for ten days after," inserting the words "notice and."

That section one hundred and twenty be amended by striking out, at the end thereof, the word "act," and inserting in lieu thereof the word "section."

That section one hundred and twenty-five be amended by striking therefrom the word "and," following the word "custody," and inserting in lieu thereof the word "any."

That section one hundred and thirty-three be amended by adding, at the end thereof, the following words: "*Provided*, That no duty shall be levied in respect of any succession vesting before or subsequent to the passage of this act, where the successor shall be the wife of the predecessor."

That section one hundred and thirty-five be amended by striking therefrom the word "extension," and inserting in lieu thereof the word "extinction."

That section one hundred and forty-nine be amended by striking out the word "assent," and inserting in lieu thereof the word "assessment."

That section one hundred and fifty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following, to wit: "That any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or shall accept, negotiate, or pay, or cause to be accepted, negotiated, or paid, any bill of exchange, draft, or order, or promissory note, for the payment of money, without the same being duly stamped or having thereupon an adhesive stamp for denoting the duty chargeable thereon, with intent to evade the provisions of this act, shall for every such offense forfeit the sum of fifty dollars, and such instrument, document, or paper, bill, draft, order, or note shall be deemed invalid and of no effect: *Provided*, That the title of a purchaser of land, by deed duly stamped, shall not be defeated or affected by the want of a proper stamp on any deed conveying said land by any person from, through, or under whom his grantor claims or holds title: *And provided further*, That hereafter, in all cases where the party has not affixed to any instrument [as] required by the one hundred and fifty-first section of the act of June thirtieth, eighteen hundred and sixty-four, or the schedule marked B therunto annexed, and the stamp thereby required to be thereunto affixed, at the time of making or issuing the said instrument, and he or they or any party having an interest therein shall be subsequently desirous of affixing such stamp to said instrument, he or they shall appear before the collector of the revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of fifty dollars, and, where the whole amount of the duty denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest at the rate of six per cent. on said duty from the day on which such stamp ought to have been affixed, affix the proper



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stamp to such instrument and note upon the margin of said instrument the date of his so doing, and the fact that such penalty has been paid, and such instrument shall thereupon be deemed and held to be as valid to all intents and purposes as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction that any such instrument has not been duly stamped at the time of making or issuing the same by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp duty, or to evade or delay the payment thereof, then and in such case, if such instrument shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of revenue to be stamped and the stamp duty chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped."

That section one hundred and sixty be amended by inserting before the word "injury" the word "accidental," and by striking out the words "while traveling," also by striking out after the words "nor on certificates" the word "or," and inserting in lieu thereof the word "of;" and by striking out the words "other articles," and inserting in lieu thereof the word "hay."

That section one hundred and sixty-five be amended by striking out in the proviso the words "act contained," and inserting in lieu thereof the word "section."

That section one hundred and sixty-seven be amended by striking out the word "or" where it occurs the second time, and inserting after the word "sell" the words "expose for sale."

That section one hundred and sixty-eight be amended by striking out the words "lucifer or friction matches and cigar-lights or wax tapers."

That section one hundred and sixty-nine be amended by inserting after the words "who shall offer," the words "or expose;" and by inserting after the words "so offered," the words "or exposed;" and by inserting in the proviso, after the words "imported articles," the words "except lucifer or friction matches, cigar-lights, and wax tapers."

That "Schedule B," preceding section one hundred and seventy-one, be amended in the paragraph marked "receipts," by inserting, after the word "property," the words "except receipts issued by any persons, firms, or companies doing business as an express or express company on the delivery of any property for transportation," and that "Schedule C," preceding section one hundred and seventy-one, be amended in all the paragraphs concerning "playing-cards" by striking out, wherever it occurs, the word "retail." Add at the end of the paragraph marked "receipts," the following: "*Provided*, That when two or more persons shall sign the same receipt, one or more stamps, equal in value to the several stamps required by this act, may be affixed to said receipt in lieu of said several stamps."

That "Schedule B," preceding section one hundred and seventy-one, be further amended by striking out the word "lease" in the proviso in the clause taxing "mortgages," &c.; and also by adding to said proviso the following: "*And provided further*, That upon each and every assignment of any lease a stamp duty shall be required and paid equal to that imposed on the original instrument, increased by a stamp duty on the consideration or value of the assignment equal to that imposed upon the conveyance of land for similar consideration or value."

That section one hundred and seventy-one be amended by inserting before the words "refined coal-oil," the words "crude petroleum or rock-oil;" and after the words "all descriptions," by inserting the words "bullion, quicksilver, lucifer or friction matches, cigar-lights, and wax tapers."

That section one hundred and seventy-nine be amended by striking therefrom the words "if a collector or deputy collector," and by adding at the end of the words "use of the United States," the words "and where any penalty is paid without suit, or before judgment, and a moiety of the same is claimed by any person as informer, the Secretary of the Treasury, on application to him, under such regulations as he shall prescribe, shall

determine whether any claimant is entitled to such moiety and to whom the same shall be paid."

Sec. 2. *And be it further enacted*, That from and after the passage of this act the proviso to section one hundred and sixty-nine of the act to which this act is an amendment shall not be held to apply to lucifer matches, friction matches, or other articles made in part of wood and used for like purposes, nor to cigar-lights and wax tapers.

Sec. 3. *And be it further enacted*, That from and after the thirtieth day of June, eighteen hundred and sixty-five, the gross amount of all duties, taxes, and revenues received or collected by virtue of the several acts to provide internal revenue to support the Government and to pay the interest on the public debt, and of any other act or acts that may now or hereafter be in force connected with the internal revenues, shall be paid by the officers, collectors, or agents receiving or collecting the same, daily into the Treasury of the United States, under the instructions of the Secretary of the Treasury, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses or claims of any description whatever, anything in any law to the contrary notwithstanding. And all moneys now directed by law to be paid to the Commissioner of Internal Revenue, including those derived from the sale of stamps, shall be paid into the Treasury of the United States by the party making such payment; and a certificate of such payment stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer, Assistant Treasurer, designated depository, or proper officer of a deposit bank, and transmitted to and received by the Commissioner of Internal Revenue, shall be deemed a compliance with the law requiring payment to be made to the Commissioner, any law to the contrary notwithstanding: *Provided*, That in districts where, from the distance of the officer, collector, or agent receiving or collecting such duties, taxes, and revenues from a proper Government depository, the Secretary of the Treasury may deem it proper, he may extend the time for making such payment, not exceeding, however, in any case, the period of one month.

Sec. 4. *And be it further enacted*, That so much money as may be necessary for the payment of the lawful expenses, incident to carrying into effect the various acts relative to the assessment and collection of the internal revenues after the thirtieth day of June, eighteen hundred and sixty-five, until the first day of July, eighteen hundred and sixty-six, and not otherwise provided for, be, and the same is hereby, appropriated from any money in the Treasury not otherwise appropriated. And it shall be the duty of each of the collectors of internal revenue as the Secretary of the Treasury may direct to act as disbursing agents to pay the aforesaid expenses, without increased compensation therefor, and to give good and sufficient bonds and sureties for the faithful performance of their duties as such disbursing agents, in such sum and form as shall be prescribed by the First Comptroller of the Treasury and approved by the Secretary.

Sec. 5. *And be it further enacted*, That in addition to the duties imposed in section ninety-four of the act to which this is an amendment, as heretofore amended, there shall be levied, collected, and paid upon the goods, wares, and merchandise therein mentioned, except as hereinafter otherwise provided, an increase of one fifth or twenty per centum of the duties or rates of duty now provided in said section, whether ad valorem or specific: *Provided*, That the additional duties or rates of duty herein mentioned shall not apply to coal illuminating oil, refined, and naphtha, benzine and benzole, wood screws, paper of all descriptions, printed books, magazines, pamphlets, reviews, and similar publications, cotton, manufactured tobacco, snuff, cigars, cigarettes, and cheroots.

Sec. 6. *And be it further enacted*, That every national banking association, State bank, or State banking association, shall pay a tax of ten per centum on the amount of notes of any State bank or State banking association, paid out by them after the first day of July, eighteen hundred and sixty-six.

Sec. 7. *And be it further enacted*, That any existing bank organized under the laws of any State, having a paid-up capital of not less than seventy-five thousand dollars, which shall apply before the first day of July next for authority to become a national bank under the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty-four, and shall comply with all the requirements of said act, shall, if such bank be found by the Comptroller of the Currency to be in good standing and credit, receive such authority in preference to new associations applying for the same: *Provided*, That it shall be lawful for any bank or banking association organized under State laws, and having branches, the capital being joint and assigned to and used by the mother bank and branches in definite proportions, to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches, or such one or more of them as it may elect to retain; the amount of the circulation redeemable at the mother bank and each branch to be regulated by the amount of capital assigned to and used by each.

Sec. 8. *And be it further enacted*, That there shall be levied, collected, and paid on all crude petroleum or rock-oil that may be produced and sold, or removed for consumption or sale, a duty of one dollar on each and every barrel of not more than forty-five gallons; and all petroleum or rock-oil that may be in possession of the producers at the place of production on the day when this act takes effect, shall be held and treated as if produced on that day; and the said duty shall be paid by the owner, agent, or superintendent of the well from which the petroleum or rock-oil has been produced, within ten days after the time of rendering the account required to be rendered by law of petroleum or rock-oil so chargeable with duty; and the said duty shall be a lien upon the same and on the well producing the same, with the buildings, fixtures, vessels, machinery, and tools, and on the lot or tract of land where the same may be, until the said duty shall be paid; and the person paying such duty, if other than the actual owner of said petroleum, shall have a lien on such petroleum for the repayment of the duties so advanced by him: *Provided*, That any person who shall produce petroleum or rock-oil, and use or refine the same without having paid the duty as aforesaid, shall, in addition to all other penalties and forfeitures, be liable to pay double the amount of duties as aforesaid thereon: *Provided further*, That when casks, barrels, or other vessels are used, holding more than forty-five gallons, the excess shall be paid for at the rate of one dollar for every forty-five gallons.

Sec. 9. *And be it further enacted*, That every person who shall be the owner of any well producing petroleum or rock-oil, or who shall have such well under his superintendence, either as agent for the owner or on his own account, and every person who shall use any well as aforesaid, either as owner, agent, or otherwise, shall, from day to day, make true and exact entry, or cause to be entered in a book to be kept for that purpose, the number of barrels of crude petroleum or rock-oil, barreled or removed for storage, or for sale, or for consumption; which book shall be open at all times when required for the inspection of the assessor, assistant assessor, collector, deputy collector, or inspector, who may take any memorandums or transcript thereof; and on the first, eleventh, and twenty-first days of each and every month, or within five days thereafter, the owner, agent, or superintendent shall render to the assessor of the district an account in duplicate of the number of barrels of petroleum or rock-oil sold, and of the number of barrels removed for consumption or sale or storage, not before accounted for.

Sec. 10. *And be it further enacted*, That where ever, under the proviso to section one hundred and three, the addition to any fares shall amount to a sum involving the fraction of one cent, any person or company liable to the duty of two and one half per cent., as in said section provided, shall be authorized to add to such fare one cent in lieu of such fraction.

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Sec. 11. *And be it further enacted*, That lucifer or friction matches, and cigar-lights and wax tapers, may be transferred, without payment of duty, directly from the place of manufacture to a bonded warehouse established in conformity with law and Treasury regulations; and upon the execution of such transportation bonds, or other security, as the Secretary of the Treasury may prescribe, said bonds to be taken by the collector in the district from which such removal is made, and may be withdrawn therefrom for consumption after affixing the stamps thereto, as provided by the act to which this act is an amendment, or may be removed therefrom for export to a foreign country without payment of duty or affixing stamps thereto, in conformity with the provisions of the act aforesaid, relating to the removal of distilled spirits, all the rules and regulations and conditions of which, as far as applicable, shall apply to lucifer or friction matches, cigar-lights, and wax tapers in bonded warehouse. And no drawback shall in any case be allowed upon any lucifer or friction matches, cigar-lights, or wax tapers upon which any excise duty has been paid, or stamps affixed, either before or after they have been placed in bonded warehouse.

Sec. 12. *And be it further enacted*, That any person required by law to be licensed as a manufacturer of tobacco, snuff, or cigars, before said license is issued, shall give a bond to the United States in such sum as shall be required by the collector, and with one or more sureties to be approved by the collector, conditioned that he will comply with all the requirements of law, in regard to any persons, firms, companies, or corporations engaged in the manufacture of tobacco, snuff, or cigars; that he will not manufacture nor employ others to manufacture tobacco, snuff, or cigars without first obtaining the requisite permit for such manufacture; that he will not engage in any attempt by himself or by collusion with others to defraud the Government of any duty or tax on any manufacture of tobacco, snuff, or cigars; that he will render truly and correctly all the returns, statements, and inventories prescribed for manufacturers of tobacco, snuff, and cigars, and will pay to the collector of the district all the duty or taxes which may or should be assessed and due on any tobacco, snuff, or cigars, so manufactured, and that he will not knowingly sell, purchase, or receive for sale any such tobacco, snuff, or cigars which has not been inspected, branded, or stamped, as required by law, or upon which the tax has not been paid.

Sec. 13. *And be it further enacted*, That all persons and every person who shall engage or be concerned in the business of a lottery dealer without having first obtained a license so to do, under such rules and regulations as shall be prescribed by the Secretary of the Treasury, shall forfeit and pay a penalty of one thousand dollars, to be assessed by the assessor of the proper district and collected as assessed taxes are collected, subject, nevertheless, to the provisions of law relating to erroneous assessments, and shall, on conviction by any court of competent jurisdiction, suffer imprisonment for a period not exceeding a year, at the discretion of the court. And it shall be the duty of all managers and proprietors, and their agents, to keep, or cause to be kept, just and true books of account wherein all their transactions shall be plainly and legibly set forth, which books of account shall at all reasonable times and hours be subject to the inspection of the assessor, assistant assessor, revenue agent, and inspector of the proper district; and any manager, proprietor, agent, or vender under this act, who shall refuse or prohibit such inspection of his or their books, as aforesaid, shall pay a penalty of one thousand dollars, or suffer imprisonment for a term not exceeding one year for every such offense.

Sec. 14. *And be it further enacted*, That the capital of any State bank or banking association which has ceased, or shall cease to exist, or which has been or shall be converted into a national bank, for all the purposes of the act to which this is an amendment, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid. And whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per

centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation. And whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such State bank or banking association.

Sec. 15. *And be it further enacted*, That in any port of the United States in which there is more than one collector of internal revenue, the Secretary of the Treasury shall designate one of said collectors to have charge of all matters relating to the exportation of articles subject to duty under the laws to provide internal revenue; and at such ports as the Secretary of the Treasury may deem necessary there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the collector, whose compensation therefor shall be prescribed by the Secretary of the Treasury, not exceeding, however, in any case, an annual rate of two thousand dollars, which, together with the office expenses of such superintendent, shall not be included in the maximum of the aggregate expenses of the office of the said collector. And all books, papers, and documents in the bureau of drawback in the different ports, relating to the drawback of duties paid under the internal revenue laws, shall be delivered to said collector of internal revenue.

Sec. 16. *And be it further enacted*, That all provisions of any former act inconsistent with the provisions of this act are hereby repealed: *Provided, however*, That no duty imposed by any previous act, which has become due or of which return has been or ought to be made, shall be remitted or released by this act, but the same shall be collected and paid, and all fines and penalties heretofore incurred shall be enforced and collected, and all offenses heretofore committed shall be punished as if this act had not been passed; and the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to make all necessary regulations and to prescribe all necessary forms and proceedings for the collection of such taxes and the enforcement of such fines and penalties for the execution of the provisions of this act.

Sec. 17. *And be it further enacted*, That the privilege of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, which now does or hereafter shall exist by provision of law, shall be extended, under such regulations as the Secretary of the Treasury may prescribe, to all articles of domestic production which are subject to tax by the provisions of this act.

Sec. 18. *And be it further enacted*, That this act shall be in force and effect on and after the first day of April, in the year eighteen hundred and sixty-five, unless otherwise provided by this act.

Sec. 19. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to appoint a commission, consisting of three persons, to inquire and report, at the earliest practicable moment, upon the subject of raising, by taxation, such revenue as may be necessary in order to supply the wants of the Government, having regard to, and including, the sources from which such revenue should be drawn, and the best and most efficient mode of raising the same, and to report the form of a bill; and that such commission have power to inquire into the manner and efficiency of the present and past methods of collecting the internal revenue, and to take testimony in such manner and under such regulations as may be prescribed by the Secretary of the Treasury. And such commissioners shall receive for their services three hundred dollars a month for the time necessarily employed, and their necessary traveling expenses.

Sec. 20. *And be it further enacted*, That the Secretary of the Treasury may, at any time prior to the first day of July, eighteen hundred and sixty-six, assign to the office of the Commissioner

of Internal Revenue such number of clerks as he may deem necessary, or the exigencies of the public service may require; and the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving free of postage all such letters and documents, is hereby extended to said Commissioner.

APPROVED, March 3, 1865.

CHAP. LXXIX.—An Act to amend the several Acts heretofore passed to provide for the Enrolling and Calling out the National Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the measure of allowance for pay for an officer's servant is the pay of a private soldier as fixed by law at the time; that no non-commissioned officer shall be detailed or employed to act as a servant, nor shall any private soldier be so detailed or employed except with his own consent; that for each soldier employed as a servant by any officer there shall be deducted from the monthly pay of such officer the full monthly pay and allowances of the soldier so employed; and that, including any soldier or soldiers so employed, no officer shall be allowed for any greater number of servants than is now provided by law, nor be allowed for any servant not actually and in fact in his employ.

Sec. 2. *And be it further enacted*, That non-commissioned officers and privates in the volunteer service shall receive the same amount of clothing as non-commissioned officers and privates of the same arm of the regular Army.

Sec. 3. *And be it further enacted*, That if a soldier, discharged for wounds received in battle, die before receiving the bounty provided by the act of March third, eighteen hundred and sixty-three, entitled "An act to amend an act to authorize the employment of volunteers, and so forth," the bounty due shall be paid to the following persons, and in the order following, and to no other person, to wit: first, to the widow of such deceased soldier, if there be one; second, if there be no widow, then to the children of such deceased soldier, share and share alike; third, if such soldier left neither a widow, or child or children, then and in that case such bounty shall be paid to the following persons, provided they be residents of the United States, to wit: first, to his father; or if he shall not be living, or has abandoned the support of his family, then to the mother of such soldier; and if there be neither father nor mother as aforesaid, then such bounty shall be paid to the brothers and sisters of the deceased soldier, resident as aforesaid.

Sec. 4. *And be it further enacted*, That every non-commissioned officer, private, or other person, who has been, or shall hereafter be, discharged from the Army of the United States by reason of wounds received in battle, on skirmish, on picket, or in action, or in the line of duty, shall be entitled to receive the same bounty as if he had served out his full term; and all acts and parts of acts inconsistent with this are hereby repealed.

Sec. 5. *And be it further enacted*, That all persons of color who were enlisted and mustered into the military service of the United States in South Carolina, by and under the direction of Major General Hunter and Brigadier General Saxton, in pursuance of the authority from the Secretary of War, dated August twenty-fifth, eighteen hundred and sixty-two, "that the persons so received into service, and their officers, to be entitled to and receive the same pay and rations as are allowed by law to other volunteers in the service;" and in every case where it shall be made to appear to the satisfaction of the Secretary of War that any regiment of colored troops has been mustered into the service of the United States, under any assurance by the President or the Secretary of War, that the non-commissioned officers and privates of such regiment should be paid the same as other troops of the same arm of the service, shall, from the date of their enlistment, receive the same pay and allowances as are allowed by law to other volunteers in the military service; and the Secretary of War shall make all necessary regulations to cause payment to be made in accordance herewith.

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SEC. 6. *And be it further enacted*, That the President is hereby authorized to enlist or organize, out of troops already in the service, six regiments of volunteer engineers, to be organized in accordance with existing laws, to have the same pay and allowances of engineer troops of the regular Army, and to be subjected to the rules and articles of war.

SEC. 7. *And be it further enacted*, That the President is hereby authorized to enlist two additional companies to be added to the regiment of volunteer engineers raised under the provisions of an act approved May twentieth, eighteen hundred and sixty-four, entitled "An act to organize a regiment of veteran volunteers," and said regiment shall be considered one of the regiments authorized in the preceding section of this act.

SEC. 8. *And be it further enacted*, That whenever a regiment in the regular Army is reduced below the minimum number, no officer shall be appointed in such a regiment beyond those necessary for the command of such reduced number.

SEC. 9. *And be it further enacted*, That officers by brevet in the regular Army shall receive the same pay and allowance as brevet officers of the same grade or rank in the volunteer service, and no more.

SEC. 10. *And be it further enacted*, That the true construction of the sixth section of the "act respecting the organization of the Army, and for other purposes," approved August twenty-third, eighteen hundred and forty-two, and of all laws relating in any way to the allowance of double rations to officers, authorizes such allowance to the following officers, and to no others whatever: to the General-in-Chief commanding the armies of the United States; to each general officer commanding in chief a separate army actually in the field; to each general officer commanding a geographical division embracing one or more military departments; and to each officer commanding a military geographical department; and that any general order or regulation or usage allowing double rations to a chief of staff or any other officer than those above mentioned is illegal and void.

SEC. 11. *And be it further enacted*, That the bounty of one hundred dollars, provided by present laws to be paid to the heirs of volunteers killed in battle, shall be extended to the widow if living; or if she be dead to the children of any volunteer who shall have been or may be killed in the service, whether he shall have enlisted for two years or for a less period of time.

SEC. 12. *And be it further enacted*, That in case any officer of the military or naval service who may be hereafter dismissed by authority of the President shall make an application in writing for a trial, setting forth under oath that he has been wrongfully and unjustly dismissed, the President shall, as soon as the necessities of the public service may permit, convene a court-martial to try such officer on the charges on which he was dismissed. And if such court-martial shall not award dismissal or death as the punishment of such officer, the order of dismissal shall be void. And if the court-martial aforesaid shall not be convened for the trial of such officer within six months from the presentation of his application for trial, the sentence of dismissal shall be void.

SEC. 13. *And be it further enacted*, That where any revised enrollment in any congressional or draft district has been obtained or made prior to any actual drawing of names from the enrollment lists, the quota of such district may be adjusted and apportioned to such revised enrollment instead of being applied to or based upon the enrollment as it may have stood before the revision.

SEC. 14. *And be it further enacted*, That hereafter all persons mustered in[to] the military or naval service, whether as volunteers, substitutes, representatives, or otherwise, shall be credited to the State and to the ward, township, precinct, or other enrollment sub-district where such persons belong by actual residence, (if such persons have an actual residence within the United States,) and where such persons were or shall be enrolled, (if liable to enrollment;) and it is hereby made the duty of the Provost Marshal General to make such rules and give such instructions to the several provost marshals, boards of enrollment, and mustering officers as shall be necessary for the faithful enforcement of the provisions of this sec-

tion, to the end that fair and just credit shall be given to every section of the country: *Provided*, That in any call for troops hereafter no county, town, township, ward, precinct, or election district shall have credit except for men actually furnished on said call or the preceding call by said county, town, township, ward, precinct, or election district, and mustered into the military or naval service on the quota thereof.

SEC. 15. *And be it further enacted*, That in computing quotas hereafter, credit shall be given to the several States, districts, and sub-districts for all men furnished from them, respectively, and not heretofore credited, during the present rebellion, for any period of service of not less than three months, calculating the number of days for which such service was furnished, and reducing the same to years: *Provided*, That such credits shall not be applied to the call for additional troops made by the President on the twenty-first day of December, eighteen hundred and sixty-four.

SEC. 16. *And be it further enacted*, That persons who have been, or may hereafter be, drafted, under the provisions of the several acts to which this is an amendment, for the term of one year, and who have actually furnished, or may actually furnish, acceptable substitutes (not liable to draft) for the term of three years, shall be exempt from military duty during the time for which such substitutes shall not be liable to draft, not exceeding the time for which such substitutes shall have been mustered into the service, anything in the act of February twenty-fourth, eighteen hundred and sixty-four, to the contrary notwithstanding.

SEC. 17. *And be it further enacted*, That any recruiting agent, substitute broker, or other person who, for pay or profit, shall enlist, or cause to be enlisted, as a volunteer or substitute, any insane person, or convict, or person under indictment for a felony, or who is held to bail to answer for a felony, or person in a condition of intoxication, or a deserter from the military or naval service, or any minor between the ages of sixteen and eighteen years, without the consent of his parents or guardian, or any minor under the age of sixteen years, knowing him, in either case before mentioned, to be such, or who shall defraud or illegally deprive any volunteer or substitute of any portion of the State, local, or United States bounty, to which he may be entitled, shall, upon conviction in any court of competent jurisdiction, be fined not exceeding one thousand dollars, nor less than two hundred dollars, or imprisoned not exceeding two years and not less than three months, or both, in the discretion of the court aforesaid.

SEC. 18. *And be it further enacted*, That any officer who shall muster into the military or naval service of the United States any deserter from said service, or insane person, or person in a condition of intoxication, or any minor between the ages of sixteen and eighteen years, without the consent of his parents or guardian, or any minor under the age of sixteen years, knowing him to be such, shall, upon conviction by any court-martial, be dishonorably dismissed the service of the United States.

SEC. 19. *And be it further enacted*, That in every case where a substitute is furnished to take the place of an enrolled or drafted man, and it is shown by evidence that shall be satisfactory to the Secretary of War that such substitute was, at the time of his enlistment, known by the party furnishing him to be non compos mentis, or in a condition of intoxication, or under conviction or indictment for any offense of the grade of felony at the common law, or to have been guilty of a previous act of desertion unsatisfied by pardon or punishment, or by reason of any existing infirmity or ailment, physically incapable of performing the ordinary duties of a soldier in actual service in the ranks, or minor between the ages of sixteen and eighteen years, without the consent of his parent or guardian, or a minor under the age of sixteen years, it shall be the duty of the Provost Marshal General, on advice of the fact, to report the same to the provost marshal of the proper district; and if such person so enlisted and incapable shall have been, since the passage of this act, mustered into the service as a substitute for a person liable to draft and not

actually drafted, the name of the person so liable who furnished such substitute shall be again placed on the list, and he shall be subject to draft thereafter as though no such substitute had been furnished by him; and if such substitute so enlisted and incapable as aforesaid shall have been, since the passage of this act, mustered into the service as a substitute for a person actually drafted, then it shall be the duty of the Provost Marshal General to direct the provost marshal of the district immediately to notify the person who furnished such substitute that he is held to service in the place of such substitute, and he shall stand in the same relation and be subject to the same liability as before the furnishing of such substitute.

SEC. 20. *And be it further enacted*, That in case any substitute shall desert from the Army, and it shall appear by evidence satisfactory to the Secretary of War that the party furnishing such substitute shall have, in any way, directly or indirectly, aided or abetted such desertion, or to have been privy to any intention on the part of such substitute to desert, then such person shall be immediately placed in the Army, and shall serve for the period for which he was liable to draft, such service to commence at the date of the desertion of the substitute.

SEC. 21. *And be it further enacted*, That, in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service, or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who, being duly enrolled, shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States, with intent to avoid any draft into the military or naval service, duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation the President is requested to notify all deserters returning within sixty days as aforesaid that they shall be pardoned on condition of returning to their regiments and companies or to such other organizations as they may be assigned to, until they shall have served for a period of time equal to their original term of enlistment.

SEC. [22.] *And be it further enacted*, That the third section of the act entitled "An act [further] to regulate and provide for the enrolling and calling out the national forces, and for other purposes," approved July fourth, eighteen hundred and sixty-four, be, and the same is hereby, repealed.

SEC. [23.] *And be it further enacted*, That any person or persons enrolled in any sub-district may, after notice of a draft, and before the same shall have taken place, cause to be mustered into the service of the United States such number of recruits, not subject to draft, as they may deem expedient, which recruits shall stand to the credit of the persons thus causing them to be mustered in, and shall be taken as substitutes for such persons, or so many of them as may be drafted, to the extent of the number of such recruits, and in the order designated by the principals, at the time such recruits are thus as aforesaid mustered in.

SEC. [24.] *And be it further enacted*, That section fifteen of the act approved February twenty-fourth, eighteen hundred and sixty-four, entitled "An act for enrolling and calling out the national forces, and for other purposes," be, and the same is hereby, amended by inserting after the words "any civil magistrate," the words "or any person authorized by law to administer oaths."

SEC. [25.] *And be it further enacted*, That the Secretary of War is hereby authorized to detail one or more of the employees of the War Department for the purpose of administering the oaths required by law in the settlement of officers'



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accounts for clothing, camp, and garrison equipage, quartermaster's stores, and ordnance, which oaths shall be administered without expense to the parties taking them, and shall be as binding upon the persons taking the same, and if falsely taken, shall subject them to the same penalties, as if the same were administered by a magistrate or justice of the peace.

SEC. [26.] *And be it further enacted*, That acting assistant surgeons, contract surgeons, and surgeons and commissioners on the enrolling boards, while in the military service of the United States, shall hereafter be exempt from all liability to be drafted under the provisions of any act for enrolling and calling out the national forces.

SEC. [27.] *And be it further enacted*, That this act shall take effect from and after its passage: *Provided*, That nothing herein contained shall operate to postpone the pending draft, or interfere with the quotas assigned therefor.

APPROVED, March 3, 1865.

CHAP. LXXX.—An Act amendatory of certain Acts imposing Duties upon Foreign Importations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section six of an act entitled "An act to increase the duties on imports, and for other purposes," approved June thirty, eighteen hundred and sixty-four, be amended, so that paragraphs second, third, and fourth, of section six of said act, shall read as follows:

Second. On all manufactures of cotton (except jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons, stuff, and goods of like description) not bleached, colored, stained, painted, or printed, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding in weight five ounces per square yard, five cents per square yard; if bleached, five cents and a half per square yard; if colored, stained, painted, or printed, five cents and a half per square yard, and, in addition thereto, ten per centum ad valorem. On finer and lighter goods of like description, not exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard; if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and, in addition thereto, twenty per centum ad valorem. On goods of like description, exceeding two hundred threads to the square inch, counting the warp and filling, unbleached, five cents per square yard; if bleached, five and a half cents per square yard; if colored, stained, painted, or printed, five and a half cents per square yard, and, in addition thereto, twenty per centum ad valorem.

Third. On all cotton jeans, denims, drillings, bed-tickings, gingham, plaids, cottonades, pantaloons, stuffs, and goods of like description, or for similar use, if unbleached, and not exceeding one hundred threads to the square inch, counting the warp and filling, and exceeding five ounces to the square yard, six cents per square yard; if bleached, six cents and a half per square yard; if colored, stained, painted, or printed, six cents and a half per square yard, and, in addition thereto, ten per centum ad valorem. On finer or lighter goods of like description, not exceeding two hundred threads to the square inch, counting the warp and filling, if unbleached, six cents per square yard; if bleached, six and a half cents per square yard; if colored, stained, painted, or printed, six and a half cents per square yard, and, in addition thereto, fifteen per centum ad valorem: *Provided*, That upon all plain woven cotton goods, not included in the foregoing schedule, unbleached, valued at over sixteen cents per square yard, bleached, valued at over twenty cents per square yard, colored, valued at over twenty-five cents per square yard, and cotton jeans, denims, and drillings, unbleached, valued at over twenty cents per square yard, and

all other cotton goods of every description, the value of which shall exceed twenty-five cents per square yard, there shall be levied, collected, and paid a duty of thirty-five per centum ad valorem: *And provided further*, That no cotton goods having more than two hundred threads to the square inch, counting the warp and filling, shall be admitted to a less rate of duty than is provided for goods which are of that number of threads.

Fourth. On spool thread of cotton, six cents per dozen spools, containing on each spool not exceeding one hundred yards of thread, and, in addition thereto, thirty per centum ad valorem; exceeding one hundred yards, for every additional hundred yards of thread on each spool or fractional part thereof, in excess of one hundred yards, six cents per dozen, and thirty-five per centum ad valorem. On cotton thread or yarn when advanced beyond single yarn, by twisting two or more strands together, if not wound upon spools, four (4) cents per skein or hank of eight hundred and forty (840) yards, and thirty per cent. ad valorem.

SEC. 2. *And be it further enacted*, That from and after the day when this act takes effect, in addition to the duties heretofore imposed by law on the importation of the articles mentioned in this section, there shall be levied, collected, and paid the following duties and rates of duty, that is to say: On brandy, rum, gin, and whisky, and on cordials, liquors, [liqueurs], arrack, absynthe, and all other spirituous liquors and spirituous beverages, fifty cents per gallon, of first proof and less strength, and shall be increased in proportion for any greater strength than [than] the strength of first proof. On spun silk for filling in skeins or cops, ten per centum ad valorem. On iron bars for railroads or inclined planes, ten cents per one hundred pounds. On wrought-iron tubes, one cent per pound.

SEC. 3. *And be it further enacted*, That from and after this act takes effect, in lieu of the duties heretofore imposed by law on the importation of the articles mentioned in this section, there shall be levied, collected, and paid the following duties and rates of duty, that is to say: On cotton, five cents per pound. On illuminating oil and naphtha, benzine, and benzole, refined or produced from the distillation of coal, asphaltum, shale, peat, petroleum, or rock-oil, or other bituminous substances used for like purposes, forty cents per gallon. On crude petroleum, or rock-oil, twenty cents per gallon; on crude coal-oil, fifteen cents per gallon. On tobacco stems, fifteen cents per pound. On ready-made clothing of silk, or of which silk shall be a component material of chief value, sixty per centum ad valorem. On quicksilver, fifteen per centum ad valorem.

SEC. 4. *And be it further enacted*, That section fifteen of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July fourteen, eighteen hundred and sixty-two, be, and the same hereby is, amended so as to impose a tax or tonnage duty of thirty cents per ton, in lieu of "ten cents," as therein mentioned: *Provided*, That the receipts of vessels paying tonnage duty shall not be subject to the tax provided in section one hundred and three of "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, nor by any act amendatory thereof: *Provided further*, That no ship, vessel, or steamer, having a license to trade between different districts of the United States, or to carry on the bank, whale, or other fisheries, or on [nor] any ship, vessel, or steamer to or from any port or place in Mexico, the British provinces of North America, or any of the West India islands, or in all these trades, shall be required to pay the tonnage duty, contemplated by this act, more than once a year.

SEC. 5. *And be it further enacted*, That the term "statuary," as used in the laws now in force imposing duties on foreign importations, shall be understood to include professional productions of a statuary or of a sculptor only.

SEC. 6. *And be it further enacted*, That there shall be hereafter collected and paid on all goods, wares, and merchandise of the growth or produce of countries [east] of the Cape of Good Hope, (except raw cotton and raw silk, as reeled from the cocoon,

or not further advanced than tram, thrown, or organzine,) when imported from places west of the Cape of Good Hope, a duty of ten per centum ad valorem, in addition to the duties imposed on any such article when imported directly from the place or places of their growth or production.

SEC. 7. *And be it further enacted*, That in all cases where there is or shall be imposed any ad valorem rate of duty on any goods, wares, or merchandise imported into the United States, and in all cases where the duty imposed by law shall be regulated by, or directed to be estimated or based upon, the value of the square yard, or of any specified quantity or parcel of such goods, wares, or merchandise, it shall be the duty of the collector, within whose district the same shall be imported or entered, to cause the actual market value, or wholesale price thereof, at the period of the exportation to the United States, in the principal markets of the country from which the same shall have been imported into the United States, to be appraised, and such appraised value shall be considered the value upon which duty shall be assessed. That it shall be lawful for the owner, consignee, or agent of any goods, wares, or merchandise, which shall have been actually purchased, or procured otherwise than by purchase, at the time, and not afterwards, when he shall produce his original invoice, or invoices, to the collector and make and verify his written entry of his goods, wares, or merchandise, as provided by section thirty-six of the act of March two, seventeen hundred and ninety-nine, entitled "An act to regulate the collection of duties on imports and tonnage," to make such addition in the entry to the cost or value given in the invoice as in his opinion may raise the same to the actual market value or wholesale price of such goods, wares, or merchandise, at the period of exportation to the United States, in the principal markets of the country from which the same shall have been imported; and it shall be the duty of the collector, within whose district the same may be imported or entered, to cause such actual market value or wholesale price to be appraised in accordance with the provisions of existing laws, and if such appraised value shall exceed by ten per centum or more the value so declared in the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty per centum ad valorem on such appraised value: *Provided*, That the duty shall not be assessed upon an amount less than the invoice or entered value, any act of Congress to the contrary notwithstanding: *And provided further*, That the sections twenty-third and twenty-fourth of the act approved June thirtieth, eighteen hundred and sixty-four, entitled "An act to increase duties on imports, and for other purposes," and all acts and parts of acts requiring duties to be assessed upon commissions, brokerage, costs of transportation, shipment, transshipment, and other like costs and charges incurred in placing any goods, wares, or merchandise on shipboard, and all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 8. *And be it further enacted*, That so much of an act entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August eighteen, eighteen hundred and fifty-six, as prohibits the export thereof, is hereby suspended in relation to all persons who have complied with the provisions of section second of said act for two years from and after July fourteenth, eighteen hundred and sixty-five.

SEC. 9. *And be it further enacted*, That this act shall take effect on and after the first day [of] April, eighteen hundred and sixty-five.

SEC. 10. *And be it further enacted*, That so much of sections thirty-nine, forty, forty-one, forty-two, forty-three, and forty-four of the act entitled "An act to regulate the [collection of] duties on imports and tonnage," approved March second, seventeen hundred and ninety-nine, as requires the branding or marking and certifying of casks, chests, vessels, and cases containing distilled spirits, or teas, be, and the same is hereby, revived, to be executed under such rules and regulations as shall be prescribed by the Secretary of the Treasury.

SEC. 11. *And be it further enacted*, That flax

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and hemp machinery and steam agricultural machinery, as designated in section 21 [twenty-one] of the act "to increase duties on imports, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, may be imported free from duty for one year from the passage of this act.

SEC. 12. *And be it further enacted*, That in all proceedings brought by the United States in any court for due recovery as well of duties upon imports alone as of penalties for the non-payment thereof, the judgment shall recite that the same is rendered for duties, and such judgment, interest, and cost shall be payable in the coin by law receivable for duties, and the execution issued on such judgment shall set forth that the recovery is for duties, and shall require the marshal to satisfy the same in the coin by law receivable for duties; and in case of levy upon and sale of the property of the judgment debtor, the marshal shall refuse payment from any purchaser at such sale in any other money than that specified in the execution.

SEC. 13. *And be it further enacted*, That the eighth section of the act of March twenty-third, [eight] eighteen hundred and fifty-four, "to extend the warehousing system by establishing private bonded warehouses, and for other purposes," which authorized the Secretary of the Treasury, in case of the actual injury or destruction of goods, wares, or merchandise by accidental fire or other casualty, while in warehouse under bond, &c., to abate or refund the duties paid or accruing thereon, be extended so as to include goods, wares, or merchandise injured or destroyed in like manner while in the custody of the officers of the customs, and not in bond, and also to goods, wares, and merchandise so injured or destroyed after their arrival within the limits of any port of entry of the United States, and before the same have been bonded [landed] under the suspension [supervision] of the officers of the customs: *Provided*, That this act shall apply only to cases arising from and after its passage, and to cases where the duties have not already been paid.

APPROVED, March 3, 1865.

CHAP. LXXXI.—An Act making Appropriations for the Support of the Army for the year ending thirtieth June, eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-six:

For expenses of recruiting, transportation of recruits, and compensation to citizen surgeons for medical attendance, three hundred thousand dollars.

For bounties and premiums for the enlistment of recruits for the regular Army, three hundred and fifty thousand dollars.

For pay of the Army, ten million dollars.

For commutation of officers' subsistence, one million seven hundred and forty-seven thousand three hundred and twenty-four dollars.

For commutation of forage for officers' horses, one hundred and four thousand six hundred dollars.

For payments in lieu of clothing for officers' servants, eighty-two thousand seven hundred and sixty dollars.

For payments to discharged soldiers for clothing not drawn, one hundred and fifty thousand dollars.

For pay of volunteers, two hundred million dollars.

For subsistence in kind for regulars, volunteers, and drafted men, ninety-two million seven hundred and eighty-two thousand and forty-three dollars and seventy cents.

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen for the quartermaster's department, at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and

for the authorized number of officers' horses when serving in the field and at the outposts; including bedding for the animals; of straw for soldiers' bedding, and of stationery, including blank books for the quartermaster's department, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders and reports, fifty million dollars.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the additional compensation of judge advocates, recorders, members, and witnesses, while on that service; under the act of March sixteenth, eighteen hundred and two, extra pay to soldiers employed, under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; in the construction of roads, and on other constant labor, for periods of not less than ten days, under acts of March second, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or at other posts and places when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters, and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horses and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines, for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movements and operations of an army not expressly assigned to any other department, ten million dollars.

For the purchase of cavalry and artillery horses, twenty-one million dollars.

For transportation of officers' baggage, five hundred thousand dollars.

For transportation of the Army, including the baggage of the troops when moving, either by land or water; of clothing, camp, and garrison equipage, from the depots at Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field; and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, or ordnance stores, and small-arms, from foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as, from their situation, require it to be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, thirty million dollars.

For the hire or commutation of quarters for officers on military duty; hire of quarters for

troops; of storehouses for the safe-keeping of military stores; of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables, and for repairing public buildings at established posts, five million dollars.

For heating and cooking stoves, one hundred thousand dollars.

For constructing and extending the telegraph for military purposes, and for expenses in operating the same, five hundred thousand dollars.

For supplies, transportation, and care of prisoners of war, one million dollars.

For clothing for the Army, camp and garrison equipage, and for expenses of offices and arsenals, fifty million dollars.

For contingencies of the Army, four hundred thousand dollars.

For the medical and hospital department, six million dollars.

For expenses of the Commanding General's office, ten thousand dollars.

For the secret service, one hundred thousand dollars.

For armament of fortifications, three million five hundred thousand dollars.

For the current expenses of the ordnance service, one million two hundred and fifty thousand dollars.

For ordnance, ordnance stores, and supplies, including horses, and the purchase and manufacture of Army accouterments and horse equipments for volunteers and regulars, twenty million dollars.

For the manufacture of arms at the national armory, three million five hundred thousand dollars.

For repairs, improvements, and new machinery at the national armory, one hundred thousand dollars.

For the purchase of gunpowder and lead, two million five hundred thousand dollars.

For repairs and improvements at arsenals, including new and additions to present buildings, and machinery, tools, and fixtures, five hundred thousand dollars.

For signal service of the Army, one hundred thousand dollars.

For salaries of two clerks in the signal office, two thousand eight hundred dollars.

SEC. 2. *And be it further enacted*, That to supply a deficiency in the appropriations for the current fiscal year, for ordnance, ordnance stores, and supplies, including the purchase and manufacture of arms, accouterments, and horse equipments for volunteers and regulars, the sum of seven millions of dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That from and after the first day of March, eighteen hundred and sixty-five, and during the continuance of the present rebellion, the commutation price of officers' subsistence shall be fifty cents per ration: *Provided*, That said increase shall not apply to the commutation price of the rations of any officer above the rank of brevet brigadier general, or of any officer entitled to commutation for fuel or quarters.

SEC. 4. *And be it further enacted*, That all officers of volunteers now in commission, below the rank of brigadier general, who shall continue in the military service to the close of the war, shall be entitled to receive, upon being mustered out of said service, three months' pay proper.

SEC. 5. *And be it further enacted*, That commissioned officers of the Army, serving in the field, shall hereafter be permitted to purchase rations for their own use, on credit, from any commissary of subsistence, at cost prices, and the amount due for rations so purchased shall be reported monthly to the Paymaster General, to be deducted from the payment next following such purchase. And the Secretary of War is hereby directed to issue such orders and regulations as he may deem best calculated to insure the proper observance hereof.

SEC. 6. *And be it further enacted*, That the Secretary of War is hereby authorized and directed to cause tobacco to be furnished to the enlisted men of the Army at cost prices, exclusive of the cost of transportation, in such quantities as they may require, not exceeding sixteen ounces per month, and the amount due therefor shall be

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deducted from their pay in the same manner as at present provided for the settlement of clothing accounts.

SEC. 7. *And be it further enacted, That, in addition to the amount hereinbefore appropriated for the pay of the Army, the sum of thirty-six millions of dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated.*

APPROVED, March 3, 1865.

CHAP. LXXXII.—An Act to amend an Act entitled "An Act to provide a National Currency, secured by a Pledge of United States Bonds, and to provide for the Circulation and Redemption thereof."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-one of said act be so amended that said section shall read as follows:*

SEC. 21. *And be it further enacted, That upon the transfer and delivery of bonds to the Treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and the amount of said circulating notes to be furnished to each association shall be in proportion to its paid-up capital as follows, and no more: To each association whose capital shall not exceed five hundred thousand dollars, ninety per centum of such capital; to each association whose capital exceeds five hundred thousand dollars, but does not exceed one million dollars, eighty per centum of such capital; to each association whose capital exceeds one million dollars, but does not exceed three millions of dollars, seventy-five per centum of such capital; to each association whose capital exceeds three millions of dollars, sixty per cent. of such capital. And that one hundred and fifty millions of dollars of the entire amount of circulating notes authorized to be issued shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to the existing banking capital, resources, and business of such States, District, and Territories.*

APPROVED, March 3, 1865.

CHAP. LXXXIII.—An Act to prevent the Enlistment of Persons charged with Crime in the District of Columbia, as Substitute[s] or as Volunteers in the Army or Navy, and to prevent Frauds at the District Jail, in the city of Washington.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passage of this act, it shall be unlawful for any person, with knowledge of the fact, to present or offer to any recruiting agent or officer, or any muster-in officer in the United States military or naval service, either as a volunteer or as a substitute for any person, any person charged with the commission of any criminal offense, and confined or held on bail for the trial of such offense, within the District of Columbia; and it shall in like manner be unlawful for any person, in any way or manner, to abet, aid, or assist in procuring the offer or acceptance of any person so charged or held for trial, or released on bail and awaiting trial, either as a volunteer or as a substitute for any person drafted or liable to draft in the military or naval service of the United States, whether the person so drafted or liable to draft shall be a resident of the District of Columbia, or shall reside elsewhere. And any person who shall knowingly offend against the provisions of this section, or either of such provisions, shall be deemed guilty*

*of a misdemeanor, and shall upon conviction thereof, before a court of competent jurisdiction in said district, be punished by a fine of not less than two hundred and fifty dollars, and not more than one thousand dollars, and by imprisonment in the district prison for a term not less than six months nor more than one year.*

SEC. 2. *And be it further enacted, That any officer of the district jail of the District of Columbia, or any guard thereof, or any attaché or employé connected with said jail, who shall demand or directly or indirectly receive, any compensation, fee, reward, or gratuity for any information given in respect to any prisoner confined therein, or awaiting trial upon bail, or for any service, assistance, or influence rendered, given, or exerted, with any view, intent, or purpose of having such person thus charged or held for trial, or held in [on] bail to await trial, taken, offered, or used either as a volunteer or as a substitute for any other in the military or naval service, or who shall corruptly receive, for any act done by virtue of his office or employment, any fee, compensation, reward, or gratuity, shall be deemed guilty of a misdemeanor [misdemeanor] [and] shall on conviction thereof in any district court of competent jurisdiction, be punished by a fine of not less than two hundred and fifty dollars, and not more than one thousand dollars, and by imprisonment in the district prison for a term not less than three months nor more than one year.*

APPROVED, March 3, 1865.

CHAP. LXXXIV.—An Act supplementary to the several Acts relating to Pensions.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no invalid pensioner now or hereafter in the service of the United States shall be entitled to draw a pension for any period of time during which he is or shall be entitled to the full pay or salary which an able-bodied person discharging like duties to the Government is allowed by law.*

SEC. 2. *And be it further enacted, That acting assistant or contract surgeons disabled by any wound received or disease contracted while actually performing the duties of assistant surgeons or acting assistant surgeons, with any military forces in the field or in transitu, shall be entitled to the benefits of the pension laws in the same manner as if they had actually been mustered into the service with the rank of "assistant surgeon," and the widows, minor children, or the dependents of acting assistant surgeons dying while performing the duty aforesaid, shall in like manner be entitled to the same benefits of the pension laws as if the deceased had been actually mustered into the service as assistant surgeons.*

SEC. 3. *And be it further enacted, That all persons now by law entitled to a less pension than hereafter specified who shall have lost one foot and one hand in the military service of the United States, and in the line of his [their] duty, shall be entitled to twenty dollars per month.*

SEC. 4. *And be it further enacted, That if any officer or other person named in the first section of an act entitled "An act to grant pensions," approved July fourteen, eighteen hundred and sixty-two, has died since the fourth day of March, eighteen hundred and sixty-one, or shall hereafter die by reason of any wound received or disease contracted while in the service of the United States, and in the line of duty, his widow, or if there be no widow, or in case of her death or marriage, without payment to her of any part of the pension hereinafter mentioned, his child or children, under sixteen years of age, shall be entitled to receive the same pension as the husband or father would have been entitled to under said act, had he been totally disabled, to commence from the death of the husband or father, and to continue to the widow during her widowhood, or to the child or children until they severally attain to the age of sixteen years, and no longer: *Provided*, That when such pension has been, or shall hereafter be, paid to the widow, such child or children shall only be entitled to receive the pension, to commence from the death or marriage of such widow and [to] continue as aforesaid: *Provided further*, That nothing herein contained shall be construed to*

*repeal or modify the tenth section of an act entitled "An act supplementary to 'An act to grant pensions,' approved July fourteen, eighteen hundred and sixty-two," approved July fourth, eighteen hundred and sixty-four, and said section is hereby declared to be in full force and effect in all cases arising under this act to which said section is applicable, saving and excepting such cases as are embraced in the preceding proviso.*

APPROVED, March 3, 1865.

CHAP. LXXXV.—An Act to provide for a Chief of Staff to the Lieutenant General commanding the Armies of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may, by and with the advice and consent of the Senate, appoint a Chief of Staff to the Lieutenant General commanding the armies of the United States, who shall have the rank, pay, and allowances of a brigadier general in the United States Army.*

APPROVED, March 3, 1865.

CHAP. LXXXVI.—An Act regulating Proceedings in Criminal Cases, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every grand jury impaneled before any district or circuit court of the United States to inquire into and presentment make of public offenses against the United States, committed or triable within the district for which the court is holden, shall consist of not less than sixteen and not exceeding twenty-three persons. If of the persons summoned less than sixteen attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to complete the grand jury. And whenever a challenge to an individual grand juror is allowed, and there are not other jurors in attendance sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons for that purpose. No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors. From the persons summoned and accepted as grand jurors, the court shall appoint the foreman, who shall have power to administer oaths and affirmations to witnesses appearing before the grand jury.*

SEC. 2. *And be it further enacted, That when the offense charged be treason or a capital offense, the defendant shall be entitled to twenty and the United States to five peremptory challenges. On a trial for any other offense in which the right of peremptory challenge now exists, the defendant shall be entitled to ten and the United States to two peremptory challenges. All challenges, whether to the array or panel or to individual jurors for cause or favor, shall be tried by the court without the aid of triers.*

SEC. 3. *And be it further enacted, That in every case where any person convicted of any offense against the United States shall be sentenced to imprisonment for a period longer than one year, it shall be lawful for the court by which the sentence is passed to order the same to be executed in any State prison or penitentiary within the district or State where such court is held, the use of which prison or penitentiary is allowed by the Legislature of such State for such purposes; and the expenses attendant upon the execution of such sentence shall be paid by the United States.*

SEC. 4. *And be it further enacted, That issues of fact in civil cases in any circuit court of the United States may be tried and determined by the court without the intervention of a jury, whenever the parties, or their attorneys of record, file a stipulation in writing with the clerk of the court waiving a jury. The finding of the court upon the facts, which finding may be either general or special, shall have the same effect as the verdict of a jury. The rulings of the court in the court [causes] in the progress of the trial, when excepted to at the time, may be reviewed by the Supreme Court of the United States upon a writ*



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of error, or upon appeal, provided the rulings be duly presented by a bill of exceptions. When the finding is special, the review may also extend to the determination of the sufficiency of the facts found to support the judgment.

Sec. 5. *And be it further enacted*, That all acts and parts of acts in conflict with this act be, and the same are hereby, repealed.

Sec. 6. *And be it further enacted*, That this act shall take effect on the first day of June, one thousand eight hundred and sixty-five.

APPROVED, March 3, 1865.

CHAP. LXXXVII.—An Act further to amend an Act entitled "An Act for the Collection of direct Taxes in the insurrectionary Districts within the United States, and for other purposes," approved June seven, eighteen hundred and sixty-two.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in any case in which a sale of lands or tenements has been or shall be made by a board of tax commissioners, appointed pursuant to the act of which this is an amendment, and a certificate of sale issued by the board to the purchaser or purchasers of said lands or tenements, it shall and may be lawful for the tax commissioners to issue, in such form as the Secretary of the Treasury shall prescribe, a writ, directed to the marshal of the district in which said lands or tenements are situated, commanding him to put the said purchaser or purchasers forthwith into possession of the said lands or tenements, and to make return of his proceedings under the said writ within thirty days to the commissioners, who shall keep a record of their proceedings in the matter, and who may, in case of any failure on the part of the said marshal to execute the first writ, issue alias and pluries writs, as the circumstances may to [them] seem to require. In case the marshal of the district shall be unable, either by himself or by deputy, to execute such writ, or in case there shall be no marshal of the United States within the said district at the time of the issuing of said writ, the same may be executed and returned by any fit person, to be specially appointed by the said board of tax commissioners for the purpose, which appointment shall be in writing and indorsed in the said writ: *Provided*, That where the lands or tenements so sold shall, at the time of such sale, be occupied by the United States authorities for hospital or other purposes, the issuing of such writ shall be suspended during such occupancy, and the purchaser or purchasers of such lands or tenements shall be entitled to and receive such rent or compensation for the use of such lands or tenements as the Secretary of the Treasury, under regulations prescribed by him, shall order or direct.

Sec. 2. *And be it further enacted*, That after the time allowed for the redemption of any lands or tenements which have been or shall be sold by a board of tax commissioners shall have passed, and after the purchase-money shall have been fully paid, the President is authorized and required to cause a patent or patents to be issued to any such person as may be the bona fide purchaser, owner, assignee, or transferee of such lands or tenements under and by virtue of any certificates of sale, or under and by virtue of any assignment or transfer of such certificate: *Provided*, That in case of an assignment or transfer of a certificate of sale, the person applying for such patent shall give satisfactory proof to the Commissioner of the General Land Office of the preceding transfers or assignments.

Sec. 3. *And be it further enacted*, That a majority of a board of tax commissioners shall have full authority to transact all business and to perform all duties required by law to be performed by such board, and no proceeding of any board of tax commissioners shall be void or invalid in consequence of the absence of any one of said commissioners.

Sec. 4. *And be it further enacted*, That any lien creditor (being a loyal citizen of the United States from the commencement of this rebellion, or alien subject of a friendly nation who shall not have taken part against the United States in this rebellion) of a person whose lands or tenements shall have been sold by a board of tax commis-

sioners and not redeemed, shall, after the period of redemption has elapsed, be entitled to payment out of the balance of the proceeds of sale of such lands and tenements, after the same shall have been paid into the Treasury of the United States, of the amount of his lien, if a sufficient sum shall be left for such purpose, after the payment of all claims of the United States, together with the costs and expenses of sale, and the payment of all prior liens, under such rules and regulations, and after exhibiting such proof of his right, as the Secretary of the Treasury shall prescribe.

Sec. 5. *And be it further enacted*, That each board of tax commissioners shall file in the Department of the Treasury a transcript of its proceedings from time to time as the said proceedings shall occur, and duplicates of all orders, resolutions, documents and papers, drafts, plats, and maps of surveys, made or issued by them, and as often and under such regulations as the Secretary of the Treasury shall prescribe; and copies of any such orders, resolutions, documents, papers, or proceedings, duly certified to be full and correct copies, under the hand of the said Secretary or of the officer having custody of the said transcripts and duplicates, under the seal of the Treasury, shall be evidence with the same effect as the originals.

Sec. 6. *And be it further enacted*, That the expenses caused by or incident to the proceedings of any board of tax commissioners shall be paid by the commissioners out of the proceeds of the sales which have been or shall be made by them of any lands or tenements: *Provided, however*, That the bills of such expenses shall be first submitted to and approved by the Secretary of the Treasury.

Sec. 7. *And be it further enacted*, That in any case in which lands shall be redeemed after sale made by the board of commissioners, and after the money received by them on the sale of such lands has been paid into the Treasury, by the owner complying with all the provisions of the law relating to redemption necessary to be complied with on his part, the said board shall certify to the Secretary of the Treasury the fact that such lands have been redeemed, the amount of the purchase-money paid by the purchaser, and when the said purchase-money was paid, together with such other circumstances as the Secretary, by general regulation or special instructions shall require, and the Secretary, on being satisfied that the lands have been duly redeemed, shall repay, by draft drawn on the Treasury of the United States, the said purchaser the principal and interest of the said purchase-money; and the purchaser shall forthwith deliver possession to the owner so redeeming as aforesaid: *Provided, however*, That no owner shall be entitled to redeem unless, in addition to the oath prescribed by existing laws, he shall swear that he has not taken part with the insurgents in the present rebellion, or in any way given them aid or comfort, or shall satisfy the board of commissioners that the said oath is true: *Provided, also*, That a tenant, at sufferance or at will, shall not be allowed to redeem, nor shall a tenant for years be allowed to redeem, unless he shall satisfy the board of commissioners, in addition to the other requirements of the law, that the owner of the reversionary estate has been loyal and not in any manner engaged in this rebellion, nor in giving aid or comfort to rebels.

Sec. 8. *And be it further enacted*, That when lands, tenements, parcels, or lots of land, which have been selected under direction of the President for Government use, or which have been purchased at any sale made by a board of tax commissioners for the United States, have been entered upon by persons claiming preemption rights therein, with the consent or by the authority of the board of tax commissioners, and in accordance with instructions heretofore issued by the President of the United States, such persons shall be taken and deemed to have acquired rights of preemption in said lands; and all certificates that have been issued or that shall hereafter be issued by the said board of commissioners to such persons shall be valid and effectual, as though issued pursuant to the act of which this is amendatory.

Sec. 9. *And be it further enacted*, That boards of tax commissioners shall give such notice, by advertisements, of sales of lands to be made by them, by authority of law, as the Commissioner of Internal Revenue, under direction of the Secretary of the Treasury, shall order and direct.

Sec. 10. *And be it further enacted*, That section seven of the act entitled "An act to amend an act entitled 'An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes,'" be amended by striking therefrom the following words, that is to say: "or request the same to be struck off to a purchaser for a less sum than two thirds of the assessed value of said [several] lots or parcels of ground."

Sec. 11. *And be it further enacted*, That in case application is made to pay tax on a part of any tract or tracts, lot or lots of land embraced in one valuation, it shall be competent for the commissioners, whether the valuation shall have been made by them or by the State authorities, to apportion such valuation and tax in such manner as they may deem just and reasonable, and the tax so apportioned and fixed shall be a lien upon the different parts or parcels, the same as if each had been thus originally valued or assessed.

Sec. 12. *And be it further enacted*, That each tax commissioner is hereby authorized and empowered to administer oaths or affirmations in all cases where the same may be required under this act, and any person who shall willfully take a false oath or affirmation in any such case shall, upon conviction thereof, be liable to the punishment and penalties provided by the laws of the United States for the crime of perjury, and shall moreover forfeit the sum of five hundred dollars.

Sec. 13. *And be it further enacted*, That purchasers at any sale, persons redeeming or in whose behalf writs of possession may be issued, shall pay to the board of tax commissioners for their use the sum of two dollars for each certificate of sale, certificate of redemption, or writ, delivered, provided that the fees thus received, together with the salary of the commissioners for any district, shall not exceed the sum of four thousand dollars to each of said commissioners, and that any excess that may be received over that amount shall be applied in payment of clerks or other persons employed by said commissioners in pursuance of this act, so far as may be necessary, and the balance, if any, paid as the proceeds of the sales of lands sold by them are required to be paid.

Sec. 14. *And be it further enacted*, That any board of tax commissioners may employ the requisite number of clerks, surveyors, and assistants, who shall receive such compensation as the Secretary of the Treasury may prescribe; and that any clerk appointed by said board may be specially empowered by the said Secretary to receive and collect moneys due for direct taxes, and rents for lands leased, and to pay them over to the said board: *Provided, however*, That he first give security in such sum and with such conditions as the said Secretary may direct, with sureties to be approved by him; and each tax commissioner shall be held to have entered on the discharge of his duties when he shall have given approved security, taken the required oath, received his commission, and reported at the office of the Secretary of the Treasury for duty, unless the said Secretary shall in any particular case direct otherwise.

Sec. 15. *And be it further enacted*, That where lands or tenements have been, or shall hereafter be, sold under the provisions of the several acts of Congress relating to the sale of lands for direct taxes in insurrectionary districts, in tracts which, at the time of sale, were held by two or more freehold owners, in severalty, any one of these owners, being otherwise entitled to redeem, shall be allowed to redeem for the piece or parcel of land held by him as a freehold owner, as aforesaid, on paying his proportionable part of the tax, penalty, costs, expenses, and interest—the said proportionable part to be ascertained by the said commissioners. And it shall be optional with the purchaser either to retain the residue of the tract purchased, after a redemption of a part, or to surrender his certificate of purchase to the commissioners, and receive back from them the amount of the purchase-money paid, with interest: and

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in case he shall elect to retain the piece or parcel unredeemed, he shall surrender his certificate for the whole tract purchased, and the said board shall issue a new certificate for the piece or certificate for the piece or parcel of land retained.

APPROVED, March 3, 1865.

CHAP. LXXXVIII.—An Act to amend an Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and other Purposes," approved July first, eighteen hundred and sixty-two, and to amend an Act amendatory thereof, approved July second, eighteen hundred and sixty-four.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section ten of said act of July second, eighteen hundred and sixty-four, be so modified and amended as to allow the Central Pacific Railroad Company, and the Western Pacific Railroad Company, of California, the Union Pacific Railroad Company, the Union Pacific Railroad Company, eastern division, and all other companies provided for in the said act of the second of July, eighteen hundred and sixty-four, to issue their six per centum thirty years' bonds, interest payable in any lawful money of the United States, upon their separate roads. And the said companies are hereby authorized to issue, respectively, their bonds to the extent of one hundred miles in advance of a continuous completed line of construction.

Sec. 2. *And be it further enacted,* That the assignment made by the Central Pacific Railroad Company of California to the Western Pacific Railroad Company of said State, of the right to construct all that portion of said railroad and telegraph from the city of San José to the city of Sacramento is hereby ratified and confirmed to the said Western Pacific Railroad Company, with all the privileges and benefits of the several acts of Congress relating thereto, and subject to all the conditions thereof: *Provided,* That the time within which the said Western Pacific Railroad Company shall be required to construct the first twenty miles of their said road shall be one year from the first day of July, eighteen hundred and sixty-five, and that the entire road shall be completed from San José to Sacramento, connecting at the latter point with the said Central Pacific railroad, within four years thereafter.

APPROVED, March 3, 1865.

CHAP. LXXXIX.—An Act relating to the Postal Laws.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all domestic letters, except letters lawfully franked, and duly certified letters of soldiers and mariners in the service of the United States, which are deposited for mailing in any post office of the United States, on which the postage is unpaid, shall be sent by the postmaster to the dead letter office in Washington; and all letters deposited for mailing, paid only in part, shall be forwarded to destination, charged with the unpaid rate, to be collected on delivery.

Sec. 2. *And be it further enacted,* That the provisions of the act entitled "An act for the relief of postmasters who have been robbed by confederate forces or rebel guerrillas," approved April twenty-nine, eighteen hundred and sixty-four, be, and the same are hereby, extended to cases of loyal postmasters where, by reason of the presence of armed forces, a post office is destroyed and the postmaster loses the fixtures and furniture or postage stamps, and stamped envelopes; and also to cases where such losses are occasioned by armed forces other than those of the so-called confederate States.

Sec. 3. *And be it further enacted,* That, in addition to the items of rent, fuel, light, and clerks enumerated in the fifth section of the act approved July first, eighteen hundred and sixty-four, the Postmaster General be, and he is hereby, authorized to allow, at his discretion, out of the revenues of the office at New York, and of offices of the first, second, third, and fourth classes, a just and

reasonable sum for the necessary cost, in whole or in part, as well of the foregoing items, as of furniture, stationery, printing, and other items of expenditure required at offices of those classes, to be adjusted upon a satisfactory exhibit of the facts; and that he be authorized to pay, out of the proceeds of the money-order business, the cost of stationery and such other incidental expenses as are necessary for the transaction of that business.

Sec. 4. *And be it further enacted,* That the seventh section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March three, eighteen hundred and sixty-three, be, and the same is hereby, amended so as to authorize the Postmaster General to allow for the publication, in newspapers, of the list of non-delivered letters at any post office, compensation at a rate not to exceed two cents for each letter so advertised.

Sec. 5. *And be it further enacted,* That the seventeenth section of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July one, eighteen hundred and sixty-four, be, and the same is hereby, amended so as to restore, from the date of its passage, to the special agent of the Post Office Department in the Pacific States and Territories, his regular salary of two thousand five hundred dollars per annum, under the act of March two, eighteen hundred and sixty-one, with an allowance, in addition thereto, of a sum not exceeding five dollars per diem, to provide for his actual traveling and incidental expenses while actively employed in the service. And the Postmaster General is hereby authorized to appoint an additional special agent for the Pacific States and Territories, and two additional special agents to superintend postal matters connected with the railway mail service of the United States, who shall receive the same salary and per diem allowance for traveling and incidental expenses, to be paid out of the appropriation for mail transportation.

Sec. 6. *And be it further enacted,* That hereafter special agents of the Post Office Department, other than those appointed for the Pacific States and Territories, or those appointed under the authority of the preceding section of this act to superintend postal matters connected with the railway service of the United States, shall be allowed for their necessary traveling and incidental expenses, while actively employed in the service, a sum not exceeding five dollars per diem.

Sec. 7. *And be it further enacted,* That the Postmaster General be, and he is hereby, authorized to pay, out of the appropriation for miscellaneous expenses, the sum of ten thousand dollars, or so much thereof as may be required, for defraying the necessary expense of preparing and publishing a set of post-route maps arranged by States and groups of States, and showing all the permanent mail routes, distances, and post offices thereon in the United States, with other statistical information.

Sec. 8. *And be it further enacted,* That for the purpose of assorting and distributing letters and other mail matter in railway post offices, the Postmaster General may, from time to time, appoint clerks, who shall be paid out of the appropriation for mail transportation: *Provided,* That the salary of each head clerk so appointed and employed, shall not exceed fourteen hundred dollars per annum, and that the salary of other clerks shall not exceed twelve hundred dollars each per annum.

Sec. 9. *And be it further enacted,* That the provisions of the fourth section of the act entitled "An act making appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-one," approved June fifteen, eighteen hundred and sixty, be and the same are hereby modified so as to authorize the Postmaster General to cause the mails to be transported between the United States and any foreign port or ports, or between ports of the United States, touching at a foreign port, by steamship, allowing and paying therefor, if by an American vessel, any sum not exceeding the sea and United States inland postage, and if by a foreign vessel, any sum not exceeding the sea postage on the mails so conveyed.

Sec. 10. *And be it further enacted,* That no steamship or other vessel departing from the United States for a foreign port or ports, shall be per-

mitted to receive on board, or convey any letters or letter packets originating in the United States, which have not been regularly posted at, and received from, the post office at the port of departure; and it shall be the duty of the collector or other officer of the port empowered to grant clearances of vessels, to require as a condition of clearance, from the master or commander of such steamship or vessel, an oath or affirmation that he has not received on board his ship or vessel, and has not under his care or within his control, and will not receive and convey any letters or letter packets addressed to a foreign country, except as herein-after excepted, which hire have not been delivered to him from the post office at the port of departure: *Provided, however,* That the provisions of this section shall not apply to any letters or letter packets which relate to the cargo and are addressed to the owner or consignee of such steamship or other vessel, or to any letters or packets which are inclosed in a United States stamped envelope of a denomination sufficient in amount to cover the United States postage legally chargeable thereon, if such letters or packets had been posted and transmitted by the regular mail.

Sec. 11. *And be it further enacted,* That nothing contained in the act entitled "An act to establish a postal money-order system," approved May seventeen, eighteen hundred and sixty-four, or in any other act, shall be so construed as to prevent deputy postmasters at money-order or other offices from depositing in the national banks designated by the Secretary of the Treasury as public depositories, to their own credit as deputy postmasters, money orders, or other funds in their charge, under the direction of the Postmaster General, nor to prevent their negotiating drafts, orders, or other evidences of debt through these banks, as they may be instructed and required by the Postmaster General.

Sec. 12. *And be it further enacted,* That the balance which may remain unexpended of the appropriation of one hundred thousand dollars to meet any deficiencies in the proceeds of the money-order system during the present fiscal year, under the thirteenth section of the act approved May seventeen, eighteen hundred and sixty-four, may be used, as far as may be necessary, to supply deficiencies in the proceeds of the aforesaid system during the fiscal year commencing July first, eighteen hundred and sixty-five.

Sec. 13. *And be it further enacted,* That if any person or persons shall willfully and maliciously injure, tear down, or destroy any letter-box, pillar-box, or other receiving-boxes established by authority of the Postmaster General of the United States for the safe deposit of matter for the mails and for delivery; or shall willfully aid and assist in injuring, tearing down, or destroying any such box or boxes, every such offender, being thereof duly convicted, shall, for every such offense, be fined not less than one hundred, nor more than one thousand dollars, or be imprisoned not less than one year, nor more than three years, or both, according to the circumstances and aggravations of the offense. And if any clerk or other person employed in any of the departments of the Post Office establishment shall willfully and unlawfully remove from any letter posted at or received in any post office or branch post office, established by authority of the Postmaster General of the United States, any postage-stamp or stamps affixed thereto in payment of postage, every such offender, being thereof duly convicted, shall, for every such offense, be fined not more than one hundred dollars, or imprisoned not more than six months, according to the circumstances and aggravations of the offense.

Sec. 14. *And be it further enacted,* That the yearly advertisement for proposals to carry the mails of the United States shall be published hereafter for a period of six weeks in one or more, but not to exceed five, newspapers, printed in the State or Territory where the mail service is to be performed, one of which shall be printed at the seat of government of such State or Territory.

Sec. 15. *And be it further enacted,* That nothing contained in the act entitled "An act to amend the laws relating to the Post Office Department," approved March third, eighteen hundred and sixty-three, shall be so construed as to repeal or modify the second section of the act entitled "An

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act making appropriations for the service of the Post Office Department during the fiscal year ending the thirtieth of June, eighteen hundred and sixty-one," for the delivery of letters and other mail matter from post offices where the system of free delivery by carriers has not been established: *Provided, nevertheless, and it is hereby further enacted*, That the system of free delivery shall be established in every place containing a population of fifty thousand within the delivery of the office thereof, and at such other places as the Postmaster General in his judgment shall direct: *And provided further*, That the prepayment postage on drop-letters in all places where free delivery is not established shall be one cent only.

SEC. 16. *And be it further enacted*, That no obscene book, pamphlet, picture, print, or other publication of a vulgar and indecent character, shall be admitted into the mails of the United States; any person or persons who shall deposit or cause to be deposited, in any post office or branch post office of the United States, for mailing or for delivery, an obscene book, pamphlet, picture, print, or other publication, knowing the same to be of a vulgar and indecent character, shall be deemed guilty of a misdemeanor, and, being duly convicted thereof, shall for every such offense be fined not more than five hundred dollars, or imprisoned not more than one year, or both, according to the circumstances and aggravations of the offense.

APPROVED, March 3, 1865.

CHAP. XC.—An Act to establish a Bureau for the Relief of Freedmen and Refugees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a Bureau of Refugees, Freedmen, and Abandoned Lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a Commissioner to be appointed by the President, by and with the advice and consent of the Senate, whose compensation shall be three thousand dollars per annum, and such number of clerks as may be assigned to him by the Secretary of War, not exceeding one chief clerk, two of the fourth class, two of the third class, and five of the first class. And the Commissioner and all persons appointed under this act, shall, before entering upon their duties, take the oath of office prescribed in an act entitled "An act to prescribe an oath of office, and for other purposes," approved July second, eighteen hundred and sixty-two, and the Commissioner and the chief clerk shall, before entering upon their duties, give bonds to the Treasurer of the United States, the former in the sum of fifty thousand dollars, and the latter in the sum of ten thousand dollars, conditioned for the faithful discharge of their duties respectively, with securities to be approved as sufficient by the Attorney General, which bonds shall be filed in the office of the First Comptroller of the Treasury, to be by him put in suit for the benefit of any injured party upon any breach of the conditions thereof.

SEC. 2. *And be it further enacted*, That the Secretary of War may direct such issues of provisions, clothing, and fuel, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

SEC. 3. *And be it further enacted*, That the President may, by and with the advice and consent of the Senate, appoint an assistant commissioner for each of the States declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the Commissioner, aid in the execution of the provisions of this act; and he shall give a bond to the Treasurer of the United States, in the sum of twenty thousand dollars, in the form and manner prescribed in the first section of this act.

Each of said commissioners shall receive an annual salary of two thousand five hundred dollars in full compensation for all his services. And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. The Commissioner shall, before the commencement of each regular session of Congress, make full report of his proceedings with exhibits of the state of his accounts to the President, who shall communicate the same to Congress, and shall also make special reports whenever required to do so by the President or either House of Congress; and the assistant commissioners shall make quarterly reports of their proceedings to the Commissioner, and also such other special reports as from time to time may be required.

SEC. 4. *And be it further enacted*, That the Commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary States as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale, or otherwise, and to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rent not exceeding six per centum upon the value of such land, as it was appraised by the State authorities in the year eighteen hundred and sixty, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the Commissioner may by regulation prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent aforesaid.

SEC. 5. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

APPROVED, March 3, 1865.

CHAP. XCI.—An Act to incorporate a National Military and Naval Asylum for the Relief of the totally disabled Officers and Men of the Volunteer Forces of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Ulysses S. Grant, David G. Farragut, Hannibal Hamlin, Andrew Johnson, Salmon P. Chase, Edwin M. Stanton, Gideon Welles, John A. Dix, George Bancroft, William T. Sherman, John A. Andrew, Andrew G. Curtin, Oliver P. Morton, Benjamin F. Butler, George G. Meade, John Brough, Nathaniel P. Banks, Joseph Hooker, Samuel R. Curtis, Richard J. Oglesby, David Todd, Henry Ward Beecher, Ambrose E. Burnside, John A. Logan, Daniel S. Dickinson, William A. Buckingham, Carl Schurz, Oliver O. Howard, Hamilton Fish, Frank Sigel, Francis Wayland, Austin Blair, Thomas C. Fletcher, Robert Breckinridge, Lovell H. Rousseau, Horace Greeley, George H. Stuart, Joseph Henry, John G. Barnard, Henry J. Raymond, William B. Astor, James Gordon Bennett, H. W. Halleck, William E. Dodge, William M. Everts, James T. Brady, Gerritt Smith, Reuben E. Fenton, Bellamy Storer, George P. McIlvaine, Galusha A. Grow, Henry W. Bellows, J. S. C. Abbott, Jay Cooke, Oliver Wendell Holmes, Israel Washburn, jr., Ichabod Goodwin, Frederick Smyth, John Z. Goodrich, Charles Henry Davis, William Claflin, J. Wiley Edmonds, Amos A. Lawrence, Edward S. Tobey, Thomas Russell, Charles G. Loring, George B. Upton, Charles G. Greene, J. M. S. Williams, George G. Stannard, Henry M. Rice, Grenville M. Dodge, Morton McMichael, Thomas Webster, James M. Scovel, Nathaniel B. Baker, Richard J. Field, Henry C. Carey, John W. Forney, Bishop M. Simpson, G. S. Griffith, William Henry Channing, James E. Yeatman, Dwight Durkee, A. T. Stewart, Barnabas Hobbs, Montgomery Blair, Joseph R. Barnes, E. B. Ward,

Henry Benham, Frank Moore, Alfred Lee, Edward Solomon, Thomas C. Bryan, B. B. French, Samuel J. Crawford, James T. Pratt, Alfred H. Terry, Edward Tompkins, Moses F. Odell, and their successors, duly chosen, are hereby constituted and created a body-corporate in the District of Columbia.

SEC. 2. *And be it further enacted*, That the said corporation hereby constituted shall consist of one hundred members. They shall have power to fill all vacancies created by death, resignation, or otherwise, and to make by-laws, rules, and regulations: *Provided*, That such by-laws, rules, and regulations are not repugnant to the Constitution or laws of the United States.

SEC. 3. *And be it further enacted*, That the business of said corporation shall be managed by a board of twelve directors, who shall elect from their number a president, two vice presidents, and a secretary; and seven of the directors, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any special meeting of the board of directors.

SEC. 4. *And be it further enacted*, That the board of directors shall have authority to procure for early use, at a suitable place, a site for a military asylum for officers and men of the volunteer forces of the United States who have been or may hereafter be totally disabled by wounds received or sickness contracted while in the line of their duty during the present rebellion; and to have the necessary buildings erected, having due regard to the health of the location, facility of access, and competency to accommodate the persons provided for in this act.

SEC. 5. *And be it further enacted*, That for the establishment and support of this asylum there shall be appropriated all stoppages or fines adjudged against volunteer officers, soldiers, or seamen by sentence of courts-martial or military commission, over and above the amounts necessary for the reimbursement of the Government or of individuals, all forfeitures on account of desertion from the volunteer service, and all moneys due deceased volunteer officers, soldiers, or seamen, which now are, or may be, unclaimed for three years after the death of such officers, soldiers, or seamen, to be repaid upon the demand of the heirs or legal representatives of such deceased officers, soldiers, or seamen. And the said directors are hereby authorized to receive all donations of money or property, made by any person or persons, for the benefit of the asylum, and to hold or dispose of the same for its sole and exclusive use.

SEC. 6. *And be it further enacted*, That the selection of the site for the said asylum, and the plan of the buildings, and the rules and regulations for the general and internal direction of the asylum, shall be made by the directors, and they may do all other acts necessary for the government and interests of the same as hereby authorized: *Provided, however*, That no selection of a site for said asylum or adoption of any plan of buildings shall be agreed upon until after the sum of half a million of dollars shall have been first subscribed or donated and paid into the treasury of said corporation.

SEC. 7. *And be it further enacted*, That the officers of the asylum shall consist of a governor, a deputy governor, a secretary and a treasurer, and such officers shall be appointed from the pensioned officers of the volunteer service, and they may be appointed and removed from time to time, as the interests of the institution may require, by the board of directors.

SEC. 8. *And be it further enacted*, That the following persons only shall be entitled to the benefits of the asylum, and may be admitted thereto upon the recommendation of the board of directors, namely: all volunteer officers, soldiers, and seamen who have served during the present war, who have been or who may be totally disabled by wounds received or sickness contracted in the line of their duty, and such persons on becoming inmates of this asylum shall assign thereto their pensions during the time they shall remain therein and receive its benefits.

SEC. 9. *And be it further enacted*, That the directors shall make an annual report of the condition of the asylum to the War Department, which



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shall be communicated to Congress on the first Monday of every January after the passage of this act, and it shall be the duty of the said directors to examine and audit the accounts of the treasurer of this asylum quarterly, and to visit and inspect them at least six times a year.

SEC. 10. *And be it further enacted*, That all inmates of the asylum shall be, and they are hereby, made subject to the rules and articles of war, and will be governed thereby in the same manner as if they were in the Army or Navy of the United States.

SEC. 11. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal this act.

APPROVED, March 3, 1865.

CHAP. XCII.—An Act to incorporate the Freedman's Savings and Trust Company.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Peter Cooper, William C. Bryant, A. A. Low, S. B. Chittenden, Charles H. Marshall, William A. Booth, Gerritt Smith, William A. Hall, William Allen, John Jay, Abraham Baldwin, A. S. Barnes, Hiram Barney, Seth B. Hunt, Samuel Holmes, Charles Collins, R. R. Graves, Walter S. Griffith, A. H. Wallis, D. S. Gregory, J. W. Alvord, George Whipple, A. S. Hatch, Walter T. Hatch, E. A. Lambert, W. G. Lambert, Roe Lockwood, R. H. Manning, R. W. Ropes, Albert Woodruff, and Thos. Dewey, of New York; John M. Forbes, Wm. Claflin, S. G. Howe, George L. Stearns, Edward Atkinson, A. A. Lawrence, and John M. S. Williams, of Massachusetts; Edward Harris and Thomas Davis, of Rhode Island; Stephen Colwell, J. Wheaton Smith, Francis E. Cope, Thomas Webster, B. S. Hunt, and Henry Samuel, of Pennsylvania; Edward Harwood, Adam Poe, Levi Coffin, J. M. Waldon, of Ohio, and their successors, are constituted a body-corporate, in the city of Washington, in the District of Columbia, by the name of "The Freedman's Savings and Trust Company," and by that name may sue and be sued in any court of the United States.

SEC. 2. *And be it further enacted*, That the persons named in the first section of this act shall be the first trustees of the corporation, and all vacancies by death, resignation, or otherwise, in the office of trustee, shall be filled by the board by ballot, without unnecessary delay, and at least ten votes shall be necessary for the election of any trustee. The trustees shall hold a regular meeting at least once in each month, to receive reports of their officers on the affairs of the corporation, and to transact such business as may be necessary; and any trustee omitting to attend the regular meetings of the board for six months in succession, may thereupon be considered as having vacated his place, and a successor may be elected to fill the same.

SEC. 3. *And be it further enacted*, That the business of the corporation shall be managed and directed by the board of trustees, who shall elect from their number a president and two vice presidents; and may appoint such other officers as they may see fit; nine of the trustees, of whom the president or one of the vice presidents shall be one, shall form a quorum for the transaction of business at any regular or adjourned meeting of the board of trustees; and the affirmative vote of at least seven members of the board shall be requisite in making any order for, or authorizing the investment of any moneys, or the sale or transfer of any stock or securities belonging to the corporation, or the appointment of any officer receiving any salary therefrom.

SEC. 4. *And be it further enacted*, That the board of trustees of the corporation shall have power, from time to time, to make and establish such by-laws and regulations as they shall judge proper with regard to the elections of officers and their respective functions, and generally for the management of the affairs of the corporation, provided such by-laws and regulations are not repugnant to this act or to the Constitution or laws of the United States.

SEC. 5. *And be it further enacted*, That the general business and object of the corporation hereby created shall be to receive on deposit such sums

of money as may be from time to time offered therefor, by, or on behalf of, persons heretofore held in slavery in the United States, or their descendants, and investing the same in the stocks, bonds, Treasury notes, or other securities of the United States.

SEC. 6. *And be it further enacted*, That it shall be the duty of the trustees of the corporation to invest, as soon as practicable, in the securities named in the next preceding section, all sums received by them beyond an available fund, not exceeding one third of the total amount of deposits with the corporation, at the discretion of the trustees, which available funds may be kept by the trustees to meet current payments of the corporation, and may by them be left on deposit at interest or otherwise, or in such available form as the trustees may direct.

SEC. 7. *And be it further enacted*, That the corporation may, under such regulations as the board of trustees shall from time to time prescribe, receive any deposit hereby authorized to be received, upon such trusts and for such purposes, not contrary to the laws of the United States, as may be indicated in writing by the depositor, such writing to be subscribed by the depositor and acknowledged or proved before any officer in the civil or military service of the United States, the certificate of which acknowledgment or proof shall be indorsed on the writing; and the writing so acknowledged or proved shall accompany such deposit and be filed among the papers of the corporation, and be carefully preserved therein, and may be read in evidence in any court or before any judicial officer of the United States, without further proof; and the certificate of acknowledgment or proof shall be *prima facie* evidence only of the due execution of such writing.

SEC. 8. *And be it further enacted*, That all sums received on deposit shall be repaid to such depositor when required, at such time, with such interest, not exceeding seven per centum per annum, and under such regulations as the board of trustees shall, from time to time, prescribe, which regulations shall be posted up in some conspicuous place in the room where the business of the corporation shall be transacted, but shall not be altered so as to affect any deposit previously made.

SEC. 9. *And be it further enacted*, That all trusts upon which, and all purposes for which any deposit shall be made, and which shall be indicated in the writing to accompany such deposit, shall be faithfully performed by the corporation, unless the performing of the same is rendered impossible.

SEC. 10. *And be it further enacted*, That when any depositor shall die, the funds remaining on deposit with the corporation to his credit, and all accumulations thereof, shall belong and be paid to the personal representatives of such depositor, in case he shall have left a last will and testament; and in default of a last will and testament, or of any person qualifying under a last will and testament competent to act as executor, the corporation shall be entitled, in respect to the funds so remaining on deposit to the credit of any such depositor, to administration thereon in preference to all other persons, and letters of administration shall be granted to the corporation accordingly in the manner prescribed by law in respect to the granting of letters of administration, with the will annexed, and in cases of intestacy.

SEC. 11. *And be it further enacted*, That in the case of the death of any depositor, whose deposit shall not be held upon any trust created pursuant to the provisions hereinbefore contained, or where it may prove impossible to execute such trust, it shall be the duty of the corporation to make diligent efforts to ascertain and discover whether such deceased depositor has left a husband, wife, or children surviving, and the corporation shall keep a record of the efforts so made, and of the results thereof, and in case no person lawfully entitled thereto shall be discovered, or shall appear, or claim the funds remaining to the credit of such depositor before the expiration of two years from the death of such depositor, it shall be lawful for the corporation to hold and invest such funds as a separate trust fund, to be applied, with the accumulations thereof, to the education and improvement of persons heretofore held in slavery, or their descendants, being inhabitants

of the United States, in such manner and through such agencies as the board of trustees shall deem best calculated to effect that object: *Provided*, That if any depositor be not heard from within five years from the date of his last deposit, the trustees shall advertise the same in some paper of general circulation in the State where the principal office of the company is established, and also in the State where the principal office of the company is established, and also in the State where the depositor was last heard from; and if within two years thereafter such depositor shall not appear, nor a husband, wife, or child of such depositor, to claim his deposits, they shall be used by the board of trustees as hereinbefore provided for in this section.

SEC. 12. *And be it further enacted*, That no president, vice president, trustee, officer, or servant of the corporation shall, directly or indirectly, borrow the funds of the corporation or its deposits, or in any manner use the same, or any part thereof, except to pay necessary expenses, under the direction of the board of trustees. All certificates [or] other evidences of deposit made by the proper officers shall be as binding on the corporation as if they were made under their common seal. It shall be the duty of the trustees to regulate the rate of interest allowed to the depositors, so that they shall receive as nearly as may be a ratable proportion of all the profits of such corporation after deducting all necessary expenses: *Provided, however*, That the trustees may allow to depositors, to the amount of five hundred dollars or upward, one per centum less than the amount allowed others: *And provided also*, Whenever it shall appear that, after the payment of the usual interest to depositors, there is in the possession of the corporation an excess of profits over the liabilities amounting to ten per centum upon the deposits, such excess shall be invested for the security of the depositors in the corporation; and thereafter, at each annual examination of the affairs of the corporation, any surplus over and above such ten per centum shall, in addition to the usual interest, be divided rateably among the depositors, in such manner as the board of trustees shall direct.

SEC. 13. *And be it further enacted*, That whenever any deposit shall be made by any minor, the trustees of the corporation may, at their discretion, pay to such depositor such sums as may be due to him, although no guardian shall have been appointed for such minor, or the guardian of such minor shall not have authorized the drawing of the same; and the check, receipt, or acquittance of such minor shall be as valid as if the same were executed by a guardian of such minor, or the minor were of full age, if such deposit was made personally by such minor. And whenever any deposits shall have been made by married women, the trustees may repay the same on their own receipts.

SEC. 14. *And be it further enacted*, That the trustees shall not, directly or indirectly, receive any payment or emolument for their services as such, except the president and vice president.

SEC. 15. *And be it further enacted*, That the president and vice president, the subordinate officers and agents of the corporation shall respectively give such security for their fidelity and good conduct as the board of trustees may from time to time require, and the board shall fix the salaries of such officers and agents.

SEC. 16. *And be it further enacted*, That the books of the corporation shall, at all times during the hours of business, be open for inspection and examination to such persons as Congress shall designate or appoint.

APPROVED, March 3, 1865.

CHAP. XCIII.—An Act for the better Organization of the Subsistence Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, during the continuance of the present rebellion, the Secretary of War may, when in his judgment it is necessary, assign to each geographical military division, to each separate army in the field consisting of more than one Army corps, to each military department, and to each principal subsistence depot, not ex-

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ceeding ten in number, an officer of the subsistence department, to act as chief commissary of such military division, army, military department, or depot, and also an officer of the subsistence department as assistant in the office of the Commissary General of Subsistence, each of whom, while so assigned and acting, shall have the rank, pay, and emoluments of a colonel of the subsistence department; and, in like manner, may assign, for purposes of inspection or other special duty in the subsistence department, commissaries of subsistence, not exceeding six in number, each of whom, while so assigned and acting, shall have the rank, pay, and emoluments of a lieutenant colonel of the subsistence department; and to each Army corps an officer of the subsistence department to be chief commissary of the corps, with the like rank of lieutenant colonel; and, in like manner, may assign to each division of two or more brigades a commissary, who, while so assigned and acting, shall have the rank, pay, and emoluments of a major of the subsistence department: *Provided*, That when any one of said officers is relieved from such duty, his increased rank, pay, and emoluments, allowed because of such assignment, shall cease, and he shall return to his commissioned rank in the subsistence department: *And provided further*, That the officers authorized to be assigned by this act shall be selected for each grade from the commissaries of subsistence who hold commissions or rank in the volunteer service and in the regular subsistence department in proportion to the number of each of said classes respectively in service at the date of the passage of this act.

Sec. 2. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

APPROVED, March 3, 1865.

CHAP. XCIV.—An Act to provide for two Assistant Local Inspectors of Steamboats in the City of New York, and for two Local Inspectors at Galena, Illinois, and to reestablish the Board of Local Inspectors at Wheeling; and also to amend the Act approved June eighth, eighteen hundred and sixty-four, entitled "An Act to create an additional Inspector of Steamboats and two Local Inspectors of Steamboats for Collection Districts of Memphis and Oregon, and for other purposes."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be designated and appointed, in the mode prescribed by law, two assistant local inspectors of steamboats in the city of New York, and two local inspectors at the city of Galena, Illinois, with an annual compensation of twelve hundred dollars for the said assistant local inspectors in the city of New York, and eight hundred dollars for the two local inspectors at the city of Galena, Illinois, as in case of other like inspectors; and said inspectors shall perform the duties and be subject to the provisions of the steamboat act of August thirtieth, eighteen hundred and fifty-two. And the local board of inspectors at Wheeling is hereby reestablished.

Sec. 2. *And be it further enacted*, That, in lieu of the fees for inspection prescribed by the sixth section of the act entitled "An act to create an additional supervising inspector of steamboats and two local inspectors of steamboats for the collection district of Memphis, Tennessee, and two local inspectors for the collection district of Oregon, and for other purposes," approved June eighth, eighteen hundred and sixty-four, there shall be levied and paid for each steam-vessel of one hundred tons or under, twenty-five dollars, and in addition thereto for each and every ton, in excess of one hundred tons, five cents.

Sec. 3. *And be it further enacted*, That all acts or parts of acts inconsistent with this act are hereby repealed.

APPROVED, March 3, 1865.

CHAP. XCV.—An Act to provide for the Publication of the Opinions of the Attorneys General of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Attorney General be, and he

is hereby, authorized to contract on behalf of the United States with a suitable book publisher for the printing and publishing of the unpublished opinions of the Attorneys General of the United States, delivered since the fourth of March, eighteen hundred and fifty-seven, on the terms following, to wit: The said opinions to be published in as many volumes as may be necessary, which shall be, as to the quality of paper, printing, and binding, of uniform style and appearance with the eighth volume of said opinions, published by Robert Farnham, in the year eighteen hundred and fifty-eight, and, as nearly as possible, of uniform size with said eighth volume, and which shall be numbered in regular order after the said eighth volume; the copyright thereof to be taken out by, and be for the use of, the publisher, who shall deliver to the Attorney General for the use of the United States, within one month after the publication thereof, three hundred sets of said volumes, at the price of three dollars per volume, payable after they are so delivered. And the Attorney General is hereby authorized to employ a competent person to edit and prepare the said opinions for publication, as aforesaid, with proper head notes, and a full and complete index, and to supervise the said publication. When the said three hundred sets shall have been delivered for the use of the United States, the Attorney General shall cause them to be distributed as follows: For the President of the United States, two sets; for the Department of State, ten sets; for the Department of the Treasury and the heads of the bureaus thereof, twenty-five sets; for the Department of War and the heads of the bureaus thereof, twenty-five sets; for the Department of the Navy and the heads of bureaus thereof, fifteen sets; for the Department of the Interior and the heads of bureaus thereof, twenty sets; for the Department of the Post Office, ten sets; for the Attorney General's office, ten sets; for the judges of the Supreme Court of the United States, one set each; for the library of said court, three sets; for the judges of the Court of Claims, the solicitor and assistant and deputy solicitors of said court, one set each; for the Library of Congress, fifty sets, for the use of both Houses of Congress; the residue of the said three hundred sets to remain in charge of the Librarian of Congress, at the future disposal of Congress. And the sum of seven thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the editing of the said opinions and the price of the said three hundred volumes, which money shall be disbursed on vouchers approved by the Attorney General.

APPROVED, March 3, 1865.

CHAP. XCVI.—An Act to remove all Disqualification of Color in carrying the Mails.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act no person, by reason of color, shall be disqualified from employment in carrying the mails, and all acts and parts of acts establishing such disqualification, including especially the seventh section of the act of March third, eighteen hundred and twenty-five, are hereby repealed.

APPROVED, March 3, 1865.

CHAP. XCVII.—An Act relating to the Clerks in the Post Office Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the third section of an act of Congress entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending thirtieth of June, eighteen hundred and fifty-four," approved the third of March, eighteen hundred and fifty-three, be, and the same is hereby, amended so as to authorize the appointment of a chief clerk in the offices of each of the three Assistant Postmaster General, at a salary of two thousand dollars per annum each.

Sec. 2. *And be it further enacted*, That, in lieu of temporary clerks now employed in the Post Office Department and paid out of the appropriation for postage stamps and stamped envelopes and the proceeds of sales of waste paper, the Postmas-

ter General be, and he is hereby, authorized to appoint two clerks of class three, two clerks of class two, and five clerks of class one.

Sec. 3. *And be it further enacted*, That the sum of eighteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to pay the clerks provided for in the two preceding sections of this act.

Sec. 4. *And be it further enacted*, That the sum of six thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of such temporary clerks as the Postmaster General may, from time to time, deem necessary.

Sec. 5. *And be it further enacted*, That unclaimed money in dead letters for which no owner can be found, and also all money derived from sales of waste paper or other public property in post offices or the Post Office Department, be deposited in the Treasury of the United States, under the direction of the Postmaster General, for the service of the Post Office Department; and any postmaster or clerk in a post office, or any other clerk, officer, or agent of the Post Office Department, having temporary custody of such money, and willfully neglecting to deposit the same as herein provided, shall be deemed to be guilty of felony, and be subject to a fine not exceeding double the sum so retained by such clerk or other agents as aforesaid, or imprisonment not exceeding three years, or both, at the discretion of the court.

APPROVED, March 3, 1865.

CHAP. XCVIII.—An Act amendatory of the Acts relative to the Attorney General's Office, and to fix the Compensation of his Assistant and Clerks.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter the salary of the Assistant Attorney General shall be, and the same is hereby, raised to the sum of thirty-five hundred dollars per annum.

Sec. 2. *And be it further enacted*, That in lieu of the provisions of law prescribing the Attorney General's powers as to the employment of clerks in his office, it is provided that the Attorney General shall be, and he is hereby, authorized to employ in his office one chief clerk at a salary of two thousand and two hundred dollars per annum, two fourth-class clerks (being one "pardon clerk" and one "opinion clerk") at annual salaries of eighteen hundred dollars each, two third-class clerks at annual salaries of sixteen hundred dollars each, and one first-class clerk at an annual salary of twelve hundred dollars, beside such temporary clerks as may from time to time be needed: *Provided, however*, That the allowances to such temporary clerks shall in no one year exceed one thousand dollars.

Sec. 3. *And be it further enacted*, That for the purpose of paying, for the current fiscal year, the increased compensation above provided, the Attorney General is hereby authorized, in addition to the amounts already appropriated for the payment of salaries in his office in the appropriation bill for the current fiscal year, to draw on and use from the unexpended balance of moneys standing on the books of the Treasury, on the first of July last, to the credit of his office for the pay of clerks and messenger, or from any other appropriation then standing to the credit of his office, and yet subject to his control and unexpended, a sum not exceeding, in the whole, twenty-four hundred dollars, toward such additional compensation for the current fiscal year.

APPROVED, March 3, 1865.

CHAP. XCIX.—An Act to provide for the Construction of certain Wagon Roads in the Territories of Idaho, Montana, Dakota, and Nebraska.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and empowered to survey, locate, and construct the following wagon roads:

First. A road from Niobrara to the mouth of

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the Turtle Hill river, and thence, upon the most direct practicable route, to Virginia City, in Montana Territory, with a branch from the mouth of Turtle Hill river, or such other point as may be selected, to Omaha.

Second. A road from a point at or near the mouth of the Big Sioux river, via Yankton, Dakota Territory, to a point at or near the mouth of the Big Sheyenne river, thence up said river to its main forks, thence up the north fork to a point of intersection with the road from Niobrara.

Third. For a road from a point on the western boundary of Minnesota, to be determined by the Secretary of the Interior, to a point at or near the mouth of the Big Sheyenne river.

Fourth. A road from Virginia City, in Montana, upon the most practicable route, to Lewistown, in Idaho.

SEC. 2. *And be it further enacted*, That, to enable the Secretary of the Interior to carry out the provisions of the foregoing section, the sum of one hundred and forty thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, fifty thousand dollars of which shall be applied to the construction of the road from Virginia City to Lewistown; fifty thousand dollars shall be applied to the construction of the road from Niobrara and branch to Omaha; twenty thousand dollars shall be applied to the construction of the road from the mouth of the Big Sheyenne to its intersection with the Niobrara road; ten thousand dollars shall be applied to the construction of a bridge over the Big Sioux river, of so much of this sum as may be necessary, and any balance remaining to be applied to continuing and improving the road from Sioux City, Iowa, to the Big Sheyenne, Dakota Territory, and the remainder shall be applied to the construction of the road from the western boundary of Minnesota to the Big Sheyenne river: *Provided*, That any unexpended money now in the Treasury, appropriated for the construction of a road from Sioux City to Fort Randall, Dakota Territory, shall be, and is hereby, transferred from the War Department to the Department of the Interior.

APPROVED, March 3, 1865.

#### CHAP. C.—An Act to authorize the Coinage of Three-Cent Pieces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That so soon as practicable after the passage of this act, there shall be coined at the Mint of the United States a three-cent piece, composed of copper and nickel in such proportions, not exceeding twenty-five per centum of nickel, as shall be determined by the Director of the Mint, the standard weight of which shall be thirty grains, with no greater deviation than four grains to each piece, and the shape, mottoes, and devices of said coin shall be determined by the Director of the Mint, with the approval of the Secretary of the Treasury. And the laws now in force relating to the coinage of cents, and providing for the purchase of material and prescribing the appropriate duties of the officers of the Mint, and of the Secretary of the Treasury be, and the same are hereby, extended to the coinage herein provided for.

SEC. 2. *And be it further enacted*, That all laws now in force, relating to the coins of the United States, and the striking and coinage of the same, shall so far as applicable be extended to the coinage herein authorized, whether said laws are penal or otherwise, for the security of the coin, regulating and guarding the process of striking and coining, for preventing debasement, or counterfeiting, or for any other purpose. And the Director of the Mint shall prescribe suitable regulations to insure a due conformity to the required weights and proportions of alloy in the said coin, and shall order trials thereof to be made from time to time, by the assayer of the Mint, whereof a report shall be made in writing to the Director.

SEC. 3. *And be it further enacted*, That the said coin shall be a legal tender in any payment to the amount of sixty cents. And it shall be lawful to pay out said coins in exchange for the lawful currency of the United States, (except cents or half cents or two-cent pieces issued under former acts

of Congress,) in suitable sums by the treasurer of the Mint, and by such other depositaries as the Secretary of the Treasury may designate, and under general regulations approved by the Secretary of the Treasury. And under the like regulations the same may be exchanged in suitable sums for any lawful currency of the United States; and the expenses incident to such exchange, distribution, and transmission, may be paid out of the profits of said coinage, and the net profits of said coinage, ascertained in like manner as is prescribed in the second section of the act entitled "An act relating to foreign coins, and the coinage of cents at the Mint of the United States," approved February twenty-first, eighteen hundred and fifty-seven, shall be transferred to the Treasury of the United States: *Provided*, That from and after the passage of this act, no issues of fractional notes of the United States shall be of a less denomination than five cents, and all such issues of a less denomination, at that time outstanding, shall, when paid into the Treasury or any designated depositary of the United States, or redeemed or exchanged as now provided by law, be retained and canceled.

SEC. 4. *And be it further enacted*, That if any person or persons shall knowingly make, issue, or pass, or cause to be made, issued, or *pass* [passed], any coin, card, token, or device, whatsoever, in metal or its compounds, intended to pass or be passed as money, for the coin authorized by this act, or for coin of equal value, such person or persons shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by a fine not exceeding one thousand dollars, and by imprisonment for a term not exceeding five years, at the discretion of the court.

SEC. 5. *And be it further enacted*, That, in addition to the devices and legends upon the gold, silver, and other coins of the United States, it shall be lawful for the Director of the Mint, with the approval of the Secretary of the Treasury, to cause the motto "In God we trust" to be placed upon such coins hereafter to be issued as shall admit of such legend thereon.

SEC. 6. *And be it further enacted*, That the one and two cent coins of the United States shall not be a legal tender for any payment exceeding four cents in amount; and so much of the laws of the United States heretofore enacted as are in conflict with the provisions of this act, are hereby repealed.

APPROVED, March 3, 1865.

#### CHAP. CI.—An Act to regulate the Fees of Custom-House Officers on the Northern, Northeastern, and Northwestern Frontiers of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in lieu of the fees now authorized by law to be collected by customs officers on the northern, northeastern, and northwestern frontiers of the United States, there shall be levied and collected:

For admeasurements of vessels, the fees prescribed by the act entitled "An act to regulate the admeasurement of tonnage of ships and vessels of the United States," approved May six, eighteen hundred and sixty-four.

Certificate of registry, including bond, two dollars and twenty-five cents.

Indorsement on register, one dollar.

Certificate of enrollment, including bond on vessel not exceeding fifty tons, one dollar; on vessel of above fifty and not exceeding one hundred and fifty tons, one dollar and fifty cents; on vessel of over one hundred and fifty tons, two dollars.

License, including bond on vessel of not over one hundred and fifty tons, one dollar; on vessel of over one hundred and fifty tons, one dollar and fifty cents.

Indorsement on license of change of master, including master's oath, fifty cents.

Certifying manifest, and granting clearance for a licensed vessel to go from district to district, on vessel of fifty tons or under, twenty-five cents; on vessel of over fifty tons, fifty cents.

Receiving certified manifest and granting permit to unlade on entry of a vessel from any other district, on vessel of fifty tons or under, twenty-five cents; on vessel of over fifty tons, one dollar.

Entry of a vessel from a foreign port otherwise than by sea, if vessel of fifty tons or under, fifty cents; if of over fifty tons, one dollar; and the same fees for clearance of like vessels to foreign ports.

Receiving manifest of goods brought into the United States from foreign countries adjoining said frontiers by land vehicles, and permit to unlade the same, twenty-five cents.

Receiving manifest of baggage of passengers arriving from foreign countries, adjoining said frontiers, including permit to unlade the same, twenty-five cents.

Granting permit to a vessel not belonging [to] a citizen of the United States to go from district to district, two dollars, and [the] same fee for receiving manifest and granting permit to unlade such vessel on arrival in a district from another district.

Entry of goods imported from any foreign port or place for consumption, warehousing, rewarehousing, transportation, or exportation, entry, including official certificate or oath on entry or to invoice, fifty cents, and for every post entry, forty cents.

Permit to land or deliver goods not above provided for, twenty-five cents.

Official bonds not herein provided for, each one dollar.

Debenture on [or] other official certificate not herein provided for, twenty-five cents.

Bill of health, twenty-five cents.

Crew-list, including bond, one dollar.

Protection, fifty cents.

Recording bill of sales, mortgages, hypothecations, or conveyances, fifty cents each, and certified copies thereof, fifty cents each.

Recording certificates for discharging and canceling such conveyances, fifty cents; copies thereof, twenty-five cents.

Certificate setting forth the names of the owners of a vessel, with their respective interest, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance, the date and amount of such incumbrance, and the parties thereto, one dollar: *Provided*, That no bill of sale, mortgage, hypothecation, conveyance, or discharge of mortgage or other incumbrance of any vessel, shall be recorded unless the same is duly acknowledged before a notary public or other officer authorized to take acknowledgments of deeds.

APPROVED, March 3, 1865.

#### CHAP. CII.—An Act granting Land to the State of Michigan, to aid in building a Harbor and Ship-Canal at Portage Lake, Keweenaw Point, Lake Superior.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, There there be, and is hereby, granted to the State of Michigan the right of locating and constructing a breakwater and harbor and ship-canal through any public lands at or upon the neck of land on Lake Superior known as "The Portage": *Provided*, That not more than one thousand feet in width on the bank of Lake Superior shall be occupied by said breakwater and harbor, and that a strip of land not more than four hundred feet in width on said neck of land shall be occupied by said canal: *And provided further*, That said ship-canal shall be at least one hundred feet in width, with a depth of water not less than thirteen feet.

SEC. 2. *And be it further enacted*, That there be, and hereby is, granted to the said State of Michigan, for the purpose of aiding said State in constructing and completing a harbor and ship-canal to connect the waters of Lake Superior with the waters of Portage Lake, two hundred thousand acres of public lands, to be selected in subdivisions agreeably to the United States survey, by an agent or agents appointed by the Governor of said State, subject to the approval of the Secretary of the Interior, from any lands in the upper peninsula of said State, subject to private entry: *Provided*, That said selections shall be made from alternate and odd-numbered sections of land nearest the location of said canal in said upper peninsula, not otherwise appropriated, and not from lands designated by the United States as "min-



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eral" before the passage of this act, nor from lands to which the rights of preemption or homestead have attached.

SEC. 3. *And be it further enacted*, That the said lands hereby granted shall be subject to the disposal of the Legislature of said State, or, if the Legislature thereof shall not be in session, or shall adjourn within ten days after the passage and approval of this act, then said lands shall be subject to the disposal of the Governor and board of control of said State, for the purpose aforesaid and for no other; and the said canal shall be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of said Government, or upon vessels employed by said Government in the transportation of any property or troops of the United States.

SEC. 4. *And be it further enacted*, That before it shall be competent for said State to dispose of any of said lands, to be selected as aforesaid, the plan of said breakwater and harbor, and the route of said canal shall be established as aforesaid, and a plat or plats thereof shall be filed in the office of the War Department, and a duplicate thereof in the office of the Commissioner of the General Land Office.

SEC. 5. *And be it further enacted*, That if the said breakwater, harbor, and ship-canal shall not be completed within two years from the passage of this act, the lands hereby granted shall revert to the United States.

SEC. 6. *And be it further enacted*, That the Legislature of said State shall cause to be kept an accurate account of the sales and net proceeds of the lands hereby granted, and of all expenditures in the construction, repairs, and operating of said canal, and of the earnings thereof, and shall return a statement of the same annually to the Secretary of the Interior; and whenever said State shall be fully reimbursed for all advances made for the construction, repairs, and operating of said canal, with legal interest on all advances, until the reimbursement of the same, or upon payment by the United States of any balance of such advances over such receipts from said lands and canal, with such interest, the said State shall be allowed to tax for the use of said canal only such tolls as shall be sufficient to pay all necessary expenses for the care, charge, and repair of the same.

APPROVED, March 3, 1865.

CHAP. CIII.—An Act to extend the Time for the completion of certain Railroads to which Land Grants have been made in the States of Michigan and Wisconsin.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, granted to the State of Michigan, for the purpose of aiding in the construction of a railroad from Marquette, on Lake Superior, to the Wisconsin State line, at or near the mouth of the Menomonee river, for the benefit and use of the Chicago and Northwestern Railway Company, a corporation of the States of Michigan, Illinois, Wisconsin, and from Marquette to Ontonagon, for the use and benefit of the Marquette and Ontonagon Railroad Company, a corporation of the State of Michigan, and for twenty miles westerly from Marquette of the Bay de Noquet and Marquette railroad, for the benefit and use of the Bay de Noquet and Marquette Railroad Company, four additional alternate sections of land, per mile, to that already granted by act of Congress approved June third, A. D. eighteen hundred and fifty-six, and joint resolution supplementary thereto, to be selected upon the same conditions, restrictions, and limitations as are contained in the act of Congress entitled "An act making a grant of lands to aid in the construction of railroads in said State," approved June third, eighteen hundred and fifty-six: *Provided*, That the land to be so located by either of said roads shall be selected from the alternate sections, designated by odd numbers, within twenty miles of the line of said road.

SEC. 2. *And be it further enacted*, That the lands granted by said act of Congress and by this act shall be disposed of only in the following manner,

that is to say: When the Governor of the State of Michigan shall certify to the Secretary of the Interior that any ten consecutive miles upon the route of either of said roads is completed in a good and substantial manner, as a first-class railroad, then the Secretary of the Interior shall cause a certificate or certificates to issue to said State for one hundred sections of land, for the benefit and use of such company, and so from time to time for each completed section of ten miles of either of said roads, one hundred sections of land, until the whole shall be completed: *Provided*, That none of the additional lands granted by this act for that portion of the Marquette and Ontonagon railroad now completed shall be certified to the State of Michigan, by the terms hereof, until the said railroad shall be completed from a point twenty miles west of Marquette to Ontonagon; and that none of the additional lands granted by this act for that portion of the railroad from Marquette to the Wisconsin State line at or near the mouth of the Menomonee river, now completed, shall be so certified until the said railroad shall be completed from Bay de Noquet to the said Wisconsin State line at or near the mouth of the Menomonee river aforesaid.

SEC. 3. *And be it further enacted*, That the time limited for the completion of the road from Marquette to the Wisconsin State line, at or near the mouth of the Menomonee river, be, and the same is hereby, extended for the term of five years, from and after the third day of June, A. D. eighteen hundred and sixty-six.

SEC. 4. *And be it further enacted*, That no lands to be set apart for the road from Marquette to Bay de Noquet, and from Marquette to Ontonagon, shall be selected and certified east of that portion of the range line dividing ranges twenty-six and twenty-seven, that is, south of the township line between townships forty-seven and forty-eight, nor south of that portion of the township line dividing townships forty-seven and forty-eight, that lies east of the dividing range line above named; and that no lands to be set apart for the road from Marquette, on Lake Superior, to the Wisconsin State line, at or near the mouth of the Menomonee river, shall be selected and certified west of that portion of the range line dividing ranges twenty-six and twenty-seven, that is, north of the township line dividing townships forty-two and forty-three, nor north of the township line dividing townships forty-seven and forty-eight; and that, for the purpose of making up any deficiency of lands to which the line of road from Marquette to Bay de Noquet may be entitled to make its grant equal to ten sections to the mile, the same shall be certified on the route from Marquette to Ontonagon, within twenty miles of the line of said road, and east of the range line dividing ranges thirty-one and thirty-two, and in accordance with the provisions hereinbefore contained. And that, whenever the Governor of the State of Michigan shall certify to the Secretary of the Interior that twenty consecutive miles of the line of road from Marquette to Bay de Noquet has been completed in a good and substantial manner, as a first-class railroad, the Secretary of the Interior shall cause to be issued to said State of Michigan, for the use and benefit of the Bay de Noquet and Marquette Railroad Company, assignee of the State of Michigan, a certificate or certificates for two hundred sections of land, to be selected and located from the sections designated by odd numbers, on the line from Marquette to Ontonagon, and within twenty miles of said line.

SEC. 5. *And be it further enacted*, That the time for the completion of the railroad from Fond du Lac, on Lake Winnebago, to the Wisconsin State line, at or near the mouth of the Menomonee river, shall be, and hereby is, extended for the period of five years from and after the third day of June, one thousand eight hundred and sixty-six; and that any and all grants of land to said road shall continue and remain in full force and effect.

SEC. 6. *And be it further enacted*, That each of said companies shall grade, in a good and substantial manner, ready for the ties, twenty miles of its road within two years, and twenty miles additional thereof in each year thereafter: *Provided*, That if said companies, or either of them, shall neglect or fail to do so, or to complete its

road within the time herein specified, the land granted to such company shall revert to the United States.

APPROVED, March 3, 1865.

CHAP. CIV.—An Act to establish certain Post Roads.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following be established as post roads:

## CALIFORNIA.

From San José to Alviso.  
From Santa Clara to Alviso.  
From Virginia City, in Nevada, via Crystal Peak, Donner Lake, Summit Valley, and Dutch Flat, to Sacramento.  
From Folsom to Coloma, Nevada.  
From Monterey, via Watsonville, to San Francisco.  
From Murpheys, via Bigtrees, Big Springs, Silver Valley, to Silver Mountain, and thence, via Mount Bullion, Markleville, Carey's Mills, and Fredericksburgh, to Geneva.  
From Austin, Lander county, to Ione City.  
From Wellington Station, on West Walker river, by Walker's Lake, Deep Well Station, Kentucky District, Hot Spring, Mammoth District, Ione City, the county seat of Nye county, St. Augustine and Washington districts, Canon City, and Middletown, to the city of Austin, the county seat of Lander county.

## NEVADA AND TERRITORIES IDAHO AND MONTANA.

From Unionville, the county seat of Humboldt county, via Star City, Dun Glen, Moore's and White's Ranch, Pah Ute Knob, in the State of Nevada, the Owyhee and Jardans Creek mines, Boise City, Idaho City, Centerville, and Placerville, in the Territory of Idaho, to Virginia City, in the Territory of Montana.

## ILLINOIS.

From Savanna, in Carroll county, via Baker's Spring, to Morrison, in Whiteside county.  
From Carthage, in Hancock county, via Jacob K. Jacob's store, Durhams, and McQueen's Mill, to Burlington, Iowa.  
From Newport, Vermillion county, Indiana, to Ridge Farm, Vermilion county, Illinois.  
From Cerro Gordo, Platt county, on the Great Western railroad, to Lovington, Moultrie county.  
From Richmond, via Elgin, Clintonville Junction, and Cottage Grove, to Chicago.  
From Marion, Williamson county, via Harrisburg, Saline county, to Shawneetown.  
From Waterloo, Monroe county, to Red Bud, in Randolph county.  
From Platteville, via Kendall and Spocie Grove, to Yorkville.

## INDIANA.

From Wabash, in Wabash county, via Emmon's Church and Roannah, to Nicouzah, in Miami county.  
From Farmland, Randolph county, to Hagers-town, in Wayne county.

## IOWA.

From Charles City, via Howardsville, Huntsville, Busti, Howard, and Vernon Springs, to New Oregon.  
From State Centre, Marshall county, via Minerva, Illinois Grove, New Providence, Quebec, Point Pleasant, and Cottage, to Iowa Falls.  
From Muscatine, Iowa, via Buffalo Prairie, Millersburg, and Aledo, to Monmouth, in Illinois.  
From Decatur City, Iowa, via Terre Haute, to Eagleville, Missouri.  
From Decatur City, via Hopeville, to Afton.  
From Hampton to Marble Rock.  
From Winthrop to Fayette.  
From Chariton, Lucas county, via Garden Grove, to Leon, Decatur county.  
From New Oregon, Iowa, to Preston, Minnesota.  
From Fort Dodge, via Eagle Grove, Grant, Belmond, and Upper Grove, to Clear Lake.  
From Alden, via Oakland, Wall Lake, Grant, and Eagle Grove, to Dakota, in Humboldt county.  
From Algona, Iowa, via Armstrong's Grove, to Charin Lakes, thence to intersect the route from Blue Earth City to Isterville.

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From Bedford, Taylor county, via Buchanan, Bradyville, College Spring, Walaen's Grove, to Hamburg, Fremont county.

## CONNECTICUT.

From Cornwall Bridge, via Cornwall and Milton, to Litchfield.

## KENTUCKY.

From Mount Vernon to Somerset.  
From Irvine, Estell county, to Vienna, Clarke county.  
From McKee, in Jackson county, to Big Hill, in Madison county.  
From Whiteley Court House to John Davis, in Whiteley county.

## MAINE.

From Sherman, via Sherman's Mills, to Golden Ridge, in Aroostook county.  
From Fort Fairfield, via Eaton Grant, to Caribou, in Aroostook county.  
From Waldoboro to Friendship.  
From Belfast, through Waldo, Brooks, Knox, Thorndike, Unity, and Benton, to Fairfield.

## MICHIGAN.

From Grand Ledge, Eaton county, via Eagle, to Portland, in Ionia county.  
From Dowagiac, Cass county, to Volinia, in same county.  
From Climax Prairie to Galesburgh—on the Michigan Central railroad—in Kalamazoo county.  
From Flint, via Davison, to Lapeer.  
From Hillsdale, via Frontier, to Amboy.  
From Otisco, Ionia county, via Ashley and White Swan, to Courtlandt Centre, in same county.  
From Manistee, Mason county, to Stromach, in same county.

## MINNESOTA.

From Elk River, Sherburne county, to Princeton, in Mille Lac [Lac] county.  
From Minneapolis, via Crystal Lake, Osseo, Maple Grove, and Wassan, to Monticello.  
From Winnebago Agency, Blue Earth county, to Minnesota Lake, Faribault county.  
From Elk River, Sherburne county, to Princeton, Mille Lac county.  
From Mantonville to Madison.  
From Mankato to New Ulm.  
From New Ulm to Redwood Falls.

## NEW YORK.

From Keene, in Essex county, to Keene Flats.  
From Cannonsville to Rocky Rift, in Delaware county.  
From Cannonsville to Unadilla, in Otsego county.  
From Danby to West Danby, in Tompkins county.  
From West Hurley to Woodstock, in Ulster county.  
From Sangerties, in Ulster county, to Hunter Village, in Greene county.  
From Malone, Franklin county, to Trout River, in same county.  
From Walton to Downs ville, in Delaware county.  
From Rushville, via Reed's Corners, to Canandaigua.  
From Manorville, via Eastford and Speonk, to West Hampton.  
From Haneoez, via Hemlock Lake, Livonia, to Livonia Station.  
From Morley, Saint Lawrence county, to Madrid, in the same county.

## OHIO.

From East Liverpool, Columbia county, via Calcutta, Spruce Vale, Clarkson, Carmel, and Fairfield, to Waterford.  
From Youngston, Mahoning county, Ohio, to Sharon, Mercer county, Pennsylvania.  
From Logan, Hocking county, to South Bloomington, in same county.  
From Ottawa, Putnam county, in a westerly direction along or near the northern bank of Blanchard river, and northeastern bank of the Auglaize river to Charlove, Paulding county.  
From Farmer, Defiance county, westward to Milo, in same county, and from Milo northward to Edgerton, in Williams county.  
From Delta, Fulton county, to Liberty Centre, Henry county.

From Hamilton, via Millville, Bunker Hill, and Reily, Ohio, to Springfield, Indiana.

## PENNSYLVANIA.

From Lebanon, via Mount Zion and Greble, to Mount Atna.  
From Brady's Bend to Hillville.  
From Smethport, McKean county, to Wilcox, Elk county.  
From Herndon, in Lower Mahoning township, Northumberland county, via Jordan township, to Klingerstown, in Schuylkill county.  
From Linden to Linden Station, on the Philadelphia and Erie railroad.  
From Emlenton, Venango county, to Shippensville, Clarion county.  
From Rockland, Venango county, via Cranberry, to Laytonia, in said county.  
From Callensburg, Clarion county, to Cranberry, Venango county.  
From Greenville, Clarion county, to Kerr's Store, in said county.

## VERMONT.

From East Berkshire, via Montgomery and Belvidere, to Eden.  
From Windsor, Vermont, via Plainfield, to Meriden, New Hampshire.  
From Pittsfield, via South Chittenden and East Pittsford, to Rutland.

## ARIZONA.

From Agua Caliente to La Paz.  
From Tucson, via Tubac, to Patagonia Mines.  
From Tubac, via Cerro Colorado, Fresnal, and Cabibi, to Tucson.  
From Casa Blanca, via Weaver, Walnut Grove, and Upper Hassary Ampa, to Prescott.  
From La Paz, via Williamsport, Castle Dome City, Laguna, Arizona City, to Fort Yuma.  
From Prescott to Mojave City.  
From Mojave City to Los Angeles, via San Bernardino.  
From Mojave City, via Aubry, to La Paz.  
From Mojave City, via Santa Clara, to Fillmore City, in the Territory of Utah.

## DAKOTA.

From Bon Homme, via Spring Lakes, to Ponca Agency, in Todd county.  
From Pembina to Saint Joseph.

## IDAHO.

From Placerville, via Washington, to Florence.  
From Elk City to Virginia City, in the Territory of Montana.  
From Boise City to Bannock City, in the Territory of Montana.

## MARYLAND.

From Butler Post Office to Mantua Mills, in Baltimore county.

## NEW MEXICO.

From Fort Union, via Antonchico, Agua Negra, Fort Sumner, Fort Stanton, and Tularoza, to Mesilla.  
From Albuquerque, via Chilili, Tajique, Manzano, Punta de la Agua, Fort Stanton, Tularoza, to Franklin, Texas.  
From Santa Fé, via Santa Cruz, Los Luceros, Abiquin, to Sierra Amarilla.  
From Paraje, via Alamosa el Bointo and Santa Barbara, to Dona Ana.  
From Santa Fé, via Pena Blanca, Santo Domingo, Cuvora, Algodones, San Isidora, to Canon de Jemez.

## NEW HAMPSHIRE.

From Rochester, Strafford county, via Strafford Corner, Blue Hills, and Clark's Corner, to Centre Barnstead, in Belknap county.

## WISCONSIN.

From City of Appleton, Outagamie county, to the town of Osborn, via Freedom, in said county.

## OREGON.

From Auburn, via Pocahontas, Riggsville, and Dealy's Station, to Amatilla, with a branch to Granite Creek Mines and Independence City, from Dealy's Station.

## KANSAS.

From Topeka, Shawnee county, to Ottawa.  
From Twin Mound, in Douglas county, to Auburn, in Shawnee county.

From Junction City, up Lynn creek, to Marion Center, Marion county.

From Eureka, in Greenwood county, to Albany, in Wilson county.  
From Neosha Falls to Albany, Wilson county.  
From Washington, via Hadden, to Salt Marsh, in Republic county.  
From Garnett, in Anderson county, to Fort Scott, in Bourbon county.  
From America, in Jackson county, via Seneca, to Pawnee, in Nebraska.  
From Humboldt, in Allen county, to Catholic Mission, in Neosha county.  
From Humboldt, via Grey Stone, to Albany, in Wilson county.  
From Seneca, Nehema county, via Pleasant Valley, Nebraska, to Miles Ranch, in Richardson county.  
APPROVED, March 3, 1865.

CHAP. CV.—An Act extending the Time for the Completion of certain Land-Grant Railroads in the States of Minnesota and Iowa, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the quantity of lands granted to the State of Minnesota, to aid in the construction of certain railroads in said State, as indicated in the first section of an [act] entitled "An act making a grant of land to the Territory of Minnesota, in alternate sections, to aid in the construction of certain railroads in said Territory, and granting public lands, in alternate sections, to the State of Alabama, to aid in the construction of a certain railroad in said State," approved March third, eighteen hundred and fifty-seven, shall be increased to ten sections per mile for each of said railroads and branches, subject to any and all limitations contained in said act and subsequent acts, and as hereinafter provided.

Sec. 2. *And be it further enacted,* That the first proviso in the first section of the act aforesaid shall be so amended as to read as follows, to wit: *Provided,* That the land to be so located shall in no case be further than twenty miles from the lines of said roads and branches, to aid in the construction of each of which said grant is made; and said lands granted shall, in all cases, be indicated by the Secretary of the Interior.

Sec. 3. *And be it further enacted,* That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement or other purpose whatever, be, and the same are hereby, reserved and excepted from the operations of this act, except so far as may be found necessary to locate the route of said road through such reserved lands, in which case the right of way shall be granted, subject to the approval of the President of the United States: *Provided further,* That any lands which may have been granted to the Territory or State of Minnesota for the purpose of aiding in the construction of any railroad, which lands may be located within the limits of this extension of said grant or grants, shall be deducted from the full quantity of lands hereby granted, and that any lands which may have been so granted shall be strictly applied in accordance with the terms and conditions of said act or acts, unless subsequently modified by law.

Sec. 4. *And be it further enacted,* That the sections and parts of sections of land, which by said acts and this grant shall remain to the United States, within ten miles on each side of said roads and branches, shall not be sold for less than double the minimum price of public lands when sold, nor shall any of said lands become subject to sale at private entry until the same shall have been first offered at public sale to the highest bidder at or above the minimum price as aforesaid: *Provided,* That actual bona fide settlers under the preemption laws of the United States may, after the proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the increased minimum price: *And provided also,* That settlers under the provisions of the homestead law, who comply with the terms and requirements of said act, shall be entitled to patents for an amount not exceeding eighty acres each, anything in this act to the contrary notwithstanding.

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SEC. 5. *And be it further enacted*, That the lands hereby granted shall be subject to the disposal of the Legislature of the State of Minnesota, for the purposes aforesaid, and no other. And the said railroads and branches shall be and remain public highways for the use of the Government of the United States, free of all toll or other charges upon the transportation of any property or troops of the United States.

SEC. 6. *And be it further enacted*, That the lands hereby and heretofore granted to said Territory or State of Minnesota shall be disposed of by said State for the purposes aforesaid only, and in manner following, namely: When the Governor of said State shall certify to the Secretary of the Interior that any section of ten consecutive miles of said road is completed in a good, substantial, and workmanlike manner, as a first-class railroad, and the said Secretary shall be satisfied that said State has complied in good faith with this requirement, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and selected as aforesaid, not exceeding ten sections per mile, situated opposite to and within a limit of twenty miles of the line of said section of road thus completed, extending along the whole length of said completed section of ten miles of road, and no further. And when the Governor of said State shall certify to the Secretary of the Interior, and the Secretary shall be satisfied that another section of said road, ten consecutive miles in extent, connecting with the preceding section or with some other first-class railroad, which may be at the time in successful operation, is completed as aforesaid, the said Secretary of the Interior shall issue to the said State patents for all the lands granted and situated opposite to and within the limit of twenty miles of the line of said completed section of road or roads, and extending the length of said section, and no further, not exceeding ten sections of land per mile for all that part of said road thus completed under the provisions of this act and the act to which this is an amendment, and so, from time to time, until said roads and branches are completed. And when the Governor of said State shall so certify, and the Secretary of the Interior shall be satisfied that the whole of any one of said roads and branches is completed in a good, substantial, and workmanlike manner, as a first-class railroad, the said Secretary of the Interior shall issue to the said State patents to all the remaining lands granted for and on account of said completed road and branches in this act, situated within the said limits of twenty miles from the line thereof, throughout the entire length of said road and branches: *Provided*, That no land shall be granted or conveyed to said State under the provisions of this act on account of the construction of any railroad or part thereof that has been constructed under the provisions of any other act at the date of the passage of this act, and adopted as a part of the line of railroad provided for in this act: *And provided*, That nothing herein contained shall interfere with any existing rights acquired under any law of Congress heretofore enacted making grants of land to the State of Minnesota to aid in the construction of railroads: *And provided further*, That said lands, granted by this or prior acts, shall not in any manner be disposed of, except as the same are patented under the provisions of this act; and should the State fail to complete any one of said roads or branches within eight years after the passage of this act, then the said lands undisposed of as aforesaid, granted on account of said road or branches, shall revert to the United States.

SEC. 7. *And be it further enacted*, That as soon as the Governor of the said State of Minnesota shall file or cause to be filed with the Secretary of the Interior maps designating the routes of said road and branches, then it shall be the duty of the Secretary of the Interior to withdraw from market the lands embraced within the provisions of this act.

SEC. 8. *And be it further enacted*, That the United States mail be transported on said road, under the direction of the Post Office Department, at such price as Congress may by law provide: *Provided*, That until such price is fixed by law, the Postmaster General shall have power to fix the rate of compensation.

SEC. 9. *And be it further enacted*, That the provisions of this act shall also be construed so as to apply and extend to that portion of the line authorized to be vacated by the joint resolution approved July twelfth, eighteen hundred and sixty-two, entitled "A joint resolution authorizing the State of Minnesota to change the line of certain branch railroads in said State, and for other purposes," notwithstanding the vacation thereof by said State, as though said joint resolution had not passed, and also to the line adopted by said State, in lieu of the portion of the line so vacated.

SEC. 10. *And be it further enacted*, That the time mentioned in an act entitled "An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State," for the completion of the railroads named in said act, be, and the same is hereby, extended two years.

SEC. 11. *And be it further enacted*, That the last clause of the second section of an act entitled "An act to regulate the compensation of registers and receivers of the land offices in the several States and Territories, in the location of lands by States and corporations under general grants from Congress, and for other purposes," be, and the same is hereby, so amended as to read: "A map of the change shall be filed with the Commissioner of the General Land Office within three months after the said change of location shall be made."

APPROVED, March 3, 1865.

#### CHAP. CVI.—An Act to regulate the Taking of Depositions in certain Cases.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any defendant in a criminal case, in the District of Columbia, either after preliminary examination, indictment, or information, may examine witnesses on commission in such manner as is hereinafter prescribed.

SEC. 1. *And be it further enacted*, That a defendant wishing to take the deposition of a witness residing more than one hundred miles from the city of Washington may select any of the following officers as a commissioner [er] to take such deposition: the clerk or judge of any court of record, or any notary public, or any consul of the United States, either by the name of office of such officer, or by his individual name and official style; and the name of the court of which such constituted commissioner is clerk or judge, and the name of the State and county, or if without the United States the name of the State and town, or city, in which such notary or consul resides must be stated in the notice and in the commission.

SEC. 2. *And be it further enacted*, That five days' notice must be given by a defendant, or his or her attorney, of the time when a commission will be sued out of the office of the clerk of the criminal court for the District of Columbia for taking the deposition of the witness, (giving the name of the witness,) which notice must be accompanied with a copy of the interrogatories to be asked such witness.

SEC. 3. *And be it further enacted*, That at or before the time fixed in the notice, the district attorney may file cross-interrogatories; but if he fail so to do, the clerk shall file the following:

1. Are all of your statements in the foregoing answers made from your personal knowledge; and if not, do your answers show what are made from your personal knowledge, and what from information, and the source of that information? If not, now show what is from information, and give its source.

2. State everything you know concerning this case favorable to either the Government or the defendant.

SEC. 4. *And be it further enacted*, That the notice and copy of interrogatories may be served and returned in the same manner and by the same officers or persons as is provided by law for the service and return of a summons or subpoena in civil actions within the District of Columbia.

SEC. 5. *And be it further enacted*, That the commission shall issue in the name of the criminal court, and under its seal, and must be signed by the clerk, and need contain nothing but the authority conferred upon the commissioner and

instructions to guide him, a statement of the cause in which the testimony is to be used, and a copy of all the interrogatories filed appended.

SEC. 7. *And be it further enacted*, That the person before whom any of the depositions above contemplated are taken must cause the interrogatories appended to the commission to be written out, and the answers thereto to be inserted immediately underneath the respective questions; the whole, when completed, being read over by or to the witness, must be by him or her subscribed and sworn to in the usual manner.

SEC. 8. *And be it further enacted*, That all exhibits produced before the person taking the deposition, or proved or referred to by any witness, or correct copies thereof, must be appended to the depositions, and returned with them, unless sufficient reasons be shown for not so doing.

SEC. 9. *And be it further enacted*, That the person taking the deposition shall attach his certificate thereto, stating that it was subscribed and sworn to by the deponent at the time and place therein mentioned; the whole, including the commission and interrogatories, must then be sealed up and returned to the clerk of the criminal court of the District of Columbia, by mail, unless the defendant and the district attorney agree upon some other mode; and, when received by said clerk, he shall open the package and place the deposition on file in his office.

SEC. 10. *And be it further enacted*, That unimportant deviations from any of the above directions shall not cause the deposition to be excluded where no substantial prejudice could be wrought to the Government by such deviation.

SEC. 11. *And be it further enacted*, That, subject to the regulations hereinafter contained, the court may establish further rules for taking depositions and all other acts connected therewith.

APPROVED, March 3, 1865.

#### CHAP. CVII.—An Act supplemental to the Act approved first July, eighteen hundred and sixty-four, "for the Disposal of Coal Lands and of Town Property in the Public Domain."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in the case of any citizen of the United States who, at the passage of this act, may be in the business of bona fide actual coal-mining on the public lands, except on lands reserved by the President of the United States for public uses, for purposes of commerce, such citizen, upon making proof satisfactory to the register and receiver to that effect, shall have the right to enter, according to legal subdivisions, a quantity of land not exceeding one hundred and sixty acres, to embrace his improvements and mining premises, at the minimum price of twenty dollars per acre, fixed in the coal and town property act of first July, eighteen hundred and sixty-four: *Provided*, That where the mining improvements and premises are on land surveyed at the passage of this act, a sworn declaratory statement descriptive of the tract and premises, showing also the extent and character of the improvements, shall be filed within six months from the date of this act; and proof and payment shall be made within one year from the date of such filing; but where such mining premises may be on lands hereafter to be surveyed, such declaratory statement shall be filed within three months from the return to the district land office of the official township plat; and proof and payment shall be made within one year from the date of such filing.

SEC. 2. *And be it further enacted*, That in the case of any city or town which, at the passage of this act, may be existing on the public lands, in which the lots therein may be variant as to size from the limitation fixed in the said act of first July, eighteen hundred and sixty-four, and in which the lots and buildings as municipal improvements shall cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim, under said act of first July, eighteen hundred and sixty-four, effect to be given to this act according to such regulations as may be prescribed by the Secretary of the Interior:



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*Provided*, That the minimum price of each said lots in any such town or city, which may contain a greater number of square feet than the maximum named in the act to which this is an amendment, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish: *Provided further*, That where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof: *Provided, however*, That nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes as against the Government of the United States.

APPROVED, March 3, 1865.

CHAP. CVIII.—An Act to amend an Act entitled "An Act to amend an Act entitled 'An Act making a Grant of alternate Sections of Public Lands to the State of Michigan, to aid in the Construction of certain Railroads in said State, and for other purposes.'"

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section one of an act entitled "An act to amend an act entitled 'An act making a grant of alternate sections of public lands to the State of Michigan, to aid in the construction of certain railroads in said State, and for other purposes,'" which said amendatory act was approved June seventh, eighteen hundred and sixty-four, be, and the same is hereby, amended so as to make the last proviso in said section to read as follows, to wit: *Provided further*, That the time specified in the fourth section of the act hereby amended, for the completion of said road, shall be, and the same is hereby, extended eight years.

APPROVED, March 3, 1865.

CHAP. CIX.—An Act to authorize the Issuing of Patents for certain Lands in the Town of Stockbridge, State of Wisconsin, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, upon satisfactory proof being made that any occupant[s] of unpatented land in the town of Stockbridge, Calumet county, in the State of Wisconsin, which has, by treaty or otherwise, been allotted to any individual members of the Stockbridge or Munsee tribe of Indians, are the purchasers, grantees, or assignees of such members of said tribes, the President of the United States be authorized to issue patents for the land so occupied to such purchasers, grantees, or assignees, respectively: *Provided*, That in case of conflicting claims to any of the lots of land the Commissioner of the General Land Office is authorized to hear the proofs of the respective claimants, and to decide which of such claimants are justly entitled to said land, and patents shall be issued in accordance with such decision.

SEC. 2. *And be it further enacted*, That patents issued according to this act shall vest in the patentee title to the land described in such patent, in fee simple, subject to any valid lien or incumbrance thereon created by said patentee or those under whom he claims.

SEC. 3. *And be it further enacted*, That the lots of land in said town of Stockbridge belonging to the United States, not hereinbefore directed to be patented, shall be attached to and form a part of the Menasha land district, and if, in the opinion of the Commissioner of the General Land Office, it shall be for the public interest, the same may be sold at the minimum price of three dollars per acre for lots fronting on Lake Winnebago, five dollars per acre for the two tiers of lots fronting on the military road, one tier of lots on each side thereof, and two dollars and fifty cents per acre for the residue of said land to actual settlers thereon possessing the qualifications requisite to acquire pre-emption rights, who shall prove to the satisfaction of the register of the land office at Menasha, Wisconsin, that he or she has made improvements to the value of not less than fifty dollars, and is actually residing upon the land; the time of paying the purchase price may be extended for a period not exceeding one year from the passage of this

act: *Provided*, That no such actual settler shall be permitted to preempt more than two contiguous lots on which he or she has made improvements of the value of not less than one hundred dollars. The lands not sold within one year as hereinbefore provided, shall be brought into market and sold at not less than the minimum prices fixed by this act.

APPROVED, March 3, 1865.

CHAP. CX.—An Act to quiet Titles in Favor of Parties in actual Possession of Lands situated in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all deeds heretofore recorded in the land records of the District of Columbia, which have been executed and acknowledged by femmes covert (their husbands having signed and sealed the same) for conveying any real estate, or interest therein, situated in said District; and all acknowledgments of deeds heretofore recorded, as aforesaid, which have been made by femmes covert (whether they have executed the deed or not) for the purpose of releasing their claims to dower in the lands described therein, situated as aforesaid, in which acknowledgments the form prescribed by law has not been followed; and all deeds heretofore recorded, as aforesaid, which have been executed and acknowledged by an attorney-in-fact, duly appointed for conveying real estate situated in said District; and all deeds heretofore recorded, as aforesaid, executed and acknowledged, or only acknowledged by such attorney-in-fact, for conveying real estate situated in said District, as to which the acknowledgment was made before officers different from those before whom proof of the power of attorney was made, and as to which the power of attorney was proved before only one justice of the peace; and all deeds heretofore executed and recorded as aforesaid for the purpose of conveying land situated in said District, acknowledged out of the District of Columbia, before a judge of a United States court, or before two aldermen of a city, or the chief magistrate of a city, or before a notary public; and all deeds heretofore executed and recorded as aforesaid for the purpose of conveying land situated in said District, acknowledged by an attorney-in-fact, duly appointed, or by an officer of a corporation, duly authorized, who has acknowledged the same to be his act and deed, instead of the act and deed of the grantor or of the corporation; and all deeds heretofore executed and recorded as aforesaid for the purpose of conveying land situated in said District to which there is not annexed a legal certificate as to the official character of the officer or officers taking the acknowledgment, shall be, and the same are hereby, declared to be of the same effect and validity to pass the fee simple or other estate intended to be conveyed, and bar dower in the real estate therein mentioned in favor of parties in actual possession, claiming under and through such deeds, as if such deeds had been by such femmes covert executed and acknowledged, or acknowledged in case of a dower right, in the form heretofore prescribed by law; as if such deeds had been executed and acknowledged by the grantor in the deed; as if such power of attorney had been proved before the officer or officers taking the acknowledgment; as if such power of attorney had been proved before two justices of the peace; as if such acknowledgment had been made before any judge of a State court, or before two justices of the peace; as if such attorneys-in-fact or officer of a corporation had acknowledged the deed to be the deed of the grantor or of the corporation; as if such deeds had thereto annexed a certificate, in legal form, that the officer or officers taking the acknowledgment were really what they purport to be: *Provided*, That the certificate of acknowledgment by a femme covert shall show that the acknowledgment was made "apart" or "privily" from her husband, or use some other term importing that her acknowledgment was made out of his presence, and also that she acknowledged or declared that she willingly executed or that she willingly acknowledged the deed, or that the same was her voluntary act, or to that effect: *And provided also*, That when the power of attorney shall have [been]

executed by a femme covert the same shall be effectual and sufficient if there shall have been such an acknowledgment of the same as would be sufficient, under the provisions of this act, to pass her estate and interest therein were she a party executing the deed of conveyance, the record and copy thereof of any deed recorded as aforesaid to be evidence thereof, in the same manner and to have the same effect as if such deed had been originally executed, acknowledged, and recorded according to law.

SEC. 2. *And be it further enacted*, That all exceptions in favor of parties beyond the District of Columbia, which may by existing laws be relied or relied on in any action or proceeding brought in said District, are hereby repealed and abrogated: *Provided*, That this section shall not affect the right of parties in actions now pending, and such as may be brought within three years from the passage of this act.

SEC. 3. *And be it further enacted*, That the acts of Congress approved May thirty-first, eighteen hundred and thirty-two, and April twenty, eighteen hundred and thirty-eight, in reference to the acknowledgment and recording of deeds of land situated in said District, shall be taken and construed as cumulative with the acts of Maryland on the same subject in force in said District at the passage thereof, and that an acknowledgment made and certified in compliance with any one of said acts, and before any officers authorized by either of said acts to take an acknowledgment, (whether in or out of the District of Columbia,) shall be good and effectual; and if it shall appear that the grantor "acknowledged said deed," it shall have the same effect as if he or she acknowledged the deed to be his or her act and deed. And any acknowledgment made by a femme covert under either of said acts of Congress (which shall be sufficient under the provisions of this act) of any deed executed by her husband, and heretofore recorded in the District of Columbia, shall be good and effectual to bar all claim on her part to dower in the lands described therein, situated in said District, although she shall not have executed the same.

APPROVED, March 3, 1865.

CHAP. CXI.—An Act further to provide for the Verification of Invoices.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all consular officers of the United States be, and they are hereby, authorized to require before certifying any invoice or invoices under the provisions of the first section of the act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March third, eighteen hundred and sixty-three, satisfactory evidence, either by the oath of the person or persons presenting such invoices or otherwise, that such invoices are correct and true: *Provided*, That in the exercise of the discretion hereby given, the said consular officers shall be governed by such general or special regulations or instructions as may from time to time be established or given by the Secretary of State.

APPROVED, March 3, 1865.

CHAP. CXII.—An Act amendatory of "An Act to amend an Act entitled 'An Act to promote the Progress of the useful Arts,' approved March three, eighteen hundred and sixty-three."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person having an interest in an invention, whether as an inventor or assignee, for which a patent was ordered to issue upon the payment of the final fee, as provided in section three of an act approved March three, eighteen hundred and sixty-three, but who has failed to make payment of the final fee as provided in said act, shall have the right to make an application for a patent for his invention the same as in the case of an original application, provided such application be made within two years after the date of the allowance of the original application: *Provided*, That nothing herein shall be so construed as to hold responsible in damages any per-

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sons who have manufactured or used any article or thing for which a patent aforesaid was ordered to issue. This act shall apply to all cases now in the Patent Office, and also to such as shall hereafter be filed. And all acts or parts of acts inconsistent with this act are hereby repealed.

APPROVED, March 3, 1865.

CHAP. CXIII.—An Act to amend the third Section of an Act entitled "An Act making Appropriations for sundry Civil Expenses of the Government for the year ending the thirtieth day of June, eighteen hundred and sixty-five, and for other purposes," so far as the same relates to Witnesses in the Courts of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the third section of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the thirtieth of June, eighteen hundred and sixty-five, and for other purposes," be, and the same hereby is, amended by adding thereto the following proviso: *Provided further,* That in actions by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with, or statement by the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court.

APPROVED, March 3, 1865.

CHAP. CXIV.—An Act in Relation to the Naval Observatory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That so much of the first section of the act of third of August, one thousand eight hundred and forty-eight, entitled "An act making appropriations for the naval service for the year ending the thirtieth of June, one thousand eight hundred and forty-nine," as requires that the Superintendent of the Naval Observatory at Washington city shall be a captain, commander, or lieutenant in the Navy, be, and is hereby, repealed, and no officer of the Navy employed as Superintendent shall receive other than the shore-duty pay of his grade.

APPROVED, March 3, 1865.

CHAP. CXV.—An Act for the Relief of the Occupants of the Lands of the Ex-Mission of San José, in the State of California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every person who has the possession rightfully as against all others except the United States, or, being out of possession, is, as against all others except as aforesaid, entitled to the possession of any portion of the tract of land situate in the county of Alameda, State of California, known as the lands of the ex-mission of San José, as included in the map and survey thereof, made October, eighteen hundred and sixty-four, by E. H. Dyer, deputy United States surveyor, shall have the right, and the right is hereby granted to each and every such person, to enter and purchase of the United States, at the sum or price of one dollar and twenty-five cents per acre, such portion of said tract so rightfully possessed by him, her, or them, or to which he, she, or they may so have such right of possession, whether such person claim the same by conveyance from or under Andres Pico and Juan B. Alvarado, or either of them, or by possession only: *Provided, however,* That any person entitled under this act to a parcel of less than eight acres shall in all such cases pay ten dollars for the same.

SEC. 2. *And be it further enacted,* That every person claiming any benefit under this act shall, within one year from the passage thereof, present to the register and receiver of the United States land office at San Francisco a survey or plat of the portion of said tract claimed by him, her, or them, and which shall exhibit the quarter section or sections, or parts thereof, included in said plat, made by or under the direction of the Uni-

ted States surveyor general for California, and therewith a written statement setting forth the right of such claimant to enter and purchase such portion under the provisions of this act, and whether the said claimant has acquired the alleged title of said Pico and Alvarado, or either of them thereto, or holds by possession only; and thereupon such register and receiver shall, under such rules as may be prescribed by the Commissioner of the General Land Office, proceed and take, hear, and examine the evidence which may be offered in support of or against such claim, and, upon the proofs being closed, shall determine upon and decide the same: *Provided,* That no decision of said register and receiver shall be final until approved by the Commissioner of the General Land Office.

SEC. 3. *And be it further enacted,* That the claimant in whose favor final decision has been made, upon paying to the receiver of the land office at San Francisco for the land embraced in such final decision the sum therefor prescribed in the first section of this act, shall be entitled to a patent for such land from the United States, conveying all the interest of the United States therein to such claimant.

SEC. 4. *And be it further enacted,* That upon all proceedings under this act being closed, and upon the appeal, taken to the Supreme Court of the United States by E. L. Beard and others, claimants of said lands against the United States, being dismissed, or the decree appealed from affirmed, the surveyor general of the United States for California shall cause the lines of the public surveys to be extended over all portions of said land which shall not have been disposed of under the provisions hereof, and thereafter the same shall be disposed of as in the case of other public lands.

APPROVED, March 3, 1865.

CHAP. CXVI.—An Act to enable the Accounting Officers of the Treasury to settle the Claim of the State of Kansas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury be, and they are hereby, authorized to receive secondary evidence, in lieu of the original vouchers, in support of a claim for expenses incurred by the State of Kansas, provision for reimbursement of which was made by the "Act to indemnify the States for expenses incurred by them in defense of the United States," approved July twenty-seven, eighteen hundred and sixty-one, said original vouchers having been destroyed by fire at the late massacre in Lawrence, Kansas: *Provided,* That, in the settlement of the above-mentioned claim, there shall not be allowed to the State of Kansas a sum exceeding the sum of twelve thousand three hundred fifty-one dollars and four cents (\$12,351.04.)

APPROVED, March 3, 1865.

CHAP. CXVII.—An Act to extend the Provisions of the first Section of "An Act for the Government of Persons in certain Fisheries," approved June nineteenth, eighteen hundred and thirteen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the first section of "An act for the government of persons in certain fisheries," approved on the nineteenth of June, in the year one thousand eight hundred and thirteen, shall extend and apply to the master or skipper and seamen of vessels of the burden of twenty tons or upward, qualified according to law for carrying on the mackerel fisheries, bound from a port in the United States to be employed in such fisheries, in the same way as if such fisheries had been embraced in said act: *Provided,* That the agreement named in said section shall be duly made, indorsed, and countersigned.

APPROVED, March 3, 1865.

CHAP. CXVIII.—An Act to incorporate the Colored Union Benevolent Association.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Gurden Snowden, Charles Brown, James Wright, Sandy Alexander, Henry Logan,

Charles Wilson, Henry Brooks, John Shorter, Joseph Shorter, and their associates and successors, be, and they are hereby, constituted and declared to be a body politic and corporate, by the name and title of the Colored Union Benevolent Association, located in the city of Washington, and by its corporate name said association shall have perpetual succession, with power to sue and be sued, to implead and be impleaded, in any court of the United States or of the District of Columbia of competent jurisdiction; to receive subscriptions, gifts, and benefits, and to make such rules and by-laws as shall be deemed necessary and expedient for the government of the association, and to alter the same, from time to time, in such mode as shall be prescribed therein: *Provided, always,* That such rules and by-laws shall be in no wise inconsistent with the Constitution and laws of the United States, or with the objects of the association. The objects of the association are hereby declared to be to provide for the care and comfort of such members as shall be sick, disabled, or dependent, and of the families of such members, in cases where the proper officers of the association shall deem it expedient, and also to provide for the decent internment of such persons as may die in membership of the association or belonging to the families of such members.

SEC. 2. *And be it further enacted,* That said association shall have power to hold real estate, or personal and mixed estate, by purchase, gift, or devise, for the purposes of such association and no other, and to lease, sell, or convey such real estate, or mixed estate, or personal property, as may be devised or donated to such association, and the leasing or sale of which will promote the interests of said association.

SEC. 3. *And be it further enacted,* That Congress shall have the right, at any time, to modify, amend, or repeal this act.

APPROVED, March 3, 1865.

CHAP. CXIX.—An Act to amend an Act entitled "An Act to incorporate the Metropolitan Railroad Company in the District of Columbia."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That an act entitled "An act to incorporate the Metropolitan Railroad Company in the District of Columbia," approved July first, eighteen hundred and sixty-four, be, and the same hereby is, amended as hereinafter set forth, namely, that the first section be, and hereby is, amended by striking out all after the words "along H street north to Seventeenth street west, intersecting the double-track road," and inserting: also a double or single track railway, commencing at the intersection of D street north and Four-and-a-half street west, along Four-and-a-half street west to the gate of the arsenal; also a double or single track branch railway, commencing at the intersection of Ninth street west and the Washington canal, along Ninth street west to M street north, along M street north to Twelfth street west, and along Twelfth street west to the Washington canal and Maryland avenue to the Potomac river; also a double or single track branch railway, commencing at the intersection of Massachusetts avenue and H street north, along Massachusetts avenue to K street north, along K street north to the circle, with the privilege of extending the said branch road at any time along K street north to Rock creek, across the bridge over Rock creek to Water street, Georgetown, along Water street in Georgetown to Green street, along Green street to Gay street, and along Gay street and First street to Fayette street, Georgetown, with the privilege of extending at any time the road now in operation from Seventeenth street west to the Capitol, from the present terminus of said road on A street north, along A street north to First street east, along First street east to East Capitol street, along East Capitol street to Ninth street east, along Ninth street east to L street south, with the right to run public carriages thereon, drawn by horse power, receiving therefor a rate of fare not exceeding eight cents per passenger, for any distance between the termini of either of the said main railways, or between the termini of said branch railways, or between either terminus of said main railway and the terminus of either

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of said branch railways: *Provided*, That the use and maintenance of the said road shall be subject to the municipal regulations of the city of Washington within its corporate limits.

SEC. 2. *And be it further enacted*, That section eight be, and hereby is, amended by striking out the words "five hundred thousand dollars," and inserting the words "one million dollars;" *Provided*, That the directors of said Metropolitan Railroad Company shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time, in such manner, and in such installments as they may deem proper; and if any stockholders shall refuse or neglect to pay any installments, as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of said stock as shall pay said installments, (and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due,) under such general regulations as may be adopted in the by-laws of said corporation, or may sue for and collect the same in any court of competent jurisdiction.

SEC. 3. *And be it further enacted*, That section seventeen be, and hereby is, so amended as to allow the said corporation three years from the date of the approval of this act in which to complete the railways herein described and those described in the act to which this is an amendment.

SEC. 4. *And be it further enacted*, That the twenty-second section be, and hereby is, amended by striking out the words "at the rate of twenty-five for one dollar," and inserting the words "at the rate of sixteen for the dollar."

SEC. 5. *And be it further enacted*, That the provision prohibiting any exclusion from any car on account of color, already applicable to the Metropolitan railroad, is hereby extended to every other railroad in the District of Columbia.

APPROVED, March 3, 1865.

CHAP. CXX.—An Act to incorporate the Continental Hotel Company of the City of Washington.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Lewis Delmonico, of New York city, B. B. French, Henry D. Cooke, John W. Forney, of Washington city, Stephen Flanagan, William Overfield, jr., J. Warren Brown, of Maine, Thornton Smith, George D. Kellogg, and George Plowman, of Philadelphia, and their associates, and all persons who now or hereafter may be holders of the stock hereinafter mentioned, shall be, and they are hereby, declared to be constituted a body politic or corporate by the style of the Continental Hotel Company, to have perpetual succession, to be capable in law of suing and being sued, to have a common seal, and to have, hold, receive, enjoy, and take, either by absolute conveyance in fee simple or upon ground rent, and in case of a conveyance upon ground rent with power to execute the necessary covenant for securing the payment thereof, such real estate as may be necessary or proper for the construction of a hotel in the city of Washington, with such supplementary buildings as may be adapted to and form part of the general plan and design thereof, with power to furnish and equip the same for the accommodation and use of any parties who may be desirous of renting and occupying the same, and the real estate, or any part thereof, when in the opinion of said corporation it may be proper to do so, to sell and to convey to any person or persons who may be desirous of purchasing the same the furniture and equipment thereof.

SEC. 2. *And be it further enacted*, That the capital stock of said corporation shall not exceed two million dollars, divided into twenty thousand shares of one hundred dollars each, and that it shall be held as personal property, and may be transferred under such regulations as the corporators shall judge convenient.

SEC. 3. *And be it further enacted*, That a general meeting of the corporators shall be annually held on the second Monday of January, for the election of five managers, and the transaction of

other business; but if such meeting or election shall not then take place, the corporation shall not for that cause be dissolved, but such meeting or election shall take place as soon thereafter as may be, one week's public notice thereof being first given in at least two daily newspapers in the city of Washington.

SEC. 4. *And be it further enacted*, That the election of managers shall be by ballot from among the corporators, and that in the enactment of by-laws for the government of the corporation and its officers, and in the decision of all questions, whether of election of officers or disfranchisement of corporators, either because of their delinquency in paying for the amount of stock by them purchased of the corporation, or for other causes, and on all questions at the meetings of the corporation, the corporators present, either in person or by proxy, shall severally vote once for each share of stock held by them.

SEC. 5. *And be it further enacted*, That the managers shall continue in office until their successors are elected; they shall elect a president from among themselves, supply vacancies in their number, whether occasioned by death, resignation, or refusal to act, and shall have the general and entire control of the affairs and interests of the company, except so far as may be otherwise provided by the corporators. Three members shall be a quorum at these meetings.

SEC. 6. *And be it further enacted*, That until other officers shall be duly elected, the persons named in the first section of this act shall be held to be managers of the said corporation, and shall have power and authority as such.

SEC. 7. *And be it further enacted*, That Congress may at any time hereafter alter, amend, or repeal this charter.

APPROVED, March 3, 1865.

CHAP. CXXI.—An Act providing for the Confinement of Juvenile Offenders against the Laws of the United States in Houses of Refuge.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That juvenile offenders against the laws of the United States, being under the age of sixteen years, and who may hereafter be convicted of crime by any court of the United States, the punishment whereof shall be imprisonment, shall be confined during the term of sentence in some house of refuge to be designated by the Secretary of the Interior, and shall be transported and delivered to the warden or keeper of such house of refuge by the marshal of the district where such shall have occurred; or if such conviction be had in the District of Columbia, then, and in such case, the transportation and delivery shall be by the warden of the jail of said District, and the reasonable actual expense of the transportation, necessary subsistence, and hire, and transportation of assistants and the marshal or warden, only, shall be paid by the Secretary of the Interior, out of the judiciary fund.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior to contract with the managers or persons having control of such houses of refuge for the imprisonment, subsistence, and proper employment of all such juvenile offenders, and to give the several courts of the United States and of the District of Columbia notice of the places so provided for the confinement of said offenders; and such offenders shall be sentenced to confinement in the house of refuge nearest the place of conviction so designated by the Secretary of the Interior.

APPROVED, March 3, 1865.

CHAP. CXXII.—An Act to amend an Act entitled "An Act to provide for the better Organization of Indian Affairs in California."

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of sixty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of enabling the Secretary of the Interior to pay the settlers in Hoopa Valley, California, for their improvements on the Indian

reservation therein: *Provided*, That before the same or any part of the money hereby appropriated shall be paid, the said improvements shall be appraised by the superintendent of Indian affairs, the Indian agent at said reservation, and the surveyor general of California; and if, in the opinion of the Secretary of the Interior, their appraisal shall be reasonable, and shall not in the aggregate exceed the sum herein appropriated, the said Secretary is hereby authorized to apply the same, or so much thereof as may be necessary, in payment for the said improvements, taking the proper releases therefor: *And provided further*, That the moneys hereby appropriated be reimbursed from the proceeds of the sales of Indian reservations in said State under the provisions of the act to provide for the better organization of Indian affairs in California, approved April eight eighteen hundred and sixty-four.

APPROVED, March 3, 1865.

CHAP. CXXIII.—An Act authorizing the Secretary of the Treasury to lease or sell certain Property of the United States situated at Bath, in the State of Maine.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby authorized to lease the wharf property belonging to the United States situated at Bath, in the State of Maine, for a term of years, the lessee making all repairs thereupon; or he may sell the same at his discretion if it is no longer in use or required for the public service, and he is hereby authorized to make, execute, and deliver all needful conveyances to the purchaser or purchasers thereof.

APPROVED, March 3, 1865.

CHAP. CXXIV.—An Act to increase the Pay of Midshipmen and Others.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That midshipmen, after their final academic examination and until their promotion to the grade of ensign, shall be paid at the rate of eight hundred dollars per annum, while on sea service.

SEC. 2. *And be it further enacted*, That acting masters' mates shall be styled mates, and the Secretary of the Navy is hereby authorized to increase their pay to a sum not exceeding sixty dollars per month.

SEC. 3. *And be it further enacted*, That hereafter mates may be rated, under authority of the Secretary of the Navy, from seamen and ordinary seamen who have enlisted in the naval service for not less than two years, and such rating of an enlisted man, or his appointment as an officer, shall not discharge him from his enlistment.

SEC. 4. *And be it further enacted*, That no person appointed or rated an officer or clerk in the Navy shall receive any bounty while holding an appointment.

SEC. 5. *And be it further enacted*, That all acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

SEC. 6. *And be it further enacted*, That acting passed assistant surgeons and acting surgeons may be appointed in the same manner as acting assistant surgeons are now appointed, who shall receive the compensation of their respective grades.

APPROVED, March 3, 1865.

CHAP. CXXV.—An Act to incorporate the "Capitol Hotel Company," in Washington City, District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Charles C. Little and A. C. Washburn, of Boston, in the State of Massachusetts; George Folsom, Charles A. Stetson, and Frank Moore, of New York city, in the State of New York; and Z. C. Robbins, of Washington, in the District of Columbia, and their associates and successors, be, and they are hereby, incorporated and made a body-corporate, by the name of "The Capitol Hotel Company," and by that name may sue and be sued, plead and be impleaded, in any court of law or equity, of competent jurisdiction,



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and be entitled to use and exercise all the powers, rights, and privileges incident to such corporation, for the purpose of establishing and maintaining in said city of Washington building or buildings for a hotel, with rooms, shops, and offices, to be used therefor and therewith; and they may purchase and hold real and personal estate required and convenient therefor; and may, after construction thereof, sell, convey, or lease, and receive rent therefor, in whole or in part, as they may choose and find for the interest of said corporation.

SEC. 2. *And be it further enacted*, That the capital stock of said corporation shall not exceed the sum of one million five hundred thousand dollars, and that the stock shall be divided into shares of one thousand dollars each, and shall be deemed personal property, transferable in such manner as the said corporation by its by-laws may direct.

SEC. 3. *And be it further enacted*, That the government and direction of the affairs of the corporation shall be invested in a board of directors, not less than five in number, who shall be elected by the stockholders at their annual meeting, which shall be held on the first Monday of May in each year, from among the corporators and their associates and successors, in such manner as the by-laws of said corporation may direct.

SEC. 4. *And be it further enacted*, That the said corporation shall have full power to make and prescribe such by-laws, rules, and regulations as they may deem needful and proper for the disposition and management of the stock, property, estate, and effects of the corporation, not contrary to the charter or to the laws of the United States and the ordinances of the city of Washington, and shall have power to alter or amend the same, from time to time, as the interests of the corporation, in their opinion, may require.

SEC. 5. *And be it further enacted*, That this act may be altered, amended, or repealed, at the pleasure of Congress.

APPROVED, March 3, 1865.

CHAP. CXXVI.—An Act supplemental to an Act entitled "An Act to amend the several Acts respecting Copyright," approved February third, eighteen hundred and thirty-one, and to the Acts in addition thereto and amendment thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of said act shall extend to and include photographs and the negatives thereof which shall hereafter be made, and shall inure to the benefit of the authors of the same in the same manner, and to the same extent, and upon the same conditions as to the authors of prints and engravings.

SEC. 2. *And be it further enacted*, That a printed copy of every book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall be secured under said acts, shall be transmitted free of postage or other expense by the author or proprietor thereof, within one month of the date of publication, to the Library of Congress at Washington for the use of said Library; and the Librarian of Congress is hereby required to give a receipt in writing for the same.

SEC. 3. *And be it further enacted*, That if any proprietor of a book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall be secured as aforesaid, shall neglect to deliver the same pursuant to the requirement of this act, it shall be the duty of the Librarian of Congress to make demand thereof in writing, at any time within twelve months after the publication thereof; and in default of the delivery thereof within one month after the demand shall have been made, the right of exclusive publication secured to such proprietor under the acts of Congress respecting copyright shall be forfeited.

SEC. 4. *And be it further enacted*, That in the construction of this act the word "book" shall be construed to mean every volume and part of a volume, together with all maps, prints or other engravings belonging thereto; and shall include a copy of any second or subsequent edition which shall be published with any additions, whether the first edition of such book shall have been

published before or after the passing of this act: *Provided, however*, That it shall not be requisite to deliver to the said Library any copy of the second or any subsequent edition of any book, unless the same shall contain additions as aforesaid, nor of any book which is not the subject of copyright.

APPROVED, March 3, 1865.

CHAP. CXXVII.—An Act making Appropriations for the current and contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes for the year ending thirtieth June, eighteen hundred and sixty-six, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes:

For the current and contingent expenses of the Indian department, namely:

For the pay of superintendents of Indian affairs and of Indian agents, eighty seven thousand four hundred and fifty dollars.

For pay of sub-agents, six thousand dollars.

For pay of clerk to superintendent at St. Louis, Missouri, one thousand two hundred dollars.

For pay of temporary clerks by superintendents of Indian affairs, five thousand dollars.

For pay of clerk to superintendent of Indian affairs in California, one thousand eight hundred dollars.

For pay of interpreters, twenty-eight thousand four hundred dollars.

For presents to Indians, five thousand dollars.

For provisions for Indians, eleven thousand eight hundred dollars.

For buildings at agencies and repairs thereof, ten thousand dollars.

For contingencies of the Indian department, thirty-six thousand five hundred dollars.

For fulfilling treaty stipulations with the various Indian tribes:

*Blackfoot Indians.*

For last of ten installments as annuity, to be expended in the purchase of such goods, provisions, and other useful articles as the President, at his discretion, may from time to time determine, per ninth article of the treaty of seventeenth October, eighteen hundred and fifty-five, twenty thousand dollars.

For last of ten installments as annuity, to be expended in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and promoting civilization and Christianity, at the discretion of the President, per tenth article of the treaty of seventeenth October, eighteen hundred and fifty-five, fifteen thousand dollars.

*Chasta, Seelon, and Umpqua Indians.*

For eleventh of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For eleventh of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand dollars.

For eleventh of fifteen installments for pay of physician, medicines, and expense of care of the sick, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

For eleventh of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, one thousand two hundred dollars.

*Chippewas of Lake Superior.*

For two thirds of twenty-fourth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-fourth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, eight hundred dollars.

For two thirds of twenty-fourth of twenty-five installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, seven thousand dollars.

For two thirds of twenty-fourth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For two thirds of twenty-fourth of twenty-five installments for the pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For two thirds of twenty-fourth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and thirty-three dollars and thirty-three cents.

For eleventh of twenty installments in coin, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, five thousand dollars.

For eleventh of twenty installments in goods, household furniture, and cooking utensils, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand dollars.

For eleventh of twenty installments for agricultural implements, and cattle, carpenters' and other tools, and building materials, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For eleventh of twenty installments for moral and educational purposes, three hundred dollars of which to be paid to the Grand Portage band yearly, to enable them to maintain a school at their village, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For eleventh of twenty installments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For eleventh of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For ninth of twenty installments for the seventh smith and assistant, and support of shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of a smith, assistant, and shop for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For support of two farmers for the Bois Forte band, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, one thousand two hundred dollars.

*Chippewas of the Mississippi.*

For one third of twenty-fourth of twenty-five installments in money, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-fourth of twenty-five installments for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, four hundred dollars.

For one third of twenty-fourth of twenty-five

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installments in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand five hundred dollars.

For one third of twenty-fourth of twenty-five installments for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-fourth of twenty-five installments for the purchase of provisions and tobacco, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-fourth of twenty-five installments for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, six hundred and sixty-six dollars and sixty-seven cents.

For one third of twenty-fourth of twenty-five installments for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, three hundred and thirty-three dollars and thirty-three cents.

For eleventh of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

*Chippewas, Pillager, and Lake Winnebagoish Bands.*

For eleventh of thirty installments of annuity in money, per third article [treaty] twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For eleventh of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For eleventh of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For eleventh of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, three thousand dollars.

For eleventh of fifteen annual installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, two thousand one hundred and twenty dollars.

For pay of an engineer to grist and saw mill at Leech Lake, six hundred dollars.

*Chippewas of the Mississippi, and the Pillager and Lake Winnebagoish Bands of Chippewa Indians in Minnesota.*

For second of ten installments for ten yoke of work oxen, per fifth article treaty eleventh March, eighteen hundred and sixty-three, one thousand dollars.

For the employment of a sawyear, at the discretion of the President, per sixth article treaty eleventh March, eighteen hundred and sixty-three, six hundred dollars.

For compensation of female teachers on the reservation, who shall instruct the Indian girls in domestic economy, one thousand dollars.

*Chippewas of Saginaw, Swan Creek, and Black River.*

For last of ten equal annual installments in coin, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of second August, eighteen hundred and fifty-five, ten thousand dollars.

For last of ten installments for the support of one blacksmith shop, per second article of the treaty of second August, eighteen hundred and fifty-five, twelve hundred and forty dollars.

For last of five equal annual installments for

educational purposes, under the direction of the President, two thousand dollars.

For last of five equal annual installments in agricultural implements, three thousand dollars. *Chippewas, Menomonees, Winnebagoes, and New York Indians.*

For education during the pleasure of Congress, per fifth article treaty eleventh August, eighteen hundred and twenty-seven, one thousand five hundred dollars.

*Chickasaws.*

For permanent annuity in goods, per act of twenty-fifth February, seventeen hundred and ninety-nine, three thousand dollars.

*Choctaws.*

For permanent annuity, per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of light horsemen, per thirteenth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for education, per second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent provision for blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent provision for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article of treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

*Camanches, Kiowas, and Apaches of Arkansas River.*

For the second of five installments, being the second series for the purchase of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, eighteen thousand dollars.

For expenses of transportation of the second of five installments of goods, provisions, and agricultural implements, per sixth article treaty twenty-seventh July, eighteen hundred and fifty-three, seven thousand dollars.

*Creeks.*

For permanent annuity in money, per fourth article treaty seventh August, seventeen hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent provision for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent provision for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent provision for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant and shop and tools during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon-maker during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations during the pleasure of the President, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For education during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand dollars.

For five per centum interest on two hundred thousand dollars for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

*Delawares.*

For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, two thousand three hundred and four dollars.

*Iowas.*

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to the first of July, eighteen hundred and sixty-six, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, two thousand eight hundred and seventy-five dollars.

*Kansas.*

For interest in lieu of investment on two hundred thousand dollars, at five per centum per annum, ten thousand dollars.

*Kickapoos.*

For twelfth installment of interest, at five per centum, on one hundred thousand dollars, for educational and other beneficial purposes, five thousand dollars.

For twelfth installment on two hundred thousand dollars, to be paid in eighteen hundred and sixty-five, per second article treaty eighteenth May, eighteen hundred and fifty-four, seven thousand dollars.

*Menomonees.*

For tenth of twelve installments for continuing and keeping up a blacksmith shop, and providing the usual quantity of iron and steel, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, nine hundred and sixteen dollars and sixty-six cents.

For last of ten installments of annuity upon two hundred thousand dollars, balance of three hundred and fifty thousand dollars for cession of lands, per fourth article treaty eighteenth October, eighteen hundred and forty-eight, and third article treaty twelfth May, eighteen hundred and fifty-four, twenty thousand dollars.

For tenth of fifteen installments for pay of miller, per third article treaty twelfth May, eighteen hundred and fifty-four, six hundred dollars.

*Miamies of Kansas.*

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth

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article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty June fifth, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For sixth of twenty installments upon two hundred thousand dollars, per third article treaty fifth June, eighteen hundred and fifty-four, seven thousand five hundred dollars.

*Miamies of Indiana.*

For interest on two hundred and twenty-one thousand two hundred and fifty-seven dollars and eighty-six cents, uninvested, at five per centum, for Miami Indians of Indiana, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

*Miamies—Eel River.*

For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per third article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

*Nisqually, Puyallup, and other Tribes and Bands of Indians.*

For eleventh installment, in part payment for relinquishment of title to lands, to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, twelve hundred dollars.

For eleventh of twenty installments for pay of instructor, smith, physician, carpenter, farmer, and assistant, if necessary, per tenth article treaty twenty-sixth December, eighteen hundred and fifty-four, six thousand seven hundred dollars.

*Omahas.*

For the eighth of ten installments of this amount, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, thirty thousand dollars.

For pay of miller and assistant miller, farmer, blacksmith and assistant, for iron and steel, supplying smith's shop with tools and keeping the same in repair, keeping in repair grist and saw mill, and for pay of an engineer and assistant engineer, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, four thousand eight hundred and forty dollars: *Provided*, That any tolls or profits arising from the working of the mill or shops shall be accounted for to the agent and by him applied to the use and benefit of said Indians.

*Osages.*

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum, being the value of fifty-four sections of land set apart second June, eighteen hundred and twenty-five, for educational purposes, per Senate resolution nineteenth January, eighteen hundred and thirty-eight, three thousand four hundred and fifty-six dollars.

*Ottos and Missourias.*

For eighth of ten installments, being the second series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, thirteen thousand dollars.

For the balance due the confederated tribes of the Kaskaskias, Peorias, Weas, and Piankeshaws, arising from the sale of their "trust lands" by William Brindle, late receiver of the land office, as reported by the Commissioner of the General Land Office, held by said late receiver Brindle,

unaccounted for and not deposited in the United States Treasury, six thousand eight hundred and eighteen dollars and thirty cents: *Provided*, That when said sum shall be received, it shall be paid into the Treasury of the United States.

*Ottawas and Chippewas of Michigan.*

For last of ten equal annual installments for educational purposes, to be expended under the direction of the President, according to the wishes of the Indians, so far as may be reasonable and just, per second article of the treaty of thirty-first July, eighteen hundred and fifty-six [five] eight thousand dollars.

For last of ten installments for the support of four blacksmith shops, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, four thousand two hundred and forty dollars.

For last of ten installments of principal, payable annually for ten years, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand dollars.

For interest on two hundred and six thousand dollars, unpaid part of the principal sum of three hundred and six thousand dollars, for one year, at five per centum per annum, to be distributed per capita, in the usual manner of paying annuities, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, ten thousand three hundred dollars.

For last of ten equal annual installments on thirty-five thousand dollars, in lieu of former treaty stipulations, to be paid per capita to the Grand River Ottawas, per second article of the treaty of thirty-first July, eighteen hundred and fifty-five, three thousand five hundred dollars.

*Pawnees.*

For third of five installments of the second series in goods and such articles as may be necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, thirty thousand dollars.

For support of two manual-labor schools annually, during the pleasure of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, ten thousand dollars.

For pay of two teachers, under the direction of the President, per third article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For purchase of iron and steel, and other necessities for the shop, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation of two strikers or apprentices in shop, per fourth article of treaty twenty-fourth September, eighteen hundred and fifty-seven, four hundred and eighty dollars.

For eighth of ten installments for farming utensils and stock, during the pleasure of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For pay of farmer, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For seventh of ten installments for pay of miller, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, six hundred dollars.

For seventh of ten installments for pay of an engineer, at the discretion of the President, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, one thousand two hundred dollars.

For compensation to apprentices, to assist in working the mill, per fourth article treaty twenty-fourth September, eighteen hundred and fifty-seven, five hundred dollars.

For grist and saw mill, and keeping the same in repair, three hundred dollars.

*Pottawatomies of Huron.*

For permanent annuity in money or otherwise, per second article treaty seventeenth November, eighteen hundred and seven, four hundred dollars.

*Pottawatomies.*

For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hundred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars.

For education during the pleasure of Congress, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and fourth article treaty twenty-seventh October, eighteen hundred and thirty-two, five thousand dollars.

For permanent provision for the payment of money in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars.

For permanent provision for three blacksmiths and assistants, and permanent provisions for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, two thousand one hundred and sixty dollars; and to supply a deficiency in this appropriation for the current fiscal year, seven hundred and fourteen dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, two hundred and fifty dollars.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

*Quapaws.*

For education during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand and sixty dollars.

For farmer during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars.

*Rogue Rivers.*

For twelfth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

For balance due claimants under third article of the treaty of September tenth, eighteen hundred and fifty-three, with the Rogue River Indians, for improvements made by land claimants on the Indian reserve, eight hundred and fourteen dollars and eighty-two cents.

*Sacs and Foxes of Mississippi.*

For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For interest on two hundred thousand dollars, at



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five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

*Sacs and Foxes of Missouri.*

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

*Seminoles.*

For the ninth of tenth installments for the support of schools, per eighth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For the ninth of tenth installments for agricultural assistance, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand dollars.

For the ninth of tenth installments for the support of smiths and smiths' shops, per eighth article treaty seventh August, eighteen hundred and fifty-six, two thousand two hundred dollars.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on two hundred and fifty thousand dollars, at five per centum, to be paid as annuity, they having joined their brethren West, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

*Senecas.*

For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

For blacksmith and assistant, shop and tools, and iron and steel, during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, one thousand and sixty dollars.

For miller during the pleasure of the President, per fourth article treaty twenty-eighth February, eighteen hundred and thirty-one, six hundred dollars.

*Senecas of New York.*

For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

*Senecas and Shawnees.*

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

*Shawnees.*

For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For twelfth installment of interest, at five per centum, on forty thousand dollars for education, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

*Six Nations of New York.*

For permanent annuity in clothing and other useful articles, per sixth article treaty eleventh November, seventeen hundred and ninety-four, four thousand five hundred dollars.

*Treaty of Fort Laramie.*

For last of five installments, at the discretion of the President, in provisions and merchandise, for payment of annuities, and transportation of the same, to certain tribes of Indians, seventy thousand dollars.

*Umpquas, (Cow Creek Band.)*

For twelfth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

*Umpquas and Calapooias, of Umpqua Valley, Oregon.*

For first of five installments, of the third series, of annuity for beneficial objects, to be expended as directed by the President, per third article treaty nineteenth September, eighteen hundred and fifty-three, one thousand seven hundred dollars.

For eleventh of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, two thousand dollars.

For eleventh of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand four hundred and fifty dollars.

*Winnebagoes.*

For interest on one million dollars, at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, fifty thousand dollars.

For nineteenth of thirty installments of interest on eighty-five thousand dollars, at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

For the payment of goods purchased for the Winnebagoes, Mississippi, Sioux, and Yancton Sioux, to replace those lost by the burning of the steamer "Welcome" at St. Louis, on the fifteenth day of July, eighteen hundred and sixty-four, fifty-four thousand seven hundred and seventy-one dollars and eighty-three cents; and to replace the goods destined for Indians in New Mexico, which were burned on the steamer "Welcome" at St. Louis on the fifteenth day of July, eighteen hundred and sixty-four, two thousand seven hundred and forty-five dollars and eighty-three cents; and to replace the goods destined for Indians in the Territory of Utah, which were burned on one of the wagons transporting the same from Nebraska City to Utah, on the twenty-second day of August, eighteen hundred and sixty-four, six thousand three hundred and thirty-one dollars and thirty-eight cents: *Provided, however,* That any moneys to be recovered for insurance upon said goods shall be refunded to the Treasury of the United States.

For the payment of awards made by the Secretary of the Interior, to be paid as damages growing out of the loss and destruction of improvements made upon the lands known as the Winnebago reservation, in Blue Earth county, Minnesota, by the bona fide actual settlers thereon, under the preëmption laws of the United States, before the same was selected and set apart as an Indian reservation, and which award was made pursuant to an act of Congress entitled "An act for the relief of preëmptors on the home reservation of the Winnebagoes, in the Blue Earth region in the State of Minnesota," approved July fourteenth, eighteen hundred and sixty-two, and to be paid to the several parties named in the said award, seven thousand three hundred and two dollars and six cents.

*Yancton Tribe of Sioux.*

For seventh of ten installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle and reside upon their reservation, per fourth article treaty nineteenth April, eighteen hundred and fifty-eight, sixty-five thousand dollars.

*Calapooias, Molalla, and Clackamas Indians, of Willamette Valley.*

For first of five installments of the second series of annuity for beneficial objects, per second article treaty twenty-second January, eighteen hundred and fifty-five, six thousand five hundred dollars.

*Poncas.*

For the second of ten installments of the second series, to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle upon the tract reserved for their future homes, per second article treaty twelfth March, eighteen hundred and fifty-eight, ten thousand dollars.

For seventh of ten installments for the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty twelfth March, eighteen hundred and fifty-eight, five thousand dollars.

For seventh of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty twelfth March, eighteen hundred and fifty-eight, seven thousand five hundred dollars.

*D'Wamish and other allied Tribes in Washington Territory.*

For sixth installment on one hundred and fifty thousand dollars, under the direction of the President, per sixth article treaty twenty-second January, eighteen hundred and fifty-five, ten thousand dollars.

For sixth of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, three thousand dollars.

For sixth of twenty installments for the establishment and support of a smith and carpenter shop, and to furnish them with the necessary tools, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, four thousand six hundred dollars.

*Makah Tribe.*

For last of three installments on thirty thousand dollars, under the direction of the President, per fifth article treaty thirty-first January, eighteen hundred and fifty-five, two thousand dollars.

For sixth of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For sixth of twenty installments for support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, four thousand six hundred dollars.

*Walla-Walla, Cayuse, and Umatilla Tribes.*

For first of five installments of second series, to be expended under the direction of the Presi-

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dent, per second article treaty ninth June, eighteen hundred and fifty-five, six thousand dollars.

For sixth of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines, and hospital stores, books and stationery for schools, and furniture for the employes, per fourth article treaty ninth June, eighteen hundred and fifty-five, three thousand dollars.

For sixth of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, two millers, one blacksmith, one wagon and plow maker, one carpenter and joiner, one physician, and two teachers, per fourth article treaty ninth June, eighteen hundred and fifty-five, eleven thousand two hundred dollars.

For sixth of twenty installments for the pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands, the sum of five hundred dollars per annum, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand five hundred dollars.

For sixth of twenty installments for salary for the son of Pio-pio-mox-mox, per fifth article treaty ninth June, eighteen hundred and fifty-five, one hundred dollars.

*Yakama Nation.*

For first of five installments, of second series, for beneficial objects, at the discretion of the President, per fourth article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For sixth of twenty installments for the support of two schools, one of which is to be an agricultural and industrial school; keeping in repair school-buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty ninth June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For sixth of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty ninth June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For sixth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for the pay of a physician, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For sixth of twenty installments for keeping in repair the buildings required for the various employes, and for providing the necessary furniture therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for the salary of such person as the said confederated tribes and bands of Indians may select to be their head chief, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

*Nez Perce Indians.*

For sixth of twenty installments for the support of two schools, one of which to be an agricultural and industrial school; keeping in repair school-buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three thousand two hundred dollars.

For sixth of twenty installments for keeping in repair blacksmiths', tinsmiths', gunsmiths', car-

penters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of one superintendent of farming, and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty eleventh June, eighteen hundred and fifty-five, nine thousand four hundred dollars.

For sixth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for pay of a physician, per fifth article treaty eleventh June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For first of five installments of second series, for beneficial objects, at the discretion of the President, per fourth article treaty eleventh June, eighteen hundred and fifty-five, eight thousand dollars.

For sixth of twenty installments for keeping in repair the buildings for the various employes, and for providing the necessary furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

*Flatheads and other Confederated Tribes.*

For the second of five installments on one hundred and twenty thousand dollars, being the second series, for beneficial objects, at the discretion of the President, per fourth article treaty sixteenth July, eighteen hundred and fifty-five, five thousand dollars.

For sixth of twenty installments for the support of an agricultural and industrial school, keeping in repair the buildings, and providing suitable furniture, books, and stationery, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for providing suitable instructors therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand eight hundred dollars.

For sixth of twenty installments for keeping in repair blacksmiths', tin and gunsmiths', carpenters', and wagon and plow makers' shops, and providing necessary tools therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of two farmers, two millers, one blacksmith, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, seven thousand four hundred dollars.

For sixth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for pay of a physician, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, one thousand four hundred dollars.

For sixth of twenty installments for keeping in repair the buildings required for the various employes, and furnishing necessary furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For sixth of twenty installments for the pay of each of the head chiefs of the Flathead, Koot-

nay, and Upper Pend d'Oreilles tribes, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, fifteen hundred dollars.

Transportation of annuity goods and provisions for the Flathead Indians, per fifth article of the treaty of July sixteenth, eighteen hundred and fifty-five, for the present fiscal year, eleven thousand nine hundred and twenty dollars and forty-one cents, or so much thereof as shall be necessary.

Insurance and transportation of annuity goods and provisions for the Flathead Indians, per fifth article of the treaty of July sixteenth, eighteen hundred and fifty-five, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, eleven thousand nine hundred and twenty dollars and forty-one cents, or so much thereof as shall be necessary.

*Confederated Tribes and Bands of Indians in Middle Oregon.*

For first of five installments, second series, of six thousand dollars, for beneficial objects, at the discretion of the President, per second article treaty twenty-fifth June, eighteen hundred and fifty-five, six thousand dollars.

For sixth of fifteen installments for pay and subsistence of one farmer, one blacksmith, and one wagon and plow maker, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, three thousand five hundred dollars.

For sixth of twenty installments for pay and subsistence of one physician, one sawyer, one miller, one superintendent of farming operations, and one school teacher, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five thousand six hundred dollars.

For sixth of twenty installments for payment of salary to the head chief of said confederated bands, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five hundred dollars.

*Mole Indians.*

For sixth of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employes, the benefits of which to be shared alike by all the confederated bands, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand five hundred dollars.

For sixth of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty twenty-first December, eighteen hundred and fifty-five, two thousand dollars.

For pay of teachers to manual-labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty twenty-first December, eighteen hundred and fifty-five, three thousand dollars.

*Qui-nai-elt and Quil-leh-ute Indians.*

For last of three installments on twenty-five thousand dollars (being the third series) for beneficial objects, under the direction of the President, per fourth article treaty first July, eighteen hundred and fifty-five, one thousand six hundred dollars.

For sixth of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty first July, eighteen hundred and fifty-five, two thousand five hundred dollars.

For sixth of twenty installments for support of smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty first July, eighteen hundred and fifty-five, five hundred dollars.

For sixth of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician who shall furnish medicines for the sick, per tenth article treaty first July, eighteen hundred and fifty-five, four thousand six hundred dollars.

*S'Kallams.*

For last of three installments on sixty thousand dollars, (being the third series), under the direction of the President, per fifth article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand dollars.

For six[th] of twenty installments for the sup-

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port of an agricultural and industrial school, and for pay for suitable teachers, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, two thousand five hundred dollars.

For sixth of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician who shall furnish medicines for the sick, per eleventh article treaty twenty-sixth January, eighteen hundred and fifty-five, four thousand six hundred dollars.

*Ottawa Indians of Blanchard's Fork and Roche de Beauf.*

For third of four installments, in money, per fourth article treaty twenty-fourth June, eighteen hundred and sixty-two, eight thousand five hundred dollars.

For interest on seventeen thousand dollars, at five per centum, per fourth article treaty twenty-fourth June, eighteen hundred and sixty-two, eight hundred and fifty dollars.

For this amount, being the first of four installments of the principal and interest to June thirtieth, eighteen hundred and sixty-two, payable for stocks held by the Government, one thousand six hundred and fifty-five dollars and thirty-eight cents.

For interest on one thousand six hundred and fifty-five dollars, from July first, eighteen hundred and sixty-two, to June thirtieth, eighteen hundred and sixty-five, two hundred and ninety-seven dollars and ninety-six cents.

For second of four installments of the principal and interest due on stock, two thousand eight hundred and forty-nine dollars and eighty-seven cents.

For interest on the balance of the stock, eight thousand five hundred and forty-nine dollars and sixty-one cents, held in trust from June thirtieth, eighteen hundred and sixty-two, to June thirtieth, eighteen hundred and sixty-five, one thousand five hundred and thirty-eight dollars and ninety-three cents.

For third of four installments of the principal sum held in stocks by the Government, to be paid as annuity in eighteen hundred and sixty-six, two thousand eight hundred and forty-nine dollars and eighty-seven cents.

For interest on five thousand six hundred and ninety-nine dollars and seventy-four cents, from June thirtieth, eighteen hundred and sixty-five, to June thirtieth, eighteen hundred and sixty-six, two hundred and forty-one dollars and ninety-eight cents.

*Arapahoes and Cheyenne Indians of the Upper Arkansas River.*

For fifth of fifteen installments of annuity of thirty thousand dollars, to be expended for their benefit—that is to say, fifteen thousand dollars per annum for each tribe, commencing with the year in which they shall remove to and settle upon their reservations—thirty thousand dollars.

For third of five installments to provide the said Indians with a mill suitable for sawing timber and grinding grain, one or more mechanic shops, with necessary tools for the same, and dwelling-houses for an interpreter, miller, engineer for mill, (if one be necessary,) farmers, and the mechanics that may be employed for their benefit, five thousand dollars.

For transportation and necessary expenses of delivery of annuities, goods, and provisions, five thousand dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Chippewas of Lake Superior, five thousand seven hundred and sixty-two dollars and sixty-three cents.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Chippewas of the Mississippi, three thousand eight hundred and eighty-six dollars and seventy-five cents.

*Chippewas of Red Lake, and Pembina Tribe of Chippewas.*

For annuity to be paid per capita to the Red Lake band of Chippewas, during the pleasure of the President, per third article treaty second October, eighteen hundred and sixty-three, and second article supplementary to treaty twelfth April,

eighteen hundred and sixty-four, ten thousand dollars.

For this amount to the Pembina band of Chippewas, during the pleasure of the President, five thousand dollars.

For the second of fifteen installments to be expended annually for the purpose of supplying them with gilling twine, cotton matter, calico, linsey, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes as may be deemed for their best interests, per third article supplementary treaty of twelfth April, eighteen hundred and sixty-four, eight thousand dollars.

For the second of fifteen installments for same objects for the Pembina band of Chippewas, four thousand dollars.

For second of fifteen installments for pay of one blacksmith, one physician, who shall furnish medicine for the sick, one miller and one farmer, three thousand nine hundred dollars.

For second of fifteen installments for the purchase of iron and steel and other articles for blacksmithing purposes, one thousand five hundred dollars.

For second of fifteen installments, to be expended for carpentering and other purposes, one thousand dollars.

For second of fifteen installments, to defray the expenses of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the said Chippewa Indians, whose salary shall not exceed five dollars per day, nor more than twenty days, and ten cents per mile for traveling expenses, and not to exceed three hundred miles, three hundred and ninety dollars.

For insurance and transportation of annuity goods and provisions, and material for building mill, including machinery, iron and steel for blacksmiths, for the Chippewas of Red Lake and Pembina tribe, ten thousand dollars.

For the first payment per fourth article of the treaty of October second, eighteen hundred and sixty-three, to be expended in the purchase of powder, lead, twine, or such other beneficial purposes as the chiefs may request, to be equitably distributed among the said bands, two thousand dollars.

For the sum of five hundred dollars to be paid to each of the seven chiefs of said bands, at the first payment, to enable each to build for himself a house, per fifth article treaty October second, eighteen hundred and sixty-three, three thousand five hundred dollars.

*Eastern Bands of Shoshonees.*

For second of twenty installments, to be expended, under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, ten thousand dollars.

*Western Band of Shoshonees.*

For first of twenty installments in such articles, including cattle for herding or other purposes, as the President shall deem suitable for their wants and condition, either as hunters or herdsmen, per seventh article treaty October first, eighteen hundred and sixty-three, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, five thousand dollars.

For second of twenty installments for same objects, for the fiscal year ending June thirtieth, eighteen hundred and sixty-six, five thousand dollars.

*Northwestern Bands of Shoshonees.*

For second of twenty installments, to be expended, under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, five thousand dollars.

*Goship Bands of Shoshonees.*

For second of twenty installments, to be expended, under the direction of the President, in the purchase of such articles, including cattle for herding, or other purposes, as he shall deem suitable for their wants and condition, either as hunters or herdsmen, one thousand dollars.

*Creek Nation.*

For interest on two hundred thousand dollars, at five per centum per annum, as permanent an-

nunity to be paid them in money, or for such mechanical labor or useful articles as the Secretary of the Interior may from time to time direct, ten thousand dollars.

For payment of second of five installments, to be expended for their benefit in the purchase of stock, horses, sheep, clothing, and such other articles as the Secretary of the Interior, with the council of said nation, may direct, forty thousand dollars.

*Indian Service in New Mexico.*

For general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars.

*Indian Service in the District of Country leased from the Choctaws for the Indians lately residing in Texas.*

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools for Indians lately residing in Texas, to be expended under the direction of the Secretary of the Interior, ten thousand dollars.

*For the Wichitas and other affiliated Bands.*

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

## MISCELLANEOUS.

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, seven thousand five hundred dollars.

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California, fifty-five thousand dollars.

For the compensation of five extra clerks, employed in the Indian office under the acts of fifth August, eighteen hundred and fifty-four, and third March, eighteen hundred and fifty-five, and under appropriations made from year to year, seven thousand dollars: *Provided*, That the said extra clerks shall not be employed after the thirtieth day of June, eighteen hundred and sixty-six, unless specially provided for by law.

For compensation of one clerk in the Indian office, to enable the Secretary of the Interior to carry out the regulations prescribed to give effect to the seventh section of the act of March third, eighteen hundred and fifty-five, granting bounty lands to Indians, fourteen hundred dollars: *Provided*, That the said clerk shall not be employed after the thirtieth day of June, eighteen hundred and sixty-six, unless specially provided for by law.

For compensation of two extra clerks in the Indian office, employed to carry out the treaty with the Chickasaws in the adjustment of their claims, two thousand eight hundred dollars: *Provided*, That the said extra clerks shall not be employed after the thirtieth day of June, eighteen hundred and sixty-six, unless specially provided for by law.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Indian tribes in Minnesota and Michigan, twenty thousand three hundred and fifty dollars and sixty-two cents.

For insurance, transportation, and necessary expenses of the delivery of Pawnee, Ponca, and Yantou Sioux annuity goods and provisions, ten thousand dollars.

For expenses of transportation and delivery of annuity goods to the Blackfoot Indians, for the year, seventeen thousand dollars.

For expenses attending the vaccination of Indians, two thousand five hundred dollars.

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special



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provision therefor is made by treaties,) and office and traveling expenses of the superintendent and sub-agents, thirty-five thousand dollars.

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employes, fifty thousand dollars.

*Indian Service in Nevada.*

For the general incidental expenses of the Indian service in Nevada, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

*Indian Service in Utah Territory.*

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

*Indian Service in Colorado Territory.*

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

For payment of interest on fifteen thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, for the Cherokee school fund, nine hundred dollars.

For payment of interest on sixty-eight thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-five, of the Cherokee national fund, four thousand and eighty dollars.

*Navajo Indians in New Mexico.*

For subsistence for the Navajo Indians, and for the purchase of agricultural implements, seeds, and other articles necessary for breaking the ground on the reservation upon the Pecos river, one hundred thousand dollars: *Provided*, That any part of said sum may be used to furnish wool or other necessary materials to said Indians, to be by them manufactured into clothing and blankets.

For payment of interest on one million six hundred and ninety thousand three hundred dollars, non-paying stock held by the Secretary of the Interior in trust for various Indian tribes, up to and including the interest payable July first, eighteen hundred and sixty-six, four hundred and forty-six thousand four hundred and thirty-three dollars and fifty cents.

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, one hundred thousand dollars.

*Indian Service in Idaho Territory.*

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

*Indian Service in the Territory of Arizona.*

For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

All that part of the public domain in the Territory of Arizona, lying west of a direct line from Half-Way Bend to Corner Rock on the Colorado river, containing about seventy-five thousand acres of land, shall be set apart for an Indian res-

ervation for the Indians of said river and its tributaries.

To supply deficiencies in the Indian service in Arizona Territory, twelve thousand nine hundred dollars for the present fiscal year.

*Indian Service in Montana Territory.*

For the general incidental expenses of the Indian service in Montana Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

To enable the Secretary of the Interior to negotiate a treaty with the Blackfoot and other tribes of Indians to relinquish so much of their reservation as lies south of the Missouri river, fifteen thousand dollars.

*California.*

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, upon each of the four reservations of California, at the rate of fifty dollars per month, twelve thousand dollars.

*Indian Service in Dakota Territory.*

For the general incidental expenses of the Indian service in Dakota Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

To enable the agent of the Yankton Sioux to restore to the friendly members of said tribe the goods and property and provisions taken from them by the troops of the United States, ten thousand dollars.

To enable the superintendent of Indian affairs of Dakota Territory, under the direction of the President, to negotiate a treaty of peace and amity with the hostile Sioux, and other hostile tribes allied with them, twenty thousand dollars.

For the transportation and necessary expenses of delivery of provisions to the Indians within the Utah superintendency, twenty-two thousand five hundred dollars.

For salary of a special agent to take charge of Winnebago and Pottawatomie Indians now in the State of Wisconsin, one thousand five hundred dollars.

*Tabeguache Band of Utah Indians.*

For the first of ten installments for the purchase of goods, under the direction of the Secretary of the Interior, per eighth article treaty of October seventh, eighteen hundred and sixty-three, and Senate amendment of March twenty-fifth, eighteen hundred and sixty-four, ten thousand dollars.

For the same for the year ending thirtieth of June, eighteen hundred and sixty-five, ten thousand dollars.

For the first of ten installments for the purchase of provisions, under the direction of the Secretary of the Interior, ten thousand dollars.

For the same for the year ending thirtieth of June, eighteen hundred and sixty-five, ten thousand dollars.

For the purchase of five American stallions, per ninth article treaty seventh October, eighteen hundred and sixty-three, and Senate amendment of twenty-fifth March, eighteen hundred and sixty-four, two thousand dollars.

For the first of five installments, to be applied for the purposes of agriculture, and for the purchase of farming utensils and stock animals, ten thousand dollars.

For the same for the year ending thirtieth of June, eighteen hundred and sixty-five, ten thousand dollars.

For insurance, transportation, and general incidental expenses of the delivery of goods, provisions, and stock, five thousand dollars.

*Winnebago and Pottawatomie Indians of Wisconsin.*

To enable the Secretary of the Interior to take charge of certain stray bands of Winnebago and Pottawatomie Indians in the State of Wisconsin, ten thousand dollars.

*Chippewas of the Mississippi and Pillagers and Lake Winnebagoish Bands of Chippewa Indians in Minnesota.*

For this amount to be applied in payment toward the settlement of claims for depredations committed by said Indians in eighteen hundred and sixty-two, per third article of the treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, twenty thousand dollars.

For this amount to be paid to the chiefs of the Mississippi bands of Chippewas upon the ratification of this treaty, per third article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, ten thousand dollars.

For this amount to be paid to the Chief Hole-in-the-Day for depredations committed in burning his house and furniture in eighteen hundred and sixty-two, per third article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, five thousand dollars.

For clearing, stumping, grubbing, breaking, and planting on the reservation hereby set apart for the Chippewas of Mississippi, in lots of not less than ten acres each, for the five bands of Indians, per fourth article of treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, seven thousand five hundred dollars.

For this amount to be expended in building for each of the chiefs of the five bands of the Chippewas of Mississippi, provided for in the fourth article of the treaty of May seven, eighteen hundred and sixty-four, one house each, under the direction of the Secretary of the Interior, for the fiscal year ending June thirty, eighteen hundred and sixty-six, five thousand dollars.

For first of ten installments to furnish said Indians with ten yoke of good work oxen, twenty log chains, two hundred grubbing hoes, ten plows, two grindstones, one hundred axes, handled, twenty spades, and other farming implements, per fifth article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, one thousand five hundred dollars.

For the same object for the fiscal year ending June thirty, eighteen hundred and sixty-six, one thousand five hundred dollars.

For the employment of two carpenters, one thousand eight hundred dollars, and two blacksmiths, one thousand eight hundred dollars; four farm laborers, two thousand four hundred dollars; one physician, one thousand two hundred dollars; and medicine for sick, five hundred dollars, per fifth article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, seven thousand seven hundred dollars.

For the same object for the fiscal year ending June thirty, eighteen hundred and sixty-six, seven thousand seven hundred dollars.

For this amount to be applied toward the support of a saw mill to be built for the common use of the Chippewas of Mississippi, and the Red Lake and Pembina bands of Chippewas, so long as the President may deem it necessary, per sixth article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, one thousand dollars.

For same object for the fiscal year ending June thirty, eighteen hundred and sixty-six, one thousand dollars.

For this amount to be expended in building a road, bridges, &c., to their new agency, per sixth article treaty May seven, eighteen hundred and sixty-four, for the present fiscal year, seven thousand five hundred dollars.

For new agency buildings to be located by the Secretary of the Interior for the common use of the Chippewas of Mississippi, Red Lake, and Pembina, and Pillagers, and Lake Winnebagoish bands of Chippewa Indians, per sixth article treaty May seven, eighteen hundred and sixty-four, for the fiscal year ending June thirty, eighteen hundred and sixty-six, twenty-five thousand dollars, or so much thereof as shall be necessary.

For pay of services and traveling expenses of a board of visitors, to consist of not more than five persons, to attend the annuity payments to the Indians, and so forth, and to inspect the fields, buildings, mills, and other improvements as stipulated in the seventh article treaty May seven, eighteen hundred and sixty-four, not exceeding any one year more than twenty days' service, at five dollars per day, or more than three hundred

miles travel, at ten cents per mile, for the fiscal year ending June thirty, eighteen hundred and sixty-six, six hundred and fifty dollars.

For expenses of the removal of Chippewas, of Mississippi, to their new homes, per twelfth article treaty May seven, eighteen hundred and sixty-four, at a rate not exceeding ten dollars each person, for the fiscal year ending June thirty, eighteen hundred and sixty-six, eleven thousand dollars, or so much thereof as shall be necessary.

For the expenses of subsistence of eleven hundred Chippewas, of the Mississippi, for six months at their new homes, at a rate not exceeding thirty-eight cents per day for each person, per twelfth article treaty May seven, eighteen hundred and sixty-four, for the fiscal year ending June thirty, eighteen hundred and sixty-six, seventy-five thousand two hundred and forty dollars, or so much thereof as shall be necessary.

For transportation of subsistence for Indians, for six months, to their new homes, per twelfth article treaty May seven, eighteen hundred and sixty-four, at a rate not exceeding seven cents per pound, for the fiscal year ending June thirty, eighteen hundred and sixty-six, thirty thousand four hundred and ninety-two dollars, or so much thereof as shall be necessary.

For the payment of female teachers employed on the reservation to instruct Indian girls in domestic economy, per thirteenth article treaty May seven, eighteen hundred and sixty-four, for the fiscal year ending June thirty, eighteen hundred and sixty-six, one thousand dollars.

SEC. 2. *And be it further enacted*, That, to provide for the usual distribution of medals among the chiefs of the Indian tribes, the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury is authorized to pay in coin such of the annuities as by the terms of any treaty of the United States with any Indian tribe are required to be paid in coin.

SEC. 4. *And be it further enacted*, That each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians residing in the county of Shawana and State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, free from any fee or charge whatever, and any part of the lands being a part of their present reservation, which may be abandoned under the foregoing provisions, may be sold under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on said homesteads, to aid them in improving the same. The said homestead thus secured shall not be subject to any tax, levy, or sale whatever, nor shall the same be sold, conveyed, mortgaged, or in any manner incumbered except upon the decree of the district court of the United States, as hereinafter provided. Whenever any of said chiefs, warriors, or heads of families of said tribes, having filed with the clerk of the district court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, shall appear in said court, and prove to the satisfaction thereof, by the testimony of two citizens of the United States, that for five years last past he has adopted the habits of civilized life, that he has maintained himself and family by his own industry, that he reads and speaks the English language, that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive them of annuities to which they are or may be entitled.

SEC. 5. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, au-

thorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided*, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress, at the commencement of the next session thereof, and all the purchases of articles for the purposes above set forth, shall be made of the lowest responsible bidder after sufficient public notice by advertisement in appropriate newspapers: *Provided, also*, That the said Secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided further*, That no part of said annuities shall be expended for Indians outside of the Indian Territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that Territory, or such as may be driven out of that Territory by armed rebels, after the passage of this act.

SEC. 6. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and directed, in lieu of the bonds for the sum of two hundred and fifty thousand dollars, appropriated for the use of the Choctaw Indians, by an act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June thirty, eighteen hundred and sixty-two," approved March second, eighteen hundred and sixty-one, to pay to the Secretary of the Interior two hundred and fifty thousand dollars for the relief and support of individual members of Cherokee, Creek, Choctaw, Chickasaw, Seminole, Wichita, and other affiliated tribes of Indians, who have been driven from their homes and reduced to want on account of their friendship to the Government, as contemplated by the provisions of an act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June thirtieth, eighteen hundred and sixty-three," approved July fifth, eighteen hundred and sixty-two.

SEC. 7. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized to furnish the so-called refugee Indians in the Indian Territory such temporary relief as may be absolutely necessary, including clothing and provisions during the residue of the fiscal year ending the thirtieth of June, eighteen hundred and sixty-five, to be furnished out of any money appropriated for the commissary and quartermaster's department: *Provided*, That a detailed report shall be made to Congress, at its next session, of all expenditures made for their relief.

SEC. 8. *And be it further enacted*, That any person who may drive or remove, except as hereinafter provided, any cattle, horses, or other stock from the Indian Territory for the purposes of trade or commerce, shall be guilty of a felony, and on conviction be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding three years, or by both such fine and imprisonment.

SEC. 9. *And be it further enacted*, That the agent of each tribe of Indians, lawfully residing in the said Indian Territory, be, and he is hereby, authorized to sell for the benefit of said Indians any cattle, horses, or other live stock belonging to said Indians, and not required for their use and subsistence, under such regulations as shall be established by the Secretary of the Interior: *Provided*, That nothing in this and the preceding section shall interfere with the execution of any order lawfully issued by the Secretary of War, connected with the movement or subsistence of the troops of the United States.

APPROVED, March 3, 1865.

## PUBLIC RESOLUTIONS.

No. 1.—Joint Resolution authorizing the Secretary of the Navy to expend a Portion of the Contingent Fund for enlarging the Navy Department Building.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy be, and he hereby is, authorized to expend so much of the contingent fund heretofore appropriated as may be necessary for the enlargement of the Navy Department building to meet the wants of the Department.

APPROVED, December 15, 1864.

No. 3.—A Resolution tendering the Thanks of Congress to Captain John A. Winslow, U. S. Navy, and to the Officers and Men under his Command on Board the U. S. Steamer Kearsarge, in her Conflict with the Piratical Craft the "Alabama;" in Compliance with the President's Recommendation to Congress of the fifth of December, eighteen hundred and sixty-four.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thanks of Congress are due, and are hereby tendered, to Captain John A. Winslow, of the United States Navy, and to the officers, petty officers, seamen, and marines of the United States steamer "Kearsarge," for the skill and gallantry exhibited by him and the officers and men under his command, in the brilliant action on the nineteenth of June, eighteen hundred and sixty-four, between that ship and the piratical craft "Alabama"—a vessel superior to his own in tonnage, in guns, and in the number of her crew.

APPROVED, December 20, 1864.

No. 4.—A Resolution tendering the Thanks of Congress to Lieutenant William B. Cushing, of the United States Navy, and to the Officers and Men who assisted him in his gallant and perilous Achievement in destroying the rebel Steamer "Albemarle," in Compliance with the President's Recommendation to Congress of the fifth of December, eighteen hundred [and] sixty-four.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thanks of Congress are due, and are hereby tendered, to Lieutenant William B. Cushing, of the United States Navy, and to the officers and men under his command, for the skill and gallantry exhibited by them in the destruction of the rebel iron-clad steamer "Albemarle," at Plymouth, North Carolina, on the night of the twenty-seventh of October, eighteen hundred and sixty-four.

APPROVED, December 20, 1864.

No. 5.—Joint Resolution tendering the Thanks of the People and of Congress to Major General William T. Sherman, and the Officers and Soldiers of his Command, for their gallant Conduct in their late brilliant Movement through Georgia.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the thanks of the people and of the Congress of the United States are due, and are hereby tendered to Major General William T. Sherman, and through him to the officers and men under his command, for their gallantry and good conduct in their late campaign from Chattanooga to Atlanta, and the triumphal march thence through Georgia to Savannah, terminating in the capture and occupation of that city; and that the President cause a copy of this joint resolution to be engrossed and forwarded to Major General Sherman.

APPROVED, January 10, 1865.

No. 6.—Joint Resolution providing for the Termination of the Reciprocity Treaty of fifth June, eighteen hundred and fifty-four, between the United States and Great Britain.

Whereas it is provided in the Reciprocity Treaty concluded at Washington, the fifth of

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June, eighteen hundred and fifty-four, between the United States, of the one part, and the United Kingdom of Great Britain and Ireland, of the other part, that this treaty "shall remain in force for ten years from the date at which it may come into operation, and further until the expiration of twelve months after either of the high contracting parties shall give notice to the other of its wish to terminate the same;" and whereas it appears, by a proclamation of the President of the United States, bearing date sixteenth March, eighteen hundred and fifty-five, that the treaty came into operation on that day; and whereas, further, it is no longer for the interests of the United States to continue the same in force: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That notice be given of the termination of the Reciprocity Treaty, according to the provision therein contained for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.

APPROVED, January 18, 1865.

No. 7.—A Resolution to Present the Thanks of Congress to Brevet Major General Alfred H. Terry, and the Officers and Men under his Command.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress are hereby presented to Brevet Major General Alfred H. Terry, and to the officers and men under his command, for the unsurpassed gallantry and skill exhibited by them in the attack upon Fort Fisher, and the brilliant and decisive victory by which that important work has been captured from the rebel forces and placed in the possession and under the authority of the United States; and for their long and faithful services and unwavering devotion to the cause of the country, in the midst of the greatest difficulties and dangers.

SEC. 2. *And be it further resolved,* That the President of the United States be, and he hereby is, requested to communicate this resolution to General Terry, and through him to the officers and soldiers under his command.

APPROVED, January 24, 1865.

No. 8.—A Resolution tendering the Thanks of Congress to Rear Admiral David D. Porter, and to the Officers, Petty Officers, Seamen, and Marines under his Command, for their Gallantry and Good Conduct in the recent Capture of Fort Fisher.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress are hereby presented to Rear Admiral David D. Porter, and to the officers, petty officers, seamen, and marines under his command, for the unsurpassed gallantry and skill exhibited by them in the attacks upon Fort Fisher, and the brilliant and decisive victory by which that important work has been captured from the rebel forces and placed in the possession and under the authority of the United States; and for their long and faithful services and unwavering devotion to the cause of the country in the midst of the greatest difficulties and dangers.

SEC. 2. *And be it further resolved,* That the President of the United States be requested to communicate this resolution to Admiral Porter, and through him to the officers, seamen, and marines under his command.

APPROVED, January 24, 1865.

No. 9.—Joint Resolution authorizing the Secretary of the Treasury to give the necessary Notice stipulated pending the Intention of the United States to purchase the Building known as Merchants' Exchange, New York City, now used for Custom-House Purposes.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to give notice to the owners of the building in New York City known

as the Merchants' Exchange, and occupied as a custom-house, of the intention of the United States to purchase the same, for the sum of one million dollars, in accordance with the terms stipulated in the existing lease of the property to the Government.

APPROVED, January 25, 1865.

No. 10.—Joint Resolution reserving Mineral Lands from the Operation of All Acts, passed at the First Session of the Thirty-Eighth Congress, granting Lands, or extending the Time of former Grants.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That no act passed at the first session of the Thirty-Eighth Congress, granting lands to States or corporations, to aid in the construction of roads or for other purposes, or to extend the time of grants heretofore made, shall be so construed as to embrace mineral lands, which in all cases shall be, and are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

APPROVED, January 30, 1865.

No. 11.—A Resolution submitting to the Legislatures of the several States a Proposition to amend the Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,)* That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, namely:

## ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

APPROVED, February 1, 1865.

No. 12.—Joint Resolution declaring certain States not entitled to Representation in the Electoral College.

Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the eighth day of November, eighteen hundred and sixty-four, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States, for the term of office commencing on the fourth day of March, eighteen hundred and sixty-five; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office.

APPROVED, February 8, 1865.

No. 13.—Joint Resolution to terminate the Treaty of eighteen hundred and seventeen, regulating the Naval Force on the Lakes.

Whereas the United States, of the one part, and the United Kingdom of Great Britain and Ireland, of the other part, by a treaty bearing date April, eighteen hundred and seventeen, have regulated the naval force upon the lakes, and it was further provided that "if either party should hereafter be desirous of annulling this stipulation and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six

months from the date of such notice;" and whereas the peace of our frontier is now endangered by hostile expeditions against the commerce of the lakes, and by other acts of lawless persons, which the naval force of the two countries, allowed by the existing treaty, may be insufficient to prevent; and whereas, further, the President of the United States has proceeded to give the notice required for the termination of the treaty by a communication which took effect on the twenty-third November, eighteen hundred and sixty-four: Therefore,

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of eighteen hundred and seventeen, regulating the naval force upon the lakes, is hereby adopted and ratified as if the same had been authorized by Congress.

APPROVED, February 9, 1865.

No. 14.—Joint Resolution tendering the Thanks of Congress to Major General Philip H. Sheridan and the Officers and Men under his Command.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress are hereby tendered to Major General Philip H. Sheridan and to the officers and men under his command, for the gallantry, military skill, and courage displayed in the brilliant series of victories achieved by them in the valley of the Shenandoah, and especially for their services at Cedar Run, on the nineteenth day of October, eighteen hundred and sixty-four, which retrieved the fortunes of the day, and thus averted a great disaster.

SEC. 2. *And be it further resolved,* That the President of the United States be, and hereby is, requested to communicate this resolution to Major General Sheridan, and through him to the officers and soldiers under his command.

APPROVED, February 9, 1865.

No. 15.—A Resolution providing for the Compilation of a Congressional Directory at each Session.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congressional Directory be compiled under the direction of the Joint Committee on Public Printing, and published by the Superintendent of Public Printing—the first edition for each session to be ready for distribution within one week after the commencement thereof.

APPROVED, February 14, 1865.

No. 16.—A Resolution appointing General Richard Delafield to be a Regent of the Smithsonian Institution.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Richard Delafield, resident of Washington city, be, and he hereby is, appointed a regent of the Smithsonian Institution, in the place of Joseph G. Totten, deceased.

APPROVED, February 14, 1865.

No. 17.—A Resolution to extend the Time for the Reversion to the United States of the Lands granted by Congress to aid in the Construction of a Railroad from Pere Marquette to Flint, and for the Completion of said Road.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time specified in the fourth section of the act of Congress approved June three, eighteen hundred and fifty-six, entitled "An act making a grant of alternate sections of the public lands to the State of Michigan to aid in the construction of certain railroads in said State, and for other purposes," for the reversion to the United States of the lands granted by said act to aid in the construction of a railroad from Pere Marquette to Flint, and for the completion



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of said road, be, and the same is hereby, extended for the term of five years.

APPROVED, February 17, 1865.

No. 18.—Joint Resolution to enable the Secretary of the Treasury to obtain the Title to certain Property in Carson City and State of Nevada, for the Purposes of a Branch Mint located in said Place.

Whereas the Secretary of the Treasury of the United States, in order to carry into effect an act entitled "An act to establish a branch mint of the United States in the Territory of Nevada," approved March third, eighteen hundred and sixty-three, has purchased of Moses Job and Margaret, his wife, and James L. Riddle, the preëmtors and occupants thereof, certain city or town lots in said Carson City, together with all the valuable improvements thereon; and whereas it is highly important for the interest of the Government to obtain, at an early day, the use and possession of said property, to establish and open said branch mint: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to receive and accept from said Moses Job and Margaret, his wife, and James L. Riddle, such relinquishments and conveyances of their right and claim to said lots and property as he, the said Secretary, shall deem sufficient for the extinguishment of any claim, right, or title which the said Moses Job and Margaret, his wife, and James L. Riddle may or can have thereto; and said lots and property shall thereafter be reserved from public sale, preëmption, or homestead settlement, and shall remain the property of the United States.

APPROVED, February 23, 1865.

No. 19.—Joint Resolution to facilitate the Adjustment of certain Accounts of the American Colonization Society for the Support of Recaptured Africans in Liberia.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, authorized and directed to adjust and settle the accounts of the American Colonization Society for the support of recaptured Africans in Liberia, under contracts made for that purpose under the authority of the act of Congress approved June sixteenth, eighteen hundred and sixty, on the principles of equity.

APPROVED, February 23, 1865.

No. 20.—Joint Resolution directing the Secretary of the Treasury to issue American Registers to British Schooners "Minnie Williams" and "E. M. Baxter."

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized and directed to issue American registers to the British-built schooners "Minnie Williams" and "E. M. Baxter," said vessels being now owned by a citizen of Buffalo, New York.

APPROVED, February 25, 1865.

No. 23.—Joint Resolution in Relation to the Distribution of Books and Documents.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the undistributed portions of the books and documents heretofore printed or purchased for its use by order of either House of Congress, previous to the Thirty-Seventh Congress, and now deposited in the Interior Department and elsewhere, be distributed to members of the present Congress, under the direction of the Joint Committee on Printing; and said committee is hereby directed to divide the books in question into parcels equal in number to the whole number of Senators, Representatives, and Delegates from Territories, and as nearly equal in value and importance as possible, and to distribute them to the Senators, Representatives, and Dele-

gates, by such method as may be found most feasible and proper.

APPROVED, February 28, 1865.

No. 24.—Joint Resolution to provide for the Publication of a full Army Register.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and required to cause to be printed and published a full roster or roll of all general, field, line, and staff officers of volunteers who have been in the Army of the United States at any time since the beginning of the present rebellion, including all informal organizations which have been recognized or accepted and paid by the United States, showing whether they are yet in the service, or have been discharged therefrom, and giving casualties and other explanations proper for such Register. And, to defray in whole or in part the expenses of this publication, an edition of twenty-five thousand copies of such enlarged Register shall be published and may be sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume.

APPROVED, March 2, 1865.

No. 25.—Joint Resolution authorizing a Contract with William H. Powell for a Picture for the Capitol.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Joint Committee on the Library be, and they are hereby, directed to enter into a contract with William H. Powell, of the State of Ohio, to paint a picture for the United States, to be placed at the head of one of the grand staircases in the Capitol, illustrative of some naval victory; the particular subject of the painting to be agreed on by the committee and the artist: *Provided,* That the entire expense of said picture shall not exceed twenty-five thousand dollars, and two thousand dollars shall be paid to said William H. Powell, in advance, to enable him to prepare for the work, the remainder of said installments at intervals of not less than one year, the last installment to be retained until the picture is completed and put up.

APPROVED March 2, 1865.

No. 27.—A Resolution to encourage the Employment of disabled and discharged Soldiers.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, should be preferred for appointments to civil offices, provided they shall be found to possess the business capacity necessary for the proper discharge of the duties of such offices.

*Sec. 2. And be it further resolved,* That, in grateful recognition of the services, sacrifices, and sufferings of persons honorably discharged from the military and naval service of the country, by reason of wounds, disease, or the expiration of terms of enlistment, it is respectfully recommended to bankers, merchants, manufacturers, mechanics, farmers, and persons engaged in industrial pursuits, to give them the preference for appointments to remunerative situation[s] and employments.

APPROVED, March 3, 1865.

No. 28.—Joint Resolution of Thanks to Major General George H. Thomas and the Army under his Command.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress are due, and are hereby tendered, to Major General George H. Thomas and the officers and soldiers under his command for their skill and dauntless courage, by which the rebel army under General Hood was signally defeated and driven from the State of Tennessee.

APPROVED, March 3, 1865.

No. 29.—A Resolution to encourage Enlistments and to promote the Efficiency of the Military Forces of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purpose of encouraging enlistments and promoting the efficiency of the military and naval forces of the United States, it is hereby enacted that the wife and children, if any he have, of any person that has been, or may be, mustered into the military or naval service of the United States, shall, from and after the passage of this act, be forever free, any law, usage, or custom whatsoever to the contrary notwithstanding; and in determining who is or was the wife and who are the children of the enlisted person herein mentioned, evidence that he and the woman claimed to be his wife have cohabited together, or associated as husband and wife, and so continued to cohabit or associate at the time of the enlistment, or evidence that a form or ceremony of marriage, whether such marriage was or was not authorized or recognized by law, has been entered into or celebrated by them, and that the parties thereto thereafter lived together, or associated or cohabited as husband and wife, and so continued to live, cohabit, or associate at the time of the enlistment, shall be deemed sufficient proof of marriage for the purposes of this act, and the children born of any such marriage shall be deemed and taken to be the children embraced within the provisions of this act, whether such marriage shall or shall not have been dissolved at the time of such enlistment.

APPROVED, March 3, 1865.

No. 30.—A Resolution to authorize and direct an Inventory of Articles in the Quartermaster's Depots of the United States, and in the Possession of the Naval Storekeepers of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and is hereby, directed to cause a strict inspection to be made of the quartermaster's department, as soon as practicable after the passage of this resolution, and a comparison to be made between the reports of the officers in charge of the quartermaster's depots at New York, Philadelphia, Cincinnati, Saint Louis, and Louisville, and the articles on hand.

*Sec. 2. And be it further resolved,* That the Secretary of the Navy, in like manner, be directed to cause an inventory to be made of all the property of the United States, in possession of the several naval storekeepers of the United States.

APPROVED, March 3, 1865.

No. 31.—A Resolution relating to International Exhibitions at Bergen, in Norway, and Oporto, in Portugal, during the Summer of eighteen hundred and sixty-five.

Whereas the Governments of the kingdom of Sweden and Norway, and of the kingdom of Portugal, have communicated to the Government of the United States the programmes of two international exhibitions to be held respectively at Bergen, in Norway, and at Oporto, in Portugal, during the summer of eighteen hundred and sixty-five: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States is hereby charged with the duty of making known to the people of the United States, by proclamation, or otherwise, as shall to him seem best, the facts in his possession relating to the international exhibitions proposed to be held at Bergen, Norway, and Oporto, Portugal, during the summer of eighteen hundred and sixty-five, and of inviting their participation therein: *Provided,* That no expense shall be incurred for any agency with regard to such exhibition; nor shall any claim of any agent of our Government be hereafter recognized.

APPROVED, March 3, 1865.

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No. 32.—Joint Resolution to amend the Joint Resolution entitled "Joint Resolution in Relation to the Public Printing," approved June twenty-third, eighteen hundred and sixty.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Superintendent of Public Printing shall be, and he is hereby, authorized to purchase the paper required for the public printing by accepting the sealed proposals of the lowest bidder or bidders for any specific portion or portions of the whole amount of any particular kind of paper required, for either three months, six months, or one year, the minimum portion to be specified by the Superintendent in his advertisement for proposals, and to be as low as will, in his judgment, most increase competition, and be most advantageous to the United States. In all other respects the proposals and contracts shall be subject to the conditions and requirements of the existing law; and any contractor failing to comply with the terms of his contract, under this resolution, shall be liable to the same extent, and in the same manner as provided in the like case in the joint resolution hereby amended; and it shall be the duty of the Superintendent to report fully in regard to all proposals and contracts for paper in his annual report to Congress, and also in regard to all proposals and contracts for lithographing and engraving.

APPROVED, March 3, 1865.

No. 33.—A Resolution directing Inquiry into the Condition of the Indian Tribes, and their Treatment by the Civil and Military Authorities.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be raised a joint committee, to consist of three members of the Senate, to be appointed by the President of the Senate, and four members of the present House, to be appointed by the Speaker of the House of Representatives, to inquire into the present condition of the Indian tribes, and especially into the manner in which they are treated by the civil and military authorities of the United States, with power to sit during the recess of Congress; to send for persons and papers; to employ a clerk, to subpoena or compel the attendance of witnesses; to hear the complaints of Indian chiefs, and examine fully into the conduct of Indian agents and superintendents, and also into the management of the Bureau of Indian Affairs in the Department of the Interior; and to report at the next session of Congress such legislation as may be necessary for the better administration of Indian affairs; and that there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars to defray the expenses of the same.

APPROVED, March 3, 1865.

No. 34.—A Resolution to extend the Time for constructing the Burlington and Missouri River Railroad, in Iowa, and filing a Map of Relocation.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time allowed by the eighth section of the act entitled "An act to amend an act entitled 'An act making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of certain railroads in said State,' approved May fifteenth, eighteen hundred and fifty-six," for the construction annually of sections of twenty miles each of the Burlington and Missouri River railroad, be, and the same is hereby, extended one year, and that the provision of the second section of the act approved first of July, eighteen hundred and sixty-four, entitled "An act to regulate the compensation of registers and receivers of the land offices in the several States and Territories in the location of lands by the States and corporations under grants by Congress," which requires that a map of the change of location shall be filed with the Commissioner of the General Land Office within one year, be, and the same is hereby, repealed.

APPROVED, March 3, 1865.

NEW SERIES—No. 11.

No. 35.—A Resolution transferring Maps and other Documents relating to the Surveys of the Pacific Railroad to the Department of the Interior.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all maps, profiles, and other drawings, together with estimates and reports connected with explorations and surveys for the Pacific railroad, made under the authority of the Government, and all other information upon the subject of said road in the possession of any Department of the Government, be transferred to the Department of the Interior; and that the Secretary of the Interior be authorized to furnish copies of the same, free of charge, to the Union Pacific Railroad Company, so far as they may be useful in aiding said company in determining the proper route for said road.

APPROVED, March 3, 1865.

No. 36.—A Resolution respecting the Publication of the Papers of James Madison.

Whereas the Joint Committee of the two Houses of Congress on the Library were authorized by an act approved August 18th, 1856, and amended June 25th, 1860, to cause to be printed and published one thousand copies of the Papers of James Madison; and whereas the sum appropriated for such purpose has been found insufficient: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said Joint Library Committee are hereby authorized to contract for the publishing of five hundred copies of said Papers, in lieu of the one thousand copies heretofore authorized, and for the same sum.

APPROVED, March 3, 1865.

No. 37.—A Resolution to purchase Mail Pouches or Boxes of Marshall Smith's Patent for the Postal Service, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Postmaster General be, and he is hereby, authorized to purchase of Marshall Smith such number of mail pouches or boxes (constructed on the principle of letters-patent issued April twenty-eight, eighteen hundred and sixty-three, and May seventeen, eighteen hundred and sixty-four, to said Smith) as he may deem proper to fully test their utility and value in the postal service; and also to test a new mode of fastening mail bags, invented by Solomon Andrews, and to secure a patent for the same, and that the expense thereof shall be paid out of any appropriation heretofore made or hereafter to be made to the Post Office Department.

APPROVED, March 3, 1865.

## PRIVATE ACTS.

CHAP. IV.—An Act for the Relief of William H. Jameson, a Paymaster in the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury Department be, and they are hereby, required to allow Major William H. Jameson, on settlement of his accounts, a credit of nine hundred and fifty-nine dollars and fourteen cents, for money in his hands as paymaster in the Army, on board the steamer Ruth, and destroyed by fire on the night of the fourth of August, eighteen hundred and sixty-three, if, on examining the evidence by the Paymaster General, he, the said Paymaster General, shall deem him justly entitled to said credit; but such credit shall not be allowed without the said Paymaster General shall certify his approval thereof.

APPROVED, December 20, 1864.

CHAP. V.—An Act for the Relief of George W. Murray.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioner of Pensions

be, and he is hereby, directed to pay to George W. Murray the pension to which he was entitled by the act of Congress approved on the third of March, one thousand eight hundred and thirty-seven, entitled "An act for the more equitable administration of the Navy pension fund."

APPROVED, December 20, 1864.

CHAP. VII.—An Act for the Relief of Deborah Jones.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Deborah Jones, the widow of the late Captain Ezekiel Jones, and of the county of Oneida, and the State of New York, upon the pension roll, at the rate of twenty dollars per month, according to the provisions of the act to grant pensions, approved July fourteenth, eighteen hundred and sixty-two, and that said pension shall commence from the sixth day of November, eighteen hundred and sixty-two.

APPROVED, December 21, 1864.

CHAP. X.—An Act for the Relief of Charles M. Pott.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and is hereby, required to place the name of Charles M. Pott, late of company K, one hundred and seventy-ninth P. M., on the pension roll, at the rate of eight dollars per month, from the date of his discharge, March seventh, eighteen hundred and sixty-three, for total disability sustained by the loss of an arm by accident while in the hospital detained for his pay after his discharge had been ordered.

APPROVED, December 22, 1864.

CHAP. XIV.—An Act for the Relief of Charles Anderson, Assignee of John James, of Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he hereby is, authorized and directed to pay to Charles Anderson, assignee of John James, of Texas, the sum of one thousand and forty-one dollars and sixty-six cents, being the amount certified by the Quartermaster General to be due to the said John James for back rent of Camp Hudson, in Texas, prior to the first of July, eighteen hundred and fifty-nine, the same having been regularly assigned to the said Charles Anderson.

APPROVED, January 18, 1865.

CHAP. XV.—An Act for the Relief of George Mowry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to George Mowry the sum of seventy-two dollars and twelve cents, in full payment for conveying two prisoners from Somerset jail, in Pennsylvania, to Pittsburg, in the year eighteen hundred and forty-one, by order of the United States deputy marshal for the western district of Pennsylvania.

APPROVED, January 18, 1865.

CHAP. XVII.—An Act for the Relief of Jacob Weber.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to private Jacob Weber, of the fourth regiment of Ohio volunteer infantry, out of any money in the Treasury not otherwise appropriated, the sum of nine hundred and thirteen dollars and thirty-three cents, to reimburse him for money advanced by him to pay Scott Allen, A. Hyatt, Henry Olden, A. W. Cook, Lewis Shindollar, and James Garland, who were employed as teamsters for the said fourth regiment of Ohio volunteer infantry between the first day of August, anno Domini eighteen hundred and sixty-one, and the first day of July,

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anno Domini eighteen hundred and sixty-two, and received the price of said employment from the said Jacob Weber, who advanced the same, on the quartermaster's certificates, to said employes, with the assurance of the said quartermaster and the commander of said regiment that the amount so advanced would very soon thereafter be repaid and refunded to him by the Government, through said quartermaster.

APPROVED, January 20, 1865.

CHAP. XXI.—An Act for the Relief of Emily A. Lyon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, directed to place upon the pension roll the name of Emily A. Lyon, widow of Alfred M. Lyon, a late sutler in the twenty-third regiment of Iowa volunteers, but who volunteered as a private in company A of the said regiment, and while serving in that capacity was mortally wounded at the battle at Black River, Mississippi, on the seventeenth day of May, eighteen hundred and sixty-three, and died on the field; the said pension to be at the rate of eight dollars per month, commencing on the seventeenth day of May, eighteen hundred and sixty-three, and continuing during the widowhood of the pensioner.

APPROVED, January 24, 1865.

CHAP. XXVII.—An Act for the Relief of Isaac R. Diller.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury, not otherwise appropriated, to pay to Isaac R. Diller, late consul at Bremen, the sum of three thousand dollars, in full for the expenses incurred by him for extra clerk hire in his office, and for moneys advanced to destitute American citizens during the interval between the first day of August, eighteen hundred and fifty-seven, and the twentieth day of September, eighteen hundred and sixty-one.

APPROVED, January 30, 1865.

CHAP. XXVIII.—An Act for the Relief of Mary Scales Accardi.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he hereby is, directed to place the name of Mary Scales Accardi, the widow of Salvador Accardi, upon the roll of widows of invalid pensioners, and that the said Mary Scales Accardi be paid a pension, at the rate of six dollars per month, commencing July first, eighteen hundred and sixty-two.

APPROVED, January 30, 1865.

CHAP. XXXI.—An Act for the Relief of Louis Roberts.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to Louis Roberts, out of any money in the Treasury not otherwise appropriated, the sum of two thousand seven hundred and forty dollars and ninety-nine cents, that being the amount of money advanced by said Roberts, out of his own means, to replace certain Indian indemnity goods, accidentally destroyed by fire in November, eighteen hundred and fifty-five, while being transported by him from Saint Paul, Minnesota, to Redwood Agency, for R. G. Murphy, United States Indian agent for the Sioux Indians in Minnesota.

APPROVED, February 9, 1865.

CHAP. XXXIII.—An Act for the Relief of Solomon Wadsworth.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That an act entitled "An act for the relief of Solomon Wadsworth," approved the sixteenth day of June, one thousand eight hundred and sixty, be, and is hereby, amended by

striking out the word "ninety-four," and inserting in lieu thereof the word ninety-five.

APPROVED, February 13, 1865.

CHAP. XXXVI.—An Act for the Relief of Alexander J. Atocha.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Court of Claims be, and the said court is hereby, directed to examine into the claims of Alexander J. Atocha against the Government of Mexico for losses sustained by him by reason of his expulsion from that republic in eighteen hundred and forty-five, and if they shall be of opinion that the said claim was a just one against Mexico when the treaty of eighteen hundred and forty-eight was ratified, and was embraced by said treaty, they shall then fix and determine the amount of the same; and that the loss or damage so sustained being adjudicated and determined by said court, the same shall be paid to the said Alexander J. Atocha, out of any money in the Treasury not otherwise appropriated: *Provided, however,* That the amount so to be paid shall in no event exceed the balance of the three and a quarter millions of dollars provided by the fifteenth article of the treaty of Guadalupe Hidalgo for the payment of claims of citizens of the United States against the Government of Mexico, which still remains unapplied to that object.

APPROVED, February 14, 1865.

CHAP. XL.—An Act for the Relief of the Heirs of Almond D. Fisk, deceased.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Phebe Ann Fisk, as executrix of Almond D. Fisk, deceased, who obtained a patent for a "new and useful improvement in coffins," dated the fourteenth day of November, eighteen hundred and forty-eight, for fourteen years, which has now expired, be authorized to apply to the Commissioner of Patents for an extension of said patent for seven years, under the rules and regulations now in force for the extension of patents, as if she had made application previous to its expiration, as required by law; and the Commissioner is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided, notwithstanding the surrender and reissue of March sixth, eighteen hundred and sixty: *Provided,* That the application for extension be made within thirty days from the approval of this act, and the decision of the Commissioner be rendered within ninety days from the filing of said application in the Patent Office: *And provided also,* That nothing herein shall be so construed as to hold responsible in damages any persons who may have manufactured coffins containing the aforesaid improvements between the expiration of the patent and the approval of this act.

APPROVED, February 17, 1865.

CHAP. XLIV.—An Act for the Relief of Henry A. Brigham.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to Henry A. Brigham the sum of two thousand dollars, being the amount of his check drawn in favor of the Assistant Treasurer of the United States at New York, on the seventh of November, anno Domini eighteen hundred and sixty-two.

APPROVED, February 20, 1865.

CHAP. LI.—An Act for the Relief of George A. Schreiner.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of George A. Schreiner, of the county of Wyandott, State of Kansas, upon the list of

pensioners, at the rate of eight dollars per month, to commence from the first day of January, eighteen hundred and sixty-four, and to continue during his natural life.

APPROVED, February 23, 1865.

CHAP. LX.—An Act for the Relief of Harriet and Emily W. Morris, unmarried Sisters of the late Commodore Henry W. Morris.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Harriet and Emily W. Morris, the unmarried sisters of the late Commodore Henry W. Morris, be entitled to and receive the same pension as the brother would have been entitled to had he been totally disabled, to commence from the death of the brother; and the Secretary of the Interior be, and he is hereby, directed to place the names of the said Harriet and Emily W. Morris upon the pension roll of Navy pensions: *Provided,* That in case of the death or marriage of either of the said sisters her pension shall cease.

APPROVED, February 25, 1865.

CHAP. LXI.—An Act to change the Name of Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, to that of Dorsey Edwin William Carter.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Dorsey Edwin William Towson, of Georgetown, in the District of Columbia, be, and he is hereby, authorized, from and after the passage of this act, to take and use the surname of Carter, and that his name hereafter be Dorsey Edwin William Carter; and all acts done and entered into by that name shall have the same effect and operation in law as if his name had originally been Dorsey Edwin William Carter, of Georgetown, in the District of Columbia.

APPROVED, February 25, 1865.

CHAP. LXII.—An Act for the Relief of Mary Shircliff.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mary Shircliff, widow of John Shircliff, on the pension roll, and pay her a pension, at the rate of eight dollars per month, during her widowhood, from the passage of this act.

APPROVED, February 25, 1865.

CHAP. LXIII.—An Act for the Relief of Rebecca S. Harrison.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the naval pension roll the name of Rebecca S. Harrison, widow of the late Lieutenant Horace N. Harrison, at the rate of seventeen dollars per month, to commence from the first day of April, eighteen hundred and sixty-four, and to continue during her widowhood; and in case of her death or marriage the same to be continued to her children, until the youngest shall have reached the age of sixteen years.

APPROVED, February 25, 1865.

CHAP. LXV.—An Act to pay to each of the surviving Soldiers of the Revolution, five in number, whose Names are on the Pension Roll, three hundred dollars annually, as a Gratuity, in addition to the Pension now paid them.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, from and after the passage of this act, there shall be paid, out of any money in the Treasury not otherwise appropriated, the sum of three hundred dollars, to be paid annually, to each of the persons hereinafter named, five in number, during their natural lives, as a gratuity on the part of the Government; the five persons hereinafter named being the sole survivors of the Army of the Revolution whose names are enrolled on the books of the Pension Office—said gratuity to



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be paid to them by the Commissioner of Pensions, in addition to the pensions now paid them under former acts of Congress; said payment to each of the persons hereinafter named to cease on the death of such person:

To Lemuel Cook, enlisted at Hatfield, Massachusetts, is now about ninety-eight years of age, and resides in Clarendon, Orleans county, New York, three hundred dollars.

To Samuel Downing, enlisted in Carroll county, New Hampshire, is now about ninety-eight years of age, and lives in Edinburg, Saratoga county, New York, three hundred dollars.

To William Hutchings, enlisted at Newcastle, Maine, (then Massachusetts,) is now one hundred years old, and resides in Penobscot, Hancock county, Maine, three hundred dollars.

To Alexander Maroney, enlisted at Lake George, New York, as a drummer-boy, is now about ninety-four years old, his residence is Yates, Orleans county, New York, three hundred dollars.

To James Barham, substitute for a drafted man in South Hampton county, Virginia, lives in the State of Missouri, and is in his one hundred and first year, three hundred dollars.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Commissioner of Pensions, as soon as this act has been passed by both Houses of Congress, and approved of by the President, to have made out five copies of the same, each signed by the Speaker of the House, the President of the Senate, and the President of the United States, and to send a copy of the same to each of the revolutionary soldiers in this act above mentioned.

SEC. 3. *And be it further enacted*, That this act take effect and be in force from and after its passage.

APPROVED, February 27, 1865.

CHAP. LXVI.—An Act for the Relief of Chapin Hall.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay Chapin Hall, out of any money in the Treasury not otherwise appropriated, the sum of twenty-five hundred dollars, in full for damages sustained by him in consequence of the taking and using his lumber, at Louisville, Kentucky, by General McCook's division of the United States Army, in the month of September, eighteen hundred and sixty-two.

APPROVED, February 27, 1865.

CHAP. CXXVIII.—An Act for the Relief of Charles A. Pitcher.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, out of any money in the Treasury not otherwise appropriated, to Charles A. Pitcher the sum of five thousand dollars for damages sustained by reason of the infringement of a patent on a machine for making brooms, and the use of the same in the penitentiary of the United States, from November first, eighteen hundred and fifty-nine, to the twentieth of September, eighteen hundred and sixty-two.

APPROVED, March 3, 1865.

CHAP. CXXIX.—An Act granting a Pension to Sophia Brooke Taylor, Widow of the late Major Francis Taylor.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and hereby is, authorized and directed to place the name of Sophia Brooke Taylor, widow of the late Francis Taylor, major of the first regular United States artillery, who died of yellow fever while in command of the post at Fort Brown, Texas, on the twelfth day of October, eighteen hundred and fifty-eight, upon the pension roll, at the same rate of pay which he would have been entitled to if he had been totally disabled at the

time of his death, for and during the period of her natural life or widowhood.

APPROVED, March 3, 1865.

CHAP. CXXX.—An Act for the Relief of W. H. and C. S. Duncan.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of two hundred dollars and eighty cents be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated to be paid to W. H. and C. S. Duncan, of the city of Lawrence, Kansas, for compensation in full for goods and provisions furnished Captain Walker's company, Kansas militia, by order of Governor Geary, in eighteen hundred and fifty-six.

APPROVED, March 3, 1865.

CHAP. CXXXI.—An Act for the Relief of Samuel L. Gerould.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Samuel L. Gerould, late sergeant company G, fourteenth New Hampshire volunteers, the sum of one hundred and seventy-nine dollars and twenty cents, for his services as clerk to a general court-martial, from September twenty-first, eighteen hundred and sixty-three, to December twenty-fourth, eighteen hundred and sixty-four.

APPROVED, March 3, 1865.

CHAP. CXXXII.—An Act for the Relief of John Hastings, Collector of the Port of Pittsburg.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed, in adjusting the accounts of John Hastings, as collector of the customs at the port of Pittsburg, to give him credit for the sum of nine thousand nine hundred and fifty-six dollars and sixty-two cents, the amount of the public money of which he was robbed on the tenth day of March, anno Domini eighteen hundred and fifty-four, while acting in the aforesaid capacity.

APPROVED, March 3, 1865.

CHAP. CXXXIII.—An Act for the Relief of Mary A. Baker, Widow of Brigadier General Edward D. Baker.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he hereby is, authorized and directed to place the name of Mary A. Baker, widow of Brigadier General Edward D. Baker, on the pension roll, at the rate of fifty dollars a month, from the twenty-first day of October, eighteen hundred and sixty-one, to continue during her widowhood.

APPROVED, March 3, 1865.

CHAP. CXXXIV.—An Act granting a Pension to Ellen M. Whipple, Widow of the late Major General Amiel W. Whipple, of the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be directed to place the name of Ellen M. Whipple, widow of the late Major General Amiel W. Whipple, of the United States Army, on the pension roll, at the rate of fifty dollars a month, from the seventh day of June, eighteen hundred and sixty-two, for and during her widowhood.

APPROVED, March 3, 1865.

CHAP. CXXXV.—An Act granting a Pension to the Widow of the late Major General Hiram G. Berry.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be,

and he hereby is, authorized and directed to place the name of Eliza Berry, widow of Major General Hiram G. Berry, on the pension roll, at the rate of fifty dollars a month, from the third day of May, anno Domini eighteen hundred and sixty-three, to continue during her widowhood.

APPROVED, March 3, 1865.

CHAP. CXXXVI.—An Act granting a Pension to Ezekiel Darling.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized to place the name of Ezekiel Darling on the pension rolls, at the rate of four dollars per month, during his natural life, said pension to commence from the passage of the bill.

APPROVED, March 3, 1865.

CHAP. CXXXVII.—An Act for the Relief of Jean M. Lander, Widow of F. W. Lander, deceased.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to audit and settle the account of Brigadier General F. W. Lander, deceased, for services rendered and expenses incurred by him in making a reconnaissance for a railroad from Puget's sound to the Mississippi river, in eighteen hundred and fifty-four, and the amount the said Secretary shall find to be justly due shall be paid to the widow of the deceased, to wit, Jean M. Lander, out of any money in the Treasury not otherwise appropriated: *Provided*, The same shall not exceed the sum of four thousand seven hundred and fifty dollars, and it shall be in full consideration for said services and expenses.

APPROVED, March 3, 1865.

CHAP. CXXXVIII.—An Act granting a Pension to Thomas Booth.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Thomas Booth on the invalid pension roll of the United States, at the rate of four dollars per month, from the first day of May, eighteen hundred and sixty, and to continue during his natural life.

APPROVED, March 3, 1865.

CHAP. CXXXIX.—An Act granting a Pension to Elizabeth B. Leppien.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, directed to place the name of Elizabeth B. Leppien on the list of pensioners, at the rate of thirty dollars per month, to commence on the twenty-fourth day of May, eighteen hundred and sixty-three, and continue during her widowhood.

APPROVED, March 3, 1865.

CHAP. CXL.—An Act granting a Pension to Rachel Mills, Widow of Peter Mills, deceased, late a Major in the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he hereby is, directed to place upon the pension roll of the United States the name of Rachel Mills, of Binghamton, New York, widow of Peter Mills, late a major in the United States Army, at the rate of twenty dollars per month, from the date of April first, in the year eighteen hundred and sixty-four.

APPROVED, March 3, 1865.

CHAP. CXLI.—An Act for the Relief of Benjamin Vreeland, Surgeon in the Navy of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be paid to Benjamin Vre-

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land, surgeon in the Navy of the United States, out of any money in the Treasury not otherwise appropriated, the sum of four hundred and forty-nine dollars and seven cents, being the difference of compensation to an assistant surgeon and a past assistant surgeon, from the ninth day of May, eighteen hundred and fifty-five, to the thirtieth day of March, eighteen hundred and fifty-seven.

APPROVED, March 3, 1865.

## PRIVATE RESOLUTIONS.

No. 2.—Joint Resolution authorizing the Secretary of the Treasury to dispose of certain Monies therein mentioned.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized to pay over to Henry C. De Ahna the sum of two thousand dollars, deposited by said De Ahna with Jay Cook and Company to the credit of C. V. Hogan, an employe in the secret service of the Treasury Department, or any part thereof, or to cause the whole or part of the same to be confiscated and paid over to the Treasury of the United States, as, in the judgment of the Secretary, may appear just.

APPROVED, December 15, 1864.

No. 21.—Joint Resolution in the Matter of Sergeant Daniel Collett, jr., deceased.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be directed to cause the name of Daniel Collett, jr., who died of wounds received in battle, to be entered and borne upon the rolls of the Army as a first lieutenant of the fortieth regiment of Ohio volunteer infantry, from the ninth day of May, eighteen hundred and sixty-four, the date to which he was commissioned to that office by the Governor of the State of Ohio, the same as if he had been on that day mustered in as such first lieutenant.

APPROVED, February 25, 1865.

No. 22.—A Resolution for the Relief of James B. Royce.

Whereas, James B. Royce, of the town of Shrewsbury and State of Vermont, entered the ser-

vice of the United States as a private in company I, seventh regiment of Vermont volunteers, on the tenth day of February, eighteen hundred and sixty-two, and continued to serve in said company and regiment until the tenth day of February, eighteen hundred and sixty-three, on which day, at Fort Barrancas, Florida, by the premature discharge of a cannon at which he was engaged in target practice, he received injuries which resulted in the loss of his left arm and left eye, by reason of which disabilities he was discharged from the service on the fourth of December, eighteen hundred and sixty-three, having served twenty-one months and twenty-two days; and whereas, by reason of not having been discharged for wounds actually received in battle, he is not entitled to the benefit of the act entitled "An act to amend an act entitled 'An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property,' approved July twenty-two, eighteen hundred and sixty-one," approved March third, eighteen hundred and sixty-three; and whereas his case comes within the spirit and intent of said act: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the said James B. Royce, of Shrewsbury, Vermont, be, and he is hereby, declared entitled to the benefit of said act, approved March third, eighteen hundred and sixty-three, the same as if he had been discharged from the service by reason of wounds received in battle, or had served out the full period of his enlistment.

APPROVED, February 25, 1865.

No. 26.—Joint Resolution authorizing the Secretary of the Navy to advance to Paul S. Forbes two hundred and fifty thousand dollars additional out of the sum to be paid him under his Contract for building a Steam Screw Sloop-of-War.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized to pay to Paul S. Forbes, of the city of New York, the sum of two hundred and fifty thousand dollars, in addition to the sums heretofore paid, to apply on his contract of the date of May twenty-second, eighteen hundred and sixty-three, for building a steam screw sloop-of-war, the same being an advance payment on the contract, to aid in the completion of said sloop-

of-war: *Provided,* That no part of said sum shall be paid without the assent in writing of the sureties of said Paul S. Forbes: *And provided further,* That nothing in this resolution contained shall be so construed as in any manner to affect or vary said contract, except as to the time of making said payment.

APPROVED, March 2, 1865.

No. 38.—A Resolution for the Relief of Mrs. Lucy A. Rice, late of Richmond, Virginia.

Whereas Mrs. Lucy A. Rice, late of Richmond, Virginia, by her courage and patriotic devotion in saving Colonel Streight and his party, and enabling them to make their escape from the hands of the rebels, has deserved well of the country,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of one thousand five hundred dollars be, and the same is hereby, appropriated to said Lucy A. Rice, her heirs or administrators, out of any moneys in the Treasury not otherwise appropriated.

APPROVED, March 3, 1865.

No. 39.—A Resolution authorizing the Acceptance of a Sword of Honor from the Government of Great Britain, by Captain Henry S. Stellwagen, of the United States Navy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Captain Henry S. Stellwagen, of the Navy of the United States, be, and he hereby is, authorized to accept the sword of honor recently presented to him by the Government of Great Britain as a mark of their gratitude for the assistance rendered by him, while in command of the frigate Constellation, to the British brigantine Mersey, when in a disabled condition.

APPROVED, March 3, 1865.

No. 40.—A Resolution for the Relief of Garrett R. Barry, a Paymaster in the United States Navy.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That Paymaster Garrett R. Barry, United States Navy, be, and he is hereby, released from his liability as surety of John De Bree, formerly paymaster in the Navy of the United States.

APPROVED, March 3, 1865.